

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of

DOCKET NO. 930944-WS

Revocation by Florida Public  
Service Commission of  
Certificates Nos. 451-W and 382-S:  
Issued to SHADY OAKS MOBILE-  
MODULAR ESTATES, INC. in Pasco  
County, Pursuant to Section  
367.111(1), F.S.

PROCEEDINGS:

HEARING

BEFORE:

CHAIRMAN J. TERRY DEASON  
COMMISSIONER DIANE K. KIESLING

DATE:

Thursday, August 4, 1994

TIME:

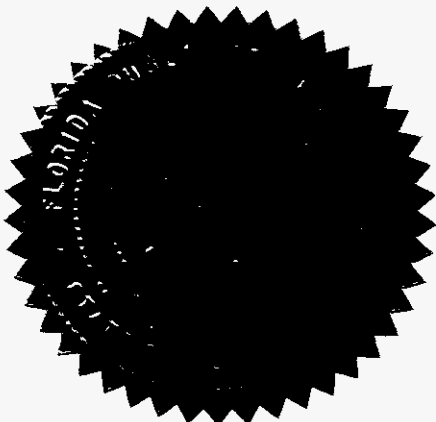
Commenced at 10:00 a.m.  
Concluded at 11:30 a.m.

PLACE:

Shady Oaks Mobile-Modular  
Estates, Inc. Clubhouse  
3651 Castle Drive  
Zephyrhills, Florida 33540

REPORTED BY:

SYDNEY C. SILVA, CSR, RPR  
Official Commission Reporter



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FPSC-RECORDS/REPORTING

FLORIDA PUBLIC SERVICE COMMISSION

## 1 APPEARANCES:

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5 behalf of the Commission Staff.

6 DAVID SMITH, FPSC Office of General Counsel,  
7 Division of Appeals, 101 East Gaines Street,  
8 Tallahassee, Florida 32399-0863, Telephone No. (904)  
9 488-7464, Counsel to the Commissioners.

10

## 11 ALSO PRESENT:

12 RICK MANN, Office of Public Counsel.

13 RICHARD D. SIMS, Shady Oaks Mobile-Modular  
14 Estates, Inc.

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## I N D E X

## MISCELLANEOUS

1		
2		
3		Page No.
4	CERTIFICATE OF REPORTER	101
5		
	WITNESSES	
6	Name:	Page No.
7	DOROTHY BIRD	
8	Direct Statement	10
9	Cross Examination By Ms. Jaber	27
10	ROBERT BIRD	
11	Direct Statement	30
12	CHARLES MCCLELLAND	
13	Direct Statement	31
14	JOHN BOYCE	
15	Direct Statement	33
16	CHARLES BECK	
17	Direct Statement	35
18	FRANCES J. LINGO	
19	Direct Examination By Ms. Jaber	40
20	Prefiled Direct Testimony Inserted	44
21	PETE BURGHARDT	
22	Direct Examination By Ms. Jaber	76
23	Prefiled Direct Testimony Inserted	81
24	BRENDA ARNOLD	
25	Direct Examination By Ms. Jaber	89
	Prefiled Direct Testimony Inserted	93

## EXHIBITS

Number:	Identified	Admitted
1 (Composite) (Bird) Correspondence Between the Homeowners Association and Mr. Sims	27	40
2 (Lingo) FJL-1	43	77
3 (Lingo) FJL-2	43	77
4 (Lingo) FJL-3	43	77
5 (Lingo) FJL-4	43	77
6 (Lingo) FJL-5	43	77
7 (Lingo) FJL-6	43	77
8 (Lingo) FJL-7	43	77
9 (Lingo) FJL-8	43	77
10 (Lingo) FJL-9	43	77
11 (Lingo) FJL-10	43	77
12 (Lingo) FJL-11	43	77
13 (Lingo) FJL-12	43	77
14 (Lingo) FJL-13	43	77
15 (Lingo) FJL-14	43	77
16 (Composite) (Burghardt) PB-1 through PB-7	80	89
17 (Arnold) BA-1	92	97



## P R O C E E D I N G S

(Hearing convened at 10:00 a.m.)

CHAIRMAN DEASON: Call the hearing to order. We will begin by having the notice read.

MS. JABER: Mr. Chairman, pursuant to notice, this time and place has been designated for a hearing in Docket No. 930944, revocation by the Florida Public Service Commission of Certificates Nos. 451-W and 382-S, issued to Shady Oaks Mobile-Modular Estates, Inc.

CHAIRMAN DEASON: Okay. Take appearances.

MS. JABER: I'm Lila A. Jaber, on behalf of the Commission Staff.

MR. SMITH: My name is David Smith, I'm Director of Appeals for the Commission. I'm appearing here today as Counsel to the Commissioners.

CHAIRMAN DEASON: Okay. I want to take this opportunity -- Mr. Mann, do you wish to enter an appearance? I know you've not intervened, you're here just to sponsor customers at today's hearings; is that correct?

MR. MANN: That's correct.

CHAIRMAN DEASON: Very well. I want to take this opportunity to welcome everyone to this hearing today. As the notice that was read earlier indicates, the purpose of this hearing today is to consider the

1 revocation of certificates issued to Shady Oaks  
2 Mobile-Modular Estates. We're here today to hear from  
3 you, the customers, concerning this matter. We're also  
4 here today to hear expert testimony from witnesses of the  
5 Public Service Commission Staff and the Department of  
6 Environmental Protection.

7 Let me begin by introducing myself; my name is  
8 Terry Deason, I'm Chairman of the Public Service  
9 Commission. And seated to my left is Commissioner Diane  
10 Kiesling. We constitute the panel of Commissioners  
11 which will be hearing and deciding this case.

12 There are also a number of Staff personnel  
13 from the Public Service Commission here today. I would  
14 ask, if there are any in the audience, to please stand,  
15 from the Commission. These persons are here; and if you  
16 have questions, you may wish to direct those to these  
17 individuals. They will be glad to assist you in any way  
18 possible.

19 The Public Counsel's office, even though they  
20 have not intervened in the case, they are here today.  
21 They are sitting at the table directly in front of me,  
22 Mr. Mann and Mr. Gatlin. They are here today to sponsor  
23 testimony of public witnesses. It will be necessary if  
24 you do wish to testify today to let either Mr. Mann or  
25 Mr. Gatlin know, and they will put you on their list.

1           The procedure which we're going to follow  
2 today is that in a moment, I'm going to ask all members  
3 of the public and all other witnesses who wish to  
4 testify today to stand and to be sworn in. It's  
5 necessary to put you under oath so that your testimony  
6 can become part of the official record in this docket  
7 and will constitute evidence upon which the Commission  
8 can and will rely in deciding this matter.

9           This hearing is being recorded by an official  
10 court reporter of the Commission, and your testimony  
11 will become part of that official record.

12           As I indicated, if you do wish to testify, you  
13 will need to let Mr. Gatlin or Mr. Mann know. They will  
14 be calling persons' names. As your name is called, if  
15 you would please come forward to the microphone to my  
16 right, which would be your left, and begin by giving  
17 your name and your address. And if you think it would  
18 be helpful to the court reporter, you may wish to spell  
19 your name.

20           After you give your name and address, you may  
21 proceed with your statement. We are not imposing any  
22 strict time limitations; however, I do request that you  
23 be mindful of the time and be courteous to your neighbor  
24 because there may be other people waiting to give their  
25 statement.

1           At the conclusion of your statement, wait for  
2 a moment, there may be some questions.

3           After we hear all customer testimony, we will  
4 proceed into what we refer to as the technical portion  
5 of the hearing. That is when we will hear expert  
6 testimony from members of the Public Service Commission  
7 Staff and from the Department of Environmental  
8 Protection. All members of the public are certainly  
9 invited and encouraged to attend that portion of the  
10 hearing as well.

11           So with that, I'm going to ask all witnesses,  
12 both public and witnesses from the Commission and DEP,  
13 if you would please stand and raise your right hand.

14           (Witnesses collectively sworn.)

15           CHAIRMAN DEASON: Thank you, please be seated.  
16 Mr. Mann, you may call your first witness.

17           MR. MANN: Thank you, Mr. Chairman. Our first  
18 witness is Mr. Larry Delucenay.

19           MR. DELUCENAY: I'm sorry, I didn't stand to be  
20 sworn in because I didn't realize I would called as a  
21 witness.

22           MS. JABER: Mr. Chairman, I have to strongly  
23 object. Mr. Delucenay is not a customer of the Utility,  
24 he is to provide you some background. Staff submitted a  
25 motion to strike testimony of Mr. Delucenay that was

1 identified on behalf of the Utility. The prehearing  
2 officer granted Staff's motion to strike on the basis that  
3 Mr. Delucenay didn't prefile testimony. And if you allow  
4 his testimony here right now, it's not prefiled, it's  
5 against the prehearing officer's decision and it's an  
6 unfair surprise to Staff.

7 CHAIRMAN DEASON: Commissioner Kiesling is the  
8 prehearing officer in this case, and I'll ask her to  
9 address this. Is this something you're aware of?

10 COMMISSIONER KIESLING: Yes, Mr. Chairman.  
11 Mr. Delucenay was listed as a witness by Mr. Sims;  
12 however, no prefiled testimony was received. And based  
13 upon the motion for sanctions that was filed by Staff and  
14 discussed at the prehearing conference, the testimony of  
15 Mr. Delucenay was stricken or, I guess --

16 MS. JABER: Actually, there was a separate  
17 motion to strike --

18 COMMISSIONER KIESLING: Right --

19 MS. JABER: -- that Staff filed for testimony of  
20 Mike Daley, Eileen Delehanty and Larry Delucenay.

21 CHAIRMAN DEASON: And I understand Mr. Delucenay  
22 is not a customer of this utility?

23 MS. JABER: He is not a customer of this  
24 utility.

25 UNIDENTIFIED SPEAKER: Can't hear back here.

1 CHAIRMAN DEASON: We're discussing whether  
2 Mr. Delucenay should be given an opportunity to testify.  
3 Staff with the Public Service Commission has indicated  
4 that Mr. Delucenay is not a customer of this utility; that  
5 it was anticipated he would prefile testimony on behalf of  
6 the utility company. And there was a motion duly made to  
7 have that testimony stricken; and that was approved by  
8 Commissioner Kiesling, who was sitting as the prehearing  
9 officer in this case.

10 And given that scenario and those facts, I'm  
11 going to ask Mr. Mann to call his next public witness.

12 MS. JABER: Thank you, Mr. Chairman.

13 MR. MANN: Thank you, Mr. Chairman. The next  
14 witness then is Ms. Dorothy Bird.

15 DOROTHY BIRD  
16 appeared as a witness and, having been duly sworn,  
17 testified as follows:

18 WITNESS MS. BIRD: My name is Dorothy Bird. I  
19 live at 38553 Monay Drive in Shady Oaks. And I'm here  
20 today to testify on behalf of the Shady Oaks Owners  
21 Association, which comprises the customers of this  
22 utility.

23 We offer this testimony as very interested  
24 parties to this proceeding and as customers of the  
25 utility operated by Shady Oaks Mobile-Modular Estates,

1 Inc., Richard D. Sims, owner. Today's attendance of  
2 homeowners is somewhat smaller than is usual for us  
3 under these circumstances, even though everyone here is  
4 very concerned about the outcome of today's proceedings.

5 Because the scheduling of this hearing fell  
6 during the summer months, the majority of our residents  
7 have gone north. And many of those who remain are in  
8 ill health or are caring for someone who is and cannot  
9 be here. But we all care very deeply about the  
10 proceedings and we want you to know that. And we do  
11 have a pretty good turnout considering how many people  
12 aren't here at this time.

13 Representatives of the Shady Oaks Owners  
14 Association, Inc., which includes all homeowners in  
15 Shady Oaks, have attended and testified at every agenda  
16 conference and hearing except one on the corresponding  
17 Docket No. 900025-WS, making several day-long trips to  
18 Tallahassee in order to do so.

19 The utility owner, Richard Sims, was neither  
20 present nor represented at any of the sessions that we  
21 attended. We can only conclude that he appears to have  
22 very little regard for the welfare of his customers. We  
23 are the sole customers of this utility and we,  
24 therefore, have a very genuine concern for the outcome  
25 of this Commission's action.

1           In its prefiled direct testimony, the Utility  
2   stated that as part of its efforts to improve customer  
3   service, it has entered into a contract for construction  
4   of an interconnect to the Pasco County utility system.  
5   While this interconnect may indeed improve service to  
6   the customers, who for many years have been and are  
7   still being served by an outdated and severely damaged  
8   system, the fact still remains that the interconnect was  
9   initially required by a court order issued on July 18,  
10  1991, to be completed by January 8, 1992. It is now  
11  two-and-a-half years after that, the interconnect is  
12  still not completed. The system has continued to  
13  deteriorate and, we, the customers, are in an ever more  
14  precarious situation as time goes on.

15           At this time, the Utility has been denied, and  
16  rightly so, any additional time to complete the  
17  interconnect and has apparently chosen bankruptcy filed  
18  on July 18 as a way to avoid any further responsibility.  
19  But where does that leave us?

20           Mr. Sims has been ordered by the court to sell  
21  or otherwise dispose of the utility. On February 8,  
22  1994, the association president, Robert Lindahl, wrote a  
23  letter to Richard Sims, the Utility owner, expressing  
24  the Association's interest in purchasing the utility and  
25  requesting his asking price. On April 11th, Mr. Sims



1 replied that he could not determine a fair and accurate  
2 price until the interconnect was completed, but that the  
3 Association would have first chance.

4           On May 11th, Mr. Lindahl was sent a letter  
5 from Mr. Sims' new attorney, Gerald Buhr, asking Bob to  
6 contact him if the Association still had any interest in  
7 the utility. Because Mr. Lindahl was about to leave for  
8 Michigan, Steven Herman, the Association's attorney,  
9 answered the letter affirming the Association's interest  
10 and asked for information regarding price, description  
11 of the utility, and status of title.

12           Mr. Buhr's reply stated that he could not pass  
13 letters back and forth to discuss the utility, and said  
14 if the Association was interested it must make an offer.  
15 We still had no information.

16           On July 1st, after a series of phone calls,  
17 Mr. Herman's office was able to obtain a packet of  
18 information that was being given to interested parties.  
19 The information consisted solely of Shady Oaks  
20 Mobile-Modular Estates, Inc. Annual Report to the  
21 Florida Public Service Commission dated December 31,  
22 1993. So we are still at square one.

23           Despite Utility testimony to the contrary, the  
24 closing of the Shady Oaks recreation facility in 1991 by  
25 Mr. Sims had no relation to the customer service

1 provided by the Utility, and neither did the  
2 corporation's sale of the recreation complex to the  
3 residents in the spring of 1992. They are separate  
4 issues. Complaints about service that is provided or  
5 not provided by the Utility were and are directly  
6 related to the failure of the Utility to provide  
7 adequate service to its customers.

8           Although the Utility owner has indicated to  
9 you his intentions to implement a long-range program of  
10 improved customer service, we have not observed him  
11 making much of an effort to improve relations with the  
12 customers. We don't really consider "Have a Nice Day"  
13 typed on the utility bills to be an improvement in  
14 service. As evidence, we offer the following:

15           Four times during January and February of this  
16 year water service was shut off to the entire community  
17 with no prior notice to the customers. We believe that  
18 none of these instances were emergency situations but  
19 resulted from preexisting conditions. Most of them had  
20 been called to the Utility's attention by at least one  
21 customer at least one time previous to the shut-off.

22           The Utility has indicated that it has gate  
23 valves in place so that only a section of the system  
24 needs to be shut down when repairs are necessary. Yet  
25 on every occasion when water has been shut off, it has

1 been shut off to the entire community. Most of the  
2 homes in Shady Oaks have water heaters that must be shut  
3 off when there is no water to avoid damaging or burning  
4 out the element. If a homeowner is away at the time of  
5 the interruption and has had no prior notice, serious  
6 damage can occur. This happened most recently on  
7 January 13th, 1994, to Mr. Daniel Cole.

8 Correspondence between the Utility owner and  
9 the Association president from November 9 to December 1,  
10 1993, shows that the Utility installed a water meter for  
11 the Association on Utility property, 86 feet from the  
12 Association's property line, with total disregard for  
13 the Florida Administrative Code, Chapter 25-30.260, and  
14 has refused to move it.

15 Leaks at various locations in the park have  
16 been reported to the Utility with no follow-up action  
17 taken to correct the problem. Many of them still exist.  
18 The most recent instance concerns a serious leak in what  
19 we believe to be one of the main sewer lines, which also  
20 constitutes a health hazard. It was reported to the  
21 Utility by a customer who lives nearby on or about March  
22 3rd 1994. As of March 28th, no action has been taken by  
23 the Utility to repair it. Now, I can not say for sure  
24 that it hasn't been repaired now, but it certainly  
25 should have been repaired much sooner.

1           Currently, customers with problems such as  
2 leaks, individual interruption of service, et cetera,  
3 after they notify the Utility by phone, are usually  
4 directed to have the problem checked and corrected by a  
5 local plumber. And usually they have to pay for this  
6 themselves. Local plumbers, as a rule, do not make a  
7 practice of extending to this Utility and they will not  
8 come into Shady Oaks unless the customer guarantees  
9 payment.

10           We believe it should be the Utility's  
11 responsibility to respond to a customer complaint with a  
12 physical inspection of the problem by an authorized  
13 company representative to establish responsibility for  
14 that problem before any action is taken to correct it.

15           Office hours, minimal at best and changed  
16 monthly for no apparent reason, are often not observed  
17 by Utility personnel. In February, for example, the  
18 posted hours were 10:00 a.m. to 12:00 noon on Thursdays.  
19 In March, while Thursday remained a constant, the hours  
20 were changed to 9:30 to 11:30. And this is posted on a  
21 small placard in the door of the office and it can't be  
22 read unless you get up close.

23           We do not think that two hours a week are  
24 enough. But given them, we feel that someone should be  
25 in the office at all times during those hours. Several

1 of the customers who prefer to pay their bills in person  
2 have had to make a number of trips to the office before  
3 finding anyone there to accept payment. Shady Oaks'  
4 population is somewhat elderly and repeated trips to the  
5 Utility office in such a limited time frame to conduct  
6 business should not be necessary.

7           Customers should also not be subjected to  
8 offensive behavior by the owner during business  
9 transactions. Mr. Sims' manner is often insulting,  
10 confrontational, intimidating, rude, and on occasion,  
11 vulgar and profane.

12           The Utility does not provide adequate means  
13 for emergency communications and response. When no one  
14 is in the park office, which is most of the time, its  
15 telephone is answered by machine. The message says,  
16 "This is the utility. If no one is in the office,  
17 please for emergency call 932-3177 in Tampa." Now, if  
18 no one happens to be at the Tampa number, then another  
19 machine answers, but there is no provision made for  
20 emergency service. Customers are directed to leave  
21 their name, number and message, it will be answered as  
22 soon as possible. And this has happened more than once.  
23 Each call to the emergency number in Tampa costs the  
24 customer a toll charge.

25           The postcard bills used by the Utility

1 frequently have part of their message obliterated by  
2 cancellations and tapes used by the post office in their  
3 delivery possess.

4           We have observed that the Utility personnel,  
5 with the exception of the meter readers, do not attend  
6 to Utility concerns in Shady Oaks on a regular basis.  
7 The roof on the pumphouse has deteriorated; shingles  
8 have blown off and have not been fixed. The Utility  
9 office is in terrible disrepair and disgraces the  
10 appearance of the community.

11           Now, the Utility owner has stated that  
12 preventative maintenance was not done in part because  
13 monies collected by him acting as Shady Oaks  
14 Mobile-Modular Estates, Inc. were required to maintain  
15 the recreational center, roads and streets, et cetera.  
16 Whatever was done in the past to provide maintenance of  
17 the recreational complex, roads and streets, et cetera,  
18 was provided and paid for by members of the Shady Oaks  
19 Owners Association. Mr. Sims did pay a monthly electric  
20 bill averaging about \$500 because the office and the  
21 Utility's water pumps were on the same meter with the  
22 clubhouse. Now, we have owned these properties since  
23 April 1993 and have been legally responsible for them  
24 since that time.

25           The customers did not ask the Public Service

1 Commission to conduct the rate case, the Utility did.  
2 In what we believe was an action to circumvent a court  
3 orderer directing Shady Oaks Mobile-Modular Estates,  
4 Inc. to supply utility service according to the terms of  
5 the covenants and restrictions irrevocably put in place  
6 by this same corporation, Mr. Sims, as Shady Oaks  
7 Mobile-Modular Estates, Inc., made this request to the  
8 Public Service Commission first in 1985; and when the  
9 results were not to his liking, again in 1990.

10           We, the customers, feel that the established  
11 rate base is considerably more than adequate, given the  
12 Utility's record of previous nonservice and maintenance,  
13 its recent and current level of nonperformance, and the  
14 fact that the rate base was generously established using  
15 PSC Staff estimates because no corporate records could  
16 be produced. In truth, we feel that we paid for  
17 building the Utility through the price of our lots when  
18 we bought into the community, and that we should not  
19 have to pay through the nose to rebuild it because it  
20 was not taken care of.

21           Even though the Commission has subsequently  
22 issued orders reducing rates and ordering refunds to the  
23 customers, the Utility has failed to take any action on  
24 either count. It was our understanding from the Public  
25 Service Commission Staff that the escrowed monies would

1 be refunded beginning the end of May as credits to our  
2 bills and that has not happened.

3 We also understood that the base rate was to  
4 be reduced. And as of the July 25th bill, no reduction  
5 has been made to the base facility charge.

6 On July 18, 1994, presumably to avoid DEP  
7 enforcement of a pickup order for contempt, Shady Oaks  
8 Mobile-Modular Estates, Inc. filed for Chapter 11  
9 reorganization in the federal bankruptcy court in Tampa.  
10 This is the third bankruptcy reorganization filing by  
11 Shady Oaks and/or Richard Sims since January of 1991.  
12 Now, to protect our interest, Shady Oaks Owners  
13 Association hired a lawyer for the first two, and that  
14 resulted in them being dismissed by the bankruptcy judge  
15 as having been filed in bad faith.

16 In my role as a customer, I began checking on  
17 this current filing because of the refunds due to us as  
18 ordered by the Public Service Commission but not  
19 protected by escrowed funds. I discovered that no  
20 notices of the creditors meeting scheduled for August  
21 18, 1994, had been received by any of the customers. I  
22 do believe the PSC was noticed by the court.

23 I called Mr. Sims' bankruptcy attorney,  
24 Mr. Buddy Ford. And Mr. Ford's secretary, Roberta, when  
25 asked why we had not received notices, informed me the



1 court case administrator was responsible for sending  
2 them.

3 I called the case administrator, and there  
4 again, and she said no customer names were on the list  
5 of creditors to be noticed. She suggested I called the  
6 bankruptcy trustee's office; and Linda, in that office,  
7 said a list of creditors should have been supplied to  
8 Mr. Ford's office. So I went back to Mr. Ford's office  
9 and Roberta has not returned my call.

10 So I'm sure you will agree that \$24,000-plus  
11 is a substantial amount of debt to be left undeclared.  
12 And it certainly shows a lack of regard for the  
13 customers, money, whose money it is.

14 We, the customers, are sincerely concerned  
15 with the outcome of this proceeding. I am a customer of  
16 this utility, and we collectively are all customers of  
17 this utility and its only customers. I am representing  
18 not only my own interests here but the interests of the  
19 entire community, all of the customers. It is so  
20 important to them that they paid to fly us back from New  
21 York to represent them at this hearing.

22 It is vitally important to us to have a  
23 utility that functions in a safe, efficient and reliable  
24 manner with management that shows a genuine concern for  
25 the welfare and safety of its customers.

1           The present owner of the Shady Oaks Utility,  
2 Richard Sims, has shown by his actions that he is  
3 incapable of meeting those needs. We believe the  
4 Florida Public Service Commission should revoke the  
5 water and wastewater operating certificates issued to  
6 Richard D. Sims, doing business as Shady Oaks  
7 Mobile-Modular Estates, Inc.

8           Thank you. Now, I have extra copies of this  
9 if you want it or if you want it entered into the record  
10 at all. I do also have some copies of the  
11 correspondence that I described in the body of this, if  
12 you need that.

13           I have some copies of the water bills. I also  
14 have testimony from five residents of Shady Oaks who  
15 cannot be here and have signed statements; and I would  
16 like that entered into the correspondence side of the  
17 docket, if I may do that.

18           In addition, I have copies of all the  
19 evidence -- signed statements, et cetera -- that we  
20 introduced into the corresponding docket, 900025. And  
21 is it appropriate to enter that as an exhibit here,  
22 since it still is pertinent to this docket?

23           MS. JABER: Mr. Chairman, I was going to request  
24 that we have a copy of all the referred correspondence  
25 that Ms. Bird has and identify it as Exhibit No. 1 in this

1 proceeding, if that's all right with you.

2 CHAIRMAN DEASON: That will be fine. Ms. Bird?

3 WITNESS MS. BIRD: Yes.

4 CHAIRMAN DEASON: You do have at least one copy  
5 or is it your originals?

6 WITNESS MS. BIRD: No, no, I have copies.

7 CHAIRMAN DEASON: A copy that you can leave with  
8 the Commission; is that correct?

9 WITNESS MS. BIRD: Yes, I can do that.

10 CHAIRMAN DEASON: Okay.

11 MS. JABER: And I just have two questions of  
12 Ms. Bird.

13 CHAIRMAN DEASON: First of all, let me make sure  
14 the record is clear. What you're requesting be identified  
15 as Exhibit 1 is all the correspondence which Ms. Bird just  
16 alluded to?

17 MS. JABER: The testimony of other customers  
18 that she would like to adopt, I'm assuming that's what she  
19 is trying to do --

20 CHAIRMAN DEASON: And is this testimony given,  
21 excuse me, was this testimony given in another proceeding?

22 MS. JABER: It is my understanding that this was  
23 testimony from the other show cause hearing. If I'm  
24 wrong, I need to be corrected.

25 WITNESS MS. BIRD: Let me clarify that. Some of

1 it is testimony that has never been introduced. I have  
2 five letters that are current. The rest of it is  
3 testimony that was introduced into another proceeding and,  
4 if it is appropriate, I would like to introduce it here as  
5 being pertinent to what we are doing.

6 CHAIRMAN DEASON: Okay. Just so we're clear  
7 now. The five statements that are current, you're  
8 requesting that be entered on the correspondence side of  
9 this docket?

10 WITNESS MS. BIRD: Yes, please.

11 CHAIRMAN DEASON: Okay. That should be no  
12 problem. Now, the question concerning the testimony in  
13 another docket?

14 MS. JABER: The testimony was inserted into the  
15 record, so to the extent that it is already part of that  
16 record, there's nothing wrong with making it an exhibit  
17 here. It's as if you were entering pages of a transcript  
18 in another hearing.

19 CHAIRMAN DEASON: And this witness is  
20 responsible for -- this witness would be sponsoring that  
21 in this proceeding?

22 MS. JABER: That's right. As a customer  
23 testifying in this proceeding.

24 CHAIRMAN DEASON: Mr. Smith, is that a valid  
25 procedure?

1 MR. SMITH: Well, I'm not sure exactly what  
2 we're doing. Is it your understanding that we're taking  
3 judicial notice of the content of that testimony for the  
4 purposes of this proceeding?

5 MS. JABER: It's my understanding that she is  
6 trying to insert it into this record as an exhibit. And  
7 it's as if it's a transcript page out of another hearing.

8 CHAIRMAN DEASON: Commissioner Kiesling?

9 COMMISSIONER KIESLING: It might be helpful to  
10 see it. I mean, I'm having a little trouble keeping all  
11 of it straight; so if I could look at a copy of each of  
12 them, it would make it easier.

13 CHAIRMAN DEASON: Why don't we do this.  
14 Ms. Bird, if you could compile that, give that to Ms.  
15 Jaber --

16 WITNESS MS. BIRD: All right.

17 CHAIRMAN DEASON: She will review that. And at  
18 an appropriate time, she will be better prepared to know  
19 how she should seek its admittance as an exhibit, or by  
20 taking notice, or what is the proper procedure. Right now  
21 we don't know exactly what you're referring to. And if  
22 you'll give that to her a little bit later today, then we  
23 will address that.

24 WITNESS MS. BIRD: But you are going to accept  
25 as entered into the correspondence testimony these current

1 ones?

2 CHAIRMAN DEASON: Yes, we can do that. And if  
3 you'll give that to the court reporter, she'll make sure  
4 that is given to the Clerk's office and is entered into  
5 the correspondence side of this docket.

6 WITNESS MS. BIRD: All right. And then we have  
7 also here some correspondence that I alluded to in the  
8 testimony that I just gave. And I did not know if that  
9 was appropriate for you to have copies of it, but the  
10 correspondence between the Association and the Utility  
11 owner regarding the purchase of the utility and regarding  
12 the water meter installation.

13 CHAIRMAN DEASON: This is information which you  
14 already testified to?

15 WITNESS MS. BIRD: I testified to, but this is  
16 supporting evidence.

17 CHAIRMAN DEASON: That certainly we can identify  
18 as Exhibit No. 1, since that was part of your direct  
19 testimony in this case. If you will separate that out  
20 from the other matters that was in the previous docket,  
21 the correspondence that you just testified to will be  
22 identified as Composite Exhibit No. 1. Okay.

23 WITNESS MS. BIRD: Do you wish that attached to  
24 a copy of my testimony?

25 CHAIRMAN DEASON: And that was correspondence

1 between the Homeowners Association and Mr. Sims; is that  
2 correct?

3 WITNESS MS. BIRD: Yes. And the attorneys of  
4 either or both.

5 CHAIRMAN DEASON: Okay. Very well. That will  
6 be identified as Composite Exhibit No. 1. If you will  
7 also provide that to Ms. Jaber?

8 WITNESS MS. BIRD: To Ms. Jaber?

9 CHAIRMAN DEASON: Well, I want her to review it.  
10 She'll be the one requesting that that actually be  
11 admitted into the record. I want her to review it; and  
12 then if it's admitted into the record, she'll make sure  
13 that the court reporter has a copy of that correspondence.

14 (Composite Exhibit No. 1 marked for  
15 identification.)

16 CHAIRMAN DEASON: Any questions for Ms. Bird?

17 MS. JABER: Yes.

18 CROSS EXAMINATION

19 BY MS. JABER:

20 Q Ms. Bird, the Homeowners Association purchased  
21 this clubhouse from Mr. Sims; is that correct?

22 A That's correct.

23 Q Do you remember how much the Homeowners  
24 Association gave to Mr. Sims for the clubhouse?

25 A Well, it was not just the clubhouse. It was

1 the clubhouse, the recreation complex, it included the  
2 parking lot, the swimming pool, the shuffleboard courts  
3 and the roads and islands in the roads, and a little bit  
4 of property up front at the entrance. And to the best  
5 of my knowledge, it was \$195,000. I could ask someone  
6 to collaborate that --

7 MR. SIMS: \$197,000, ma'am.

8 WITNESS MS. BIRD: Mr. Sims says it was  
9 \$197,000.

10 MS. JABER: Thank you, Ms. Bird.

11 Q (By Ms. Jaber) And since you were part of the  
12 two prior bankruptcy filings, you must know why the  
13 bankruptcy petitions were dismissed.

14 A To the best of my knowledge, they were  
15 dismissed because they were filed in bad faith.

16 MS. JABER: Thank you.

17 CHAIRMAN DEASON: Further questions for  
18 Ms. Bird? Commissioners? Mr. Sims, if you wish to ask  
19 questions, you're certainly entitled to do that, and you  
20 may come forward to a microphone. That's your option.  
21 Okay. Just let the record reflect that Mr. Sims has no  
22 questions.

23 Thank you, ma'am.

24 MR. MANN: Thank you, Ms. Bird.

25 MR. SIMS: I understand I wasn't allowed to



1 speak.

2 CHAIRMAN DEASON: Mr. Sims, I think your  
3 testimony has been stricken but you are certainly entitled  
4 to participate in this hearing. And you may cross --  
5 excuse me, sir, I'm talking right now. And if you are  
6 going to -- excuse me.

7 You are entitled to ask questions of the  
8 various witnesses which appear at today's hearing. That  
9 is within your right; and if you wish to do so, you're  
10 encouraged to do so. But if you are going to speak or  
11 ask questions of that nature, you do need to come  
12 forward to a microphone because the court reporter  
13 cannot adequately discern and interpret what is said in  
14 the audience, she needs it spoken directly into a  
15 microphone.

16 So if you do wish to say something at this  
17 time, I would encourage you to come forward and perhaps  
18 at this table to my front and I'm sure Mr. Gatlin would  
19 share his microphone with you so you could speak. I'm  
20 giving you that option, that's up to you.

21 MR. SIMS: I'll make that decision.

22 CHAIRMAN DEASON: Thank you, Ms. Bird.

23 (Witness Ms. Bird excused.)

24 - - - - -

25 CHAIRMAN DEASON: You may call your next

1 witness.

2 MR. MANN: The next customer I have on the list  
3 is Mr. Robert Bird.

4 CHAIRMAN DEASON: Mr. Robert Bird? Please come  
5 forward, sir.

6 ROBERT BIRD

7 appeared as a witness and, having been duly sworn,  
8 testified as follows:

9 WITNESS MR. BIRD: My name is Robert Bird. I  
10 live at 38553 Monay Drive, Zephyrhills.

11 CHAIRMAN DEASON: Can everyone hear Mr. Byrd?  
12 You may need to speak directly into that microphone.

13 COMMISSIONER KIESLING: Or tilt it up.

14 WITNESS MR. BIRD: My name is Robert Bird,  
15 that's B-I-R-D. I live at 38553 Monay Drive in Shady  
16 Oaks, Zephyrhills, Florida. I'm involved in the collection  
17 of the data that my wife has just testified to.

18 At this point, I have no presentation to make,  
19 as she has covered all of the material that I know of.  
20 However, if anyone wishes to question me, they may do so.

21 CHAIRMAN DEASON: Any questions for Mr. Bird?  
22 Ms. Jaber, do you have questions for Mr. Bird?

23 MS. JABER: No, sir.

24 CHAIRMAN DEASON: Thank you, sir.

25 MR. MANN: Thank you, Mr. Bird.

1 (Witness Mr. Bird excused.)

2 - - - - -

3 CHAIRMAN DEASON: Mr. Mann?

4 MR. MANN: Next is Mr. Charles McClelland.

5 CHARLES MCCLELLAND

6 appeared as a witness and, having been duly sworn,  
7 testified as follows:

8 WITNESS MCCLELLAND: I believe the microphone on  
9 the Staff's desk is not turned on because I'm sitting here  
10 by this speaker and I'm not getting anything from that  
11 speaker.

12 CHAIRMAN DEASON: We'll have them check that  
13 out, Mr. McClelland.

14 WITNESS MCCLELLAND: Okay, thank you.

15 My name is Charles McClelland, I live at 38603  
16 Monay here in the park.

17 At a hearing here approximately three years  
18 ago, I complained about the Utility shutting down the  
19 whole system to make spot repairs. And after three  
20 years now this has, I think, finally been done. I have  
21 a card from the Utility saying that they have the valves  
22 installed, but it took three years to get this done.

23 And I would like to make a comment about the  
24 timing of this hearing. It is being held at a time most  
25 of our resident owners are away for the summer months.

1 And I would like to know how and when we would be  
2 getting the overcharges that the PSC approved for the  
3 construction and why we are still paying.

4 That is my statement. I would like to have  
5 those, if I could, the question of the overcharges for  
6 the construction.

7 CHAIRMAN DEASON: Well, that's a very good  
8 question and there's a lot of legal questions involved in  
9 that. The Commission obviously has ordered that. Ms.  
10 Jaber, perhaps you could give some background information  
11 as to the history and the status of that.

12 MS. JABER: If you are referring to the  
13 interconnection per se, the --

14 COMMISSIONER KIESLING: You need to get right up  
15 to the mike.

16 MS. JABER: If you are talking about the  
17 interconnection per se, the DEP ordered the Utility some  
18 time ago to interconnect with the county because of poor  
19 quality of service. And DEP has gone back to court two  
20 times, I believe, to get that order enforced.

21 But if you are talking about the specific  
22 charges, I can volunteer one of the our Staff people to  
23 talk to this witness and try and understand what some of  
24 the charges are that he has been aware of.

25 CHAIRMAN DEASON: I believe your question is the

1 fact that a refund has been ordered but a refund has not  
2 been made?

3 WITNESS McCLELLAND: That's true.

4 CHAIRMAN DEASON: Okay.

5 MS. JABER: With that, Staff is in the process  
6 of making the calculations for the refund to each  
7 customer; and that is just taking some time because the  
8 Utility didn't file what it needed to file in the  
9 appropriate time and it is just taking a little longer.

10 WITNESS McCLELLAND: Thank you.

11 CHAIRMAN DEASON: Thank you, sir. Any  
12 questions? Thank you, sir.

13 MR. MANN: Thank you, Mr. McClelland.

14 (Witness McClelland excused.)

15 - - - - -

16 CHAIRMAN DEASON: Mr. Mann?

17 MR. MANN: Next we have Mr. John Boyce.

18 JOHN BOYCE

19 appeared as a witness and, having been duly sworn,  
20 testified as follows:

21 WITNESS BOYCE: My name is John P. Boyce. I  
22 Live at 38523 Beniger Drive.

23 I think the reason that I'm here today is to  
24 learn what the Commission is going to do, or planning to  
25 do, or some way, shape or form to get to the bottom of

1 the little problems that we have. Some of them are  
2 growing into monstrous positions.

3 We're behind, as a member of the Shady Oaks  
4 Homeowners Association, we're behind our Lady Bird -- I  
5 say "Lady Bird," it is Dottie, but it comes so easy to  
6 say Lady Bird -- that whatever she has said, we are  
7 behind her 100%. She has put a lot of time and effort  
8 in this park.

9 I have no real big complaint to make except a  
10 little worry. Without water, our sewer system is null;  
11 and without a sewer system, we can't use our water. So.  
12 that always sticks back in my mind, what is going to be done?

13 I believe that we have offered as an  
14 Association member to consult and buy from Mr. Sims the  
15 utilities. Now, I think there has not been too much  
16 said on the waste disposal plant. That, I know, is  
17 inadequate and I thought and have been told that the  
18 county is supposed to take that over. And, in turn, the  
19 members will go along.

20 Now, when it comes to the water, we have the  
21 finest water in this state and I would hate to see  
22 anything done to jeopardize our water system. I do know  
23 that there has to be a lot of repairs done -- a lot of  
24 them that we are having done on our own that are really  
25 the owner of the facility's responsibility.

1 But in the meantime, I want to say that it is  
2 a pleasure to be here and I might say I am very anxious  
3 to hear from each and every one of the Commissioners.

4 Thank you very much.

5 CHAIRMAN DEASON: Questions?

6 MS. JABER: No, sir.

7 CHAIRMAN DEASON: No questions. Thank you, sir.

8 MR. MANN: Thank you, Mr. Boyce.

9 WITNESS BOYCE: You're welcome.

10 (Witness Mr. Boyce excused.)

11 - - - - -

12 CHAIRMAN DEASON: Mr. Mann?

13 MR. MANN: Mr. Dan Ricketts?

14 MR. RICKETTS: No comment.

15 MR. MANN: Thank you, Mr. Ricketts.

16 Ms. Millie Brown?

17 MS. BROWN: Dottie Bird covered pretty much what  
18 I was going to say.

19 CHAIRMAN DEASON: Thank you.

20 MR. MANN: Thank you, Ms. Brown.

21 Mr. Charles Beck.

22 CHARLES BECK

23 appeared as a witness and, having been duly sworn,  
24 testified as follows:

25 WITNESS BECK: Good morning. My name is Charles

1 Beck, my address is 3558 Castle Drive in Shady Oaks.

2 I didn't come here with any prepared  
3 statement, I didn't think that I would even have the  
4 opportunity to speak. I have very little to say. I  
5 think everything is pretty much history. I mean,  
6 Mrs. Bird covered it exceptionally well.

7 Many of you people that were here when the  
8 original hearings were started know that these  
9 situations existed. The situation has been going on a  
10 considerable long time now and, of course, like I say,  
11 all the facts have been brought out already.

12 My main concern, and Mr. Boyce said it, too,  
13 is what alternatives are we going to have if something  
14 should happen to the existing utility? You know,  
15 there's a lot of older persons here with a lot of health  
16 problems. And anxiety is one of the worse situations  
17 that can exist as far as health is concerned; so we  
18 would like -- or I would like and I'm sure the group  
19 would like -- at their earliest convenience, should this  
20 Utility have to disband or whatever the decision is,  
21 what the alternatives would be and how we would proceed  
22 and what the costs would be and all that sort of  
23 thing.

24 So we'll be looking to you folks for some  
25 help, some advice, some cost figures, and that sort of



1 thing in regards to a possible changeover.

2 Thank you very much.

3 CHAIRMAN DEASON: Questions?

4 MS. JABER: No.

5 CHAIRMAN DEASON: Thank you, sir.

6 MR. MANN: Thank you, Mr. Beck.

7 (Witness Beck excused.)

8 - - - - -

9 MR. MANN: Ms. Louise Miller.

10 MS. MILLER: Thank you for calling on me. But  
11 the comments I would make have been made at least once and  
12 I think twice, I just don't want to make them.

13 CHAIRMAN DEASON: Thank you.

14 MR. MANN: Thank you, Ms. Miller.

15 Mr. Bob McCann?

16 MR. McCANN: I think Dorothy Bird has said  
17 everything I would have said. We are in behind her.

18 MR. MANN: Thank you. Mr. Alton Williams?

19 MR. WILLIAMS: Yes. I think Mrs. Bird, she put  
20 it over pretty much as far as I wanted to say. I can't  
21 say any more, I think I rely on her.

22 MR. MANN: Thank you, Mr. Williams.

23 Mr. Lester Peterson?

24 MR. PETERSON: I agree with what Mrs. Bird has  
25 presented to the Commission. And I think she covered it

1 very well and she speaks for the Association as a group.  
2 Thank you.

3 MR. MANN: Thank you, Mr. Peterson.

4 Mrs. Cora Meeusen.

5 MS. MEEUSEN: My name is Cora Meeusen, I live at  
6 Castle Drive. Dottie Bird pretty much answered all the  
7 questions I had to speak to.

8 MR. MANN: Thank you, Ms. Meeusen.

9 Are there any other individuals who want to  
10 present testimony to the Commission this morning?  
11 Anyone else we've omitted from this list?

12 Those are all the individuals on the list that  
13 I have, Mr. Chairman.

14 CHAIRMAN DEASON: Thank you, Mr. Mann.

15 We appreciate all of you coming out and being  
16 with us today. We do understand that perhaps there are  
17 many customers who are not here now that would have been  
18 here if the hearing were held at a different time, but  
19 I'm sure that everyone understands that we have  
20 constraints in scheduling, and that we're trying to move  
21 this docket along, and that this was the most  
22 appropriate time that the Commission had to schedule  
23 this hearing. But we appreciate that fact and we do  
24 realize that there are perhaps some customers that are  
25 not here at this time.

1 With that, we can move into the technical  
2 portion of the hearing. And Ms. Jaber, you may call  
3 your first witness.

4 MS. JABER: Mr. Chairman, we've had a chance to  
5 review the correspondence that was submitted by Ms. Bird,  
6 so I can go ahead and tell you what we think about that.  
7 They are in the form of letters; and to that extent, I  
8 think it would be more appropriate to include them on the  
9 correspondence side of the file.

10 CHAIRMAN DEASON: This is what was identified as  
11 Exhibit No. 1?

12 MS. JABER: What you identified as Exhibit No. 1  
13 were the correspondence from Mrs. Bird with respect to the  
14 sale of the Utility. That needs to stay where it is. But  
15 there was a question about the correspondence coming from  
16 other customers who could not be here, I think that would  
17 be more appropriately placed in the correspondence side of  
18 the file.

19 CHAIRMAN DEASON: What has been identified as  
20 Exhibit 1, are you moving that at this time?

21 MS. JABER: I would like to move that in.

22 CHAIRMAN DEASON: Without objection? Hearing  
23 none, Exhibit 1 is admitted. And the remainder of the  
24 materials will be inserted into the correspondence side of  
25 the docket.

1 (Exhibit No. 1 received in evidence.)

2 MS. JABER: With that, we can call Frances J.  
3 Lingo.

4 FRANCES J. LINGO

5 was called as a witness on behalf of the Staff of the  
6 Florida Public Service Commission and, having been duly  
7 sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. JABER:

10 Q Ms. Lingo, you have been sworn?

11 A Yes, I have.

12 Q Could you please state your name and business  
13 address for the record?

14 A Yes. Frances J. Lingo, business address 101  
15 East Gaines Street, Tallahassee, Florida.

16 Q Did you prefile testimony in this case  
17 consisting of 26 pages?

18 A Yes, I did.

19 Q Do you have any changes or corrections to your  
20 testimony at this time?

21 A Yes, I do. I have several corrections I'd  
22 like to make. First, beginning on Page 24, Line 13,  
23 after the portion of the sentence that reads, "\$4,000  
24 associated with its 1992 fees," I would like to add a  
25 portion that says, "\$3,879 associated with its 1993

1 fees."

2 In addition, on Line 13, there's a portion  
3 that says, "for a total amount owed of \$9,248," I would  
4 like to change that to, "for a total amount owed of  
5 \$13,127."

6 Also on Page 24, Line 14, after the words,  
7 "these amounts," I would like to add the words, "through  
8 1992."

9 Also on Page 24, Line 15, after the portion  
10 that says, "of my prefiled testimony," I would like to  
11 add "The amounts for 1993 were calculated through  
12 July 31, 1994."

13 I would like to strike on Page 24 Lines 15  
14 through 18 of my testimony. Specifically on Line 15,  
15 the portion that starts, "I would like to add," from  
16 that portion of Line 15 through Line 18 I would like to  
17 strike.

18 Moving to Page 25, on Line 21, I would like to  
19 change the number that's listed, "\$9,248," needs to be  
20 changed to \$13,127."

21 Also on Page 25, Line 22, the amount shown as  
22 "\$71,700," should be changed to \$75,600."

23 Moving to Page 26, Line 14, the amount shown  
24 as "\$96,000," should be changed to "\$100,000."

25 Finally, on Page 26 of my testimony, Line 23,

1 the portion that says, "No, not at this time," I would  
2 like to change to, "Yes, the Commission has received  
3 notice that the Company filed bankruptcy on July 14,  
4 1994." That concludes my changes.

5 Q Since you are adding that you have received  
6 notice that the Utility has filed for bankruptcy, does  
7 that affect or change your testimony in any way?

8 A No, it does not.

9 Q With the changes and corrections that you've  
10 made in your testimony, if I were to ask you the same  
11 questions today, would your testimony be the same?

12 A Yes, it would.

13 MS. JABER: Mr. Chairman, may I have Ms. Lingo's  
14 testimony inserted into the record as though read?

15 CHAIRMAN DEASON: Without objection, it will be  
16 so inserted.

17 Q (By Ms. Jaber) Ms. Lingo, did you prefile  
18 Exhibits FJL-1 through FJL-14 with your testimony?

19 A Yes, I did.

20 Q Do you have any corrections to those exhibits?

21 A Yes, I do. The cover page to Exhibit FJL-13  
22 should be revised to say "Examples of Non-Utility  
23 Expenditures."

24 In addition, I have prepared a revised FJL  
25 Exhibit 14 to include the calculation of delinquent

1 regulatory assessment fees through 1993.

2 COMMISSIONER KIESLING: Would you repeat the  
3 last one, just because I couldn't keep up?

4 WITNESS LINGO: I have prepared a revised  
5 Exhibit FJL 14 that includes the calculation of delinquent  
6 regulatory assessment fees through the year 1993.

7 CHAIRMAN DEASON: What was the revised title of  
8 FJL 13?

9 WITNESS LINGO: "Examples of Non-Utility  
10 Expenditures." The exhibit itself is correct, it's just  
11 the description on the cover page is incorrect.

12 MS. JABER: Mr. Chairman, I think because there  
13 are 14 exhibits we probably should identify those  
14 separately to make it easier for the record, rather than a  
15 composite exhibit.

16 CHAIRMAN DEASON: Okay, we will identify them  
17 separately. Since we have already one exhibit identified,  
18 each of these Exhibits 1 through 14 will be numbered  
19 consecutively beginning with No. 2 through No. 15.

20 MS. JABER: Thank you, Mr. Chairman.

21 (Exhibit Nos. 2 through 15 marked for  
22 identification.)

23

24

25

## 1 DIRECT TESTIMONY OF FRANCES J. LINGO

2 Q. Would you please state your name and business address?

3 A. Frances J. Lingo, 101 East Gaines Street, Tallahassee, Florida 32399-  
4 0850.

5 Q. By whom are you employed, and in what capacity?

6 A. I am employed by the Florida Public Service Commission (Commission) as  
7 a Regulatory Analyst IV.

8 Q. How long have you been employed by the Commission?

9 A. I have been employed by the Commission since June 12, 1989.

10 Q. Would you please state your educational background and experience?

11 A. I received a Bachelor of Science Degree with a major in Accounting and  
12 a Bachelor of Science Degree with a major in Economics, both from The Florida  
13 State University, in August 1983.

14 From October 1983 to May 1989, I was employed by Ben Johnson Associates,  
15 Inc. (BJA), an economic and analytic consulting firm specializing in the area  
16 of public utility regulation. During my employment at BJA, I performed  
17 research and analysis in more than 75 utility rate proceedings, assisting with  
18 the coordination and preparation of exhibits. I also assisted with the  
19 preparation of testimony, discovery and cross-examination regarding rate  
20 design issues.

21 In particular, I prepared embedded cost-of-service studies, made typical  
22 bill comparisons and examined local service rate and cost relationships. I  
23 studied residential and general service rates, customer charges, management  
24 decision-making processes, slippage in the engineering and construction of  
25 nuclear power plants, nuclear versus coal plant costs and seasonal load and



1 usage patterns.

2 In June 1989, I joined the Commission as a Regulatory Analyst II. In  
3 June 1990, I was promoted to Regulatory Analyst III, and in October 1991, I  
4 was promoted to my current position of Regulatory Analyst IV.

5 Q. Would you describe your experience and duties at the Commission?

6 A. Yes. My experience at the Commission includes but is not limited to:

- 7 (a) reviewing and evaluating staff-assisted rate case (SARC) filings,  
8 auditing utilities' books and records, developing rate base, rate  
9 of return and revenue requirements, and preparing and presenting  
10 recommendations in cases in which I am involved;  
11 (b) reviewing and evaluating price index and pass-through rate  
12 adjustment applications;  
13 (c) performing desk audits of annual reports and determining the  
14 respective utility's rate of return;  
15 (d) conducting overearning investigations; and  
16 (e) conducting research and other related duties on accounting and  
17 financial matters relating to water and wastewater utilities  
18 subject to the jurisdiction of the Commission.

19 In addition, I have attended the Eastern Utility Rate Seminar, a  
20 comprehensive seminar on utility ratemaking, which included topics on rate  
21 base, income statement considerations, problems of small water utilities,  
22 return on investment and rate design. I have also received in-house training  
23 regarding utility regulation, rate base, rate of return, revenue requirements  
24 and rate design issues.

25 Q. Have you testified previously before this Commission?

1 A. Yes. In January 1993, I testified on behalf of the Commission Staff in  
2 the show cause portion of Docket No. 900025-WS regarding the application for  
3 a staff-assisted rate case by Shady Oaks Mobile-Modular Estates, Inc. (Shady  
4 Oaks or utility).

5 Q. What was the nature of your testimony in that docket?

6 A. A show cause hearing was held regarding Shady Oaks' noncompliance with  
7 prior Commission orders. Specifically, my testimony dealt with whether the  
8 utility complied with Commission orders to:

- 9 (a) request a name change and restructure of the utility's  
10 organization;  
11 (b) spend at least \$1,445 per month for preventative maintenance; and  
12 (c) maintain its escrow account at the appropriate balance.

13 Q. What was the final result of that proceeding?

14 A. The Commission issued Order No. PSC-93-0542-FOF-WS, included as Exhibit  
15 FJL-7. I will discuss the specifics of this order later in my testimony.

16 Q. What is the purpose of your testimony in this proceeding?

17 A. I will present testimony regarding:

- 18 1) the history of events involving Shady Oaks;  
19 2) Shady Oaks' continued areas of noncompliance with Commission  
20 Statutes, rules and prior Commission orders; and  
21 3) whether Shady Oaks has the managerial and financial ability to  
22 continue operating as a water and wastewater utility.

23 Q. With respect to managerial ability, what have you considered in your  
24 analysis of this utility?

25 A. I have analyzed or reviewed management of the utility and its funds, and

1 | quality of service in making a determination regarding managerial ability,  
2 | and, ultimately, whether it is in the public interest for a utility to be  
3 | certificated. For the purposes of my testimony, I will examine the management  
4 | of the utility and its funds. The quality of service aspects are addressed  
5 | in the testimonies of Mr. Pete Burghardt and Ms. Brenda Arnold, both employees  
6 | of the Department of Environmental Protection (DEP).

7 | Q. Have you prepared exhibits in this case?

8 | A. Yes. Attached as Exhibit FJL-1 is Staff's recommendation prepared for  
9 | the April 21, 1992 Agenda Conference. Commission Orders Nos. 24084, 25296,  
10 | PSC-92-0356-FOF-WS, PSC-92-0367-FOF-WS, PSC-92-1116-FOF-WS, PSC-93-0542-FOF-  
11 | WS, PSC-93-1396-FOF-WS and PSC-93-1733-FOF-WS are attached as Exhibits FJL-2,  
12 | FJL-3, FJL-4, FJL-5, FJL-6, FJL-7, FJL-8 and FJL-9, respectively. Exhibit  
13 | FJL-10 is the transcript from the January 7, 1993 show cause hearing in Docket  
14 | No. 900025-WS. Exhibit FJL-11 contains correspondence and interrogatory  
15 | responses regarding filing for an acknowledgement of a name change and  
16 | restructure. Exhibit FJL-12 contains workpapers that support certain  
17 | calculations and adjustments that are reflected in Order No. PSC-93-1733-FOF-  
18 | WS. The exhibit is entitled "Analysis of Utility's Disbursements". Exhibit  
19 | FJL-13 contains examples of payments of nonutility expenses drawn on the  
20 | utility's bank account. Finally, Exhibit FJL-14 is an analysis of the  
21 | utility's delinquent regulatory assessment fees.

22 | Q. How are you familiar with the facts surrounding Shady Oaks?

23 | A. I am the analyst assigned to Docket No. 900025.

24 | Q. How long have you been the analyst assigned to Docket No. 900025-WS?

25 | A. I have been assigned to Docket No. 900025-WS since February 1992.

1 Q. Would you please describe your duties as the analyst assigned to that  
2 case?

3 A. Yes. As the analyst assigned to Shady Oaks' staff assisted rate case,  
4 I have:

- 5 1) visited the utility's office on two occasions to review the  
6 utility's books and records in order to obtain rate base, revenue  
7 and expense information and supporting documentation;
- 8 2) analyzed said information and documentation;
- 9 3) visited the utility's water and wastewater treatment facilities;
- 10 4) assisted in the resolution of customer complaints made against the  
11 utility;
- 12 5) prepared numerous recommendations to the Commission regarding the  
13 case; and
- 14 6) testified in the show cause hearing in that docket.

15 Q. Ms. Lingo, based on your familiarity with this utility, would you please  
16 discuss the history of events involving this utility?

17 A. Yes. Shady Oaks is a Class C water and wastewater utility located in  
18 Pasco County approximately 1 1/2 miles south of the City of Zephyrhills. It  
19 is a 242 lot mobile-modular home park developed in 1971.

20 On March 7, 1989, the utility signed a Consent Final Judgement (CFJ)  
21 with DEP. The utility agreed to construct an additional effluent disposal  
22 system to eliminate discharge from the plant, including constructing a new  
23 percolation pond. The utility was to submit an application for a construction  
24 permit within 60 days of the date of the order.

25 On January 10, 1990, Shady Oaks applied for a staff-assisted rate case

1 in large part to obtain rate relief for the contemplated wastewater plant  
2 improvements. As shown in Exhibit FJL-2, on February 8, 1991, the Commission  
3 issued proposed agency action Order No. 24084, which approved a rate increase  
4 and required the utility to do the following:

- 5 1) file a request for acknowledgement of a restructure and a name  
6 change;
- 7 2) bring the quality of service to a satisfactory level;
- 8 3) spend at least 85% of the allowance for preventative maintenance,  
9 or submit a written schedule showing what monthly maintenance will  
10 be implemented, along with a statement of the reasons such funds  
11 were not spent for preventative maintenance;
- 12 4) install meters for all of its customers; and
- 13 5) escrow a certain portion of the monthly rates relating to pro  
14 forma plant and a \$2,000 penalty imposed by the Commission for the  
15 utility's unsatisfactory quality of service.

16 The majority of the revenue increase granted by the Commission in Order  
17 No. 24084 related to pro forma water meter installations and pro forma  
18 wastewater plant improvements that had been included in the utility's rate  
19 base. As discussed on page 29 of that order, the Commission held that the  
20 portion of the increase related to the pro forma plant and the \$2,000 penalty  
21 be placed in escrow until the construction was complete and a final review of  
22 the utility's quality of service had been completed. As discussed on page 30  
23 of that order, the utility was also authorized to charge flat rates for six  
24 months, at the end of which time the base facility charge (BFC) rate structure  
25 became effective. In this case, the BFC rates automatically became effective

1 on October 1, 1991.

2 Q. Was Order No. 24084 protested?

3 A. Yes, it was. On March 1, 1991, several utility customers timely filed  
4 a protest to Order No. 24084. In their protest, the customers objected to the  
5 location of the percolation pond proposed by the utility. In finding that the  
6 Commission has no jurisdiction to dictate the location of the proposed  
7 percolation pond, by Order No. 24409, issued April 22, 1991, the Commission  
8 dismissed the protest and revived Order No. 24084, making it final and  
9 effective.

10 Q. Was the utility able to start collecting the increased rates at that  
11 time?

12 A. No, it was not. On June 24, 1991, in response to a suit filed by the  
13 homeowners, Judge Lynn Tepper with the Circuit Court of the Sixth Judicial  
14 Circuit in and for Pasco County, Florida, granted an emergency temporary  
15 injunction enjoining and restraining the utility from charging or attempting  
16 to collect the new utility rates.

17 On July 5, 1991, Judge Wayne L. Cobb with the Circuit Court of the Sixth  
18 Judicial Circuit in and for Pasco County, Florida, issued an Order to Show  
19 Cause why Shady Oaks should not be punished for contempt of Court for  
20 willfully and deliberately violating a 1983 order of the Court that prohibited  
21 the utility from charging more than \$25 per month as a service maintenance  
22 fee, which included the provision of water and wastewater service. The July  
23 5, 1991 order further enjoined the utility from collecting the utility rates  
24 established by this Commission and ordered that the \$25 per month service  
25 maintenance fee be tendered to the Clerk of the Circuit Court. In August

1 1991, both injunctions were lifted and the utility was able to begin  
2 collecting revenues.

3 Q. Once the utility began collecting the increased revenues, did it  
4 commence with any of the required plant improvements?

5 A. No. The utility never applied for its construction permit as required  
6 by the CFJ. Therefore, on July 8, 1991, as a result of a stipulated  
7 settlement to a motion for contempt brought against the utility by DEP, Judge  
8 Lynn Tepper ordered the utility to interconnect its wastewater system with  
9 Pasco County, rather than construct new disposal facilities. The utility was  
10 given six months from the date of the order to complete the interconnection.  
11 The utility has failed to interconnect its wastewater system to Pasco County;  
12 therefore, it is in violation of a court order. In addition, the utility is  
13 operating without a permit from DEP.

14 Q. Did the utility comply with Order No. 24084 with respect to the name  
15 change and restructure requirements?

16 A. No, it did not.

17 Q. Did the utility comply with Order No. 24084 with respect to bringing its  
18 quality of service to a satisfactory level?

19 A. No, it did not.

20 Q. Did the utility comply with Order No. 24084 with respect to the  
21 preventative maintenance requirements?

22 A. No, it did not.

23 Q. Did the utility comply with Order No. 24084 with respect to the escrow  
24 requirements?

25 A. No, it did not.

1 Q. Did the utility install water meters for all of its customers?

2 A. No, not at that time.

3 Q. What action did the Commission take next?

4 A. On November 4, 1991, the Commission issued Order No. 25296, included as  
5 Exhibit FJL-3. This order determined the utility's noncompliance with Order  
6 No. 24084, and reiterated Order No. 24084 by requiring the utility to:

7 1) submit all necessary information for changing its certificated  
8 name, or revert to operating under its currently certificated  
9 name;

10 2) immediately place in the escrow account all funds necessary to  
11 bring said account to its proper balance;

12 3) install water meters for all of its customers; and

13 4) improve the quality of service and interconnect with the Pasco  
14 County wastewater treatment system.

15 Because numerous customers did not pay their utility bills as a result  
16 of a court dispute over the utility's rates, Order No. 25296 allowed the  
17 utility to charge the flat rates for an additional five months. Beginning in  
18 December 1991, the utility once again began charging flat rates.

19 On May 14, 1992, the Commission issued two additional orders in the  
20 case. By Order No. PSC-92-0356-FOF-WS, the Commission ordered the utility to  
21 issue credits to those customers who had paid a delinquent purchased power  
22 bill for the utility. By Order No. PSC-92-0367-FOF-WS, included as Exhibit  
23 FJL-4, the Commission: 1) imposed a \$2,000 fine for unsatisfactory quality  
24 of service that had been previously suspended; and 2) ordered the utility to  
25 show cause why it should not be fined for each item of noncompliance with



1 Orders Nos. 24084 and 25296. At the utility's request, the show cause matters  
2 were set for hearing. I will discuss the hearing later in my testimony.

3 Q. Did the utility comply with the provisions of Orders Nos. 24084 and  
4 25296 before the scheduled show cause hearing?

5 A. The utility failed to comply with any of the provisions of Orders Nos.  
6 24084 and 25296 before the scheduled show cause hearing with one exception:  
7 the utility did fulfill the requirement of installing water meters for all of  
8 its customers.

9 Q. Would you please explain the events associated with the meter  
10 installations?

11 A. Yes. As of May 1992, when Order No. PSC-92-0367-FOF-WS was issued, the  
12 utility had installed a total of 47 of the 185 meters required. The last  
13 meters were installed in June 1992, which is 74 days past the extended  
14 deadline established in Order No. 25296. As a result of the completed meter  
15 installations, by Order No. PSC-92-0723-FOF-WS, issued July 28, 1992, the  
16 Commission ordered the utility to implement the base facility and gallonage  
17 charge rates that had been approved in Order No. 24084. The utility  
18 implemented the new rates effective September 25, 1992.

19 Q. Please continue your discussion of the history of events related to this  
20 proceeding.

21 A. Certainly. In July 1992, the utility unilaterally decided to cease  
22 placing monies into the required escrow account, and requested that the escrow  
23 requirements set forth in Orders Nos. 24084 and 25296 be suspended for a  
24 period of several months.

25 Order No. PSC-92-1116-FOF-WS, issued October 5, 1992, is included as

1 Exhibit FJL-5. As discussed on page 2 of that order, the Commission found  
2 that there had been no change in the number or composition of the utility's  
3 customer base since the prior orders had been issued. In addition, the  
4 Commission found that the utility had offered nothing persuasive to support  
5 the relief requested. Therefore, by Order No. PSC-92-1116-FOF-WS, the  
6 Commission denied the utility's request for relief from the prior Commission  
7 orders regarding the escrow requirements.

8 On October 26, 1992, the utility timely filed a protest to that order.  
9 The presiding prehearing officer decided that any escrow proceeding resulting  
10 from the protest should be scheduled after the hearing relating to the  
11 utility's noncompliance with prior Commission orders. Consequently, the  
12 escrow hearing was set for June 4, 1993.

13 Q. You mentioned that the show cause matters were set for hearing. Would  
14 you please elaborate?

15 A. Yes. A hearing regarding the utility's noncompliance with Orders Nos.  
16 24084 and 25296 was held on January 7, 1993 in Zephyrhills, Florida. The  
17 utility, although it requested the hearing, did not attend the hearing. The  
18 transcript of that hearing is included as Exhibit FJL-10. As shown in Exhibit  
19 FJL-7, as a result of that hearing, by Order No. PSC-93-0542-FOF-WS, issued  
20 April 9, 1993, the Commission found that the utility had failed to comply with  
21 Commission Orders Nos. 24084 and 25296 with respect to:

- 22 1) improving its quality of service;
- 23 2) the name change and restructure requirements;
- 24 3) the preventative maintenance requirements; and
- 25 4) the escrow requirements.

1 As discussed on page 10 of Order No. PSC-93-0542-FOF-WS, the Commission found  
2 that the record supported the following action:

- 3 1) fining the utility in the amount of its rate base totalling  
4 approximately \$60,500;
- 5 2) ordering that a proceeding be initiated to reduce the utility's  
6 rates by the amount of pro forma plant not constructed and the  
7 amount of preventative maintenance not spent; and
- 8 3) ordering that revocation proceedings be initiated.

9 The order specifically states that:

10 In order for this Commission to prevent further  
11 violations of its regulatory directives and to  
12 protect the health, safety and welfare of the  
13 customers of the utility, we find the above punitive  
14 measures are necessary.

15 Q. What action was taken next?

16 A. The utility filed a Motion for Reconsideration. As shown in Exhibit  
17 FJL-8, Order No. PSC-93-1396-FOF-WS, issued September 27, 1993, the Commission  
18 denied the utility's motion. On page 2 of that order, the Commission states:

19 This is a large fine in relation to the size of the  
20 utility. However, it is not a large fine in relation  
21 to the conduct of the utility.

22 The utility subsequently filed an appeal of the Commission's decision with the  
23 First District Court of Appeal. A ruling has yet to be made on that appeal.  
24 However, pursuant to Order No. PSC-93-0542-FOF-WS, the Commission has  
25 initiated proceedings to revoke the utility's water and wastewater

1 certificates.

2 Q. You mentioned that the utility has been fined in the amount of its rate  
3 base. Was the utility presented with alternatives regarding this fine?

4 A. Yes, it was. As shown in Exhibit FJL-8, on page 3 of Order No. PSC-93-  
5 1396-FOF-WS, the Commission states:

6 ... we believe that, if the utility were to be  
7 transferred to some other owner that would assure  
8 that it would be run appropriately, it would be  
9 reasonable to suspend the fine. Therefore, we will  
10 suspend the fine if the utility submits a completed  
11 application for transfer or cancellation of its water  
12 and wastewater certificates within 120 days of the  
13 issuance of this order.

14 Q. Did the utility complete and submit an application for the transfer or  
15 cancellation of its certificates within the prescribed time period?

16 A. No, it did not. Therefore, the fine in the amount of rate base of  
17 approximately \$60,500 is due and payable.

18 Q. You also mentioned that the utility requested a hearing regarding the  
19 escrow requirements. Would you please elaborate?

20 A. Yes. The escrow requirements hearing had been set for June 4, 1993.  
21 In preparation for the related prehearing, Staff met with the utility in May  
22 1993 in an attempt to resolve certain concerns of the utility. Specifically,  
23 the utility contended that it was unable to meet its escrow requirements due  
24 to a shortfall in revenues collected. Staff agreed to review the utility's  
25 contended revenue shortfall within the context of the proceeding to reduce the

1 utility's rates. Consequently, the utility withdrew its escrow-related  
2 protest. Therefore, by Order No. PSC-93-0777-PCO-WS, issued May 20, 1993, the  
3 prehearing and hearing were cancelled.

4 Q. Has Staff reviewed the utility's contended revenue shortfall?

5 A. Yes. Pursuant to Order No. PSC-93-0542-FOF-WS, Staff prepared a  
6 recommendation in October 1993 that addressed the issues involved with  
7 removing from the utility's rates all pro forma plant not constructed and  
8 preventative maintenance not spent. Additionally, the recommendation  
9 addressed the appropriate disposition of all escrow-related monies.

10 As shown in Exhibit FJL-9, by Order No. PSC-93-1733-FOF-WS, issued  
11 December 1, 1993, the Commission found that the utility was collecting less  
12 revenues than was contemplated in Order No. 24084. This revenue shortfall was  
13 attributable to the conversion from a flat rate structure to a BFC and  
14 gallonage rate structure. This is discussed on page 6 of Order No. PSC-93-  
15 1733-FOF-WS.

16 Q. Did you also perform an analysis of the utility's expenditures in  
17 preparation for Staff's October 1993 recommendation?

18 A. Yes, I did. I reviewed the utility's expenditures for the period June  
19 1992 through May 1993. As part of this analysis, I reviewed each check  
20 written by the utility during the period of June 1992 through May 1993. The  
21 workpapers supporting this analysis are included as Exhibit FJL-12.

22 Q. What was the result of this analysis?

23 A. As discussed on pages 7 through 9 of Order No. PSC-93-1733-FOF-WS, the  
24 Commission determined that it was inappropriate to review the utility's  
25 revenues or cash inflows without also reviewing the corresponding expenses or

1 cash outflows. The Commission found that, once the corresponding expense  
2 amounts were adjusted consistent with the provisions of Order No. 24084, the  
3 utility had not spent at the levels contemplated in that order. In addition,  
4 there were numerous nonutility expenditures the utility made on a routine  
5 basis.

6 Q. Do you have specific examples of these nonutility expenditures?

7 A. Yes, I do. As shown on pages 1 and 2 of Exhibit FJL-13, there have been  
8 several instances that the utility owner paid his home local telephone bill  
9 with utility funds. Other examples of nonutility expenditures paid for with  
10 utility funds include:

- 11 1) purchased power at the Shady Oaks recreation center;
- 12 2) long distance telephone charges made from the utility owner's  
13 home;
- 14 3) gasoline and other consumer credit cards;
- 15 4) car insurance on a nonutility vehicle;
- 16 5) newspaper and magazine subscriptions; and
- 17 6) contributions to political organizations.

18 Q. How were you able to determine whether an expenditure was nonutility-  
19 related?

20 A. I examined the available copies of bills relating to the suspected  
21 nonutility expenditures in order to determine whether the expenditure was of  
22 a nonutility nature. For example, while reviewing the long distance telephone  
23 bills, I considered whether the calls were made from the telephone at the  
24 utility's office or from the owner's home. In addition, I also examined the  
25 day of the week, time of day, and destination of the calls. The adjustments

1 made with respect to the other nonutility items are consistent with the  
2 findings in Order No. 24084.

3 Q. Are the documents included in Exhibit FJL-13 inclusive of all instances  
4 that nonutility expenditures were paid for with utility funds?

5 A. No. There are numerous other instances that utility funds were used for  
6 nonutility purposes. The documents in Exhibit FJL-13 are merely  
7 representative examples of the utility's behavior in this regard.

8 Q. Did these nonutility expenditures affect the utility's ability to comply  
9 with Orders Nos. 24084 and 25296 with respect to the escrow and preventative  
10 maintenance requirements?

11 A. Yes. Based on the results of my analysis, the utility apparently  
12 expended approximately \$21,000 in monies that were of a nonutility or prior  
13 period nature. This amount represents approximately 85% of the \$24,000 the  
14 escrow account is underfunded. Had the utility spent a portion of the \$21,000  
15 on preventative maintenance, the percentage of nonutility expenditures  
16 relative to the underfunded escrow account would of course be less. However,  
17 I believe the important point is that the \$21,000 was applied neither to the  
18 preventative maintenance nor to the escrow requirements.

19 Q. What was the Commission's decision with regard to the October 1993  
20 recommendation?

21 A. By Order No. PSC-93-1733-FOF-WS, the Commission ordered:

- 22 1) that the utility's rates be reduced;  
23 2) that the utility refund all monies in the escrow account; and  
24 3) that the utility refund virtually all of the \$24,000 underfunding  
25 of the escrow account.

1 Q. Please explain the Commission's ordered disposition of all escrow-  
2 related monies.

3 A. As I discussed previously, the utility was ordered to escrow the portion  
4 of its rate increase related to pro forma water and wastewater improvements.  
5 However, the utility neither maintained the escrow account at the appropriate  
6 level nor made the required wastewater plant improvements.

7 As discussed on pages 11 and 12 of Order No. PSC-93-1733-FOF-WS, the  
8 balance in the escrow account as of June 30, 1993 was \$9,434, and the  
9 appropriate balance in the escrow account as of that date was \$30,450.  
10 Commission found that, due to the underfunding of the utility's escrow  
11 account, it is appropriate for the utility to refund to its customers the  
12 entire balance of all monies in the escrow account. In addition, the  
13 Commission found that the total calculated underfunding of the escrow account,  
14 less the pro rata share of the escrow requirement relating to the pro forma  
15 water meters, shall also be refunded to the utility's customers in the form  
16 of credits on the customers' bills.

17 Q. How is the utility to make the required refunds?

18 A. In order for the utility to make the required refunds, the Commission  
19 ordered that the utility shall apply all of its net operating income to the  
20 customer refunds. Based on the total estimated amount the escrow account is  
21 underfunded and the net operating income available to apply toward refunds,  
22 the Commission found that the refunds would extend over a period of  
23 approximately three years.

24 Q. What are the utility's continued items of noncompliance with prior  
25 Commission orders?



1 A. As I stated previously, by Orders Nos. 24084 and 25296, the Commission  
2 ordered Shady Oaks to submit a request for acknowledgement of a name change  
3 and restructure and to improve its quality of service. To date, the utility  
4 remains in noncompliance with these requirements.

5 Q. By Orders Nos. 24084 and 25296, the Commission ordered Shady Oaks to  
6 submit a request for acknowledgement of a name change and restructure, in  
7 accordance with Rule 25-30.037, Florida Administrative Code. Would you please  
8 summarize the events associated with the name change?

9 A. Yes. As discussed in detail on pages 4 through 6 of Exhibit FJL-1, in  
10 August 1990, Mr. Sims transferred the title of the utility land from Shady  
11 Oaks Mobile-Modular Estates, Inc. to Richard D. and Caroline Sue Sims. The  
12 utility's name was also changed, from Shady Oaks Mobile-Modular Estates, Inc.  
13 to S & D Utility. However, neither the transfer nor the name change was  
14 approved by the Commission. Therefore, in Order No. 24084, issued February  
15 8, 1991, the Commission ordered Shady Oaks to file within 60 days a request  
16 for acknowledgement of a name change and restructure.

17 By Order No. 25296, issued November 4, 1991, the Commission allowed the  
18 utility additional time to complete the name change and restructure  
19 requirements. Specifically, the utility was ordered to submit within 60 days  
20 all necessary information for changing its certificated name, including  
21 evidence that the title to all the utility land and personal property has been  
22 properly transferred to S & D Utility, or revert to operating under its  
23 currently certificated name of Shady Oaks Mobile-Modular Estates, Inc.

24 Q. In addition to the Commission orders requiring that the utility submit  
25 a request for acknowledgement of a name change and restructure, has Staff made

1 other attempts to obtain the information from the utility?

2 A. Yes. By letter dated January 22, 1992, included as Attachment A of  
3 Exhibit FJL-1, the utility was informed that Staff was preparing a  
4 recommendation to the Commission regarding the continued areas of  
5 noncompliance with Orders Nos. 24084 and 25296. In that letter, Staff  
6 restated to Mr. Sims what information was necessary to complete the name  
7 change.

8 As shown on pages 1 and 2 of Exhibit FJL-11, by letter dated July 21,  
9 1992, Staff again notified Mr. Sims regarding the appropriate filing  
10 requirements. In October 1992, Staff propounded interrogatories to Shady Oaks  
11 in preparation for the show cause proceeding. Several of the interrogatories  
12 dealt with the name change issue. Specifically, in Staff's First Set of  
13 Interrogatories, No. 5, Mr. Sims was asked why the utility had failed to file  
14 the documents which the Commission required it to file in Orders Nos. 24084  
15 and 25296 regarding acknowledgement of the name change from Shady Oaks Mobile-  
16 Modular Estates, Inc. to S & D Utility. As shown on pages 8 and 9 of Exhibit  
17 FJL-11, in the utility's response to that interrogatory received in November  
18 1992, Mr. Sims states:

19 I am anxious to comply with the order, but I am  
20 confused and vague concerning the nature of the  
21 documentation required. Could the Commission provide  
22 me with sample [sic] format so that I might comply.

23 As I mentioned previously, Staff met with the utility in preparation for  
24 the scheduled prehearing regarding the escrow requirements. During the course  
25 of that meeting, the utility's failure to comply with the name change

1 requirements were also discussed. As a result of that meeting, in June 1993,  
2 Mr. John Wharton, counsel for the utility, submitted to Staff a letter with  
3 an attached timetable by which Shady Oaks would comply with all outstanding  
4 requirements of Orders Nos. 24084 and 25296. As shown on pages 10 through 12  
5 of Exhibit FJL-11, the utility committed to file a request for acknowledgement  
6 of a restructuring and name change within 45 days of June 18, 1993. However,  
7 to date the utility has failed to comply with the Commission's name change  
8 requirements.

9 Q. Have there been any further attempts on the part of Staff to prompt the  
10 utility's compliance with respect to the name change and restructure?

11 A. Yes. As shown on pages 13 through 16 of Exhibit FJL-11, Staff's most  
12 recent attempt to reiterate to the utility the appropriate filing requirements  
13 for acknowledgement of a restructuring and name change was in December 1993.  
14 However, the utility remains in noncompliance with the requirements.

15 Q. Have you reviewed all of the documents filed by the utility in both this  
16 proceeding and in Docket No. 900025-WS, including the show cause portion?

17 A. Yes, I have.

18 Q. Based on your review of these documents, has the utility filed the  
19 required documents for the name change and restructure?

20 A. No, the utility has not filed the documents for a name change and  
21 restructure.

22 Q. By Orders Nos. 24084 and 25296, the Commission ordered Shady Oaks to  
23 improve its quality of service. Would you please summarize the events  
24 associated with the utility's quality of service?

25 A. Yes. As discussed in detail on pages 3 through 4 of Exhibit FJL-2, by

1 Order No. 24084, the Commission found that the utility's quality of service  
2 was unsatisfactory. Therefore, the Commission took the following action:

- 3 1) it imposed a \$2,000 fine on the utility for unsatisfactory service  
4 and required the utility to accumulate the fine in an escrow  
5 account. However, the Commission suspended the fine for nine  
6 months pending a review of the utility's service for improvement;
- 7 2) it ordered the utility to comply with a DEP Consent Order  
8 requiring specific repairs and improvements necessary for the  
9 proper operation of the utility's wastewater treatment and  
10 disposal facilities within the time period prescribed by that  
11 Consent Order; and
- 12 3) it directed the utility to spend a minimum of 85% of the \$1,700  
13 per system per month preventative maintenance expense allowance  
14 on repairs and maintenance, and it ordered that if the utility had  
15 not spent the minimum over a period of six months, the utility  
16 must submit an explanation and a detailed statement of future  
17 plans to maintain the system.

18 Q. Did the utility comply with Order No. 24084 with respect to the quality  
19 of service requirements?

20 A. No, it did not. As discussed earlier in my testimony, Order No. 25296  
21 determined the utility's noncompliance with Order No. 24084. As a result of  
22 the utility's noncompliance with respect to its quality of service, by Order  
23 No. 25296, the Commission took the following action with respect to the  
24 utility's quality of service:

- 25 1) suspended the \$2,000 fine until February 1992;

- 1        2)    required the utility to escrow the fine as previously ordered;
- 2        3)    found that the quality of service had deteriorated, noting
- 3           numerous customer complaints against the utility and the derelict
- 4           condition of the utility systems;
- 5        4)    required the utility to interconnect its wastewater system with
- 6           Pasco County as agreed to in the court-approved settlement between
- 7           the utility and DEP; and
- 8        5)    found that the utility had failed to spend the minimum of the
- 9           monthly preventative maintenance allowance, but announced it would
- 10          review the situation again before taking further action.

11    Q.    Why was the \$2,000 fine suspended until February 1992?

12    A.    As discussed earlier in my testimony, as a result of a suit filed on  
13    behalf of the utility's customers, the Pasco County Circuit Court granted an  
14    emergency temporary injunction enjoining and restraining the utility from  
15    charging or attempting to collect the increased utility rates. This  
16    injunction was not lifted until August 1991. In Order No. 25296, the  
17    Commission found that the utility's failure to maintain its systems during  
18    that period was at least partially attributable to the decreased revenues  
19    collected by the utility.

20    Q.    Did the utility comply with these Commission directives with respect to  
21    quality of service after the issuance of Order No. 25296?

22    A.    No. The utility continued to disregard these Commission directives,  
23    and, as a result, continued to provide unsatisfactory quality of service.  
24    Therefore, by Order No. PSC-92-0367-FOF-WS, the Commission lifted the  
25    suspension of the \$2,000 fine. To date, this fine has not been paid.

1 Q. Did the utility interconnect its wastewater system to Pasco County?

2 A. No, it did not. By Order No. PSC-93-0542-FOF-WS, issued as a result of  
3 the show cause hearing, the Commission found that the utility failed to  
4 interconnect its wastewater system with Pasco County. In addition, the  
5 Commission found that neither the utility's customer relations had improved,  
6 nor had the utility spent sufficient funds on preventative maintenance.  
7 Therefore, the utility's quality of service remained unsatisfactory.

8 Q. It appears as though the Commission's finding with regard to the  
9 utility's provision of unsatisfactory quality of service was based in part on  
10 DEP compliance problems regarding the utility's wastewater treatment and  
11 disposal system. Is this correct?

12 A. Yes. As discussed in greater detail in the testimony of Mr. Pete  
13 Burghardt, an Environmental Specialist with DEP, the utility's wastewater  
14 facility has had treatment and effluent disposal problems for years. Numerous  
15 warning notices, consent orders and motions for contempt have been filed  
16 against the utility by DEP; however, the utility failed to comply with any of  
17 those directives. In fact, as a result of recent DEP action against the  
18 utility, an Agreed Order Granting DEP's Motion for Contempt was signed,  
19 wherein the Circuit Court Judge ordered Shady Oaks to interconnect with Pasco  
20 County within 120 days of February 18, 1994, or Mr. Sims would be  
21 incarcerated. This order is discussed in greater detail in Mr. Burghardt's  
22 testimony, and is attached as an exhibit to his testimony.

23 Q. Are there additional items of noncompliance with Commission Statutes,  
24 rules or prior Commission orders that you would like to discuss?

25 A. Yes, there are. As applicable and as provided in Section 350.113,

1 Florida Statutes, each utility shall remit regulatory assessment fees based  
 2 upon its gross operating revenues. Rule 25-30.120, Florida Administrative  
 3 Code, states that this obligation applies to any utility which is subject to  
 4 the Commission's jurisdiction on or before December 31st of that year.  
 5 However, based upon my review of Shady Oaks' payment of regulatory assessment  
 6 fees, the utility has failed to remit its regulatory assessment fees for the  
 7 years 1990, 1991 and 1992. Therefore, the utility is in violation of the  
 8 applicable statute and rule.

9 Q. What is the total amount of regulatory assessment fees owed by the  
 10 utility?

11 A. As shown on Exhibit FJL-14, the utility owes \$2,063 associated with its  
 12 1990 regulatory assessment fees, \$3,184 associated with its 1991 fees, and  
 13 \$4,000 associated with its 1992 fees, <sup>\$3,879 associated with its 1993 fees, \$13,127</sup> for a total amount owed of \$9,248.  
 14 <sup>through 1992</sup> These amounts include all penalties and interest calculated through the date  
 15 <sup>The amounts for 1993 were calculated through July 31, 1994.</sup> of my prefiled testimony. ~~I would like to add that the due date for the~~  
 16 ~~utility's 1993 regulatory assessment fee is today, March 31, 1994, and to date~~  
 17 ~~no information or payment for the 1993 fees has been received from the~~  
 18 ~~utility.~~

19 Q. Ms. Lingo, based upon your analysis of the events and circumstances  
 20 regarding the utility's current and past operations, do you believe Shady Oaks  
 21 has demonstrated the managerial ability to continue operating as a utility?

22 A. No, I do not. As I discussed previously, Shady Oaks has a history of  
 23 misappropriating funds by drawing on the utility's funds to pay for nonutility  
 24 expenditures. As discussed in greater detail by Mr. Burghardt, the utility's  
 25 history of problems with its wastewater disposal system have been documented

1 since 1985. Further, the utility remains in noncompliance with DEP regarding  
2 operating without a permit and not having interconnected its wastewater system  
3 with Pasco County. As a result of the utility's noncompliance with DEP, the  
4 utility's quality of service remains unsatisfactory. Even further, the  
5 utility has continuously failed to pay fines, regulatory assessment fees, and  
6 follow other regulatory requirements. Shady Oaks' failure to comply with the  
7 regulatory directives of this Commission and those of DEP indicates a lack of  
8 ability on the part of management to properly operate the utility. Therefore,  
9 based on these circumstances, I believe Shady Oaks lacks the managerial  
10 ability to continue operating as a water and wastewater utility.

11 Q. Based upon your analysis of the events and circumstances regarding the  
12 utility's current and past operations, do you believe Shady Oaks has the  
13 financial ability to continue operating as a utility?

14 A. No, I do not.

15 Q. Would you please explain?

16 A. Yes. As I mentioned earlier in my testimony, Shady Oaks has a history  
17 of misappropriating funds. In addition, the utility has been assessed fines  
18 of \$2,000 and approximately \$60,500, respectively, relating to its  
19 unsatisfactory quality of service and its history of noncompliance with this  
20 Commission's directives. I have also discussed the utility's outstanding  
21 regulatory assessment fees in the amount of ~~\$9,248~~<sup>\$13,127</sup>. These fines and fees  
22 total approximately ~~\$71,700~~<sup>\$75,600</sup> that Shady Oaks is obligated to pay.

23 Q. Are there any other financial considerations of the utility that will  
24 affect its ability to continue to operate?

25 A. Yes. As discussed previously and as shown in Exhibit FJL-8, by Order



1 No. PSC-93-1733-FOF-WS, the Commission found that the utility had underfunded  
2 the escrow account required by Order No. 24084. The approximate amount of the  
3 underfunding is \$24,000. The Commission ordered that the total calculated  
4 underfunding of the escrow account, less the pro rata share of the escrow  
5 requirement relating to the pro forma meter installations, shall be refunded  
6 to the utility's customers.

7 In order for the utility to make the required refunds, the Commission  
8 ordered that the utility shall apply all of its net operating income to the  
9 customer refunds. Based on the total estimated amount the escrow account is  
10 underfunded and the net operating income available to apply toward refunds,  
11 the Commission found that the refunds would extend over a period of  
12 approximately three years. When the required refunds are added to the  
13 utility's outstanding fines and fees, the utility's outstanding obligations  
14 increase to approximately <sup>\$100,000</sup> ~~\$96,000~~.

15 Q. Ms. Lingo, based on your analysis of this utility, its history and your  
16 recent review, do you believe it is in the public interest for Shady Oaks to  
17 continue operating as a water and wastewater utility?

18 A. No, I do not.

19 Q. Therefore, do you believe Certificates Nos. 451-W and 382-S, issued to  
20 Shady Oaks Mobile-Modular Estates, Inc., should be revoked?

21 A. Yes, I do.

22 Q. Do you have anything further to add?

23 A. ~~No, not at this time.~~ Yes. The Commission has received  
24 notice that the Company filed bankruptcy on  
25 July 14, 1994.

1 MS. JABER: I tender this witness for cross.

2 CHAIRMAN DEASON: Are we going to have a summary  
3 of her testimony?

4 MS. JABER: No, sir, unless you would like that.  
5 But I believe Ms. Lingo has not prepared a summary of her  
6 testimony.

7 CHAIRMAN DEASON: Ms. Lingo, I don't want to put  
8 you on a spot; but we have a number of customers here, I  
9 think it will be beneficial for them as well as the  
10 Commissioners if you would give a short summary of your  
11 testimony.

12 WITNESS LINGO: Yes, sir, Mr. Chairman. If you  
13 will give me a moment to collect myself, I will be glad to  
14 do that.

15 CHAIRMAN DEASON: We have been going now for  
16 almost an hour, perhaps now would be a good time to take a  
17 five-minute break. That will give you a chance to gather  
18 your thoughts to provide a summary.

19 We'll take five minutes at this time.

20 (Brief recess.)

21 - - - - -

22 CHAIRMAN DEASON: Ladies and gentlemen, if I  
23 could have your attention, please, I ask you to take your  
24 places. Thank you. I call the hearing back to order at  
25 this time.

1 First of all, let me say, Ms. Lingo, I  
2 apologize for putting you on the spot but I appreciate  
3 you so quickly putting together a summary for the  
4 benefit of the Commission and the customers who are here  
5 today.

6 Ms. Jaber, you may proceed.

7 Q (By Ms. Jaber) Ms. Lingo, would you give a  
8 brief summary of your testimony, please.

9 A Yes, I will.

10 Today I'm testifying regarding the history of  
11 events involving Shady Oaks, Shady Oaks' continued areas  
12 of noncompliance with Commission statutes, rules and  
13 prior Commission orders, and whether Shady Oaks has the  
14 managerial and financial ability to continue operating  
15 as a water and wastewater utility.

16 Based on my analysis of the events and  
17 circumstances regarding the Utility's current and past  
18 operations, I do not believe that the Utility has the  
19 managerial and financial ability to continue operating  
20 as a Utility.

21 Shady Oaks has a history of missappropriating  
22 funds by drawing on the Utility's funds to pay for  
23 nonutility expenditures.

24 As will be discussed in greater detail by  
25 Mr. Burghardt, the Utility's history of problems with

1 its wastewater disposal system have been documented  
2 since 1985. Further, the Utility remains in  
3 noncompliance with DEP regarding operating without a  
4 permit and not having interconnected its wastewater  
5 system with Pasco County.

6 As a result of the Utility's noncompliance  
7 with DEP, the Utility's quality of service remains  
8 unsatisfactory. Even further, the Utility has  
9 continuously failed to pay fines, regulatory assessments  
10 fees, and follow other regulatory requirements. The  
11 Utility's failure to comply with the regulatory  
12 directives of this Commission and those of DEP indicates  
13 a lack of ability on the part of management to properly  
14 operate the Utility.

15 In addition, the Utility owes approximately  
16 \$100,000 associated with fines, regulatory assessment  
17 fees, and items of that nature.

18 Based on these facts, I do not believe it is  
19 in the public interest for Shady Oaks to continue  
20 operating as a Utility.

21 That concludes my summary.

22 CHAIRMAN DEASON: Thank you.

23 MS. JABER: Again, I tender witness for cross.

24 I don't know if anyone has any cross examination questions  
25 of Ms. Lingo.

1           CHAIRMAN DEASON: Any questions of Ms. Lingo?  
2 Commissioner?

3           COMMISSIONER KIESLING: No.

4           CHAIRMAN DEASON: Once again, I just want to say  
5 we appreciate you putting that summary together so quickly  
6 for us.

7           WITNESS LINGO: Certainly.

8           CHAIRMAN DEASON: There was a question from one  
9 of the customers who testified earlier today, and I  
10 believe it was Mr. Beck. And I believe the essence of his  
11 question was, "What alternatives exist if the certificate  
12 is revoked?" could you give us some information in that  
13 regard, please?

14          WITNESS LINGO: Yes, sir, I can. Staff has been  
15 in contact with Pasco County and the county has indicated  
16 that it might be willing to take over the system. That is  
17 certainly an option that would be available.

18          CHAIRMAN DEASON: What happens in the meantime  
19 if the certificate is revoked, so that the service is  
20 maintained during an interim period?

21          MS. JABER: Mr. Chairman, I'm not sure that  
22 Ms. Lingo can answer those questions because it really  
23 involves some legalities that we are prepared to deal  
24 with. If you would like me to comment on that, I  
25 certainly will.

1           CHAIRMAN DEASON: I think it may be -- I mean,  
2 we have a number of interested customers here today and  
3 obviously they are interested by their presence; and I  
4 think it would be beneficial if we took a moment to  
5 explore that a little bit. If you have some information  
6 in that area, we'd welcome you to state that at this  
7 time.

8           MS. JABER: In theory what would happen if the  
9 Commission moved forward and voted to revoke the  
10 certificates is the Commission would have to put Pasco  
11 County on notice that such action was taken and, as far as  
12 the Commission is concerned, Mr. Sims could no longer  
13 operate the Utility because he didn't have the authority  
14 from the Commission. In past cases where we have done  
15 this before, it serves as a constructive abandonment, at  
16 which time the statute kicks in and the county has to  
17 petition the circuit court to have a receiver appointed.

18           If that is the route that we indeed take,  
19 Staff will certainly do everything we possibly can to  
20 make sure that service doesn't get interrupted and a  
21 receiver is appointed timely; and we will work very  
22 closely with DEP and the county for that purpose.

23           CHAIRMAN DEASON: All right. Thank you for that  
24 information.

25           Ma'am, I see that you have a question.

1 WITNESS MS. BIRD: Yes.

2 CHAIRMAN DEASON: It is not in the normal course  
3 of things for customers to ask questions of the witnesses,  
4 but I'm going to allow you to convey your concerns either  
5 to Mr. Mann or Ms. Jaber; and then they can, in turn,  
6 relay, ask the question of this witness if it is  
7 appropriate. So I'm going to, if you want to take that  
8 opportunity, is it something that can be done very  
9 quickly?

10 WITNESS MS. BIRD: I think so.

11 CHAIRMAN DEASON: Just confer with Mr. Mann  
12 there very quickly. (Pause)

13 MS. JABER: Chairman Deason, the question was do  
14 the customers have the option to purchase the Utility or  
15 step in to run the Utility?

16 And really the answer is yes, but it is in the  
17 form of petitioning the circuit court to be appointed as  
18 a receiver. It is nothing that the Commission could  
19 approve or disapprove, for that matter; it is really up  
20 to the county petitioning the court to have a receiver  
21 appointed. And if they are interested in operating the  
22 Utility or being appointed as receiver, they just need  
23 to inform the court and what happens from there really  
24 is up to the court.

25 CHAIRMAN DEASON: Very well. Thank you,

1 Ms. Lingo, I don't think there are any further questions.

2 (Witness Lingo excused.)

3 - - - - -

4 CHAIRMAN DEASON: Ms. Jaber, you may call your  
5 next witness.

6 MS. JABER: Staff calls Pete Burghardt.

7 PETE BURGHARDT

8 was called as a witness on behalf of the Staff of the  
9 Florida Public Service Commission and, having been duly  
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. JABER:

13 Q Mr. Burghardt, have you been sworn?

14 A Yes, I have.

15 Q Would you state your name and business address  
16 for the record, please.

17 A Yes. My name is Pete Burghardt. My business  
18 address is 3804 Coconut Palm Drive, Tampa, Florida  
19 33619. I work for the Florida Department of  
20 Environmental Protection.

21 Q Did you prefile testimony in this case  
22 consisting of seven pages?

23 A Yes, I have.

24 Q Do you have any changes or corrections to your  
25 testimony at this time?



1           A     Yes, I have changes to my testimony.

2           MS. JABER: Mr. Burghardt, if you will give me a  
3 minute, we'll pass these handouts out.

4           CHAIRMAN DEASON: While we're doing that,  
5 Ms. Jaber, I think I failed to ask you if you wished to  
6 move into evidence Exhibits 2 through 15.

7           MS. JABER: Yes, sir.

8           CHAIRMAN DEASON: Without objection? Hearing  
9 none, Exhibits 2 through 15 are admitted into the record.

10           (Exhibit Nos. 2 through 15 received in  
11 evidence.)

12           Q     (By Ms. Jaber) Mr. Burghardt, you have  
13 prepared in front of you a hard copy of the changes you  
14 have made to your testimony; is that correct?

15           A     Yes, it is.

16           Q     Would you like to go ahead and read that into  
17 the record slowly so the court reporter could catch the  
18 changes?

19           A     Certainly.

20                   On Page 6, Line 25, "Three times" needs to be  
21 changed to "Four times."

22                   On Page 5, Line 3, strike "the most recent,"  
23 and substitute with, "a."

24                   On Line 4 of the same page, strike, "It is,"  
25 and on Line 5 strike, "and is."

1           On Page 6, Line 1, I need to add the  
2 following:

3           "Near the end of the 120 days, the Utility  
4 asked for an extension of time to comply with the  
5 court's order to interconnect with Pasco County or to  
6 sell. The court granted in part and denied in part.  
7 The court stated in this order, dated June 23, 1994,  
8 that Mr. Sims must now sell or convey the Utility by  
9 July 18, 1994, and interconnection was no longer an  
10 option as far as the court was concerned. The June 23,  
11 1994, court order is attached to my testimony as Exhibit  
12 PB-6."

13           On Page 6, Line 20, "Exhibit PB-4" should be  
14 replaced with "Exhibit PB-6."

15           Oh Page 6, Line 25, "3" needs to be replaced  
16 with "4."

17           On Page 7, Line 9 needs to be changed to say:

18           "During my February 17, 1994, and July 20,  
19 1994, inspections, there was no indication that any  
20 certified operator had been operating the wastewater  
21 plant, and no log entries have been made since June  
22 1992."

23           On Page 7, Line 17, I need to add the  
24 following:

25           "During my July 20, 1994, inspection, it was

1 still evident to me that no operation or maintenance  
2 work was being conducted at the facility. The area  
3 around the pond was overgrown. Additionally, the  
4 effluent was too turbid to do the proper testing for a  
5 chlorine residual and the Utility did not have a  
6 functioning chlorinator. Further, the last monthly  
7 operating reports were submitted to the Department of  
8 Environmental Protection in December 1993. My  
9 conclusion from the last inspection was that the Utility  
10 still had not complied with our rules with respect to  
11 plant operations nor has the Utility complied with the  
12 court order requiring Mr. Sims to sell or convey the  
13 Utility. I have attached as Exhibit PB-7 my inspection  
14 report from the July 20, 1994, inspection of the Shady  
15 Oaks wastewater plant."

16 Q Mr. Burghardt, with those changes and  
17 corrections to your testimony, if I were to ask you the  
18 same questions today, would your testimony be the same?

19 A Yes, it would.

20 MS. JABER: If we could have his testimony  
21 inserted into the record as though read, Mr. Chairman?

22 CHAIRMAN DEASON: Without objection, it will be  
23 so inserted.

24 Q (By Ms. Jaber) And did you file PB-1 through  
25 PB-5 with your testimony? (Pause)

1           A     Yes, I did.

2           Q     And do you have any corrections or additions  
3 to your exhibits?

4           A     The additions which were stated before was  
5 Exhibit PB-6 and Exhibit PB-7.

6           MS. JABER: Thank you, Mr. Burghardt.

7           Mr. Chairman, I think PB-1 through 7 can be  
8 identified as a composite exhibit for our purposes.

9           CHAIRMAN DEASON: Very well. Exhibits PB-1  
10 through PB-7 will be identified as Composite Exhibit  
11 No. 16.

12           (Composite Exhibit No. 16 marked for  
13 identification.)

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## DIRECT TESTIMONY OF PETE BURGHARDT

1  
2 Q. Please state your name and business address.

3 A. My name is Pete Burghardt and my business address is 3804 Coconut Palm  
4 Drive, Tampa, Florida 33619.

5 Q. Please state a brief description of your educational background and  
6 experience.

7 A. I have a 1980 B.A. degree in Biology from the University of South  
8 Florida, 3 1/2 years experience with the Department of Environmental  
9 Protection (DEP), and 8 years experience with the County Public Health Unit  
10 for the Department of Health and Rehabilitative Services.

11 Q. By whom are you presently employed?

12 A. I am employed by DEP.

13 Q. In what capacity are you employed with DEP?

14 A. I have been employed since October 31, 1990 as an Environmental  
15 Specialist in the Domestic Wastewater Section.

16 Q. What are your general responsibilities at DEP?

17 A. My duties are to assure that all wastewater treatment plants in Pasco  
18 County are in compliance with pertinent state regulations.

19 Q. What is the purpose of your testimony in this proceeding?

20 A. The purpose of my testimony is to provide the Florida Public Service  
21 Commission (Commission) with facts and background on the quality of service  
22 provided by Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility),  
23 and the status of the recent circuit court order requiring Mr. Sims, the  
24 utility owner, to interconnect with Pasco County and decommission the  
25 wastewater plant or to abandon the wastewater plant following the procedures

1 set forth by the Commission statutes and rules. I have also provided the  
2 results of my most recent inspection of the utility's wastewater system.

3 Q. Have you ever testified before?

4 A. Yes. I testified before the Commission in Dockets Nos. 920199-WS  
5 (Southern States Utilities rate case), 920148-WS (Jasmine Lakes Utilities rate  
6 case), and 910637-WS (Mad Hatter Utilities rate case).

7 Q. Have you testified in any Court proceedings initiated by DEP involving  
8 Shady Oaks?

9 A. No. I was prepared to testify in the last Court proceeding initiated  
10 by DEP. My testimony was not needed, however, because DEP and the utility  
11 entered into an Agreed Order Granting DEP's Motion for Contempt, which I will  
12 discuss further in a later portion of my testimony.

13 Q. Are you familiar with the quality of service provided by Shady Oaks?

14 A. Yes.

15 Q. How are you familiar with the utility's quality of service?

16 A. I have reviewed all of the records on file with DEP relating to Shady  
17 Oaks. I have performed on-site wastewater plant inspections. I have also  
18 reviewed the DEP consent orders applicable to Shady Oaks, as well the  
19 Commission orders relating to quality of service. I have reviewed Order No.  
20 PSC-93-0542-FOF-WS, wherein the Commission found the quality of service  
21 provided by Shady Oaks to be unsatisfactory.

22 Q. What exactly did the Commission state in Order No. PSC-93-0542-FOF-WS  
23 with respect to the utility's quality of service?

24 A. On pages 4 and 9 of Order No. PSC-93-0542-FOF-WS, the Commission once  
25 again stated that the utility's quality of service is still unsatisfactory.

1 Specifically, on page 4 the Commission stated that:

2 By Order No. 25296, issued November 4, 1991, the Commission (1)  
3 suspended the \$2,000 fine until February, 1992; (2) required the  
4 utility to escrow the fine as previously ordered; (3) found that  
5 the quality of service had deteriorated, noting numerous customer  
6 complaints against the utility and the derelict condition of the  
7 utility systems; (4) required the utility to interconnect its  
8 wastewater system with Pasco County as agreed to in a court-  
9 approved settlement between the utility and DER; and (5) found  
10 that the utility had failed to spend the minimum of the monthly  
11 preventative maintenance allowance, but announced it would review  
12 the situation again before further action.

13 Q. In your review of that Commission order, did you find that in part, the  
14 unsatisfactory rating was based on DEP compliance problems regarding the  
15 utility's treatment and disposal system?

16 A. Yes, there were several instances within that order that referred to the  
17 utility failing to comply with a DEP consent order and a court-approved  
18 settlement between DEP and the utility.

19 Q. Are you familiar with the compliance problems that the utility has with  
20 DEP.

21 A. Yes.

22 Q. Briefly explain what those problems are?

23 A. They primarily deal with the utility's failure to comply with DEP  
24 requirements to remove its sewage treatment plant from operation and divert  
25 all of its flow to Pasco County's sewage collection system. It also addresses

1 the utility's failure to maintain minimum treatment levels at the wastewater  
2 facility, as well as maintaining minimum operation and maintenance  
3 requirements.

4 Q. Briefly, can you give some history as to why the utility is required to  
5 do this?

6 A. Yes. The utility's wastewater treatment facility has had treatment and  
7 effluent disposal problems for years. In June of 1985, the utility was issued  
8 a warning notice which addressed the unpermitted discharge from the  
9 percolation pond to a ditch. The warning notice was apparently ignored. In  
10 October of 1986, the utility signed a consent order with DEP that specified  
11 timeframes for corrections to be made. Those timeframes were not adhered to.  
12 As a result, our agency was forced to take the case to circuit court to seek  
13 corrective action. I have attached the Consent Order dated October 21, 1986,  
14 as EXH PB-1.

15 In March of 1989, a consent final judgement through the court was  
16 reached, which gave deadlines for the utility to eliminate unauthorized  
17 discharge from the plant site. This was to be accomplished by way of  
18 constructing additional effluent disposal capacity. Failing to comply with  
19 that judgement, a motion for contempt was filed and the utility was again  
20 taken back to circuit court. I have attached as EXH PB-2 the Consent Final  
21 Judgement dated March 7, 1989.

22 In July of 1991, another stipulated settlement was reached and the  
23 utility was ordered to remove its sewage treatment plant from operation and  
24 divert all of its flow to Pasco County's sewage collection system within six  
25 months of that order. This Order dated July 8, 1991 is attached to my



1 testimony as EXH PB-3. Despite the utility's promises, compliance was not  
2 reached and DEP was forced to file another motion for contempt of a court  
3 order in December of 1993. I have attached as EXH PB-4 <sup>a</sup> ~~the most recent~~ court  
4 order concerning this case. ~~It is~~ entitled "Agreed Order Granting DEP's  
5 Motion for Contempt," ~~and is~~ dated February 18, 1994. EXH PB-4 includes a  
6 copy of Order No. PSC-93-0542-FOF-WS.

7 Q. What is the utility required to do pursuant to the Agreed Order Granting  
8 DEP's Motion for Contempt (EXH PB-4)?

9 A. The Court found that the utility had the ability to comply with the  
10 previous 1991 order (EXH PB-3) but did not do so, and is in contempt of that  
11 order. The most recent Order (EXH PB-4) ordered the utility to remove the  
12 plant from service, took notice that the Commission has ordered that a  
13 revocation proceeding be initiated to revoke the utility's certificate for  
14 failure to comply with, among other things, the court's order, and found the  
15 utility's president, Richard Sims, as the person responsible for complying  
16 with the court's order.

17 Q. Did the February 18, 1994, Court Order require the utility to do  
18 anything further?

19 A. Yes, the Court found that the utility may purge itself from contempt by  
20 complying with one of the following options: Connect with the Pasco County  
21 collection system in 120 days and decommission the plant within 30 days after  
22 the connection, sell or convey ownership to a non related party within 120  
23 days, or if failing to do the above mentioned options, the court shall order  
24 the Sheriff to incarcerate Mr. Sims in the county jail until such time as the  
25 utility complies. If the utility fails to purge itself of contempt, DEP may

1 request from the court that a receiver be appointed. (SEE ITEM A, Page 8.)

2 Q. To date, has Shady Oaks connected its wastewater facilities to Pasco  
3 County?

4 A. No.

5 Q. To date, has Shady Oaks sold or conveyed the wastewater facilities?

6 A. No.

7 Q. Does the utility's wastewater treatment facility currently have an  
8 active operating permit with DEP?

9 A. No, the operating permit expired March of 1986.

10 Q. Has the utility been fined or penalized for being out of compliance with  
11 your agency?

12 A. Yes, as part of a previous court order, the utility has been penalized.

13 Q. Has the utility satisfied the penalty requirement?

14 A. Yes, the utility has paid a total of \$12,400 to the Department's  
15 "Pollution Recovery Fund."

16 Q. In your opinion, has the utility acted responsibly when it comes to  
17 compliance with your agency's rules and regulations?

18 A. No.

19 Q. To the best of your knowledge, what is the present compliance status  
20 with the most recent court order (EXH PB-<sup>b</sup>~~4~~)?

21 A. On March 11, 1994, DEP issued collection system permit #C551-243569.  
22 This permit is for the construction of the interconnect with Pasco County.

23 Q. In your official capacity with DEP, approximately how many times have  
24 you visited the plant site?

25 A. ~~Three~~<sup>Four</sup> times.

1 Q. Does the utility's lift station and collection system meet DEP  
2 requirements with respect to location, reliability and safety?

3 A. No.

4 Q. Is the overall maintenance of the treatment, collection, and disposal  
5 facilities satisfactory?

6 A. No.

7 Q. Does the utility have certified operators as required by Chapter 17-602,  
8 Florida Administrative Code?

9 A. Not at the time of my last visit on February 17, 1994. (See ITEM B,  
PAGE 8)

10 Q. Do you have anything further to add?

11 A. Yes. During my February 17, 1994 inspection it was evident that no  
12 operation and maintenance work was being conducted at the facility. There was  
13 no chlorine residual and no treatment occurring as all of the solids had been  
14 washed out of the plant. The plant was hydraulically overloaded, apparently  
15 due to inflow and infiltration problems with the collection system. I have  
16 attached as EXH PB-5 my inspection report from the February 17, 1994,  
17 inspection of the utility wastewater plant. (SEE ITEM C, PAGE 8)

18 Q. Based on your analysis and review of the circumstances involved with  
19 Shady Oaks and your findings with respect to quality of service, should Mr.  
20 Sims continue to operate the utility?

21 A. No.

22 Q. Does this conclude your testimony?

23 A. Yes.

24 (REPORTER'S NOTE: See Attached Page 8, "Corrections to  
25 Pete Burghardt's Testimony.")

CORRECTIONS TO PETE BURGHARDT'S TESTIMONY

Yes, I have changes to my testimony. On page 6, line 25, three times needs to be changed to four times. On page 5, line 3, strike "the most recent" and substitute with "a." On line 4 of the same page, strike "it is" and on line 5, strike "and is". On page 6, line 1, I need to add the following:

(A) Near the end of the 120 days, the utility asked for an extension of time to comply with the Court's order to interconnect with Pasco County or to sell. The Court granted in part and denied in part. The Court stated in this Order, dated June 23, 1994, that Mr. Sims must now sell or convey the utility by July 18, 1994, and interconnection was no longer an option as far as the Court was concerned. The June 23, 1994 Court Order is attached to my testimony as EXH PB-6.

(B) On page 6, line 20, "EXH PB-4" should be replaced with "EXH PB-6". On page 6, line 25, "three" needs to be replaced with "four". On page 7, line 9 needs to be changed to say "During my February 17, 1994, and July 20, 1994, inspections, there was no indication that any certified operator had been operating the wastewater plant, and no log entries have been made since June, 1992." On page 7, line 17, I need to add the following:

(C) During my July 20, 1994 inspection, it was still evident to me that no operation and maintenance work was being conducted at the facility. The area around the pond was overgrown. Additionally, the effluent was too turbid to do the proper testing for a chlorine residual and the utility did not have a functioning chlorinator. Further, the last monthly operating reports were submitted to DEP in December, 1993. My conclusion from the last inspection was that the utility still had not complied with our rules with respect to plant operations nor has the utility complied with the Court Order requiring Mr. Sims to sell or convey the utility. I have attached as EXH PB-7 my inspection report from the July 20, 1994, inspection of the Shady Oaks wastewater plant.

1 MS. JABER: And I tender this witness for cross.

2 CHAIRMAN DEASON: Questions? I believe there  
3 are no questions.

4 MS. JABER: We can move Composite Exhibit 16  
5 into the record.

6 CHAIRMAN DEASON: Without objection, Exhibit 16  
7 is admitted.

8 (Composite Exhibit No. 16 received in  
9 evidence.)

10 CHAIRMAN DEASON: Thank you, sir.

11 (Witness Burghardt excused.)

12 - - - - -

13 CHAIRMAN DEASON: You may call your next  
14 witness.

15 MS. JABER: Staff calls Ms. Brenda Arnold.

16 BRENDA ARNOLD

17 was called as a witness on behalf of the Staff of the  
18 Florida Public Service Commission and, having been duly  
19 sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. JABER:

22 Q Ms. Arnold, have you been sworn?

23 A Yes, I have.

24 Q Would you please state your name and business  
25 address for the record?

1           A     Brenda Arnold, 3804 Coconut Palm Drive, Tampa,  
2 Florida, Department of Environmental Protection.

3           Q     Did you prefile testimony in this case  
4 testimony consisting of four pages?

5           A     Yes, I did.

6           Q     Do you have any changes or corrections to your  
7 testimony at this time?

8           A     Yes, I have changes to my testimony.

9                     On Page 1, Lines 8 and 14, replace  
10 "two-and-a-half years" with "three years."

11                    On Page 2, Line 15, delete "last." Also on  
12 Page 2, Line 16, at the end of the sentence add,  
13 "However, at my last inspection on July 1, 1994, the  
14 overall maintenance of the treatment plant and  
15 distribution facility was satisfactory."

16                    On Page 3, Line 7, replace "last" with "August  
17 3, 1994."

18                    At the end of Line 8, add, "However, at the  
19 July 1, 1994, inspection, the Utility had a satisfactory  
20 chlorine residual."

21           Q     I'm sorry, go ahead.

22           A     I have additional corrections that counsel was  
23 unaware of. In addition, as a result of line breaks  
24 reported in Ms. Berg's testimony, I'm very concerned  
25 that the Utility, bound by Florida Administrative Code

1 17-555, did not notify the Department within the 24  
2 hours required, nor, to my knowledge, did the Utility  
3 conduct required micro bacteriological monitoring also  
4 required by Florida Administrative Code 17-555 after  
5 main or line breaks occurring before the customer  
6 meters. Both of these violations are eligible for  
7 enforcement under our Department regulations.

8 Residents should be aware taht notifying the  
9 Department of Environmental Regulation regarding line  
10 breaks for sewer or water lines is something you should  
11 do because we are the regulatory agency over  
12 maintenance, chemical and bacteriological monitoring.

13 Q Thank you, Ms. Arnold. With those corrections  
14 and additions to your testimony, if I were to ask you  
15 the same questions today, would your testimony be the  
16 same?

17 A Yes, it would.

18 Q Did you prefile Exhibit BA-1 with your  
19 testimony?

20 A Yes, I did.

21 MS. JABER: I'm sorry, Chairman Deason, if I  
22 could back up and have her testimony inserted into the  
23 record as though read.

24 CHAIRMAN DEASON: Without objection, it will be  
25 so inserted.

1 Q (By Ms. Jaber) Now, do you have any  
2 corrections to your exhibit?

3 A No, I don't.

4 MS. JABER: If we could have that exhibit  
5 identified as Exhibit 17, Mr. Chairman?

6 CHAIRMAN DEASON: Yes, it will be identified as  
7 Exhibit 17.

8 (Exhibit No. 17 marked for identification.)  
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## DIRECT TESTIMONY OF BRENDA ARNOLD

1 Q. Please state your name and business address.

2 A. My name is Brenda Arnold and my business address is 3804 Coconut Palm  
3 Drive, Tampa, Florida 33619.

4 Q. Please state a brief description of your educational background and  
5 experience.

6 A. I have a Bachelors degree in Biology (1986) from Florida Southern  
7 College in Lakeland, and ~~2-1/2~~ <sup>three</sup> years with the Department of Environmental  
8 Protection (DEP) performing inspections of public drinking water facilities  
9 to insure their compliance with the Florida Administrative Code.

10 Q. By whom are you presently employed?

11 A. I am employed by the State of Florida, DEP.

12 Q. How long have you been employed with DEP and in what capacity?

13 A. I have been employed for ~~2-1/2~~ <sup>three</sup> years as mentioned above.

14 Q. What are your general responsibilities at DEP?

15 A. My responsibilities include performing sanitary surveys of water plants,  
16 compliance inspections of water plants, reviewing water chemical and  
17 bacteriological reports, preparing enforcement cases against utilities and  
18 monitoring and investigating complaints against utilities. I also conduct  
19 lead and copper workshops.

20 Q. Are you familiar with Shady Oaks Mobile-Modular Estates (Shady Oaks or  
21 utility)?

22 A. Yes.

23 Q. Does the water system have a current permit from DEP?

24 A. DEP does not issue operating permits for water systems.  
25

1 Q. Are the utility's treatment facility and distribution system sufficient  
2 to serve its present customers?

3 A. When properly operated and maintained, yes, they are sufficient.

4 Q. Does the utility maintain the required 20 PSI minimum pressure  
5 throughout the distribution system?

6 A. There has been no indication of a problem.

7 Q. Are the utility's water wells located in compliance with Section 17-  
8 555.312, Florida Administrative Code?

9 A. Yes.

10 Q. Does the utility have certified operators as required by Chapter 17-602,  
11 Florida Administrative Code?

12 A. Yes.

13 Q. Is the overall maintenance of the treatment plant and distribution  
14 facility satisfactory?

15 A. At the ~~last~~ inspection made on August 3, 1993, the overall maintenance  
16 of the treatment plant and distribution facility was not satisfactory. \*

17 Q. In what respect were the treatment plant and distribution system not  
18 satisfactory?

19 A. The chlorine residual was not satisfactory. The Department requires a  
20 .2 mg per liter free chlorine residual.

21 Q. Does the water produced by the utility meet the state and federal  
22 maximum contaminant levels for primary and secondary water quality standards?

23 A. Yes.

24 Q. Does the utility monitor the organic contaminants listed in Section 17-  
25 550.410, Florida Administrative Code?

\*However, at my last inspection on July 1, 1994, the overall maintenance of the treatment plant and distribution facility was satisfactory.

1 A. Yes.

2 Q. Do recent chemical analyses of raw and finished water, when compared to  
3 regulations, suggest the need for additional treatment?

4 A. No.

5 Q. Does the utility maintain the exemptions chlorine residual or its  
6 equivalent throughout the distribution system?

7 A. At the <sup>August 3, 1994,</sup> ~~last~~ inspection, the utility had an unsatisfactory chlorine  
8 residual. However, at the July 1, 1994, inspection, the utility had a  
satisfactory chlorine residual.

9 Q. What effect does an unsatisfactory chlorine residual have?

10 A. It increases the probability of a water borne disease outbreak. It does  
11 not provide adequate disinfection required in Rule 17.555, Florida  
12 Administrative Code.

13 Q. Is the plant and distribution system in compliance with all of the other  
14 provisions of Title 17, Florida Administrative Code, not previously mentioned?

15 A. Yes, at this time, to my knowledge.

16 Q. Has the utility's water system been the subject of any DEP enforcement  
17 action within the past two years?

18 A. Although DEP has undertaken no formal enforcement against the utility  
19 for the deficiencies mentioned above, DEP has issued a warning letter dated  
20 February 18, 1992.

21 Q. Is a copy of the February 18, 1992, warning letter attached to your  
22 testimony as Exhibit BA-1?

23 A. Yes.

24 Q. Do you have anything further to add?

25 A. At this time, Shady Oaks is in compliance with all monitoring required

1 | by the Department for Drinking Water. I do anticipate some problems as his  
2 | operator has not been paid in over 5 months and it appears some chemical  
3 | monitoring may not be done.

4 | Q. Does this conclude your testimony?

5 | A. Yes.

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1 MS. JABER: I tender Ms. Arnold for cross.

2 CHAIRMAN DEASON: Questions for Ms. Arnold?

3 Commissioner Kiesling?

4 COMMISSIONER KIESLING: Yes. Is there a number  
5 that you can give to the customers right now that they can  
6 contact DEP?

7 WITNESS ARNOLD: Sure, it's 1-800-226-2650.

8 COMMISSIONER KIESLING: Thank you.

9 MS. JABER: We can move the exhibit into the  
10 record.

11 CHAIRMAN DEASON: Without objection, Exhibit 17  
12 is admitted. Thank you, Ms. Arnold.

13 (Exhibit No. 17 received in evidence.)

14 (Witness Arnold excused.)

15 - - - - -

16 CHAIRMAN DEASON: Ms. Jaber, that concludes your  
17 direct case?

18 MS. JABER: Mr. Chairman, that concludes all of  
19 the testimony that we have sponsored.

20 I would like to at this time go ahead and move  
21 that the Commission make a Bench decision with respect  
22 to the revocation of the certificate. And in support  
23 thereof, Mr. Chairman, I can tell you that I think the  
24 record speaks for itself in this case; and I think the  
25 record supports a revocation in this case; and I think

1 that Staff, DEP and the county will work together to  
2 have a receiver appointed as soon as possible or work  
3 together with the county for the possible takeover. But  
4 I think the way the condition is right now, it is in the  
5 best interests of all of these customers to have someone  
6 who can run this Utility adequately and in accordance  
7 with our rules as well as DEP's.

8 CHAIRMAN DEASON: Commissioner Kiesling, are you  
9 prepared to make a motion at this time?

10 COMMISSIONER KIESLING: I would like to just ask  
11 a question and then I think I could make a Bench ruling at  
12 this time.

13 CHAIRMAN DEASON: Certainly.

14 COMMISSIONER KIESLING: Is someone from our  
15 department going to -- if we make a Bench ruling today and  
16 if we vote to revoke -- is someone going to immediately  
17 contact and interface with Pasco County since we're right  
18 here to move things along? Yes? I'm seeing --

19 MS. JABER: Yes. Staff is telling me they  
20 intend on doing that.

21 COMMISSIONER KIESLING: Okay.

22 MS. JABER: The technicalities that we have  
23 thought about so far would be that an order would be  
24 issued upon our return to Tallahassee. That's very  
25 important. Because if we go to the county and request

1 that the county go to court and have a receiver appointed,  
2 we have to have the order; and as you all know, we have to  
3 go back to Tallahassee to have the order issued. That  
4 will not take very long at all.

5 Once we get the order, once we talk to Pasco  
6 County, it is just a matter of the county filing a  
7 petition in circuit court.

8 COMMISSIONER KIESLING: But our Staff can talk  
9 to Pasco County based on our Bench ruling today --

10 MS. JABER: Yes.

11 COMMISSIONER KIESLING: -- to at least get  
12 things rolling?

13 MS. JABER: Yes, because we can relate to them  
14 what your vote is.

15 COMMISSIONER KIESLING: In that case,  
16 Mr. Chairman, I make a Motion to Revoke Certificates Nos.  
17 451-W and 382-S.

18 CHAIRMAN DEASON: Show that motion as  
19 unanimously accepted and that it is the decision of the  
20 Commission today to have those certificates revoked. That  
21 decision will need to be stated in the form of an order --

22 MS. JABER: Yes, sir.

23 CHAIRMAN DEASON: -- and Staff will be directed  
24 to formulate and have that order issued as soon as  
25 possible.

1 MS. JABER: Yes, sir.

2 CHAIRMAN DEASON: Is there anything further to  
3 come before the Commission at this time?

4 Hearing none, I want to once again thank you  
5 all for coming out to the hearing today and, with that,  
6 this hearing is adjourned.

7 MS. JABER: Thank you.

8 (Thereupon, hearing was concluded at 11:30  
9 a.m.)

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1 F L O R I D A )

2 :

CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4 I, SYDNEY C. SILVA, CSR, RPR, Official  
Commission Reporter,

5 DO HEREBY CERTIFY that the hearing in Docket  
No. 930944-WS was heard by the Florida Public Service  
Commission at the time and place herein stated; it is  
6 further

7 CERTIFIED that I stenographically reported the  
said proceedings; that the same has been transcribed  
8 under my direct supervision; and that this transcript,  
consisting of 100 pages, constitutes a true  
9 transcription of my notes of said proceedings.

10 DATED this 10th day of August, 1994.

11 

12 SYDNEY C. SILVA, CSR, RPR  
13 Official Commission Reporter  
14 (904) 488-5981

15 STATE OF FLORIDA)

16 COUNTY OF LEON )

17 The foregoing certificate was acknowledged  
before me this 10th day of August, 1994, by SYDNEY C.  
18 SILVA, who is personally known to me.

19 

20 PATRICIA A. CHURCH  
21 Notary Public - State of Florida  
22 My Commission No. CC 90785

23 Notary Public, State of Florida  
My Commission Expires April 20, 1995  
Bonded Thru Troy Fain - Insurance Inc.

Gerald T. Buhr, P.A.  
ATTORNEY AT LAW

(813) 949-3681 • (813) 949-3196 FAX  
Northfork Professional Center  
1519 N. Dale Mabry, Suite 100 • Lutz, FL 33549  
Post Office Box 1647 (33549-1647)

June 18, 1994

Steven Herman, Esquire  
Steven Herman, P.A.  
38537 5th Avenue  
Zephyrhills, Florida 33540

RE: Shady Oaks Utility Systems

Dear Mr. Herman:

We are in receipt of your May 24th letter. Regrettably, we are not in the position to pass letters back and forth to discuss the utility. We are negotiating with at least one nationally established utility system for the purchase of the Shady Oaks assets. We are contacting others. If your client is interested in purchasing the facilities that serve them, they must make an offer prior to Shady Oaks contracting with another purchaser. Either way, the utility will be sold prior to July 18, 1994.

Sincerely,

GERALD T. BUHR, P.A.

By: *G. T. Buhr*

cc: Richard Sims

1008 JUNE 22, '94

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET NO. 930944 EXHIBIT NO. 1  
COMPANY/ Buhr  
WITNESS: 8/4/94  
DATE: 8/4/94

STEVEN HERMAN, P.A.  
ATTORNEY AT LAW

38537 FIFTH AVENUE ZEPHYRHILLS, FLORIDA 33540 813-788-0904

May 24, 1994

Gerald T. Buhr, P.A.  
1519 N. Dale Mabry  
Suite 100  
Lutz, FL 33549

RE: Shady Oaks Utility Systems

Dear Mr. Buhr:

Please be advised that this office represents Shady Oaks Owner's Association, Inc., as counsel. The association has turned over to us your letter dated May 11, 1994, addressed to Mr. Lindahl.

The association still has an interest in the utility and the acquisition of same. Certainly, to more seriously consider this, the association has a need to know the potential price, and exact description of what it would be purchasing and the status of the title to any of the real or personal property involved. We thank you for your consideration of this interest, and I remain,

Sincerely,



Steven Herman

SH/clb

cc: Mr. Charles H. Hill  
Ms. Lila A. Jaber, Esquire  
Public Service Commission  
101 E. Gaines Street  
Tallahassee, FL 32399-1400

Mr. David K. Thulman, Esquire  
Department of Environmental Protection  
7825 Baymeadows Way  
Suite B200  
Jacksonville, FL 32256

Gerald T. Buhr, P.A.  
ATTORNEY AT LAW

(813) 949-3681 • (813) 949-3196 FAX  
Northfork Professional Center  
1519 N. Dale Mabry, Suite 100 • Lutz, FL 33549  
Post Office Box 1647 (33549-1647)

May 11, 1994

Mr. Robert Lindahl, President  
Shady Oaks Owners Association  
3651 Castle Drive  
Zephyrhills, Florida 33540

RE: Shady Oaks Utility Systems.

Dear Mr. Lindahl:

We represent Robert Sims in the sale of the utility system which presently serves Shady Oaks Mobile-Modular Estates. Mr. Sims has asked us to contact entities, such as yours, that have expressed an interest in acquiring said utility system. If you still have such an interest in the utility, please contact me as soon as possible.

Very Truly Yours,

GERALD T. BUHR, P.A.

By: 

cc: Charles H. Hill, PSC  
Lila A. Jaber, Esquire, PSC  
David K. Thulman, Esquire, DEP

Mr. Robert Lindahl  
Shady Oaks Owners Assoc.  
3651 Castle Drive  
Zephyrhills, Fla. 33540

FROM

SHADY OAKS  
P.O. BOX 280012  
TAMPA, FL 33682-0012

RE

4-11-94

SUBJECT

MESSAGE

Dear Bob:

Concerning your desire to purchase the Utility, I have briefly discussed this with my Board. At this particular time we are under construction to inter-connect to the County's Waste-water System, and this prohibits us from determining a fair and accurate price. Once this is accomplished, and a new rate established, then a price can be determined. We have had other interested parties, and we are going to sell, but will give the Association first choice.

Very truly yours,

*R. D. Sims*  
R. D. Sims

cc: C. Hill  
G. Shafer  
M. Deterding  
Board

NO REPLY NECESSARY

**Memorandum**

Mr. Robert Lindahl  
Shady Oaks Owners Assoc.  
3651 Castle Drive  
Zephyrhills, Fla. 33540

FROM

SHADY OAKS  
P.O. BOX 280012  
TAMPA, FL 33682-0012

4-11-94

SUBJECT

MESSAGE

Dear Bob:

Concerning your desire to purchase the Utility, I have briefly discussed this with my Board. At this particular time we are under construction to inter-connect to the County's Waste-water System, and this prohibits us from determining a fair and accurate price. Once this is accomplished, and a new rate established, then a price can be determined. We have had other interested parties, and we are going to sell, but will give the Association first choice.

Very truly yours,

*R. D. Sims*  
R. D. Sims

cc: C. Hill  
G. Shafer  
M. Deterding  
Board

NO REPLY NECESSARY

Memorandum

SHADY OAKS OWNERS ASSOCIATION INC.  
3651 Castle Dr. Zephyrhills Fl. 33540  
A Community for Older Persons.

Richard D. Sims  
1315 Eckles Dr  
Tampa Fl 33612

02-08-1994

Dear Dick:

Thank you for forms you sent. I discussed this with our CPA and was informed that you are the Bank and that its your responsibility to complete forms 1098 and 1099 plus a statement of mortgage account (amortized statement); so that we can file our taxes. It seems that we have a difference of opinions from our accountants, so maybe we should review this again with them or the IRS.

As for your letter dated 1/31/94, yes we are interested in the purchase of the Utility. I would suggest at this time that you submit your asking price, Appraisal if you have one, so that we can determine if we can afford to purchase it. I would like to sit down SAP and discuss this with you. Please let me know when it would be a good time to do this.

Yours truly



Robert W Lindahl  
President SOOAI

Mr. Robert Lindahl  
Shady Oaks Owners Assoc.  
3651 Castle Dr.  
Zephyrhills, Fla. 33540

FROM

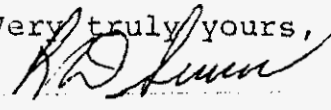
SHADY OAKS  
P.O. BOX 280012  
TAMPA, FL 33682-0012

2

1-31-94

Dear Bob:

Numerous times in the past you have expressed an interest to buy the Utility, but at this particular time, we would request you financials to see if you can possibly handle the purchase price. Also please send us the 1099 INT, since we have not received it as of this date. We would appreciate your copy of financials for the purchase of the Recreational Center etc.

Very truly yours,  
  
R. D. Sims

NO REPLY NECESSARY

Memorandum



**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT FJL-1**

**WITNESS: FRANCES J. LINGO**

**ON BEHALF OF THE STAFF**

**OF THE FLORIDA PUBLIC SERVICE COMMISSION**

**DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**STAFF RECOMMENDATION DATED APRIL 9, 1992  
IN DOCKET NO. 900025-WS**

**FLORIDA PUBLIC SERVICE COMMISSION**  
**DOCKET**  
**NO. 930944-WS EXHIBIT NO. 2**  
**COMPANY:**  
**WITNESS: FPSC/Lingo**  
**DATE:**

**DOCUMENT NUMBER-DATE**  
**03042 MAR 31 1992**  
**FPSC-RECORDS/REPORTING**

SWAFFORD

R. VANDIVER

*DLS*  
*WV*

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building  
101 East Gaines Street  
Tallahassee, Florida 32399-0850

MEMORANDUM

April 9, 1992

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF WATER AND WASTEWATER (LINGO, RIEGER)  
DIVISION OF RESEARCH AND REGULATORY REVIEW (D. VANDIVER)  
DIVISION OF LEGAL SERVICES (FEIL)

RE : UTILITY: SHADY OAKS MOBILE-MODULAR ESTATES, INC.

DOCKET NO. 900025-WS  
COUNTY: PASCO  
CASE: STAFF-ASSISTED RATE CASE

AGENDA: APRIL 21, 1992 - CONTROVERSIAL - PROPOSED AGENCY ACTION  
FOR ISSUES 4 AND 5 - PARTIES MAY PARTICIPATE ON ISSUES 1,  
4 AND 5

PANEL: FULL COMMISSION

CRITICAL DATES: NONE

---

DOCKET NO. 900025-WS  
APRIL 9, 1991

TABLE OF CONTENTS

<u>ISSUE NO.</u>	<u>DESCRIPTION</u>	<u>PAGE NO.</u>
---	Case Background	2
1	Show Cause for Noncompliance	4
2	Levy of \$2,000 Fine	12
3	Collection of Fine	14
4	Change in Rate Structure	15
5	Customer Credits	18
6	Close Docket	19

<u>ATTACHMENT</u>	<u>DESCRIPTION</u>
A	Staff's Letter to Sims (01/22/92)
B	Sims' Response to Staff's Letter (02/16/92)
C	Sample of Utility's Bill to its Customers
D	Shady Oaks Owners Association Letter to D. Vandiver re: Quality of Service (03/25/92)
E	Copy of a Customer Complaint Taken by Division of Consumer Affairs (01/14/92)
F	Shady Oaks Owners Association Letter to Commission re: Water Outage (03/25/92)
G	Copy of a Customer Complaint Taken by Division of Consumer Affairs (02/24/92)

DOCKET NO. 900025-WS  
APRIL 9, 1991

### CASE BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) is a Class C water and wastewater utility located in Pasco County. It is a 242 lot mobile-modular home park developed in 1971. Its service area is approximately 1 1/2 miles south of the City of Zephyrhills.

On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. On February 8, 1991, the Commission issued PAA Order No. 24084, which approved a rate increase and required the utility to file or perform the following items:

- 1) File a request for acknowledgement of a restructure and a name change.
- 2) Bring the quality of service to a satisfactory level.
- 3) Spend at least 85% of the allowance for preventative maintenance, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance.
- 4) Install meters for all its customers.
- 5) Escrow a certain portion of the monthly rates.

In March 1991, the owners of the utility, Mr. and Mrs. Richard D. Sims, filed bankruptcy under Chapter 13 with the United States Bankruptcy Court for the Middle District of Florida - Tampa Division. On June 24, 1991, in response to a suit filed by the homeowners, Judge Lynn Tepper with the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida granted an emergency temporary injunction enjoining and restraining the utility from charging or attempting to collect the new utility rates.

On July 5, 1991, Judge Wayne L. Cobb with the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida issued an Order to Show Cause why Shady Oaks should not be punished for contempt of Court for willfully and deliberately violating a 1983 order of the Court. The July 5, 1991 order further enjoined the utility from collecting the utility rates established by this Commission and ordered that the \$25.00 per month service maintenance fee be tendered to the Clerk of the Circuit Court. In August, both injunctions were lifted and the utility was able to begin collecting revenues. However, the homeowners' lawsuit is still pending.

On July 8, 1991, in a case entitled State of Florida Department of Environmental Regulation v. Shady Oaks Mobile-Modular Estates, Inc., Judge Tepper signed a stipulation reached between

DOCKET NO. 900025-WS  
APRIL 9, 1991

the parties, whereby the utility agreed to remove its sewage treatment plant and divert all flows to Pasco County's sewage collection system within six months.

On November 4, 1991, the Commission issued Order No. 25296 which determined the utility's noncompliance with Order No. 24084. Order No. 25296 reiterated Order No. 24084 by requiring the utility to:

- 1) Submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name.
- 2) Immediately place in the escrow account all funds necessary to bring said account to its proper balance.
- 3) Install water meters for all its customers.
- 4) Improve the quality of service and interconnect with the Pasco County wastewater treatment system.

At this time, Staff believes the utility remains in substantial noncompliance with Orders Nos. 25296 and 24084. Therefore, Staff performed a review of the utility's revenues and expenses from March 1991 to February 1992. As a result, this recommendation discusses the items of noncompliance, as well as other matters that require the Commission's attention.

• DOCKET NO. 900025-WS  
APRIL 9, 1991

SHOW CAUSE FOR NONCOMPLIANCE

ISSUE 1: Should the Commission order the utility to show cause in writing why it should not be fined up to \$5,000 per day per violation for each item of noncompliance with Orders Nos. 25296 and 24084, and if so, what are the specific items of noncompliance?

RECOMMENDATION: Yes, the Commission should order the utility to show cause in writing within 20 days of the date of the order why it should not be fined up to \$5,000 per day per violation for each item of noncompliance with Orders Nos. 25296 and 24084. Specific items of noncompliance are the utility's failure to: 1) submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name; 2) install water meters for all its customers; 3) spend at least 85% of its \$1,700 monthly allowance for preventative maintenance for that specified purpose, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance; 4) improve the quality of service and interconnect with the Pasco County wastewater treatment system; and 5) immediately place in the escrow account all funds necessary to bring said account to its proper balance. (D. VANDIVER, LINGO, RIEGER)

STAFF ANALYSIS: As discussed in the case background, Order No. 25296 determined the utility to be in noncompliance with Order No. 24084. However, due to the unusual circumstances in the case, the Commission allowed the utility additional time to complete the required items. A discussion of the specific items of noncompliance follows.

Name Change and Restructure

In August 1990, Mr. Sims transferred the title of the utility land from Shady Oaks Mobile-Modular Estates, Inc. to Richard D. and Caroline Sue Sims. Mr. Sims stated that the purpose of the transfer was to spin-off the utility from the mobile home park. However, this transfer was not approved by the Commission. Therefore, in Order No. 24084 the Commission ordered Shady Oaks to file within 60 days a request for acknowledgement of a name change and restructure.

On March 17, 1991, the Commission received a letter from Mr. Sims requesting that the Commission recognize the change in name from Shady Oaks Mobile-Modular Estates, Inc. to S & D Utility. The utility had begun billing the customers and operating under the name of S & D Utility. On April 1, 1991, Staff responded that certain information was needed before the name change could be recognized. This information included evidence that the utility

DOCKET NO. 900025-WS  
APRIL 9, 1991

and its assets were properly transferred and that the new utility name had been properly registered as a fictitious name. Specifically, Staff wanted the title to reflect that the land was owned by Mr. and Mrs. Sims d/b/a the utility.

Mr. Sims subsequently provided the evidence that the fictitious name had been registered. However, because Mr. and Mrs. Sims were in the midst of a bankruptcy filing, the title to the land could not be corrected to reflect the name of the utility. At the time of the last staff recommendation, Mr. Sims had entered into a payment plan under the bankruptcy proceeding and believed that he would be able to correct the name on the title.

By Order No. 25296, issued on November 4, 1991, the Commission allowed the utility additional time to complete the name change and restructure requirements. Specifically, the utility was ordered to submit within 60 days all necessary information for changing its certificated name, including evidence that the title to all the utility land and personal property has been properly transferred to S & D Utility, or revert to operating under its currently certificated name of Shady Oaks Mobile-Modular Estates, Inc.

By letter dated January 22, 1992, Staff restated to Mr. Sims what information was necessary to complete the name change. In the letter, questions asked of Mr. Sims were for specific information, such as whether a contract was drawn up transferring both the land and all other utility assets to the new entity called S & D Utility. Staff's letter is included in this recommendation as Attachment A, and Mr. Sims' response is included as Attachment B.

Not all of Staff's questions were answered by Mr. Sims, and Staff believes the answers provided by Mr. Sims were nonresponsive. For example, Mr. Sims' response to the name change question was that the original name change request had been made with the Commission, but the bankruptcy proceeding was the reason why the name change and restructure has not been completed. However, on November 14, 1991, (two months before Staff's January 22, 1992 letter to the utility), the Bankruptcy Judge issued an order dismissing the case. The Sims' filed a motion for reconsideration, and on December 17, 1991, the Bankruptcy Judge issued an order denying the motion for reconsideration or, in the alternative, conversion to Chapter 11. Based on the foregoing, the bankruptcy proceeding would not have prevented the utility from completing the restructure requirements once the related bankruptcy orders had been issued.

It is apparent that the utility is not in compliance with Orders Nos. 24084 and 25296 with regard to the name change and restructure requirements. Therefore, Staff recommends that the

DOCKET NO. 900025-WS  
APRIL 9, 1991

utility be ordered to show cause why it should not be fined up to \$5,000 per day for failing to complete the name change and restructure request.

Not only has the utility refused to complete the requirements for the name change, it has disregarded the Commission's order to revert to operating under its certificated name. Attachment C to this recommendation is a copy of a February customer bill under the heading of S & D Utility. In addition, Staff has verified that the utility makes deposits into and writes checks from a bank account in the name of S & D Utility. The Commission's Division of Consumer Affairs has also repeatedly called the utility's business phone and reports that the recorded message left on the answering machine is in the name S & D Utility.

Order No. 25296 allowed the utility 60 days to complete the name change and restructure requirements, or else revert to operating under the currently certificated name of Shady Oaks Mobile-Modular Estates, Inc. The 60 day period expired January 3, 1992. Since Staff has confirmed that the utility is operating under the name of S & D Utility, Staff recommends that the utility is in violation of Commission Order No. 25296 in this regard. Therefore, the utility should be ordered to show cause why it should not be fined up to \$5,000 per day for continuing to operate under a name other than its certificated name.

#### Installation of Water Meters

In Order No. 24084, the Commission determined that six months was sufficient time to install meters for the utility's 185 customers. During the six month installation period, the utility was authorized to charge a flat rate of \$14.70 for water service and \$28.28 for wastewater service, for a total of \$42.98 per month.

As stated in that order, if all water meters were installed within six months, the utility would then be allowed to charge all customers the base facility and gallonage charges approved in the order. As incentive for the utility to complete the installations within the prescribed time, the order further stated that if all of the water meters were not installed within six months, the utility would be required to bill the appropriate water and wastewater base facility charges of \$6.34 and \$12.50, respectively, (for a total of \$18.84) to all customers. However, the utility could bill the gallonage charges only to those customers who had a functioning water meter installed at the respective customer's service site. In this case, the base facility charges automatically went into effect on October 1, 1991.



DOCKET NO. 900025-WS  
APRIL 9, 1991

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Not all of Staff's questions were answered by Mr. Sims, and Staff believes the answers provided by Mr. Sims were nonresponsive. For example, Mr. Sims' response to the name change question was that the original name change request had been made with the Commission, but the bankruptcy proceeding was the reason why the name change and restructure has not been completed. However, on November 14, 1991, (two months before Staff's January 22, 1992 letter to the utility), the Bankruptcy Judge issued an order dismissing the case. The Sims' filed a motion for reconsideration, and on December 17, 1991, the Bankruptcy Judge issued an order denying the motion for reconsideration or, in the alternative, conversion to Chapter 11. Based on the foregoing, the bankruptcy proceeding would not have prevented the utility from completing the restructure requirements once the related bankruptcy orders had been issued.

It is apparent that the utility is not in compliance with Orders Nos. 24084 and 25296 with regard to the name change and restructure requirements. Therefore, Staff recommends that the

DOCKET NO. 900025-WS  
APRIL 9, 1991

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It is apparent that the utility is not in compliance with Orders Nos. 24084 and 25296 with regard to the name change and restructure requirements. Therefore, Staff recommends that the

DOCKET NO. 900025-WS  
APRIL 9, 1991

Pursuant to Commission Order No. 24084, the utility had begun the process of installing water meters for its customers. However, as a result of a dispute and ongoing litigation during most of 1991, the utility collected less than half of the revenues allowed in the rate case. The majority of customers withheld payment to the utility during a substantial portion of the year. Staff believes the arrearages resulting from the customers' nonpayment of utility services are in fact due and payable to the utility. Staff has conservatively calculated the arrearages to be over \$15,000. As of mid-September 1991, seven months after Order No. 24084 was issued, the utility had installed meters for only 31 out of 185 customers.

Staff's review of the utility's billing records indicated that by the end of 1991, the vast majority of the customers were paying the Commission-approved rates. In addition, in Order No. 25296 the Commission recognized that the likely cause of the utility's failure to install meters was its reduced revenues. Consequently, by Order No. 25296, the utility was given an additional five months in which to complete the meter installations. In addition, the utility was allowed to revert to the flat rates set forth in Order No. 24084 until the Commission reevaluated the case in five months. It was contemplated that the resulting increase in revenues associated with the flat rates (\$42.98 v. \$18.84) would further assist the utility in its efforts to comply with the meter installations requirement.

Staff's January 1992 letter requested the utility's plans for installing the water meters and a time schedule indicating the proposed dates and the number of meters for future installation. The utility's response simply stated it intended to install additional meters in February. As of the end of March 1992, the utility has only installed an additional 16 meters, which brings the total number of meter installations to 47. Because the utility has not completed the installation of the meters within the prescribed time frame and was not responsive to Staff's request for a time schedule, Staff recommends that the utility be ordered to show cause why it should not be fined up to \$5,000 per day for failing to install the water meters.

#### Preventative Maintenance

The rates approved in Order No. 24084 include a monthly allowance of \$1,700 for preventative maintenance. Commission Order No. 24084 further states that if at six months from the effective date of the order the utility has not expended at least 85% of the amount allowed (at least \$1,445 per month), the utility shall submit a written schedule to show what monthly maintenance will be adopted along with a statement of the reason such funds were not

DOCKET NO. 900025-WS  
APRIL 9, 1991

expended and a detailed statement of its future plans to maintain the system. The order continued that if the maintenance was not performed, the Commission would consider initiating a show cause proceeding to fine the utility for not performing the maintenance as ordered.

The utility did not spend the required maintenance allowance during the months of March through August of 1991. In Order No. 25296, the Commission determined that the utility's failure to spend the maintenance allowance was likely caused by decreased revenues. The utility was ordered to henceforth comply with the preventative maintenance aspect of Order No. 24084. This issue would be reviewed in five months' time.

Staff has reviewed the utility's expenditures for the months of September 1991 through February 1992. Staff's analysis indicates that the utility spent approximately \$3,300 during that period, compared to the ordered minimum expenditure of \$8,670 ( $\$1,700 \times 85\% \times 6$  months). The \$3,300 figure represents less than 40% of what the utility was ordered to spend. In addition, the utility has failed to submit to Staff the required statement of the reason such funds were not expended and a detailed statement of its future plans to maintain the system.

Based on Staff's review of the utility's expenditures, the utility has not complied with Order No. 25296 regarding the maintenance requirement. Therefore, the utility should be ordered to show cause why it should not be fined up to \$5,000 per day for failing to spend at least 85% of its \$1,700 monthly allowance for preventative maintenance on that specified purpose.

#### Quality of Service

Commission Order No. 24084 imposed a \$2,000 penalty on the utility for its unsatisfactory quality of service. However, the order stated that after six months, the Commission would reinspect the plant and assess the performance of the utility to determine the quality of service. If satisfactory, the Commission stated that it may suspend the fine permanently. The order further stated that to improve the quality of service, the utility should construct a new effluent disposal system, obtain the necessary permits, and operate the wastewater facilities within DER standards. The DER-required plant improvements were included in rate base as pro forma plant.

Staff visited the utility in September 1991 and found that the quality of service had not improved. In fact, the quality of service had deteriorated. The Commission recognized that the

DOCKET NO. 900025-WS  
APRIL 9, 1991

deficiencies were at least partially attributable to the low level of revenues collected by the utility.

Because the utility had entered into a settlement agreement with the DER, the requirement for the effluent disposal system was modified to require an interconnect of the utility's wastewater system with Pasco County within six months of the signed settlement with DER. Therefore, Order No. 25296 allowed the utility additional time to make quality of service improvements. The order restated the requirements for improving the quality of service, and modified Order No. 24084 to require the utility to interconnect with Pasco County within the prescribed time frame of January 8, 1992. To date, the utility has neither interconnected with the county, nor begun construction or design of the required interconnect facilities.

In addition, the Commission found that the quality of service regarding customer relations had reached an all-time low, and that in order to improve the quality of service the utility must improve customer relations.

Staff does not believe that the utility has improved customer relations. There are several attachments that relate to this issue. Attachment D is a statement from the Shady Oaks Owners Association regarding the quality of service provided by the utility. Attachment E is a copy of a customer complaint filed with the Commission's Division of Consumer Affairs. With regard to the customer complaint, while Mr. Sims denies that he used the profane language quoted in the letter, Staff believes that while the words may be in dispute, it is evident that the customer was insulted.

In addition, we received numerous complaints on January 22, 1992 regarding a service outage. The customers also claimed that the utility did not respond to their calls on the day the outage occurred. The customers' account of what happened is included with this recommendation as Attachment F. Service apparently was restored only when the guest of one of the customers climbed the fence at the plant and switched the breaker on. The customers are concerned that Mr. Sims did not respond timely to their calls. In addition, it is a long-distance call for customers to report any service outages or other trouble. In response to Staff's inquiry, Mr. Sims responded that he could not have responded any sooner, as he had been out of town on the day the outage occurred.

Also, on February 24, 1992, Staff received a complaint that Mr. Sims was installing several meters on one person's property. A copy of the complaint is included in this recommendation as Attachment G. Staff visited the utility and found that the utility was placing the individual meters as close to the water main as

• DOCKET NO. 900025-WS  
APRIL 9, 1991

possible, even when that meant that the meter was on someone else's property. Staff directed the utility to place the water meters on the individual properties associated with the consumption. Rule 25-30.260 of the Florida Administrative code requires the "utility to locate meters at or near the customer's curb or property line (except) when it is impractical." In this instance, Staff believes that it is practical for the utility to place each meter on the respective property it serves.

It is evident to Staff that the utility has made no substantial improvement in the total quality of service. Therefore, as the utility is in violation of Commission Orders Nos. 24084 and 25296 in that regard, it should be ordered to show cause why it should not be fined up to \$5,000 per day for continuing to provide unsatisfactory quality of service.

#### Escrow Requirement

The utility's rate increase became effective on March 2, 1991. By Order No. 24084, the utility was required to place in escrow the portion of the rate increase related to the pro forma plant and the \$2,000 penalty. Specifically, the utility was required to escrow \$333.34 per month. However, as previously discussed, the utility collected substantially less revenues during 1991 than was allowed in Order No. 24084. By July 1991, the utility was receiving so few utility payments from customers that it unilaterally decided to discontinue placing money in escrow.

Although the Commission understood the utility's difficulty in escrowing the required amount, Order No. 25296 admonished the utility for ceasing to escrow without the Commission's approval. The utility was then ordered to immediately place enough money in the escrow account to bring the balance up to the proper level. The utility was warned that if it did not immediately correct the escrow deficiency or did not continue placing the appropriate portion of revenues in the escrow account, the Commission would take appropriate action.

The vast majority of the utility's customers are now paying their utility bills. Based on a review of the utility's cash collections from customers since the issuance of Order No. 25296 (December 1991 to February 1992), Staff has conservatively calculated an amount of \$5,600 as what the utility should have placed in escrow during that three month period. However, a review of the bank statements indicates only \$3,500 was deposited into the escrow account during the same period. In addition, the utility has failed to place enough money in the escrow account to correct the escrow deficiency that resulted from the utility's ceasing to place funds into the account.



DOCKET NO. 900025-WS  
APRIL 9, 1991

The utility has failed to comply with Orders Nos. 24084 and 25296 regarding the escrow requirements. Therefore, the utility should be ordered to show cause why it should not be fined up to \$5,000 per day for not maintaining the appropriate balance in the escrow account.

Summary of Noncompliance/Recommendation to Show Cause

Based on the foregoing discussion, the utility is in substantial noncompliance with Orders Nos. 25296 and 24084. Specifically, the utility has failed to: 1) submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name; 2) install water meters for all its customers; 3) spend at least 85% of its \$1,700 monthly allowance for preventative maintenance on that specified purpose, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance; 4) improve the quality of service and interconnect with the Pasco County wastewater treatment system; and 5) immediately place in the escrow account all funds necessary to bring said account to its proper balance. Therefore, the Commission should order the utility to show cause in writing within 20 days of the date of the order why it should not be fined up to \$5,000 per day per violation for each item of noncompliance with Orders Nos. 25296 and 24084.

DOCKET NO. 900025-WS  
APRIL 9, 1991

OTHER ISSUES

ISSUE 2: Should the Commission levy the \$2,000 fine that was imposed and suspended by Order No. 24084 for unsatisfactory quality of service?

RECOMMENDATION: Yes, the Commission should levy the \$2,000 fine that was imposed and suspended by Order No. 24084 for unsatisfactory quality of service. However, the utility should be ordered not to pay the fine from the escrow account, as the utility has failed to escrow sufficient monies to cover both a potential refund and the fine. (LINGO, D. VANDIVER, FEIL)

STAFF ANALYSIS: Commission Order No. 24084 imposed a \$2,000 fine for unsatisfactory quality of service, but suspended the fine for a nine-month period. By the end of this period the utility was expected to improve its quality of service, and the Commission would then dispose of the fine.

In Order No. 25296, the Commission found that the utility's quality of service remained unsatisfactory. Order No. 25296 required the utility to improve its quality of service within five months. Stated conditions for improving the quality of service were that the utility must both complete the interconnect with the Pasco County wastewater treatment system within the designated time and improve customer relations.

As further discussed in Order No. 25296, the Commission stated that it did not take lightly either the utility's continued unsatisfactory quality of service or its continued failure to comply with the other requirements of Order No. 24084. However, the decreased revenue situation made this a somewhat exceptional case. Therefore, Order No. 25296 extended the suspension of the fine for 45 days beyond the Pasco County interconnection date (February 21, 1992). A final review of the quality of service would begin at that time. In addition, Order No. 25296 reminded the utility that it was not relieved of its obligation to accumulate the fine in escrow as required in Order No. 24084.

As discussed in detail in Issue 1, the utility is in substantial noncompliance with Orders Nos. 24084 and 25296 regarding the areas of quality of service and the escrow account. Therefore, Staff recommends that the \$2,000 fine be levied.

Although the utility was ordered to place money in the escrow account in part to accumulate the fine, the appropriate balance of the escrow account is much greater than the actual balance in the account. In fact, in response to Staff's January 22, 1992 letter, Mr. Sims stated that, "... it is obvious that the fine certainly



DOCKET NO. 900025-WS  
APRIL 9, 1991

could not be placed in any type of an escrow account since the Utility is operating at a deficit monthly." (Please refer to Attachment B, page 1.) It is evident that should the Commission require a refund to the utility's customers, most if not all the money in the escrow account would be needed to satisfy the refund requirement. Therefore, since the utility has failed to escrow sufficient monies to cover both a potential refund and the fine, the utility should be ordered not to pay the fine from the escrow account.

DOCKET NO. 900025-WS  
APRIL 9, 1991

ISSUE 3: If the Commission assents to Staff's recommendation in Issue 2, should this Commission forward collection of the fine to the Comptroller's Office in the event the utility fails to respond to reasonable collection efforts by Commission Staff?

RECOMMENDATION: Yes, in the event that reasonable collection efforts are unsuccessful, the collection of the fine should be forwarded to the Comptroller's Office. (LINGO)

STAFF ANALYSIS: In 1988, Shady Oaks Mobile-Modular Estates, Inc. went through a reorganization under Chapter 11 of the Bankruptcy Code and a final judgement was issued on August 2, 1988. In addition, in March 1991, the utility owners filed for personal bankruptcy under Chapter 13. Although the Bankruptcy Judge issued orders both dismissing the case and denying the Sims' motion for reconsideration in the Chapter 13 filing, the fact that the utility owners felt the need to file for bankruptcy is of concern to Staff.

In view of the utility owners' history of bankruptcy filings and failing to comply with Commission Orders, Staff recommends that collection of the \$2,000 fine be referred to the Comptroller's Office for further collection efforts should the utility fail to respond to reasonable collection efforts by Commission Staff. Reasonable collection efforts shall constitute two certified letters requesting payment. The referral to the Comptroller's Office would be based on the conclusion that further collection efforts by the Commission would not be cost-effective.

DOCKET NO. 900025-WS  
APRIL 9, 1991

ISSUE 4: Should the rate structure be changed at this time?

RECOMMENDATION: Yes, the rate structure should revert back to the base facility and gallonage charge rate structure. The utility should submit revised tariff pages within seven days of the date of the order. The revised rates shall be effective for meter readings on or after thirty days from the stamped approval date on the revised tariff sheets. The tariff sheets will not be approved until Staff verifies that the tariffs are consistent with the Commission's decision, and that the customer notice is adequate. (D. VANDIVER, LINGO)

STAFF ANALYSIS: By Order No. 24084, the utility was authorized to charge flat rates for water and wastewater service of \$14.70 and \$28.28, respectively. The utility was authorized to charge the flat rates for six months, at the end of which time the base facility charge (BFC) rate structure became effective. In this case, the BFC rates automatically became effective on October 1, 1991.

However, because numerous customers did not pay the utility bills during the court dispute over jurisdiction to set the utility's rates, Order No. 25296 allowed the utility to charge the flat rates for an additional five months. The Commission believed that the revenue deficiency was a significant factor that contributed to the meters not being installed on a timely basis.

Beginning in December 1991, the utility once again began charging the combined flat rate of \$42.98. Staff has reviewed the utility's records and found that the majority of customers have been paying the current portion of their bills on a timely basis. However, as discussed in Issue 1, the utility has not completed the installation of the water meters. Therefore, Staff believes now is an appropriate time to reconsider which rates the utility should be charging.

Staff recognizes that the utility must be allowed sufficient funds to operate. Staff believes the utility has in fact been allowed sufficient funds, but these funds have not been used to install the water meters. It appears that the customers were correct in their concern that the utility owner would need a strong incentive in order to install the water meters in a timely fashion. Therefore, Staff now believes that the utility should be ordered to revert to the base facility charge rate structure.

In addition, beginning in May of each year, a significant number of the utility's customers go on an extended vacation and request a disconnection or vacation rate. In fact, approximately 65 customers (or 35% of the customer base) are disconnected for

DOCKET NO. 900025--WS  
APRIL 9, 1991

each of the months of May through September. If the utility is on a flat rate, the tariff does not allow for a vacation rate, and the customers are not charged a minimum charge.

Based on the number of customers on vacation last year, Staff compared the monthly summer revenues using flat rates to revenues that would have been generated from the base facility charge rate structure. Assuming 65 customers are out of town, the utility would collect approximately \$5,000 from the remaining customers if the flat rate structure is utilized. Using the base facility charge rate structure, and assuming estimated average usage of 6,000 gallons per customer, the utility will collect approximately the same amount of revenues if 66 customers have meters installed so that the utility may also bill for the usage. The comparison is shown below:

Revenues Generated  
From Flat Rates

Current customers	181
- Vacationing customers	<u>65</u>
= Customers subject to bill	116
 x Combined flat rate	 \$ 42.98
 = Total monthly revenues	 <u>\$ 4,986</u>

Revenues Generated  
From Base/Gallage Rates

Current customers	181
x Combined BFC	<u>\$ 18.84</u>
 = Revenues derived from BFC	 \$ 3,410
 Customers with meters	 66
x Combined gallonage charge	\$ 4.02
x Estimated usage (gals/customer)	6,000
/ 1,000 gallons	<u>1,000</u>
 = Revenues derived from gallonage	 \$ 1,592
+ Revenues derived from BFC	<u>3,410</u>
 = Total monthly revenues	 <u>\$ 5,002</u>

The utility has installed 47 meters, and has recently indicated that another 40 will be installed in April. Assuming most of the meters installed in April are for nonvacation residences, the

DOCKET NO. 900025-WS  
APRIL 9, 1991

utility should collect approximately the same amount of revenues using the base facility charge rate structure as would be collected using flat rates.

Therefore, Staff recommends that the utility revert to the base facility/gallongage charge rate structure. This means that the utility is required to bill all customers without water meters the water base charge of \$6.34 and the wastewater base charge of \$12.50. The utility may charge the gallongage rates to each customer who has an installed meter.

The utility should submit revised tariff pages within seven days of the date of the order. The revised rates shall be effective for meter readings on or after thirty days from the stamped approval date on the revised tariff sheets. The tariff sheets will not be approved until Staff verifies that the tariffs are consistent with the Commission's decision, and that the customer notice is adequate.

DOCKET NO. 900025-WS  
APRIL 9, 1991

ISSUE 5: Has the utility properly credited all customers who contributed to the payment of the utility's delinquent electric bill?

RECOMMENDATION: No, the utility has not credited all customers who contributed to the payment of its delinquent electric bill. The utility should be ordered to issue credits to those customers who have not yet received credits. The credits should be issued on the first bill subsequent to the date of the order. (LINGO)

STAFF ANALYSIS: During the time the injunction was in effect, Shady Oaks was unable to pay its electric bills for the months of May and June of 1991. On July 25, 1991, the Withlacoochee River Electric Cooperative discontinued electric service to the utility. All of the pertinent governmental agencies, including this Commission, were given prior notice. The Shady Oaks homeowners were without water and wastewater service as a result of the discontinuance of electric service.

With no opposition from the utility or this Commission, the Circuit Court issued an order which allowed the homeowners to pay the electric bill, provided that such payments would be credited to their water and wastewater bills. The homeowners paid the electric bill and Shady Oaks' power was restored.

The electric bill was paid by 114 homeowners. The utility was provided with a list of those homeowners' names so that the appropriate credit would be posted to their accounts. Although the Circuit Court order does not specify that only the homeowners who paid a portion of the delinquent electric bill would be entitled to a credit on their water and wastewater bills, Staff believes this is a reasonable approach. Even absent the Circuit Court order requiring customer credits, Staff believes the customer credits are appropriate.

The appropriate credit per contributing homeowner is \$9.59. As of mid-March of this year, the utility had issued the appropriate credits to 86 customers. However, there are still 28 homeowners who have yet to be credited the proper amount; the resulting outstanding credits total approximately \$270. Therefore, Staff recommends that the utility be ordered to issue the remaining 28 credits to those homeowners who contributed to paying the utility's delinquent electric bill. These credits should be issued on the first bill subsequent to the date of the order.

DOCKET NO. 900025-WS  
APRIL 9, 1991

ISSUE 6: Should this docket be closed?

RECOMMENDATION: No, this docket should not be closed. (LINGO,  
D. VANDIVER)

STAFF ANALYSIS: Staff has recommended that the utility be ordered to: 1) show cause why it should not be fined for being in substantial noncompliance with Commission Orders Nos. 24084 and 25296; 2) pay a \$2,000 fine; 3) revert to the base facility/gallonage charge rate structure; and 4) issue customer credits relating to the customers' payment of the utility's delinquent electric bill. Therefore, this docket should remain open pending further proceedings.

I:\PSC\WAW\WP\SOAKREC1.FJL



## Public Service Commission

January 22, 1992

Richard D. Sims  
Shady Oaks Mobile-Modular Estates, Inc.  
1315 Eckles Drive  
Tampa, Florida 33612

Dear Mr. Sims:

On November 4, 1991, the Commission issued Order No. 25296 which determined your noncompliance with Commission Order No. 24084 and allowed additional time for compliance. Most of these actions were to be accomplished within five months of the effective date. However, certain of the actions were to be completed prior to this date and the deadline for the remaining actions is rapidly drawing to a close. Therefore, this letter reviews the requirements placed on the utility and requests additional information regarding the status of these requirements.

At this time, staff is preparing to draft a recommendation to the Commission regarding the continued violations. We plan to recommend that the previously suspended fine of \$2,000 for unsatisfactory quality of service be levied. In addition, we plan to recommend that Shady Oaks be show caused why it should not be fined up to \$5,000 per day for failure to comply with the items contained in Order No. 25296. Therefore, please respond to each of the following requests as fully as possible. Your complete response to this letter will enable staff to make a fully informed recommendation to the Commission regarding the disposition of the issues in this case.

- 1) Order No 24296 required Shady Oaks to file within sixty days a request for acknowledgement of a name change and restructure.

In order to acknowledge a name change and restructure, the Commission needs evidence that the utility and all of its assets are in the same name. What is the intended name of the utility? Is this a corporation or a sole proprietorship? In what name is the utility land recorded? Has the utility drawn up a contract selling or transferring the utility assets from Shady Oaks Mobile-Modular Estates, Inc. to the new name? Have these steps been put on hold due to the filing of the bankruptcy proceedings? Is it true that the bankruptcy proceedings were thrown out of court? Have any other proceedings affected the completion of this requirement? The order required that the utility revert to operating under the name Shady Oaks Mobile-Modular Estates, Inc. if the required information was not filed. Has the utility ceased operating under the name S & D Utility?



Mr. Richard D. Sims  
January 22, 1992  
Page 2 of 3

- 2) The approved rates include a monthly expense of \$1,700 for preventative maintenance. If the utility has not expended at least 85% of the amount allowed, the utility shall submit a written schedule to show what monthly maintenance will be adopted along with a statement of the reasons such funds were not expended.

Please list the monthly maintenance expenditures for September 1991 through January 1992. Provide copies of all invoices and checks supporting these expenditures. If the monthly amount is less than \$1,700 per month, please submit a schedule as required by the Order. This would include a written schedule to show what monthly maintenance will be adopted along with a statement of the reasons such funds were not expended.

- 3) The utility was ordered to place monies in an escrow account in order, to accumulate a \$2,000 fine for unsatisfactory quality of service and to put aside the revenues associated with the pro forma plant. Order No. 25296 recognized that the utility had ceased placing money in escrow and ordered the utility to place sufficient money in the escrow account to bring the balance up to the proper level.

Staff has not received evidence of any of these deposits. Nor has staff received any monthly reports required by Order No. 24084 since May 1991. Please submit these reports for June 1991 through January 1992.

- 4) The order stated that the utility must install water meters for all customers within five months.

It does not appear that any water meters have been installed since the order was issued. What plans do you have for installing the remaining water meters? Please provide a time schedule indicating proposed dates of installation and the number of meters to be installed on each date.

- 5) The utility was ordered to escrow the portion of the increase related to the pro forma plant. After six months, the utility shall submit to the Commission copies of the invoices to verify the costs to complete the construction.

Considering the stipulation you reached with DER regarding the wastewater connection with Pasco county, the interconnection was to be completed January 8, 1992. Please explain what action DER is currently taking and what action you are taking?

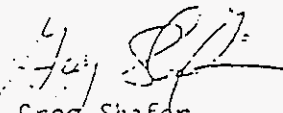
- 6) The utility was also ordered to improve customer relations. Order No. 25296 suggested several steps that the utility could take to accomplish an improvement.

Mr. Richard D. Sims  
January 22, 1992  
Page 3 of 3

Please provide a discussion of the steps you have taken to improve customer relations. Specifically address if you have implemented the three suggestions included in the Commission order.

The upcoming recommendation will address the penalty imposed in the last order, future utility actions which the commission should monitor, the disposition of the escrow account and whether the docket should be held open. The more information you are able to give us concerning these issues, the more informed recommendation staff can make to the Commissioners. Please submit the requested information no later than February 17, 1992 in order that staff can complete its recommendation.

Sincerely,

  
Greg Shafer  
Bureau Chief

cc: Charles H. Hill  
Hank Landis  
; Denise Vandiver

i:\psc\rrr\wp\simsltr.dlv

S & D UTILITY  
P. O. Box 280012  
Tampa, Fla. 33682-0012

EXHIBIT FJL-1  
Page 26 of 36

February 16, 1992

RECEIVED

FEB 21 1992

FLA. PUB. SERV. COMMISSION  
WATER & SEWER

Mr. Greg Shafer, Bureau Chief  
Division of Water & Wastewater  
Florida Public Service Commission  
101 E. Gaines Street  
Tallahassee, Florida 32399-0850

Dear Mr. Shafer:

Concerning your letter of 1-23-92, we were waiting for a letter from Tri-Community Council, which, as you know from our prior correspondence, we have had Nancy Bartek who represents S & D Utility. I talked to Mrs. Bartek, and it is our understanding that we have been approved by Tri-Community for a complete analysis of our water system. Subject to her letter, we understand that this will involve the following analysis: upgrading our water system, which would include an analysis of the electrical system and pumps and water storage facilities, any leakage in any lines, replacement of any cut-off valves, and installation of water meters. Anything that we can do to cut down the cost of providing top-notch service to our consumers. When we receive this letter from her, we will forward it to you. This analysis will be conducted by Florida State University. We wish to especially bring to your attention that upon completion of this analysis this will be a 50/50 proposition. Also we are waiting for a letter of confirmation from Mr. Vora, D.E.R. Wastewater Financial Assistance, concerning the financial assistance afforded by them. He is to contact David Thulman, Chief Legal Counsel, D.E.R..

Concerning your question # 1, name change was filed. Intended name of the Utility is now and has been S & D Utility, the Corporation cannot be a sole proprietorship at present. Utility name is recorded in the name of Richard D. Sims, these steps have been put on hold due to Bankruptcy proceedings. Concerning the Bankruptcy proceedings, a matter of record. The possibility of additional potential proceedings, the Utility will continue to operate under the name of S & D Utility. The name S & D Utility is recorded and the Federal Tax Number has been applied for and received, as this was recommended by your audit and we have done so.

Question # 2, it appears that since we became under your jurisdiction in 1985, the Utility is still operating under a deficit.

Question # 3, it is obvious that the fine certainly could not be placed in any type of an escrow account since the Utility is operating at a deficit monthly. We believe that you have received copies of the prior escrow account. Enclosed are the copies to bring this information up to date.

Mr. Greg Shafer

-2-

EXHIBIT FJL-1

Page 27 of 36

This account will be brought up to date by an addition of \$100.00 a month from the General Operating account to be put in the escrow account, if possible. This has been done for February.

Question # 4, we intend to install additional water meters the latter part of this month.

Question # 5, extremely informative deposition with the D.E.R. on 1-8-92. They were completely astounded as to why the Utility could not shut off water for non-payment. I advised them that this was the Circuit Judges' decision and that your Mr. Feil was handling this with the Circuit Court. They did ask me a particular question, what would I do when these funds are released by the customers if the Judge states I can shut off water for non-payment. I told them that the largest majority of these funds would be used to install water meters and for the expansion of the sewer plant, to hook into the Pasco County Wastewater System. I do believe that you have prior correspondence regarding this. If you have any questions concerning this please contact Mr. David Thulman, Chief Legal Counsel, D.E.R., Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Fla., 32399-2400.

Question # 6, concerning question 6, number 5 answers it. Concerning customer relations, very shortly we will have all our billing stamped "It's our privilege to serve you, have a nice day." A total amount of 8 people visited the office during the month of January. There have been several people in the Park who have been ill, and the Utility has endeavored to express its compassion.

We have made application with a Mr. Gary Sica for a large loan to take care of the necessary problems with the D.E.R. and the P.S.C. His reaction has been extremely favorable.

Very truly yours,



R. D. Sims

RDS:ss

S & D UTILITY  
P.O. BOX 280012  
TAMPA, FLA 33682-0012

EXHIBIT FJL-1  
Page 28 of 36

USA 19

Mr. & Mrs. Robert Bird  
38553 Monet Dr.  
Zephyrhills, Fla.  
33540-6526

©USPS 1991



2-1-92

Service from 2-1-92 to 2-29-92.  
Residential flat rate - Water & Wastewater

\$42.98


Due within 20 days from the above date.

S&D UTILITY  
P. O. BOX 280012  
Tampa, Fla. 33682-0012

1279  
2/5

TO: Denise Vandiver, Regulatory Analyst  
Florida Public Service Commission  
Division of Water and Wastewater

EXHIBIT FJL-1  
Page 29 of 36

FROM: Shady Oaks Owners Association 

RE: Docket No. 900025-WS, staff-assisted rate case  
Shady Oaks Mobile-Modular Estates, Inc. (aka S&D Utility)

STATEMENT OF CONCERN REGARDING QUALITY OF SERVICE  
September, 1991 through March 25, 1992

DATE: March 25, 1992

We wish to address the following areas of concern with regard to the performance of the above-named utility in the five month period following Commission Order #25296 on November 4, 1991.

MAINTENANCE

The condition of the existing percolation pond and surrounding area gives no evidence that any maintenance has been performed in this period, nor have we observed any being done. The grass is very high and tree roots and grass grow into the water from the edges. The color of the water is a very bright green. Effluent overflow onto the surrounding areas is also evident.

We are concerned that construction of the interconnect to the county sewer line has not even been started. Commission ordered rates have been consistently paid by all of the residents of Shady Oaks since August 1, 1991 following court orders to do so.

Chlorination of the water system has been noticeably heavy on several occasions, the most recent being the past several days. It is almost undrinkable.

OPERATIONS

As we mentioned in our last report, we are concerned that the entire park is being shut down unnecessarily for work on one segment of the system. There are separate shut-off valves to various service loops in the system, and it is our feeling that installation of meters or repairs on any given section should only necessitate the shutdown of that section.

Meter installation seems to follow a very random pattern. While Block H's installation has now been completed, there have been some random meters installed for no apparent reason in other areas, one of which is on one of the vacant lots in an undeveloped area of the subdivision. Digging to find the lines has resulted in landscape being disturbed in several instances.

Statement of Concern  
Shady Oaks  
March 25, 1992  
Page 2

Page 30 of 36

CUSTOMER RELATIONS

We are still concerned about hours of access to the utility's office, whether for bill paying or other inquiries. Currently the office is scheduled to be open only two (2) hours per week, and these are not consistent - they change from month to month, and sometimes during the month. This inconsistency creates a difficulty in knowing when the office will be open, which we feel creates a hardship especially for the older residents of Shady Oaks.

Our greatest concern at this time is access to the utility in the event of an emergency situation. At present the only telephone number being provided is that of Mr. Sims' home in Tampa, which can be called collect, but not if being answered by machine. If a customer wishes to leave a message on the machine he must pay a toll charge. But even this is not of prime concern; in the event of emergency we need to talk to a human being. Can the utility not provide a 24 hour service for the customers immediate needs, whether it be by hired service or by personal beeper carried by the owner or his representative?

We would appreciate your attention to our concerns. We cannot apply elsewhere for service; we would like this utility to pay attention to our concerns.

Name SHADY OAKS OWNERS ASSOCIATION, INC.

Company SHADY OAKS MOBILE-MODULAR ESTATES,

Request No. 1365L

Address ROBERT W. LINDAHL

Attn. \_\_\_\_\_

By SMM Time 10:06 AM Date 01/11

P. O. BOX 1006

Consumer's \_\_\_\_\_

Telephone # \_\_\_\_\_

To \_\_\_\_\_ Time \_\_\_\_\_ Date \_\_\_\_\_

City/Zip CRYSTAL SPRINGS 33524 County PAS

Can Be \_\_\_\_\_

Reached \_\_\_\_\_

Complaint Type g1-99

Account Number \_\_\_\_\_

Note \_\_\_\_\_

Has consumer contacted company? Yes X No \_\_\_\_\_ Who \_\_\_\_\_

Justification \_\_\_\_\_

Closed by \_\_\_\_\_ Date / /

Reply Received \_\_\_\_\_

See attached letter from Shady Oaks Owners Association, Inc. complaint about the behavior of utility owner of Shady Oaks Mobile-Modular Estates.

Per Denise Vandiver, Research, referred to her for her files.  
(Hand carried to her)

## CONSUMER REQUEST

FLORIDA

PUBLIC

SERVICE

COMMISSION



101 EAST GAINES STRE  
TALLAHASSEE, FLORIDA

PLEASE RETURN THIS FI  
WITH REPORT OF ACTION

Stella Maloy

DUE: / /

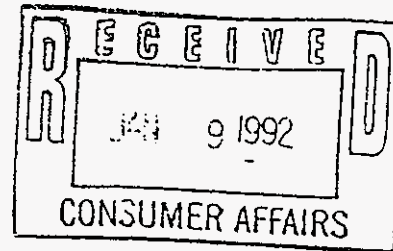
EXHIBIT FJL-1  
Page 31 of 36

ATTACHMENT E



January 3, 1992

Florida Public Service Commission  
Division of Consumer Affairs  
101 East Gaines Street  
Tallahassee, Florida 32399-0867  
Attention: George Hanna



Dear Sir:

We are writing to report the behavior of the owner of the utility serving Shady Oaks Mobile-Modular Estates, Mr. Richard Sims, towards Mr. Alvin Lachapelle, a Shady Oaks resident and customer of said utility.

As stated on the utility bill for December 1991, the last day to pay this bill without being delinquent was December 20. On Thursday, December 19, Mr. Lachapelle noticed Mr. Sims was in the subdivision and went to the office to pay his bill. Although the door was open, the payment drop box was not in evidence, and the hours posted on the door for December read: "Monday, 10 to 11 and Friday, 10 to 11". Mr. Lachapelle returned to the utility office on Friday at the posted time to find it closed. He then mailed his check, although he was somewhat upset about it now being delinquent.

Therefore, on Thursday morning, January 2, when Mr. Sims was again in the office, Mr. Lachapelle approached him to request a statement from the utility crediting the payment as having been made timely. After listening to Mr. Lachapelle, Mr. Sims proceeded to harangue him, using extremely profane and vulgar language. We are enclosing a copy of Mr. Lachapelle's account of the incident.

We have protested this type of behavior by Mr. Sims before. We believe that no one should be subjected to this kind of verbal assault from anyone, and certainly not from an individual who is providing a public utility service sanctioned by the state of Florida that we are required to patronize, having no other choice.

We thank you for your attention to this matter.

Sincerely yours,

Robert W. Lindahl  
President

RWL/dkb

cc: Gregory Shafer, Chief/Special Assistance  
Denise Vandiver, Staff Analyst  
Gerald A. Figurski, Esquire  
Alvin J. Lachapelle

This morning I saw Mr. Sims and asked for an amended copy of my delinquency account (his estimate). My check for the current payment was in transit (\$2.08) and that amount was added to the amount he claims I am in arrears. His answer to my request was "Alvin FUCK YOU". His parting shot as he walked away was Alvin I don't talk to white niggers.

*Alvin J. Luckagelle*

TO: Florida Public Service Commission  
Division of Water and Wastewater

EXHIBIT FJL-1  
Page 34 of 36

FROM: Shady Oaks Owners Association *Red*

RE: Water Outage at Shady Oaks, Zephyrhills  
January 22, 1992

DATE: March 25, 1992

We would like to submit the following account of what occurred in Shady Oaks on January 22, 1992 (based on notes made by Dorothy Bird, community representative.)

At approximately 9:30 a.m. there was a water outage to the entire subdivision that lasted for the entire day. Mr. Sims had been seen in the park and on the utility premises shortly before the water outage occurred, but calls to his office in the park were not answered, except by answering machine. These were the first calls made, by several of the residents. When there was no response to the Shady Oaks office number (782-2686), customers then called the utility's Tampa number. (This incurs a long distance charge to the calling party, unless the call is made collect.) The collect calls were unable to be completed as the utility's phone, which is also the owner's home phone, was being answered by an automatic answering device. Several customers placed direct calls and left a message on the machine along with their name, and in most cases their telephone number. Among these were Association president Robert Lindahl, whose wife Gloria left a message with her name and number at approximately 10:20 a.m., and Dorothy Bird, who left word at the Zephyrhills number about 10 a.m. and a message at the Tampa number at 11:40. Calls were made by various customers throughout the day. A number of calls were also made to the PSC Consumer Affairs 800 number during the course of the day.

In the meantime, the clubhouse bulletin board had been checked thoroughly for notice of a shutdown; there was no notice posted. Presuming that electric service may have been cut off for some reason, a call was made to Withlacoochee River Electric Company. Their representative checked and found no problem with the electric service.

At noon, Mrs. Bird explained the situation to Neil Bethea, assistant to Greg Shafer, at the Water and Wastewater Division in Tallahassee. Mr. Bethea said he would look into it and call back. At 1:05 p.m. Mrs. Bird received a call from Hank Landis, the engineer handling Shady Oaks. Mr. Landis said he would try to locate either Mr. Sims or his certified operator to have the water restored. It was recommended that we contact the DER and the Health Department to see if any type of assistance was available.

The residents were of the opinion that the outage was probably caused by a tripped breaker and that if we could gain access to the pumphouse it would be easy to alleviate the situation. Since the pumphouse was locked, and due to the volatile nature of the situation at Shady Oaks, no one was willing to commit trespass.

At 3:53 p.m. Mr. Landis again contacted Mrs. Bird, after several unsuccessful attempts at reaching either Mr. Sims or Mike Dailey, the certified operator for Shady Oaks. Mr. Landis suggested we call the Sheriff's Department to request assistance in gaining access to the pump house. We did; Deputy Sanderson of the Sheriff's office told us they are not allowed to give authority to trespass and cannot assist or accompany anyone for that purpose.

Water was restored to Shady Oaks about 4:23 p.m. on January 22, but not by Mr. Sims or any employee or representative of the utility. A visitor to the park, who felt he was helping us out of a very inconvenient and unnecessary situation, somehow gained access to the premises and flipped a switch that restored power.

Mr. Sims did not return calls to anyone who had left their names and/or numbers on his answering machine. At approximately 7:30 p.m. a call was received by Mr. and Mrs. Clarence Kellnhofer (neither of whom had left their names) from Mr. Sims, who explained that he and his wife had been away for the day, his car broke down and he had just arrived home, and he would be out to fix the water. Mr. Kellnhofer told him the water was on. Mr. Sims did not come out to Shady Oaks.

At least one of our residents received a letter in late February from John Plescow, PSC Consumer Affairs representative, in which he stated that the PSC investigation showed that water was restored the same day, which was true although not by any efforts of the utility; and that the cause of the interruption in service was a burned out transformer and capacitor, according to information obtained from the utility. We dispute this finding, since service was able to be restored by a flip of a switch.

This water outage was a great inconvenience to all of the customers of this utility, but especially hazardous to those who have special needs due to advanced age or medical disabilities. There are several residents of Shady Oaks in their 90's and many in their 80's, and there are some who require special care for strokes and heart conditions. This situation would not have happened if proper provisions had been made by the utility to handle emergencies.

Note to Hank Landis: Re: telephone number to reach Mike Dailey - his car telephone number is 813-480-5435.

Name BRAIDWOOD, RONALD

Company SHADY OAKS MOBILE-MODULAR ESTATES,

Request No. 6992P

Address 3758 CASTLE DRIVE

Attn. RICHARD SIMS

By SMM Time 4:40 PM Date 02

Consumer's

Telephone # (813)-788-2835

To CO Time mail Date 02

City/Zip ZEPHYRHILLS 33540 County PAS

Can Be Reached: (813)-788-2835

Complaint Type WS-50

Account Number \_\_\_\_\_

Note \_\_\_\_\_

Has consumer contacted company? Yes X No \_\_\_\_\_ Who RICHARD SIMS

Justification \_\_\_\_\_

Closed by \_\_\_\_\_ Date \_\_\_\_\_ / /

Reply Received \_\_\_\_\_

Co. is installing meters on 2-26. Mr. Braidwood says that co. is installing his meter in Mr. Chaney's back yard. This is apx. 75 feet from property line, two lots away. Upset because if he needs to read his meter he'll have to go to a neighbors. When approached Mr. Sims, he said "I'm a former drill instructor in the Marines & if you don't like where I'm installing the meters, call the Public Service Commission." Also water company cut TV cable. The Cable TV co. has repaired & says will send Mr. Braidwood a bill. Mr. Braidwood approached Mr. Sims about it & Mr. Sims just snickered. Mr. Braidwood wants water co. to pay the bill & water meter installed on his property.

CC: Hank Landis, W&W

Denise Vandiver, RRR

## CONSUMER REQUEST

FLORIDA

PUBLIC

SERVICE

COMMISSION



101 EAST GAINES STREET  
TALLAHASSEE, FLORIDA

PLEASE RETURN THIS FC  
WITH REPORT OF ACTION

Stella Maloy

DUE: 03/11/92

EXHIBIT FOL-1  
Page 36 of 36

SHADY OAKS MOBILE-MODULAR ESTATES, INC.

DOCKET NO. 930944-WS

EXHIBIT FJL-2

WITNESS: FRANCES J. LINGO

ON BEHALF OF THE STAFF  
OF THE FLORIDA PUBLIC SERVICE COMMISSION  
DIVISION OF WATER AND WASTEWATER

DESCRIPTION

ORDER NO. 24084, ISSUED FEBRUARY 8, 1991

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET

NO. 930944

EXHIBIT NO. 3

COMPANY/

WITNESS: FPSC/Lingo

DATE: \_\_\_\_\_

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-	)	DOCKET NO. 900025-WS
assisted rate case in Pasco	)	ORDER NO. 24084
County by SHADY OAKS MOBILE-	)	ISSUED: 2-8-91
MODULAR ESTATES, INC.	)	
	)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
 BETTY EASLEY  
 GERALD L. GUNTER  
 FRANK S. MESSERSMITH  
 MICHAEL MCK. WILSON

FINAL ORDER GRANTING TEMPORARY RATES  
IN EVENT OF PROTEST

AND

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING INCREASED RATES AND CHARGES, AND  
REQUIRING IMPROVEMENTS AND REPORTS

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the actions discussed herein, except the granting of increased rates on a temporary basis in the event of a protest, are preliminary in nature, and as such, will become final unless a person whose interests are substantially affected files a petition for a formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

CASE BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) is a Class C water and wastewater utility located in Pasco County. It is a 242 lot mobile-modular home park developed in 1971. Its service area is approximately 1-1/2 miles south of the City of Zephyrhills.

On July 11, 1972, the provisions of Chapter 367, Florida Statutes, became applicable in Pasco County, Florida, whereby those utilities not qualifying for exemption from regulation became subject to the Commission's jurisdiction. Order No. 14540, issued on July 8, 1985, found Shady Oaks subject to the Commission's

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ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 2

jurisdiction. By Order No. 15633, issued February 6, 1986, the Commission issued Water Certificate No. 451-W and Sewer Certificate No. 382-S to Shady Oaks.

Commission Order No. 14540 took note of the Final Judgment of the Circuit Court of the Sixth Judicial Circuit upholding restrictive covenants included in the deeds of existing lot holders receiving service from Shady Oaks. A covenant in each deed requires the developer, Shady Oaks, to provide certain services at a fixed annual cost. These services include water, wastewater and other services. Based upon the data presented at that time, the Commission decided that the utility should continue billing its customers based on the deed restrictions.

On January 10, 1990, Shady Oaks applied for this staff-assisted rate case and has submitted the filing fee. We reviewed the utility's books and records to determine those components necessary for rate-setting, conducted an engineering investigation, and a field inspection of the service area. The test period is the average twelve-month period ended June 30, 1990.

A customer meeting was held on November 28, 1990 in the service area. The customers concerns are addressed subsequently in this Order.

#### NAME CHANGE AND RESTRUCTURE

During the test year, the land and all the utility facilities were owned and operated by Shady Oaks Mobile-Modular Estates, Inc. In August, 1990, the owner of Shady Oaks transferred the title of the utility's land to himself and his wife. He has indicated that he intends to transfer the entire utility, land, buildings and related supplies, from the mobile home park to a separate entity. According to the owner, this will assist in accounting for the utility separately as well as protecting the property from any liens that could result from future unpaid property taxes on mobile home property.

The land transfer was made without Commission approval. The utility states that it was not aware of the requirement of prior Commission approval. We note that the utility has been cooperative in attempting to correct the problem. Upon consideration, we will not penalize the utility for the unauthorized transfer. However, the utility is hereby put on notice that no future transfers of



ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 3

utility land or property shall be made without prior Commission approval.

Because the utility is merely "spinning off" the utility portion of the mobile home park and there will be no change in control of the utility, we find that this sort of restructure is not a transfer within the intent of Section 367.071, Florida Statutes. The utility is still owned by the same persons in the same percentages. Therefore, the utility is hereby directed to file a request for acknowledgement of a restructure and a name change within 60 days from the date of this Order.

#### QUALITY OF SERVICE

We contacted the Department of Environmental Regulation (DER) and our Consumer Affairs and Water and Wastewater Divisions to determine if the utility had active complaints or violations against it. The Commission had no active complaints. However, DER had numerous complaints and violations on file. To settle the issues, DER and the utility entered into a Consent Order whereby the utility will make specific repairs and improvements to its system by March, 1991, which should improve the quality of service to a satisfactory level. We are informed that the utility is behind schedule on the needed improvements.

During the customer meeting held on November 28, 1990, the customers complained of low pressure, water shut-offs, line breaks, bad taste (chlorine) in the water, leaks left unrepaired, and excessive vegetation around the wastewater plant. The utility acknowledged these problems but added that it has responded as diligently as possible considering its lack of needed financial resources. It asserts that the deed restrictions that prevented the utility from increasing its rates have been the main cause of the utility's quality of service problems.

Upon consideration of the foregoing, we find that the quality of service is unsatisfactory. Accordingly, we hereby levy a fine of \$2,000, but suspend the fine for a period of nine months. This will provide the utility with six months to demonstrate its willingness to comply with the DER consent order and complete the needed repairs, and give the Commission three months to investigate compliance after the six month period. The utility shall place \$333.34 each month into an escrow account for the next six months to accumulate the \$2,000 fine.

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 4

To bring the utility's quality of service to a satisfactory level, the utility should comply with DER's consent order within that order's prescribed deadline. Specifically, it should construct a new effluent disposal system, obtain the necessary permits to operate, and operate the wastewater facilities within DER Standards. In addition, as discussed later in this Order under the section on preventative maintenance, if at the end of six months the utility has not expanded eighty-five percent of its maintenance expense allowance, the utility shall submit a written schedule showing what monthly maintenance the utility will implement. After six months, we will reinspect the plant and assess the performance of the utility to determine the quality of service. If found to be satisfactory, we may suspend the fine permanently.

#### RATE BASE

Our calculation of the appropriate rate base for the purpose of this proceeding is depicted on Schedule No. 1. Our adjustments are itemized on Schedule No. 1-A. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on those schedules without further discussion in the body of this Order. The major adjustments are discussed below.

#### Used and Useful

The system has two wells; each well has a rated capacity of 125 gallons per minute (GPM). The plant has no storage capacity, therefore, both wells are required to meet maximum hour demand, which is approximately 115 GPM. One of the two wells must function as a backup well, therefore, we find that the plant is 100 percent used and useful.

This utility does not have a flow meter. Flows reported to DER are estimated. We shall use a designed capacity for mobile homes of 150 gallons per day (GPD) and equivalent residential connection (ERC), whereby the total capacity necessary to serve the existing 185 ERCs is approximately 27,750 GPD. Estimated flows reported by Shady Oaks to DER average about 17,641 GPD. Using the average of these two estimates, daily flows are 22,695 GPD. The wastewater plant has a capacity of 20,000 GPD; therefore, we find that it is 100 percent used and useful.

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 5

The collection and distribution systems provide service to 242 platted lots in the service area. Considering the distribution of the 185 connections, we find that the collection and distribution systems are 100% used and useful.

#### Plant-in-Service

Shady Oak's application reflects water utility plant of \$13,888 and wastewater utility plant of \$45,632. The utility does not have original cost documentation to support these figures. We reviewed tax returns, several cost estimates, and plant components. The 1972 tax return indicates a water plant cost of \$11,588 and a wastewater plant cost of \$45,632. We find that the tax return reflects reasonable estimates of the original cost. The utility also provided invoices to support two additional items of plant: a master meter installed in 1984-1985 and a replacement pump installed in 1989-1990. The master meter cost \$1,300 and the pump replacement was a \$151 net reduction to plant. The year-end balance of the water plant has been adjusted to reflect this test year retirement and addition. We will use these estimates and costs to establish utility plant-in-service.

In fiscal year 1980/1981, the utility added the second stage of its transmission/distribution system and collection lines. The utility's estimate indicates that the water transmission and distribution lines cost \$25,060 and the wastewater collection lines cost \$47,129. We accept these estimated costs as reasonable. Based on the foregoing, we find that the utility plant balance at June 30, 1990 is \$37,797 for the water system and \$103,546 for the wastewater system.

#### Projected Plant Improvements

On March 7, 1989, Shady Oaks signed a Consent Final Judgment with the DER. The utility agreed to construct an additional effluent disposal system to eliminate discharge from the plant. The construction permit sets a March 31, 1991 deadline for this construction. The utility has received several estimates for the work. The latest estimate was for \$199,725. We believe that a reasonable estimate to complete the work is \$125,000. This includes the relocation of the existing pond, installation of a pump station, installation of a main from the wastewater treatment plant to the new pond site, additional engineering work, materials, construction of the pond, and improvements to the wastewater

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 6

treatment plant. Accordingly, we find that this \$125,000 cost should be included in rate base.

During the test year, the utility spent \$2,265 on engineering costs related to the development of the plans for the new percolation pond. These costs shall be removed from expenses and capitalized and added to the \$125,000 estimated cost of the pro forma plant.

As discussed subsequently in this Order, Shady Oaks will convert from a flat rate to a base facility/gallonnage charge rate structure. This change will require the installation of water meters. \$100 is a reasonable estimate of each water meter installation, including the meter, meter box, labor, all valves and other appurtenances. Therefore, \$100 multiplied by the existing 185 customer sites results in a cost of \$18,500, which shall be capitalized and included in the rate base.

When pro forma plant is included in rate base, our policy is to increase accumulated depreciation by one year's depreciation on that plant. Therefore, following this policy, we find that accumulated depreciation attributable to the pro forma plant is \$1,092 for the water system and \$4,709 for the wastewater system.

Shady Oaks' percolation pond is not percolating properly. The Shady Oaks area has a high water table. A new percolation pond is to be constructed in an area where the water table is lower, on a site owned by the utility's President. Because the new site has not been previously dedicated to public use, the utility requests that the value of this land be placed in rate base at its current market value. The utility provided us with a copy of a contract for a sale of 4.65 acres of this land in 1985. The stated sale price per acre was \$68,817. Several customers at the customer meeting pointed out that the sale was never consummated. The same property is currently for sale at approximately \$32,895 per acre. We do not believe the 1985 contract price for a sale that never occurred is a valid basis for determining the current market value of the land.

We have considered several methods in arriving at our decision on the cost of the additional land to be included in rate base. The first method would allow the actual price paid for the land. This method determines the "original cost" of the land to the owner. Using this method would include in rate base the "actual"

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 7

cash investment that the owner has in the property, but the value applied to the land will not necessarily equal the land's value at the time the land is first dedicated to public use.

Commission policy has been to consider the value of the property at the time it is first dedicated to public use. The utility's President developed his system in the early 1970's and set aside the land required for the utility. Due to the fact that the current percolation pond is no longer operating properly, the President now finds himself in the position of acquiring additional land or setting aside some of his other property for utility use. We do not believe that the retirement of the old pond is through any negligence on the part of the owner, nor that he used poor judgment in choosing the initial site. Through no fault of the owner, the utility now requires additional land. Therefore, we believe that the value of the land when it is first dedicated to public use is the current value. If the full value were to be included in rate base, it would have a serious impact on this small system.

We have considered as another option, the possibility of indexing forward the original cost of the land. For instance, using the CPI as an index, the original cost of \$1,460 an acre would be increased to approximately \$4,400 an acre. Order No. 22166, issued November 9, 1989 (Poinciana Utilities, Inc.), discussed this issue of the valuation of land. We believe that Order No. 22166 clearly states the preference of the Commission to use the value of the land at the time the property is dedicated to public use. Further, the Commission discussed the methodology of using an index and stated that the methodology resulted in an unreasonably low and unrealistic per acre cost. Therefore, in that case, the Commission chose an independent appraisal as the basis for the determination of the land cost.

The best evidence we have in this case on which to base the current fair market value of this land is to start with the value placed thereon by the County Property Appraiser, which is \$11,803.53 per acre. We believe this value represents at least 65 percent of the land's actual current market value. Accordingly, we find it appropriate to increase the property appraiser's value, based on an assumed appraisal at 65 percent of current market value, to calculate a full market value of \$18,160 per acre. We multiply this per acre value by the four acres needed for the

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 8

percolation pond site, to establish a current total market value of \$72,640.

The transfer of the four acres from the utility to the utility's President is a related party transaction and not a "sale" of land in the tax sense. The President will not recognize a gain on this transfer for tax purposes. He will, however, be acquiring the "benefits" of the transfer because he will be earning a return on the increased value of the land added to rate base. Therefore, it is appropriate to reduce the current value per acre by the "tax savings" that the President receives from the increased value. We have calculated this "tax savings" by multiplying the increase in value of \$16,700 per acre (\$18,160 less \$1,460) by the tax rate of 28 percent. This results in a total reduction of \$20,339, for a net value of the four acres of \$52,301, which we find to be the appropriate value of the four acres to be added to rate base.

The site of the old percolation pond must be retired from rate base and a gain recognized. The current percolation pond occupies approximately one acre. Because this land may be reclaimed after the new percolation pond is built, it can be sold or used for other purposes. We adjust the revenue requirement to match the retirement of the one acre with the purchase of the additional four acres. The current market value of the one acre is \$16,700 more than its original purchase price. This gain will be recognized in the revenue requirement. The one acre has been owned by the utility and included in rate base. Therefore, any financial benefits from the sale of the one acre should accrue to the ratepayers. Commission policy is to amortize such a gain over a period of time. In prior cases, the Commission has chosen the amortization period by allowing the amortization expense to equal the depreciation and return on investment in rate base of the retired item. Utilization of this method results in an amortization period of seven years. Based on the foregoing, we find that a yearly amortization of \$2,386 should be included in the revenue requirement.

Because the utility has not acquired contracts for the construction, we find that the rate increase related to the pro forma plant and land shall be placed in an escrow account with an independent financial institution established pursuant to a staff-approved written escrow agreement. Any withdrawals of funds from this escrow account are subject to the prior approval of this Commission through the Director of Records and Reporting. Six



ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 9

months from the effective date of this Order, the utility shall submit to the Commission copies of the invoices to verify the costs to complete the construction. Staff will make a recommendation regarding the escrowed funds after reviewing the invoices and the completed construction. We expect staff's recommendation to be complete within eight or nine months from the effective date of Order.

#### Land Currently Owned

In 1971, Shady Oaks Mobile-Modular Estates, Inc. purchased 63 acres for \$92,000, or \$1,460 per acre. The water system is located on approximately 1/2 acre and the wastewater system currently occupies approximately 2.1 acres. During the test year, land and all utility facilities were owned and operated by Shady Oaks Mobile-Modular Estates, Inc. The owner of Shady Oaks transferred the title of the land to himself and his wife in August, 1990. The owner has indicated his intention to transfer all utility property from the mobile home park to a separate entity. Although the name on the utility's certificate does not currently match the name of the land title because of the recent transfer, the land and plant shall be included in rate base. We find that the original cost of \$1,460 per acre shall be applied to the acreage for a land cost of \$730 in the water system and \$3,066 in the wastewater system.

#### Accumulated Depreciation

We have calculated an accumulated depreciation balance using the estimated plant costs and the estimated construction dates. We find that a forty year life (a 2.5 percent depreciation rate) is an appropriate estimate for calculating the accumulated depreciation. Using these facts and including the retirement of two minor plant items, we have calculated a year end test year balance of accumulated depreciation of \$9,408 for the water system and \$37,286 for the wastewater system. We find that averaging the test year changes results in an average test year balance of \$8,936 for the water system and \$35,992 for the wastewater system.

#### Contributions-in-Aid-of-Construction (CIAC)

As discussed earlier, the utility was unable to provide original cost documentation for utility plant-in-service. While we did not perform an original cost study, we reviewed engineering estimates and tax returns. The utility's tax returns for the years

ORDER NO. 24084  
--DOCKET NO. 900025-WS  
PAGE 10

1971 - 1983 show a water plant balance of \$11,588 and a wastewater plant balance of \$45,632. We find that the difference between the tax returns and the original cost estimates for plant additions prior to 1985 shall be imputed as CIAC. This results in a 1983 balance of \$25,060 for the water system and \$57,914 for the wastewater system.

In addition, the federal tax return for the fiscal year ended July 31, 1989 includes an impact fee collected in the amount of \$2,085. The \$2,085 shall be included in the test year balance of CIAC and be divided evenly between the water and wastewater systems. We find that this increases the year-end balance of CIAC for the water system to \$26,103 and for the wastewater system to \$58,956. The utility did not change its CIAC balance during the test year; therefore, no averaging adjustment is needed.

#### Accumulated Amortization of CIAC

Using the same methodology to calculate the accumulated depreciation balance, we have calculated a year-end balance for accumulated amortization of CIAC of \$5,991 for the water system and \$16,220 for the wastewater system. This balance has been adjusted to an average for the test year. We find that the resulting balance of \$5,665 for the water system and \$15,483 for the wastewater system shall be included in rate base.

#### Working Capital Allowance

Using the formula method (one-eighth of operation and maintenance expenses) to calculate the working capital allowance, we find that the appropriate amount of working capital to be included in rate base is \$3,176 for the water system and \$3,613 for the wastewater system.

#### Test Year Rate Base

After incorporating all adjustments, we find that the average test year rate base is \$29,812 for the water system and \$204,157 for the wastewater system.

#### COST OF CAPITAL

Our calculation of the appropriate cost of capital, including our adjustments, is depicted on Schedule No. 2, attached to this



ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 11

Order. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on that schedule without further discussion in the body of this Order.

During the test year, Shady Oaks had three issues of short-term debt. The first issue was from the 1st National Bank of Pasco for \$2,492, issued on June 25, 1990 for 24 months. The second issue was from Mark Sims for \$2,000, issued on December 22, 1989 for 12 months. The third issue was also from the 1st National Bank of Pasco for \$975, and issued on November 21, 1988 for 24 months. These issues will be classified as short-term debt. The average balance of these three debt issues for the test year is \$1,121, which shall be included in the capital structure at the average interest rate paid during the test year of 16.80 percent.

At the end of the test year, Shady Oaks had a balance of long-term debt outstanding of \$172,542. In December, 1989, \$3,000 in debt was added to the balance. The \$3,000 has been averaged to determine the average test year balance. The entire balance of the long-term debt is owed to the owners of the utility. The utility has not paid interest or principal on any of these notes. This debt is a total of approximately 90 promissory notes made in varying amounts since 1973. Each note has an individual interest rate stated on its face. There is no direct correlation between the prime rate and the stated interest rates. The average rate for this debt, based on the stated rates, is 17.254 percent. We believe it appropriate to recalculate the average rate by substituting the prime rate plus 3 percent for each of the stated rates. Based on this analysis, we find that the average rate is 13.4 percent.

In 1988, Shady Oaks Mobile-Modular Estates, Inc. went through a reorganization under Chapter 11 of the Bankruptcy Code and a final judgment was issued on August 2, 1988. This judgment listed the debts of the company and stated the debts would bear interest at the rate of 11.5 percent. We find that the interest rate on all the debts incurred before the final judgment shall be adjusted to the 11.5 percent interest rate specified in the judgment. The small portions of debt incurred after the bankruptcy court's final judgment will be included at their averaged actual interest rates. This brings the total average rate to 11.55 percent. Therefore, considering all adjustments, we find that the average long-term debt for the test year is \$171,157 at an average interest rate of 11.55 percent.

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 12

### Return on Equity

At the end of the test year, the utility/mobile home park had a \$5,000 balance in common stock, a \$1,785 balance in paid-in capital, and a negative retained earnings of \$290,577. While the entire balance of negative retained earnings does not belong to the utility, the utility's share is significantly higher than its investment through common stock and paid-in capital. Commission policy is to include a zero equity balance when a negative balance of retained earnings is larger than the investment through stock. Accordingly, we find that a zero equity balance exists for the test year.

Earlier in this Order we held that a substantial amount of plant shall be included in rate base as a pro forma item. The utility will need financing to pay for this plant. The most likely source of funding is through equity or personal loans. Therefore, the best measure of the cost of this financing is to include the pro forma item as equity and use our leverage graph to determine the cost of the financing. The Commission's leverage graph was last adjusted in Docket No. 900006-WS, Order No. 23318 on August 7, 1990. Using that graph, the proper cost of this equity is 12.49 percent. Therefore, we find that the pro forma equity shall be included in the capital structure at a cost of 12.49 percent, with a range of 11.49 percent to 13.49 percent.

### Overall Rate of Return

Considering all adjustments, the appropriate overall cost of capital is calculated by using the utility's capital structure with each item reconciled to rate base on a pro rata basis. We find that this results in an overall cost of capital of 12.10 percent.

### NET OPERATING INCOME

Our calculation of net operating income is depicted on Schedule No. 3, with our adjustments itemized on Schedule No. 3-A. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on those schedules without further discussion in the body of this Order. The major adjustments are discussed below.

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 13

### Test Year Revenues

Shady Oak's tariffs do not specify a stated rate for water and wastewater service. As discussed in the Case Background, the utility has certain deed restrictions which required the developer, Shady Oaks, to provide certain services at a fixed cost of \$25 per month. These services include water, wastewater, and other services. Based upon data presented in the original certificate case in 1986, the Commission decided that the utility should continue billing its customers in accordance with the deed restrictions. Therefore, the utility's existing tariffs reflect that the water rate and the wastewater rate are part of the monthly \$25 charge.

Currently, some of Shady Oak's customers are paying \$25 rate for water and wastewater. Some are paying a \$35 rate for water, wastewater, and garbage. Others are paying a \$40 rate for water, wastewater, garbage and streetlights. It appears that \$25 per month rate is all that is being charged to cover water and wastewater service. Therefore, we have calculated annualized revenues using \$25 per month multiplied by the 185 test year customers, which results in an annualized revenue of \$55,500. We find that this revenue shall be split equally between water and wastewater, resulting in annualized revenue of \$27,750 for water service and of \$27,750 for wastewater service.

### Operation and Maintenance Expenses (O & M)

The test period ending June 30, 1990 was used to determine the appropriate expense levels which follow. The audited totals and detailed components of each expense account were examined for reasonableness, taking into consideration both average test period customers and year-end customers. Reclassification adjustments, annualizing adjustments, adjustments for appropriate levels and known changes were made to arrive at expense allowances. The results of our analysis are detailed below. Schedule No. 4, attached, includes a summary of each account.

1) Salaries and Wages - Employees - The utility pays its Secretary \$250 a month for an average of ten hours a week for office expense incurred relating to delinquent customer billing, record keeping and other duties. This amount is reasonable. However, because the utility is changing to a base facility/gallorage charge rate

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 14

structure, we estimate an additional 8 hours of work each month will be required to calculate and prepare customers' bills. This results in a \$50 per month increase, for a total annual expense of \$3,600, to be divided equally between water and wastewater.

2) Salaries and Wages - Officers - The utility pays its President for the day-to-day operation of the utility system. His rate of pay is \$1,500 a month for an average of thirty hours each week. He may be spending close to 30 hours a week at the present time because of the DER Consent Order, however the normal course of business should require only 10 hours a week for his services. The utility is changing to the base facility/gallorage charge rate structure. Therefore, we estimate that the President will spend additional time each month reading meters. We believe an allowance of \$100 per month is a reasonable amount to compensate for those additional duties. These adjustments result in a total annual expense of \$7,200, which is a reduction of \$10,800 per year. Accordingly, we find that the total salaries and wage expenses for Officers shall be \$3,000 for water and \$4,200 for wastewater.

3) Employee Pensions and Benefits - During the test year, the utility spent \$4,205.40 for employee benefits, including \$3,528 for hospitalization insurance for its President and Secretary and \$677 for other medical expenses. Several customers did not agree that the rates should include a provision for hospitalization insurance for "part-time" employees. These two employees are the officers of the mobile home park and a portion of their hours are spent on the utility. It is reasonable for the company officers to receive hospitalization insurance, but the utility should not pay the entire expense. The number of hours spent on utility work indicates that a majority of the Officers' labor hours are spent on other duties. Accordingly, the test year expenses are hereby reduced to reflect 20 hours of labor per week, combined total of both Officers, which is a 75 percent reduction. Effective February 10, 1991, the insurance premium will be increased to \$670 a month, or \$8,040 per year. The expected insurance premium of \$670 a month plus the other miscellaneous expenses are hereby allowed; however, only 25 percent of these amounts shall be allocated to the utility. These adjustments decrease test year expenses by \$796 for the water system and a like amount for the wastewater system.

4) Purchased Power - The electric meter that meters the water treatment plant also meters the power usage at the mobile home park's recreation center. We have analyzed the power requirements

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 15

of the water treatment plant pump and have prorated these expenses. This proration results in the purchased power expense for the water system to be reduced by \$3,302, to \$730 per year. No adjustment is necessary to wastewater purchased power expense.

5) Preventative Maintenance - The utility must increase its preventative maintenance because of the unsatisfactory level of service. Maintenance expenses are hereby authorized to be increased to \$1,700 a month to allow for the extra maintenance. The test year maintenance expenses include materials, supplies, and labor for maintenance performed during the test year that totalled \$1,242 for the water system and \$1,700 for the wastewater system. These expenses are hereby increased by \$8,958 for the water system and \$8,500 for the wastewater system, for an annual total of \$20,400.

This increase in allowed expenses is substantial. We will monitor the expenditure of these funds to insure they are used for their intended purposes. Therefore, at the end of six months from the effective date of this Order, the utility shall provide to the Commission a detailed record of its maintenance expenditures. We will review these records to determine if the funds are being used as intended. If the utility has not begun to spend a substantial amount (85 percent) of the allowance, the utility shall submit a statement as to the reasons why a substantial amount of these funds have not been utilized and a detailed statement of its future plans to maintain the system. If the maintenance is not performed, we will consider initiating a show cause proceeding to fine the utility for not performing as ordered.

6) Contractual Services - During the test year, Shady Oaks paid \$11,737 for contractual services; \$4,347 in the water system and \$7,391 in the wastewater system. These expenses are hereby adjusted to \$3,217 in the water system and \$7,488 in the wastewater system. The specifics of several adjustments are noted below.

\$114.76 was found in accounts payable for accounting services during the test year. This is an expense and is hereby transferred to the contractual service expense account, to be divided evenly between water and wastewater.

Four invoices for a total of \$500 were paid during the test year for services received in the prior period. These invoices are

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 16

removed from test year expense, resulting in a reduction of \$225 to water expense and \$275 to wastewater expense.

Test year expenses included \$2,000 in attorneys' fees for settlement in a bankruptcy proceeding. This is an extraordinary, non-recurring item that is disallowed. Accordingly, we reduce water expenses by \$1,000 and we reduce wastewater expenses by \$1,000.

The contractual services expenses also included \$2,755 for items which should more appropriately be included in other accounts: telephone bills (\$44.06), gasoline charges (\$9.75), repayment of principal and interest (\$436.49) and engineering costs related to the development of the plans for the new percolation pond (\$2,265.00). The telephone and gasoline charges are hereby reclassified to the appropriate expense account. Further, the debt and interest charges are removed as expenses and will be recovered as discussed in the Rate Base portion of this Order. Moreover, the expense related to the development of the percolation pond is removed from contractual services and reclassified to the wastewater system as a part of the pro forma plant addition.

The largest part of the contractual services account is paid to Mathis Water and Wastewater, Inc. for operation of the facilities. During the test year, the utility was charged \$350 per month for the contract service, \$126 for chemical samples, \$306 for chlorine, and \$907 for miscellaneous items. This fee is being increased by the contractor from \$350 per month to \$450 per month. This reasonable increase is approved. The chlorine cost is reasonable, but has been reclassified to chemical expense. The miscellaneous charges include \$320 for sludge hauling; this item has been reclassified to the sludge removal expense account. The utility's books do not appear to reflect the total expense for the test year on an accrual basis. The expense must be adjusted to reflect the increased contractual services fee and the same test year related expense - samples, and miscellaneous charges. After these adjustments, we approve an increase to the contractual services expenses of \$767 for the water system and \$1,042 for the wastewater system.

7) Rents - In 1985, the utility signed a lease to rent office space for \$250 each month. This expense should be allocated partially to the mobile home park. The utility allocates 35 percent of transportation expense to the mobile home park. This is

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 17

a reasonable allocation for the office space. Allocation of 35 percent of the rent expense to the park reduces the utility's rent expense to \$975 per year for the water systems and \$975 per year for the wastewater system.

8) Transportation - The utility records indicate a transportation expense of \$2,042 (plus \$10 reclassified from another account) for the water system and \$2,040 for the wastewater system. This expense includes expenditures for gasoline, auto insurance and auto repairs. We find that the transportation expense is reasonable, provided it is properly allocated among the various activities.

Shady Oaks' gas expense included all payments the utility had made during the year, with thirty-five percent allocated to the mobile home park, which is reasonable. The utility paid \$924 for auto repairs during the year. Thirty-five percent of these expenses, or \$323, should be allocated to the mobile home park. Therefore, we remove \$155 from water system expenses and \$168 from wastewater system expenses. Finally, the insurance expense of \$1,262 must be reclassified to the insurance expense account. These adjustments result in a balance for the transportation expense of \$1,266 in the water system and \$1,241 for the wastewater system.

9) Insurance - The utility paid \$1,262 for automobile insurance for the President's and the Secretary's automobiles during the test year. The Secretary's car is not used to any material extent for utility business. The President's car is used approximately 65 percent of the time for utility business. We will allow only the insurance expense relating to the President's car and allocate 35 percent of that expense to the mobile home park. \$571 of the insurance premiums were for the President's car. After allocating 35 percent of this expense to the mobile home park, the utility's expense is \$370, which shall be divided equally between water and wastewater.

The utility has requested that liability insurance be included in its revenue requirement. The utility provided a policy for the period 7/16/85 to 7/16/86 with premium costs of \$4,168 for the utility premises, the recreation building, and the office. The utility requests that this policy be used as an estimate of the liability expense. We believe that the policy provides a reasonable estimate of the expense. The utility should acquire the liability insurance and the expense should be allocated based on



ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 18

the limits of liability shown in the policy for each of the structures. Also, 35 percent of the cost of the coverage for the office shall be allocated to the mobile home park. We find that these adjustments result in an expense for liability insurance of \$144 for the water system and \$198 for the wastewater system.

10) Regulatory Commission Expense - The only cost related to this case is a filing fee of \$300. This amount shall be amortized over four years, consistent with Section 367.0816, Florida Statutes. This results in a reduction to the expense of \$1,882 for the water system and a like amount for the wastewater system. We find that the proper expense is \$37.50 for water and \$37.50 for wastewater, for a four year period.

11) Other Regulatory Expense - The utility's books reflected \$1,800 in other regulatory expenses. This entire amount was paid to the DER Pollution Recovery Fund for fines assessed by DER. Commission policy is to disallow any fines incurred by a utility. Therefore, we find that this expense should be reduced to zero.

12) Office Supplies and Expense - The utility recorded office supplies and expense for the test year in the amount of \$683 (plus \$44 reclassified from another account) for the water system and \$727 for the wastewater system. We find that the water expense should be reduced by \$35 and the wastewater expense should be reduced by \$36 to eliminate out of test year telephone expenses.

#### Depreciation Expense

Using the rates prescribed by Chapter 25-30.140, Florida Administrative Code, we calculate depreciation on test year plant of \$1,232<sup>✓</sup> for the water system and \$3,705<sup>✓</sup> for the wastewater system. Using the same rates, the amortization of CIAC totals \$791<sup>✓</sup> for the water system and \$2,181<sup>✓</sup> for the wastewater system. The same rates as applied to the proforma plant add \$1,092<sup>✓</sup> to the water system and \$4,709<sup>✓</sup> to the wastewater system. We find that the appropriate depreciation expense to include in the revenue requirement is \$1,533 for the water system and \$6,233 for the wastewater system.



ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 19

#### Amortization Expense

Earlier in this Order we held that the gain on the retirement of one acre of the wastewater land will be amortized over seven years. The gain totalled \$16,700. Amortizing that amount over seven years results in an annual amortization amount of \$2,386. We find that this amortization shall be used to offset a portion of the wastewater revenue requirement by including it as a negative amortization expense.

#### Taxes Other than Income Taxes

The utility's records do not reflect any taxes other than income. However, earlier in this Order, we held that certain salary expenses for the President and Secretary be allowed. The related payroll taxes will also be allowed. These taxes result in a payroll expense of \$923.

In the past, the utility has been delinquent in paying its tangible and real property taxes. This expense will nevertheless be included in rates to eliminate a risk that any utility property could be lost to the tax collector. We allow \$347 for tangible property taxes. The utility's ad valorem tax millage rate of .019 percent results in a total test year real estate tax of \$14 for the water system and \$58 for the wastewater system. Applying the .019 rate to the pro forma land for the new percolation pond results in a pro forma real estate tax expense of \$1,772.

We find that the regulatory assessment fees, at 4.5 percent of the test year revenues, total \$2,498, which we hereby approve.

Based on the above considerations, we find that the test year taxes other than income are \$1,870 for the water system and \$3,742 for the wastewater system.

#### Income Tax Expense

Shady Oaks is a Subchapter S corporation. No income tax expense should be included in the rates of a Subchapter S corporation as the corporation itself does not pay taxes. Therefore, we find that the income tax expense for Shady Oaks shall be zero.

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 20

Based on the previous adjustments, we find that the test year operating loss is \$1,061 for the water system and the test year operating loss is \$8,744 for the wastewater system.

#### REVENUE REQUIREMENTS

Based on the utility's books and records and the adjustments discussed above, we find that the annual revenues required are \$32,639 for the water system and \$62,799 for the wastewater system. This is an increase of \$4,889, or 17.6 percent for the water system and an increase of \$35,029, or 126.2 percent for the wastewater system. This will allow the utility the opportunity to recover its expenses of \$28,811 in the water system and \$36,494 in the wastewater system and earn a 12.10 percent return on its investment in rate base.

#### RATES AND CHARGES

##### Commission Authority to Increase Rates

The developer, Shady Oaks, entered into contracts for the sale of land which contain certain provisions regarding utility service. The charge for utility service is included as an unspecified portion of an annual fee of \$300 for a variety of services.

As previously stated, Order No. 14540, issued July 8, 1985, found that Shady Oaks is subject to the jurisdiction of this Commission. By Order No. 15633, issued February 6, 1986, we issued Water Certificate No. 451-W and Sewer Certificate No. 382-S. Order No. 15633, issued March 7, 1986, stated that the utility should file tariff pages consistent with its then current rates. The specific language in the tariff states that "the customers pay an annual fee of \$300 (\$25/month) that is fixed by deed restriction. An undetermined portion of this amount applies to water service."

The Florida Supreme Court recognized the Commission's exclusive jurisdiction to establish rates for utility service in Storey v. Mayo, 217 So.2d 304 (Fla. 1968). All private contracts with a utility are regarded as entered into subject to the reserved authority of the State acting through the Public Service Commission under the police power to modify the contract in the interest of public welfare, State ex rel. Ellis v. Tampa Waterworks Co., 48 So. 639 (Fla. 1908); State ex rel. Triay v. Burr, 84 So. 61 (Fla. 1920); Miami Bridge Co. v. Railroad Comm., 20 So.2d 356 (Fla.

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 21

1945); and Midland Realty Co. v. Kansas City Power & Light Co., 300 U.S. 687 (1937). In the Midland case, the court opined that rates which were approved subsequent to the contract were proper, although they were higher than an existing contract rate between the parties. The Court stated:

"A state has the power to . . . prohibit service at rates too low to yield the cost rightly attributable to it." Midland, supra.

In Cohee v. Crestridge Utilities Corp. 324 So.2d 155 (Fla 2nd DCA 1975), the Court held that the Commission has authority to raise, as well as lower, rates established by a pre-existing contract when deemed necessary in the public interest. The Commission's power to establish rates supersedes preexisting agreements that establish such rates. Hampton Utilities Co. v. Hampton Homeowners Ass'n, 252 So.2d 286 (Fla 4th DCA 1971) and H. Miller & Sons, Inc. v. Hawkins, 373 So.2d 913 (Fla 1979). While a state may exercise its power to modify or abrogate private rate contracts, it is under no obligation to do so merely to relieve a contracting party from the burden of an improvident undertaking; rather, the power to fix rates . . . in contravention of a contract must be exercised solely for the public welfare. Arkansas Natural Gas Co., v. Arkansas R. Comm., 261 U.S. 67 (1936). We believe that adequate service cannot be provided to customers through the year 2000 at an annual rate of \$300. The system is already approaching a critical need for additional funds to not only maintain the system, but to maintain a satisfactory quality of service. This Commission has the authority to establish rates irrespective of the pre-existing contract, and must do so in order to maintain a satisfactory quality of service to the Shady Oaks' customers.

We are not without concern for the ratepayers. However, this result is required under the mandates of Section 367.081(2), Florida Statutes, which requires rates that are just, fair, compensatory and not unfairly discriminatory. The fact that there exists a Circuit Court judgement styled Emerson French and Louisa Ann French v. Shady Oaks Mobile-Modular Estates, Incorporated issued on October 7, 1983, in Case No. 83-430 in the Circuit Court (Pasco County) does not alter our decision. The judgement does not address these issues and the Commission was not a party to that lawsuit. There is no indication the Trial Judge was aware of the

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 22

Commission's primary jurisdiction over the subject matter of these rates.

For purposes of this case and in determining the test year revenues, we have assumed the entire \$300 yearly payment charged to most of the park residents was for utility services. This may or may not be the case. The rates listed below are the total rates necessary to give the utility the opportunity to recover its expenses and a reasonable rate of return on its investment in rate base. The Commission has no authority as to what portion of the \$300 yearly payment which the customers may or may not still owe to the mobile home park. This question must be discussed between the customers and the utility President and, if not resolved, it would be a matter for the circuit court. The utility is reminded that pursuant to Rule 25-30.320, Florida Administrative Code, service cannot be discontinued if the customers pay their utility bills and comply with the utility's rules and regulations which are set forth in its tariff.

#### RATES AND CHARGES

The rates established by this Order have been designed to allow the utility the opportunity to recover its expenses and earn a 12.10 percent return on its investment. The utility's current rate structure is a flat rate. Flat rates are not conducive to conservation. We find that the utility shall employ the base facility/ gallonage charge rate structure, which establishes a fixed charge for each customer to recover a proportionate share of fixed operating costs and a variable gallonage charge to recover the variable costs of providing the services.

We have used an average of 6,000 gallons per month per customer and the average test year number of customers to compile a billing analysis for the test year and to calculate rates. Because the customer usage has not been previously metered, there is no historical data to determine the customers' actual consumption. Our estimate of usage is based on average usage in other mobile home parks in Florida. While not every customer resides in Shady Oaks for twelve months, and not every household has two persons who use 100 gallons per day each, we believe that the estimated 6,000 gallons per month is a reasonable average. Although the swimming pool, laundry and office are not typical household users of water, the total of 6,000 gallons per month per customer is a good estimate of all water used by all sources. We

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 23

find the following rates and rate structure to be fair, just and reasonable.

WATER

MONTHLY RATES

Residential

<u>Base Facility Charge</u>	<u>Commission Approved</u>
<u>Meter Size</u>	
5/8" x 3/4"	\$ 6.34
3/4"	9.51
1"	14.84
1-1/2"	29.01
2"	46.02
3"	91.36
4"	142.36
6"	284.05
<u>Gallonge Charge</u>	
Per 1,000 gallons	\$ 1.39

General Service

<u>Base Facility Charge</u>	<u>Commission Approved</u>
<u>Meter Size</u>	
5/8" x 3/4"	\$ 6.34
3/4"	9.51
1"	14.84
1-1/2"	29.01
2"	46.02
3"	91.36
4"	142.36
6"	284.05
<u>Gallonge Charge</u>	
Per 1,000 gallons	\$ 1.39

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 24

WASTEWATER

MONTHLY RATES

Residential

<u>Base Facility Charge</u>	<u>Commission Approved</u>
All Meter Sizes	\$ 12.50
<u>Gallonge Charge</u>	
Per 1,000 gallons (6,000 gal. maximum)	\$ 2.63

General Service

<u>Base Facility Charge</u>	<u>Commission Approved</u>
<u>Meter Size</u>	
5/8" x 3/4"	\$ 12.50
3/4"	18.75
1"	31.08
1-1/2"	62.02
2"	99.15
3"	198.16
4"	309.55
6"	618.96

Gallonge Charge

Per 1,000 gallons (No maximum)	\$ 3.15
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The utility has requested that it be allowed to implement the rate increase prior to the installation of the water meters. The utility states that it will be difficult to find financing to purchase meters and install them without revenues produced by the increased rates. We find that implementation of the rate increase prior to the installation of the meters is a reasonable solution.

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 25

We will approve flat rates as follow, until the water meters are installed.

Monthly Water Flat Rate	\$ 14.70
Monthly Wastewater Flat Rate	\$ 28.28

The utility must install water meters for all customers as quickly as possible. We believe that six months is more than adequate time to install 185 water meters. If all water meters have been installed at or before six months of the effective date of this Order, the utility may begin to charge all customers the base facility and gallonage charges, effective not earlier than 30 days after approval of new tariffs. If all of the water meters have not been installed within six months of the effective date of this Order, the utility shall begin billing the appropriate base facility charges to all customers, but shall charge the gallonage charge only to those customers who have a functioning water meter installed at the respective customer's service site. In no event shall the gallonage charge be applied to any customer earlier than for meter readings taken on or after 30 days following the stamped approval date of the revised tariff pages implementing the base facility charge rate structure.

The Commission's investigation in this case indicated that there are a couple of lots which are not being charged the same as other lots. Rule 25-30.135(2), Florida Administrative Code, states that no utility may modify or revise its rates until the utility files and receives approval from the Commission for any such modification or revision. Accordingly, we find that the rates approved herein should be applied, without discrimination, to all customers.

#### Customer Access to Information

Customers have questioned whether the utility has a policy and procedures manual. No manual is maintained by the utility. However, the tariff includes the rates, charges and various operating rules required by the Commission. Rule 25-30.135(3), Florida Administrative Code, requires that the utility maintain for customer inspection, a copy of Chapter 25-30, Florida Administrative Code, and a copy of the utility's tariffs, rules, regulations and schedules at the utility office in the service area and make them readily accessible to the customers during office hours. The utility must comply with these requirements.

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 26

#### Rates After Amortization of Rate Case Expense

The only rate case expense incurred by the utility for this case was a \$300 filing fee. Following the requirements of Section 367.0816, Florida Statutes, the appropriate recovery period for this fee is four years which allows the utility to recover approximately \$37 per year per system through its rates. This revenue recovery grossed up to account for regulatory assessment fees results in an annual revenue of \$39 per system. Therefore, at the end of four years the utility's rates for water and for wastewater should each be reduced by \$39 annually. Based on the existing circumstances, the effect of this rate reduction is a \$.01 reduction in the utility's water base facility charge and a \$.01 reduction in the utility's wastewater gallonage charge. The utility shall file revised tariff pages no later than one month prior to the actual date of the required rate reduction. The utility also shall file a proposed customer letter setting forth the lower rates and the reason for the reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

#### Miscellaneous Service Charges

Currently, the utility's tariff has no provision for miscellaneous service charges. Miscellaneous service charges are designed to provide revenues to a utility for services other than the direct provision of potable water and wastewater collection and treatment. These fees are designed to more accurately defray the costs associated with each service and place the responsibility for the cost on the persons creating it rather than the ratepaying body as a whole. The four types of miscellaneous service charges are as follows:

Initial Connection: This charge is to be levied for service initiation at a location where service did not exist previously.

Normal Reconnection: This charge is to be levied for transfer of service to a new customer account at a previously served location, or reconnection of service subsequent to a customer requested disconnection.



ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 27

Violation Reconnection: This charge is to be levied prior to reconnection of an existing customer after disconnection of service for cause according to Rule 25-30.320(2), Florida Administrative Code, including a delinquency in bill payment. (Actual cost is limited to direct labor and equipment rental.)

Premises Visit Charge (in lieu of disconnection): This charge is to be levied when a service representative visits a premises for the purpose of discontinuing service for nonpayment of a due and collectible bill and does not discontinue service because the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill.

We approve the following miscellaneous service charges as being appropriate.

	<u>WATER</u>	<u>WASTEWATER</u>
Initial Connection:	\$ 15.00	\$ 15.00
Normal Reconnection	\$ 15.00	\$ 15.00
Violation Reconnection	\$ 15.00	Actual Cost(1)
Premises Visit (in lieu of disconnection)	\$ 10.00	\$ 10.00

(1) Actual cost for a wastewater violation reconnection is limited to materials and equipment rental.

When both water and wastewater services are provided, only a single charge is appropriate unless circumstances beyond the control of the utility require multiple actions.

#### Service Availability Charges

The utility's tariff does not include any service availability charges. However, in 1989 the utility collected an impact fee of \$2,085. While this was not an authorized charge, we believe that it is beneficial to the contribution level of the utility and should not be refunded. However, the utility is admonished to collect only those charges approved in the tariff.

Rule 25-30.580, Florida Administrative Code states that:

(1) A utility's service availability policy shall be designed in accordance with the following guidelines:

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 28

- (a) The maximum amount of contributions-in-aid-of-construction, net of amortization, should not exceed 75 percent of the total original cost, net of accumulated depreciation, of the utility's facilities and plant when the facilities and plant are at their designed capacity; and
- (b) The minimum amount of contributions-in-aid-of-construction should not be less than the percentage of such facilities and plant that is represented by the water transmission and distribution and sewage collection systems.

We estimate that the utility will add approximately 57 additional customers and that it will take 11 years before the system is built out. Considered along with the current depreciation rate of 3.26 percent for the water system, we believe the guidelines in the rule would require a water charge within the range of \$28 to \$210. Because the maximum is a relatively low charge, it is hereby approved as the water service availability charge.

Considering the same facts and a composite depreciation rate of 3.70 percent for the wastewater system, the rule would require a wastewater charge within the range of \$677 to \$2,854. This range is unusually high because of the high cost of the pro forma plant and land that the utility is required to add. If the maximum charge is approved, it would in effect be making all new customers pay 75 percent of not only their share of the new construction, but 75 percent of the current customers' share of the new construction. This is not reasonable. It is more appropriate for future customers to pay their share of the construction and for the current customers to pay for their share through rates.

Based on charges for similar utilities, we find that a service availability charge of \$1,200 for wastewater is appropriate. That charge places the utility at a 30 percent contribution level at build-out.

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 29

ESCROW ACCOUNT - PLANT AND PENALTY

We have held that the portion of the increase related to the pro forma plant and the penalty be placed in escrow until the construction is complete and our final review of the quality of service is complete. The portion of rates which relates to the pro forma plant is \$.17 for the water gallonage charge or \$.99 of the water flat rate. The wastewater portion related to the pro forma plant is \$1.65 of the gallonage charge, or \$9.90 of the flat rate. The portion of the rates which relates to the proposed penalty is \$.15 for the water gallonage charge and \$.90 for the water flat rate. The wastewater portion related to the proposed penalty is \$.15 for the wastewater gallonage charge and \$.90 for the wastewater flat rate. Therefore, we find that a total of \$.32 of the water gallonage charge, or \$1.89 of the water flat rate be escrowed and a total of \$1.80 of the wastewater gallonage charge, or \$10.80 of the wastewater flat rate be escrowed to accumulate the proper sums as required.

RATES IN THE ESCROW FINE

This Order proposes an increase in water rates. A timely protest could delay withdrawal pending a formal hearing and file an unrecoverable loss of revenue.	FLAT: \$ 0.99 W	wastewater rates. rate increase, e, resulting in
	9.90 S	
	\$ 10.89	
	GAL: \$ 0.17 W	
	\$ 1.65 S	

Accordingly, in the event filed by anyone other than the utility, we authorize the utility to collect the rates approved herein, subject to refund, provided that the utility furnishes security for such a potential refund. The security should be in the form of a bond or letter of credit in the amount of \$40,000. Alternatively, the utility may establish an escrow account with an independent financial institution pursuant to a written agreement. If this alternative is chosen, all revenue collected under the rate increase will be subject to the escrow. Any withdrawals of funds from the escrow account shall be subject to the written approval of the Commission through the Director of Records and Reporting. Should any refund ultimately be required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code.

In addition, Shady Oaks shall file reports with the Division of Records and Reporting no later than the twentieth day following the monthly billings, after the increased rates are in effect,

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 30

indicating the amount of revenue collected under the implemented rates. Shady Oaks must also keep an account of all monies received by reason of the increase authorized herein, specifying by whom and in whose behalf such monies were paid.

EFFECTIVE DATE OF RATES AND CHARGES

The approved flat rates shall be effective for service rendered on or after the stamped approval date on the revised tariff pages provided the utility has provided its customers with a written notice explaining the new rates. The approved flat rates shall be discontinued as soon as the utility has installed meters for each of its customers or at the end of six months following the effective date of this Order, whichever comes first. The utility shall then file revised tariff pages to reflect the base facility/gallorage charge rates approved herein. These rates shall be effective for meter readings taken on or after 30 days after the stamped approval date on the revised tariff pages. All customers not then having a functioning water meter properly installed at the service site shall be charged only the base facility charge with no gallorage charge. Each such customer shall be required to pay the gallorage charge only after the utility properly installs the customer's water meter.

The service availability charges approved herein shall be effective for connections on or after the stamped approval date on the revised tariff pages. Miscellaneous service charges will be effective for service rendered on or after the stamped approval date on the revised tariff pages.

The revised tariff pages will be approved upon staff's verification that the tariffs are consistent with the Commission's decision, that the proposed customer notice is adequate, and that the required security, if needed, has been provided.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the application of Shady Oaks Mobile-Modular Estates, Inc. for an increase in its water and wastewater rates in Pasco County is approved to the extent set forth in the body of this Order. It is further

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 31

ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that all matters contained in the body of this Order and in the schedules attached hereto are by reference incorporated herein. It is further

ORDERED that the provisions of this Order issued as proposed agency action shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc. shall, within sixty (60) days after the effective date of this Order, file with the Commission a request for acknowledgement of a name change and restructure. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc. is authorized, subject to stated prerequisites, to charge the new rates and charges set forth in the body of this Order. It is further

ORDERED that the flat rates approved herein shall be effective for service rendered after the stamped approval date on the revised tariff pages. It is further

ORDERED that the metered rates approved herein shall be effective for meter readings taken on and after thirty (30) days after the stamped approval date of the revised tariff pages. It is further

ORDERED that the miscellaneous service charges approved herein shall be effective for services rendered on or after the stamped approval date on the revised tariff pages. It is further

ORDERED that the service availability charges approved herein shall be effective for connections made on or after the stamped approval date on the revised tariff pages. It is further

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 32

ORDERED that prior to its implementation of the rates approved herein, Shady Oaks Mobile-Modular Estates, Inc. shall submit and have approved revised tariff pages and a proposed notice to its customers of the increased rates and charges and the reasons therefor. The revised tariff pages will be approved upon Staff's verification that they are consistent with our decisions herein and that the protest period has expired. The proposed customer notice will be approved upon Staff's determination of its adequacy. It is further

ORDERED that if at six months after the effective date of this Order, Shady Oaks Mobile-Modular Estates, Inc. has not expended at least 85 percent of the increase approved herein for maintenance, it shall then submit a written schedule to the Commission to show what monthly maintenance schedule will be adopted along with a statement of the reasons such funds were not expended for preventative maintenance. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc. shall establish an escrow account with an independent financial institution, pursuant to a written agreement, to escrow the fine imposed and to escrow the maintenance allowance as set out in the body of this Order. It is further

ORDERED that in the event of a protest by any substantially affected person other than Shady Oaks Mobile-Modular Estates, Inc., the utility, is authorized to collect the rates approved herein on a temporary basis, subject to refund in accordance with Rule 25-30.360, Florida Administrative Code, provided that Shady Oaks Mobile-Modular Estates, Inc., has established the required security for any potential refund and provided that it has submitted and staff has approved revised tariff pages and a proposed customer notice. It is further

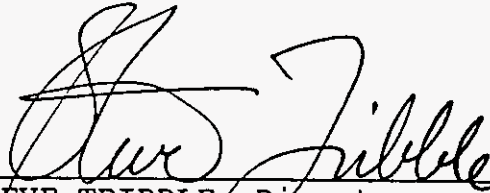
ORDERED that after the expiration of the protest period, this Order shall become final if no timely protest is filed. It is further

ORDERED that this docket will not be closed, but will remain open until the contingencies specified in this Order have been accomplished.

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 33

EXHIBIT FJL-2  
Page 33 of 44

By ORDER of the Florida Public Service Commission this 8th  
day of FEBRUARY, 1991.

A handwritten signature in cursive script, appearing to read "Steve Tribble", written over a horizontal line.

STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

TCP

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 34

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

As identified in the body of this order, our actions other than granting of temporary rates in the event of a protest, are preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on March 1, 1991. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.



ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 35

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 36

SCHEDULE NO. 1

	(A)	(B)	(C)	(D)	(C)
COMPONENT	AVERAGE TEST YEAR PER UTILITY	ADJUSTMENTS TO THE TEST YEAR	ADJUSTED TEST YEAR	PRO FORMA ADJUSTMENTS	PRO FORMA TEST YEAR
1					
2					
3 UTILITY PLANT IN SERVICE	\$ 13,888	\$ 23,984	\$ 37,872	\$ 18,500	\$ 56,372
4 LAND	0	730	730		730
5 C.W.I.P.	0	0	0		0
6 NON-USED AND USEFUL COMPONENTS	0	0	0		0
7 C.I.A.C.	0	(26,103)	(26,103)		(26,103)
8 ACCUMULATED DEPRECIATION	(11,599)	2,663	(8,936)	(1,092)	(10,028)
9 AMORTIZATION OF C.I.A.C.	0	5,665	5,665		5,665
10 ADVANCES FOR CONSTRUCTION	0	0	0		0
11 WORKING CAPITAL ALLOWANCE	0	3,176	3,176		3,176
12					
13 RATE BASE	\$ 2,289	\$ 10,115	\$ 12,404	\$ 17,408	\$ 29,812
14					
15					

	(A)	(B)	(C)	(D)	(C)
COMPONENT	AVERAGE TEST YEAR PER UTILITY	ADJUSTMENTS TO THE TEST YEAR	ADJUSTED TEST YEAR	PRO FORMA ADJUSTMENTS	PRO FORMA TEST YEAR
1					
2					
3 UTILITY PLANT IN SERVICE	\$ 45,632	\$ 57,914	\$ 103,546	\$ 127,265	\$ 230,811
4 LAND	0	3,066	3,066	50,841	53,907
5 C.W.I.P.	0	0	0		0
6 NON-USED AND USEFUL COMPONENTS	0	0	0		0
7 C.I.A.C.	0	(58,956)	(58,956)		(58,956)
8 ACCUMULATED DEPRECIATION	(32,275)	(3,717)	(35,992)	(4,709)	(40,701)
9 AMORTIZATION OF C.I.A.C.	0	15,483	15,483		15,483
10 ADVANCES FOR CONSTRUCTION	0	0	0		0
11 WORKING CAPITAL ALLOWANCE	0	3,613	3,613		3,613
12					
13 RATE BASE	\$ 13,357	\$ 17,403	\$ 30,760	\$ 173,397	\$ 204,157
14					

SCHEDULE 1-A  
PAGE 1 OF 2

ADJUSTMENT	WATER	SEWER
-----	-----	-----
1 UTILITY PLANT IN SERVICE		
2 -----		
3 1. To adjust the utility's balance to the		
4 original cost estimate.	\$ (2,300)	\$ 10,785
5		
6 2. To include Phase 2 line additions.	25,060	47,129
7		
8 3. To record installation of master meter.	1,300	
9		
10 4. To reflect replacement of pump in 1989.	(151)	0
11		
12 5. To reflect the average test year balance.	75	
13	-----	-----
14 TOTAL ADJUSTMENTS TO UTILITY PLANT	\$ 23,984	\$ 57,914
15	-----	-----
16		
17 LAND		
18 ----		
19 1. To include land based on the original		
20 purchase price.	\$ 730	\$ 3,066
21	-----	-----
22		
23 CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION		
24 -----		
25 1. To reflect cash contribution shown on the		
26 tax return.	\$ (1,043)	\$ (1,042)
27		
28 2. To reflect lines imputed based on tax		
29 return plant balance (1971-1972).	0	(10,785)
30		
31 3. To include Phase 2 lines not reflected		
32 on tax return.	(25,060)	(47,129)
33	-----	-----
34 TOTAL ADJUSTMENTS TO CIAC	\$ (26,103)	\$ (58,956)
35	-----	-----
36		
37 ACCUMULATED DEPRECIATION		
38 -----		
39 1. To adjust accumulated depreciation		
40 using the adjusted balance of U.P.I.S.		
41 and a 2.5% composite depreciation rate.	\$ 2,191	\$ (5,011)
42		
43 2. To reflect the average test year balance.	472	1,294
44	-----	-----
45 TOTAL ADJUSTMENTS TO ACCUMULATED DEPRECIATION	\$ 2,663	\$ (3,717)
46	-----	-----

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 38

SCHEDULE 1-A  
PAGE 2 OF 2

ADJUSTMENT	WATER	SEWER
1 AMORTIZATION OF C.I.A.C.		
2 -----		
3 1. To reflect accumulated amortization on		
4 the adjusted balance of CIAC		
5 and a 2.5% composite depreciation rate.	\$ 5,991	\$ 16,220
6		
7 2. To reflect the average test year balance.	(326)	(737)
8		
9 TOTAL ADJUSTMENTS TO AMORTIZATION OF CIAC	\$ 5,665	\$ 15,483
10	=====	=====
11		
12 WORKING CAPITAL ALLOWANCE		
13 -----		
14 1. To record the working capital allowance		
15 using the formula method.	\$ 3,176	\$ 3,613
16	=====	=====
17		
18 PRO FORMA PLANT		
19 -----		
20 1. To include projected cost of percolation pond.	\$ 0	\$ 125,000
21		
22 2. To include estimated cost of meters.	18,500	0
23		
24 3. To include the engineering costs spent		
25 for the perc pond design.	0	2,265
26	=====	=====
27 TOTAL ADJUSTMENTS TO PRO FORMA PLANT	\$ 18,500	\$ 127,265
28	=====	=====
29		
30 PRO FORMA LAND		
31 -----		
32 1. To include the current cost of the		
33 land required for the new percolation pond.	\$ 0	\$ 52,301
34		
35 2. To retire the original cost of the land for the		
36 old percolation pond.	0	(1,460)
37	=====	=====
38 TOTAL ADJUSTMENTS TO PRO FORMA LAND	\$ 0	\$ 50,841
39	=====	=====
40		
41 PRO FORMA ACCUMULATED DEPRECIATION		
42 -----		
43 1. To include one year's depreciation on		
44 pro forma plant.	\$ (1,092)	\$ (4,709)
45	=====	=====

SCHEDULE NO. 2

COMPONENT	AVERAGE TEST YEAR	COMMISSION ADJUSTMENTS	COMMISSION ADJUSTED TEST YEAR	PRO RATA ADJUSTMENTS	ADJUSTED BALANCE	WEIGHT	COST	WEIGHTED COST
1								
2								
3 LONG-TERM DEBT	171,157		171,157	(72,406)	98,751	42.21%	11.55%	4.87%
4 SHORT-TERM DEBT	1,121		1,121	(474)	647	0.28%	16.80%	0.05%
5 CUSTOMER DEPOSITS	0		0	0	0	0.00%	0.00%	0.00%
6 COMMON EQUITY	0	233,242	233,242	(98,671)	134,571	57.52%	12.49%	7.18%
7 ITC'S	0		0	0	0	0.00%	0.00%	0.00%
8 DEFERRED INCOME TAXES	0		0	0	0	0.00%	0.00%	0.00%
9 OTHER CAPITAL	0		0	0	0	0.00%	0.00%	0.00%
10								
11								
12 TOTAL	172,278	233,242	405,520	(171,551)	233,969	100.00%		12.10%
13	*****	*****	*****	*****	*****	*****		*****
14								
15								
16								
17								
18								
19								
20								

	RANGE OF REASONABLENESS:	HIGH	LOW
		-----	-----
	EQUITY	13.49%	11.49%
		*****	*****
	OVERALL RATE OF RETURN	12.68%	11.53%
		*****	*****

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 40

SCHEDULE NO. 3

	(A) AVERAGE TEST YEAR PER UTILITY	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) CONSTRUCTED ADJUSTMENTS	(E) CONSTRUCTED TEST YEAR
DESCRIPTION					
1					
2					
3 OPERATING REVENUES	\$ 27,750	\$	\$ 27,750	\$ 4,889	\$ 32,639
4 OPERATING EXPENSES:					
5 OPERATION & MAINTENANCE	\$ 17,268	\$ 8,140	\$ 25,408	\$	\$ 25,408
6 DEPRECIATION	0	1,533	1,533		1,533
7 AMORTIZATION	0	0	0		0
8 TAXES OTHER THAN INCOME	0	1,870	1,870	220	2,090
9 INCOME TAXES	0	0	0	0	0
10					
11 TOTAL OPERATING EXPENSES	\$ 17,268	\$ 11,543	\$ 28,811	\$ 220	\$ 29,031
12					
13 OPERATING INCOME	\$ 10,482	\$ (11,543)	\$ (1,061)	\$ 4,669	\$ 3,608
14					
15 RATE OF RETURN	457.93%		-8.55%		12.10%
16					
17					

	(A) AVERAGE TEST YEAR PER UTILITY	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) CONSTRUCTED ADJUSTMENTS	(E) CONSTRUCTED TEST YEAR
DESCRIPTION					
1					
2					
3 OPERATING REVENUES	\$ 27,750	\$	\$ 27,750	\$ 35,029	\$ 62,779
4 OPERATING EXPENSES:					
5 OPERATION & MAINTENANCE	\$ 18,022	\$ 10,883	\$ 28,905	\$	\$ 28,905
6 DEPRECIATION	0	6,233	6,233		6,233
7 AMORTIZATION	0	(2,386)	(2,386)		(2,386)
8 TAXES OTHER THAN INCOME	0	3,742	3,742	1,576	5,318
9 INCOME TAXES	0	0	0	0	0
10					
11 TOTAL OPERATING EXPENSES	\$ 18,022	\$ 18,472	\$ 36,494	\$ 1,576	\$ 38,070
12					
13 OPERATING INCOME	\$ 9,728	\$ (18,472)	\$ (8,744)	\$ 33,453	\$ 24,709
14					
15 RATE OF RETURN	0.00%		-28.43%		12.10%
16					

SCHEDULE 3-A  
PAGE 1 OF 3

ADJUSTMENT		WATER	SEWER
-----		-----	-----
1	OPERATION AND MAINTENANCE		
2	-----		
3	1. To estimate the salary for the secretary.	\$ 1,800	\$ 1,800
4			
5	2. To estimate the salary for the president.	3,000	3,000
6			
7	3. To allow additional expense for meter reading.	1,200	
8			
9	4. To recognize the increased cost of		
10	hospitalization insurance.	2,254	2,254
11			
12	5. To remove 75% of medical costs		
13	to match benefits to utility work-hours.	(3,050)	(3,050)
14			
15	6. To reduce the purchased power expense		
16	to the staff engineer's estimate.	(3,302)	0
17			
18	7. To adjust materials and supplies expense		
19	to properly accrue expenses.	5	60
20			
21	8. To accrue an accounting services invoice.	57	57
22			
23	9. To remove four invoices for services		
24	in a prior period.	(225)	(275)
25			
26	10. To remove costs to settle bankruptcy.	(1,000)	(1,000)
27			
28	11. To remove non-expense items - perc pond		
29	engineering costs and debt/interest payments.	(530)	(2,171)
30			
31	12. To recognize the projected increase in the contrac-		
32	tual services rate and accrue the yearly expense	767	1,042
33			
34	13. To accrue rental expense for the office.	975	975
35			
36	14. To allocate a portion of the auto repairs		
37	to the mobile home park.	(155)	(168)
38			
39	15. To adjust automobile insurance.	(446)	(446)
40			
41	16. To include liability insurance.	144	198
42			
43	17. To remove out of period reg. comm. exp.	(1,770)	(1,770)
44			
45			
46			
47			
48			
49			

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 42

SCHEDULE 3-A  
PAGE 2 OF 3

ADJUSTMENT	WATER	SEWER
-----	-----	-----
1 OPERATION AND MAINTENANCE (CONT'D)		
2 -----		
3 18. To amortize the filing fee over four years.	(112)	(112)
4		
5 19. To remove fines and penalties.	(950)	(900)
6		
7 20. To increase expenses to allow additional		
8 amounts for preventative maintenance.	8,958	8,500
9		
10 21. To allow mowing costs for the percolation pond.		2,925
11		
12 22. To remove telephone expense		
13 related to prior period.	(35)	(36)
14		
15 23. To allow postage for mailing bills.	555	
16	-----	-----
17 TOTAL ADJUSTMENTS TO OPERATION		
18 AND MAINTENANCE	\$ 8,140	\$ 10,883
19	=====	=====
20		
21 DEPRECIATION		
22 -----		
23 1. To reflect depreciation expense		
24 on test year plant.	\$ 1,232	\$ 3,705
25		
26 2. To reflect amortization		
27 on test year CIAC.	(791)	(2,181)
28		
29 3. To include depreciation expense		
30 on pro forma plant.	1,092	4,709
31	-----	-----
32 TOTAL ADJUSTMENTS TO DEPRECIATION	\$ 1,533	\$ 6,233
33	=====	=====
34		
35 AMORTIZATION		
36 -----		
37 1. To amortize the gain on the retirement		
38 of the old percolation pond land.	\$ 0	\$ (2,386)
39	=====	=====



ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 43

SCHEDULE 3-A  
PAGE 3 OF 3

ADJUSTMENT	WATER	SEWER
1 TAXES OTHER THAN INCOME		
2 -----		
3 1. To reflect regulatory assessment		
4 fees on test year revenues.	\$ 1,249	\$ 1,249
5		
6 2. To include tangible property tax.	94	253
7		
8 3. To include real estate taxes		
9 on utility plant sites.	14	58
10		
11 4. To include real estate taxes on the		
12 pro forma land.	0	1,772
13		
14 5. To include federal and state unemployment taxes		
15 on salaries.	54	43
16		
17 6. To include FICA taxes on salaries.	459	367
18		
19 TOTAL ADJUSTMENTS TO TAXES OTHER THAN INCOME	\$ 1,870	\$ 3,742
20	=====	=====
21		
22 OPERATING REVENUES		
23 -----		
24 To reflect recommended increase (decrease)		
25 to allow a fair rate of return.	\$ 4,889	\$ 35,029
26	=====	=====
27		
28 TAXES OTHER THAN INCOME		
29 -----		
30 To reflect regulatory assessment		
31 fees on revenue change.	\$ 220	\$ 1,576
32	=====	=====

ORDER NO. 24084  
DOCKET NO. 900025-WS  
PAGE 44

## SCHEDULE NO. 4

ACCT NO.	ACCOUNT TITLE	(A) UTILITY BALANCE PER BOOKS	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) PRO FORMA ADJUSTMENTS	(E) PRO FORMA TEST YEAR
1	601 SALARIES AND WAGES - EMPLOYEES	\$ 0	\$ 1,800	\$ 1,800	\$ 0	\$ 1,800
2	603 SALARIES AND WAGES - OFFICERS	0	4,200	4,200	0	4,200
3	604 EMPLOYEE PENSIONS & BENEFITS	2,103	(796)	1,307	0	1,307
4	615 PURCHASED POWER	4,032	(3,302)	730	0	730
5	618 CHEMICALS	0	145	145	0	145
6	620 MATERIALS AND SUPPLIES	1,040	8,963	10,003	0	10,003
7	630 CONTRACTUAL SERVICES	4,347	(1,130)	3,217	0	3,217
8	640 RENTS	0	975	975	0	975
8	650 TRANSPORTATION EXPENSES	2,042	(776)	1,266	0	1,266
9	655 INSURANCE	0	329	329	0	329
10	665 REGULATORY COMMISSION EXPENSE	1,920	(1,882)	38	0	38
11	668 OTHER REGULATORY EXPENSE	950	(950)	0	0	0
12	675 MISCELLANEOUS EXPENSES	151	0	151	0	151
13	680 OFFICE SUPPLIES & EXPENSE	683	564	1,247	0	1,247
14						
15	TOTAL	\$ 17,268	\$ 8,140	\$ 25,408	\$ 0	\$ 25,408

## 20 SEWER OPERATION &amp; MAINTENANCE EXPENSES

ACCT NO.	ACCOUNT TITLE	(A) UTILITY BALANCE PER BOOKS	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) PRO FORMA ADJUSTMENTS	(E) PRO FORMA TEST YEAR
27	701 SALARIES AND WAGES - EMPLOYEES	\$ 0	\$ 1,800	\$ 1,800	\$ 0	\$ 1,800
28	703 SALARIES AND WAGES - OFFICERS	0	3,000	3,000	0	3,000
29	704 EMPLOYEE PENSIONS & BENEFITS	2,103	(796)	1,307	0	1,307
30	711 SLUDGE REMOVAL EXPENSE	0	320	320	0	320
31	715 PURCHASED POWER	2,457	0	2,457	0	2,457
32	718 CHEMICALS	0	161	161	0	161
33	720 MATERIALS AND SUPPLIES	286	8,560	8,846	0	8,846
34	730 CONTRACTUAL SERVICES	7,391	97	7,488	0	7,488
35	740 RENTS	0	975	975	0	975
36	750 TRANSPORTATION EXPENSES	2,040	(799)	1,241	0	1,241
37	755 INSURANCE	0	383	383	0	383
38	765 REGULATORY COMMISSION EXPENSE	1,920	(1,882)	38	0	38
39	768 OTHER REGULATORY EXPENSE	900	(900)	0	0	0
40	775 MISCELLANEOUS EXPENSES	198	0	198	0	198
41	780 OFFICE SUPPLIES & EXPENSE	727	(36)	691	0	691
42						
43	TOTAL OPERATION AND MAINTENANCE	\$ 18,022	\$ 10,883	\$ 28,905	\$ 0	\$ 28,905

**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT FJL-3**

**WITNESS: FRANCES J. LINGO**

**ON BEHALF OF THE STAFF  
OF THE FLORIDA PUBLIC SERVICE COMMISSION  
DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**ORDER NO. 25296, ISSUED NOVEMBER 4, 1991**

**FLORIDA PUBLIC SERVICE COMMISSION**

**DOCKET**

**NO. 930944 EXHIBIT NO. 4**

**COMPANY/**

**WITNESS: FPSC/Lingo**

**DATE: \_\_\_\_\_**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff- )  
assisted rate case in Pasco County )  
by SHADY OAKS MOBILE-MODULAR )  
ESTATES, INC. )

DOCKET NO. 900025-WS  
ORDER NO. 25296  
ISSUED: 11/04/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY

ORDER DETERMINING NONCOMPLIANCE WITH  
PRIOR COMMISSION ORDER AND APPROVING  
TEMPORARY RATES IN EVENT OF PROTEST

AND

NOTICE OF PROPOSED AGENCY ACTION ORDER  
APPROVING CHANGE IN RATES AND RATE STRUCTURE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein regarding changing rates and rate structure is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Case Background

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. By resolution of the Pasco County Commission, the provisions of Chapter 367, Florida Statutes, became effective in Pasco County as of July 11, 1972. By Order No. 14540, issued July 8, 1985, this Commission found that Shady Oaks was subject to Commission jurisdiction.

DOCUMENT NUMBER-DATE

10955 NOV -4 1991

FPSC-RECORDS/REPORTING

ORDER NO. 25296  
DOCKET NO. 900025-WS  
PAGE 2

On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. On February 8, 1991, this Commission issued proposed agency action (PAA) Order No. 24084, wherein we approved a rate increase for Shady Oaks. In that Order, we also required Shady Oaks to do the following: file a request for acknowledgement of a restructure and a name change, improve its unsatisfactory quality of service, expend 85% of the allowance for preventive maintenance on systems maintenance or provide written explanation for not doing so, provide a detailed record of maintenance expenditures, install meters for all of its customers, and escrow a certain portion of the approved monthly rates to account for a fine and proforma plant allowances. The primary purpose of this Order is to evaluate Shady Oaks' compliance with Order No. 24084.

On March 1, 1991, several utility customers filed a timely protest to Order No. 24084. In their protest, the customers objected to the location of percolation pond proposed by the utility. Because we have no jurisdiction to dictate the location of the proposed percolation pond, by Order No. 24409, issued April 22, 1991, we dismissed the protest and revived Order No. 24084, making it final and effective.

After the new rates became effective, the homeowners in the Shady Oaks park, on June 21, 1991, filed suit against Shady Oaks in Circuit Court attacking, among other things, the increased water and wastewater rates approved by this Commission. Each deed whereby the developer (Shady Oaks) transferred property in the Shady Oaks mobile home park to a buyer contained a covenant which requires Shady Oaks to provide certain services at a fixed annual cost. The listed services include water and wastewater service. In Order No. 14540, whereby we certificated Shady Oaks, we noted a 1982 decision of the Circuit Court for the Sixth Judicial Circuit in and for Pasco County which upheld the restrictive covenants included in the deeds. Shady Oaks did not request new rates upon certification, and we decided that the utility should continue billing its customers the rate established in the deed restrictions.

On June 24, 1991, Circuit Court Judge Lynn Tepper granted the homeowner's request for an emergency temporary injunction enjoining Shady Oaks from charging or attempting to collect the Commission-approved rates. In addition, on July 5, 1991, the Circuit Court issued an order requiring Shady Oaks to show cause why it should not be found in contempt for violating the 1982 Court Judgment.

ORDER NO. 25296  
DOCKET NO. 900025-WS  
PAGE 3

This order also enjoined the utility from collecting the Commission-approved rates and ordered that the monthly service fee paid by the homeowners be deposited into the registry of the Clerk of the Court. In August, both injunctions were lifted, and the utility was able to begin collecting the Commission-approved rates; however, the homeowner's lawsuit is still pending.

During the time that the injunction was in effect, Shady Oaks was unable to pay its electric bills for May and June, 1991. On July 25, 1991, the Withlacoochee River Electric Cooperative discontinued electric service to the utility. All of the pertinent governmental agencies, including this Commission, were given prior notice. The Shady Oaks homeowners were without water and wastewater service when electric service was discontinued. In order to get service restored, the homeowners proposed paying the utility's electric bill. With no opposition from the utility or the Commission, the Circuit Court issued an order which allowed the homeowners to pay the electric bill, provided that payment would be credited to the homeowner's water and wastewater bills. The homeowners paid the electric bill, and Shady Oaks' power was restored.

In looking at all of the circumstances surrounding this case, we note two other relevant factors. First, on March 13, 1991, Shady Oaks' owners, Mr. Richard D. Sims and his wife Caroline S. Sims, filed for personal bankruptcy under Chapter 13 with the United States Bankruptcy Court for the Middle District of Florida, Tampa Division. Secondly, on July 8, 1991, the Circuit Court issued an order approving the stipulation of the parties in an action initiated by the Florida Department of Environmental Regulation (DER) against Shady Oaks. In the approved stipulation, Shady Oaks agreed to remove its wastewater treatment plant and to divert all flows to Pasco County's wastewater collection system within six months.

Noncompliance With Order No. 24084

Name Change

In August, 1990, Shady Oaks transferred the title of the utility land from the Shady Oaks corporation to its owners individually. Shady Oaks undertook this transfer without the prior approval of the Commission. As stated earlier, in Order No. 24084

ORDER NO. 25296  
DOCKET NO. 900025-WS  
PAGE 4

we ordered Shady Oaks to file a request for acknowledgement of a name change and restructure within sixty days.

On March 17, 1991, we received a letter from the utility wherein it requested official recognition of the utility's new name, S & D Utility (S & D). On April 1, 1991, we wrote the utility that the name change could not be recognized until we received evidence that utility land and assets had been properly transferred to S & D and that S & D had been properly registered as a fictitious name. The utility submitted evidence that S & D was registered as a fictitious name; however, it explained that because of the pending bankruptcy proceeding, title to the utility land and assets could not yet be transferred to S & D. Subsequently, the Shady Oaks' owners informed us that under the payment plan entered into in the bankruptcy proceeding, they will soon be able to correct the title to utility land and assets.

In consideration of the foregoing, we hereby require Shady Oaks' owners to submit within sixty days of the date of this Order evidence that the title to all the utility land and assets has been corrected.

We are concerned, as are the customers, that the utility has been billing the customers and operating under the name of S & D, even though we have not yet officially approved this name. However, this would appear to be an exceptional case. We believe that it is only a matter of time before the utility provides sufficient information for us to process the name change. Nonetheless, if for any reason, title to the utility land and assets cannot be corrected within sixty days, the utility shall revert to operating under the name currently shown on its certificate: Shady Oaks Mobile-Modular Estates, Inc.

#### Escrow Requirement

The utility's new rates under Order No. 24084 became effective on March 2, 1991. Pursuant to that Order, on March 26, 1991, the utility began placing a portion of its increased rates into an escrow account. From March until August, 1991, the utility escrowed the following amounts: March, \$284.18; April, \$350.88; May, \$256.38; June, \$243.19; July, \$61.18; August, \$0. The total amount escrowed was \$1,195.81

ORDER NO. 25296  
DOCKET NO. 900025-WS  
PAGE 5

The utility did not comply with Order No. 24084, wherein we required it to escrow \$333.34 per month in order to accumulate the \$2,000 fine assessed and the revenues associated with the proforma plant improvements. We believe that the utility's failure to escrow the proper sums was caused by the failure of many Shady Oaks' customers to pay their water and wastewater bills.

As discussed in the Case Background, the customers filed suit against the utility regarding the increased water and wastewater rates. A majority of the customers withheld payment of their utility bills. As of mid-September, 1991, 98 customers (out of 185 total customers) owed \$100 or more and 50 customers owed over \$200. The utility had \$21,185 in total receivables. Revenues were also depleted by some \$13,861 because 71 customers had service discontinued during the summer while they were out of town. By July, 1991, the utility was receiving so few utility payments, that it unilaterally decided to discontinue placing money in escrow in order for it to pay its bills.

Although we understand the utility's difficulty in escrowing the required amount, we admonish it for ceasing to escrow without our approval. The utility should immediately place enough money in the escrow account to bring the balance up to the proper level. Although we will not order the utility to show cause why it should not be fined for violating a Commission Order at this time, if the utility does not immediately correct the deficiency or does not continue placing the appropriate portion of revenues in the escrow account, we shall take appropriate action.

#### Installation of Water Meters

By Order No. 24084, we required the utility to install water meters for all its customers. As of mid-September, the utility had installed 31 of the 185 meters required, and had dug holes for 41 more.

Although not in complete compliance with our Order, Shady Oaks' installation of the 31 meters indicates that it has made an effort to comply. As indicated above, Shady Oaks has been receiving less than half the revenues allowed in the rate case. Considering the insufficient funds on hand to purchase meters, we believe that the utility has done a reasonable job.



ORDER NO. 25296  
DOCKET NO. 900025-WS  
PAGE 6

As noted in the Case Background, the Circuit Court lifted its injunction in August. Our review of the utility's books indicates that most of the customers have begun paying the Commission-approved rate. Indeed, as of mid-September, only twelve active customers have not made a payment in either August or September. Although the customers are currently paying their bills, they have not brought their accounts up-to-date. There is still some dispute about bills owing from March through July. Now that the utility appears to be collecting its appropriate level of revenue, we shall allow the utility another five months to complete the installation of the water meters.

#### Quality of Service

By Order No. 24084, we imposed a \$2,000 fine against the utility for its unsatisfactory quality of service, but suspended the fine for a nine-month period, by the end of which we would dispose of the fine. With six months passed from the time of Order No. 24084, we find that the utility's quality of service remains unsatisfactory.

In September, we conducted a site inspection of the utility and found that the physical condition of both the water and wastewater systems had deteriorated. Neither system had a certified operator for the period of July 12 through August 27, 1991. Virtually no maintenance other than emergency repairs had been performed on either system.

Very heavy vegetation had grown in and around the berms of the percolation pond causing the ponds to function improperly. In addition, the wastewater treatment plant equipment looked derelict and in need of maintenance. The cost of making the necessary improvements to the wastewater system would be significant. However, as stated in the Case Background, Shady Oaks has agreed to interconnect with Pasco County. The interconnection is scheduled to take place in five months. We believe that Shady Oaks should maintain the system according to DER standards until the interconnection takes place. We anticipate that the interconnection will cost at least as much as the amount we allowed in Order No. 24084 for a new percolation pond and the associated land. We shall compare the costs when we reevaluate the quality of service in five months.

As for the water system, we are specifically concerned with the holes in the pump house roof being significantly worse than in our prior inspection. This condition leaves the equipment unprotected from the environment and subject to corrosion and accelerated attrition.

All of the above conditions are at least partially attributable to decreased revenues. Now that revenues have increased, we expect the utility to improve its quality of service with respect to plant condition; in meeting this goal, the utility should complete its interconnection with Pasco County within the designated time.

The other aspect of quality of service which has deteriorated since the issuance of Order No. 24084 is customer relations. On November 17, 1991, we received a letter from the Shady Oaks Homeowners Association wherein the customers listed numerous complaints against the utility. For instance, the customers complained that when they asked a question of the utility owner, he would refer them to our staff. Our staff verifies that they have encountered this situation directly on more than one occasion. In addition, the customers assert that the utility owner is generally unresponsive, profane, abusive, and insulting.

The customers also complain about the utility's limited and inconsistent office hours. The office hours change from week to week, and the customers point out that they are inconvenienced by having to call the utility just to be told that the office hours are posted or that the office is currently open. Even when the office is open, the utility owner has refused to accept hand-delivered payments.

The customers also complain about the utility's billing format. Prior to the Commission's approving increased rates, the utility did not issue bills because utility service was part of the monthly service fee the customers had to pay. The customers want the utility's bills to show the previous balance, payment received, new charges, and total due. According to Rule 25-30.335, Florida Administrative Code, each bill need only contain the billing period, the applicable rate, the amount due, and the delinquent date. Our rules do not require the level of detail requested by the customers because our rules do not contemplate overdue balances. Normally, unpaid bills result in disconnection. The utility may, but is not required to, provide the detail which the

customers request. Indeed, it may be wise to do so in order to eliminate customer confusion and unnecessary bill inquiries.

In order to improve its quality of service, the utility must improve customer relations. Although customer relations is a somewhat subjective matter, we note several concrete steps the utility should undertake in this regard.

The utility should keep a complaint log which should list each customer complaint received and the corrective action taken. Customer complaints or inquiries should be responded to, if not resolved, within forty-eight hours. If the problem cannot be resolved within this time, the customer should be given the timetable for resolution.

The utility should maintain reasonable and dependable office hours. Although the expense we allowed in the rate case for the utility president and secretary was not intended to account for office hours only, we expect the utility's office to be open at least two to three hours, twice a week. The most important aspect in this case is consistency. The utility should maintain consistent hours. If the utility officers are not able to be in the office on a consistent basis, they should consider alternative staffing.

Finally, the utility shall stop referring customers to our staff to solve problems. We recognize that our staff is needed on occasion to explain Commission rules and procedures; but our staff should not be relied upon by the utility or its customers as a substitute for utility management.

#### Preventative Maintenance

As indicated in the Case Background, in Order 24084, we ordered the utility to spend 85% of the monthly allowance for preventive maintenance for its stated purpose. We have reviewed the utility's disbursements for March through August, 1991, and note the following outlays: March, \$193; April, \$366; May, \$0; June, \$294; July, \$0; August, \$300. As with its other failures, the utility's failure here was likely caused by decreased revenues. The utility shall henceforth comply with this aspect of Order No. 24084. We shall revisit this issue in five months' time.

ORDER NO. 25296  
DOCKET NO. 900025-WS  
PAGE 9

### Fine Suspension

In Order No. 24084, we imposed a \$2,000 fine, but suspended same for a nine-month period during which we expected the utility to improve its quality of service. We do not take lightly the utility's continued unsatisfactory quality of service or its continued failure to comply with other requirements of our prior order. However, this is a somewhat exceptional case because of the decreased revenue situation.

According to the utility's stipulation with DER, the utility should complete its interconnection with the Pasco County wastewater treatment system by January 8, 1992. We will extend our suspension of the \$2,000 fine for forty-five days beyond the interconnection date, until February 21, 1992, by which time we will begin our final review of the utility's quality of service. We remind the utility that it is not relieved of its obligation to accumulate the fine in escrow as required above and in Order No. 24084.

### Change in Rates and Rate Structure

In Order No. 24084, we allowed the utility to charge a flat rate for the six months which we expected it would take the utility to install meters for all customers. At the end of six months, the base facility charge rate structure would become effective and any customers without water meters would only pay the base facility charge. In this case, the base facility charge rate structure became effective automatically on October 1, 1991.

The customers request that the tariff be adjusted so that only the base charge would be billed to all customers until all water meters have been installed. The customers state that the utility is not in such dire straits as it claims to be. In support of their claim, the customers estimated their payments for January through December, 1991. The customers' estimate includes monthly payments for utility services as well as a \$25 maintenance fee, which the Commission does not regulate.

Not considering the \$25 maintenance fee, we calculate that for the six months of March through August, 1991, the customers paid a total of \$28,371. This amount is considerably less than one-half of the \$98,592 annual revenue requirement which we approved in

ORDER NO. 25296  
DOCKET NO. 900025-WS  
PAGE 10

Order No. 24084. Therefore, we will not adjust the tariff as requested by the customers.

Because we recognize that the likely cause of the utility's failure to install meters was its reduced revenues, we hereby allow the utility to continue to collect the flat rate set forth in Order No. 24084 until we reevaluate this case in five months. The applicable rate is as follows.

	<u>WATER</u>	<u>WASTEWATER</u>
Flat Monthly Rate	\$14.70	\$28.28

The approved flat rates shall be effective for service rendered on or after the stamped approval date on the revised tariff sheets. The utility shall submit revised tariff sheets reflecting the approved rates along with a proposed customer notice listing the new rates and explaining the reasons therefor. The revised tariff sheets will be approved upon staff's verification that the tariffs are consistent with the Commission's decision, that the proposed customer notice is adequate, and that the protest period has expired.

#### Temporary Rates in the Event of Protest

As discussed above, we are continuing the flat rate structure, rather than implementing the base facility charge rate structure. A timely protest could delay what may prove to be a justified revenue level pending the completion of a formal hearing and issuance of a final order, thus resulting in an unrecoverable loss of revenue to the utility. Therefore, in the event that a timely protest is filed by anyone other than the utility, we hereby authorize the utility to collect the rates approved herein, on a temporary basis, subject to refund. All revenue related to the difference in the base facility charge rate currently in the tariff and the flat rate approved above will be escrowed. This amount shall be escrowed in addition to the funds escrowed pursuant to Order No. 24084. Any withdrawals of funds from the escrow account shall be subject to the written approval of the Commission through the Director of Records and Reporting.

Once the temporary rates become effective, the utility shall deposit the funds to be escrowed into the escrow account within

ORDER NO. 25296  
DOCKET NO. 900025-WS  
PAGE 11

seven (7) days of the utility's receipt thereof. The utility must keep an accurate and detailed account of all monies received as a result of its implementing the temporary rates, specifying by whom or on whose behalf such amounts were paid. By the twentieth day of the month for each month that the temporary rates are in effect, the utility shall file a report showing the amount of revenues collected pursuant to the implementation of the temporary rates and the amount of revenues that would have been collected under the prior rates. Should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

The temporary rates shall be effective for service rendered or after the stamped approval date on the revised tariff sheets. The utility shall submit revised tariff sheets reflecting the temporary rates along with a proposed customer notice listing the temporary rates and explaining the reasons and conditions for their implementation. The revised tariff sheets will be approved upon our staff's verification that the tariff sheets are consistent with our decision herein. The proposed customer notice will be approved upon our staff's determination that the notice is adequate.

It is, therefore

ORDERED by the Florida Public Service Commission that Shady Oaks Mobile-Modular Estates, Inc., shall submit within sixty days of this Order all necessary information for changing its certificated name, including evidence that title to all utility land and assets has been properly transferred to S & D Utility, or revert to operating under its currently certificated name. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., shall immediately place in the escrow account established pursuant to Order No. 24084 all funds required to be deposited in said account by said Order. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., shall within five months of the date of this Order install water meters for all of its customers. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., shall within five months of the date of this Order improve its quality of service and interconnect with the Pasco County wastewater treatment

ORDER NO. 25296  
DOCKET NO. 900025-WS  
PAGE 12

system within the time designated therefor and improve its customer relations as set forth herein. It is further

ORDERED that the provisions of this Order regarding a change in rates and rate structure is issued as proposed agency action and shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., is authorized to charge flat rates as set forth in the body of this Order. It is further

ORDERED that the rates approved herein shall be effective for service rendered on or after the stamped approval date on the revised tariff pages. It is further

ORDERED that prior to its implementation of the rates and charges approved herein, Shady Oaks Mobile-Modular Estates, Inc., shall submit and have approved a proposed notice to its customers of the increased rates and charges and the reasons therefor. The notice will be approved upon Staff's verification that it is consistent with our decision herein. It is further

ORDERED that prior to its implementation of the rates and charges approved herein, Shady Oaks Mobile-Modular Estates, Inc., shall submit and have approved revised tariff pages. The revised tariff pages will be approved upon Staff's verification that the pages are consistent with our decision herein and that the protest period has expired. It is further

ORDERED that in the event of a protest by any substantially affected person other than the utility, Shady Oaks Mobile-Modular Estates, Inc., is authorized to collect the rates approved herein on a temporary basis, subject to refund in accordance with Rule 25-30.360, Florida Administrative Code, provided that Shady Oaks Mobile-Modular Estates, Inc., has furnished satisfactory security for any potential refund and provided that it has submitted and Staff has approved revised tariff pages and a proposed customer notice. It is further

ORDER NO. 25296  
DOCKET NO. 900025-WS  
PAGE 13


ORDERED that this docket shall remain open pending further proceedings.

By ORDER of the Florida Public Service Commission, this  
4th day of NOVEMBER, 1991.

STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

MJF

by:   
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

As identified in the body of this order, our action approving a change in rates and rate structure is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This



ORDER NO. 25296  
DOCKET NO. 900025-WS  
PAGE 14

petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on 11/25/91. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT FJL-4**

**WITNESS: FRANCES J. LINGO**

**ON BEHALF OF THE STAFF**

**OF THE FLORIDA PUBLIC SERVICE COMMISSION**

**DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**ORDER NO. PSC-92-0356-FOF-WS, ISSUED MAY 14, 1992**

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
NO. 930944 EXHIBIT NO. 5  
COMPANY/  
WITNESS: \_\_\_\_\_  
DATE: \_\_\_\_\_

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff- ) DOCKET NO. 900025-WS  
assisted rate case in Pasco ) ORDER NO. PSC-92-0356-FOF-WS  
County by SHADY OAKS MOBILE- ) ISSUED: 05/14/92  
MODULAR ESTATES, INC. )

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION

ORDER REQUIRING CUSTOMER CREDITS

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

CASE BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. On February 8, 1991, this Commission issued proposed agency action (PAA) Order No. 24084, wherein we approved a rate increase for Shady Oaks.

After the new rates became effective, the homeowners in the Shady Oaks park filed suit against Shady Oaks in Circuit Court complaining of, among other things, the increased water and wastewater rates approved by this Commission. The deeds whereby the developer (Shady Oaks) transferred property in the Shady Oaks mobile home park to a buyer covenanted that Shady Oaks would provide certain services, including water and wastewater service, at a fixed annual cost; the homeowners sought to have the Court enforce the covenant.

ORDER NO. PSC-92-0356-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 2

On June 24, 1991, Circuit Court Judge Lynn Tepper granted the homeowners' request for an emergency temporary injunction enjoining Shady Oaks from charging or attempting to collect the Commission-approved rates. In addition, on July 5, 1991, the Circuit Court issued an order requiring Shady Oaks to show cause why it should not be found in contempt for violating a 1983 Court Judgment upholding the restrictions. This latter order also enjoined the utility from collecting the Commission-approved rates and ordered that the monthly service fee paid by the homeowners be deposited into the registry of the Clerk of the Court. In August, 1991, both injunctions were lifted, and the utility was able to begin collecting the Commission-approved rates; however, the homeowners' lawsuit is still pending.

CUSTOMER CREDITS

During the time that the Circuit Court injunction was in effect, Shady Oaks was unable to pay its electric bills for May and June, 1991. On July 25, 1991, the Withlacoochee River Electric Cooperative (WREC) discontinued electric service to the utility. All of the pertinent governmental agencies, including this Commission, were given prior notice. As a result of WREC's terminating Shady Oaks' electric service, Shady Oaks' water and wastewater customers were without water and wastewater service. In order to get their service restored, the Shady Oaks homeowners proposed paying Shady Oaks' electric bill. With no opposition from the utility or the Commission, the Circuit Court issued an order which allowed the homeowners to pay the electric bill, provided that payment would be credited to the homeowner's water and wastewater bills. The homeowners paid the electric bill, and Shady Oaks' power was restored.

Shady Oaks' electric bill was paid by 114 homeowners. The utility was provided with a list of the names of homeowners who paid so that the appropriate credit could be given to their accounts. The Circuit Court Order does not specify that only homeowners who paid a portion of the delinquent electric bill would be entitled to a credit.

We think that a credit to the customers is appropriate in this instance. Further, we think it reasonable that only those customers who paid a portion of the delinquent electric bill should receive the credit.

The appropriate credit per contributing homeowner is \$9.59. As of mid-March of this year, the utility had issued the appropriate credits to only 86 of the 114 contributing customers,

DOCUMENT NUMBER-DATE

04898 MAY 14 1992

PSC-RECORDS/REPORTS

ORDER NO. PSC-92-0356-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 3

leaving 28 who have yet to be credited the proper amount. Accordingly, we hereby order the utility to issue the remaining 28 credits to those homeowners who contributed to paying the utility's delinquent electric bill. These credits should be issued on the first bill subsequent to the effective date of this Order.

It is, therefore,

ORDERED by the Florida Public Service Commission that Shady Oaks Mobile-Modular Estates, Inc., shall, as set forth in the body of this Order, credit the bills of the customers so entitled. It is further

ORDERED that all of the provisions of this Order are issued as proposed agency action and shall become final unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below.

By ORDER of the Florida Public Service Commission, this 14th day of May, 1992.

\_\_\_\_\_  
STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

by: Kay J. [Signature]  
Chief, Bureau of Records

MJF

ORDER NO. PSC-92-0356-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 4

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 4, 1992.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT FJL-5**

**WITNESS: FRANCES J. LINGO**

**ON BEHALF OF THE STAFF**

**OF THE FLORIDA PUBLIC SERVICE COMMISSION**

**DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**ORDER NO. PSC-92-0367-FOF-WS, ISSUED MAY 14, 1992**

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
NO. 930944 EXHIBIT NO. 6  
COMPANY/  
WITNESS: \_\_\_\_\_  
DATE: \_\_\_\_\_

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-) DOCKET NO. 900025-WS  
assisted rate case in Pasco ) ORDER NO. PSC-92-0367-FOF-WS  
County by SHADY OAKS MOBILE- ) ISSUED: 05/14/92  
MODULAR ESTATES, INC. )

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

AND

FINAL ORDER IMPOSING FINE

BY THE COMMISSION:

CASE BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. On February 8, 1991, this Commission issued proposed agency action (PAA) Order No. 24084, wherein we approved a rate increase for Shady Oaks. In that Order, we also required Shady Oaks to do the following: file a request for acknowledgement of a restructure and a name change, improve its unsatisfactory quality of service, expend 85% of the allowance for preventative maintenance on systems maintenance or provide written explanation for not doing so, provide a detailed record of what monthly maintenance will be implemented, install meters for all of its customers, and escrow a certain portion of the approved monthly rates to account for a fine and pro forma plant allowances. By Order No. 24409, issued April 22, 1991, we dismissed a timely protest to the PAA Order and revived Order No. 24084, making it final and effective.

After the new rates became effective, the homeowners in the Shady Oaks park filed suit against Shady Oaks in Circuit Court complaining of, among other things, the increased water and

DOCUMENT NUMBER-DATE

04937 MAY 14 1992

FPSC-RECORDS/REPORTING

ORDER NO. PSC-92-0367-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 2

wastewater rates approved by this Commission. The deeds whereby the developer (Shady Oaks) transferred property in the Shady Oaks mobile home park to a buyer covenanted that Shady Oaks would provide certain services, including water and wastewater service, at a fixed annual cost; the homeowners sought to have the Court enforce the covenant.

On June 24, 1991, Circuit Court Judge Lynn Tepper granted the homeowners' request for an emergency temporary injunction enjoining Shady Oaks from charging or attempting to collect the Commission-approved rates. In addition, on July 5, 1991, the Circuit Court issued an order requiring Shady Oaks to show cause why it should not be found in contempt for violating a 1983 Court Judgment upholding the restrictions. This latter order also enjoined the utility from collecting the Commission-approved rates and ordered that the monthly service fee paid by the homeowners be deposited into the registry of the Clerk of the Court. In August, 1991, both injunctions were lifted, and the utility was able to begin collecting the Commission-approved rates; however, the homeowners' lawsuit is still pending.

In Order No. 25296, issued November 4, 1991, we determined that the utility failed to comply with the requirements of Order No. 24084. In Order No. 25296, we ordered the utility to comply with what was previously ordered and, specifically, to do the following: submit all necessary information for changing its certificated name or revert to operating under its currently certificated name, immediately place in the escrow account all funds necessary to bring said account to its proper balance, install water meters for all its customers within five months, to improve its quality of service, and (as is discussed further below) to interconnect with the Pasco County wastewater treatment system.

SHOW CAUSE

Prior to our considering action against the utility, we reviewed the utility's revenues and expenses from March, 1991, to February, 1992, and made a field inspection. By this Order, we are requiring the utility to show cause why it should not be fined for its substantial noncompliance with Orders Nos. 25296 and 24084. Our discussion of the specific items of noncompliance follows.

Name Change and Restructure

In August, 1990, Shady Oaks transferred the title of the utility land from Shady Oaks Mobile-Modular Estates, Inc. to its shareholders individually. Shady Oaks undertook this transfer

ORDER NO. PSC-92-0367-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 3

without the prior approval of the Commission. In Order No. 24084, we ordered Shady Oaks to file a request for acknowledgement of a name change and restructure within sixty days. On March 17, 1991, we received a letter from the utility wherein it requested official recognition of the utility's new name, S & D Utility. On April 1, 1991, we wrote the utility that the name change could not be recognized until we received evidence that the utility land and assets had been properly transferred to S & D Utility and that S & D Utility had been properly registered as a fictitious name. The utility submitted evidence that S & D Utility was registered as a fictitious name; however, it explained that because of the pending bankruptcy proceeding, title to the utility land and assets could not yet be transferred to S & D Utility.

Since the utility's owners informed us that under the payment plan entered into in the bankruptcy proceeding they would soon be able to transfer the title to the utility land and assets, we allowed the utility additional time to complete the name change and restructuring. By Order No. 25296, we ordered the utility to submit within 60 days all necessary information for changing its certificated name, including evidence that the title to all the utility land and assets had been properly transferred to S & D Utility. If it did not timely submit that information, the utility was to revert to operating under its currently certificated name, Shady Oaks Mobile-Modular Estates, Inc.

By letter dated January 22, 1992, we reminded the utility of the information necessary to complete the name change and asked several questions regarding the utility's progress. In its February 16, 1992, reply, the utility was largely unresponsive to the questions in our letter. For example, the utility stated in its response that the name change request had already been made with the Commission, and it also indicated that the bankruptcy proceedings still presented an impediment. However, we are aware that on November 14, 1991, the Bankruptcy Judge issued an order dismissing the utility owner's case and on December 17, 1991, issued an order denying the owner's motion for reconsideration or, in the alternative, conversion to Chapter 11.

Not only has the utility failed to file the information necessary for the name change, it has disregarded our Order to revert to operating under its certificated name. We have verified that customer bills bear the heading of S & D Utility and that the utility makes deposits into and writes checks from a bank account in the name S & D Utility. When our Division of Consumer Affairs has called the utility's business phone, the recorded message answers in the name S & D Utility.

ORDER NO. PSC-92-0367-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 4

It is apparent that the utility is not in compliance with Orders Nos. 24084 and 25296 with regard to the name change and restructure requirements. Therefore, the utility is hereby ordered to show cause why it should not be fined up to \$5,000 per day for such noncompliance.

#### Installation of Water Meters

By Order No. 24084, we required the utility to install water meters for all its customers within six months. As of mid-September, 1991, the utility had installed 31 of the 185 meters required. In Order No. 25296, we stated that although Shady Oaks was not in complete compliance with our Order, its installation of the 31 meters indicated an effort to comply. We acknowledged that prior to August of 1991, the utility collected less revenue than we had allowed it to collect, as the customers' refusal to pay and the Circuit Court litigation ensued. We estimate arrearages from past nonpayment to be over \$15,000. By Order No. 25296, we allowed the utility an additional five months in which to complete the meter installations.

However, from our recent review of the utility's billing records, we have determined that by the end of 1991, the vast majority of the customers were paying the Commission-approved rates. In a January, 1992, letter, we requested the utility to provide plans and a time schedule for installing the remaining water meters. The utility responded that it intended to install additional meters in February, 1992. As of the end of March, 1992, the utility had only installed an additional 16 meters, which brings the total number of installed meters to 47.

Since the utility has not completed installation of the meters within the prescribed time frame and was unresponsive to our request for information, we hereby order the utility to show cause why it should not be fined up to \$5,000 per day for its failure to install water meters.

#### Preventative Maintenance

As indicated above, in Order No. 24084, we ordered the utility to spend 85% of the monthly allowance of \$1,700 for preventative maintenance for its stated purpose. In Order No. 25296, we evaluated the utility's disbursements for March through August, 1991, and noted that the utility did not spend what was required. We thought that the utility's failure to comply was likely caused by decreased revenues, but ordered it to thereafter comply with the preventative maintenance aspect of Order No. 24084.



ORDER NO. PSC-92-0367-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 5

We have reviewed the utility's expenditures for the months of September, 1991, through February, 1992. During this period, the utility spent approximately \$3,300--less than 40% of the \$8,670 which the utility was required to spend. Also, the utility did not explain its failure to meet the spending requirement for preventative maintenance as required by Order No. 24084.

We do not believe the utility has complied with Order No. 25296 regarding maintenance expenditures. Therefore, we order the utility to show cause why it should not be fined up to \$5,000 per day for failing to spend at least 85% of its \$1,700 monthly allowance for preventative maintenance.

#### Quality of Service

By Order No. 24084, we imposed a \$2,000 fine against the utility for its unsatisfactory quality of service, but suspended the fine for a nine-month period, by the end of which we would dispose of the fine. We directed the utility to improve its quality of service by constructing a new effluent disposal system, obtaining the necessary permits, and operating its wastewater facilities within Florida Department of Environmental Regulation (DER) standards. DER-required plant improvements were included in rate base as pro forma plant.

In Order No. 25296, we found that the utility's quality of service remained unsatisfactory and, in fact, had deteriorated. However, for two reasons, we allowed the utility additional time to make quality of service improvements. First, we recognized that the quality of service deficiencies were at least partially attributable to the decreased revenues collected. Second, the utility had entered into a court-approved settlement agreement with DER wherein the utility agreed to interconnect its wastewater system with Pasco County within six months of the agreement, which was approved by Court Order on July 8, 1991. Accordingly, in Order No. 25296, we ordered the utility to improve its quality of service as prescribed by Order No. 24084, ordered it to interconnect with Pasco County within the designated time frame, and ordered it to improve deteriorating customer relations.

The interconnect with the County was scheduled to take place on or before January 8, 1992. To date, the utility has not only failed to interconnect with the County, but it has not even begun the design or construction of the required interconnect facilities. In addition, customer relations have not improved at all.

On the latter point, we note three incidents of concern.

ORDER NO. PSC-92-0367-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 6

First, on January 9, 1992, we received a customer complaint describing an incident between the utility's owner and a customer. The customer went to pay his water and wastewater bill during posted office hours, but the owner was not present. After mailing his bill, the customer went to discuss the matter with the owner. The customer claims to have been verbally abused by the owner. Although the owner denies using the profane language the customer claims he used, we think it evident that the customer was insulted.

On January 22, 1992, we received numerous complaints regarding a service outage. The customers claimed that the utility did not respond to their calls on the day the outage occurred. Apparently, service was restored only when the guest of one of the customers climbed the fence at the plant and switched on a circuit breaker. The customers are rightfully concerned that the utility did not promptly respond to their calls. In the utility's reply to our inquiry regarding the incident, the utility's owner stated that he could not have responded to the customer's calls any sooner, as he had been out of town on the day the outage occurred.

Finally, on February 24, 1992, we received a customer complaint regarding the utility's installation of several water meters on one customer's property. We conducted a field investigation and found that the utility was placing individual meters as close to the water main as possible even when that meant that the meter was on another customer's property. The utility was then directed to place the water meters on the individual properties associated with the consumption. Rule 25-30.260, Florida Administrative Code, requires utilities to locate meters at or near the customer's curb or property line except when doing so is impractical. It would appear in this instance that it is practical for the utility to place each meter on the property it serves.

It is evident that the utility has made no substantial improvement in the total quality of service as required by Orders Nos. 24084 and 25296. Therefore, we hereby order the utility to show cause why it should not be fined up to \$5,000 per day for continuing to provide unsatisfactory quality of service.

#### Escrow Requirement

The utility's new rates under Order No. 24084 became effective on March 2, 1991. By Order No. 24084, we required the utility to place in escrow the portion of the rate increase attributable to the pro forma plant and a portion of the \$2,000 penalty we imposed for poor quality of service; specifically, the utility was required



ORDER NO. PSC-92-0367-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 8

In the event that reasonable efforts to collect this fine fail, we hereby authorize its referral to the Comptroller's Office, as further collection efforts on our part would not be cost-effective. At a minimum, two certified letters demanding payment shall be sent.

It is, therefore,

ORDERED by the Florida Public Service Commission that Shady Oaks Mobile-Modular Estates, Inc., shall show cause in writing why it should not be fined up to \$5,000 a day for violating Orders Nos. 24084 and 25296 as described in the body of this Order. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc.'s written response to this Order must be received as set forth in the Notice below. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc.'s response to this Order must contain specific allegations of fact and law. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc.'s opportunity to file a written response to this Order shall constitute its opportunity to be heard prior to final determination of noncompliance and assessment of penalty by this Commission. It is further

ORDERED that a failure to file a timely response to this Order shall constitute an admission of the facts alleged in the body of this Order and a waiver of any right to a hearing. It is further

ORDERED that in the event that Shady Oaks Mobile-Modular Estates, Inc., files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57, Florida Statutes, further proceedings may be scheduled before a final determination on these matters is made. It is further

ORDERED that the suspension of the \$2,000 fine previously imposed by Order No. 24084 is hereby lifted, and said fine is due and payable. The utility is hereby prohibited from paying said fine from escrowed funds. Our action in imposing this fine is final agency action. If reasonable collection efforts prove ineffective, further disposition of the fine will be referred to the Comptroller's Office. It is further

ORDER NO. PSC-92-0367-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 7

to escrow \$333.34 per month. In Order No. 25296, we found that the utility had not been escrowing the proper amounts primarily because it had not been collecting sufficient revenues. We admonished the utility for ceasing to escrow the proper amount without our prior approval and ordered it to immediately place enough money in the escrow account to bring the balance up to the proper level.

As stated earlier, the vast majority of the utility's customers are now paying their utility bills. From our review of the utility's cash collections from customers from December, 1991, to February, 1992, we calculate that the utility should have escrowed approximately \$5,600 during that three month period. However, the bank statements indicate that only \$3,500 was deposited into the escrow account in that time. In addition, the utility did not place enough money in the escrow account to correct the deficiency that resulted from the utility's prior failure to place funds into the account.

We think the utility has failed to comply with Orders Nos. 24084 and 25296 regarding the escrow requirements. Therefore, we hereby order the utility to show cause why it should not be fined up to \$5,000 per day for not maintaining the appropriate balance in the escrow account.

#### IMPOSITION OF FINE

As referenced above, by Order No. 24084, we imposed a \$2,000 fine against the utility for its unsatisfactory quality of service, but suspended the fine for nine months, at the expiration of which we would review the situation. As was also previously stated, in Order No. 25296, we found that the utility's quality of service remained unsatisfactory, and we again required the utility to improve its quality of service, suspending the fine for another five months.

As discussed in detail above, the utility remains in substantial noncompliance with Orders Nos. 24084 and 25296 with regard to its quality of service. Therefore, the suspension on the \$2,000 fine previously imposed is hereby lifted, and said fine is due and payable.

By Order No. 24084, we ordered the utility to escrow a portion of the \$2,000 fine. Since the utility has not been escrowing the required amounts, the funds in the escrow account are insufficient to pay both the \$2,000 fine and a refund to the customers in the event one is required. Therefore, we prohibit the utility from paying the \$2,000 fine from the escrow account.

ORDER NO. PSC-92-0367-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 9

ORDERED that this docket shall remain open pending further Order of the Commission.

By ORDER of the Florida Public Service Commission, this 14th day of May, 1992.

\_\_\_\_\_  
STEVE TRIBBLE, Director  
Division of Records and Reporting

by: Kay Flynn  
Chief, Bureau of Records

( S E A L )

MJF

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The show cause portion of this order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 3, 1992.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida

ORDER NO. PSC-92-0367-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 10

Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to the show cause portion of this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT FJL-6**

**WITNESS: FRANCES J. LINGO**

**ON BEHALF OF THE STAFF**

**OF THE FLORIDA PUBLIC SERVICE COMMISSION**

**DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**ORDER NO. PSC-92-1116-FOF-WS, ISSUED OCTOBER 5, 1992**

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
NO. 930944 EXHIBIT NO. 7  
COMPANY/  
WITNESS: \_\_\_\_\_  
DATE: \_\_\_\_\_

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a	)	DOCKET NO. 900025-WS
staff-assisted rate case in	)	ORDER NO. PSC-92-1116-FOF-WS
Pasco County by SHADY OAKS	)	ISSUED: 10/05/92
MOBILE-MODULAR ESTATES, INC.	)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

RECEIVED

OCT 09 1992

Fla. Public Service Commission  
Division of Water and Sewer

NOTICE OF PROPOSED AGENCY ACTION  
ORDER DENYING REQUEST FOR RELIEF FROM  
PRIOR COMMISSION ORDERS

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. On January 30, 1990, Shady Oaks applied for the instant staff-assisted rate case. By proposed agency action (PAA) Order No. 24084, issued February 8, 1991, we approved a rate increase for Shady Oaks and ordered it to take various actions regarding its operations, including that it escrow a set portion of its revenues. By Order No. 24409, issued April 22, 1991, we dismissed a timely protest to the PAA Order and revived Order No. 24084, making it final and effective.

By Order No. 23296, issued November 4, 1991, we found that the utility had failed to comply with the requirements of Order No. 24084, including the escrow requirement. However, since numerous customers had not paid their utility bills as a result of a court dispute over the utility's rates, we elected not to order the

DOCUMENT NUMBER-DATE

11577 OCT -5 1992

FILED - RECORDS / REPORTING

ORDER NO. PSC-92-1116-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 2

utility to show cause why it should not be fined for its noncompliance, but instead ordered it to obey our prior Orders and to bring the escrow account up to its proper balance. Upon reviewing the utility's situation a second time several months later, we again found that the utility had failed to abide by our Orders. Therefore, by Order No. PSC-92-0367-FOF-WS, issued May 14, 1992, we ordered the utility to show cause why it should not be fined for its continued noncompliance with Orders Nos. 24084 and 25296. Shady Oaks requested a hearing in response to the Order to Show Cause, and disposition over the violations is pending.

INFORMAL REQUEST FOR RELIEF

By a letter dated July 6, 1992, addressed to our staff, Shady Oaks requested that the escrow requirements established in Orders Nos. 24084 and 25296 be suspended for a period of several months. The apparent basis for the utility's request is that it does not have enough customers and, therefore, not enough revenues, to be able to escrow the required monies during the months many of its customers are on vacation. The utility's current flat rate structure does not contain a vacation rate. As a result, during the months the customers are away, the utility's cash flow is reduced.

The utility's request was not submitted in the form of a formal, written motion in conformity with Rule 25-22.037, Florida Administrative Code. We shall, however, consider the utility's request. Shady Oaks is a small utility and is not represented by an attorney because it claims it cannot afford one.

As stated above, we have already ordered Shady Oaks to show cause why it should not be fined for failing to maintain the proper balance in the escrow account. Upon reviewing the monthly statements we receive from the escrow agent, we note that Shady Oaks remains in violation of Orders Nos. 24084 and 25296: it has not yet brought the account's balance up to the prescribed level, nor has it been escrowing the proper amount each month.

There has been no change in the number or composition of the utility's customer base since our prior Orders were issued, and the utility has offered nothing persuasive to support the relief requested. The appropriate time for the utility to address its concerns was when the prior Orders were issued. Indeed, we think the instant request can be denied as an untimely motion for

ORDER NO. PSC-92-1116-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 3

reconsideration to either of the aforementioned orders.

In consideration of the foregoing, the utility's request is denied, and the requirements of our previous Orders affirmed.

Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that Shady Oaks Mobile-Modular Estates, Inc.'s request for relief from Orders Nos. 24084 and 25296 is denied. It is further

ORDERED that the provisions of this Order are issued as proposed agency action and shall become final unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below.

By ORDER of the Florida Public Service Commission this 5th day of October 1992.

\_\_\_\_\_  
STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

MJF

by Kay Hagan  
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

ORDER NO. PSC-92-1116-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 4

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on October 26, 1992.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT FJL-7**

**WITNESS: FRANCES J. LINGO**

**ON BEHALF OF THE STAFF**

**OF THE FLORIDA PUBLIC SERVICE COMMISSION**

**DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**ORDER NO. PSC-93-0542-FOF-WS, ISSUED APRIL 9, 1993**

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
NO. 930944 EXHIBIT NO. 8  
COMPANY/  
WITNESS: \_\_\_\_\_  
DATE: \_\_\_\_\_



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for staff- ) DOCKET NO. 900025-WS  
assisted rate case in Pasco ) ORDER NO. PSC-93-0542-FOF-WS  
County by Shady Oaks Mobile- ) ISSUED: 04/09/93  
Modular Estates, Inc. )

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD  
SUSAN F. CLARK  
JULIA L. JOHNSON

Pursuant to notice, an administrative hearing was held on January 7, 1993, in Zephyrhills, Florida, before Commissioner Thomas M. Beard, sitting as Hearing Officer.

APPEARANCES:

MATTHEW J. FEIL, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863  
On behalf of the Commission Staff.

RICHARD BELLAK, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862  
On behalf of the Commissioners.

The Hearing Officer's Recommended Order was entered on February 11, 1993. No exceptions to the order were filed. After consideration of the evidence, we now enter our Order.

FINAL ORDER FINING UTILITY AND  
ORDERING THAT REVOCATION PROCEEDINGS BE INITIATED

BY THE COMMISSION:

Background

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. On January 10, 1990, Shady Oaks applied for

ORDER NO. PSC-93-0542-FOF-WS  
DOCKET NO. 90025-WS  
PAGE 2

a staff-assisted rate case. By proposed agency action (PAA) Order No. 24084, issued February 8, 1991, the Commission approved a rate increase for Shady Oaks and ordered it to take various actions, including, that it install meters for all of its customers within six months, improve its quality of service, file information needed to process a name change, spend a fixed amount on preventative maintenance, and escrow a set portion of revenues. By Order No. 24409, issued April 22, 1991, the Commission dismissed a protest to the PAA Order on jurisdictional grounds and revived Order No. 24084, making it final and effective.

By Order No. 25296, issued November 4, 1991, the Commission found that the utility had failed to comply with the requirements of Order No. 24084. However, since numerous customers had not paid their utility bills as a result of a court dispute over the utility's rates, the Commission decided not to order the utility to show cause why it should not be fined for its noncompliance; instead, the Commission ordered the utility to obey its prior Order and bring the escrow account up to its proper balance. Upon reviewing the utility's situation a second time several months later, the Commission found that the utility had failed to abide by the above Orders. Therefore, by Order No. PSC-92-0367-FOF-WS, issued May 14, 1992, the Commission ordered the utility to show cause why it should not be fined for its continued noncompliance with Orders Nos. 24084 and 25296. Shady Oaks requested a hearing in response to the Order to Show Cause. Pursuant to that request, an administrative hearing was held on January 7, 1993, before Commissioner Beard sitting as Hearing Officer. Shady Oaks did not appear or participate in the hearing.

In accord with Order No. PSC-93-0083-PCO-WS, establishing post-hearing procedure, staff timely filed proposed findings of fact and conclusions of law. The utility did not file anything. The Hearing Officer filed his Recommended Order on February 11, 1993.

The full text of the Hearing Officer's Recommended Order is set forth below, beginning with "Findings of Fact."

II. FINDINGS OF FACT

The following abbreviations are used herein for purposes of citation: "TR" for Transcript, "EX." for Exhibit No., and "p." and "pp." for page(s).

DOCUMENT NUMBER-DATE

03905 APR-93

FPSC-RECORDS/REPORTING

ORDER NO. PSC-93-0542-FOF-WS  
DOCKET NO. 90025-WS  
PAGE 3

I accept each and every proposed finding of fact submitted by the staff and, having considered the evidence presented at the hearing, I hereby make the following findings of fact.

ISSUE 1: Did the utility timely comply with Commission Orders Nos. 24084 and 25296 with respect to the meter installation requirements?

1. By Order No. 24084, issued February 8, 1991, the utility was to install water meters on all its customers' connections within six months, by August, 1991. (EX 5, FJL-2, pp. 6, 31)

2. In Order No. 25296, issued November 4, 1991, the Commission noted that the utility had installed 31 of the 185 meters required, but allowed the utility an additional five months, by April, 1992, to complete the meter installations. (EX 5, FJL-3, p. 5)

3. As of May 14, 1992, when the Order to Show Cause, Order No. PSC-92-0367-FOF-WS, was issued, the utility had installed a total of 47 of the 185 meters required. (EX 5, FJL-4, pp. 5, 6, 11)

4. The last meters were installed on June 17, 1992, which is 74 days past the extended deadline established in Order No. 25296. (TR 59)

5. The utility does not deny it failed to timely comply, but in a letter to the Commission, the utility claimed that the meter installations were delayed because of an additional monthly expense of \$1,155 for loan service expense and for past due engineering fees. (EX 6, p. 31)

6. The utility did not timely comply with the Commission's Orders with regard to meter installations. (TR 58, 59)

7. Some of the meters that were installed were installed in a haphazard fashion. (TR 64-66, 68-71)

ORDER NO. PSC-93-0542-FOF-WS  
DOCKET NO. 90025-WS  
PAGE 4

ISSUE 2: Has the utility complied with Commission Orders Nos. 24084 and 25296 with respect to improving its quality of service?

1. By Order No. 24084, issued February 8, 1991, the Commission found that the utility's quality of service was unsatisfactory, so the Commission took the following action: (1) It imposed a \$2,000 fine on the utility for unsatisfactory service and required the utility to accumulate the fine in an escrow account; however, the Commission suspended the fine for nine months pending review of the utility's service for improvement; (2) It ordered the utility to comply with a Department of Environmental Regulation (DER) Consent Order requiring specific repairs and improvements necessary for the proper operation of the utility's wastewater treatment and disposal facilities within the time period prescribed by that Consent Order; and (3) It directed the utility to spend a minimum of 85% of the \$1,700 per system per month preventative maintenance expense allowance on repairs and maintenance, and it ordered that if the utility had not spent the minimum over a period of six months, the utility must submit an explanation and a detailed statement of future plans to maintain the system. (EX 5, FJL-2, pp. 3, 4, 15)

2. By Order No. 25296, issued November 4, 1991, the Commission (1) suspended the \$2,000 fine until February, 1992; (2) required the utility to escrow the fine as previously ordered; (3) found that the quality of service had deteriorated, noting numerous customer complaints against the utility and the derelict condition of the utility systems; (4) required the utility to interconnect its wastewater system with Pasco County as agreed to in a court-approved settlement between the utility and DER; and (5) found that the utility had failed to spend the minimum of the monthly preventative maintenance allowance, but announced it would review the situation again before further action. (EX 5, FJL-3, pp. 6-9)

3. By Order No. PSC-92-0367-FOF-WS, issued May 14, 1992, the Commission lifted suspension of the fine and noted that the utility continued to disobey the Commission's directives. (EX 5, FJL-4, pp. 1-9)

ORDER NO. PSC-93-0542-FOF-WS  
DOCKET NO. 90025-WS  
PAGE 5

4. The utility believes customer relations have improved, but does not deny it failed to interconnect with Pasco County or that it failed to expend funds on preventative maintenance, but it claims to have had cash flow problems. (EX 6, pp. 31-32)
5. The utility has failed to interconnect its wastewater system with Pasco County. (TR 59)
6. The utility's customer relations have not improved. (TR 13-53, 59; EX 1-5)
7. The utility has not spent sufficient funds on preventative maintenance or provided a schedule of its maintenance plans. (TR 78-80; EX. 6, pp. 11, 31)
8. The utility has violated the Commission's Orders regarding quality of service, and its quality of service remains unsatisfactory. (TR 59, all above citations)

ISSUE 3: Has the utility complied with Commission Orders Nos. 24084 and 25296 with respect to the name change and restructure requirements?

1. By Order No. 24084, the Commission required the utility to file a request for acknowledgement of a restructure and a name change within sixty days of the date of the Order. (TR. 76-78; EX 5, FJL-2, pp 2-3)
2. On March 17, 1991, staff received a letter from the utility requesting official recognition of the utility's new name, S&D Utility (S&D). On April 1, 1991, staff wrote the utility that the name change could not be recognized until the utility produced evidence that the utility land and assets had been properly transferred to S&D and that S&D had been properly registered as a fictitious name. (EX 5, FJL-3, p. 4)
3. In reliance on the utility owner's representation that he would be able to correct the title to the utility land and assets as part of a payment plan he entered into in a bankruptcy proceeding, the Commission allowed the utility, in Order No. 25296, an additional sixty days to complete the name change and restructure requirements.

ORDER NO. PSC-93-0542-FOF-WS  
DOCKET NO. 90025-WS  
PAGE 6

If the utility failed to produce the required documentation, it was ordered to operate under its certificated name Shady Oaks Mobile-Modular Estates, Inc. (TR 76-78, EX. 5, FJL-3, p. 4)

4. Staff wrote the utility twice, by letters dated January 22, 1992, and July 21, 1992, to remind the utility of the filing requirements regarding the name change. (TR 77; EX 5, FJL-1 and FJL-5)
5. According to the utility, (1) The land upon which the utility assets are located is titled in the names of Richard D. Sims and Caroline Sue Sims, jointly, and the utility's assets are owned individually by Richard D. Sims d/b/a S&D Utility; (2) The utility is now a sole proprietorship for federal income tax purposes; and (3) The utility does not understand what it is supposed to file. (EX 6, pp. 5, 6, 30)
6. The utility is operating under the name S&D Utility. (TR 78, EX 5, FJL-6)
7. The utility has not filed the documents for a name change and restructure, nor has it complied with the Commission's order to revert to operating under its certificated name of Shady Oaks Mobile-Modular Estates, Inc.; therefore, the utility has not complied with Orders Nos. 24084 and 25296 with respect to the name change and restructure requirements. (TR 78; EX 6, pp. 5, 30, 31)

ISSUE 4: Has the utility complied with Commission Orders Nos. 24084 and 25296 with respect to the preventative maintenance requirements?

1. By Order No. 24084, the Commission allowed in rates a \$1,700 per system per month preventative maintenance expense allowance, directed the utility to spend a minimum of 85% of that allowance, and ordered that if the utility had not spent the minimum over a period of six months, the utility must submit an explanation and a detailed statement of future plans to maintain the system. (EX 5, FJL-2, pp. 3, 4, 15)
2. In Order No. 25296, the Commission found that the utility's failure to spend the maintenance allowance was

ORDER NO. PSC-93-0542-FOF-WS  
DOCKET NO. 90025-WS  
PAGE 7

likely due to decreased revenues collected due to a Court dispute, and, therefore, ordered the utility to comply with the requirements of Order No. 24084 on a prospective basis. (TR 79; EX 5, FJL-3)

3. For the months of September, 1991, through February, 1992, the utility's actual expenditures represented less than 40% of what the utility was ordered to spend. (TR 70)

4. Required expenditures for maintenance up to February, 1992, were \$8,670. Actual expenditures for maintenance by February, 1992, were \$3,291. (EX. 5, FJL-7)

5. The utility does not deny it failed to expend funds on preventative maintenance, but claims to have had cash flow problems. (EX 6, pp. 31-32)

6. The utility has not submitted a written schedule to the Commission showing what monthly maintenance will be adopted, along with a statement of the reason such funds were not expended, and a detailed statement of its future plans to maintain the system, and has, therefore, violated the Commission's Orders. (TR 78-80; EX. 6, pp. 11, 31)

**ISSUE 5:** Has the utility complied with Commission Orders Nos. 24084 and 25296 with respect to the escrow requirements?

1. By Order No. 24084, the Commission required the utility to escrow that portion of the rate increase related to the pro forma plant allowed and the \$2,000 fine imposed, but suspended, until such time as the pro forma plant was constructed and the Commission reviewed the utility's quality of service. (TR. 80-81; EX 5, FJL-2, pp., 3, 29)

2. In Order No. 25296, the Commission recognized that the utility did not comply with Order No. 24084 regarding the escrow requirements in large part because many of the utility's customers did not pay their water and wastewater bills. However, the utility was admonished for unilaterally ceasing to escrow without Commission approval. The utility was ordered to immediately correct

ORDER NO. PSC-93-0542-FOF-WS  
DOCKET NO. 90025-WS  
PAGE 8

the deficiency in the escrow account, and to continue placing the appropriate portion of revenues in the escrow account. (TR 80-81; EX 5, FJL-3, pp. 4, 5)

3. As of November 30, 1991, the utility had placed \$1,201 into escrow, or approximately \$3,417 less than the appropriate escrow amount of \$4,618. (TR 81)

4. As of September, 1992, the required escrow account balance was \$20,109, but the actual escrow account balance was \$9,251. (EX 5, FJL-8 (revised))

5. The utility does not deny it has not escrowed the required amounts, but claims it has been unable to meet the escrow obligation because of cash flow problems resulting from the Chapter 11 filing wherein the utility owner must escrow \$886.08 to cover back real estate taxes and must make payments (now delinquent) to the U.S. Trustee. According to the utility, Richard D. Sims d/b/a S&D Utility filed for Chapter 11 bankruptcy on June 22, 1992. (EX. 6, p. 31)

6. The utility has violated the Commission's Orders requiring that a set amount of funds be escrowed and that the escrow account be brought up to the appropriate balance. (TR 81; above citations)

**ISSUE 6:** What punitive action should the Commission take against the utility?

1. The utility has failed to comply with Orders Nos. 24084 and 25296 regarding timely installation of water meters, implementing specific directives to improve quality of service, filing appropriate name change and restructuring documents, meeting preventative maintenance requirements, and escrow requirements. (See above citations)

2. The utility should be fined in the amount of rate base. The Commission should initiate a proceeding to reduce the utility's rates by the amount of proforma plant and preventative maintenance expense that has not been spent by the utility. The utility's certificate should be revoked. (TR 84)

ORDER NO. PSC-93-0542-FOF-WS  
DOCKET NO. 90025-WS  
PAGE 9

3. Total rate base, less the wastewater system proforma allowances is \$60,572. (EX 5, FJL-2, p. 36)

### III. CONCLUSIONS OF LAW

The Florida Public Service Commission has jurisdiction over the subject matter of this proceeding pursuant to Chapters 120, 350, and 367, Florida Statutes.

In consideration of the evidence presented and the above proposed findings, I make the following conclusions of law.

ISSUE 1: Did the utility timely comply with Commission Orders Nos. 24084 and 25296 with respect to the meter installation requirements?

No, utility did not timely install the meters. The utility was in violation of Order No. 25296 for 74 days.

ISSUE 2: Has the utility complied with Commission Orders Nos. 24084 and 25296 with respect to improving its quality of service?

No. The quality of service is still unsatisfactory.

ISSUE 3: Has the utility complied with Commission Orders Nos. 24084 and 25296 with respect to the name change and restructure requirements?

No.

ISSUE 4: Has the utility complied with Commission Orders Nos. 24084 and 25296 with respect to the preventative maintenance requirements?

No.

ISSUE 5: Has the utility complied with Commission Orders Nos. 24084 and 25296 with respect to the escrow requirements?

No.

ORDER NO. PSC-93-0542-FOF-WS  
DOCKET NO. 90025-WS  
PAGE 10

ISSUE 6: What punitive action should the Commission take against the utility?

The record supports fining the utility \$60,572 and taking action to revoke the utility's certificate. The record also supports the Commission's initiating action to reduce the utility's rates to remove from the rate calculation all pro forma plant not constructed by the utility and the allowance for preventative maintenance not performed.

Chapter 367, Florida Statutes, bestows upon the Florida Public Service Commission exclusive jurisdiction over each utility with respect to its authority, service, and rates. Section 367.011(2), Florida Statutes. Further, section 367.011(3), Florida Statutes, declares, "The regulation of utilities is declared to be in the public interest, and this [Chapter] is an exercise of the police power of the state for the protection of the public health, safety, and welfare." In order for this Commission to prevent further violations of its regulatory directives and to protect the health, safety, and welfare of the customers of this utility, we find the above punitive measures are necessary.

### IV. RECOMMENDATION

In consideration of the foregoing, I recommend that the Commission enter an Order consistent with the above findings and conclusions and recommend that the Commission fine the utility \$60,572, take action to revoke the utility's certificate, and initiate action to reduce the utility's rates to remove from the rate calculation all proforma plant not constructed by the utility and the allowance for preventative maintenance not performed.

Upon consideration, we find the Hearing Officer's findings to be supported by competent substantial evidence in the record, and therefore, adopt the Recommended Order in all respects except two. The record reflects that the proceeding related to both the utility's water and wastewater certificates, and not just one of the utility's certificates as the Recommended Order indicates.

ORDER NO. PSC-93-0542-FOF-WS  
DOCKET NO. 90025-WS  
PAGE 11

The second change that we believe is appropriate is that we will not revoke the utility's certificates at this time, but will initiate a proceeding to revoke the certificates. This is because Section 367.045(6), Florida Statutes, provides that the Commission shall give 30 days' notice before it initiates any such action. This was not a proceeding initiated to revoke the utility's certificates. During the 30 days following the notice, the utility will have the opportunity to file an objection to the Commission's notice of intent to initiate a revocation proceeding. If an objection is received, we will set the revocation proceeding for hearing at which time the utility will have the opportunity to put on evidence that revocation of its certificates is not appropriate. Based on the record in that proceeding, the Commission will ultimately determine if it is appropriate to revoke Shady Oaks' water and wastewater certificates.

Upon review and consideration of the complete record, we find that Shady Oaks has violated the provisions of Order Nos. 24084 and 25296 and that it is appropriate to fine the utility \$60,572. We also find it appropriate to initiate a proceeding to revoke the utility's water and wastewater certificates. Finally, we find it appropriate to initiate action to reduce the utility's rates to remove from the rate calculation all pro forma plant not constructed by the utility and the allowance for preventative maintenance not performed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each and every finding herein is specifically approved. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., is hereby fined \$60,572. It is further

ORDERED that this docket shall remain open for the proceeding discussed in the body of this order.

ORDER NO. PSC-93-0542-FOF-WS  
DOCKET NO. 90025-WS  
PAGE 12

By ORDER of the Florida Public Service Commission, this 9th day of April, 1993.

  
STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

SFS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT FJL-8**

**WITNESS: FRANCES J. LINGO**

**ON BEHALF OF THE STAFF**

**OF THE FLORIDA PUBLIC SERVICE COMMISSION**

**DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**ORDER NO. PSC-93-1396-FOF-WS,  
ISSUED SEPTEMBER 27, 1993**

**FLORIDA PUBLIC SERVICE COMMISSION**

**DOCKET NO. 930944 EXHIBIT NO. 9**

**COMPANY:**

**WITNESS:**

**DATE:**



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for Staff- ) DOCKET NO. 900025-WS  
Assisted Rate Case in Pasco ) ORDER NO. PSC-93-1396-FOF-WS  
County by SHADY OAKS MOBILE- ) ISSUED: September 27, 1993  
MODULAR ESTATES, INC. )

The following Commissioners participated in the disposition of this matter:

SUSAN P. CLARK  
JULIA L. JOHNSON

ORDER DENYING MOTION FOR RECONSIDERATION

BY THE COMMISSION:

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. On April 9, 1993, the Commission issued Order No. PSC-93-0542-FOF-WS fining Shady Oaks \$60,572 and ordering that a proceeding to revoke Shady Oaks' water and wastewater certificates be initiated. On April 26, 1993, Shady Oaks filed a Motion for Reconsideration of Order No. PSC-93-0542-FOF-WS.

Shady Oaks' Motion makes one basic argument: the fine imposed was too high. In Order No. PSC-93-0542-FOF-WS, the Commission imposed a fine of \$60,572 which was an amount "equal to rate base." Shady Oaks concedes in its Motion that a fine is appropriate. However, Shady Oaks believes that its conduct was not "egregious" enough to warrant the fine imposed. Specifically, the utility states:

The Commission's decision to fine this utility in an amount "equal to rate base" is grossly disproportionate to any egregious conduct on the part of the utility which was established by the facts in the hearing (which the utility didn't even attend), is contrary to the spirit of Chapter 367, Fla. Stat., and exceeds the Commission's authority. (emphasis added)

Perhaps the most telling statement in Shady Oaks' Motion is the phrase underlined above. The utility did not attend the hearing in this matter--a hearing which the utility had requested. Shady Oaks goes on to state that a much smaller fine would be more appropriate

ORDER NO. PSC-93-1396-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 2

to achieve what it believes should be the purposes of a fine "given the resources of this utility and its owner. . . ."

Shady Oaks argues that the fact that this fine is clearly punitive somehow makes it inappropriate. The Commission's authority to penalize a utility emanates from Section 367.161, Florida Statutes, set forth below:

(1) If any utility, by any authorized officer, agent, or employee, knowingly refuses to comply with, or willfully violates, any provision of this chapter or any lawful rule or order of the commission, such utility shall incur a penalty for each such offense of not more than \$5,000, to be fixed, imposed, and collected by the commission. . . . Each day that such refusal or violation continues constitutes a separate offense. . . .

(2) The commission has the power to impose upon any entity that is subject to its jurisdiction under this chapter and that is found to have refused to comply with, or to have willfully violated, any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$5,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate of authorization issued by it. Each day that such refusal or violation continues constitutes a separate offense. . . .

The Commission's authority to penalize a utility found to have willfully violated its orders could not be more expressly provided. This authority to penalize is intended to secure compliance with Commission statutes, rules and orders both by encouraging an individual utility to comply with Commission statutes, rules and orders and also by letting other utilities know that the Commission has the power to enforce these statutes, rules and orders. This decision regarding Shady Oaks lets them know that the Commission will exercise such power when it is necessary.

This is a large fine in relation to the size of the utility. However, it is not a large fine in relation to the conduct of the utility. We hereby deny Shady Oaks' Motion for Reconsideration of Order No. PSC-93-0542-FOF-WS as it has raised no error in fact or law which the Commission failed to consider in its decision.

DOCUMENT NUMBER-DATE

10335 SEP 27 83

FILED-RECORDS/REPORTING



ORDER NO. PSC-93-1396-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 3

The utility, subsequent to its submission of its Motion for Reconsideration, submitted a letter, dated June 18, 1993, which reflects that it will complete certain requirements that were the subject of the proceeding that resulted in Order No. PSC-93-0542-FOF-WS and which have been outstanding for a long time. However, the time frames included in the letter do not provide any real assurance that the utility intends to rectify these long-standing problems immediately. Therefore, we find that the utility's additional letter proposing certain time frames for specific actions does not support the utility's Motion for Reconsideration.

However, we recognize that the fine is a large amount and that the ultimate goal of this proceeding was to assure that this utility would be operated appropriately. Also, we have already decided that a revocation proceeding should be initiated. Therefore, we believe that, if the utility were to be transferred to some other owner that would assure that it would be run appropriately, it would be reasonable to suspend the fine. Therefore, we will suspend the fine if the utility submits a completed application for transfer or cancellation of its water and wastewater certificates within 120 days of the issuance of this order.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Shady Oaks Mobile-Modular Estates, Inc.'s Motion for Reconsideration of Order No. PSC-93-0542-FOF-WS is hereby denied. It is further

ORDERED that if the utility submits a completed application for transfer or cancellation of its water and wastewater certificates within 120 days of the issuance of this order, the \$60,572 fine shall be suspended.

By ORDER of the Florida Public Service Commission this 27th day of September, 1993.

  
STEVE TRIBBLE Director  
Division of Records and Reporting

( S E A L )  
SFS

ORDER NO. PSC-93-1396-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 4

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT FJL-9**

**WITNESS: FRANCES J. LINGO**

**ON BEHALF OF THE STAFF**

**OF THE FLORIDA PUBLIC SERVICE COMMISSION**

**DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**ORDER NO. PSC-93-1733-FOF-WS,  
ISSUED DECEMBER 1, 1993**

**FLORIDA PUBLIC SERVICE COMMISSION**

**DOCKET**  
**NO. 930944 EXHIBIT NO. 10**  
**COMPANY/**  
**WITNESS: \_\_\_\_\_**  
**DATE: \_\_\_\_\_**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for Staff- ) DOCKET NO. 900025-WS  
Assisted Rate Case in Pasco ) ORDER NO. PSC-93-1733-FOF-WS  
County by SHADY OAKS MOBILE- ) ISSUED: 12-01-93  
MODULAR ESTATES, INC. )

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK  
JULIA L. JOHNSON

FINAL ORDER ALLOWING UTILITY TO COLLECT CURRENT RATES  
IN EVENT OF PROTEST

AND

NOTICE OF PROPOSED AGENCY ACTION  
ORDER REDUCING RATES TO REFLECT REMOVAL OF PROFORMA PLANT  
NOT CONSTRUCTED AND PREVENTATIVE MAINTENANCE NOT SPENT  
AND REQUIRING REFUND OF ESCROW

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein, except for the allowance of the current rates to remain in effect in the event of a protest, is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) is a Class C water and wastewater utility located in Pasco County. Based on information contained in the utility's 1992 annual report, the water system generated operating revenues of \$21,899 and incurred operating expenses of \$35,756, resulting in a net operating loss of \$13,857. The wastewater system generated operating revenues of \$43,467 and incurred operating expenses of \$38,899, resulting in a net operating income of \$4,568.

ORDER NO. PSC-93-1733-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 2

On March 7, 1989, the utility signed a Consent Final Judgment with the Department of Environmental Protection (DEP). The utility agreed to construct an additional effluent disposal system, to eliminate discharge from the plant, and to establish a new percolation pond. The utility agreed to submit an application for a construction permit within 60 days of the date of the order.

On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. On February 8, 1991, the Commission issued proposed agency action Order No. 24084, which approved a rate increase and required the utility to do the following:

- 1) File a request for acknowledgement of a restructure and a name change;
- 2) Bring the quality of service to a satisfactory level;
- 3) Spend at least 85 percent of the allowance for preventative maintenance, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance;
- 4) Install meters for all of its customers; and
- 5) Escrow a certain portion of the monthly rates.

The utility was also authorized to charge flat rates for six months, at the end of which time the base facility charge rate structure became effective. In that case, the base facility charge rates automatically became effective on October 1, 1991.

On March 1, 1991, several utility customers timely filed a protest to Order No. 24084. In their protest, the customers objected to the location of the percolation pond proposed by the utility. Because we have no jurisdiction to dictate the location of the proposed percolation pond, by Order No. 24409, issued April 22, 1991, we dismissed the protest and revived Order No. 24084, making it final and effective.

On June 24, 1991, in response to a suit filed by the homeowners, Judge Lynn Tepper with the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida, granted an emergency temporary injunction enjoining and restraining the utility from charging or attempting to collect the new utility rates.

DOCUMENT NUMBER-DATE

12825 DEC-18

FPSC-RECORDS/REPORTING

ORDER NO. PSC-93-1733-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 3

On July 5, 1991, Judge Wayne L. Cobb with the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida, issued an Order to Show Cause why Shady Oaks should not be punished for contempt of Court for willfully and deliberately violating a 1983 order of the Court that prohibited the utility from charging more than \$25 per month as a service maintenance fee (which included the provision of water and wastewater service). The July 5, 1991 order further enjoined the utility from collecting the utility rates established by this Commission and ordered that the \$25 per month service maintenance fee be tendered to the Clerk of the Circuit Court. In August 1991, both injunctions were lifted and the utility was able to begin collecting revenues.

The utility never applied for its construction permit as required by the Consent Final Judgment. Therefore, on July 8, 1991, as a result of a stipulated settlement of a motion for contempt brought against the utility by DEP, Judge Lynn Tepper ordered the utility to interconnect its wastewater system with Pasco County, rather than construct new disposal facilities. The utility was given six months from the date of the order to complete the interconnection. The utility has failed to interconnect its wastewater system to Pasco County; therefore, it is in violation of a court order. In addition, the utility was operating without a permit from DEP.

On November 4, 1991, the Commission issued Order No. 25296, which determined the utility's noncompliance with Order No. 24084. Order No. 25296 required the utility to:

- 1) Submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name;
- 2) Immediately place in the escrow account all funds necessary to bring said account to its proper balance;
- 3) Install water meters for all of its customers; and
- 4) Improve the quality of service and interconnect with the Pasco County wastewater treatment system;

Because numerous customers did not pay their utility bills as a result of a court dispute over the utility's rates, Order No. 25296 allowed the utility to charge the flat rates for an additional five months. Beginning in December 1991, the utility once again began charging flat rates.

ORDER NO. PSC-93-1733-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 4

On May 14, 1992, the Commission issued two additional orders in this case. By Order No. PSC-92-0367-FOF-WS, the Commission imposed a \$2,000 fine that had been previously suspended, and ordered the utility to show cause why it should not be fined for each item of noncompliance found in Orders Nos. 24084 and 25296. At the utility's request, these matters were set for hearing. By Order No. PSC-92-0356-FOF-WS, the Commission ordered the utility to issue credits to those customers who had paid a delinquent purchased power bill for the utility.

In June 1992, the utility completed the installation of all of the required water meters. By Order No. PSC-92-0723-FOF-WS, issued July 28, 1992, the Commission ordered the utility to implement the base facility and gallonage charge rates that had been approved in Order No. 24084. The utility implemented the new rates effective September 25, 1992.

In July 1992, the utility requested that the escrow requirements set forth in Orders Nos. 24084 and 25296 be suspended for a period of several months. By Order No. PSC-92-1116-FOF-WS, issued October 5, 1992, the Commission denied the utility's request to suspend the escrow account requirements. On October 26, 1992, the utility timely filed a protest to that Order.

A hearing regarding the utility's noncompliance with Orders Nos. 24084 and 25296 was held on January 7, 1993 in Zephyrhills, Florida. The utility, although it requested the hearing, did not attend the hearing. By Order No. PSC-93-0542-FOF-WS, issued April 9, 1993, the Commission:

- 1) Fined the utility in the amount of its rate base;
- 2) Ordered that a proceeding be initiated to reduce the utility's rates by the amount of pro forma plant not constructed and the amount of preventative maintenance not spent; and
- 3) Ordered that revocation proceedings be initiated.

The utility filed a Motion for Reconsideration of Order No. PSC-93-0542-FOF-WS. However, the utility's Motion for Reconsideration was denied by Order No. PSC-93-1396-FOF-WS, issued September 27, 1993. In accordance with Order No. PSC-93-0542-FOF-WS, Docket No. 930944-WS has been opened to initiate proceedings to revoke the utility's water and wastewater certificates.

ORDER NO. PSC-93-1733-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 5

In preparation for the prehearing relating to the escrow requirements, Commission staff met with the utility in an attempt to resolve certain concerns of the utility. Specifically, the utility contended that it was unable to meet its escrow requirements due to a shortfall in revenues collected. This Commission agreed to have staff review the utility's contended revenue shortfall within the context of the proceeding to reduce the utility's rates. Consequently, the utility withdrew its escrow-related protest. Therefore, the prehearing and hearing relating to the escrow accounts were cancelled by Order No. PSC-93-0777-PCO-WS, issued May 20, 1993.

This Order addresses the reduction of the utility's rates by the amount of pro forma plant not constructed and the amount of preventative maintenance not spent, and the appropriate disposition of all escrow-related monies.

#### RATE BASE

Our calculation of the appropriate rate base for the purpose of this proceeding is depicted on Schedule No. 1, and our adjustments are itemized on Schedule No. 1-A. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on those schedules without further discussion in the body of this Order. The major adjustments are discussed below.

In accordance with Order No. PSC-93-0542-FOF-WS, we have made several adjustments to the pro forma allowances reflected in Order No. 24084.

#### Water System

By Order No. 24084, we approved a \$29,812 balance for the water system. This balance included an allowance of \$18,500 in plant in service for the pro forma installation of water meters, and an allowance of \$1,092 for the additional accumulated depreciation associated with those meters. The water meters were installed in June 1992. Based upon our review of the contracts associated with the meter installations, the actual cost of the water meters was \$21,530. Therefore, we find that an adjustment of \$3,030 (\$21,530 - \$18,500) to plant in service reflecting the additional cost of the meters, and a corresponding adjustment of \$179 to the accumulated depreciation account, is appropriate. In

ORDER NO. PSC-93-1733-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 6

consideration of the foregoing, the appropriate rate base balance for water is \$32,663.

#### Wastewater System

By Order No. 24084, we approved a \$204,157 balance for the wastewater system. This balance included a net pro forma allowance of \$173,397, itemized as follows: 1) \$127,265 for pro forma plant additions; 2) \$50,841 for a pro forma land addition; and 3) \$4,709 for the additional accumulated depreciation associated with the pro forma plant in service allowance. Because the utility failed to construct any of the pro forma additions allowed by Order No. 24084, pursuant to Order No. PSC-93-0542-FOF-WS, we find it appropriate to remove the aforementioned items from the rate base calculation. In consideration of the foregoing, the appropriate rate base balance for wastewater is \$30,760.

#### REDUCTION IN RATES

We believe that reducing the utility's rates based on a strict adherence to Order No. PSC-93-0542-FOF-WS would jeopardize the financial viability of the utility. Therefore, in arriving at our adjustments and finding below, we have reviewed the utility's revenues, expenses, and consumption data for the most recent 12-month period available, which is June 1992 through May 1993. A discussion of the adjustments to revenues and expenses follows.

#### Operating Revenues

For the period of June 1992 through May 1993, the utility's revenues were \$18,960 for the water system and \$36,144 for the wastewater system. These amounts are less than the corresponding amounts of \$32,639 and \$62,779, respectively, that were contemplated in Order No. 24084.

This revenue shortfall is attributable to conversion from a flat rate structure to a base facility and gallonage rate structure. Since the utility did not have metered consumption at the time the rates were set in Order No. 24084, we had estimated the annual consumption based on standard engineering criteria. However, the actual consumption is approximately 1/2 less than what was projected, which has led to the utility collecting less revenues than was anticipated. For purposes of calculating the rate reduction for this Order, we find that the appropriate revenues are \$18,960 for water and \$36,144 for wastewater.

ORDER NO. PSC-93-1733-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 7

#### Operating Expenses

We believe it is inappropriate to review the utility's revenues or cash inflows without also reviewing the utility's expenses or cash outflows. Therefore, we reviewed the utility's expenses for the period of June 1992 through May 1993, and made numerous adjustments to those amounts recorded by the utility. A discussion of the adjustments follows.

#### Operation and Maintenance (O&M) Expenses

The utility recorded water system expenses of \$21,568 and wastewater system expenses of \$30,075 during the period, for a combined systems total of \$51,643. We examined each O&M expense account, and compared the utility's allocations to those approved in Order No. 24084. There were numerous adjustments that were necessary to be consistent with the allocations in that Order. In addition, we have reviewed and reclassified all expenses related to prior periods, and disallowed all nonutility expenses.

Based upon a review of these expenses, we believe it is appropriate to reclassify a combined systems total of \$20,811 of these expenses as either nonutility or prior period expenses. We also made other adjustments and reclassifications to the various O&M expense accounts, most notably to the salaries accounts for the respective systems.

The utility recorded salaries of employees and officers of \$7,418 for the water system and \$7,388 for the wastewater system during the period. However, these amounts reflect the net, rather than gross, salaries amounts. We have adjusted these totals to reflect the proper gross salaries for each system.

In addition, the utility also recorded a combined systems total of \$5,716 as owner's draws. The majority of this amount (90 percent) represents checks that were made out either to cash or to Mr. Sims, the owner of the utility. We find that it is appropriate to reclassify the entire amount classified as owner's draws to salaries for both the water and wastewater systems.

The adjustments and reclassification result in salaries expenses of \$10,576 for the water system and \$9,946 for the wastewater system. However, the total salaries for both employees and officers allowed in Order No. 24084 are \$6,000 for the water system and \$4,800 for the wastewater system. Therefore, we have

ORDER NO. PSC-93-1733-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 8

reduced the total salaries amounts recorded by the utility by a total of \$9,722 to reflect the allowances in Order No. 24084.

As a result of the adjustments and reclassifications to the various O&M accounts, the resulting O&M expense balances are \$14,418 for the water system and \$12,796 for the wastewater system. Based on information obtained from the utility, these balances, which are less than the balances in Order No. 24084 even if all preventative maintenance allowances are excluded, do not include any preventative maintenance expenses. Therefore, no further adjustments were made to these expenses.

#### Depreciation Expense (Net of CIAC Amortization)

The amount allowed in Order No. 24084 for depreciation expense, net of CIAC amortization, for the water system is \$1,533. As discussed earlier, we found it appropriate to increase the water system plant in service balance by \$3,030 to reflect the additional cost of meters not reflected in Order No. 24084. Depreciation expense for the water system as reflected in Order No. 24084 must also be increased by \$179 to reflect the corresponding expense associated with the additional meters allowance. The resulting depreciation expense for the water system is \$1,712.

The amount allowed in Order No. 24084 for depreciation expense, net of CIAC amortization, for the wastewater system is \$6,233. As discussed earlier, we found it appropriate that the wastewater system plant in service balance be reduced by \$127,265 to remove pro forma plant additions not yet constructed. Therefore, depreciation expense for the wastewater system as reflected in Order No. 24084 must also be decreased by \$4,709 to reflect the corresponding expense associated with the reduction to plant in service. The resulting depreciation expense for the wastewater system is \$1,524.

#### Amortization Expense

In Order No. 24084, it was contemplated that the utility would retire the land associated with the existing percolation pond, and would recognize an amortized gain of \$2,386 for rate setting purposes. However, since the utility has neither constructed new facilities nor retired its existing facilities, we have removed the gain from the revenue requirement calculation.

ORDER NO. PSC-93-1733-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 9

#### Taxes Other Than Income Taxes

The amount allowed in Order No. 24084 for taxes other than income taxes for the water system was \$2,090. We removed the regulatory assessment fees associated with the revenue requirement reflected in the Order, and added the corresponding fees associated with our approved revenues. Therefore, the appropriate balance for the water system is \$1,474.

The amount allowed in Order No. 24084 for taxes other than income taxes for the wastewater system was \$5,318. We removed the regulatory assessment fees associated with the revenue requirement reflected in the Order, and added the corresponding fees associated with our approved revenues. After reducing the balance by the amount of fees associated with our revenue reduction, the appropriate taxes other than income taxes balance for the wastewater system is \$1,728.

#### REVENUE REQUIREMENT

Based upon our review of the utility's books and records and based upon the adjustments discussed above, we find that the appropriate revenue requirements are \$18,960 for water and \$22,366 for wastewater. The revenue requirement for the water system will allow the utility the opportunity to recover its utility-related operating expenses and earn a 4.15 percent return on its investment. Furthermore, the revenue requirement for the wastewater system will allow the utility the opportunity to recover its utility-related operating expenses and earn a 20.54 percent return on its investment. The revenue requirements for the respective systems, on a combined basis, will allow the utility the opportunity to recover its utility-related operating expenses and earn its authorized return of 12.10 percent.

#### RATES AND CHARGES

Consistent with the use of current revenues and expenses during the most recent 12-month period, we find it appropriate that the rates be based on factored equivalent residential connections (ERCs) and actual gallons sold to customers during the same period. Approximately 67 percent (or \$12,642) of the water revenue requirement is associated with the fixed costs of providing service. These fixed costs are recovered through the base facility

ORDER NO. PSC-93-1733-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 10

charge based on the annualized number of factored ERCs or 2,172 ERCs. The remaining 33 percent (or \$6,317) of the water revenue requirement represents the variable costs of providing service, which are recovered through the consumption charge based on 6,497,300 gallons sold during the 12-month period.

Approximately 50 percent (or \$11,100) of the wastewater revenue requirement is associated with the fixed costs of providing service. These fixed costs are recovered through the base facility charge based on the annualized number of factored ERCs or 2,148 ERCs. The remaining 50 percent (or \$11,266) of the wastewater revenue requirement represents the variable costs of providing service, which are recovered through the consumption charge based on 4,802,875 gallons treated during the 12-month period.

Based on the foregoing, we find that the appropriate rates are base facility and gallonage charges of \$5.82 and \$0.97, respectively, for the water system, and corresponding charges of \$5.17 and \$2.35, respectively, for the wastewater system. Our approved rates and charges are set forth below.

#### MONTHLY RATES - WATER

##### Residential and General Service

	Current Rates	Commission Approved Rates
<u>Base Facility Charge:</u>		
<u>Meter Sizes:</u>		
5/8" x 3/4"	\$ 6.34	\$ 5.82
3/4"	9.51	8.73
1"	14.84	14.55
1 1/2"	29.01	29.10
2"	46.02	46.56
3"	91.36	93.13
4"	142.36	142.52
6"	284.05	291.03
<u>Consumption Charge:</u>		
Per 1,000 Gallons	\$ 1.39	\$ 0.97

ORDER NO. PSC-93-1733-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 11

# MONTHLY RATES - WASTEWATER

## Residential and General Service

	Current Rates	Commission Approved Rates
<u>Base Facility Charge:</u>		
<u>Meter Sizes:</u>		
5/8" x 3/4"	\$ 12.50	\$ 5.17
3/4"	18.75	7.75
1"	31.08	12.92
1 1/2"	62.02	25.84
2"	99.15	41.34
3"	198.16	82.68
4"	309.55	129.20
6"	618.96	258.39
<u>Consumption Charge:</u>		
Per 1,000 Gallons		
Residential		
(6,000 gal. max)	\$ 2.63	\$ 2.35
General Service	3.15	2.81

## ESCROW ACCOUNT

The balance in the escrow account as of June 30, 1993 is \$9,434, and the appropriate balance in the escrow account as of that date is \$30,450. Because we do not have the information from the utility necessary to calculate the appropriate balance in the escrow account as of the date of our vote on October 19, 1993, the utility shall, within 30 days of the effective date of this order, provide us with all of the documents necessary to calculate the appropriate balance in the escrow account as of October 19, 1993.

An analysis of the escrow account as of June 30, 1993, is shown on Schedule No. 2.

## Disposition of Escrow Account

As shown on Schedule No. 2, the utility has failed to maintain the escrow account at its proper balance. As ordered earlier, the utility shall provide our Staff with all documents necessary to calculate the appropriate balance in the escrow account (and the

ORDER NO. PSC-93-1733-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 12

total related underfunding of the escrow account) as of October 19, 1993. Due to the underfunding of the escrow account, we find that it is appropriate that the utility refund to its customers the entire balance of all monies currently in the escrow account within 30 days of the effective date of this order.

The total calculated underfunding of the escrow account, less the pro rata share of the escrow requirement relating to the pro forma water meters, shall be refunded to the utility's customers in the form of credits on the customers' bills. The refund shall be paid with interest, calculated pursuant to Rule 25-30.360(4), Florida Administrative Code. The pro rata share of the escrow requirement relating to the pro forma water meters shall be credited to the utility to recognize the portion of the escrow requirement relating to the pro forma water meters. Since all pro forma items have been removed from the rates, there is no longer a need to escrow funds. Therefore, the appropriate escrow requirement on a prospective basis is \$0.

Although we lack the information necessary to calculate the appropriate balance in the escrow account as of October 19, 1993, we estimate that the additional underfunding in the escrow account for the period of July 1993 to October 19, 1993, is approximately \$3,000. Therefore, an estimate of the total underfunding in the escrow account is approximately \$24,000 (\$21,016 from Schedule No. 2 + \$3,000). However, as discussed earlier, the pro rata share of the escrow requirement relating to the pro forma water meters shall be credited to the utility to recognize the portion of the escrow requirement relating to the pro forma water meters. This will slightly reduce the total amount to be refunded to the customers.

The net operating income for the combined systems is \$7,674 (\$1,356 for the water system and \$6,318 for the wastewater system). We find that the utility shall apply all of its net operating income to the customer refunds. Based on the total estimated amount the escrow account is underfunded and the net operating income available to apply toward refunds, we find that the appropriate length of time for the utility to refund is 36 months (\$24,000 / \$7,674 \* 12).

In order for our Staff to adequately monitor these refunds, the utility shall file monthly reports with the Commission, due no later than 20 days after each monthly billing. These reports shall indicate the actual consumption for each customer for the most recent period, the amount credited to each customer for the most



ORDER NO. PSC-93-1733-POF-WS  
DOCKET NO. 900025-WS  
PAGE 13

recent period, and the resulting amount actually billed to each customer. These reports shall be filed each month until the appropriate total refund associated with the escrow underfunding has been made.

#### EFFECTIVE DATES

This Order proposes a decrease in water and wastewater rates. A timely protest might delay what may be a justified rate decrease resulting in an unrefundable overcharge to the customers. Therefore, in the event of a protest, the current rates shall remain in effect pending the resolution of the protest. The portion of the current rates in excess of the rates proposed herein shall be held subject to refund, with interest, on a temporary basis, pending the resolution of the protest. If the proposed rates are approved, the portion of the current rates collected by the utility in excess of the proposed rates shall be subject to the refund provisions discussed below.

The utility shall be authorized to continue collecting the current rates upon the Staff's approval of security for both the potential refund and a copy of the proposed customer notice. The security shall be in the form of a bond in the amount of \$9,380. The bond shall contain wording to the effect that it will be terminated only under the following conditions:

- 1) The Commission denies the rate decrease; or
- 2) If the Commission approves the decrease, the utility shall refund the amount collected that is attributable to the decrease.

In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the utility. An account of all monies received should be maintained by the utility. This account must specify by whom and on whose behalf such monies were paid. If a refund is ultimately required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code.

The utility shall maintain a record of the amount of the security provided, and the amount of revenues that are subject to refund. After the decreased rates are in effect, the utility should file reports with the Division of Water and Wastewater no

ORDER NO. PSC-93-1733-POF-WS  
DOCKET NO. 900025-WS  
PAGE 14

later than 20 days after each monthly billing. These reports shall indicate the amount of revenue collected under the current rates as well as what would have been collected under the decreased rates.

In the event no protest is received, the revised rates shall be effective for meter readings taken 30 days on or after the stamped approval date on the revised tariff sheets. Tariff sheets will not be approved until Staff verifies that the tariff sheets are consistent with the Commission's decision, and that the proposed customer notice is adequate.

This docket shall remain open pending receipt of all the documentation necessary to calculate the appropriate balance in the escrow account as of October 19, 1993, and also to allow Staff time to monitor the refunds.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that all matters contained in the body of this Order and in Schedules attached hereto are by reference incorporated herein. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc.'s rates shall be reduced to the extent set forth herein, to reflect removal of pro forma plant not constructed and preventative maintenance not spent. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., shall, within 30 days of the effective date of this order, provide the Commission Staff with all of the documents necessary to calculate the appropriate balance in the escrow account as of October 19, 1993. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., refund to its customers the entire balance of all monies currently in the escrow account within 30 days of the effective date of this order. It is further

ORDERED that the total calculated underfunding of the escrow account, less the pro rata share of the escrow requirement relating to the pro forma water meters, shall be refunded to the utility's

ORDER NO. PSC-93-1733-POF-WS  
DOCKET NO. 900025-WS  
PAGE 15

customers in the form of credits on the customers' bills. The pro rata share of the escrow requirement relating to the pro forma water meters shall be credited to the utility to recognize the portion of the escrow requirement relating to the pro forma water meters. It is further

ORDERED that the refund shall be paid with interest, calculated pursuant to Rule 25-30.360(4), Florida Administrative Code. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., shall file monthly reports with the Commission, due no later than 20 days after each monthly billing. These reports shall indicate the actual consumption for each customer for the most recent period, the amount credited to each customer for the most recent period, and the resulting amount actually billed to each customer. These reports shall be filed each month until the appropriate total refund associated with the escrow underfunding has been made. It is further

ORDERED that the provisions of this Order, are issued as proposed agency action, except for the allowance of the current rates to remain in effect in the event of a protest and with the difference in the proposed rates and the current rates held subject to refund, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that, in the event of a protest, the current rates shall remain in effect pending the resolution of the protest. The portion of the current rates in excess of the rates proposed herein shall be held subject to refund, with interest, on a temporary basis, pending the resolution of the protest. If the proposed rates are approved, the portion of the current rates collected by the utility in excess of the proposed rates shall be subject to the refund provisions discussed herein. It is further

ORDERED that, in the event of a protest, Shady Oaks Mobile-Modular Estates, Inc., shall be authorized to continue collecting the current rates upon the Staff's approval of security for both the potential refund and a copy of the proposed customer notice.

ORDER NO. PSC-93-1733-POF-WS  
DOCKET NO. 900025-WS  
PAGE 16

The security shall be in the form of a bond in the amount of \$9,380. It is further

ORDERED that in the event no protest is received, the revised rates shall be effective for meter readings taken 30 days on or after the stamped approval date on the revised tariff sheets. It is further

ORDERED that the tariff sheets will be approved upon Staff's verification that the tariff sheets are consistent with the Commission's decision, that the proper security for refund has been provided, and that the proposed customer notice is adequate. It is further

ORDERED that this docket remain open pending receipt of all the documentation necessary to calculate the appropriate balance in the escrow account as of October 19, 1993, and also to allow Staff time to monitor the refunds.

By ORDER of the Florida Public Service Commission, this 1st day of December, 1993.

STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

LAJ/dr

by Kay Dwyer  
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

ORDER NO. PSC-93-1733-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 17

The action proposed herein, except for the allowance of the current rates to remain in effect in the event of a protest, is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on December 22, 1993.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

ORDER NO. PSC-93-1733-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 18

SCHEDULE NO. 1  
Page 1 of 2

SHADY OAKS MOBILE-MODULAR ESTATES, INC.  
DOCKET NO. 900025-WS  
TEST YEAR ENDED JUNE 30, 1990

--- WATER SYSTEM ---

Account Title *****	Pro Forma Test Year per Order No. 24084 *****	Adjustments to Commission-- Approved Balance *****	Adjusted Balance per Commission *****
Depreciable Plant in Service	56,372	3,030 A	59,402
Land and Land Rights	730	0	730
Plant Held for Future Use	0	0	0
Contributions in Aid of Construction (CIAC)	(28,103)	0	(28,103)
Accumulated Depreciation	(10,028)	(179) C	(10,207)
Accumulated Amortization of CIAC	5,665	0	5,665
Working Capital Allowance	3,176	0	3,176
	29,812	2,851	32,663
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ORDER NO. PSC-93-1733-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 19

SCHEDULE NO. 1  
Page 2 of 2

SHADY OAKS MOBILE-MODULAR ESTATES, INC.  
DOCKET NO. 900025-WS  
TEST YEAR ENDED JUNE 30, 1990

--- WASTEWATER SYSTEM ---

Account Title	Pro Forma Test Year per Order No. 24084	Adjustments to Commission-- Approved Balance	Adjusted Balance per Commission
Depreciable Plant in Service	230,811	(127,265) A	103,546
Land and Land Rights	53,907	(50,841) B	3,066
Plant Held for Future Use	0	0	0
Contributions in Aid of Construction (CIAC)	(58,956)	0	(58,956)
Accumulated Depreciation	(40,701)	4,709 C	(35,992)
Accumulated Amortization of CIAC	15,483	0	15,483
Working Capital Allowance	3,613	0	3,613
	204,157	(173,397)	30,760

ORDER NO. PSC-93-1733-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 20

SCHEDULE NO. 1A

SHADY OAKS MOBILE-MODULAR ESTATES, INC.  
DOCKET NO. 900025-WS  
TEST YEAR ENDED JUNE 30, 1990

ADJUSTMENTS TO RATE BASE

	WATER	WASTEWATER
A. DEPRECIABLE PLANT IN SERVICE:		
1. Reflect the additional cost of meters in excess of allowance in Order No. 24084	3,030	
2. Remove pro forma plant not constructed pursuant to Order No. PSC-93-0542-FOF-WS		(127,265)
B. LAND AND LAND RIGHTS:		
1. Remove pro forma land associated with pro forma plant not constructed pursuant to Order No. PSC-93-0542-FOF-WS		(50,841)
C. ACCUMULATED DEPRECIATION:		
1. Reflect additional accumulated depreciation associated with additional allowance for meters	(179)	
2. Remove accumulated depreciation associated with pro forma plant not constructed		4,709
TOTAL RATE BASE ADJUSTMENTS:	2,651	(173,397)

ORDER NO. PSC-93-1733-FOF-W8  
DOCKET NO. 900025-W8  
PAGE 21

SCHEDULE NO. 2

SHADY OAKS MOBILE-MODULAR ESTATES, INC.  
DOCKET NO. 900025-W8  
TEST YEAR ENDED JUNE 30, 1990

ANALYSIS OF BALANCE  
IN ESCROW ACCOUNT

Month/Year	Revenues Collected	Revenues Subject to Escrow	Appropriate Total Amount In Escrow	Actual Ending Monthly Balance In Escrow	Amount Over (Under) Escrowed
31-Mar-91	4,176	1,332	393	264	(109)
30-Apr-91	792	731	609	635	26
31-May-91	695	646	800	891	92
30-Jun-91	797	776	1,031	1,136	106
31-Jul-91	668	656	1,229	1,201	(28)
31-Aug-91	4,710	4,683	2,611	1,205	(1,406)
30-Sep-91	4,859	4,840	4,044	1,208	(2,836)
31-Oct-91	3,070	1,590	4,515	1,211	(3,304)
30-Nov-91	3,092	387	4,829	1,214	(3,615)
31-Dec-91	6,307	5,287	6,192	2,093	(4,100)
31-Jan-92	7,433	7,221	8,326	3,443	(4,884)
29-Feb-92	6,849	6,621	10,286	4,750	(5,535)
31-Mar-92	6,888	6,778	12,294	6,611	(5,683)
30-Apr-92	6,554	6,554	14,230	7,417	(6,813)
31-May-92	4,921	4,921	15,477	8,269	(7,208)
30-Jun-92	3,718	3,718	16,424	9,213	(7,211)
31-Jul-92	3,417	3,417	17,287	9,280	(8,007)
31-Aug-92	3,503	3,503	18,175	9,296	(8,879)
30-Sep-92	3,804	3,804	19,138	9,310	(9,827)
31-Oct-92	3,570	0	19,137	9,324	(9,813)
30-Nov-92	5,533	2,503	20,124	9,338	(10,786)
31-Dec-92	4,918	1,859	20,955	9,352	(11,603)
31-Jan-93	5,393	2,371	21,880	9,365	(12,515)
29-Feb-93	6,835	5,745	23,019	9,379	(14,439)
31-Mar-93	13,673	10,944	27,079	9,393	(17,686)
30-Apr-93	4,997	3,099	28,378	9,407	(18,969)
31-May-93	5,708	2,672	29,604	9,421	(20,183)
30-Jun-93	4,984	1,977	30,450	9,434	(21,016)
	133,846	98,633			

**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT FJL-10**

**WITNESS: FRANCES J. LINGO**

**ON BEHALF OF THE STAFF**

**OF THE FLORIDA PUBLIC SERVICE COMMISSION**

**DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**TRANSCRIPT FROM JANUARY 7, 1993 SHOW CAUSE HEARING**

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET NO. 930944 EXHIBIT NO. 11  
COMPANY/ FPSC/Lingo  
WITNESS:                       
DATE:

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

-----  
In The Matter of :  
Application for Staff- : DOCKET NO. 900025-WS  
Assisted Rate Case in Pasco :  
County by SHADY OAKS MOBILE- :  
MODULAR ESTATES, INC. :  
-----

PROCEEDING: HEARING

BEFORE: COMMISSIONER THOMAS M. BEARD  
HEARING OFFICER

DATE: Thursday, January 7, 1993

TIME: Commenced at 10:00 a.m.  
Concluded at 11:40 a.m.

LOCATION: Recreation Center  
Shady Oaks Mobile-Modular  
Estates, Inc.  
1702 Highway 39 South  
Zephyrhills, Florida

REPORTED BY: SYDNEY C. SILVA, CSR, RPR  
Official Commission Reporter

1 APPEARANCES:

2 MATTHEW FEIL, FPSC Division of Legal  
3 Services, 101 East Gaines Street, Tallahassee, Florida  
4 32399-0863, Telephone (904) 487-2740, on behalf of the  
5 Commission Staff.

6 RICHARD BELLAK, FPSC Office of General  
7 Counsel, Division of Appeals, 101 East Gaines Street,  
8 Tallahassee, Florida 32399-0863, Telephone No. (904)  
9 488-7464, Counsel to the Commissioners.

10  
11  
12 ALSO PRESENT:

13 BRENDA MONROE, FPSC Information Services.  
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I N D E X

MISCELLANEOUS

STAFF'S MOTION TO COMPEL, REQUEST FOR  
SANCTIONS, AND MOTION TO DISMISS  
SHADY OAKS AS A PARTY

8

CERTIFICATE OF REPORTER

89

WITNESSES

PAGE NO.

VIRGINIA BREMER

Direct Statement

13

BARBARA ARNOLD

Direct Statement

23

LAMONT WILCH

Direct Statement

26

ALVIN LACHAPELLE

Direct Statement

28

MARIE KELLNHOFER

Direct Statement

30

JOHN CLOPTON

Direct Statement

40

ROBERT BIRD

Direct Statement

43

DOROTHY BIRD

Direct Statement

45

EDMUND POIRIER

Direct Statement

52

STANLEY D. RIEGER

Direct Examination by Mr. Feil

54

Prefiled Testimony Inserted

56

FRANCES J. LINGO

Direct Examination by Mr. Feil

72

Prefiled Direct Testimony Inserted

74

EXHIBITS

<u>Number:</u>	<u>Identified</u>	<u>Admitted</u>
1 (Bremer) Letter January 6, 1993, to FPSC, with attachments	22	86
2 (Kellnhofer) Letter to Mr. Sims	35	86
3 (Bird) Letter from Elmer Dean	44	86
4 (Composite) (Bird) Signed Statements regarding unsatisfactory service and other customer service documentation	50	86
5 (Composite) (Lingo) Exhibits FJL-1 through 8	73	86
6 (Composite) (Lingo) Discovery And responses to Discovery	83	86

P R O C E E D I N G S

(Hearing convened at 10:00 a.m.)

COMMISSIONER BEARD: If I could get everyone's attention, please?

Good morning. My name is Tom Beard and I am one of the Commissioners with the Florida Public Service Commission. And we're here today to take up an issue of a show cause against the Utility, I guess it's Shady Oaks Mobile Home Utility. And one of the primary purposes today in doing that will also be to hear from customers on any of the issues related to that.

I think there had been some question about how I as a Hearing Officer as opposed to having five Commissioners would work, and I will explain that to you. If you will bear with me just a minute, we need to do a few things, a few minor formalities, and get those out of the way; and that way, my lawyers can keep me out of trouble. So if you will bear with me for just a minute, we'll do that and then proceed from there.

Do you want to read the notice?

MR. FEIL: Yes, sir. Pursuant to notice, this time and place has been designated for the hearing in Docket No. 900025-WS, Application for a Staff-assisted rate case in Pasco County by Shady Oaks

1 Mobile-Modular Estates, Inc.

2 COMMISSIONER BEARD: Take appearances.

3 MR. FEIL: Matthew Feil representing the  
4 Commission Staff.

5 MR. BELLAK: Richard Bellak representing the  
6 Commissioners.

7 COMMISSIONER BEARD: I guess the record  
8 should show there is no legal counsel present for the  
9 Utility?

10 MR. FEIL: It would appear so, sir.

11 COMMISSIONER BEARD: Okay. Now, let me just  
12 briefly tell you a little bit how this works.

13 At the Commission we hear cases a variety of  
14 ways. Sometimes all five Commissioners will sit on a  
15 case; sometimes you will have three Commissioners that  
16 will sit as a panel and they will actually have the  
17 hearing; sometimes it's two Commissioners. And quite  
18 often in water and wastewater cases that is the  
19 situation because we're traveling typically to the  
20 area, just like we are today. Given the work load and  
21 the number of hearings we do, we have to split up.

22 In addition to that, sometimes we will do  
23 what is known as a Hearing Officer. And that will be  
24 the situation that we have today where I as the  
25 Commissioner will come and I will formally hold the

1 hearing; hear all the evidence; and the Staff will make  
2 a recommendation that I will approve or modify or deal  
3 with; and then I will recommend that to the full  
4 Commission. And they will have the ability to not only  
5 to read the transcripts from this hearing and look at  
6 all the information from the hearing, they will then  
7 look at the Staff's recommendation and any comments  
8 that I have. And then we will actually have a ruling  
9 on that from all five Commissioners. So they will be  
10 involved.

11 And as a part of that, the Staff and myself  
12 will be available for questions as to what occurred  
13 here today so we can try to make sure that they have a  
14 full and accurate picture. And it is very much the way  
15 we do business based on the work load.

16 Also, it sometimes helps to save a few  
17 taxpayer dollars if there's one of us that can come on  
18 a situation like this that is pretty factual and  
19 specific and not as much of a policy type decision, we  
20 can hopefully spend a few less taxpayer dollars in  
21 trying to do the same job.

22 So that's what we're doing today. At this  
23 point, I guess I had better stop and let Staff, how do  
24 you want to proceed on this this morning?

25 MR. FEIL: Mr. Commissioner, we do have one

1 preliminary matter, one outstanding motion. That was  
2 Staff's Motion to Compel, Request for Sanctions, and a  
3 Motion to Dismiss Shady Oaks as a Party.

4 Basically, what we asked for here was to  
5 compel the Utility to respond to some interrogatories.  
6 This motion was filed after the Prehearing Order was  
7 issued, by the way. I have a copy of it if you don't,  
8 sir.

9 COMMISSIONER BEARD: Let me dig out the file  
10 and see.

11 MR. FEIL: In summary, what this asked for  
12 was to compel responses to some of Staff's discovery,  
13 to ask for sanctions against the Utility, and to  
14 dismiss the Utility as a party to the proceeding.

15 Since it appears that the Utility is not  
16 going to be here today, the Request for Sanctions and  
17 the Motion to Dismiss Shady Oaks as a Party doesn't  
18 seem to be all that great of use, so I would ask at  
19 this time that you reserve ruling on those two items.

20 But with regards to the Motion to Compel, I  
21 would ask that you find that the Utility did not comply  
22 or did not respond fully to the discovery as set forth  
23 in the motion and that you order the Utility to produce  
24 the requested information by the end of this  
25 proceeding. And that, in conjunction with that, if the

1 Utility does show up and does produce the information,  
2 we'd like to reserve the right to recall our witnesses.

3 COMMISSIONER BEARD: Well, the Motion to  
4 Compel is granted. I'm a little concerned in not  
5 taking up the other two. The sanctions would be in the  
6 form of what?

7 MR. FEIL: You have the option laid out there  
8 in Paragraph 8.

9 COMMISSIONER BEARD: Okay.

10 MR. FEIL: They're listed there. You can  
11 order that the matters regarding the questions asked be  
12 deemed established. You can prohibit the party from  
13 supporting claims, strike pleadings, or dismiss the  
14 action or render a default judgment.

15 One of the reasons that we're here today or  
16 the primary reason that we're here today, even though  
17 the Utility hasn't played its role in this proceeding,  
18 is because there is a case which suggests that when  
19 you're taking punitive action against a regulated  
20 entity, you need to have evidence on the record showing  
21 why that action should be taken. That's why we're  
22 having the hearing, even though the Utility has not  
23 participated.

24 COMMISSIONER BEARD: Okay. I will reserve  
25 ruling on these sanctions. What are the implications

1 if I were to go ahead and dismiss the Utility as a  
2 party to this proceeding? I know that it is somewhat  
3 moot since they're not here, but I also don't want to  
4 be in a position of getting through most of the  
5 testimony this morning and turn around and have  
6 somebody show up at the last second.

7 MR. FEIL: I would suggest that if the  
8 Utility did show up then we could take up that motion  
9 when the Utility shows up; and if he wants to argue his  
10 side of the matter, then we can take it up then.

11 COMMISSIONER BEARD: Okay. The Motion to  
12 Compel is granted and we'll need to move forward on  
13 whatever actions we need to take pursuant to those  
14 records.

15 MR. FEIL: Yes, sir.

16 COMMISSIONER BEARD: Okay, now where are we?

17 MR. FEIL: Although the Prehearing Order  
18 doesn't make it clear, there is an issue with regards  
19 to quality of service. And there are customers here  
20 today, as you can see, and they wish to express to you  
21 their opinions on that issue.

22 COMMISSIONER BEARD: Okay.

23 MR. FEIL: I have a list of persons who have  
24 given me their names.

25 COMMISSIONER BEARD: Let me do this for you



1 all's benefit as well. Some of you may have attended  
2 the rate case type hearings in the past for whatever  
3 reason, but let me tell you what we'd like to do at  
4 this point.

5 We will take testimony -- and I call it that  
6 because we will ask those that come forward to speak to  
7 be sworn in. We do that so that we can incorporate  
8 that as an official part of the record. And we say up  
9 front that we try to keep this just as relaxed and calm  
10 as possible because some people are less comfortable  
11 talking in front of a crowd in front of a microphone.  
12 We want you to be comfortable because we want to hear  
13 what you have to say.

14 There's a couple of ways to do that. Anybody  
15 who wishes to, we'll get your name if we don't already  
16 have it, you can come forward and speak. If there are  
17 those of you out there that are not real comfortable  
18 with the microphone and somebody says what they have to  
19 say and you agree with it and that's what you would  
20 have said, you can come forward and you can say, "I  
21 agree with so-and-so and I would adopt their  
22 testimony." Maybe that's a little more comfortable  
23 for some people.

24 In addition to that, Brenda, do we have the  
25 forms they can fill out?

1 MS. MONROE: Yes. They're attached to the form.

2 COMMISSIONER BEARD: Okay. Attached is a  
3 piece of paper; and if you are even less comfortable  
4 talking in front of the microphone and you wanted to  
5 write out what your thoughts were and sign that, that  
6 will work equally well and become a part of the record.

7 The bottom line is that we want you to be  
8 comfortable, I want to hear what you have to say. We  
9 would ask, especially when you see a crowd of this  
10 size, that you be as concise as you can, and brief.  
11 And if you have written materials, we will be glad to  
12 accept those as well and make those a part of the  
13 record.

14 So the main thing is we want you to be  
15 comfortable and we want to get the information from you.

16 With that, what we'll do is ask each person  
17 to come forward as we call your name. Whoever the  
18 first person is, when they do that, what I'll do for  
19 ease and also to keep things a little bit smoother, I  
20 will ask anybody that has signed up to testify or  
21 wishes to testify, if you will all stand and I'll swear  
22 you all in at one time. It's a little less  
23 confrontational and smoother for everybody.

24 If you will go ahead and call the first person.

25 MR. FEIL: The first person I have on the

1 list is Virginia Bremer. I apologize if I mispronounce  
2 your name.

3 COMMISSIONER BEARD: Come on over here, if  
4 you would. If the rest of you who signed up who wish  
5 to testify, if you will stand now and allow me to swear  
6 everybody in at one time, I would appreciate it.

7 (Witnesses sworn collectively.)

8 COMMISSIONER BEARD: If you will also one  
9 last thing to help us and the court reporter. When you  
10 come up, if you will give us your name, please spell  
11 your last name, and address and we can go from there.

12 VIRGINIA BREMER

13 was called as a witness and, having been duly sworn,  
14 testified as follows:

15 WITNESS BREMER: Virginia Bremer, B as in  
16 Boy, B-R-E-M-E-R. 3655 Muller Drive.

17 COMMISSIONER BEARD: Thank you. Okay.

18 WITNESS BREMER: I'm here today to make a  
19 statement of my dissatisfaction with S&D Utility. My  
20 dissatisfaction actually is threefold. It began prior  
21 to a correspondence dated 10-6-92. It continued  
22 through the replacement of my meter and subsequent to  
23 the replacement of my meter. You gathered probably  
24 that I have a problem with my meter.

25 Okay. Preceding the correspondence of

1 10-6-92, S&D Utility was aware that my consumption was  
2 excessive of norms by any standard. However, they did  
3 not choose to advise me of this until 10-6-92. At that  
4 point in time, I got a correspondence in the form of a  
5 memo from S&D Utility stating my usage for the past  
6 three months. The lowest month was 24,000 and the  
7 total was something like 87,000.

8           The memo indicated that, for usage of this  
9 nature, there probably was a leak. I was a full-time  
10 resident, I was at no time away, so one would have  
11 thought I would have noticed a leak of that magnitude.

12           Nonetheless, I did immediately on 10-7 call a  
13 plumber, Bruce Carrigan Plumbing -- a reputable firm,  
14 I've used them before -- and they sent a repairman and  
15 he checked the house very thoroughly. Inside the  
16 house, the toilets, tub, sinks, whatever; outside the  
17 house, the hose locations. He crawled underneath the  
18 trailer and checked all the connections underneath the  
19 trailer and he concluded that there were no leaks at  
20 that time.

21           He suggested to me that it had to be a  
22 problem with the meter.

23           He did a quickie field test; you know, he had  
24 a five-gallon pail and he filled the pail and it  
25 appeared to be correct. And he said, "Unless you had

1 this hose running nonstop for days, there's no  
2 indication, that it must be in the internal workings of  
3 the meter."

4 Therefore, I called back Mr. Sims and told  
5 him that I had a repair person there and he certified  
6 the fact there were no leaks at my mobile and therefore  
7 it must be a problem with the meter.

8 Mr. Sims said that he would be out the next  
9 day. And he did advise me that if by chance the  
10 problem was not with the meter that I would be  
11 responsible for the cost of the switchover.

12 I, in good faith, had him come out thinking  
13 that there's no possible way by the consensus of Mr.  
14 Sims himself saying that there must be a leak, the  
15 consensus of the plumber saying there were in fact no  
16 leaks, and the consensus of myself figuring it was  
17 impossible to use close to 92,000 gallons of water in  
18 three months unless I was doing swimming pools or  
19 something.

20 Anyway, the following day, 10-8, prompt and  
21 courteous service, Mr. Sims came to my house with a  
22 person under his employ, Mr. Daley. They arrived at  
23 10:30 a.m. They were to replace the meter. They did  
24 no field test, they gave me no estimate of repair  
25 costs, they just simply proceeded; and I found no

1 objection with that at that time.

2           However, as the day progressed, I found quite  
3 a few objections. The first was that Mr. Daley did not  
4 seem to be able to remove the meter. He could not undo  
5 the joints -- I'm not a plumber, so I'll not sure, but  
6 it appeared to me he was having trouble. He gave up on  
7 that and cut the pipe so he could get the meter out.

8           Following that, he realized he could not put  
9 the new meter in because the pipe was too short.

10           Then he tried several times to repair that  
11 pipe, to extend that pipe with different types of glue  
12 and whatever kind, little blue liquid, I don't know,  
13 several different kinds of things. He tried to repair  
14 that pipe.

15           COMMISSIONER BEARD: This is PVC pipe?

16           WITNESS BREMER: Yeah. He did think he had  
17 it fixed and then he put in the new meter. He did not  
18 have it fixed, there were major leaks on both sides.

19           I might also add that he did not have a  
20 truck, he did not have a tool box, he did not have the  
21 supplies needed, the pipes or whatever that were  
22 needed. In fact, I loaned him a screwdriver and a saw,  
23 he did not even have those basic pieces of equipment.

24           Eventually, he tried some kind of putty stuff  
25 he put around the pipe, that failed. Then he tried

1 some kind of gauze type stuff that he put around the  
2 pipe, that failed. He tried some different kind of  
3 fluid, that failed.

4 Finally, he sent Mr. Sims out -- I might add  
5 that he didn't have these; periodically, Mr. Sims had  
6 to run out to get these different supplies to fix the  
7 meter, which, of course, took time, which was going on  
8 the meter they were charging me.

9 Finally he did go out and get some different  
10 type of PVC connection and that worked on my side of  
11 the meter. I might add to date, it still dribbles on  
12 the Utility side of the meter.

13 Mr. Daley by any standards in my estimation  
14 was professionally incompetent and not knowledgeable at  
15 all about the plumbing system that he was repairing.  
16 And probably a competent plumber could have done that  
17 same job I would suggest in about an hour. Because I  
18 had asked Mr. Carrigan when he was there what would be  
19 entailed in changing the meter, and he said it was not  
20 a big job, he said about an hour. That was the first  
21 two phases of my complaint.

22 The third phase of my complaint began when I  
23 got notice from both Mr. Daley and Mr. Sims via the  
24 Utility that I owed \$125 to Mr. Daley and \$40-some to  
25 the meter tester and \$18 and change to Mr. Sims for the

1 water usage that was on the old meter because they  
2 found the meter valid.

3 Now, prior to taking the meter away, I  
4 mentioned to Mr. Sims that when the meter was  
5 stationary -- you know, no water was being used, the  
6 little teeny triangle in the middle wasn't going around  
7 -- that the hand, the sweep hand that measured the  
8 gallons, did move very slowly. If you looked at it  
9 over time with no usage that it did seem to go around.

10 COMMISSIONER BEARD: What they call creep, I  
11 think.

12 WITNESS BREMER: Is that what they call it?  
13 Okay.

14 So I told him when he checked the meter to  
15 make sure he checked the mechanical parts of it as well  
16 as the flow rate, because the flow rate did appear to  
17 be accurate when you were using the water. It was when  
18 you weren't using water that it appeared to be  
19 registering gallons that weren't happening.

20 Nonetheless, in spite of my suggestion, Mr. Sims via  
21 the Utility chose only to have the meter tested for  
22 flow.

23 And I have a list written down that I will  
24 submit to you in addition to which I have the flow  
25 correspondence which, I might add, has two meters on



1 it. I don't know why I was charged for both of them;  
2 but I got a bill for \$40 of this, but it indicates that  
3 two meters, only one of which was mine, that they just  
4 tested it for flow. For 100 gallons, I assume, I can't  
5 really tell this; but it's 98.8, 100.8, 99.9, so I  
6 assume that means gallons. It says what the GPM --  
7 gallons per minute, I guess -- at the different rates.

8 Therefore, I'm still contesting the fact that  
9 I actually used this water. Not to mention that prior  
10 to the change of the meter I was living alone, I live  
11 alone normally as a course of existence.

12 Since the change of the meter, which was  
13 October 8th, on October 22nd, my daughter came to stay.  
14 She's relocating to Florida and she's living with me on  
15 a day-to-day basis; in other words, that's her  
16 residence, has been since October 22nd. Also, her  
17 husband has visited for like two weeks at Thanksgiving  
18 and two weeks at Christmas; and he will be coming down  
19 also.

20 The usage that we have experienced since the  
21 meter changed has been 3,300 gallons for the first 20  
22 days, 6,820 for the month of December and 5,280 for the  
23 month of November. Three-month gallonage total of  
24 15,400 gallons since the meter has changed. And, if  
25 anything, my usage has increased due to additional

1 people in the household.

2 This compares with 92,270 gallons which was  
3 given on the meter for the first three months. Might  
4 have been a little more, maybe three-and-a-half months,  
5 however long the meter was in.

6 Considering these discrepancies and the fact  
7 that a competent plumber established that there were no  
8 leaks at my house and I will swear under oath that I  
9 did not water my lawn 24 hours a day for 14 days, I  
10 really feel that there was a problem with the meter  
11 that went undetected due to improper screening or  
12 whatever they do, testing.

13 COMMISSIONER BEARD: Okay.

14 WITNESS BREMER: So that's my problem. To  
15 date, I have not paid either one of the bills in saying  
16 I am protesting.

17 COMMISSIONER BEARD: A couple of quick  
18 questions. One, at my house, if I was concerned about  
19 a leak the first thing I would do is turn all the water  
20 off and go look at the meter and watch that little  
21 thing and see if it was turning.

22 WITNESS BREMER: I did that; it was not  
23 turning.

24 COMMISSIONER BEARD: It was not turning.  
25 That's what I call a clue where I come from, to find

1 out if there was a leak before you even have a plumber  
2 crawl underneath.

3 The Utility is aware you are protesting this;  
4 is that correct?

5 WITNESS BREMER: Yes.

6 COMMISSIONER BEARD: Okay. I had assumed --

7 WITNESS BREMER: In fact, Mr. Sims told me to  
8 contact you people. And Christmas was there and I just  
9 didn't do anything; and then this hearing came up and I  
10 just took advantage of the hearing.

11 COMMISSIONER BEARD: Staff, what I would like  
12 to do is, obviously, follow up on this. And one of the  
13 first questions that would come to mind, I would like  
14 to know if the old meter is still there and available  
15 for inspection. And I'm thinking about the potential  
16 situation there where under flow it tests correctly but  
17 not when it's flowing that you have some kind of meter  
18 creep that can continue to happen.

19 MR. FEIL: Yes, sir.

20 COMMISSIONER BEARD: We will do that. For  
21 everybody's information, typically if the Utility were  
22 here, we would have the Utility follow up and give us  
23 the details and we would follow behind that. In their  
24 absence, we'll make sure we get the information that we  
25 need.

1                   WITNESS BREMER: I have the meter number  
2 here, at least the meter --

3                   COMMISSIONER BEARD: Great. If you will give  
4 that information to the court reporter for the record,  
5 and then Staff also as a result will have that. And we  
6 can pursue that meter in particular and see if -- I  
7 don't know what our rules are on maintaining the meters  
8 in the water industry when there's a protest.

9                   MR. FEIL: I couldn't give you a detailed  
10 breakdown right now.

11                  COMMISSIONER BEARD: Okay. But we will  
12 pursue this.

13                  WITNESS BREMER: Okay. There is a copy of  
14 the bills and the plumber's statement. Thank you very  
15 much.

16                  COMMISSIONER BEARD: Thank you very much.

17                  MR. FEIL: Did you want to assign an exhibit  
18 number to those bills?

19                  COMMISSIONER BEARD: Yeah. I think so. It  
20 would be Exhibit No. 1?

21                  MR. FEIL: Exhibit 1, yes, sir.

22                         (Exhibit No. 1 marked for identification.)

23                         (Witness Bremer excused.)

24                                 - - - - -

25                  COMMISSIONER BEARD: Okay. And for those of

1 you who are not aware, these are members of the Florida  
2 Public Service Commission Staff that will be helping me  
3 as we further investigate these kind of things.

4 Go ahead.

5 MR. FEIL: I have Barbara Arnold, the next  
6 name on the list.

7 BARBARA ARNOLD

8 was called as a witness and, having been duly sworn,  
9 testified as follows:

10 COMMISSIONER BEARD: Good morning.

11 WITNESS ARNOLD: Good morning. I live at  
12 38441 Willoughby Drive.

13 COMMISSIONER BEARD: And it's Barbara Arnold?

14 WITNESS ARNOLD: Barbara Arnold, A-R-N-O-L-D.

15 My toilet bowl overflowed on Saturday afternoon,  
16 December 12, of 92. The plumber came the following  
17 Monday afternoon. After using a snake in my line, he  
18 found nothing. It was 5:00 p.m., so he said he would  
19 return at 10:00 the next morning to probe and dig to  
20 find the obstruction. He suggested it could be roots  
21 where my line connected to the main line.

22 After thinking this over, I decided that  
23 evening to call S&D Utility to explain the situation.  
24 Mr. Sims answered and said he would be in the park the  
25 next morning. The next morning, the plumber and

1 assistants probed and dug to locate where my line  
2 entered the main. He found a tee connected to a larger  
3 clay pipe, which he cut off and the clay pipe sagged.  
4 He also cut my pipe entering the tee and on the other  
5 side Mr. Knapp, who owned the other pipe. This tee  
6 serviced two mobile homes.

7           The plumber showed us that the larger clay  
8 pipe was closed with roots. At that time, or soon  
9 after, Mr. and Mrs. Bird came and I believe Mr. Bird  
10 took some pictures of this closed pipe closed with  
11 roots.

12           Meanwhile, a neighbor had summoned Mr. Knapp,  
13 who owned the other property. I believe he rents. And  
14 there was no one at that time using his mobile.

15           Mr. Knapp and I felt that the clay pipe was  
16 part of the main, so it should not be our  
17 responsibility. Mr. Sims claimed he was only  
18 responsible for the main line. The plumber did not  
19 want to commit himself, but he did tell me later that  
20 on the tee going into a main line, if it was not in  
21 your line, it was considered part of the main line.  
22 That's all he would say.

23           The plumber cleaned the clay pipe -- he had  
24 to or I could not use my bathroom -- leading into the  
25 main and removed a mess of roots. He told Mr. Sims

1 that this main, his main, was filled with roots so this  
2 was only a temporary job, we would have more trouble.

3 Mr. Sims still said that he was not  
4 responsible.

5 Mr. Knapp and I each paid half of a \$250  
6 bill. On December 16, I mailed my bill, \$125, to S&D,  
7 asking the Utility to reimburse me. I have received no  
8 apply.

9 COMMISSIONER BEARD: Okay. I would like to  
10 do some work on this one as well. Number one, I would  
11 like to know who installed the pipe up to the tee, if  
12 we have records on that. It sounds as though it was  
13 installed by the Utility but we need to find that out.  
14 We'll pursue this as well.

15 Yes, ma'am.

16 WITNESS D. BIRD: I'm Dorothy Bird and my  
17 husband and I were both present at that. There is a  
18 part of that clay pipe available for inspection if your  
19 Staff needs to look at it.

20 COMMISSIONER BEARD: Okay.

21 (Witness Arnold excused.)

22 - - - - -

23 MR. FEIL: The next name I have is William  
24 Knapp.

25 WITNESS D. BIRD: I don't believe he's here.

1 MR. FEIL: There was a question mark listed  
2 by his name.

3 COMMISSIONER BEARD: Okay. Well, we'll go  
4 ahead.

5 MR. FEIL: The next name I have is Lamont Wilch.

6 LAMONT WILCH

7 was called as a witness and, having been duly sworn,  
8 testified as follows:

9 WITNESS WILCH: I'm Monty Wilch or Mont  
10 Wilch, W-I-L-C-H. I reside at 38525 Cone Drive.

11 Last winter, I think it was in February,  
12 there was a leak on my property and it was starting to  
13 undermine the slab on my storage unit. And I contacted  
14 Sims several times and he wasn't really concerned about  
15 it. Well, I did find him over at his office one day  
16 and I told him that, "I think this is an emergency;"  
17 because I was estimating maybe 60 gallons an hour it  
18 was leaking, and this had been running for three or  
19 four days.

20 And he did finally come out the next day and  
21 he brought a helper along. And they dug it up, the  
22 line, they found the leak. It was right by the meter  
23 that belongs to my neighbor. I have two meters on my  
24 property; and the way I understand it, I should have  
25 one meter on my property, my own meter. Mr. Garrett's



1 meter is also located on my property and that's the issue.

2 When they had this dug out or dug up, I  
3 suggested to Sims that while he has this dug up here  
4 let's just move the meter over to my neighbor's  
5 property where it belongs. And he says, "No, I'm not  
6 going to do that."

7 And then I can't remember whether it was  
8 his helper or whether it was Sims that said they put  
9 this meter where public service told them to put it.  
10 (Laughter)

11 Well, I had no argument there I -- maybe you  
12 people did tell him where to put it but --

13 COMMISSIONER BEARD: Yes, sir. We go out  
14 when every meter is installed in the state of Florida  
15 and have them -- (Laughter)

16 WITNESS WILCH: I knew that.

17 COMMISSIONER BEARD: As a matter of fact, I  
18 go on most of them myself, just to make sure they're  
19 right. (Laughter)

20 WITNESS WILCH: Good. Good. So,  
21 consequently, I still have two meters on my property and I  
22 still say that they should move that over to Mr. Garrett's  
23 property and everybody would be happy. That's all have I  
24 to say.

25 COMMISSIONER BEARD: Okay.

1 WITNESS WILCH: Thank you.

2 MR. FEIL: Mr. Commissioner, I would like to  
3 ask the witness one question.

4 COMMISSIONER BEARD: Yeah.

5 MR. FEIL: Mr. Wilch, can you give me an  
6 opinion as to whether or not your quality of service  
7 has improved since the rates went up?

8 WITNESS WILCH: I just arrived two days ago  
9 from Colorado. I'm down here three months out of the  
10 year. I don't know, I haven't used any water.

11 MR. FEIL: Thank you.

12 WITNESS WILCH: You're welcome.

13 COMMISSIONER BEARD: Thank you very much.

14 (Witness Wilch excused.)

15 - - - - -

16 MR. FEIL: Commissioner, Mr. Rieger, I believe  
17 has some knowledge regarding the meter installations and  
18 the piping around here, so --

19 MR. RIEGER: We'll address that.

20 COMMISSIONER BEARD: Okay.

21 MR. FEIL: The next name I have is Alvin  
22 Lachapelle. I hope I pronounced your name correctly, sir.

23 ALVIN LACHAPELLE

24 was called as a witness and, having been duly sworn,  
25 testified as follows:

1                   WITNESS LACHAPELLE: My name is Alvin  
2                   Lachapelle, L-A-C-H-A-P-E-L-L-E. And my complaint is  
3                   about office hours. I mean, Mr. Sims has posted in his  
4                   office door a sign that keeps changing monthly. One month  
5                   it might be Wednesday, 10:00 to 12:00; another month it's  
6                   Thursday, 9:00 to 11:00; we never know when the office  
7                   hours are going to be, so we have to keep checking the  
8                   office hours. And on two occasions, I have offered him my  
9                   check for my water and sewer bill and it wasn't on an  
10                  office day so he refused to accept my checks. I can only  
11                  deliver my check on an office hour day and that's my  
12                  complaint.

13                 COMMISSIONER BEARD: You haven't seen any  
14                 office hours in the middle of night, have you?

15                 WITNESS LACHAPELLE: Well, yesterday was an  
16                 office hour day and he didn't show up at all. So that  
17                 happens frequently also.

18                 COMMISSIONER BEARD: Okay.

19                 WITNESS LACHAPELLE: Thank you.

20                 COMMISSIONER BEARD: Thank you very much.

21                 (Witness Lachapelle excused.)

22                 - - - - -

23                 MR. FEIL: Mr. Commissioner, the next name I  
24                 have is Marie Kellnhofer.

25

MARIE KELLNHOFER

was called as a witness and, having been duly sworn,  
testified as follows:

WITNESS KELLNHOFER: My name is Marie  
Kellnhofer. I live at 3652 Muller Drive. Kellnhofer  
is spelled K-E-L-L-N-H-O-F-E-R.

COMMISSIONER BEARD: Thank you.

MS. KELLNHOFER: I have two complaints but  
the first one which happened last year has been  
resolved. But do you want this for the record anyway?

COMMISSIONER BEARD: Sure.

MS. KELLNHOFER: Okay. Last year, my husband  
went out in the back yard and he noticed a big pool of  
water. It was not on our property, it's right behind  
our property.

So we knew there was a leak there and so we  
notified Mr. Sims. And he came -- well, all right,  
this is the letter I have, I think it's better if I  
read it.

The water was bubbling up out of a PCV  
two-inch pipe and spreading around the area.  
Suspecting that this must be the location of the water  
main, we called Mr. Sims at his home in Tampa. This  
was about 4:00 p.m. on a Thursday. Mr. Sims seemed  
polite and said, "I'll take care of it tonight or

1 tomorrow morning." We reminded him that a lot of  
2 water was going to waste and we had a mere trickle of  
3 water from our faucets.

4 He didn't show up that evening or on Friday  
5 morning by 9:00 a.m. So my husband got on his bicycle  
6 and rode up to the office. Mr. Sims was there. And  
7 when asked why he didn't show up, he said we should  
8 call a plumber and it wasn't his problem. That seems  
9 to be his favorite by-word.

10 A plumber was working in the neighborhood, so  
11 we asked him to walk over and take a look. He did so  
12 and said he would fix it, but who will pay for it? He  
13 won't work for Mr. Sims because he doesn't pay his  
14 bills. We said we'd pay.

15 He said he had another job to go to but would  
16 come as soon as Mr. Sims would shut off the water.  
17 We'd only have to call the plumber's office and he'd  
18 get the word and he'd come right over.

19 Well, my husband went back to Mr. Sims to ask  
20 him to shut off the water. Mr. Sims reply was, "You  
21 see this stack of papers? They're all from the  
22 Commission and I have to abide by their rules. I can't  
23 shut the water off until they tell me I can. Before I  
24 can, you will have to notify everyone in the park of  
25 the time it will be shut off."

1 Well, the water didn't get shut off. He  
2 said we could call the Commission if we wanted to, he  
3 wasn't going to call them.

4 On the third trip to the office to urge him  
5 to shut the water off so we could get it fixed, he  
6 handed Clarence a message memo of which I'm sending you  
7 a copy -- of which I did. And on that memo he said  
8 that they had had trouble with that when Mr. Peare  
9 owned the place that we live in. And he came, and he  
10 said he only put in a temporary repair and Mr. Peare  
11 was supposed to have it fixed. It is not on our  
12 property, it is where it hooks onto the main.

13 I called Mr. Peare, the former owner of our  
14 home, and he denied that Mr. Sims said he had only made  
15 a temporary repair, and said Mr. Sims was a liar and  
16 always has been. Now, those are aren't my words, those  
17 are Mr. Peare's words.

18 By this time, Clarence gave up trying to  
19 reason with Mr. Sims and was very emotionally upset, as  
20 he has medical problems. Then Mr. Bob Lindahl, our  
21 Association President whom you've met when you were  
22 here at our clubhouse, offered to talk to Mr. Sims. By  
23 that time, the plumbers were finished for the day; and  
24 it being Friday, they were finished for the week. The  
25 plumber had told us they get time-and-a-half on

1 evenings and Saturdays, \$60 per hour.

2 Well, Mr. Sims came to the park on Saturday  
3 morning, called Mr. Lindahl and asked what time we  
4 wanted the water off. Mr. Lindahl called us and we  
5 said we weren't paying \$60 an hour for a plumber on  
6 Saturday when we could have had one for \$40 on Friday.

7 By now we didn't even have a trickle of water  
8 in our house, but the lake in the back was getting  
9 bigger. We said we would schedule a plumber for 9:00  
10 a.m. on Monday. Mr. Sims returned to his home in Tampa  
11 without even coming to have a look at the lake.

12 By Monday a.m. the water had spread into two  
13 more neighbors' yards. When Mr. Sims arrived Monday  
14 morning, he again called Mr. Lindahl, not us, and asked  
15 what time to shut off the water. When told again 9:00  
16 a.m., he said, "I'll shut it off right now." Which was  
17 8:45 a.m.

18 The plumber arrived about the same time, put  
19 a pump in the washed out hole, and began pumping out  
20 water as they dug. After about an hour of pumping,  
21 they were able to get to the problem.

22 As they dug, pieces of rags and plastic came  
23 out on their shovels. These must be evidences of the  
24 temporary repairs Mr. Sims made when Mr. Peare owned  
25 the home.

1           The two leaks were still gushing water when  
2 they uncovered them, even though the system was shut  
3 off. The leaks were at each end of a nipple between  
4 the shutoff and the main. Tree roots had found this  
5 leak and had to be cut away with a jackknife to expose  
6 the problem.

7           His temporary repair must have been to tie a  
8 rag from our shutoff valve to his line to hold the leak  
9 shut.

10          This repair cost us \$99.43 for 2.5 hours  
11 labor and \$8.40 for the parts. We were without water  
12 for three days. We have better pressure now than we've  
13 ever had since we lived there, which is evidence that's  
14 been leaking a long time.

15          And the rest of the letter I just said that  
16 we don't think Mr. Sims is the right person to be  
17 running a utility, we can't count on him for any  
18 service or cooperation in the event of problems.

19          COMMISSIONER BEARD: Let me ask you a  
20 question just so I can get clear in my mind. Where  
21 this leak is occurring, where is your meter in  
22 relationship to that?

23          WITNESS KELLNHOFER: Now, our meter, I  
24 thought that's where he'd put the meter in. But he did  
25 not, he put it right up by the back of our house and I



1 have another complaint about that.

2 COMMISSIONER BEARD: So in other words, if I  
3 was to trace a line from your house, it would go to the  
4 meter and then it would keep coming out to where this  
5 leak was?

6 WITNESS KELLNHOFER: We didn't have meters at  
7 that time. The meter was put in while we were gone  
8 this summer.

9 COMMISSIONER BEARD: Okay. But where the  
10 meter is now and where the leak is, it's on his side of  
11 the meter?

12 WITNESS KELLNHOFER: Yes. Uh-huh. Right.

13 COMMISSIONER BEARD: Okay.

14 WITNESS KELLNHOFER: Well, that was -- anyway --

15 COMMISSIONER BEARD: Can we have a copy of  
16 that for the record?

17 WITNESS KELLNHOFER: Yes, you had a copy. Do  
18 you want another copy?

19 COMMISSIONER BEARD: Yeah.

20 WITNESS KELLNHOFER: What shall I do with  
21 this?

22 COMMISSIONER BEARD: Just give it to the  
23 court reporter there when you get done. That's fine.  
24 That will be Exhibit No. 2.

25 (Exhibit No. 2 marked for identification.)

1                   WITNESS KELLNHOFER: Well, anyway, the  
2 Commission helped resolve that. You got ahold of Mr.  
3 Sims; and Mr. Sims wrote, "Concerning your letter dated  
4 March 13, 1991, and postmarked March 18, we would  
5 appreciate your sending us copies of the cost incurred  
6 for proper reimbursement." Then I got another one,  
7 "We are enclosing a check in the amount of \$99.43 as  
8 per your letter of March 28," which we received on  
9 April 2. So that problem was resolved by Mr. Sims, he  
10 did pay for it. That was the first one.

11                   Okay. Now, we have another one. On Friday,  
12 September 18, we returned to our home at 3652 Muller  
13 Drive, Shady Oaks, from up north. We had notified Mr.  
14 Sims that we were returning on that date and wanted the  
15 water turned on. We had no water, so we called Mr.  
16 Sims at his Tampa home at 5:30 p.m., this was also on a  
17 Friday night. He said he wouldn't come out any more  
18 that night and didn't know if he could come on Saturday  
19 either. Well, I said, "Then you mean we have to be  
20 without water all weekend?" And he didn't answer that.

21                   So we went to a restaurant because we didn't  
22 have any water to cook any food. And after we  
23 returned, the telephone rang and it was Mr. Sims and he  
24 said he was trying to get ahold of us. And I said,  
25 "Well, we had to go out eat because we didn't have any

1 water to cook with."

2 So on Saturday a.m. he did come. He brought  
3 his son with him. The son dug down beside the meter  
4 box which had been installed while we were gone. And  
5 it's just a couple feet away from the back of our  
6 house. At the back of our house we had a shutoff valve  
7 where we could shut our water off when we go away. And  
8 we have a white PVC sleeve over our shutoff valve with  
9 a cap over it.

10 Well, my husband picked up the cap and there  
11 was nothing under it but dirt. The pipe was gone. So  
12 the son dug down beside the meter box which had been  
13 installed while we were gone. It was installed near  
14 our own private shutoff, which is two feet from the  
15 house.

16 He said, "The water has been on all the  
17 time." We asked, "Where is our shutoff valve and  
18 sleeve that we had to shut off our house water?"

19 The son dug some more and he found the sleeve  
20 that was buried in the hole along with our shutoff  
21 valve. He turned on our shutoff valve and the water  
22 went on in the house, but there was a bad leak at the  
23 adaptor to the valve.

24 He said, "That's your problem." You see,  
25 there he went again, "It's beyond my meter."

1           We said, "Whoever did the plumbing cracked  
2   that adaptor when they disturbed it to join the pipe to  
3   your meter."

4           He said, "That's the contractor's problem,  
5   not mine." With that, he left.

6           We asked him to leave the hole open so we  
7   could keep our eye on the leak. On Monday morning, we  
8   reached our plumber, Mr. Carrigan, and he came right  
9   over and made the repair. He, too, said that the  
10   fitting was definitely cracked by being disturbed by  
11   the plumber or the persons installing the meters.

12          We feel that Mr. Sims should pay for this  
13   repair bill, as it was his crew's carelessness that  
14   caused it. And then I mentioned in my letter that  
15   there were other bad leaks throughout the park, and  
16   that he knew about them; and since that he has fixed  
17   some of those leaks.

18          Well, anyway, we got the reply from your  
19   Commission. You acknowledged my letter and said you'd  
20   look into the matter and get back in touch with you at  
21   the conclusion of the investigation. I got another  
22   note from you that said, "This is a follow-up to your  
23   complaint concerning the leak discovered in your pipe.  
24   You contacted Mr. Sims, and Mr. Sims did report that it  
25   appears that our shutoff valve to our house from the

1 meter was possibly dislocated by the contractor. Mr. Sims  
2 also stated that he did not intend to reimburse you.

3 "Since it appears you have a damage claim,  
4 the Commission does not have the authority to  
5 adjudicate claims for loss or damage. Your recourse  
6 would be to go through the courts."

7 So that's our complaint. And our bill is  
8 what, \$48.87. I don't think it would pay to go to  
9 court over that.

10 COMMISSIONER BEARD: And I understand that.  
11 But I also am not in a position to break the law by  
12 trying to do something that I don't have the authority  
13 to do.

14 However, as a result of this hearing and the  
15 things that we find out, sometimes those get resolved  
16 just as your first complaint did. And we'll see what  
17 we can do to assist; but I am not in a position to, as  
18 I say, adjudicate damage claims. Because per the  
19 statutes, whenever the circuit courts or the courts try  
20 to stick their nose into my business, I get pretty  
21 angry; and the opposite of that is when I start  
22 sticking my nose into their business, they like to slap  
23 me around, too.

24 But we'll see if we can help with some  
25 pressure if that's the appropriate thing to do. The

1 problem is in a contested claim like that, I don't have  
2 the authority to make that decision and say "Pay her,"  
3 or, "Don't pay her." Okay.

4 WITNESS KELLNHOFER: The first time he  
5 listened to you.

6 COMMISSIONER BEARD: Right. But had he  
7 chosen not to listen to us, that would have been in the  
8 same position.

9 WITNESS KELLNHOFER: Right. And the way he  
10 installed the housings around the meters, a lot of them  
11 were are sticking up that far, you know, you couldn't  
12 mow your lawn. So you have to dig it up and put it down  
13 properly. And, there were a lot of them like that.

14 COMMISSIONER BEARD: It's difficult sometimes  
15 for a Utility to listen when they're not even here.

16 WITNESS KELLNHOFER: That right. That's right.

17 COMMISSIONER BEARD: Okay. Thank you.

18 (Witness Kellnhofer excused.)

19 - - - - -

20 MR. FEIL: The next name I have, Mr.  
21 Commissioner, is John Clopton.

22 JOHN CLOPTON  
23 was called as a witness and, having been duly sworn,  
24 testified as follows:

25 WITNESS CLOPTON: My name is John Clopton,

1 that's C-L-O-P-T-O-N. And I live at -- just a second,  
2 (Laughter) 38504 Montigo Drive.

3 When I bought my trailer, there was a meter  
4 in it.

5 COMMISSIONER BEARD: Please, if you all would  
6 hold it down, I can't hear.

7 WITNESS CLOPTON: When I bought my trailer,  
8 there was a meter in it. Then I was working on my  
9 trailer, then I come back and he took the meter away  
10 from me. And he told the little lady that I bought the  
11 trailer off that there was \$400 assessments on the  
12 meter, so she had to pay that to the title company for  
13 him to bring the meter back. Then he brought the meter  
14 back the next day, so the title company had to pay him  
15 \$400 out of her escrow money.

16 Then, on top of that, I have been complaining  
17 about my black water. My toilet, well, a couple of  
18 people have even noticed it, I have to clean it every  
19 day, it was just black where the black water is coming  
20 in. And then for about four or five days it was  
21 nothing but black, you couldn't even drink it, not  
22 alone take a bath with it or anything.

23 COMMISSIONER BEARD: Is that something that  
24 comes and goes?

25 WITNESS CLOPTON: It's been like that for the

1 last two or three months now.

2 COMMISSIONER BEARD: Is there any odor?

3 WITNESS CLOPTON: Sometimes a little bit of  
4 odor with it.

5 COMMISSIONER BEARD: Okay.

6 WITNESS CLOPTON: And here lately I've been  
7 buying bottled water.

8 COMMISSIONER BEARD: Okay. We want to check  
9 on that as well. Thank you.

10 (Witness Clopton excused.)

11 - - - - -

12 MR. FEIL: The next name I have is H. B.  
13 Reedy.

14 WITNESS D. BIRD: I don't believe Mr. Reedy  
15 is here.

16 MR. FEIL: All right. I had a question mark  
17 by his name.

18 WITNESS D. BIRD: And Ms. Spalo is not here.

19 MR. FEIL: All right.

20 WITNESS D. BIRD: Well, I know he's here. Jo  
21 e, do you want to testify to your problem?

22 COMMISSIONER BEARD: I apologize, but let us  
23 go through our process. If they don't want to talk,  
24 they don't have to come forward if they'd rather write  
25 or whatever. And then in a minute, once we go through



1 these names, if anybody has changed their mind and wishes  
2 to speak, I will give them an opportunity as well.

3 MR. FEIL: Ms. Spalo? Mr. Chaney, do you  
4 wish to speak? The next name I have is Dorothy Bird.

5 WITNESS D. BIRD: Could I defer to Robert  
6 first?

7 MR. FEIL: Certainly. Robert Bird?

8 ROBERT BIRD

9 was called as a witness and, having been duly sworn,  
10 testified as follows:

11 WITNESS R. BIRD: Thank you. My name is  
12 Robert Bird. I live at 38553 Monet Drive. I'm placing  
13 in the record a letter from a customer who did not wish  
14 to speak at this time.

15 COMMISSIONER BEARD: Okay.

16 WITNESS R. BIRD: The customer is Elmer Dean,  
17 38536 Cone Drive. This is dated January 6, 1993. And  
18 he states: "I have been turning the water on and off  
19 for a relative next door to us for the past five years  
20 and have never had a problem. On January the 5th, I  
21 was asked to turn the water on again. I proceeded to  
22 do so and there was a trickle of water. This has  
23 happened since the meter was installed. I've never  
24 been comfortable talking to the owner of the facility  
25 but did so on January the 5th. I told him the problem.

1 He asked if I got water through the meter? And I said,  
2 'Yes, a trickle.' He said, 'It must be a valve. I'll  
3 be in the park tomorrow.' And that's January the 6th.

4 "Dick showed up at about 12:00 noon January  
5 the 6th. He proceeded to check out the situation and  
6 removed the meter. The trickle was still coming  
7 through the pipe. Dick informed me he's going to shut  
8 the water off on Wednesday, January the 13th, as he  
9 would have to get a digger in to dig up his line. He  
10 said our relatives could use our facilities and he  
11 would reimburse us for the use of the water." And  
12 that's signed Elmer Dean.

13 There is an addendum: "Our relatives are Mr.  
14 and Mrs. James Christensen. Mr. Christensen is the  
15 owner of record of the house located at 38530 Cone  
16 Drive, next door to mine, and pays a water bill to the  
17 Utility each month. I believe he is entitled to his  
18 own service and should not have to wait a week or so to  
19 have water at his house." And that's signed Elmer  
20 Dean also.

21 COMMISSIONER BEARD: Okay. Thank you.

22 MR. FEIL: Mr. Commissioner, if we could have  
23 that letter identified as Exhibit 3?

24 COMMISSIONER BEARD: Okay.

25 (Exhibit No. 3 marked for identification.)

(Witness R. Bird excused.)

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MR. FEIL: Dorothy Bird?

DOROTHY BIRD

was called as a witness and, having been duly sworn,  
testified as follows:

WITNESS D. BIRD: My name is Dorothy Bird,  
B-I-R-D. I live at 38553 Monet Drive. And I am  
speaking on behalf of Shady Oaks Owners Association. I  
would like to read into the record a summary of our  
review of the quality of service to the Utility  
customers.

We wish to address the following areas of  
concern with regards to performance of the above-named  
Utility, Shady Oaks Mobile-Modular Estates,  
Incorporated, for the period April 1, 1992. through  
January 6, 1993. One, communications and customer  
relations; two, customer billing; three, maintenance  
and operation of plant; four, installation of meters;  
and five, utility response to customer service  
problems.

In the area of communications and customer  
relations: There is no secure drop box or letter slot  
provided at the office for deposit of payments. An  
unattended cardboard box unsecured and with no

1 provision for being locked is provided in the office  
2 area for this purpose. The box carries a hand-lettered  
3 disclaimer that says "Not responsible."

4           There has been no attempt on the part of the  
5 Utility to educate customers about tariff provisions,  
6 possible violations and probable consequences of them.  
7 Although the tariffs are available in the office of the  
8 Utility for any customer to inspect, the Utility office  
9 is open only two hours per week on a constantly  
10 changing schedule. And this makes any kind of business  
11 transaction with the Utility exceedingly difficult.  
12 Many customers are reluctant to call the Utility when  
13 they have service problems, because of fear of verbal  
14 abuse or intimidation by the owner.

15           Another concern is our ability to reach the  
16 Utility by telephone. The telephone in the office  
17 during the periods it is not open directs the caller  
18 via a recorded message to a Tampa long distance number.  
19 It does not say that one may call collect. The monthly  
20 bill also lists the same Tampa long distance number for  
21 emergencies, it does not specify to call collect.  
22 Because the office is so seldom open, this number  
23 becomes in effect the only number at which one can  
24 expect to reach the Utility, whether emergency or  
25 routine call. The customer thus must pay long distance

1 charges for most calls to the Utility. Further, there  
2 is no local agent that can be called in case of  
3 receiving no answer or a recorded message at the Tampa  
4 number.

5           The service personnel located in Tampa also  
6 have a 45- to 60-minute drive time to the plant located  
7 in Zephyrhills depending on the traffic situation at  
8 the time of the problem. We have already experienced a  
9 one-day water outages due to this system of response.  
10 At one time the Utility was advised that hiring a local  
11 agent or using a personal beeper might be a prudent  
12 solution. This improvement has not been activated.

13           Customer billing: The bookkeeper has been  
14 very cooperative about answering billing questions,  
15 providing itemized statements, and making required  
16 adjustments.

17           Maintenance and operation of the plant:  
18 Leaks on the Utility side of the meters are still being  
19 left unrepaired for unnecessarily long periods of time.  
20 Water is still shut off to the entire park when repairs  
21 are necessary to any part of the system, although we  
22 have been advised this is scheduled for change on  
23 January 13, 1993. The hook up to the County sewer  
24 lines which was to be completed by January 1, 1992, has  
25 yet to be started. We have a concern about the life

1    expectancy of the sewage treatment system. We have  
2    been told that the system has very serious problems.  
3    What happens when it fails?

4               Installation of the meters: The meters were  
5    not installed by a licensed plumber, and the  
6    installation made in a most unprofessional manner, with  
7    many instances of holes left uncovered, boxes set too  
8    high, meters being placed too deep, and many of these  
9    situations have yet to be corrected.

10              While all the customer meters have now been  
11    installed, in the process of installation a number of  
12    previously working systems were disrupted. In the  
13    instances where customers have returned from vacation  
14    to find water service problems where there were none  
15    before, we believe the Utility should assume the  
16    responsibility of determining and correcting these  
17    problems.

18              The Utility response to customer service  
19    problems: The Utility's customers have been made aware  
20    and do understand that service complaints should  
21    initially be brought to the attention of the Utility.  
22    Recent service complaints have concerned meter accuracy  
23    -- for example, excessively high gallonage readings --  
24    disruption of water flow apparently caused by faulty  
25    meter installation, and sewer blockage. When these

1 were brought to the Utility's attention, the response  
2 has been to instruct the customer to hire a plumber to  
3 investigate the problem, prior to a thorough field  
4 investigation by the Utility. It seems that the burden  
5 of proof is being placed upon the customer. We believe  
6 it belongs to the Utility.

7 Conclusion: In recent weeks, we have seen  
8 some efforts by the Utility to improve customer  
9 relations. Often in the past, to avoid humiliation  
10 and/or hostility, customers have buffered their  
11 communications with the Utility through an Association  
12 Board member. We are therefore reluctant to recognize  
13 these efforts as a permanent change until enough time  
14 has lapsed to observe the Utility's interaction with  
15 the larger share of the customers.

16 And I will give you a copy of that for the  
17 record. May I enter into the record some previous  
18 correspondence and documents that were on file with the  
19 Staff but are not a part of this hearing?

20 COMMISSIONER BEARD: Sure.

21 WITNESS D. BIRD: All right. Then we have  
22 some documents that we filed with Denise Vandiver dated  
23 March 25, 1992, and also another one dated September 11,  
24 1991, as well as this one that I'm going to give you.

25 We also would like to enter into the record

1 at this time signed statements regarding unsatisfactory  
2 quality of service from the following customers of the  
3 Utility: John Boyce, Helen Wolters -- and would you  
4 like these names spelled? I'll give you a list.

5 COMMISSIONER BEARD: If you'll just give the  
6 list to --

7 WITNESS D. BIRD: All right. Elizabeth  
8 Jacob, Alvin Lachapelle, Carrol Meeusen, Ruth Tutt,  
9 Carolyn West, William Knapp, and Elinor Spalo.

10 And we would also like entered into the  
11 record as exhibits of unsatisfactory quality of service  
12 during the period March 1, 1991, through January 6,  
13 1993, the following documents: A letter from Shady  
14 Oaks Owners Association to the Public Service  
15 Commission, Charles Hill, dated May 15, 1991. Do you  
16 need a list of these that I want to enter?

17 COMMISSIONER BEARD: If you will simply give  
18 those to her.

19 WITNESS D. BIRD: I can give the list to her  
20 and then she can put it in, and that will save you time.

21 COMMISSIONER BEARD: We'll do that and we'll  
22 have this as a Composite Exhibit No. 4.

23 MR. FEIL: Yes, sir.

24 (Composite Exhibit No. 4 marked for  
25 identification.)



1 WITNESS D. BIRD: Okay, fine. Thank you very  
2 much.

3 COMMISSIONER BEARD: Okay. Thank you.

4 MR. FEIL: Mrs. Bird, if you don't mind I do  
5 have one question. In your opinion as representative  
6 of the Homeowners Association, has the quality of the  
7 Utility's service improved since the rates increased?

8 WITNESS D. BIRD: Overall, no. There has been,  
9 as I stated, some signs of improvement, but only in  
10 isolated areas; and we are still having problems having  
11 the Utility assume what we feel to be their duties.

12 MR. FEIL: All right, thank you.

13 (Witness Ms. Byrd excused.)

14 - - - - -

15 MR. FEIL: The next name I have is Robert  
16 Lindahl.

17 MR. LINDAHL: I'm going to decline. I think  
18 Dottie has summarized my feelings.

19 COMMISSIONER BEARD: Okay.

20 MR. FEIL: Are there any other customers that  
21 wish to speak? Sir, have you been sworn in?

22 UNIDENTIFIED SPEAKER: No, I haven't. I'm  
23 sorry, I just decided I wanted to speak.

24 COMMISSIONER BEARD: Why don't you do this if  
25 would, come on over to the mike so the court reporter

1 can take it down and I'll swear you in just briefly.

2 EDMUND POIRIER

3 was called as a witness and, having been duly sworn,  
4 testified as follows:

5 COMMISSIONER BEARD: Your name and address?

6 WITNESS POIRIER: My name is Edmund Poirier,  
7 that's P-O-I-R-I-E-R. I live at 38517 Willoughby  
8 Drive.

9 Now, it is only by listening to the comments  
10 that have been made that I realized that I had a  
11 problem; that, therefore, I did not yet contact Mr.  
12 Sims on it, but I do wish to bring it up here. It  
13 deals with the elevation of the water meter cover.

14 Now, early in December, I was doing some  
15 repair work to the house and I fell from a ladder.  
16 That has nothing to do with the Utility, but I did fall  
17 across this meter box. And I feel -- well, I know that  
18 I must have cracked several ribs because I'm still in  
19 pain as of today. I did not go see a doctor because  
20 I'm sure that I would have been told to just rest and  
21 not exert myself, and that's what I'm doing.

22 But, nevertheless, this box, cover box, sticks  
23 out of the ground some four inches above the grass level,  
24 and I fell immediately right across the cover. So I do  
25 realize that by hearing the other people speaking that I

1 have a problem and I will contact Mr. Sims about it to see  
2 if I can get it corrected.

3 (Witness Poirier excused.)

4 - - - - -

5 COMMISSIONER BEARD: Okay. Thank you.

6 MR. FEIL: Is there anybody else here who  
7 would wish to speak?

8 COMMISSIONER BEARD: Okay. Next would be  
9 Staff. All right, moving along?

10 MR. FEIL: Staff would call Stanley Rieger to  
11 the stand.

12 COMMISSIONER BEARD: For you all's  
13 information, as he's coming, let me briefly tell you  
14 what typically happens in a case here.

15 The Staff witnesses, as anybody else, has  
16 prepared testimony, written testimony, that they have  
17 filed in the case in advance. And we typically will take  
18 that testimony and do what we call entering it into the  
19 record as though it had been read into the record. That  
20 way it becomes an official part; it helps us to save a  
21 little bit of time. It also helps people to know what the  
22 testimony is in advance so that people have some idea of  
23 what the witness is going to say and they can prepare any  
24 questions they might have.

25 Go ahead.

STANLEY D. RIEGER

was called as a witness on behalf of the Staff of the Florida Public Service Commission and, having been duly sworn, testified as follows:

## DIRECT EXAMINATION

BY MR. FEIL:

Q Sir, would you state your name and address  
for the record, please?

A        My name is Stanley Rieger. I am an engineer  
with the Florida Public Service Commission. My address  
is 101 East Gaines Street, Tallahassee, Florida.

Q Mr. Rieger, did you file prefiled testimony in this case consisting of five pages?

A Yes, I did.

Q Do you have any corrections to that testimony?

A I do have a correction. Some words were omitted on Page 3 of my testimony, Line 25, the words "did not" were omitted. The beginning of the sentence should read, "The Utility did not install the meters in a timely manner."

Q Other than that correction, if I asked you the questions in your testimony again here today, your answers would be the same; is that correct?

A Yes.

1           MR. FEIL: Mr. Commissioner, at this time I  
2 ask that Mr. Rieger's testimony be inserted into the  
3 record as though read.

4           COMMISSIONER BEARD: His written testimony  
5 will be inserted into the record as though it had been  
6 read.

7           Q     (By Mr. Feil) And Mr. Rieger, did you have  
8 any exhibits attached to your testimony?

9           A     I have adopted the exhibits from Ms. Jenny  
10 Lingo's.

11          Q     All right, thank you.

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DIRECT TESTIMONY OF STANLEY D. RIEGER

1  
2 Q. Would you please state your name and business address?

3 A. Stanley D. Rieger, 101 East Gaines Street, Fletcher Building, Tallahassee,  
4 Florida 32399-0873

5 Q. By whom are you employed?

6 A. I am employed by the Florida Public Service Commission.

7 Q. In what capacity?

8 A. I am employed as an Engineer in the Division of Water and Wastewater.

9 Q. How long have you been employed in that capacity?

10 A. I have been employed in this capacity since April, 1981.

11 Q. Briefly describe your duties?

12 A. My general responsibilities normally include, but are not limited to the  
13 following:

14 (a) Participation in formal and informal rate proceedings involving  
15 water and sewer utilities under the jurisdiction of the Public Service  
16 Commission;

17 (b) Review and evaluation of rate applications; preparation and  
18 analysis for special projects; preparation of testimony, giving  
19 testimony and preparation of cross-examination questions for rate cases  
20 in which I am involved;

21 (c) Performance of detailed inspection of utility plants;

22 (d) Inspection of utility condition and appearances of plant;

23 (e) Review of capacity of treatment plants;

24 (f) Review of operational data relating to test years;

25 (g) Review of treatment costs;

- 1 (h) Review of operating personnel and their duties and salaries;
- 2 (i) Inspection of water meters and meter programs;
- 3 (j) Determination of what equipment is on hand to service systems;
- 4 (k) Review of booked plant value;
- 5 (l) Analysis of utilization of plant items;
- 6 (m) Review of upgrading requirements
- 7 (n) Review of operating and construction permits;
- 8 (o) Check for citations currently outstanding;
- 9 (p) Obtain permit and approval numbers from regulatory agencies.
- 10 (q) Preparation of original cost studies on utility plant.

11 Q. Please describe your educational qualifications and experience?

12 A. I received a Bachelor of Arts Degree from Washburn University of Topeka,  
13 Kansas, in 1974, with a major in Mass Communications. From 1974 to 1981, I  
14 was employed by the City of Tallahassee, Florida, as a wastewater treatment  
15 plant operator. I am currently certificated by the Florida Department of  
16 Environmental Regulation as a Class "A" Wastewater Treatment Plant Operator  
17 and as a Class "C" Water Treatment Plant Operator. Also, I am certified by  
18 the Florida Water and Pollution Control Operators Association as a Class "C"  
19 Wastewater Collection Technician and a Class "C" Water Distribution  
20 Technician.

21 Q. Have you participated in rate cases in your capacity as an Engineer with  
22 the Public Service Commission?

23 A. Yes I have.

24 Q. As part of your duties as an Engineer, are you occasionally assigned  
25 duties in relation to rate cases?

1 A. Yes I am.

2 Q. Were you given such duties in relation to the Shady Oaks staff assisted  
3 rate case Docket No. 900025-WS?

4 A. Yes I was.

5 Q. What is the present status of the Commission- ordered installation of  
6 meters at the Shady Oaks Subdivision?

7 A. Meters to all of the utility's customers have been installed.

8 Q. When were they installed?

9 A. On June 5, 1992, the Commission received a letter from the utility stating  
10 that meters were installed for all of its residential customers. On June 17,  
11 1992, I conducted an on-site inspection and verified that the residential  
12 customers were metered and that the utility was nearing completion of the  
13 installation of meters for its general service customers.

14 Q. Has the Commission formally recognized the installation of the meters?

15 A. Yes. As shown in Exhibit FJL-2, by Order No. 24084 issued February 8,  
16 1991, the Commission recognized the installation of the meters and approved  
17 the implementation of base facility and gallonage charges.

18 Q. You stated that when you conducted the on-site inspection on June 17,  
19 1992, the utility was completing the installation of meters for its general  
20 service customers. Would you say that June 17, 1992, was the day of  
21 completion of that project?

22 A. June 17, 1992 was the day of completion of the meter installation project.

23 Q. Did the utility comply with the Commission orders to install water meters  
24 in a timely fashion?

25 A. No. The utility <sup>did not</sup> install ~~the~~ the meters in a timely manner in accordance



1 with Commission Order No. 24084. PAA Order No. 24084 required the utility to  
2 install water meters for all its customers within six months. As shown in  
3 Exhibit FJL-3, Order No. 25296, issued on November 4, 1991, found that the  
4 utility had failed to comply with Order No. 24084. One part of the utility's  
5 noncompliance was its failure to complete the installation of meters. Citing  
6 problems with customers not paying their bills because of a court dispute over  
7 the utility's rates, the utility was allowed in Order No. 25296 an additional  
8 five months to install the meters. Noting that the utility was not in  
9 complete compliance with the order to install the meters, Order No. PSC-92-  
10 0367-FOF-WS, issued on May 14, 1992, show caused the utility as to why it  
11 should not be fined for noncompliance with the previous orders. This order  
12 is attached to Ms. Lingo's testimony as Exhibit FJL-4. Finally, on June 17,  
13 1992, 74 days past the deadline stated in Order No. 25296, the last meters  
14 were installed. Thus, I believe that the utility was in violation of a  
15 Commission order for 74 days.

16 Q. Order No. PSC-92-0367-FOF-WS ordered the utility to show cause why it  
17 should not be fined for continuing to provide unsatisfactory quality of  
18 service. Has the quality of service provided by the utility improved since  
19 that order was issued?

20 A. No. Because of the utility's failure to interconnect its wastewater  
21 system with Pasco County, quality of service should still be considered  
22 unsatisfactory. Also, staff has seen no indication that customer relations  
23 have improved. Staff has received several customer complaints concerning  
24 problems with the installation of the meters, limited office hours of the  
25 utility, and water outages.

1 | Q. Does this complete your testimony?

2 | A. Yes.

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1           Q     (By Mr. Feil) Mr. Rieger, you were here  
2 present when some of the customers discussed the  
3 situation with their lines and the meter installations.  
4 Could you give the Commissioner some idea as to your  
5 view of the lines and the meter installations?

6           A     Sure. I would like to summarize, however, my  
7 testimony if I could.

8           Q     Why don't you go ahead and do that.

9           COMMISSIONER BEARD: Briefly, please.

10          A     Because it might shed some light on it.  
11                Basically my testimony deals with the  
12 Utility's compliance or noncompliance with previous  
13 Commission orders. This is in regards to the  
14 installation of customer meters and quality of service.

15                Regarding the meters, the Utility has  
16 installed the meters. However, I do believe that it  
17 was not installed in a timely fashion.

18                The quality of service was also part of my  
19 testimony. That is broken down in two parts: The  
20 first part deals with the Commission-ordered  
21 interconnection of its wastewater system to the Pasco  
22 County system. That has not been done. The Utility  
23 has failed to do so at the current date.

24                Also the Commission has previously ordered  
25 the Utility to improve customer relations. I have not

1 seen any improvement to that effect, as well. Put  
2 those together, the quality of service should still be  
3 considered unsatisfactory.

4           Regarding the comments brought out by the  
5 customers, I do have some comments. The problem Ms.  
6 Bremer brought out concerning problems with the meter  
7 and the installation as such, unfortunately, typically  
8 as the Commission receives complaints, they will work  
9 with the Utility to try to address problems with  
10 excessive gallonage or whatever; and ultimately a meter  
11 test will be performed by the appropriate parties.  
12 Since the Commission in this case was not a party of  
13 it, it is hard to pinpoint at this time what actually  
14 did happen, although I do believe what Ms. Bremer did  
15 say was correct.

16           The process that the Utility did take in this  
17 account was not proper, I don't believe. We will try  
18 to track down what we can as far as what the Utility  
19 said they did and find the meter and do what is  
20 possible to correct the situation. However, it does  
21 appear unlikely that she would have used that much  
22 water during that time frame. We will try to address  
23 that.

24           COMMISSIONER BEARD: Do we typically require  
25 or at the minimum suggest that where there is a protest

1 on a meter that they maintain that meter for inspection  
2 to resolve the conflict?

3 WITNESS RIEGER: Yes, sir. If we're aware of  
4 it and if the problem does not seem to be unresolved,  
5 we will try to be at the site during the meter test or  
6 accompany the meter to the testing site facility to see  
7 if everything has been done properly. I have not had  
8 the opportunity to see the results yet.

9 COMMISSIONER BEARD: Well, that's something  
10 we'll have to work on in the future?

11 WITNESS RIEGER: We will have to work on  
12 that, yes.

13 COMMISSIONER BEARD: Okay. That's good.

14 WITNESS RIEGER: The problem concerning the  
15 sewer backup, Ms. Bird did call the Commission  
16 approximately a week ago concerning the "Arnold backup  
17 sewer situation" where the plumbers determined that the  
18 problem is in the "T," or we refer to it as the "Y."  
19 If that is the situation, we consider that part of the  
20 Utility's responsibility and part of the property.

21 The rules are clear in that case. In  
22 Commission Rules 25-30.230(2), it states that "Each  
23 sewer utility shall provide the service pipe to the  
24 sewer connection and may locate that connection at the  
25 customer curb."

1           The Utility also is required to maintain that  
2 service pipe up to the interconnect; and I believe that  
3 falls on the Utility's side if, in fact, the roots and  
4 whatever were found in the "Y." So it is believed, and  
5 I believe once we discover more information about it,  
6 it would be determined that it was the Utility's  
7 responsibility. And it is my opinion that the costs  
8 related to that should be the Utility's responsibility  
9 to pay.

10           Q     (By Mr. Feil) Well, Mr. Rieger, if I may,  
11 let me ask you an overview question regarding the lines  
12 in the park and the meter installations.

13           You, if I understood it correctly, did an  
14 inspection to verify that the meters were installed  
15 sometime last year; is that correct?

16           A     Yes, we did.

17           Q     And you visually inspected the meters?

18           A     We inspected the meters. I personally  
19 inspected the meters. In fact, the final day of the  
20 meter installation when the Utility was installing its  
21 last meter here that connects the rec center, I was  
22 here at that time. The meters that were inspected were  
23 at that time looked properly installed. However, I did  
24 not go to each one of the meters.

25           We are aware since then that there are leaks

1 as was testified for today. It appears that the  
2 Utility's installations may have been, at best, in a  
3 temporary nature, although it should be more permanent.  
4 That in any leaks resulting that or damage to the  
5 facilities, either the customer's or the Utility's,  
6 should be the responsibility of the Utility since they,  
7 in fact, did the damage and any leaks related to that  
8 should be the responsibility for repairs by the  
9 Utility.

10 Back in October, the 3rd of October, I was  
11 notified the situation of the ground not settling  
12 around the meters. I was in the area anyway. I came  
13 by and inspected, and I did see several meters to that  
14 effect that the ground was eroding around it, that the  
15 installation may not have been properly put in at that  
16 time.

17 I did send a letter to the Utility dated  
18 October 14th concerning about the installation of the  
19 meter boxes, of course, in the ground and reaffirmed  
20 with the Utility that it was indeed its responsibility  
21 to make sure that the installation was proper and  
22 should be maintained because it is the Utility's  
23 responsibility.

24 Unfortunately, I have not been back to the  
25 facility to verify to see if any improvements have been

1 made; but it sounds today that there are still existing  
2 problems to that effect.

3 All the things that Ms. Bird had listed we've  
4 heard before, and it seems to be a problem with the  
5 Utility as far as working with the Utility to maintain  
6 a level of satisfactory workmanship of what bonfire we  
7 may put out as far as Staff working with utility one  
8 day may come up again as another situation at a later  
9 date. We seem to be constantly having new situations  
10 coming up. We deal with the Utility quite often to  
11 correct these things. They may be corrected, they may  
12 not be. It's hard, as a matter of fact.

13 COMMISSIONER BEARD: Let me ask you a quick  
14 question if I can. I want to go back to one in  
15 particular. I believe it was Ms. Kellnhofer who was  
16 talking about the formation of Lake Shady Oaks in her  
17 backyard and neighbors' yards at one point in time  
18 there with a pipe prior to the meters being installed.

19 WITNESS RIEGER: Yes.

20 COMMISSIONER BEARD: What do we typically use  
21 as a demarcation point when there is no meter as to  
22 what belongs to the customer and what belongs to the  
23 Utility?

24 WITNESS RIEGER: Well, typically, there would  
25 be a main and then a service line coming off of that



1 main to the customer's connection. If it is on the  
2 customer's property and it is -- if it does appear to  
3 be a service line, it more than likely would be the  
4 responsibility of the customer. Fortunately, we don't  
5 have that problem very often because most of our  
6 utilities are metered, as is this one in this case now.

7 COMMISSIONER BEARD: And in this instance  
8 that particular line happened to not be on their  
9 property?

10 WITNESS RIEGER: Not on their property, and  
11 as I understand it, it is before it gets to the  
12 customer's meter to date.

13 COMMISSIONER BEARD: Yes.

14 WITNESS RIEGER: So, yes, here again it  
15 appears that it was the Utility's responsibility. And  
16 the response time for repairs has a lot to be desired  
17 to that effect, as well.

18 Also, it is unfortunate that it appears to be  
19 an immediate response of the Utility to tell the  
20 customer to call a plumber as opposed to coming out  
21 here and at least identifying the problem to establish  
22 whose responsibility it is. I think that is an  
23 unfortunate part of the Utility's main office being  
24 located so far away from the service area.

25 In reference to office hours, we have allowed

1 money -- in fact, \$6,000 a year, I do believe -- to  
2 keep the office open approximately ten hours a week.  
3 It doesn't appear that that is being done, as well.

4 COMMISSIONER BEARD: Okay.

5 WITNESS RIEGER: This situation, I'm  
6 concerned about the current situation about Mr. Sims  
7 informing those customers that do not have water  
8 service, currently do not have water service. It is  
9 unfortunate that this happened. Of course, they're  
10 entitled to water service, especially since they  
11 apparently have notified the Utility that they wanted  
12 to service to be put on. And it's not their mistake or  
13 whatever that that service is not on to date, it  
14 appears.

15 As a further note to update, I was showing  
16 some of my co-workers where the last meter was  
17 installed, which was here at the rec center. And we  
18 went and opened the valve box, and we did not see the  
19 meter but we did see leaking water. We don't know what  
20 side of the meter it is, but it's just as a  
21 for-instance that the situation does exist and we have  
22 an example right outside our door.

23 COMMISSIONER BEARD: Okay.

24 Q (By Mr. Feil) Let me ask you, if I may, one  
25 last question with regard to meter location.

1                   Is part of the problem with the installation  
2 and location of the meters the design and location of  
3 the service pipes?

4           A       Yes. I'm sorry I did not bring that up, I  
5 wanted to.

6                   The installation of the lines, when the  
7 facility was first installed, I believe Mr. Sims had  
8 something to do with that from the very beginning. The  
9 lines typically, as we're used to, follow either roads  
10 or direct property boundaries. They do not in this  
11 case in some instances.

12                   Meters may be located on other people's  
13 property, and those meters may be serving their  
14 neighbors or whatever.

15                   The opinion that Staff has taken to this  
16 point is that we were lucky to get the meters installed  
17 and installed properly -- which may or may not have  
18 been done -- the location of which falls where the  
19 lines may be. And it's unfortunate that there could be  
20 several meters on one person's property serving his  
21 neighbors.

22                   I think the main goal that we're trying to  
23 achieve is the proper installation of these meters.  
24 The boxes are included in this; and if boxes are  
25 extended beyond the ground level, they should be

1 lowered. If ground is being eroded around these  
2 meters, they should be filled back in.

3 COMMISSIONER BEARD: Let me ask you a  
4 question because I'm curious.

5 In one instance where we had where the meter  
6 was installed on another person's property, I have to  
7 assume that at some point in time that line arrives on  
8 the property of the person being served?

9 WITNESS RIEGER: Yes.

10 COMMISSIONER BEARD: Okay. And then I follow  
11 that with in one instance where the meter is installed  
12 literally three or four feet from the home, and I guess  
13 I'm trying to marry those two up. You install one  
14 meter on somebody else's property, but there seems to  
15 be no problem with installing the meter within feet of  
16 the home.

17 WITNESS RIEGER: Well, that is the problem of  
18 coming back after-the-fact, after the installation of  
19 the lines were made. We have problems out there. We  
20 have fence lines, we have shrubbery, we have patio  
21 decks; we have just problems of locating the line, and  
22 that may be the case in a lot of instances.

23 There are physical problems that may prevent  
24 the installation, proper installation. Of course, we  
25 would all like to see meters placed on the same

1 property that serves the customer as well. But I do  
2 believe there were physical problems in this case.

3 COMMISSIONER BEARD: Okay.

4 MR. FEIL: I have nothing further.

5 COMMISSIONER BEARD: Okay. Thank you.

6 Witness is excused.

7 We'll wait to move exhibits in, I guess,  
8 since they're part of the second part.

9 Let's do this, for the benefit of the court  
10 reporter and me, if we could take about a ten-minute  
11 break and we'll be right back.

12 (Witness Rieger excused.)

13 (Brief recess.)

14 - - - - -

15 COMMISSIONER BEARD: Okay, Counsel.

16 FRANCES J. LINGO

17 was called as a witness on behalf of the Staff of the  
18 Florida Public Service Commission and, having been duly  
19 sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. FEIL:

22 Q Please state your name and business address  
23 for the record.

24 A My name is Jenny Lingo; I'm a Regulatory  
25 Analyst for the Public Service Commission. My address

FLORIDA PUBLIC SERVICE COMMISSION

1 is 101 East Gaines Street, Tallahassee.

2 Q And you are the Frances J. Lingo who prefiled  
3 testimony in this docket consisting of nine written  
4 pages?

5 A Yes, I am.

6 Q Do you have any corrections to that  
7 testimony?

8 A Yes, I have revised Exhibit FJL-8 to  
9 incorporate a response --

10 COMMISSIONER BEARD: Can you pull the  
11 microphone a bit closer? They're having some trouble  
12 in the back hearing, I think.

13 A Yes. I have revised Exhibit FJL-8 to  
14 incorporate information contained in the Utility's  
15 response to one of our interrogatories.

16 Q How does that change the testimony, please?

17 A On Page 8, Line 19, the dollar amount \$22,609  
18 should read \$20,109. And on Line 21, 59% should read  
19 54%.

20 Q Other than those corrections, if I asked you  
21 the questions in this testimony today, would your  
22 answers to them be the same?

23 A Yes, they would.

24 MR. FEIL: Mr. Commissioner, I ask that her  
25 testimony be inserted into the record as though read.

1                   COMMISSIONER BEARD: It will be so inserted.

2           Q        (By Mr. Feil) And, Ms. Lingo, you also had  
3 attached to your testimony and filed with it Exhibits  
4 FJL-1 through 8, is that correct?

5           A        Yes, that's correct.

6           Q        And you mentioned that you had corrections to  
7 that testimony. Let me show you those corrections and  
8 then you can verify whether or not those are they.

9           (Pause)

10                   And those are the corrections to FJL-8; is  
11 that correct?

12           A        Yes, that's correct.

13                   MR. FEIL: Commissioner, if you would  
14 identify as a composite those prefiled exhibits?

15                   COMMISSIONER BEARD: It will be Composite  
16 Exhibit, I believe, No. 5; is that correct?

17                   MR. FEIL: Yes, sir.

18                   (Composite Exhibit No. 5 marked for  
19 identification.)

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DIRECT TESTIMONY OF FRANCES J. LINGO

1  
2 Q. Would you please state your name and business address?

3 A. Frances J. Lingo, 101 East Gaines Street, Tallahassee, Florida 32399-  
4 0850.

5 Q. By whom are you employed, and in what capacity?

6 A. I am employed by the Florida Public Service Commission as a Regulatory  
7 Analyst IV.

8 Q. How long have you been employed by the Florida Public Service Commission?

9 A. I have been employed by the Commission since June 12, 1989.

10 Q. Would you please state your educational background and experience?

11 A. I received a Bachelor of Science Degree with a major in Accounting and a  
12 Bachelor of Science Degree with a major in Economics, both from The Florida  
13 State University, in August 1983.

14 From October 1983 to May 1989, I was employed by Ben Johnson Associates,  
15 Inc. (BJA), an economic and analytic consulting firm specializing in the area  
16 of public utility regulation. During my employment at BJA, I performed  
17 research and analysis in more than 75 utility rate proceedings, assisting with  
18 the coordination and preparation of exhibits. I also assisted with the  
19 preparation of testimony, discovery and cross-examination regarding rate  
20 design issues.

21 In particular, I prepared embedded cost-of-service studies, made typical  
22 bill comparisons and examined local service rate and cost relationships. I  
23 studied residential and general service rates, customer charges, management  
24 decision-making processes, slippage in the engineering and construction of  
25



1 nuclear power plants, nuclear versus coal plant costs and seasonal load and  
2 usage patterns.

3 In June 1989, I joined the Commission as a Regulatory Analyst II. In June  
4 1990, I was promoted to Regulatory Analyst III, and in October 1991, I was  
5 promoted to my current position of Regulatory Analyst IV.

6 Q. Would you describe your experience and duties at the Commission?

7 A. Yes. My experience at the Commission includes but is not limited to:

- 8 (a) reviewing and evaluating staff-assisted rate case filings, including  
9 auditing utilities' books and records, developing rate base, rate of  
10 return and revenue requirements, and preparing and presenting  
11 recommendations in cases in which I am involved;
- 12 (b) reviewing and evaluating price index and pass-through rate  
13 adjustment applications;
- 14 (c) desk audits of annual reports and determining the respective  
15 utility's rate of return;
- 16 (d) overearning investigations; and
- 17 (d) research and other related duties on accounting and financial  
18 matters relating to water and wastewater utilities subject to the  
19 jurisdiction of the Commission.

20 In addition, I have attended the Eastern Utility Rate Seminar, a  
21 comprehensive seminar on utility ratemaking, including topics on rate base,  
22 income statement considerations, problems of small water utilities, return on  
23 investment and rate design. I have also received in-house training regarding  
24 utility regulation, rate base, rate of return, revenue requirements and rate  
25 design issues.

1 Q. What is the purpose of your testimony in this proceeding?

2 A. I will present testimony regarding Shady Oaks Mobile-Modular Estates,  
3 Inc.'s compliance with Commission Orders Nos. 24084 and 25296. My testimony  
4 will focus on whether the utility has complied with Commission orders to:

5 (a) request a name change and restructure;

6 (b) spend at least \$1,445 per month for preventative maintenance; and

7 (c) maintain its escrow account at the appropriate balance.

8 Q. Have you prepared exhibits which support Staff's position in this case?

9 A. Yes. Attached as Exhibit FJL-1 is Staff's recommendation prepared for the  
10 April 21, 1992 Agenda Conference. As a matter of convenience, Commission  
11 Orders Nos. 24084, 25296 and PSC-92-0367-FOF-WS are attached as Exhibits FJL-  
12 2, FJL-3 and FJL-4, respectively. Exhibit FJL-5 is correspondence from the  
13 Division of Water and Wastewater to Mr. Richard D. Sims, the owner of Shady  
14 Oaks. Exhibit FJL-6 contains copies of recent correspondence received by  
15 Staff from the utility. Exhibit FJL-7 is an analysis of the utility's  
16 preventative maintenance expenditures, and Exhibit FJL-8 is an analysis of the  
17 deficiency in the utility's escrow account.

18 Q. By Orders Nos. 24084 and 25296, did the Commission order Shady Oaks  
19 Mobile-Modular Estates, Inc. to submit a request for acknowledgement of a name  
20 change and restructure?

21 A. Yes, it did.

22 Q. Would you please summarize the events associated with the orders in this  
23 regard?

24 A. Yes. As discussed in detail on pages four through six of Exhibit FJL-1,  
25 in August 1990, Mr. Sims transferred the title of the utility land from Shady

1 Oaks Mobile-Modular Estates, Inc. to Richard D. and Caroline Sue Sims.  
2 However, this transfer was not approved by the Commission. Therefore, in  
3 Order No. 24084, issued February 8, 1991, the Commission ordered Shady Oaks  
4 to file within 60 days a request for acknowledgement of a name change and  
5 restructure.

6 By Order No. 25296, issued November 4, 1991, the Commission allowed the  
7 utility additional time to complete the name change and restructure  
8 requirements. Specifically, the utility was ordered to submit within 60 days  
9 all necessary information for changing its certificated name, including  
10 evidence that the title to all the utility land and personal property has been  
11 properly transferred to S & D Utility, or revert to operating under its  
12 currently certificated name of Shady Oaks Mobile-Modular Estates, Inc.

13 Q. In addition to the Commission orders requiring that the utility submit a  
14 request for acknowledgement of a name change and restructure, has staff made  
15 other attempts to obtain the information from the utility?

16 A. Yes. By letter dated January 22, 1992, Staff restated to Mr. Sims what  
17 information was necessary to complete the name change. This letter is  
18 included in Exhibit FJL-1. In addition, by letter dated July 21, 1992, Staff  
19 again notified Mr. Sims regarding the appropriate filing requirements. This  
20 letter is attached as Exhibit FJL-5.

21 Q. Have you reviewed all the documents filed by the utility in this  
22 proceeding?

23 A. Yes, I have.

24 Q. Based on your review of these documents, has the utility filed the  
25 required documents for the name change and restructure?

1 A. No, the utility has not filed the documents for a name change and  
2 restructure.

3 Q. Although the utility has failed to file the required documents for the  
4 name change and restructure, has the utility complied with the Commission's  
5 order to revert to operating under its certificated name of Shady Oaks Mobile-  
6 Modular Estates, Inc.?

7 A. No. The utility continues to operate as S & D Utility. Attached as  
8 Exhibit FJL-6 are copies of recent correspondence received by Staff from the  
9 utility. The letterhead on all correspondence indicates the utility is  
10 operating as S & D Utility.

11 Q. Therefore, based on your review of the documents filed in this proceeding,  
12 has the utility complied with Orders Nos. 24084 and 25296 with respect to the  
13 name change and restructure requirements?

14 A. No, it has not.

15 Q. By Orders Nos. 24084 and 25296, Did the Commission order Shady Oaks  
16 Mobile-Modular Estates, Inc. to spend funds on preventative maintenance?

17 A. Yes, it did.

18 Q. Would you please summarize the events associated with the orders in this  
19 regard?

20 A. Yes. As discussed on pages seven through eight of Exhibit FJL-1, the  
21 rates approved in Order No. 24084 include a monthly allowance of \$1,700 for  
22 preventative maintenance. Order No. 24084 further states that if at six  
23 months from the effective date of the order the utility has not expended at  
24 least 85% of the amount allowed (at least \$1,445 per month), the utility shall  
25 submit a written schedule to show what monthly maintenance will be adopted

1 along with a statement of the reason such funds were not expended and a  
2 detailed statement of its future plans to maintain the system.

3 The utility did not spend the required maintenance allowance during the  
4 months of March through August 1991. However, in Order No. 25296, issued  
5 November 4, 1991, the Commission found that the utility's failure to spend the  
6 maintenance allowance was likely due to decreased revenues collected during  
7 the period. Therefore, the utility was ordered to comply with the  
8 requirements of Order No. 24084 on a prospective basis. The Commission was  
9 to review the issue in five months' time.

10 Q. Have you performed an analysis of the utility's preventative maintenance  
11 expenditures?

12 A. Yes. I have analyzed the utility's expenditures for the months of  
13 September 1991 through February 1992.

14 Q. What are the results of your analysis of these expenditures?

15 A. As shown on Exhibit FJL-7, my analysis indicates that during the six  
16 months under review, the utility's total expenditures on preventative  
17 maintenance were approximately \$3,300. However, over a six month period, the  
18 utility would be expected to spend at least \$8,670. This figure is based on  
19 the requirement that the utility spend at least 85% of the \$1,700 allowance  
20 for each of the six months. Therefore, the utility's actual expenditures  
21 represent less than 40% of what the utility was ordered to spend.

22 Q. Although the utility did not spend the allowance for preventative  
23 maintenance, has the utility submitted to staff the required statement of the  
24 reasons the funds were not expended and a detailed statement of its future  
25 plans to maintain the system?

1 A. No. The utility has not submitted either of these statements to Staff.

2 Q. Therefore, based on your review of the utility's expenditures and the  
3 documents filed in this proceeding, has the utility complied with Order No.  
4 25296 regarding the preventative maintenance requirement?

5 A. No, it has not.

6 Q. By Orders Nos. 24084 and 25296, Did the Commission order Shady Oaks  
7 Mobile-Modular Estates, Inc. to escrow a portion of its rate increase?

8 A. Yes, it did.

9 Q. Would you please summarize the events associated with the orders in this  
10 regard?

11 A. Yes. As discussed on pages ten through eleven of Exhibit FJL-1, the  
12 utility received a rate increase effective March 2, 1991, as a result of its  
13 staff-assisted rate case. By Order No. 24084, the utility was required to  
14 place in escrow the portion of the rate increase related to proforma plant and  
15 a \$2,000 penalty related to unsatisfactory quality of service. Specifically,  
16 the utility was ordered to escrow a total of \$0.32 of the water gallonage  
17 charge, or \$1.89 of the water flat rate, and a total of \$1.80 of the  
18 wastewater gallonage charge, or \$10.80 of the wastewater flat rate be escrowed  
19 to accumulate the proper sums as required.

20 As discussed in Order No. 25296, the utility did not comply with Order No.  
21 24084 regarding the escrow requirements, in large part due to the failure of  
22 many of the utility's customers to pay their water and wastewater bills. As  
23 a result, the utility unilaterally decided to discontinue placing money in  
24 escrow in order for it to pay its bills. As further discussed in Order No.  
25 25296, the utility was admonished for ceasing to escrow without the

1 Commission's approval. The utility was ordered to immediately correct the  
2 deficiency in the account, and to continue placing the appropriate portion of  
3 revenues in the escrow account.

4 Q. Have you performed an analysis of the utility's escrow account balance?

5 A. Yes. Attached as Exhibit FJL-8 is my analysis of the utility's escrow  
6 account balance.

7 Q. Please explain Exhibit FJL-8.

8 A. I have reviewed the utility's billing and collection records. Based on  
9 the revenues collected each month, I calculated the appropriate amount of  
10 revenues that should have been placed into the escrow account each month.  
11 These amounts were then compared to the amounts actually escrowed by the  
12 utility.

13 Q. What are your findings based on this analysis?

14 A. As shown on Exhibit FJL-8, as of November 30, 1991, the utility had placed  
15 \$1,201 into escrow, or approximately \$3,417 less than the appropriate escrow  
16 amount of \$4,618. This violates the Commission's order to immediately place  
17 into the escrow account the funds necessary to bring the account up to the  
18 appropriate balance. As also shown on Exhibit FJL-8, at September 30, 1992,  
19 the utility should have placed a total of approximately <sup>\$20,109</sup>~~\$22,609~~ into the  
20 escrow account. However, the utility has placed only \$9,251 into the account,  
21 or <sup>54%</sup>~~53%~~ less than the appropriate amount.

22 Q. Therefore, based on your analysis of the balance in the utility's escrow  
23 account, has the utility complied with Orders Nos. 24084 and 25296 regarding  
24 the escrow requirement?

25 A. No, it has not.

1 Q. Does this conclude your testimony?

2 A. Yes, it does.

1           COMMISSIONER BEARD: While we're doing this,  
2 let me ask one question. And perhaps this witness  
3 would be the one to answer.

4           I had a question on break about when you pay  
5 your bill, the appropriate way -- I think there's a  
6 concern that the check be made out appropriately so  
7 that there's some kind of an audit trail to make sure  
8 that they paid their bill? The proper name by our  
9 records that they should be making the check out to pay  
10 the utility bill is what?

11           WITNESS LINGO: The certificated name of the  
12 Utility is Shady Oaks Mobile-Modular Estates,  
13 Incorporated. However, the Utility has been operating  
14 as S&D Utility for a period of months in violation of a  
15 Commission order.

16           COMMISSIONER BEARD: Okay. So if they want  
17 to be safe they should make it out to Shady Oaks  
18 Mobile-Modular Estates?

19           WITNESS LINGO: Commissioner, the Utility's  
20 bank account is in the name of S&D Utility, which  
21 causes another problem. I would recommend that the  
22 check be made out for trail purposes for S&D Utility,  
23 although it is not the certificated name, because the  
24 escrow account is in S&D Utility as well.

25           COMMISSIONER BEARD: Okay. For you all's



1 information at this point and for our records to track,  
2 probably the safest approach is to make it out to S&D  
3 Utilities. Okay?

4 Okay, I'm sorry, go ahead.

5 MR. FEIL: I have one other exhibit to pass out.  
6 If we could identify this as a Composite Exhibit 6.

7 COMMISSIONER BEARD: Okay.

8 MR. FEIL: The description would be  
9 "Discovery and Responses to Discovery."

10 COMMISSIONER BEARD: Okay.

11 (Composite Exhibit No. 6 marked for  
12 identification.)

13 Q (By Mr. Feil) Ms. Lingo, do you recognize  
14 that document?

15 A Yes. The first portion of this document  
16 represents interrogatories that I prepared and  
17 submitted to the Utility for their response. And the  
18 second part of this document are the Utility's  
19 responses to a portion of the interrogatories that I  
20 submitted.

21 Q In your view, does anything that the Utility  
22 say in those responses contradict or gainsay any of the  
23 allegations which the Staff has made against the  
24 Utility?

25 A No, they do not.

1           Q     What action do you think the Commission  
2 should consider taking against Shady Oaks?

3           A     I believe that the Utility should be fined in  
4 the amount of rate base; that we initiate a separate  
5 proceeding to reduce the Utility's rates by the amount  
6 of pro forma plant and preventative maintenance expense  
7 that has not been spent by the Utility; and that the  
8 Utility's certificate be revoked.

9           Q     If the customers are willing to work out a  
10 deal with the Utility and purchase the Utility from Mr.  
11 Sims, do you think that the Commission could structure  
12 its action against the Utility so as to encourage him  
13 to do that?

14          A     Yes. If we would agree to perhaps suspend  
15 the implementation of the fines until a date certain  
16 contingent upon a sale being consummated of the  
17 Utility, Staff would certainly be willing, you know, we  
18 would be willing to consider that.

19               MR. FEIL: I don't have any more questions.

20               COMMISSIONER BEARD: Let me ask you a quick  
21 question. In developing the record along those thought  
22 lines, just in rough numbers, there is in excess of  
23 \$10,000 that should have been escrowed that was not?

24               WITNESS LINGO: Yes, sir, that's correct.

25               COMMISSIONER BEARD: Where that comes from to

1 me is that there is \$10,000 that, instead of being put  
2 in an escrow account, was put in somebody's pocket?

3 WITNESS LINGO: Yes, sir.

4 COMMISSIONER BEARD: Would it be your  
5 position that as a part of structuring some form of  
6 sale or transfer those dollars would be associated with  
7 monies already collected a quote/unquote "profit"?

8 WITNESS LINGO: That is something that should  
9 be considered when structuring the sale, yes.

10 COMMISSIONER BEARD: Okay. Because I have a  
11 great deal of concern that that money was to have been  
12 put someplace to take care of some things that it was  
13 not. I guess from the standpoint of trying to work out  
14 whatever reasonable solution that is there that that  
15 needs to be a factor, among other things.

16 Okay, that's all I have. Anything else?

17 MR. FEIL: No, sir. I move the exhibits into  
18 the record.

19 COMMISSIONER BEARD: We will move Composite  
20 Exhibit No. 4 -- excuse me, No. 5 and No. 6 into the  
21 record.

22 MR. FEIL: Yes, sir.

23 COMMISSIONER BEARD: Thank you.

24 (Witness Lingo excused.)

25 COMMISSIONER BEARD: Now, did I get all the

1 exhibits move in at this stage?

2 MR. FEIL: With regards to the things that  
3 the customers brought up, I just assumed that you had.

4 COMMISSIONER BEARD: For the record, I'm  
5 moving Exhibits Nos. 1, 2, 3 and 4 into the record as  
6 well, just to make sure the record is clear; so we have  
7 all of those. And I think you will get with Ms. Bird  
8 after we finish to make sure we have all the  
9 information about those exhibits and follow up on that.

10 (Exhibits Nos. 1 through 6 received into  
11 evidence.)

12 THE REPORTER: Yes, sir.

13 COMMISSIONER BEARD: Okay.

14 MR. FEIL: I think that there's only one  
15 matter that needs to be mentioned; and that is, because  
16 you are a Hearing Officer, I will have prepared for  
17 your signature early next week an order establishing  
18 post-hearing procedure.

19 COMMISSIONER BEARD: Okay.

20 MR. FEIL: The present CASR is scheduled for  
21 a decision, I believe, sometime in March. So we'll see  
22 if the new Hearing Officer filing scheme fits into that  
23 schedule.

24 COMMISSIONER BEARD: Okay. We'll try to  
25 expedite that as much as we reasonably can to try to

1 get some results and relief for the people. Okay.

2 We appreciate your coming. I only wish that  
3 we could have gotten more answers for you today; but in  
4 the absence of the Utility's presence, that becomes  
5 difficult.

6 I can promise you that we will pursue the  
7 complaints; that we will pursue the matters brought to  
8 us in this hearing; and whatever it takes to get you  
9 the proper quality of service in a proper manner, we  
10 will do. I thank you very much for coming here today  
11 and appreciate -- yes, sir?

12 FROM THE AUDIENCE: Mr. Chairman? There is  
13 no intention of closing this docket yet, is there?

14 COMMISSIONER BEARD: No, sir, the docket will  
15 not close. At the very earliest, the docket will close  
16 once we have been through all this process and  
17 proceeding and all the Commissioners have made a  
18 decision. I would suggest to you that, what I see of  
19 this now, that even then it will not close until an  
20 ultimate solution to the problems associated with this  
21 utility are found.

22 UNIDENTIFIED SPEAKER: Thank you.

23 COMMISSIONER BEARD: We typically leave our  
24 dockets open until we are satisfied that everything has  
25 been taken care of. Okay?

1 UNIDENTIFIED SPEAKER: Okay.

2 COMMISSIONER BEARD: Okay. Again, thank you

3 so much for your time and presence.

4 (Hearing concluded at 11:40 a.m.)

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1 F L O R I D A )

2 : CERTIFICATE OF REPORTER  
3 COUNTY OF LEON)

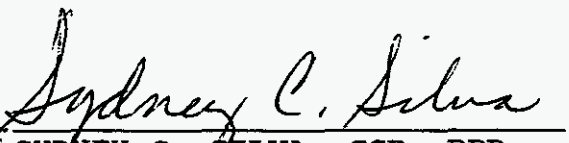
4 I, SYDNEY C. SILVA, CSR, RPR, Official  
5 Commission Reporter,

6 DO HEREBY CERTIFY that the hearing in the  
7 captioned matter, Docket No. 900025-WS, was heard by the  
8 Florida Public Service Commission at the time and place  
9 herein stated; it is further

10 CERTIFIED that I reported in shorthand the said  
11 proceedings; that the same has been transcribed under my  
12 direct supervision, and that this transcript, consisting  
13 of 88 pages, inclusive, constitutes a true and accurate  
14 transcription of my notes of said proceedings; it is  
15 further

16 CERTIFIED that I am neither of counsel nor  
17 related to the parties in said cause and have no interest,  
18 financial or otherwise, in the outcome of this docket.

19 IN WITNESS WHEREOF, I have hereunto set my hand  
20 at Tallahassee, Leon County, Florida, this 15th day of  
21 January, A.D., 1993.

22   
23 SYDNEY C. SILVA, CSR, RPR  
24 Official Commission Reporter  
25 FPSC Bureau of Reporting  
Telephone No. (904) 488-5981

**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT FJL-11**

**WITNESS: FRANCES J. LINGO**

**ON BEHALF OF THE STAFF  
OF THE FLORIDA PUBLIC SERVICE COMMISSION  
DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**CORRESPONDENCE AND INTERROGATORIES  
RELATED TO NAME CHANGE**

**FLORIDA PUBLIC SERVICE COMMISSION**  
**DOCKET**  
NO. 930944 EXHIBIT NO. 12  
COMPANY/ FPSC/Lingo  
WITNESS: FPSC/Lingo  
DATE: \_\_\_\_\_



Commissioners:

THOMAS M. BEARD, CHAIRMAN  
BETTY EASLEY  
J. TERRY DEASON  
SUSAN F. CLARK  
LUIS J. LAUREDO



DIVISION OF WATER &  
WASTEWATER  
CHARLES HILL  
DIRECTOR  
(904) 488-8482

## Public Service Commission

July 21, 1992

Mr. R. D. Sims  
Shady Oaks Mobile-Modular Estates, Inc.  
Post Office Box 280012  
Tampa, Florida 33682-0012

Re: Request for name change of Shady Oaks Mobile-Modular Estates, Inc. to S  
& D Utility

Dear Mr. Sims:

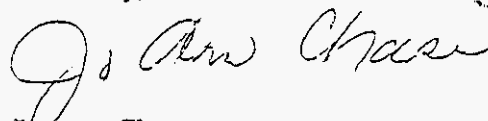
Your request for an application for a name change has been referred to this office for response. We do not currently have an application form or administrative rules governing the filing requirements for a change in name of a utility. In order to process a name change, staff must verify that the utility's name has changed with no change in ownership or control of the utility or its assets, and that ownership of the utility assets are in the new name of the utility. Therefore, you must submit the utility's complete new name, proof of ownership of the utility's property in the new name of the utility, and the effective date of the name change. In addition, you must submit a complete new tariff reflecting the new name of the utility on each page of the tariff, including all standard forms, such as the billing statement and the application for service. The utility's certificate must be returned so that it can be re-issued in the new name.

If the name change also involves a change in the structure of the utility, such as a change from a corporation to a partnership with a change in the control of the utility, this would be considered a transfer of majority organizational control and the filing requirements are more extensive. If that is the case, please contact this office before you file for a name change so that we can send you the appropriate application form and administrative rules.

Mr. R. D. Sims  
July 21, 1992  
Page Two

If you have any further questions, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "JoAnn Chase".

JoAnn Chase  
Regulatory Analyst Supervisor

/jc

cc: Division of Water and Wastewater (Hill, Lingo)  
Division of Legal Services (Feil)

DOCKET NO. 900025-WS  
STAFF'S FIRST SET OF  
INTERROGATORIES

INTERROGATORIES

1. On page one of the utility's response to the Commission's Order to Show Cause, Mr. Sims states:

"These assets were transferred from Shady Oaks to Richard D. and Caroline Sue Sims. At the present, I am the sole owner of the Utility, but the land is registered in the name of Richard D. and Caroline Sue Sims."

- (a) Does the above-referenced statement mean that Richard D. and Caroline Sue Sims own the land upon which the utility's assets are located?
- (b) If the response to (a) is negative, who owns the utility's land?

2. (a) Does the statement referenced in Interrogatory No. 1 mean that Richard D. and Caroline Sue Sims own all of the utility's assets?
- (b) If the response to 2(a) is negative, who owns the utility's assets?

3. (a) As a result of the transfer of any utility assets, is the utility now considered a sole proprietorship for federal income tax purposes?
- (b) If the response to 3(a) is negative, please indicate the utility's federal income tax filing status.

4. (a) If the utility is now a sole proprietorship, has the utility filed with the Commission the documents required for the Commission to approve a transfer of majority organizational control?
- (b) If the response to 4(a) is negative, please explain why these documents have not been filed.

5. (a) What was the effective date of the name change from Shady Oaks Mobile-Modular Estates, Inc. to S & D Utility?
- (b) Why has the utility failed to file the documents which the Commission required it to file in Orders Nos. 24084 and 25296 regarding acknowledgement of the name change?

RECEIVED

Nov 23 8 23 AM '92  
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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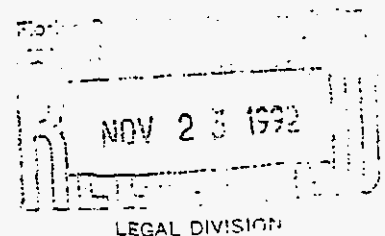
In re: Application for staff-  
assisted rate case in Pasco  
County by SHADY OAKS MOBILE-  
MODULAR ESTATES, INC. )

DOCKET NO. 900025-WS

RESPONDANT'S REPLIES TO COMMISSION STAFF'S FIRST SET  
OF INTERROGATORIES TO SHADY OAKS MOBILE-MODULAR  
ESTATES, INC.

The answers to the interrogatories propounded by the Commission under date of 10-15-92 are as follows: (answers corresponded to interrogatory numbers and sub-sections)

1. (a) The land upon which the utility's assets are located is owned by Richard D. and Caroline Sue Sims.
2. (a) No. The utility's assets are owned individually by Richard D. Sims d/b/a S & D Utility. However, some minor tools and miscellaneous spare parts are owned by Shady Oaks Mobile Modular Estates. The value of these assets would not exceed \$1,000.00 in value.
3. Yes, the Utility is a sole proprietorship for federal income tax purposes and its operations would be reflected on 1040 Sch. C showing the Federal I.D. Number as: 59-3056011.
4. (a) No, these required documents have not yet been filed.  
(b) These documents have not yet been filed for basically two reasons:
  - (1) I did not receive sufficient information to provide this data prior to my having individually filed Chapter 11 Bankruptcy on June 22, 1992.
  - (2) Since I am presently under the pervuew and control of the Bankruptcy Court, I feel compelled to postpone this requirement until issues of the Bankruptcy are resolved.
5. (a) There was no name change from Shady Oaks Mobile-Modular Estates, Inc. to S & D Utility. Shady Oaks Mobile-Modular Estates, Inc. continues as an ongoing





entity. What occurred here was that when the real estate upon which the water treatment and sewer plants repose was transferred to Richard D. and Caroline Sue Sims, this gave rise to the creation of S & D Utility, which is solely owned by Richard D. Sims.

- (b) I am anxious to comply with the order, but I am confused and vague concerning the nature of the documentation required. Could the Commission provide me with sample format so that I might comply. As to the requirement to place \$333.34 per month in escrow --- I have been unable to comply because of a cash flow problem resulting from the Chapter 11 filing wherein I am compelled to escrow \$886.08 to cover back real estate taxes. I am also delinquent in payments to the U.S. Trustee in regard to Chapter 11 Bankruptcy filing.
6. (a) The most recent Bankruptcy was filed on June 22, 1992.
- (b) Richard D. Sims d/b/a S & D Utility - Chapter 11 Case No. 92-06718-8B1.
7. The additional monthly expense of \$1,155.00 is derived from loan service expense and to defray past due engineering fees occurred in connection with the expansion of the waste water system.
8. I have, because of cash flow restraints incurred little or no expense for preventative maintenance for the period in question.
9. See response to question 8.
10. See response to question 8.
11. See response to question 8. It appears obvious that in order to have the resources to implement a meaningful and effective maintenance system, customer usage would have to increase, or a rate increase be granted.
12. (a) No.
- (b) The present cash flow position of the Utility mitigates against a successful effort to resolve and pay the fine. A pro forma operating loss is presently being

LAW OFFICES  
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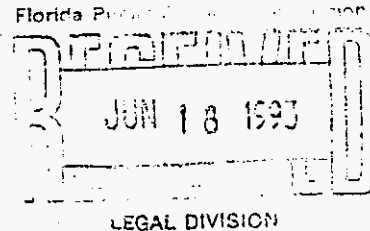
June 18, 1993

JOHN R. WODRASKA  
SPECIAL CONSULTANT  
(NOT A MEMBER OF THE FLORIDA BAR)

VIA HAND DELIVERY

Ms. Suzanne Summerlin  
Division of Legal Services  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, FL 32301

RE: Shady Oaks Utility  
Docket No. 900025-WS  
Our File No. 29056.01



Dear Suzanne:

Below please find, as we have discussed, a good faith timetable by which Shady Oaks' will comply with all outstanding requirements in the Commission's orders. As we know the staff appreciates, Shady Oaks badly needs to put its past problems behind it and to operate the utility in the best manner possible, to the benefit of both the utility and its customers, on a going-forward basis. Shady Oaks will cooperate with the Commission to the extent possible in this continuing endeavor. However, we believe that the Commission also appreciates that these types of improvements and/or subsequent actions can only occur in a timely manner if sufficient capital exists as required for their implementation. Shady Oaks has been working with the staff in an ongoing attempt to improve its revenue stream so that it will have sufficient capital, and/or the ability to attract sufficient capital and to support debt service on any borrowed funds, as necessary to undertake these projects.

Below are the specific expectations which we understand the Commission and the staff have for Shady Oaks and the dates by which Shady Oaks projects the same may be completed. We would appreciate your consideration that the utility is presently in dire financial straits.

Ms. Suzanne Summerlin  
June 18, 1993  
Page 2

DATE

- Interconnection to County. (This assumes rates and conditions obtained from the County for such interconnection which will not be to the detriment of either the utility or its customers.) within 8 months
- File a request for acknowledgement of a restructuring and name change. within 45 days
- Improve quality of service. continuing effort which has already commenced
- Expend 85% of the allowance for preventative maintenance on system's maintenance or provide written explanation for not doing so. (Shady Oaks is currently working with the staff in order to address the fact that the utility's net revenues, and particularly those during the summer months, are insufficient. Ms. Jenny Lingo's pending trip to the utility is in furtherance of this issue.) as soon as possible
- Provide a detailed record of what monthly maintenance will be implemented. within 60 days
- Install meters for all of its customers. already accomplished
- Escrow a certain portion of the approved monthly rates to account for a fine and pro forma plan allowances. (The escrow requirement is the issue in a pending administrative proceeding in which the staff has acknowledged that the current escrow requirement may exceed Shady Oaks' ability to pay. A final determination on this issue has yet to be made but Shady Oaks as soon as possible

Ms. Suzanne Summerlin  
June 18, 1993  
Page 3

DATE

intends to cooperate with the decision  
of this Commission in this regard.)

- Past due regulatory assessment fees will calculate amount and pay in equal increments over 12 months
- 1992 annual report (currently being compiled) within 90 days

Should you have any questions or concerns regarding the above, please do not hesitate to contact me at your earliest convenience.

Sincerely,

ROSE, SUNDSTROM & BENTLEY

  
John L. Wharton, Esq.  
For The Firm

JLW/lm

Commissioners:

J. TERRY DEASON, CHAIRMAN  
SUSAN F. CLARK  
LUIS J. LAUREDO  
JULIA L. JOHNSON  
DIANE K. KIESLING



DIVISION OF WATER &  
WASTEWATER  
CHARLES HILL  
DIRECTOR  
(904) 488-8482

## Public Service Commission

December 13, 1993

Mr. Dick Sims  
1315 Eckles Drive  
Tampa, FL 33612

Re: Application for name change

Dear Mr. Sims:

The purpose of this letter is to explain the requirements for a name change. Rule 25-30.039, Florida Administrative Code, which sets forth the requirements for a name change has just gone into effect. In accordance with the above referenced rule, we request that you file the following:

1. The complete name, address, and type of business entity of the certificated utility.
2. The proposed change in name and the type of business entity under the new name.
3. A statement setting out the reasons for the name change.
4. The effective date of the name change.
5. In the case of a corporation, limited partnership, or any other type of entity that is chartered by the State of Florida or any other state, a copy of the certificate of other document showing its acceptance of the entity's new name. In addition, an officer of the entity shall provide a statement that the ownership and control of the utility and its assets will not change under the proposed name. In the case of a sole proprietorship, general partnership, or any other type of entity not chartered by the State of Florida or any other state, a statement, signed by a duly authorized representative, that the ownership and control of the utility and its assets will not change under the proposed name.

6. A proposed notice to be sent to the customers of the utility informing them of the change in utility name.
7. An original and two copies of a proposed tariff reflecting the name change, including all standard forms.
8. The applicant's current certificate.

In addition, pursuant to the above rule, after the Commission staff approved the customer notice, the utility shall send the approved customer notice to all existing customers with the next regular billing, advising them of the name change.

Please file an original and twelve copies of the above with the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, FL 32399. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "Edith H. Xanders", written in a cursive style.

Edith H. Xanders  
Regulatory Analyst

EHX

cc: Division of Water and Wastewater (Hill, Lingo)  
Division of Legal Services (Jaber)

Enclosure

ORDER NO. PSC-93-1663-FOF-WS  
DOCKET NO. 911082-WS  
PAGE 44

25-30.039 Application for Name Change.

(1) This rule shall apply to a certificated utility that changes its name only, with no change in the ownership or control of the utility or its assets.

(2) Each application for approval of a change in name of a certificated utility shall include the following information:

(a) The complete name, address, and type of business entity of the certificated utility;

(b) The proposed change in name and the type of business entity under the new name;

(c) A statement setting out the reasons for the name change;

(d) The effective date of the name change;

(e) In the case of a corporation, limited partnership, or any other type of entity that is chartered by the State of Florida or any other state, a copy of the certificate or other document issued by the state showing its acceptance of the entity's new name. In addition, an officer of the entity shall provide a statement that the ownership and control of the utility and its assets will not change under the proposed name. In the case of a sole proprietorship, general partnership, or any other type of entity not chartered by the State of Florida or any other state, a statement, signed by a duly authorized representative, that the ownership and control of the utility and its assets will not change under the proposed name;

ORDER NO. PSC-93-1663-FOF-WS  
DOCKET NO. 911082-WS  
PAGE 45

(f) A proposed notice to be sent to the customers of the utility informing them of the change in utility name;

(g) An original and two copies of a proposed tariff reflecting the name change, including all standard forms; and,

(h) The applicant's current certificate.

(3) After the Commission staff approves the customer notice, the utility shall send the approved customer notice to all existing customers with the next regular billing, advising them of the name change.

Specific Authority: 367.121, F.S.

Law Implemented: 367.121, F.S.

History: New 11/30/93.



SHADY OAKS MOBILE-MODULAR ESTATES, INC.

DOCKET NO. 930944-WS

EXHIBIT FJL-12

WITNESS: FRANCES J. LINGO

ON BEHALF OF THE STAFF  
OF THE FLORIDA PUBLIC SERVICE COMMISSION  
DIVISION OF WATER AND WASTEWATER

DESCRIPTION

ANALYSIS OF UTILITY'S DISBURSEMENTS

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
NO. 930944 EXHIBIT NO. 13  
COMPANY/  
WITNESS: FPSC/Lingo  
DATE: \_\_\_\_\_

SHADY OAKS MOBILE-MODULAR ESTATES, INC.  
DOCKET NO. 900025-W5  
TEST YEAR ENDED 06/30/90  
SUMMARY OF DISBURSEMENTS 06/92 - 05/93  
C:\SOAK\DISBSUM.WK3 BY: FJL 8/22/93

ACCOUNT NUMBER OR TYPE	JUN 92	JUL 92	AUG 92	SEP 92	OCT 92	NOV 92	DEC 92	JAN 93	FEB 93	MAR 93	APR 93	MAY 93	TOTALS	BALANCE PER ORDER NO. 24084	ADDNS/ REDUCTS	ALLOWABLE OUTFLOWS PER STAFF
=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====
801	0.00	0.00	0.00	150.00	0.00	0.00	100.00	500.00	400.00	300.00	300.00	300.00	2,050.00	1,800.00	(250.00)	1,800.00
803	57.50	685.90	685.90	585.90	487.50	880.00	842.50	150.41	825.00	885.00	800.00	870.00	7,515.61	4,200.00	(3,315.61)	4,200.00
804	0.00	13.89	23.71	0.00	0.00	0.00	50.25	29.38	37.14	28.89	35.07	10.79	229.12	1,307.00		229.12
815	262.75	156.63	382.26	293.91	106.95	128.41	251.86	0.00	0.00	5.50	0.00	242.08	1,830.35	730.00	(957.27)	873.08
818	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	58.22	0.00	58.22	145.00		58.22
820	28.68	144.93	182.77	44.15	107.42	55.58	96.66	105.50	101.29	61.29	150.48	36.60	1,115.35	11,250.00		1,115.35
830	0.00	542.65	257.80	0.00	67.92	172.21	359.45	322.50	694.43	453.41	659.41	682.41	4,192.19	3,217.00		4,192.19
840	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	875.00		0.00
850	0.00	25.77	76.53	10.54	61.52	209.37	59.84	112.28	93.66	39.42	90.22	227.88	1,007.03	1,288.00		1,007.03
855	0.00	0.00	0.00	0.00	17.83	18.37	38.60	18.37	0.00	21.37	0.00	21.93	136.47	329.00		136.47
865	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	37.50		37.50
875	25.60	114.10	59.24	48.61	14.01	45.51	54.11	68.08	57.78	185.46	60.38	37.82	768.70	151.00		768.70
Subtotal	374.53	1,663.87	1,668.21	1,131.11	863.15	1,489.45	1,653.27	1,306.52	2,209.30	1,980.34	2,153.76	2,409.51	18,903.04	25,407.50	(4,522.88)	14,417.66
701	0.00	0.00	0.00	150.00	0.00	0.00	0.00	500.00	200.00	200.00	200.00	200.00	1,450.00	1,800.00	350.00	1,800.00
703	57.50	685.90	685.90	585.90	487.50	880.00	842.50	150.41	825.00	885.00	800.00	870.00	7,515.61	3,000.00	(4,515.61)	3,000.00
704	0.00	13.89	23.71	0.00	0.00	0.00	50.25	29.38	37.14	28.89	35.07	10.79	229.12	1,307.00		229.12
711	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	80.00	120.00	200.00	320.00		200.00
715	4.54	96.87	196.33	31.82	152.58	43.94	75.10	6.00	44.00	139.50	135.00	11.00	936.68	2,457.00		936.68
718	20.70	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	20.70	161.00		20.70
720	28.68	59.58	39.95	44.14	77.40	37.65	118.43	105.50	101.29	54.88	143.19	36.60	847.29	9,537.00		847.29
730	0.00	402.65	182.80	0.00	10.15	90.00	306.95	262.50	652.03	395.30	992.91	635.15	3,930.44	7,488.00		3,930.44
740	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	975.00		0.00
750	0.00	25.77	76.53	10.54	61.52	209.37	59.84	112.28	93.66	39.42	90.22	227.88	1,007.03	1,241.00		1,007.03
755	0.00	0.00	0.00	0.00	17.83	18.37	38.60	18.37	0.00	21.37	0.00	21.93	136.47	383.00		136.47
765	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	37.50		37.50
775	25.60	89.08	59.22	48.60	14.01	45.50	54.11	68.08	57.78	92.96	60.38	37.82	851.14	198.00		851.14
Subtotal	137.02	1,353.74	1,284.44	889.00	820.99	1,304.83	1,345.78	1,252.52	2,010.90	1,857.32	2,538.77	2,171.17	16,924.48	28,904.50	(4,165.61)	12,796.37
TOIT - water	0.00	45.90	45.90	61.40	22.95	76.71	48.26	82.88	533.73	88.34	427.68	69.53	1,503.28	2,090.00	586.72	2,090.00
TOIT - sewer	0.00	45.90	45.90	61.40	22.95	76.69	48.26	82.88	533.73	88.33	427.67	69.52	1,503.23	5,318.00	(1,772.00)	3,546.00
Total XPs	511.55	3,109.41	3,024.45	2,122.91	1,730.04	2,947.68	3,095.57	2,724.90	5,287.66	4,014.33	5,545.90	4,719.73	38,834.03	61,720.00	(9,873.77)	32,850.03
PPE/nonutility	2,110.01	953.82	441.15	940.24	1,109.22	1,675.43	2,500.91	1,607.01	1,248.65	6,385.04	1,222.02	617.54	20,811.04		8,888.49	29,499.53
COC	2,024.92	1,155.32	0.00	1,155.32	1,155.32	1,155.32	1,155.32	1,155.32	1,491.14	1,405.68	2,686.18	1,155.32	15,695.16			
Escrow	0.00	451.83	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	451.83			
Plant	18,335.33	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	18,335.33			
Unamort																
Expense	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,322.57	0.00	1,322.57			
Bank Transfers	3,000.00	0.00	200.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	3,200.00			
=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====
	25,981.81	5,670.38	3,865.60	4,218.47	3,994.58	5,778.43	6,751.80	5,487.13	8,027.45	11,805.05	10,778.67	6,492.59	98,649.96			

SHADY OAKS MOBILE - MODULAR ESTATES, INC.  
DOCKET NO. 900025 - WS  
TEST YEAR ENDED 06/30/90  
ANALYSIS OF DISBURSEMENTS FOR THE MONTH 06/93  
C:\SOAK\DISB0593.WK3 BY: FJL 08/22/93  
PAGE 1 OF 2

CHECK NO.	PAYEE	CHECK AMOUNT	WATER SYSTEM												TAXES OTHER	COST OF CAPITAL	PSC ESCROW	UNAMORT EXPENSE
			601	603	604	615	618	620	630	640	650	655	665	675				
1377	Montgomery Ward	149.00																
1378	missing info																	
1379	Cash	100.00		50.00														
1380	Firestone	844.26									209.38							
1381	Richard Sims	1,200.55		650.00											(49.73)			
1382	Caroline Sims	360.40	200.00												(19.80)			
1383	REA	231.08				231.08												
1384	Moody's Hardware	10.94						5.47										
1385	Richard Sims	50.00		25.00														
1386	Bankers Cmcl Life	66.10			6.28													
1387	Mike Daley	850.00							325.00									
1388	BP Oil 1	87.78									18.50							
1389	Flowers Chemical	100.00							50.00									
1390	Northeide Bank	1,155.32														1,155.32		
1391	missing info																	
1392	Tampa Well Drilling	27.28							27.28									
1393	REA	22.00				11.00												
1394	Waste Management	20.30							10.15									
1395	GTE	40.93												20.47				
1396	USPO	29.00						14.50										
1397	Richard Sims	100.00		50.00														
1398	missing info																	
1399	missing info																	
1400	Richard Sims	100.00		50.00														
1401	Walgreens	20.19			2.52													
1402	Marty Deterding	500.00							250.00									
1403	Progressive Ins	157.50										21.83						
1404	Barron's	33.92																
1405	missing info																	
1406	Alligator Septic	120.00																
1407	missing info																	
1408	Richard Sims	40.00		20.00														
1409	missing info																	
1410	USPO	33.25						18.63										
1411	Lori Sims	100.00	100.00															
1412	missing info																	
1413	Richard Sims	50.00		25.00														
---	Bank Maint Fees	34.71												17.36				
MONTHLY																		
TOTALS:		6,214.47	300.00	870.00	10.79	242.08	0.00	36.60	862.41	0.00	227.88	21.83	0.00	37.82	(69.53)	1,155.32	0.00	0.00

1 \$87.78 x 84% RDS vehicle x 65% utility / 2 = \$18.50 per system; \$30.78 nonutility.

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PAGE 2 OF 2

BT: FOL 00/22/93

CHECK NO.	PAYEE	CHECK AMOUNT	WASTEWATER SYSTEM												TAXES OTHER	PRIOR PERIOD OR NONUTIL AMOUNT	
			701	703	704	711	715	718	720	730	740	750	755	765			775
1377	Montgomery Ward	149.00														149.00	
1378	missing info																
1379	Cash	100.00		50.00													
1380	Firestone	644.26										209.38				225.49	
1381	Richard Sims	1,200.55		650.00											(49.72)		
1382	Caroline Sims	360.40	200.00												(19.80)		
1383	REA	231.08															
1384	Moody's Hardware	10.94							5.47								
1385	Richard Sims	50.00		25.00													
1386	Bankers Cmcl Life	66.10			8.26											49.58	
1387	Mike Daley	650.00								325.00							
1388	BP Oil	67.76										18.50				30.76	
1389	Flowers Chemical	100.00								50.00							
1390	Northside Bank	1,155.32															
1391	missing info																
1392	Tampa Well Drilling	27.26															
1393	REA	22.00					11.00										
1394	Waste Management	20.30								10.15							
1395	GTE	40.93													20.47		
1396	USPO	29.00							14.50								
1397	Richard Sims	100.00		50.00													
1398	missing info																
1399	missing info																
1400	Richard Sims	100.00		50.00													
1401	Walgreens	20.19			2.52											15.14	
1402	Marty Deterding	500.00								250.00							
1403	Progressive Ins	157.50											21.93			113.65	
1404	Barron's	33.92														33.92	
1405	missing info																
1406	Alligator Septic	120.00				120.00											
1407	missing info																
1408	Richard Sims	40.00		20.00													
1409	missing info																
1410	USPO	33.25							16.63								
1411	Lori Sims	100.00															
1412	missing info																
1413	Richard Sims	50.00		25.00													
---	Bank Maint Fees	34.71													17.36		
MONTHLY																	
TOTALS:		6,214.47	200.00	870.00	10.79	120.00	11.00	0.00	36.60	635.15	0.00	227.88	21.93	0.00	37.82	(69.52)	617.54

CHECK NO.	PAYEE	CHECK AMOUNT	WATER SYSTEM												TAXES OTHER	COST OF CAPITAL	PSC ESCROW	UNAMORT EXPENSE
			601	603	604	615	618	620	630	640	650	655	665	675				
1326	Shady Oaks	200.00		100.00														
1327	Cash	50.00		25.00														
1328	Northside Bank	1,155.32														1,155.32		
1329	Caroline Sims	125.18														125.18		
1330	Moody's Hardware	48.88						24.49										
1331	Richard Sims	50.00		25.00														
1332	Mike Daley	125.00							82.50									
1333	Mike Daley	350.00							175.00									
1334	Richard Sims	1,200.55		850.00											(49.73)			
1335	Caroline Sims	360.40	200.00												(19.80)			
1336	Pinch A Penny	38.08					38.08											
1337	USPO	29.00						14.50										
1338	Tampa Well Drilling	546.92							109.28									437.00
1339	Fred Wagner	25.00							12.50									
1340	Walgreens	14.49			1.81													
1341	Aileen Delahanty	250.00							125.00									885.51
1342	Tampa Armature	1,328.27							30.00									
1343	grounds keeping	60.00																
1344	Montgomery Ward	149.00																
1345	BP Oil 1	199.94								54.58								
1346	Barkers Crm'l Life	86.10			8.28													
1347	Chevron 2	49.92								10.41								
1348	Northside Bank	1,155.32														1,155.32		
1349	Waste Management	20.30							10.15									
1350	St. Pete Times	58.58																
1351	Alligator Septic	80.00														250.36		
1352	Caroline Sims	250.36																
1353	Wile's Auto Parts	8.81									2.86							
1354	Fred Wagner	25.00							12.50									
1355	Caroline Sims	75.81												37.81				
1356	Pattie Electric	7.29						7.29										
1357	Pinch A Penny	20.14					20.14											
1358	Lori Sims	100.00	100.00															
1359	AARP	54.00			8.75													
1360	Mobil Oil 3	80.54								22.38								
1361	ATC 4	53.11												11.15				
1362	GTE	6.12												3.06				
1363	missing info																	
1364	Mike Olson	162.78																
1365	Mike Olson	0.68																
1366	REA	136.00																
1367	Florida P&C	243.00																
1368	Karen Wagner	245.00							122.50									
1369	Bullders Square	119.70						59.85										
1370	Janitor Store	13.05						6.53										
1371	USPO	38.00						19.00										
1372	missing info																	
1373	Tampa Family Med	146.00			18.25													
1374	Div of Corporations	200.00																
1375	Home Depot	37.85						18.83										
1376	Internal Revenue	719.30													358.15			
---	Bark Maint Fees	16.72												8.36				
MONTHLY TOTALS:		10,498.57	300.00	800.00	35.07	0.00	58.22	150.48	659.41	0.00	90.22	0.00	0.00	60.38	288.62	2,686.18	0.00	1,322.57

- 1 \$199.94 x 84% RDS vehicle x 65% utility / 2 = \$54.58 per system; \$80.77 nonutility.
- 2 Per Invoice: \$32.03 x 65% utility / 2 = \$10.41 per system; \$29.10 nonutility.
- 3 \$80.54 x 78% RDS vehicle x 65% utility / 2 = \$22.38 per system; \$45.81 nonutility.
- 4 \$53.11 x 42% utility / 2 = \$11.15 per system; \$30.80 nonutility.



SHADY OAKS MOBILE - MODULAR ESTATES, INC.  
 DOCKET NO. 900025-WB  
 TEST YEAR ENDED 06/30/90  
 ANALYSIS OF DISBURSEMENTS FOR THE MONTH 04/93  
 C:\90AKDISB0493.WK3 BY: FJL 08/22/93  
 PAGE 2 OF 2

CHECK NO.	PAYEE	CHECK AMOUNT	WASTEWATER SYSTEM													TAXES OTHER	PRIOR PERIOD OR NONUTIL AMOUNT
			701	703	704	711	715	718	720	730	740	750	755	765	775		
1326	Shady Oaks	200.00		100.00													
1327	Cash	50.00		25.00													
1328	Northside Bank	1,155.32															
1329	Caroline Sims	125.18															
1330	Moody's Hardware	48.98							24.49								
1331	Richard Sims	50.00		25.00													
1332	Mike Daley	125.00								62.50							
1333	Mike Daley	350.00								175.00							
1334	Richard Sims	1,200.55		650.00													
1335	Caroline Sims	360.40	200.00													(48.72)	
1336	Pinch A Penny	38.08														(19.80)	
1337	USPO	29.00							14.50								
1338	Tampa Well Drilling	546.32															
1339	Fred Wagner	25.00								12.50							
1340	Walgreens	14.49			1.81												10.87
1341	Aileen Delehanty	250.00								125.00							
1342	Tampa Armature	1,828.27								442.76							
1343	grounds keeping	80.00								30.00							
1344	Montgomery Ward	149.00															149.00
1345	BP Oil 1	199.84										54.58					90.77
1346	Barkers Cmol Life	86.10			8.20												48.56
1347	Chevron 2	49.92										10.41					29.10
1348	Northside Bank	1,155.32															
1349	Waste Management	20.30								10.15							
1350	St. Pete Times	59.56															59.56
1351	Alligator Septic	80.00				80.00											
1352	Caroline Sims	250.36															
1353	White's Auto Parts	8.81										2.88					3.08
1354	Fred Wagner	25.00								12.50							
1355	Caroline Sims	75.61													37.81		
1356	Pattie Electric	7.29															
1357	Pinch A Penny	20.14															
1358	Lori Sims	100.00															
1359	AARP	54.00			8.75												40.50
1360	Mobil Oil 3	90.84										22.36					45.81
1361	ATC 4	53.11													11.15		30.80
1362	GTE	6.12													3.06		
1363	missing info																
1364	Mike Olson	162.78															162.78
1365	Mike Olson	0.68															0.68
1366	REA	135.00					135.00										
1367	Florida PSC	243.00															243.00
1368	Karen Wagner	245.00								122.50							
1369	Builders Square	119.70							59.85								
1370	Janitor Store	13.05							6.53								
1371	USPO	38.00							19.00								
1372	missing info																
1373	Tampa Family Med	148.00			18.25												109.50
1374	Div of Corporations	200.00															200.00
1375	Home Depot	37.65							18.83								
1376	Internal Revenue	716.50															
---	Bank Maint Fees	18.72													8.36	358.15	
MONTHLY																	
TOTALS:			200.00	600.00	35.97	80.00	135.00	0.00	143.19	992.91	0.00	90.22	0.00	0.00	60.38	288.63	1,222.02

CHECK NO.	PAYEE	CHECK AMOUNT	801	803	804	815	818	820	830	840	850	865	875	TAXES OTHER	COST OF CAPITAL	PSC ESCROW
1208	C Fred Duell	750.00														
1207	Thomas McAlvanah	250.00														
1206	Richard Sims	100.00		50.00												
1209	Caroline Sims	125.18														
1270	Family Medical Cn	111.00			13.98										125.18	
1271	C Fred Duell	500.00														
1272	C Fred Duell	250.00														
1273	Ross, Sundstrom	2,500.00														
1274	Mike Daley	125.00														
1276	Caroline Sims	125.18														
1278	Northside Bank	1,156.32													125.18	
1277	Cash	50.00		25.00											1,156.32	
1278	FFA Alumni Assn.	21.00														
1279	Wall Street Journal	84.27														
1280	Montgomery Ward	148.00														
1281	FL Rural Water Assn	92.80														
1282	GTE	31.85											82.80			
1283	REA	134.00											15.83			
1284	REA	48.00														
1285	Mike Olson	112.30														
1286	Moody's Hardware	\$ .41						8.41								
1287	AARP	54.00			5.75											
1288	Waste Management	20.30														
1289	Richard Sims	1,200.55		850.00					10.15							
1290	Caroline Sims	360.40	200.00												(49.73)	
1291	Caroline Sims	72.80													(19.80)	
1292	Cash	30.00		15.00												
1293	Cash	40.00		20.00											38.45	
1294	Waste Management	20.30														
1295	Mobil Oil	3.31							10.16							
1298	GTE	87.07														
1297	Pipelag	32.00														
1298	C Fred Duell	950.00						16.00						16.85		
1299	C Fred Duell	250.00														
1300	Tampa Well Drilling	10.12														
1301	ATC	22.20							10.12							
1302	Progressive Ins.	153.60														
1303	Home Depot	18.75													1.98	
1304	Univ'd We Stand	40.00						8.38				21.37				
1305	Richard Sims	50.00		25.00												
1306	C Fred Duell	250.00														
1307	Richard Sims	50.00		25.00												
1308	Mike Daley	500.00							250.00							
1309	Bankers Cml Life	55.10			8.26											
1310	Mobil Oil	133.60														
1311	REA	11.00				5.50				39.42						
1312	REA	48.00														
1313	Richard Sims	60.00		25.00												
1314	Office Depot	4.88						2.43								
1315	USPO	54.16						27.08								
1316	Richard Sims	21.47														
1317	Florida PSC	37.81														
1318	C Fred Duell	242.50											10.74			
1319	Tampa Well Drilling	172.99												18.81		
1320	Richard Sims	50.00		25.00					172.99							
1321	Lori Sims	100.00	100.00													
1322	Thomas McAlvanah	250.00														
1323	void															
1324	Cash	50.00		25.00												
---	Bank Maint Fees	18.04														
														9.02		
MONTHLY TOTALS:	11,528.83	300.00	665.00	28.80	5.50	0.00	61.29	453.41	0.00	39.42	21.37	0.00	195.46	(50.73)	1,405.68	0.00

- 1 \$67.07 -- \$37.50 utility avg = \$29.58 nonutility;  $\$37.50 / 2 = \$18.85$  per system.
- 2 Per Invoice:  $\$3.98 \text{ utility} / 2 = \$1.99$  per system;  $\$18.24$  nonutility.
- 3  $\$153.50 \times (\$263 / \$514) \text{ RDS vehicle} \times 65\% \text{ utility} / 2 = \$21.37$  per system;  $\$110.78$  nonutility.
- 4 Per Invoice:  $\$121.30 \text{ RDS vehicle} \times 65\% \text{ utility} / 2 = \$39.42$  per system;  $\$54.95$  nonutility.



CHECK NO.	PAYEE	CHECK AMOUNT	WASTEWATER SYSTEM												TAXES OTHER	PRIOR PERIOD OR NONUTIL AMOUNT
			701	703	704	711	715	718	720	730	740	750	755	765	775	
1265	C Fred Duell	750.00														750.00
1267	Thomas McAlvenah	250.00														250.00
1268	Richard Sims	100.00		50.00												
1269	Caroline Sims	125.18														93.26
1270	Family Medical Ctr	111.00			13.88											500.00
1271	C Fred Duell	500.00														250.00
1272	C Fred Duell	250.00														2,500.00
1273	Rose Sundstrom	2,500.00														
1274	Mike Daley	125.00								125.00						
1275	Caroline Sims	125.18														
1276	Northside Bank	1,155.38														
1277	Cash	50.00		25.00												21.00
1278	PFA Alumni Assn	21.00														84.27
1279	Wall Street Journal	84.27														148.00
1280	Montgomery Ward	138.00														
1281	FL Rural Water Assn	92.80													15.83	
1282	GTE	31.86					134.00									48.00
1283	REA	134.00														112.30
1284	REA	48.00														40.50
1285	Mike Olson	112.30														
1286	Moody's Hardware	6.41			6.75											
1287	AARP	54.00								10.15						
1288	Waste Management	20.30														
1289	Richard Sims	1,200.55		850.00												
1290	Caroline Sims	380.40	200.00												38.45	(49.72)
1291	Caroline Sims	72.00														(19.80)
1292	Cash	30.00		16.00												
1293	Cash	40.00		20.00												
1294	Waste Management	20.30								10.15						3.31
1295	Mobil Oil	3.31													18.85	29.38
1296	GTE	67.07							18.00							
1297	Pigatop	32.00														250.00
1298	C Fred Duell	250.00														250.00
1299	C Fred Duell	250.00														
1300	Tampa Well Drilling	16.12													1.99	16.24
1301	ATC	22.20														110.76
1302	Progressive Ins.	153.60						9.38						21.37		
1303	Home Depot	18.75														40.00
1304	Unifed We Stand	40.00														
1305	Richard Sims	50.00		25.00												250.00
1306	C Fred Duell	250.00														
1307	Richard Sims	50.00		25.00												
1308	Mike Daley	500.00								250.00						49.58
1309	Barkers Cmol Life	88.10			8.25							39.42				54.86
1310	Mobil Oil	133.80					5.50									48.00
1311	REA	11.00														
1312	REA	48.00														
1313	Richard Sims	50.00		25.00						2.43						
1314	Office Depot	4.88							27.08							
1315	USPO	54.15													10.74	
1316	Richard Sims	21.47													18.81	
1317	Florida PSC	37.61														242.50
1318	C Fred Duell	242.50														
1319	Tampa Well Drilling	172.99														
1320	Richard Sims	50.00		25.00												
1321	Lori Sims	100.00														250.00
1322	Thomas McAlvenah	250.00														
1323	void															
1324	Cash	50.00		25.00											9.02	
	Bank Maint Fees	18.04														
MONTHLY TOTALS:			200.00	895.00	28.80	0.00	138.50	0.00	54.98	395.30	0.00	39.42	21.37	0.00	92.88	8,385.04



SHADY OAKS MOBILE-MODULAR ESTATES, INC.  
 DOCKET NO. 800025-WS  
 TEST YEAR ENDED 08/30/90  
 ANALYSIS OF DISBURSEMENTS FOR THE MONTH 02/93  
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 PAGE 1 OF 2

CHECK NO.	PAYEE	CHECK AMOUNT	WATER SYSTEM												TAXES OTHER	COST OF CAPITAL	PSC ESCROW
			801	803	804	815	818	820	830	840	850	855	865	875			
1222	Internal Revenue	428.40													214.20		
1223	Fred Wagner	25.00							12.50								
1224	Waste Management	28.30							12.65								
1225	Richard Sims	125.00		82.50													
1226	Repairs	33.78							18.88								
1227	Richard Sims	1,200.55		850.00											(48.73)		
1228	USPO	7.04						3.52									
1229	void																
1230	Sunstate Meters	42.40							42.40								
1231	Mobil Oil 1	52.88								13.01							
1232	REA	44.00															
1233	Northside Bank	1,155.32														1,155.32	
1234	ATC 2	48.88												10.28			
1235	Caroline Sims	135.82														135.82	
1236	USPO	7.85						3.83									
1237	USPO	18.15						8.08									
1238	Richard Sims	50.00		25.00													
1239	Fannie Mae	11.73															
1240	Bankers Cmcl Life	88.12			8.27												
1241	Caroline Sims	88.04												33.02			
1242	Thomas McAnenah	250.00															
1243	Alleen Delahanty	800.00							300.00								
1244	Lori Sims	100.00	100.00						250.00								
1245	Mike Daley	500.00															
1246	BP Oil 3	108.24								34.53							
1247	Fred Wagner	20.00							10.00								
1248	Richard Sims	75.00		37.50					50.00								
1249	Flowers Chemicals	100.00															
1250	USPO	43.25						21.63									
1251	Montgomery Ward	148.00															
1252	C Fred Duell	170.00															
1253	Caroline Sims	360.40	200.00												(19.80)		
1254	AARP	182.00			20.25												
1255	Caroline Sims	200.00														200.00	
1256	US Trustee	250.00													250.00		
1257	Florida PSC	500.00															
1258	Accurate Windows	25.23															
1259	Tampa Family Med.	89.00			8.63												
1260	Richard Sims	50.00		25.00					48.08								
1261	Pinch A Penny	98.18							18.15								
1262	USPO	32.30															
1263	Cash	50.00		25.00													
1264	BP Oil 4	168.98								46.13							
1265	Lori Sims	100.00	100.00														
----	Bank Maint Fees	28.94												14.47			
MONTHLY TOTALS:		7,749.32	400.00	825.00	37.14	0.00	0.00	101.29	894.43	0.00	83.88	0.00	0.00	57.78	394.87	1,491.14	0.00

- 1 \$52.88 x 78% RDS vehicle x 65% utility / 2 = \$13.01 per system; \$26.65 nonutility.
- 2 Per Invoice: \$20.57 utility / 2 = \$10.28 per system; \$29.31 nonutility.
- 3 Per Invoice: \$108.24 RDS vehicle x 85% utility / 2 = \$34.53 per system; \$37.18 nonutility.
- 4 \$168.98 x 84% RDS vehicle x 65% utility / 2 = \$46.13 per system; \$78.71 nonutility.

CHECK NO.	PAYEE	CHECK AMOUNT	WASTEWATER SYSTEM												TAXES OTHER	PRIOR PERIOD OR NONUTIL AMOUNT
			701	703	704	711	715	718	720	730	740	750	755	765	775	
1222	Internal Revenue	428.40														214.20
1223	Fred Wagner	25.00								12.50						
1224	Waste Management	25.30								12.65						
1225	Richard Sims	125.00		82.50												
1226	Repairs	33.78								16.88						
1227	Richard Sims	1,200.55		650.00												(49.73)
1228	USPO	7.04							3.52							
1229	void															
1230	Sunstate Motors	42.40														
1231	Mobil Oil 1	52.66										13.01				28.65
1232	REA	44.00					44.00									
1233	Northside Bank	1,155.32														
1234	ATC 2	49.88													10.29	29.31
1235	Caroline Sims	135.62														
1236	USPO	7.65							3.83							
1237	USPO	16.15							8.08							
1238	Richard Sims	50.00		25.00												
1239	Fannie Mae	11.73														11.73
1240	Bankers Credi Life	66.12			8.27											49.59
1241	Caroline Sims	66.04													33.02	
1242	Thomas McAnahan	250.00														250.00
1243	Alleen Delehanty	600.00								300.00						
1244	Lori Sims	100.00														
1245	Mike Daley	500.00								250.00						
1246	BP Oil 2	106.24										34.53				37.18
1247	Fred Wagner	20.00								10.00						
1248	Richard Sims	75.00		37.50												
1249	Flowers Chemicals	100.00								50.00						
1250	USPO	43.25							21.63							
1251	Montgomery Ward	148.00														148.00
1252	C Fred Duell	170.00														170.00
1253	Caroline Sims	390.40	200.00													(18.80)
1254	AARP	192.00			20.25											121.50
1255	Caroline Sims	200.00														
1256	US Trustee	250.00														250.00
1257	Florida PSC	500.00													250.00	
1258	Accurate Windows	25.23														25.23
1259	Tampa Family Med.	69.00			6.63											51.75
1260	Richard Sims	50.00		25.00												
1261	Pinch A Penny	66.18							48.06							
1262	USPO	32.30							16.15							
1263	Cash	50.00		25.00												
1264	BP Oil 4	168.98										48.13				76.71
1265	Lori Sims	100.00														
---	Bank Fees/Checks	28.94													14.47	
MONTHLY																
TOTALS:		7,749.32	200.00	825.00	37.14	0.00	44.00	0.00	101.29	652.03	0.00	93.66	0.00	0.00	57.78	1,248.65



## SHADY OAKS MOBILE-MODULAR ESTATES, INC.

DOCKET NO. 900025-WS

TEST YEAR ENDED 06/30/90

ANALYSIS OF DISBURSEMENTS FOR THE MONTH 01/93

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BY: FJL 08/21/93

PAGE 1 OF 2

CHECK NO.	PAYEE	CHECK AMOUNT	WATER SYSTEM												TAXES OTHER	COST OF CAPITAL	PSC ESCROW
			601	603	604	615	618	620	630	640	650	655	665	675			
1190	Richard Sims	20.00		10.00													
1191	REA	6.00															
1192	Fla Eye Center	235.00			29.38												
1193	Richard Sims	50.00		25.00													
1194	Caroline Sims	269.00	150.00												(15.50)		
1195	Caroline Sims	269.00	150.00												(15.50)		
1196	Northside Bank	1,155.32														1,155.32	
1197	Fred Wagner	35.00							35.00								
1198	void																
1199	BP Oil 1	73.92									20.18						
1200	Richard Sims	100.00		50.00													
1201	Caroline Sims	360.40	200.00												(19.80)		
1202	USPO	48.00						24.00									
1203	Mike Daley	500.00							250.00								
1204	BP Oil 2	121.05									33.05						
1205	Karl Wagner	25.00							25.00								
1206	Richard Sims	50.00		25.00													
1207	Progressive Ins. 3	138.00										18.37					
1208	void																
1209	Richard Sims	55.82		27.91													
1210	Mobil Oil 4	100.00									24.70						
1211	Work Place	6.27						3.14									
1212	ATC 5	109.34												24.47			
1213	Bidwell	886.08															
1214	Cash	25.00		12.50													
1215	Fred Wagner	25.00							12.50								
1216	USPO	30.40						15.20									
1217	USPO 6	49.00						12.25									
1218	Mobil Oil 7	139.10									34.36						
1219	Moody's Hardware	101.82						50.91									
1220	Montgomery Wards	149.00															
1221	Internal Revenue	64.16													32.08		
--	Bank Fees/Checks	87.22												43.61			
MONTHLY TOTALS:			5,283.90	500.00	150.41	29.38	0.00	0.00	105.50	322.50	0.00	112.28	18.37	0.00	68.08	1,155.32	0.00

1 \$73.92 x 84% RDS vehicle x 65% utility / 2 = \$20.18 per system; \$33.58 nonutility.

2 \$121.05 x 84% RDS vehicle x 65% utility / 2 = \$33.05 per system; \$54.96 nonutility.

3 \$138.00 x (\$224 / \$547) RDS vehicle x 65% utility / 2 = \$18.37 per system; \$101.27 nonutility.

4 \$100.00 x 76% RDS vehicle x 65% utility / 2 = \$24.70 per system; \$50.60 nonutility.

5 Per Invoices: \$48.93 utility / 2 = \$24.47 per system; \$60.41 nonutility.

6 \$49.00 for 2 POB rentals - 1 POB nonutility = \$24.50 utility / 2 = \$12.25 per system.

7 \$139.10 x 76% RDS vehicle x 65% utility / 2 = \$34.36 per system; \$70.38 nonutility.

SHADY OAKS MOBILE-MODULAR ESTATES, INC.  
 DOCKET NO. 900025-WS  
 TEST YEAR ENDED 06/30/90  
 ANALYSIS OF DISBURSEMENTS FOR THE MONTH 01/93  
 C:\SOAK\DISB0193.WK3 BY: FJL 06/21/93  
 PAGE 2 OF 2

CHECK NO.	PAYEE	CHECK AMOUNT	WASTEWATER SYSTEM												TAXES OTHER	PRIOR PERIOD OR NONUTIL AMOUNT
			701	703	704	711	715	718	720	730	740	750	755	765	775	
1190	Richard Sims	20.00		10.00												
1191	REA	6.00					6.00									
1192	Fia Eye Center	235.00			29.38											
1193	Richard Sims	50.00		25.00												176.25
1194	Caroline Sims	269.00	150.00													
1195	Caroline Sims	269.00	150.00													
1196	Northside Bank	1,155.32														(15.50)
1197	Fred Wagner	35.00														(15.50)
1198	void															
1199	BP Oil 1	73.92														
1200	Richard Sims	100.00		50.00								20.18				33.56
1201	Caroline Sims	360.40	200.00													
1202	USPO	48.00														(19.60)
1203	Mike Daley	500.00						24.00								
1204	BP Oil 2	121.05							250.00							
1205	Karl Wagner	25.00										33.05				54.96
1206	Richard Sims	50.00		25.00												
1207	Progressive Ins. 3	138.00														
1208	void												18.37			101.27
1209	Richard Sims	55.82		27.91												
1210	Mobil Oil 4	100.00														
1211	Work Place	6.27										24.70				50.60
1212	ATC 5	109.34						3.14								
1213	Bidwell	886.08												24.47		60.41
1214	Cash	25.00		12.50												886.08
1215	Fred Wagner	25.00														
1216	USPO	30.40							12.50							
1217	USPO 6	49.00						15.20								
1218	Mobil Oil 7	139.10						12.25								24.50
1219	Moody's Hardware	101.82									34.36					70.38
1220	Montgomery Ward	149.00						50.91								
1221	Internal Revenue	64.16														149.00
---	Bank Fees/Checks	87.22													43.61	
MONTHLY																
TOTALS:		5,283.90	500.00	150.41	29.38	0.00	6.00	0.00	105.50	262.50	0.00	112.28	18.37	0.00	68.08	1,607.01



SHADY OAKS MOBILE - MODULAR ESTATES, INC.  
 DOCKET NO. 900025 - WS  
 TEST YEAR ENDED 06/30/90  
 ANALYSIS OF DISBURSEMENTS FOR THE MONTH 12/92  
 C:\SOAK\06B1292.WK3 BY: FJL 04/04/93  
 PAGE 2 OF 2

CHECK NO.	PAYEE	CHECK AMOUNT	WASTEWATER SYSTEM												TAXES OTHER	PRIOR PERIOD OR NONUTIL AMOUNT
			701	703	704	711	715	718	720	730	740	750	755	765	775	
1136	USPO	34.00							17.00							
1137	Richard Sims	30.00		15.00								24.70				50.60
1138	Mobil Oil	100.00								20.30						
1139	Waste Management	40.80														
1140	Richard Sims	90.00		25.00												
1141	void								33.01							
1142	Moody's Hardware	86.01													18.92	
1143	GTE	38.84													13.83	14.89
1144	Dixon - Tax Coll. 2	12.55														
1145	Fred Wagner	22.50														
1146	Northside Bank	1,195.32													(34.43)	
1147	Richard Sims	831.15		450.00					21.77							
1148	Pinch a Penny	21.77											6.92			38.18
1149	Douberley Ins. 3	52.00										36.14				71.98
1150	Mobil Oil	142.28														87.32
1151	GTE	87.32														
1152	void												13.31			73.38
1153	Douberley Ins. 5	100.00								10.15						
1154	Waste Management	20.30											18.37			101.27
1155	Progressive Ins. 6	138.00														58.44
1156	GTE	56.44														
1157	missing info															
1158	missing info															
1159	missing info														17.75	49.02
1160	ATC 7	84.62														75.00
1161	Richard Sims - NSF	75.00														82.42
1162	REA	82.82														
1163	REA	85.91						66.91								
1164	REA	18.38						9.19								
1165	REA	242.67														
1166	Builders Square	27.43							16.72							10.00
1167	City of Tampa	10.00														
1168	void															18.75
1169	Dr. Werner	25.00			3.13											
1170	Richard Sims	50.00		25.00												169.00
1171	Cassone Medical	224.00			28.00											24.43
1172	Fannie Mae	24.43														78.00
1173	Mom's Star School	78.00														
1174	Mike Daley	400.00								200.00						
1175	USPO	5.70							2.85							
1176	Richard Sims	100.00		50.00					7.99							250.00
1177	Home Depot	15.98														114.75
1178	US Trustee	250.00														885.06
1179	AARP	153.00			19.13											
1180	Bidwell	885.06														
1181	void															
1182	Lori Sims	100.00														
1183	Richard Sims	100.00		50.00												
1184	Pasco Rwy Services	153.00								78.50						250.00
1185	C Fred Duss	250.00														
1186	Fred Wagner	30.00														
1187	USPO	34.20							17.10							
1188	Cash	25.00		12.50												
1189	Cash	30.00		15.00												
1190	Bank Maint Fees	32.58													16.44	
MONTHLY																
TOTALS:		6,614.08	0.00	842.50	60.25	0.00	75.10	0.00	118.43	308.95	0.00	58.84	38.80	0.00	54.11	2,500.91



SHADY OAKS MOBILE-MODULAR ESTATES, INC.  
DOCKET NO. 900025-WS  
TEST YEAR ENDED 06/30/90  
ANALYSIS OF DISBURSEMENTS FOR THE MONTH 11/92  
C:\SOAK\DISB1192.WK3 BY: FJL 08/04/93  
PAGE 1 OF 2

CHECK NO.	PAYEE	CHECK AMOUNT	WATER SYSTEM												TAXES OTHER	COST OF CAPITAL	PSC ESCROW
			601	603	604	615	618	620	630	640	650	655	665	675			
1102	Perry Lee	90.00						16.15									
1103	USPO	32.30															
1104	Internal Revenue	53.95													26.98		
1105	Richard Sims	100.00		50.00													
1106	Tampa Well Drilling	50.73							50.73								
1107	Taylor Rental	20.33							20.33								
1108	Richard Sims	30.00		15.00													
1109	Fred Wagner	25.00							25.00								
1110	Cash	120.00		60.00													
1111	Tampa Well Drilling	36.00							36.00								
1112	Ferguson Enter.	39.43						39.43									
1113	ATC 1	40.80												8.57			
1114	Gulf Electric	21.50															
1115	St. Pete Times	58.56															
1116	Cash	40.00		20.00													
1117	Progressive Ins. 2	138.00										18.37			(49.73)		
1118	Richard Sims	1,200.55		650.00													
1119	Cash	50.00		25.00													
1120	Northside Bank	1,155.32														1,155.32	
1121	Richard Sims	25.00		12.50													
1122	Fred Wagner	30.00							30.00								
1123	Richard Sims	30.00		15.00													
1124	Fred Cox Auto 3	548.91									178.40						
1125	Caroline Sims	40.61												20.31			
1126	Taylor Rental	10.15							10.15								
1127	S R Lutz	213.00															
1128	Pep Boys 4	95.31									30.98						
1129	Richard Sims	25.00		12.50													
1130	REA	118.91				118.91											
1131	REA	34.44															
1132	REA	18.38															
1133	Bidwell	866.08															
1134	Montgomery Wards	149.00															
1135	REA	19.00				9.50											
----	Bank Maint Fees	33.26												16.63			
MONTHLY																	
TOTALS:		5,579.52	0.00	860.00	0.00	128.41	0.00	55.58	172.21	0.00	209.37	18.37	0.00	45.51	(22.76)	1,155.32	0.00

- 1 \$40.80 x 42% utility / 2 = \$8.57 per system; \$23.66 utility.
- 2 \$138.00 x (\$224 / \$547) RDS vehicle x 65% utility / 2 = \$18.37 per system; \$101.27 nonutility.
- 3 \$548.91 RDS vehicle x 65% utility / 2 = \$178.40 per system; \$192.12 nonutility.
- 4 \$95.31 RDS vehicle x 65% utility / 2 = \$30.98 per system; \$33.36 nonutility.

SHADY OAKS MOBILE-MODULAR ESTATES, INC.  
DOCKET NO. 900025-WS  
TEST YEAR ENDED 06/30/90  
ANALYSIS OF DISBURSEMENTS FOR THE MONTH 11/92  
C:\SOAK\DISB1192.WK3 BY: FJL 08/04/93  
PAGE 2 OF 2

PAGE 2 OF 2

CHECK NO.	PAYEE	CHECK AMOUNT	WASTEWATER SYSTEM												TAXES OTHER	PRIOR PERIOD OR NONUTIL AMOUNT	
			701	703	704	711	715	718	720	730	740	750	755	765			775
1102	Penny Lee	90.00								90.00							
1103	USPO	32.30							16.15								
1104	Internal Revenue	53.95															
1105	Richard Sims	100.00		50.00												26.97	
1106	Tampa Well Drilling	50.73															
1107	Taylor Rental	20.33															
1108	Richard Sims	30.00		15.00													
1109	Fred Wagner	25.00															
1110	Cash	120.00		60.00													
1111	Tampa Well Drilling	36.00															
1112	Ferguson Enter.	39.43															
1113	ATC	40.80															
1114	Gulf Electric	21.50							21.50						8.57		23.66
1115	St. Pete Times	58.56															58.56
1116	Cash	40.00		20.00													
1117	Progressive Ins.	138.00															
1118	Richard Sims	1,200.50		650.00								18.37					101.27
1119	Cash	50.00		25.00												(49.72)	
1120	Northside Bank	1,155.32															
1121	Richard Sims	25.00		12.50													
1122	Fred Wagner	30.00															
1123	Richard Sims	30.00		15.00													
1124	Fred Cox Auto	548.91										178.40					192.12
1125	Caroline Sims	40.61													20.30		
1126	Taylor Rental	10.15															
1127	S R Lutz	213.00															
1128	Pep Boys	95.31															213.00
1129	Richard Sims	25.00		12.50								30.98					33.36
1130	REA	118.91															
1131	REA	34.44					34.44										
1132	REA	18.38															18.38
1133	Bidwell	886.08															886.08
1134	Montgomery Wards	149.00															149.00
1135	REA	19.00					9.50										
	Bank Maint Fees	33.26													16.63		
MONTHLY																	
TOTALS:		5,579.47	0.00	860.00	0.00	0.00	43.94	0.00	37.65	90.00	0.00	209.37	18.37	0.00	45.50	(22.75)	1,675.43



SHADY OAKS MOBILE-MODULAR ESTATES, INC.  
 DOCKET NO. 900025-WS  
 TEST YEAR ENDED 06/30/90  
 ANALYSIS OF DISBURSEMENTS FOR THE MONTH 10/92  
 C:\SOAK\DISB1092.WK3 BY: FJL 08/04/93  
 PAGE 1 OF 2

CHECK NO.	PAYEE	CHECK AMOUNT	WATER SYSTEM												TAXES OTHER	COST OF CAPITAL	PSC ESCROW
			601	603	604	615	618	620	630	640	650	655	665	675			
1076	Cash	30.00		15.00													
1077	Cash	25.00		12.50													
1078	void																
1079	Crystal Sprgs Water	30.00						30.00									
1080	Richard Sims	754.10		400.00											(22.95)		
1081	Progressive Ins. 1	134.00										17.83					
1082	Northside Bank	1,155.32														1,155.32	
1083	REA	102.35				102.35											
1084	REA	147.99															
1085	Richard Sims	40.00		20.00													
1086	Tri-County Testing	46.50						46.50									
1087	Taylor Rental	11.27						11.27									
1088	Mobile Oil 2	113.57									28.05						
1089	Chevron 3	36.90									7.64						
1090	USPO	32.52						16.26									
1091	Richard Sims	40.00		20.00													
1092	Richard Sims	40.00		20.00													
1093	Bidwell	883.83															
1094	Chevron	5.00															
1095	Builders Square	8.91						4.46									
1096	USPO	67.00						33.50									
1097	Home Depot	46.39						23.20									
1098	void																
1099	Waste Management	20.30							10.15								
1100	BP Oil 4	94.62									25.83						
1101	REA	9.19				4.60											
--	Bank Maint Fees	28.02												14.01			
MONTHLY TOTALS:		3,902.78	0.00	487.50	0.00	106.95	0.00	107.42	67.92	0.00	61.52	17.83	0.00	14.01	(22.95)	1,155.32	0.00

- 1 \$134.00 x (\$224 / \$547) RDS vehicle x 65% utility / 2 = \$17.83 per system; \$96.34 nonutility.
- 2 \$113.57 x 76% RDS vehicle x 65% utility / 2 = \$28.05 per system; \$57.47 nonutility.
- 3 Per Invoice: \$23.50 RDS vehicle x 65% utility / 2 = \$7.64 per system; \$21.63 nonutility.
- 4 \$94.62 x 84% RDS vehicle x 65% utility / 2 = \$25.83 per system; \$42.96 nonutility.

SHADY OAKS MOBILE--MODULAR ESTATES, INC.  
 DOCKET NO. 900025--WS  
 TEST YEAR ENDED 06/30/90  
 ANALYSIS OF DISBURSEMENTS FOR THE MONTH 10/92  
 C:\SOAK\DISB1092.WK3 BY: FJL 08/04/93  
 PAGE 2 OF 2

CHECK NO.	PAYEE	CHECK AMOUNT	WASTEWATER SYSTEM												TAXES OTHER	PRIOR PERIOD OR NONUTIL AMOUNT
			701	703	704	711	715	718	720	730	740	750	755	765	775	
1076	Cash	30.00		15.00												
1077	Cash	25.00		12.50												
1078	void															
1079	Crystal Sprgs Water	30.00														
1080	Richard Sims	754.10		400.00												
1081	Progressive Ins. 1	134.00													(22.95)	
1082	Northside Bank	1,155.32											17.83			98.34
1083	REA	102.35														
1084	REA	147.99					147.99									
1085	Richard Sims	40.00		20.00												
1086	Tri-County Testing	46.50														
1087	Taylor Rental	11.27														
1088	Mobil Oil 2	113.57														
1089	Chevron 3	36.90										28.05				57.47
1090	USPO	32.52										7.64				21.63
1091	Richard Sims	40.00		20.00					16.26							
1092	Richard Sims	40.00		20.00												
1093	Bidwell	883.83														883.83
1094	Chevron	5.00														5.00
1095	Builders Square	8.91							4.45							
1096	USPO	67.00							33.50							
1097	Home Depot	46.39							23.19							
1098	void															
1099	Waste Management	20.30								10.15						
1100	BP Oil 4	94.62										25.83				42.96
1101	REA	9.19					4.59									
	Bank Maint Fees	28.02													14.01	
MONTHLY																
TOTALS:		3,902.78	0.00	487.50	0.00	0.00	152.58	0.00	77.40	10.15	0.00	61.52	17.83	0.00	14.01	(22.95)
																1,109.22

## SHADY OAKS MOBILE-MODULAR ESTATES, INC.

DOCKET NO. 900025-WS

TEST YEAR ENDED 06/30/90

ANALYSIS OF DISBURSEMENTS FOR THE MONTH 09/92

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BY: FJL 08/04/93

PAGE 1 OF 2

CHECK NO.	PAYEE	CHECK AMOUNT	WATER SYSTEM												TAXES OTHER	COST OF CAPITAL	P&C ESCROW
			601	603	604	615	618	620	630	640	650	655	665	675			
1058	Cash	50.00		25.00													
1059	Northside Bank	1,155.32														1,155.32	
1060	Richard Sims	1,000.00		545.90											(45.90)		
1061	Harry Fix It 1	6.92									2.25						
1062	Caroline Sims	36.57												18.29			
1063	REA	9.19				4.60											
1064	REA	289.31				289.31											
1065	REA	27.23															
1066	Zackers	13.00												6.50			
1067	USPO	19.00						9.50									
1068	Terr Bank - Bidwell	885.85															
1069	USPO	31.29						15.65									
1070	Caroline Sims	269.00	150.00												(15.50)		
1071	BP Oil 2	25.50									8.29						
1072	void																
1073	ATC 3	66.88												11.92			
1074	USPO	38.00						19.00									
1075	Richard Sims	30.00		15.00													
---	Bank Maint Fee	19.80												9.90			
MONTHLY																	
TOTALS:		3,972.66	150.00	585.90	0.00	293.91	0.00	44.15	0.00	0.00	10.54	0.00	0.00	46.61	(61.40)	1,155.32	0.00

1 \$6.92 RDS vehicle x 65% utility / 2 = \$2.25 per system; \$2.42 nonutility.

2 Per invoice: \$25.50 RDS vehicle x 65% utility / 2 = \$8.29 per system; \$8.93 nonutility.

3 Per invoice: \$23.84 utility / 2 = \$11.92 per system; \$43.04 nonutility.

SHADY OAKS MOBILE-MODULAR ESTATES, INC.  
 DOCKET NO. 900025-WS  
 TEST YEAR ENDED 08/30/90  
 ANALYSIS OF DISBURSEMENTS FOR THE MONTH 09/92  
 C:\SOAK\DISB0992.WK3 BY: FJL 08/04/93  
 PAGE 2 OF 2

CHECK NO.	PAYEE	CHECK AMOUNT	WASTEWATER SYSTEM												TAXES OTHER	PRIOR PERIOD OR NONUTIL AMOUNT
			701	703	704	711	715	718	720	730	740	750	755	765	775	
1058	Cash	50.00		25.00												
1059	Northside Bank	1,155.32														
1060	Richard Sims	1,000.00		545.90												
1061	Harry Fx It 1	6.92													(45.90)	
1062	Caroline Sims	36.57										2.25				2.42
1063	REA	9.19					4.59								18.28	
1064	REA	289.31														
1065	REA	27.23					27.23									
1066	Zackers	13.00														
1067	USPO	19.00													6.50	
1068	Terr Bank - Bidwell	885.85							9.50							
1069	USPO	31.29							15.84							885.85
1070	Caroline Sims	269.00	150.00													
1071	BP Oil 2	25.50													(15.50)	
1072	void											8.29				8.93
1073	ATC 3	66.88														
1074	USPO	38.00							19.00						11.92	43.04
1075	Richard Sims	30.00		15.00												
	Bank Maint Fees	19.80													9.90	
MONTHLY TOTALS:		3,972.86	150.00	585.90	0.00	0.00	31.82	0.00	44.14	0.00	0.00	10.54	0.00	0.00	46.60	940.24



CHECK NO.	PAYEE	CHECK AMOUNT	WATER SYSTEM												TAXES OTHER	COST OF CAPITAL	PSC ESCROW
			601	603	604	615	618	620	630	640	650	655	665	675			
1032	Builder's Square	12.44						12.44									
1033	Square Deal Auto 1	27.16									8.83						
1034	Waste Management	20.30							10.15								
1035	Bankers Cmcl Life	66.10			8.26												
1036	AARP	45.00			5.63												
1037	REA	382.26				382.26											
1038	REA	38.66															
1039	REA	186.33															
1040	ATC	11.61												5.81			
1041	Richard D. Sims	1,200.00		645.90											(45.90)		
1042	Mobil Oil 2	173.00									42.73						
1043	Richard Shannon	75.00							75.00								
1044	Caroline Sims	51.43												25.72			
1045	Bankers Cmcl Life	66.10			8.26												
1046	BP Oil 3	27.34									8.89						
1047	Pattie Electric	130.38						130.38									
1048	USPO	19.00						9.50									
1049	Mike Daley	325.00							162.50								
1050	Richard D. Sims	50.00		25.00													
1051	USPO	60.90						30.45									
1052	AARP	12.50			1.56												
1053	Mobil Oil 4	47.00									11.61						
1054	GTE	36.12												18.06			
1055	Chevron 5	13.78									4.48						
1056	Waste Management	20.30							10.15								
1057	Messina CPAs	125.00															
425	Terr Bank (S&D)	200.00															
426	Richard Sims	30.00		15.00													
---	Bank Maint Fees	19.30												9.65			
MONTHLY TOTALS:			0.00	685.90	23.71	382.26	0.00	182.77	257.80	0.00	76.53	0.00	0.00	59.24	(45.90)	0.00	0.00

- 1 \$27.16 RDS vehicle x 65% utility / 2 = \$8.83 per system; \$9.51 nonutility.
- 2 \$173.00 x 76% RDS vehicle x 65% utility / 2 = \$42.73 per system; \$87.54 nonutility.
- 3 \$27.34 RDS vehicle x 65% utility / 2 = \$8.89 per system; \$9.57 nonutility.
- 4 \$47.00 x 76% RDS vehicle x 65% utility / 2 = \$11.61 per system; \$23.78 nonutility.
- 5 \$13.78 RDS vehicle x 65% utility / 2 = \$4.48 per system; \$4.82 nonutility.

PAGE 2 OF 2

CHECK NO.	PAYEE	CHECK AMOUNT	WASTEWATER SYSTEM												TAXES OTHER	PRIOR PERIOD OR NONUTIL AMOUNT
			701	703	704	711	715	718	720	730	740	750	755	765		
1032	Builder's Square	12.44														
1033	Square Deal Auto 1	27.16														
1034	Waste Management	20.30														
1035	Bankers Cmcl Life	66.10			8.26					10.15						
1036	AARP	45.00			5.63						8.83					9.51
1037	REA	382.26														49.58
1038	REA	38.66														33.75
1039	REA	196.33														
1040	ATC	11.61						196.33								38.66
1041	Richard D. Sims	1,200.00		645.90											5.80	
1042	Mobil Oil 2	173.00													(45.90)	
1043	Richard Shannon	75.00									42.73					87.54
1044	Caroline Sims	51.43														
1045	Bankers Cmcl Life	66.10			8.26										25.71	
1046	BP Oil 3	27.34														49.58
1047	Pattie Electric	130.38										8.89				9.57
1048	USPO	19.00							9.50							
1049	Mike Daley	325.00								162.50						
1050	Richard D. Sims	50.00		25.00												
1051	USPO	60.90							30.45							
1052	AARP	12.50			1.56											
1053	Mobil Oil 4	47.00														9.38
1054	GTE	36.12										11.61				23.78
1055	Chevron 5	13.78												18.06		
1056	Waste Management	20.30										4.48				4.82
1057	Messina CPAs	125.00								10.15						
425	Terr Bank (S&D)	200.00														125.00
426	Richard Sims	30.00		15.00												
	Bank Maint Fees	19.30													9.65	
MONTHLY																
TOTALS:		3,482.01	0.00	665.90	23.71	0.00	196.33	0.00	39.95	182.80	0.00	76.53	0.00	0.00	59.22	(45.90)
																441.15

SHADY OAKS MOBILE--MODULAR ESTATES, INC.  
 DOCKET NO. 900025--WS  
 TEST YEAR ENDED 06/30/90  
 ANALYSIS OF DISBURSEMENTS FOR THE MONTH 07/92  
 C:\SOAK\DISB0792.WK3 BY: FJL 07/30/93  
 PAGE 1 OF 2

CHECK NO.	PAYEE	CHECK AMOUNT	WATER SYSTEM												TAXES OTHER	COST OF CAPITAL	PSC ESCROW
			601	603	604	615	618	620	630	640	650	655	665	675			
424	Christian	25.00												25.00			
1000	PSC Escrow	238.37															238.37
1001	Mike Daley	400.00							200.00								
1002	PSC Escrow	63.45															63.45
1003	Waste Management	20.30							10.15								
1004	ATC 1	131.46												27.61			
1005	GTE 2	71.38												18.85			
1006	Merhans Auto	62.73															
1007	PSC Escrow	99.25															99.25
1008	Mobil Oil 3	104.35									25.77						
1009	void																
1010	Bankers Cmcl Life	66.10			8.26												
1011	USPO	25.00												12.50			
1012	AARP	45.00			5.63												
1013	PSC Escrow	50.76															50.76
1014	Caroline Sims	49.71												24.86			
1015	REA	96.87															
1016	REA	45.03															
1017	REA	156.63				156.63											
1018	Richard Shannon	140.00							140.00								
1019	void																
1020	Cash	40.00		20.00													
1021	Richard D. Sims	1,200.00		645.90											(45.90)		
1022	Nonheide Bank	1,155.32														1,155.32	
1023	Perry's Lawn Svc	60.00							30.00								
1024	USPO	39.78						19.89									
1025	US Bankruptcy Ct	250.00															
1026	Shady Oaks	350.00															
1027	USPO	33.25						16.63									
1028	Moody's	85.34						85.34									
1029	Mike Daley	325.00							162.50								
1030	Office Depot	7.12						3.56									
1031	USPO	39.02						19.51									
---	Bank Maint Fees	10.56												5.28			
MONTHLY																	
TOTALS:		5,486.78	0.00	665.90	13.89	156.63	0.00	144.93	542.65	0.00	25.77	0.00	0.00	114.10	(45.90)	1,155.32	451.83

- 1 \$131.46 x 42% utility avg = \$55.22 / 2 = \$27.61 per system; \$76.24 nonutility.
- 2 \$71.38 - \$37.69 utility avg = \$33.69 nonutility; \$37.69 / 2 = \$18.85 per system.
- 3 \$104.35 x 76% RDS vehicle x 65% utility / 2 = \$25.77 per system; \$52.80 nonutility.



SHADY OAKS MOBILE-MODULAR ESTATES, INC.  
 DOCKET NO. 800025-WS  
 TEST YEAR ENDED 06/30/90  
 ANALYSIS OF DISBURSEMENTS FOR THE MONTH 07/92  
 C:\SOAK\DISB0792.WK3 BY: FJL 07/30/93  
 PAGE 2 OF 2

CHECK NO.	PAYEE	CHECK AMOUNT	WASTEWATER SYSTEM													TAXES OTHER	PRIOR PERIOD OR NONUTIL AMOUNT
			701	703	704	711	715	718	720	730	740	750	755	765	775		
424	Christian	25.00															
1000	PSC Escrow	238.37															
1001	Mike Daley	400.00								200.00							
1002	PSC Escrow	63.45															
1003	Waste Management	20.30								10.15							
1004	ATC 1	131.48													27.61		76.24
1005	GTE 2	71.38													18.84		33.69
1006	Merhans Auto	62.73															62.73
1007	PSC Escrow	99.25															
1008	Mobil Oil 3	104.35										25.77					52.80
1009	vokl																
1010	Bankers Cmcl Life	66.10			8.26												49.58
1011	USPO	25.00													12.50		
1012	AARP	45.00			5.63												33.75
1013	PSC Escrow	50.78															
1014	Caroline Sims	49.71													24.85		
1015	REA	96.87					96.87										
1016	REA	45.03															45.03
1017	REA	156.63															
1018	Richard Shannon	140.00															
1019	vokl																
1020	Cash	40.00		20.00													
1021	Richard D. Sims	1,200.00		645.90												(45.90)	
1022	Northside Bank	1,155.32															
1023	Perry's Lawn Svc	60.00								30.00							
1024	USPO	39.78							19.89								
1025	US Bankruptcy Ct	250.00															250.00
1026	Shady Oaks	350.00															350.00
1027	USPO	33.25							16.62								
1028	Moody's	85.34															
1029	Mike Daley	325.00								162.50							
1030	Office Depot	7.12							3.56								
1031	USPO	39.02							19.51								
---	Bank Maint Fees	10.56													5.28		
MONTHLY																	
TOTALS:			0.00	665.90	13.89	0.00	96.87	0.00	59.58	402.65	0.00	25.77	0.00	0.00	89.08	(45.90)	953.82



SHADY OAKS MOBILE - MODULAR ESTATES, INC.  
DOCKET NO. 900025 - WS  
TEST YEAR ENDED 06/30/90  
ANALYSIS OF DISBURSEMENTS FOR THE MONTH 06/92  
C:\SOAK\DISB0692.WK3 BY: FJL 06/22/93  
PAGE 1 OF 2

CHECK NO.	PAYEE	CHECK AMOUNT	WATER SYSTEM												TAXES OTHER	COST OF CAPITAL	PSC ESCROW	PLANT
			801	803	804	815	818	820	830	840	850	855	865	875				
396	Norhtalde Bank	130.00														130.00		
397	1st Natl Bank Pasco	125.53														125.53		
398	Richard Shannon	12,004.00																12,004.00
399	Mark Sims	500.00														500.00		
400	Home Depot	52.32																52.32
401	Richard Sims	25.00		12.50														
402	Richard Shannon	3,100.00																3,100.00
403	Norhtalde Bank	114.07														114.07		
404	GTE	35.66												17.85				
405	Moody's Hardware	55.48																55.48
406	Bulkers Square	7.53																7.53
407	REA	258.21				258.21												
408	REA	9.06				4.54												
409	REA	81.01																
410	Richard Shannon	1,000.00																1,000.00
411	vold																	
412	Cash	40.00		20.00														
413	R Ake (record fee)	10.50												5.25				
414	Tenn Bank new acct	3,000.00																
415	C Fred Duell	2,000.00																
416	Leslie's	15.75						7.88										
417	Richard Shannon	2,116.00																2,116.00
418	Inx Ribbons	4.16						2.08										
419	USPO	37.45						18.73										
420	Richard Sims	50.00		25.00														
421	Pinch A Penny	20.70																
422	Norhtalde Bank	1,155.32														1,155.32		
423	Life Ins School of FL	49.00																
---	Bank Maint Fees	5.00												2.50				
MONTHLY																		
TOTALS:			25,981.60	0.00	57.50	0.00	262.75	0.00	28.88	0.00	0.00	0.00	0.00	25.60	0.00	2,024.62	0.00	18,335.33

SHADY OAKS MOBILE-MODULAR ESTATES, INC.  
DOCKET NO. 900025-WS  
TEST YEAR ENDED 06/30/90  
ANALYSIS OF DISBURSEMENTS FOR THE MONTH 06/92  
C:\SOAK\DSB0692.WK3 BY: FJL 08/22/93  
PAGE 2 OF 2

PAGE 2 OF 2			WASTEWATER SYSTEM												TAXES	PRIOR	
CHECK NO.	PAYEE	CHECK AMOUNT	701	703	704	711	715	718	720	730	740	750	755	765	775	OTHER	PERIOD OR NONUTIL AMOUNT
396	Northside Bank	130.00															
397	1st Natl Bank Pasco	125.53															
398	Richard Shannon	12,004.00															
399	Mark Sims	500.00															
400	Home Depot	52.32															
401	Richard Sims	25.00		12.50													
402	Richard Shannon	3,100.00															
403	Northside Bank	114.07															
404	GTE	35.69													17.85		
405	Moody's Hardware	55.48															
406	Builders Square	7.53															
407	REA	258.21															
408	REA	9.08					4.54										
409	REA	61.01															81.01
410	Richard Shannon	1,000.00															
411	void																
412	Cash	40.00		20.00													
413	R Ake (record fee)	10.50													5.25		
414	Terr Bank new acct	3,000.00															
415	C Fred Duell	2,000.00															2,000.00
416	Leslie's	16.75							7.88								
417	Richard Shannon	2,116.00															
418	Irox Ribbons	4.18							2.08								
419	USPO	37.45							18.73								
420	Richard Sims	50.00		25.00													
421	Pinch A Penny	20.70						20.70									
422	Northside Bank	1,155.32															
423	Life Ins School of FL	49.00															49.00
---	Bank Maint Fees	5.00													2.50		
MONTHLY TOTALS:		25,981.80	0.00	57.50	0.00	0.00	4.54	20.70	28.68	0.00	0.00	0.00	0.00	0.00	25.60	0.00	2,110.01

**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT FJL-13**

**WITNESS: FRANCES J. LINGO**

**ON BEHALF OF THE STAFF**

**OF THE FLORIDA PUBLIC SERVICE COMMISSION**

## DIVISION OF WATER AND WASTEWATER

## DESCRIPTION

## ~~DELINQUENT REGULATORY ASSESSMENT FEES~~

## Examples of Non-Utility Expenditures

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET NO. 930944 EXHIBIT NO. 14  
COMPANY/ WITNESS: FPSC / (u/s)  
DATE: \_\_\_\_\_

RICHARD D. SIMS, TRUSTEE  
IN BANKRUPTCY FOR S & D UTILITY  
DEBTOR IN POSSESSION BK 92-6718-8B1  
P.O. BOX 280012 PH. 813-932-3177  
TAMPA, FL 33682-0012

EXHIBIT FJL-13

Page 1 of 23

63-1302/63

12-11 19 92

THE  
ORDER OF

*Mon Tel*

\$ 87.32

*Eighth Seven 32/100*

DOLLAR

The  
Terrace  
Bank  
of Florida Temple Terrace, Florida

0630113023  
PAY ANY BANK  
P.E.G.

*Richard D. Sims*

FOR

1156

RICHARD D. SIMS, TRUSTEE  
IN BANKRUPTCY FOR S & D UTILITY  
DEBTOR IN POSSESSION BK 92-6718-8B1  
P.O. BOX 280012 PH. 813-932-3177  
TAMPA, FL 33682-0012

0630113023  
PAY ANY BANK  
P.E.G.

12-11 19 92

63-1302/631

THE  
ORDER OF

*Mon Tel*

\$ 56.44

*Fifty Six 44/100*

DOLLAR

The  
Terrace  
Bank  
of Florida Temple Terrace, Florida

0630113023  
THE TERRACE BANK  
OF FLORIDA  
33682-0012

*Richard D. Sims*

FOR

REDACTED



TELEPHONE NUMBER

813 932-3177

PAGE 1 OF 6

BILL DATE

December 10, 1992

## Helpful numbers

## BILLING SUMMARY

RICHARD D SIMS

## GTE billing

questions

1 800 483-3737

Outside 813 area

1 800 788-1152

To order GTE

services call

1 800 483-7762

Outside 813 area

1 800 458-1216

Previous charges

Amount of last bill

\$ 56.44

No payment received.

.00

Amount past due

\$ 56.44

Current charges

GTE charges

\$ 30.88

Total current charges

\$ 30.88

Total amount due

\$ 87.32

Due date

December 25, 1992

To avoid a 1.5% late  
payment charge, payment  
must be received by  
January 09, 1993.

A portion of the total  
amount due is past due.

Si necesita

asistencia en

español, llame al



TELEPHONE NUMBER

813 932-3177

PAGE 1 OF 6

BILL DATE

November 10, 1992

## Helpful numbers

## BILLING SUMMARY

RICHARD D SIMS

## GTE billing

questions

1 800 483-3737

Outside 813 area

1 800 788-1152

To order GTE

services call

1 800 483-7762

Outside 813 area

1 800 458-1216

Previous charges

Amount of last bill

\$ 35.99

Payment received. Thank you.

CR 35.99

Balance

\$ .00

Current charges

GTE charges

\$ 56.44

Total current charges

\$ 56.44

Total amount due

\$ 56.44

Due date

November 25, 1992

To avoid a 1.5% late  
payment charge, payment  
must be received before  
December 10, 1992.

Si necesita

asistencia en

español, llame al

RICHARD D. SIMS, TRUSTEE  
IN BANKRUPTCY FOR S & D UTILITY  
DEBTOR IN POSSESSION BK 92-6718-8B1  
P.O. BOX 280012 PH. 813-932-3177  
TAMPA, FL 33682-0012

PAY  
THE  
ER OF

*RED*

*Forty Four 2 03/100*

The  
Terrace  
Bank  
of Florida  
Tampa, Florida

FOR

*005*

063113028  
PAY ANY BANK  
P.E.G.  
JUL 9 02  
THE TERRACE BANK  
OF FLORIDA  
063113028

*7-5* 19 *92* 63-130.  
\$ *45.03*  
DOLL

*Richard D Sims*



REDACTED



WITHLACOOCHEE RIVER ELECTRIC  
COOPERATIVE, INC.  
P.O. Box 278, Dade City, FL 33526

BUSINESS OFFICE SERVING YOU (SEE REVERSE SIDE FOR LOCATION AND PHONE NO.)

DADE CITY

MEMBER ID NO.

7824 011 005

CYCLE CODE

A17

BILL DATE

6/24/92

CUSTOMER NAME

SHADY OAKS MBL MODULAR

ACCOUNT NO.

1409 250 442 220

METER NO.

57136927

SERVICE LOCATION

3661 CASTLE

DR

RATE

GENERAL SRVC NON-DEMAND

COMPARATIVE USAGE  
INFORMATION

PERIOD	DAYS	AVERAGE KWH PER DAY
JUN 92	29	5
MAY 92	29	9
JUN 91	30	13

FOR ELECTRIC SERVICE

FROM	READING	TO	READING	MULTIPLIER	DEMAND READING	KW DEMAND	KILOWATT HOURS USED
5/20	44051	6/18	44187				136

A 1.5 PERCENT, BUT NOT LESS THAN \$1.50, LATE CHARGE WILL APPLY TO UNPAID BALANCES AS OF 5:00 P.M. ON THE PAST DUE DATE SHOWN BELOW. CHARGES WILL BE REFLECTED ON THE NEXT BILL.

DESCRIPTION OF CHARGE OR CREDIT

PREVIOUS BALANCE			\$ 96.39
PAYMENT	THANK YOU	\$ 51.36 CR	
BALANCE FORWARD **	SEE COLLECTION NOTICE BELOW **		45.03
LATE PAYMENT CHARGE		1.50	
CUSTOMER CHARGE		8.38	
ENERGY	136 KWH X .08365	11.38	
FUEL ADJUSTMENT	136 KWH X .00199	.27	
FLORIDA GROSS RECEIPTS TAX		.46	
SALES TAX		1.23	
TOTAL NEW CHARGES AND CREDITS THIS BILL			23.22 *
TOTAL AMOUNT DUE	* BECOMES PAST DUE ON 7/16/92 PLEASE PAY		68.25

#1016  
7-5-92  
L.D.

\*\*\* COLLECTION NOTICE \*\*\*  
\*\* \$ 45.03 IS NOW PAST DUE AND IF NOT RECEIVED PRIOR TO 5:00 P.M. ON  
\*\* 07/01/92 WILL RESULT IN A COLLECTION TRIP OR TERMINATION OF SERVICE THE  
\*\* FOLLOWING WORKDAY. IF A COLLECTION TRIP IS MADE, YOU WILL BE CHARGED  
\*\* \$25.00. IF DISCONNECTED, THERE MUST BE AN ADDITIONAL \$40.00 RECONNECT  
\*\* FEE AND ADDITIONAL DEPOSIT OF \$ .00 PAID PRIOR TO RESTORING SERVICE.

RICHARD D. SIMS, TRUSTEE  
IN BANKRUPTCY FOR S & D UTILITY  
DEBTOR IN POSSESSION BK 92-6718-8B1  
P.O. BOX 280012 PH. 813-932-3177  
TAMPA, FL 33682-0012

9-26 1992 63-130

PAY TO THE ORDER OF

*ATC*  
*Eighty Six & 8/100*

The  
Terrace  
Bank  
of Florida Tampa Terrace, Florida

063113028  
PAY ANY BANK

P.E.G.

SEP 30 92

THE TERRACE BANK  
OF FLORIDA

\$ 66 88

DOLL

*Richard D. Sims*

FOR

RICHARD D. SIMS, TRUSTEE  
IN BANKRUPTCY FOR S & D UTILITY  
DEBTOR IN POSSESSION BK 92-6718-8B1  
P.O. BOX 280012 PH. 813-932-3177  
TAMPA, FL 33682-0012

1160

910495 62548

12-11 1992 63-1302/

PAY TO THE ORDER OF

*ATC*  
*Eighty Four & 5/100*

The  
Terrace  
Bank  
of Florida Tampa Terrace, Florida

063113028  
PAY ANY BANK

P.E.G.

DEC 16 92

THE TERRACE BANK  
OF FLORIDA  
063113028

\$ 84 52

DOLL

*Richard D. Sims*

FOR

REDACTED





1515 South Federal Highway  
Boca Raton, FL 33432-7404

RICHARD SIMS DBA SHADY OAKS  
MOBILE MODULATOR EST INC  
P.O. BOX 280478  
TAMPA, FL 33682-0012

CUSTOMER NUMBER: 270807  
INVOICE NUMBER: 27080727  
INVOICE DATE: 08/30/92  
SERVICE DATE: 07/28/92 - 08/27/92  
PREVIOUS CUSTOMER NUMBER: 318174

TOTAL AMOUNT DUE: \$66.88

BILLING INQUIRIES AND GENERAL SERVICE INFORMATION 8AM-10PM M-F, 8-5 SAT/SUN

RESIDENTIAL: 1-800-749-9000  
COMMERCIAL: 1-800-749-9600

24 HOUR TECHNICAL ASSISTANCE 1-800-226-5040

\*\*\*\*\*  
\* Manage your costs with Project Account Codes from ATC! \*  
\*  
\* When it comes to offering convenient services, ATC means business. \*  
\* If you're not currently taking advantage of Project Account Codes \*  
\* (PACs) in your ATC billing, you could be missing out! PACs help \*  
\* simplify internal accounting procedures and enhance productivity \*  
\* by enabling you to track long distance usage, prevent fraud and \*  
\* abuse, allocate long distance expenses to the appropriate departments \*  
\* and cost centers...even to clients and customers! For information, \*  
\* consult your customer service representative. \*  
\*\*\*\*\*

# 1073  
S.D.  
17-26-2



RICHARD SIMS DBA SHADY OAKS  
MOBILE MODULATOR EST INC  
P.O. BOX 280478  
TAMPA, FL 33682-0012

CUSTOMER NUMBER: 270807  
INVOICE NUMBER: 27080727  
INVOICE DATE: 08/30/92  
SERVICE DATE: 07/28/92 - 08/27/92  
PREVIOUS CUSTOMER NUMBER: 318174

TELEPHONE NUMBER: 813-782-2686

CALL NO.	CALL DATE	CALL TIME	CALLED NUMBER *	CITY	ST	B/T	PROD TYPE	DURATION MIN/SEC	RATE PERIOD	TOTAL CHARGE
1	07/28/92	09:28 AM	813 932-3177	TAMPA	FL		320	2.00	DA	.43
2	07/28/92	10:25 AM	813 851-7060	TAMPA	EAST FL		320	.50	DA	.11
3	08/03/92	10:13 AM	813 222-7629	TAMPA	FL		320	14.10	DA	3.04
4	08/03/92	10:32 AM	813 932-3177	TAMPA	FL		320	1.40	DA	.31
5	08/03/92	10:35 AM	813 273-8500	TAMPA	FL		320	1.20	DA	.26
6	08/03/92	10:37 AM	813 933-2255	TAMPA	FL		320	7.20	DA	1.55
7	08/03/92	10:45 AM	813 273-8500	TAMPA	FL		320	1.10	DA	.24
8	08/03/92	11:08 AM	813 886-3328	TAMPA	WEST FL		320	1.40	DA	.31
9	08/04/92	09:50 AM	813 932-3177	TAMPA	FL		320	.50	DA	.11
10	08/07/92	10:02 AM	813 932-3177	TAMPA	FL		320	.50	DA	.11
11	08/10/92	09:47 AM	813 932-3177	TAMPA	FL		320	1.60	DA	.35
12	08/10/92	11:14 AM	813 971-3954	TAMPA	FL		320	4.90	DA	1.06
13	08/10/92	12:00 PM	813 932-3177	TAMPA	FL		320	3.40	DA	.74
14	08/13/92	09:47 AM	813 932-3177	TAMPA	FL		320	5.10	DA	1.10
15	08/13/92	10:00 AM	813 932-3177	TAMPA	FL		320	.60	DA	.13
16	08/17/92	10:17 AM	813 932-3177	TAMPA	FL		320	.90	DA	.20
17	08/18/92	09:36 AM	813 932-3177	TAMPA	FL		320	.50	DA	.11
18	08/18/92	10:02 AM	813 886-3328	TAMPA	WEST FL		320	1.90	DA	.41
19	08/19/92	09:33 AM	813 932-3177	TAMPA	FL		320	1.00	DA	.22
20	08/19/92	10:18 AM	813 932-3177	TAMPA	FL		320	1.30	DA	.28
21	08/21/92	01:09 PM	813 932-3177	TAMPA	FL		320	3.00	DA	.65
22	08/24/92	09:51 AM	813 932-3177	TAMPA	FL		320	3.70	DA	.80
23	08/24/92	10:01 AM	813 621-5661	TAMPA	FL		320	3.40	DA	.74
24	08/25/92	09:35 AM	813 932-3177	TAMPA	FL		320	2.10	DA	.46
25	08/25/92	10:08 AM	813 932-3177	TAMPA	FL		320	.60	DA	.13

TOTAL FOR 813-782-2686

CALLS: 25

63.90

13.85

TELEPHONE NUMBER: 813-932-3177

26	07/29/92	08:21 AM	813 782-6717	ZEPHYHILLS	FL		320	.60	DA	.13
27	07/29/92	11:31 AM	904 488-8482	TALLAHASSE	FL		320	1.20	DA	.26
28	07/30/92	01:40 PM	813 782-2002	ZEPHYHILLS	FL		320	2.40	DA	.52
29	07/30/92	06:32 PM	813 780-6668	ZEPHYHILLS	FL		320	.70	EV	.12
30	07/31/92	01:06 PM	904 488-8482	TALLAHASSE	FL		320	2.10	DA	.46
31	08/01/92	09:11 PM	813 758-2181	BRADENTON	FL		320	.50	NI	.07
32	08/01/92	09:13 PM	813 758-2181	BRADENTON	FL		320	.50	NI	.07
33	08/01/92	09:34 PM	813 794-3083	BRADENTON	FL		320	2.40	NI	.31
34	08/03/92	02:47 PM	813 780-6668	ZEPHYHILLS	FL		320	.50	DA	.11
35	08/03/92	03:07 PM	813 782-2002	ZEPHYHILLS	FL		320	1.70	DA	.37
36	08/03/92	05:11 PM	709-54330529	USSR			320	7.10	ST	12.93
37	08/05/92	07:11 PM	813 788-0428	ZEPHYHILLS	FL		320	2.60	EV	.43
38	08/07/92	06:45 PM	813 788-0428	ZEPHYHILLS	FL		320	.60	EV	.10
39	08/08/92	11:20 AM	813 788-0428	ZEPHYHILLS	FL		320	.80	NI	.11
40	08/08/92	04:15 PM	813 788-0428	ZEPHYHILLS	FL		320	.80	NI	.11
41	08/09/92	02:18 PM	813 788-0428	ZEPHYHILLS	FL		320	.50	NI	.07
42	08/09/92	09:27 PM	414 682-6238	MANITOWOC	WI		320	16.40	EV	2.71
43	08/10/92	10:29 AM	813 782-2686	ZEPHYHILLS	FL		320	3.50	DA	.76
44	08/10/92	05:46 PM	813 788-0428	ZEPHYHILLS	FL		320	.50	EV	.09
45	08/10/92	06:34 PM	813 780-6668	ZEPHYHILLS	FL		320	1.50	EV	.25
46	08/11/92	05:01 PM	813 788-3515	ZEPHYHILLS	FL		320	1.90	EV	.32
47	08/12/92	10:17 AM	904 488-8482	TALLAHASSE	FL		320	10.50	DA	2.26
48	08/12/92	10:58 AM	813 782-2002	ZEPHYHILLS	FL		320	2.50	DA	.54
49	08/12/92	11:06 AM	904 487-2740	TALLAHASSE	FL		320	.50	DA	.11
50	08/12/92	01:56 PM	813 782-2002	ZEPHYHILLS	FL		320	.50	DA	.11
51	08/12/92	05:19 PM	516 273-0101	BRENTWOOD	NY		320	2.60	EV	.43
52	08/12/92	05:22 PM	813 782-1585	ZEPHYHILLS	FL		320	.90	EV	.15
53	08/12/92	08:11 PM	813 782-1392	ZEPHYHILLS	FL		320	.70	EV	.12
54	08/13/92	01:18 PM	813 782-2002	ZEPHYHILLS	FL		320	.50	DA	.11

LEGEND

DA=DAY

EV=EVENING

NI=NIght/WEEKEND

STANDARD INTERNATIONAL

DI=DISCOUNT INTERNATIONAL

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B/T=BAND/TIER

X'S = CALL ORIGINATING OFF ATC NETWORK; THIS INFORMATION NOT CURRENTLY AVAILABLE.



RICHARD SIMS DBA SHADY OAKS  
MOBILE MODULATOR EST INC  
P.O. BOX 280478  
TAMPA, FL 33682-0012

CUSTOMER NUMBER: 270807  
INVOICE NUMBER: 27080727  
INVOICE DATE: 08/30/92  
SERVICE DATE: 07/28/92 - 08/27/92  
PREVIOUS CUSTOMER NUMBER: 318174

CALL NO.	CALL DATE	CALL TIME	CALLED NUMBER *	CITY	ST	B/T	PROD TYPE	DURATION MIN/SEC	RATE PERIOD	TOTAL CHARGE
55	08/13/92	03:25 PM	813 788-7777	ZEPHYHILLS	FL		320	.70	DA	.16
56	08/13/92	05:43 PM	813 788-0428	ZEPHYHILLS	FL		320	1.00	EV	.17
57	08/13/92	05:56 PM	813 788-0428	ZEPHYHILLS	FL		320	.50	EV	.09
58	08/13/92	07:06 PM	813 780-6668	ZEPHYHILLS	FL		320	.60	EV	.10
59	08/14/92	12:13 PM	813 780-6668	ZEPHYHILLS	FL		320	.90	DA	.20
60	08/15/92	06:01 PM	315 735-2668	UTICA	NY		320	.50	NI	.07
61	08/15/92	06:02 PM	315 735-2665	UTICA	NY		320	3.30	NI	.43
62	08/16/92	02:06 PM	813 788-4709	ZEPHYHILLS	FL		320	1.70	NI	.22
63	08/16/92	02:12 PM	813 780-6668	ZEPHYHILLS	FL		320	.50	NI	.07
64	08/16/92	09:01 PM	414 682-6238	MANITOWOC	WI		320	21.80	EV	3.60
65	08/17/92	02:42 PM	201 961-1750	NEWARK	NJ		320	8.30	DA	1.87
66	08/17/92	07:18 PM	407 487-0301	BOCA RATON	FL		320	.60	EV	.10
67	08/17/92	07:19 PM	407 471-5280	W PALM BCH	FL		320	19.60	EV	3.24
68	08/17/92	09:20 PM	407 966-4691	W PALM BCH	FL		320	24.90	EV	4.11
69	08/19/92	08:26 AM	813 780-6668	ZEPHYHILLS	FL		320	.70	DA	.16
70	08/19/92	09:40 AM	813 782-2686	ZEPHYHILLS	FL		320	.90	DA	.20
71	08/19/92	08:35 PM	813 788-4709	ZEPHYHILLS	FL		320	.60	EV	.10
72	08/19/92	09:04 PM	407 966-4691	W PALM BCH	FL		320	4.90	EV	.81
73	08/20/92	06:25 PM	904 588-2376	SANANTONIO	FL		320	3.00	EV	.50
74	08/21/92	06:43 PM	407 966-4691	W PALM BCH	FL		320	6.80	EV	1.13
75	08/24/92	10:28 AM	813 782-2686	ZEPHYHILLS	FL		320	.50	DA	.11
76	08/26/92	08:28 AM	407 966-4691	W PALM BCH	FL		320	.50	DA	.11
77	08/27/92	06:52 PM	414 682-6238	MANITOWOC	WI		320	10.60	EV	1.75

TOTAL FOR 813-932-3177

CALLS: 52 180.90

43.43

\* 36.86

TOTAL FOR SERVICE

CALLS: 77 244.80

57.28

LEGEND

DA=DAY

EV=EVENING

NI=NIGHT/WEEKEND

STANDARD INTERNATIONAL

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1515 South Federal Highway  
Boca Raton, FL 33432-7404

29 me  
11-15-92

RICHARD SIMS DBA SHADY OAKS  
MOBILE MODULATOR EST INC  
P.O. BOX 280478  
TAMPA, FL 33682-0012

CUSTOMER NUMBER: 270807  
INVOICE NUMBER: 27080727  
INVOICE DATE: 10/29/92  
SERVICE DATE: 09/28/92 - 10/27/92  
PREVIOUS CUSTOMER NUMBER: 318174

TOTAL AMOUNT DUE: \$84.52

BILLING INQUIRIES AND GENERAL SERVICE INFORMATION 8AM-10PM M-F, 8-5 SAT/SUN

RESIDENTIAL: 1-800-749-9000  
COMMERCIAL: 1-800-749-9500

24 HOUR TECHNICAL ASSISTANCE 1-800-226-5040

\*\*\*\*\*  
\* Important Changes In 800 Calling...Coming Soon! \*  
\* \*  
\* The FCC has mandated industry-wide implementation of "800 \*  
\* Portability," improving the way toll-free 800 numbers are assigned \*  
\* and maintained. Planned for March of 1993, portability will enable \*  
\* our customers who have 800 numbers with other carriers to convert \*  
\* those numbers to ATC...keeping the same numbers and taking maximum \*  
\* advantage of our multiple-service discounts! As local telephone \*  
\* companies begin testing this month, callers may experience a \*  
\* slightly longer connection time when dialing 800 numbers. \*  
\*\*\*\*\*

PERHAPS YOU DID NOT REALIZE THAT YOUR LAST STATEMENT WAS STILL  
UNPAID. YOUR PAYMENT OF \$ 40.80 WOULD BE APPRECIATED. IF  
YOUR PAYMENT HAS ALREADY BEEN MAILED, PLEASE DISREGARD THIS  
NOTICE AND ACCEPT OUR THANKS.

PLEASE DETACH AND RETURN LOWER PORTION WITH PAYMENT

CUSTOMER NUMBER: 270807  
INVOICE NUMBER: 27080727  
INVOICE DATE: 10/29/92  
INVOICE DUE UPON RECEIPT

TOTAL AMOUNT DUE: \$84.52

AMOUNT ENCLOSED:

☐ \*PLEASE CHECK BOX TO INDICATE ADDRESS  
CHANGE AND ENTER CORRECTION ON REVERSE.

PLEASE REMIT PAYMENT TO:

ATC LONG DISTANCE  
P.O. BOX 628072  
ORLANDO, FL 32862-8072

RICHARD SIMS DBA SHADY OAKS  
MOBILE MODULATOR EST INC  
P.O. BOX 280478  
TAMPA, FL 33682-0012

PLEASE ADDRESS CORRESPONDENCE TO:

ATC LONG DISTANCE  
1515 S. FEDERAL HWY. STE 400  
BOCA RATON, FL 33432-7404

020002708071 921027 000008452



RICHARD SIMS DBA SHADY OAKS  
MOBILE MODULATOR EST INC  
P.O. BOX 280478  
TAMPA, FL 33682-0012

CUSTOMER NUMBER: 270807  
INVOICE NUMBER: 27080727  
INVOICE DATE: 10/29/92  
SERVICE DATE: 09/28/92 - 10/27/92  
PREVIOUS CUSTOMER NUMBER: 318174

TELEPHONE NUMBER: 813-782-2686

CALL NO.	CALL DATE	CALL TIME	CALLED NUMBER *	CITY	ST	B/T	PROD TYPE	DURATION MIN/SEC	RATE PERIOD	TOTAL CHARGE
1	09/28/92	11:45 AM	813 875-9821	TAMPA	FL		320	1.40	DA	.31
2	09/28/92	11:47 AM	813 932-3177	TAMPA	FL		320	.70	DA	.16
3	09/29/92	09:36 AM	813 932-3177	TAMPA	FL		320	.80	DA	.18
4	09/29/92	09:47 AM	813 932-3177	TAMPA	FL		320	1.30	DA	.28
5	09/29/92	10:31 AM	813 932-3177	TAMPA	FL		320	.70	DA	.16
6	10/01/92	11:33 AM	813 875-9821	TAMPA	FL		320	.60	DA	.13
7	10/06/92	10:23 AM	813 932-3177	TAMPA	FL		320	.50	DA	.11
8	10/08/92	09:30 AM	904 488-8482	TALLAHASSE	FL		320	7.40	DA	1.60
9	10/08/92	11:39 AM	813 932-3177	TAMPA	FL		320	1.40	DA	.31
10	10/08/92	11:35 AM	813 932-3177	TAMPA	FL		320	.50	DA	.11
11	10/13/92	09:39 AM	813 932-3177	TAMPA	FL		320	1.90	DA	.41
12	10/15/92	11:12 AM	813 875-9821	TAMPA	FL		320	.50	DA	.11
13	10/27/92	11:51 AM	904 488-8482	TALLAHASSE	FL		320	.50	DA	.11

TOTAL FOR 813-782-2686 CALLS: 13 18.20 3.98

TELEPHONE NUMBER: 813-932-3177

14	09/28/92	10:07 AM	904 488-8482	TALLAHASSE	FL		320	.90	DA	.20
15	09/28/92	09:14 PM	813 788-0428	ZEPHYHILLS	FL		320	1.20	EV	.20
16	09/29/92	07:22 PM	813 788-0428	ZEPHYHILLS	FL		320	2.00	EV	.33
17	09/29/92	08:56 PM	414 682-6238	MANITOWOC	WI		320	10.70	EV	1.77
18	10/01/92	04:03 PM	407 339-5984	WINTERPARK	FL		320	1.10	DA	.24
19	10/01/92	06:40 PM	414 682-6238	MANITOWOC	WI		320	7.60	EV	1.26
20	10/01/92	07:18 PM	407 471-5280	W PALM BCH	FL		320	.50	EV	.09
21	10/01/92	09:16 PM	407 624-1458	W PALM BCH	FL		320	16.90	EV	2.79
22	10/03/92	02:01 PM	414 682-6238	MANITOWOC	WI		320	6.40	NI	.83
23	10/03/92	07:41 PM	904 332-4841	GAINESVL	FL		320	11.30	NI	1.46
24	10/04/92	09:35 AM	504 834-8847	NEWORLEANS	LA		320	.70	NI	.10
25	10/04/92	10:46 AM	813 788-0428	ZEPHYHILLS	FL		320	24.70	NI	3.19
26	10/07/92	10:53 AM	813 788-2572	ZEPHYHILLS	FL		320	4.20	DA	.91
27	10/07/92	11:51 AM	904 487-2740	TALLAHASSE	FL		320	1.90	DA	.41
28	10/07/92	03:33 PM	904 488-8482	TALLAHASSE	FL		320	11.10	DA	2.39
29	10/07/92	04:28 PM	904 521-0141	DADE CITY	FL		320	2.10	DA	.46
30	10/08/92	10:25 AM	904 332-4841	GAINESVL	FL		320	.70	DA	.16
31	10/09/92	08:39 AM	904 332-7106	GAINESVL	FL		320	1.40	DA	.31
32	10/09/92	12:59 PM	813 783-3946	ZEPHYHILLS	FL		320	.50	DA	.11
33	10/09/92	01:01 PM	813 783-3946	ZEPHYHILLS	FL		320	.50	DA	.11
34	10/09/92	01:15 PM	813 788-2872	ZEPHYHILLS	FL		320	.50	DA	.11
35	10/12/92	03:50 PM	813 788-2830	ZEPHYHILLS	FL		320	2.00	DA	.43
36	10/12/92	03:55 PM	813 788-2830	ZEPHYHILLS	FL		320	1.20	DA	.26
37	10/13/92	08:34 PM	813 788-2830	ZEPHYHILLS	FL		320	.70	EV	.12
38	10/13/92	06:56 PM	904 735-3603	MOUNT DORA	FL		320	.70	EV	.12
39	10/13/92	07:00 PM	716 468-2584	NUNDA	NY		320	.80	EV	.14
40	10/14/92	08:08 AM	904 735-3603	MOUNT DORA	FL		320	.50	DA	.11
41	10/14/92	08:09 AM	407 257-4823	ORLANDO	FL		320	.50	DA	.11
42	10/14/92	11:27 AM	813 788-2830	ZEPHYHILLS	FL		320	.70	DA	.16
43	10/14/92	01:47 PM	904 488-8482	TALLAHASSE	FL		320	2.60	DA	.56
44	10/14/92	03:54 PM	407 367-3000	BOCA RATON	FL		320	2.30	DA	.50
45	10/15/92	12:53 PM	904 488-8482	TALLAHASSE	FL		320	.50	DA	.11
46	10/15/92	08:52 PM	407 624-1458	W PALM BCH	FL		320	20.30	EV	3.35
47	10/16/92	12:22 PM	904 488-8482	TALLAHASSE	FL		320	.50	DA	.11
48	10/16/92	01:44 PM	904 332-4841	GAINESVL	FL		320	1.70	DA	.37
49	10/16/92	03:40 PM	904 332-4841	GAINESVL	FL		320	6.40	DA	1.38
50	10/16/92	09:30 PM	414 682-6238	MANITOWOC	WI		320	24.90	EV	4.11
51	10/17/92	06:00 PM	904 795-2861	CRYSTALRIV	FL		320	2.90	NI	.38
52	10/20/92	09:33 PM	904 332-4841	GAINESVL	FL		320	.60	EV	.10
53	10/20/92	09:34 PM	904 335-2035	GAINESVL	FL		320	.90	EV	.15
54	10/21/92	11:02 AM	904 488-8482	TALLAHASSE	FL		320	.80	DA	.18

LEGEND

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RICHARD D. SIMS, TRUSTEE  
IN BANKRUPTCY FOR S & D UTILITY  
DEBTOR IN POSSESSION BK 92-6718-8B1  
P.O. BOX 280012 PH. 813-932-3177  
TAMPA, FL 33682-0012

8954655026 36144094 34

11-30-92

63-1302/6

THE ORDER OF Mobile Oil  
One hundred + 20/100

The  
Terrace  
Bank  
of Florida Temple Terrace, Florida

Q55110028  
PAY ANY BANK  
P.E.C.

DEC 9 92

THE TERRACE BANK  
OF FLORIDA  
063113028

Caroline Sue Sims

REDACTED

115

RICHARD D. SIMS, TRUSTEE  
IN BANKRUPTCY FOR S & D UTILITY  
DEBTOR IN POSSESSION BK 92-6718-8B1  
P.O. BOX 280012 PH. 813-932-3177  
TAMPA, FL 33682-0012

560

12-11 19 92

63-1302/

THE ORDER OF Mobile Oil  
One hundred Forty-Two + 20/100

The  
Terrace  
Bank  
of Florida Temple Terrace, Florida

PAY ANY BANK  
P.E.C.

DEC 16 92

Richard D. Sims

FOR 8954655026



TRAN. DATE	TICKET NUMBER	PROD CODE	CARD NO	PURCHASE LOCATION OR TRANSACTION DESCRIPTION			TRANSACTION AMOUNT
				PREVIOUS BALANCE			67.71
11/12				FINANCE CHARGE			1.51
10/15	OC77750		001	M MOUBARAK	TAMPA	FL	11.00#
10/19	OC77847		001	M MOUBARAK	TAMPA	FL	12.02#
11/01	M3C2229		002	MOBIL OIL GLS	TAMPA	FL	26.00#
11/07	OC77322		001	M MOUBARAK	TAMPA	FL	12.00#
11/12	OC55258		001	M MOUBARAK	TAMPA	FL	12.04#
NO UTILITY 47. <sup>06</sup> 11-30-92 pd 100.00 cr 1138 TT.							
# PURCHASE AT A CARD ACTIVATED PUMP							
ACCOUNT NUMBER	BILLING DATE	PREVIOUS BALANCE	PAYMENTS /CREDITS	NEW CHARGES	NEW BALANCE	MINIMUM PAYMENT DUE	
8 ■ ■ ■ ■	NOV 12 92	67.71		73.06	142.28	142.28	

FINANCE CHARGE INFORMATION			
FINANCE CHARGE IS NOT ASSESSED IF PAYMENT OF NEW BALANCE IS RECEIVED WITHIN 25 DAYS OF BILLING DATE			
ASSESSED FINANCE CHARGE			1.51
AVERAGE DAILY BALANCE			100.55
AVERAGE DAILY BALANCE	PERIODIC RATE	ANNUAL RATE	
FIRST 500	1.50%	18.0%	
AMOUNTS OVER 500	1.50%	18.0%	

SEND INQUIRIES TO:  
 P.O. BOX 419600  
 KANSAS CITY, MO  
 64141-6600

SEND PAYMENTS TO:  
 P.O. BOX 85061  
 LOUISVILLE, KY  
 40285-5061

CALL: 1-800-552-1223 TO REPORT LOST/STOLEN CARD  
 CALL: 1-800-225-9547 TO VERIFY BALANCE, REQUEST ADDITIONAL CARDS, CHECK MERCHANDISE ORDER STATUS  
 CALL: 1-913-752-7000 (7:30 A.M. TO 4:00 P.M. CST) FOR ALL OTHER INQUIRIES

NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION

KEEP THIS PORTION FOR YOUR RECORDS

Thank you for your business!

Mobil®

REDACTED

RICHARD D. SIMS, TRUSTEE  
IN BANKRUPTCY FOR S & D UTILITY  
DEBTOR IN POSSESSION BK 92-6718-8B1  
P.O. BOX 280012 PH. 813-932-3177  
TAMPA, FL 33682-0012

10-29 19 92 63-11

PAY  
TO THE  
ORDER OF

131903735 0965 0985 13 \$94.82

BP  
Twenty Four & 2/100

DOL

The  
Terrace  
Bank  
of Florida Temple Terrace, Florida

063113028

PAY ANY BANK

P.E.G.

Richard D. Sims.

FOR

REDACTED



WRITE TO US AT:  
BP OIL COMPANY  
P.O. BOX 6718—CLEVELAND, OHIO 44101-1718  
OR GIVE US A CALL AT:

YOUR ACCOUNT NUMBER IS: PAGE

BILL

Page 14 of 23

800-321-9555

1 OF 1

09/24/92

DATE	INVOICE NO.	REFERENCE NO.	CARD NO.	SELLER'S LOCATION OR DESCRIPTION OF TRANSACTION			AMOUNT
0826	0000938	4008153004E	0002	1015 W BRANDON BLVD	BRANDON	FL (44224244)	7.88
0901	0001138	4008168025E	0002	3276 S CONGRESS AVE	LAKE WORTH	FL (42457713)	12.50
				SUB-TOTAL	0002		20.38 *
0825	0000909	4008163001E	0005	11511 N HWY 301, BOX 24	THONOTOSASSA	FL (44217040)	12.71
0904	0000846	4008173003E	0005	11511 N HWY 301, BOX 24	THONOTOSASSA	FL (44217040)	10.72
0916	0001015	4008184004E	0005	11511 N HWY 301, BOX 24	THONOTOSASSA	FL (44217040)	10.82
0919	0000818	4008187001E	0005	11511 N HWY 301, BOX 24	THONOTOSASSA	FL (44217040)	13.50
				SUB-TOTAL	0005		47.75 *
<div style="text-align: center;"> <p><b>REDACTED</b></p> <p>#11.00</p> <p>10-29.92</p> <p>ALD</p> <p>NONUTILITY</p> </div>							20.38

CUSTOMER SERVICE:  
1-800-321-9555

TO INQUIRE ON ACCOUNT, PLEASE CALL 1-800-321-9555

PREVIOUS BALANCE	LESS PAYMENTS & CREDITS	PLUS DEBIT ADJUSTMENTS	PLUS NEW CHARGES	PLUS FINANCE CHARGE	EQUALS NEW BALANCE	MINIMUM PAYMENT DUE	PAYMENT OF NEW BALANCE MUST BE RECEIVED BY THIS DATE TO AVOID ADDITIONAL FINANCE CHARGE
25.50	0.00	0.00	68.13	0.99	94.62	94.62	10/20/92

FINANCE CHARGE SCHEDULE	BALANCE ON WHICH FINANCE CHARGE IS COMPUTED	ANNUAL PERCENTAGE RATE	PERIODIC RATE	AVERAGE DAILY BALANCE
	REVOLVING	12.00 %	1.00 %	N/A
	IF NOT PAID ACCORDING TO TERMS	66.17	18.00 %	1.50 %
MINIMUM FINANCE CHARGE:				0.50

NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION

CCC-BP105-F

RS-0019017  
KEEP THIS PART FOR  
YOUR RECORDS

RICHARD D. SIMS, TRUSTEE  
IN BANKRUPTCY FOR S & D UTILITY  
DEBTOR IN POSSESSION BK 92-6718-8B1  
P.O. BOX 280012 PH. 813-832-3177  
TAMPA, FL 33682-0012

4-16 19 93 63-1302/631

THE  
ORDER OF

*Chwam*

283185809 0868 0785 13 D\$ 47-92

*Forty Nine & 92/100*

The  
Terrace  
Bank  
of Florida Temple Terrace, Florida

060113002

PAY ANY BANK

P.E.G.

DOLLAR

*Richard D Sims*

FOR

100 23 93

REDACTED



# Chevron

Chevron account terms require the minimum payment due each month. Page 16 of 23  
 avoid **FINANCE CHARGE**, the total amount owing (new balance) must be paid in full and received by **APR. 20, 1993**

Account Number	Billing Date	Page
[REDACTED]	MAR. 26, 1993	1 OF 1

Transaction Date	Reference Number	Card Number	Station Number/Location or Description of Transaction	Amount
3 8			PAYMENT RECEIVED - THANK YOU	10.51CR
3 19	2716412	0001	47127 ATLAS AUTO SERVI ZEPHYRHILLS FL	13.98
3 25	2717126	0001	47127 ATLAS AUTO SERVI ZEPHYRHILLS FL	18.05
3 9	3144411	0004	47031 UNIT #3 CLEARWATER FL	17.89
*****				
<p>Try the convenience of purchasing quality merchandise with your Chevron credit card. Finance charges will not be assessed on your mail order purchases even if you choose to pay in monthly installments. You have a 15 day free home trial period to ensure your complete satisfaction with your purchases.</p>				
NONUTILITY				* 17.89
<div style="background-color: red; color: white; text-align: center; padding: 10px; font-weight: bold;">REDACTED</div>				
<div style="text-align: right; font-family: cursive; font-size: 1.2em;">             1347              4-16-3           </div>				

### Billing Summary

(1) Previous Balance	(2) Payments/Credits	(3) Unpaid Balance (1-2)	(4) Amount Past Due	(5) New Nonrevolving Charges
10.51	10.51	0.00	0.00	49.92
(6) New Revolving Purchases	(7) Total Revolving Balance	(8) Revolving Installment Due	(9) FINANCE CHARGE	(10) Minimum Payment Due (4+5+8+9)
0.00	0.00	0.00	0.00	49.92
Periodic Rate Equals <b>ANNUAL</b> PERCENTAGE RATE of 18.00 %	Balance Subject to <b>FINANCE CHARGE</b> is Average Daily Balance x Periodic Rate			(11) Total Amount Owing * (3+5+6+9)
	0.00 x 1.50 %			49.92

\* Excludes unbilled mail order merchandise installments.

**NOTICE:** See Reverse Side for Important Information

MS-30R(7-92)  
 Printed in U.S.A.

DICK'S CARD = 0001

RICHARD D. SIMS, TRUSTEE  
IN BANKRUPTCY FOR S & D UTILITY  
DEBTOR IN POSSESSION BK 92-6718-8B1  
P.O. BOX 280012 PH. 813-932-3177  
TAMPA, FL 33682-0012

EXHIBIT FJL-13  
Page 17 of 23

4-16

1993 63-1302/631

THE  
ORDER OF

*Mont Ward*  
*One Hundred Forty Nine & no/100*

063113029

PAY ANY BANK

P.E.S.

APR 21 93

THE TERRACE BANK  
OF FLORIDA

The  
Terrace  
Bank  
of Florida Temple Terrace, Florida

FOR

DOLLA

*Richard D Sims*

REDACTED

Account Number	New Balance	Minimum Due	Payment Due	Billing Date	Credit
	3478.19	149.00	149.00	4-20-93	3-26-93
Date	Reference No.	Store	Department or Transaction	Charges/Credits	

03-13 024091030 MAIL PAYMENT - THANK YOU -149.00  
03-25 3731137 MEMBER YES DISCOUNT CLUB DUES 2.99

**REDACTED**

# 1344  
4-16-93

CREDIT SECURITY PLAN (CSP) CAN MAKE YOUR CREDIT PAYMENTS FOR YOU WHEN YOU CANNOT. READ ENCLOSED BROCHURE AND SIGN UP NOW.

Plan (see reverse)	Previous Balance	- Payments & Credits	+ FINANCE CHARGE	Purchases	Insurance & Debits	New Balance	Minimum Due
REG	3570.56	-149.00	53.64	2.99	0.00	3478.19	149.00

DESCRIPTIONS (see reverse)	The finance charge is determined by applying a MONTHLY periodic rate of	Which is an ANNUAL PERCENTAGE RATE of	To that part of the balance subject to finance charge up to	And a MONTHLY periodic rate of	Which is an ANNUAL PERCENTAGE RATE of	To that part of this balance in excess of	Balance subject to finance charge for this billing is	Balance was determined as explained on reverse side, by Method #
REG OLD BAL.	1.50%	18.00%	ENTIRE BALANCE				3083.06	6
REG NEW BAL.	1.80%	21.60%	ENTIRE BALANCE				410.74	6
EXTENDED	1.80%	21.60%	ENTIRE BALANCE					

Purchases, returns, and payments made just prior to billing date may not appear until next month's statement.

To avoid additional finance charge we must receive payment of total new balance by payment due date shown above.

Statement Number  
18 56272

Send payments to:

P.O. BOX 10000  
MACON, GA 31299

**Montgomery Ward**

THE BRAND NAME SAVINGS STORE

CUSTOMER SERVICE:

For account information call:

1-800-950-0355

INQUIRIES:

Send inquiries (not payment) and your account number to:

P.O. BOX 29116  
SHWNEE MISN KS 66201

Telephoning about your billing errors will not preserve your rights under federal law. To preserve your rights, please write to the INQUIRIES address at right.

NOTICE: See reverse side for important information.

RICHARD D. SIMS, TRUSTEE  
IN BANKRUPTCY FOR S & D UTILITY  
DEBTOR IN POSSESSION BK 92-6718-8B1  
P.O. BOX 280012 PH. 813-932-3177  
TAMPA, FL 33682-0012

5-20 19 93 63-1302/6

ORDER OF Prog. Fuel Co. NO 245801 05-21 85020 05 \$ 157.50  
One Hundred Fifty Seven and 50/100 DOLL

The  
Terrace  
Bank  
Temple Terrace, Florida

063113028  
PAY ANY BANK  
P.E.G.

Richard D Sims

REDACTED

Progressive Companies

NOTICE OF PAYMENT DUE

Specialty Written Through  
 PROGRESSIVE BAYSIDE INSURANCE CO.  
 3802 COCONUT PALM DRIVE  
 P O BOX 30380  
 TAMPA, FLORIDA 33630

Important Information regarding your policy limits on reverse

THIS POLICY IS BEING QUOTED  
 WITH CERTAIN DRIVERS EXCLUDED

POLICY NUMBER  
 AU 08254357 -6

DUE DATE

04/01/9

INSURED: RICHARD D SIMS  
 38616 SHADY OAKS DRIVE  
 ZEPHYRHILLS, FL 33540

AGENT: DOUBERLEY & ASOC INC  
 35356 SR 54 WEST  
 ZEPHYRHILLS, FL 33541

INCEPTION DATE  
 04/11/93

NOTICE DATE  
 03/01/93

Annual Renewals are available. Please call your independent agent for details.

## \*\*\*\*\* RENEWAL NOTICE \*\*\*\*\*

YOUR EXISTING POLICY WILL EXPIRE ON 04/11/93. IN ORDER FOR YOUR  
 RENEWAL TO TAKE EFFECT, YOUR PAYMENT MUST REACH PROGRESSIVE BEFORE  
 04/01/93. THIS WILL PROVIDE CONTINUOUS COVERAGE FROM 04/11/93  
 TO 10/11/93.

VEH	YR	MAKE	MODEL	SERIAL NUMBER	DR	CL	PTS	TERR	SYM	PIP	DISC
1	78	CHEVR	MALIBU	CLAS4D	1W19M81481290	J1	0	97	20-9	20	
2	85	BUICK	LESABRE	LIM4D	1G4BP69Y6FX457214	A7	0	97	10-8	19	10%
3											
4											

COVERAGE	LIMITS	CAR 1	CAR 2	CAR 3	CAR 4
BODILY INJURY	\$10,000/ \$20,000	\$59	\$58		
PROPERTY DAMAGE	\$10,000 NO DED	\$50	\$46		
UM/UM STACKABLE	\$10,000/ \$20,000	\$84	\$84		
BASIC PIP \$10,000 LIMIT	NO DED	\$70	\$92		
NAMED INSURED AND DEPENDENT RELATIVES					
COMPREHENSIVE	ACV LESS \$250 DED		\$19		
COLLISION OR UPSET	ACV LESS \$250 DED		\$52		
TOTAL PREMIUM BY CAR		\$263	\$351		

AN INSTALLMENT FEE IS CHARGED ON EACH INSTALLMENT AFTER DOWNPAYMENT.

= 964

3-13-93  
 1302

L61661 (6-89)

PF 10976

L4 32 20

PREVIOUS BALANCE	CREDITS	LATE CHARGES	MINIMUM PAYMENT	UNPAID BALANCE
0.00	0.00	0.00	\$153.50	\$614.00
PAYMENTS RECEIVED	INSTALLMENT FEE	ADDITIONAL AND/OR CURRENT TERM CHARGES		
0.00	0.00	0.00		

TICE OF PAYMENT DUE

POLICY NUMBER  
AU 08254357 -6

DUE DATE  
05/13/93

INSURED: RICHARD D SIMS  
38616 SHADY OAKS DRIVE  
ZEPHYRHILLS, FL 33540

AGENT: DOUBERLEY & ASOC INC  
35356 SR 54 WEST  
ZEPHYRHILLS, FL 33541

INCEPTION DATE  
04/11/93

NOTICE DATE  
04/28/93

**\*\* INSTALLMENT BILLING NOTICE \*\***

YOUR INSTALLMENT IS DUE AS INDICATED BELOW. ANY PREVIOUSLY BILLED  
BUT UNPAID AMOUNTS ARE INCLUDED IN THE MINIMUM DUE. PLEASE MAIL YOUR  
PAYMENT SO THAT IT WILL REACH PROGRESSIVE ON OR BEFORE THE DUE DATE.

\*\*\*\*\*  
PLEASE REPORT ALL CLAIMS DIRECTLY & IMMEDIATELY - FROM THE SCENE IF  
POSSIBLE. CALL 1-800-274-4499, 24-HOURS-A-DAY, 365-DAYS-A-YEAR.  
\*\*\*\*\*

**PAYMENT SCHEDULE**

BILL NUMBER	DUE DATE	AMOUNT DUE
CURRENT	5/13/93	\$157.50
3 OF 4	6/12/93	\$157.50
4 OF 4	7/12/93	\$157.50

*Handwritten:* 1403  
5-20-93

L61901 (6-89)

00010976

L4 32 20

PREVIOUS BALANCE	CREDITS	LATE CHARGES	MINIMUM PAYMENT	UNPAID BALANCE
614.00	0.00	0.00	\$157.50	\$464.50
PAYMENTS RECEIVED	INSTALLMENT FEE	ADDITIONAL AND/OR CURRENT TERM CHARGES		
153.50	4.00	614.00		



RICHARD D. SIMS, TRUSTEE  
IN BANKRUPTCY FOR S & D UTILITY  
DEBTOR IN POSSESSION BK 92-6718-8B1  
P.O. BOX 280012 PH. 813-932-3177  
TAMPA, FL 33682-0012

EXHIBIT FJL-13  
Page 22 of 23

PAY  
THE  
ORDER OF

*St Pete Times*  
*Fifty Eight 56/100*

The  
Terrace  
Bank  
Tampa, Florida

FOR 223439 + 350590

053113023  
PAY ANY BANK  
43 272317 11-15 00071 04  
NOV 17 92  
THE TERRACE BANK  
OF FLORIDA  
053113023

11-10 1992 53-1302  
\$58.56  
DOLL.

*Richard D Sims*

REDACTED

1350

RICHARD D. SIMS, TRUSTEE  
IN BANKRUPTCY FOR S & D UTILITY  
DEBTOR IN POSSESSION BK 92-6718-8B1  
P.O. BOX 280012 PH. 813-932-3177  
TAMPA, FL 33682-0012

PAY  
THE  
ORDER OF

*St Pete Times*  
*Fifty Six 56/100*

The  
Terrace  
Bank  
Tampa, Florida

FOR 223439

PAY ANY BANK  
P.E.G.  
APR 20 93

4-17 1994 53-1302/631  
\$56.56  
DOLLAR

*Richard D Sims*

RICHARD D. SIMS, TRUSTEE  
IN BANKRUPTCY FOR S & D UTILITY  
DEBTOR IN POSSESSION BK 92-6718-8B1  
P.O. BOX 280012 PH. 813-932-3177  
TAMPA, FL 33682-0012

R.D. SIMS  
1315 ECKLES DR.  
TAMPA, FLA 33612 3-19 93  
h. 932-3177

63-1302/631

THE  
ORDER OF

*United We Stand*  
*Forty & no/100*

063113028  
ANY BANK  
P.E.G.

\$ 40.00

The  
Terrace  
Bank  
of Florida Temple Terrace, Florida

APR 5 92 063113028 1019 1010 13 04-05-93 DOLLAR

THE TERRACE BANK  
OF FLORIDA  
063113028

*Richard D. Sims*

FOR

REDACTED

**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT FJL-14**

**WITNESS: FRANCES J. LINGO**

**ON BEHALF OF THE STAFF  
OF THE FLORIDA PUBLIC SERVICE COMMISSION  
DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**DELINQUENT REGULATORY ASSESSMENT FEES**

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
NO. 930944 EXHIBIT NO. 15  
COMPANY/ FPSC/Lingo  
WITNESS: FPSC/Lingo  
DATE: \_\_\_\_\_

15

SHADY OAKS MOBILE-MODULAR ESTATES, INC.  
DOCKET NO. 930944-WS  
ANALYSIS OF DELINQUENT REGULATORY ASSESSMENT FEES

	1990 =====	1991 =====	1992 =====	1993 =====
Regulatory Assessment Fee	\$1,914.11	\$2,923.70	\$2,941.47	\$3,072.51
Penalty and Interest	114.84	701.68	1,058.92	806.46
Additional Interest	34.45	308.73		
	----- \$2,063.40	----- \$3,934.11	----- \$4,000.39	----- \$3,878.97
Payments	0.00	(750.00)	0.00	0.00
	----- \$2,063.40	----- \$3,184.11	----- \$4,000.39	----- \$3,878.97
Amount Due				
Total Amount Due				\$13,126.87 =====

SHADY OAKS MOBILE-MODULAR ESTATES, INC.

DOCKET NO. 930944-WS

DIRECT TESTIMONY OF PETE BURGHARDT

ON BEHALF OF THE STAFF OF THE FLORIDA PUBLIC SERVICE COMMISSION

DIVISION OF WATER AND WASTEWATER

FILED: MARCH 31, 1994

PB 1-7  
Rec'd as Comp EX 16

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 930944 EXHIBIT NO. 16

COMPANY/ WITNESS: SD / Burghardt

DATE: \_\_\_\_\_

**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT PB-1**

**WITNESS: PETE BURGHARDT**

**ON BEHALF OF THE STAFF**

**OF THE FLORIDA PUBLIC SERVICE COMMISSION**

**DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**CONSENT ORDER DATED OCTOBER 21, 1986**

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
NO. 930944-WS EXHIBIT NO. \_\_\_\_\_  
COMPANY/ FPSC/Burghardt  
WITNESS: \_\_\_\_\_  
DATE: \_\_\_\_\_

DOCUMENT NUMBER-DATE

0304 | MAR 31 86

FPSC-RECORDS/REPORTING

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL REGULATION

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION,

Complainant,

vs.

SHADY OAKS MOBILE MODULAR ESTATES,

Respondent.

IN THE OFFICE OF THE  
SOUTHWEST DISTRICT

OGC Case No.: 85-0792

CONSENT ORDER

This Consent Order is made and entered into between The State of Florida Department of Environmental Regulation ("Department") and Shady Oaks Mobile Modular Estates, Inc. ("Respondent").

The Department finds and Respondent admits the following:

1. The Department is the administrative agency of the State of Florida charged with the responsibility to protect Florida's air and water resources and to administer and enforce the Florida Air and Water Pollution Control Act, Chapter 403, Florida Statutes, and the rules and regulations promulgated thereunder in Florida Administrative Code Chapter 17.

2. Respondent is a corporation authorized to conduct business in the State of Florida. Respondent is the owner of property ("property"), a mobile home park known as Shady Oaks, located at 1702 Highway 39 South, Zephyrhills, Pasco County, Florida 33599, in the area of latitude 28°12'35" and longitude 82°10'46". Respondent owns and operates a 0.04 MGD Type III extended aeration sewage treatment plant with chlorinated effluent to a percolation pond of 23,400 square feet total bottom area ("plant") which is located on the property. The plant operates under Department permit number DO51-089602 which expired on March 1, 1986.

3. On June 18, 1985, the Department issued Warning Notice #51-85-06-139 to Respondent for an unpermitted discharge from the percolation pond to a ditch via the emergency overflow pipe. This discharge is a violation of Section 403.161(1)(b), Florida Statutes.

This Warning Notice also cited Respondent for a Total Suspended

Solids value of 15,667 mg/L in the plant's effluent. This value constitutes a violation of Florida Administrative Code Rule 17-6.180(1)(b)1.d.

4. A review of Respondent's Monthly Operating Reports ("MOR's") reveals values consistently below 0.5 mg/L in the effluent for Total Chlorine Residual. These values constitute a violation of Florida Administrative Code Rule 17-6.060(1)(c)3.a.

5. On July 3, 1985, and April 28, 1986, Department personnel and Respondent met to discuss and resolve these issues. Therefore, having reached a resolution of the matter, pursuant to Florida Administrative Code Rule 17-103.110, Respondent and the Department mutually agree and it is hereby

ORDERED:

6. That the purpose of this Consent Order is to ensure that Respondent modifies the plant to provide satisfactory wastewater treatment and expands the plant's effluent disposal system to eliminate any unpermitted effluent discharge from the plant.

Within 180 days of the effective date of this Order, Respondent shall submit to the Department a complete construction permit application for any modifications necessary to ensure that the plant's effluent meets the requirements of Florida Administrative Code Rule 17-6.180(1)(b)1. and for an additional effluent disposal system which shall eliminate the discharge from the plant. This application shall be prepared by a professional engineer registered in the State of Florida. In the event that the application is incomplete, within 45 days of written request from the Department for additional information required to process the application, Respondent shall submit all requested information to the Department. Within 180 days from issuance of the construction permit, Respondent shall construct and have in use the additional effluent disposal system and any modifications necessary to ensure that the plant's effluent meets the requirements of Florida Administrative Code Rule 17-6.180(1)(b)1. However, in any event, there shall be no effluent discharge from the plant after June 30, 1987.

7. During the construction period as described in paragraph 6, Respondent shall clean and thereafter maintain the



percolation/evaporation pond so as to enable its intended function.

8. Within 30 days of the effective date of this Order and thereafter, Respondent shall maintain a Total Chlorine Residual of 0.5 mg/l in the effluent as required by Florida Administrative Code Rule 17-6.060(1)(c)3.a.

9. Within 150 days of the effective date of this Order, Respondent shall complete all repairs necessary to eliminate infiltration/intrusion into the plant's collection/transmission system.

10. Respondent shall operate the plant in such a manner as to comply with all applicable standards as established in Florida Administrative Code Chapters 17-3, 17-6, 17-7, 17-16, and 17-19 including the limitations of secondary treatment and disinfection of wastewater as outlined in Florida Administrative Code Rule 17-6.060(1)1., which provides:

"(1) Technology-Based Effluent Limitations (TBELS).

(a) Secondary Treatment

1. Surface water disposal (excluding ocean outfalls).

All domestic wastewater facilities are required, at a minimum to provide secondary treatment of wastewater. New facilities and modifications of existing facilities shall be designed to achieve an effluent after disinfection containing not more than 20 mg/L BOD and 20 mg/L TSS, or 90% removal of each of these pollutants from the wastewater influent, whichever is more stringent. All facilities shall be operated to achieve, at a minimum the specified effluent limitations (20 mg/L). All facilities, whether new or existing, shall be subject to provisions of Section 17-6.010(5), regarding the applicability of the above requirements, and Section 17-6.160, and Section 17-6.180 regarding compliance with the above requirements. Appropriate disinfection and pH control of effluents shall also be required."

For purposes of this requirement, the E.P.A. - approved analytical technique as stated in Standard Methods A.S.T.M. for determination of Total BOD concentrations shall be utilized.

11. Respondent shall sample the treatment plant for compliance with the standards stated in paragraph 10 above once per week. Grab

samples shall be collected between 9:00 a.m. and 5:00 p.m. on each respective sampling date. All sampling data shall be reported to the Department on Monthly Operating Report (MOR) forms supplied by the Department.

If the reported sampling data on the MOR's and/or inspections conducted by Respondent or the Department demonstrate that the plant is found to be out of compliance with Florida Administrative Code Chapters 17-3 or 17-6, Respondent shall immediately pursue any and all needed corrections and/or repairs to assure that the out of compliance facility is in compliance with applicable Department rules and regulations. All needed corrections and/or repairs shall be completed within thirty (30) days of the inspection or MOR which identifies the problem causing non-compliance. Reasonable extensions of time may be granted by the Department upon written request by Respondent. These sampling requirements shall continue as long as the plant continues to operate by the authorization of this Consent Order.

12. Within 180 days of completion of construction as described in paragraph 6, Respondent shall submit to the Department a complete operating permit application for the operation of the plant. This application shall be prepared by a professional engineer registered in the State of Florida. In the event that the application is incomplete, within 30 days of written request from the Department for additional information necessary to process the application, Respondent shall submit all requested information to the Department. In any event, Respondent shall not operate the plant without an appropriate and currently valid operating permit after October 31, 1988.

13. No connections shall be authorized by the Department until the discharge from the plant permanently ceases. In addition, as liquidated damages for the violations outlined in the Consent Order, Respondent shall pay to the Department one hundred dollars (\$100.00) per day for each and every day Respondent fails to meet any of the deadlines or fails to comply with any of the requirements or conditions specified in this Order. Failure to meet more than one deadline constitutes a separate violation for each failure. Respondent shall, within forty-five (45) days of written demand from

the Department, make payment of the appropriate amount to the Department's "Pollution Recovery Fund" by certified check, cashier's check or money order. Payment shall be sent to the Department of Environmental Regulation, Southwest District, 7601 Highway 301 North, Tampa, Florida 33637-9544. The Department may make demands for payment at any time after violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce the terms of this Consent Order.

14. Should Respondent be obstructed or delayed in the initiation, implementation or completion of any requirement of this Order, caused by a force majeure event such as a natural disaster, fire, explosion, or other occurrence beyond the control and without the fault of the Respondent, the Respondent shall, within three days, notify the Department in writing of the delay or anticipated delay. The notice shall describe in detail the anticipated length of delay, the precise cause of the delay, the measures taken and to prevent or minimize the delay, along with the time table by which the measures shall be implemented. The Department will determine if a force majeure event has occurred. If a finding is made that such an event has occurred, the Department shall determine how much delay in time can reasonably be attributed to the event and extend the compliance date in order to compensate for such delay. The increased costs of compliance with this Consent Order shall not be a force majeure; however, nothing in this force majeure provision shall prohibit, or be deemed to prohibit Respondent from raising the defense of Respondent's inability to comply with the terms of this Consent Order on the basis of financial hardship.

15. Respondent shall allow authorized representatives of the Department access to the property and plant at reasonable times for the purposes of determining compliance with this order and the rules and regulations of the Department.

16. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit the future violation of applicable statutes, or the rules promulgated thereunder.

17. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in

this Consent Order, hereby waives its right to seek judicial imposition of damages, or civil or criminal penalties for alleged violations outlined in this Consent Order. Respondent waives its right to an administrative hearing pursuant to Section 120.57, Florida Statutes of the terms of this Consent Order. Respondent acknowledges its right to appeal the terms of this Consent Order pursuant to Section 120.68, Florida Statutes but waives that right upon signing this Consent Order.

18. Entry of this Consent Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, regulations, or ordinances.

19. The terms and conditions set forth in the Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, Florida Statutes. Failure to comply with terms of this Consent Order shall constitute a violation of Section 403.161(1)(b), Florida Statutes.

20. Respondent is fully aware a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties of up to \$10,000 per offense, and criminal penalties.

21. Persons not parties whose substantial interests are affected by this Consent Order have a right, pursuant to Section 120.57, Florida Statutes, to petition for an administrative determination (hearing) on it. The petition must conform to the requirements of Chapters 17-103 and 28-5, Florida Administrative Code and must be filed (received) in the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399, within 14 days of receipt of this notice. Failure to file a petition within 14 days of constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Section 120.57, Florida Statutes.

22. This Consent Order is final agency action of the Department pursuant to Section 120.69, Florida Statutes, and Florida Administrative Code Rule 17-103.110(3), and it is final and effective on the date filed with the clerk of the Department unless a petition is filed in accordance with the preceding paragraph. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT:

10-21-86  
DATE

Richard D. Sims  
Mr. Richard D. Sims  
President  
Shady Oaks Mobile Modular  
Estates, Inc.  
1315 Eckles Drive  
Tampa, Florida

DONE AND ORDERED THIS 21 day of October, 1986, in  
Tampa, Florida.

FILING AND ACKNOWLEDGEMENT

FILED, on this date, pursuant to §120.52 (9),  
Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Anna Black 10/21/86  
Clerk Date

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION

Richard D. Garrity  
Richard D. Garrity, Ph.D.  
District Manager  
Southwest District  
7601 Highway 301 North  
Tampa, Florida 33637

Copies furnished to:

David Thulman, Esquire  
Office of General Counsel  
Department of Environmental Regulation  
2600 Blair Stone Road  
Tallahassee, Florida 32399

Ed Snipes, P.E.  
DER  
Tampa, Florida

Peter McGarry, EPA

Edwin B. Constantine  
C. Fred Deuel & Associates

**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT PB-2**

**WITNESS: PETE BURGHARDT**

**ON BEHALF OF THE STAFF**

**OF THE FLORIDA PUBLIC SERVICE COMMISSION**

**DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**CONSENT FINAL JUDGEMENT DATED MARCH 7, 1989**

**FLORIDA PUBLIC SERVICE COMMISSION**

**DOCKET**

**NO.**

**EXHIBIT NO.**

**COMPANY/**

**WITNESS:**

**DATE:**

IN THE CIRCUIT COURT OF THE  
SIXTH JUDICIAL CIRCUIT IN AND  
FOR PASCO COUNTY, FLORIDA

CASE NO.: 87-3788CA  
DIV. Y

**RECEIVED**  
MAR 9 1989

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION,

Petitioner,

vs.

Dept. of Environmental Reg.  
Office of General Counsel

SHADY OAKS MOBILE MODULAR  
ESTATES, INC.,

Respondent.

CONSENT FINAL JUDGMENT

The above-captioned action having been filed and the parties, State of Florida Department of Environmental Regulation ("DER") and Shady Oaks Mobile Modular Estates, Inc. ("Respondent"), desiring to resolve all matters arising out of the Petition for Enforcement in this action without the time and expense which would be required by litigation, by their respective attorneys, have consented to the entry of this Consent Final Judgment.

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without trial, admission, or adjudication of any issue of fact or law herein, and without this Consent Final Judgment constituting any evidence or admission of liability or fault by any party hereto with respect to any allegation or matter arising out of any allegation of the Petition for Enforcement, and upon the consent of the parties hereto, it is ORDERED, ADJUDGED AND DECREED as follows:

1. This Court has jurisdiction of the subject matter and of the parties consenting thereto.
2. The provisions of this Consent Final Judgment shall apply to and be binding upon the parties, their agents, successors, or assigns.
3. Respondent is a corporation registered to do business in the State of Florida.

4. DER is an administrative agency of the State of Florida having the authority to control and prohibit pollution of air and water pursuant to Chapter 403, F.S., and the duty to control and prohibit pollution of air and water pursuant to Chapter 403, F.S.

5. Respondent owns and operates a sewage treatment plant located at 1702 Highway 39 South, Zephyrhills, Pasco County, Florida.

6. Pursuant to this Consent Final Judgment, Respondent shall comply with the following requirements:

a. Within 60 days of the effective date of this Consent Final Judgment, Respondent shall submit to DER a complete construction permit application for an additional effluent disposal system which shall eliminate the discharge from the plant. This application shall be prepared by a professional engineer registered in the State of Florida. In the event that the application is incomplete, within 45 days of written request from DER for additional information required to process the application, Respondent shall submit all requested information to DER. Within 180 days from issuance of the construction permit, Respondent shall construct and have in use the additional effluent disposal system. If through no fault of Respondent and for good cause shown, the deadlines above may be extended by agreement between the parties.

b. Within 30 days of completion of construction as described in subparagraph a, Respondent shall submit to DER a complete operating permit application for the operation of the plant. The application shall be prepared by a professional engineer registered in the State of Florida. In the event that the application is incomplete, within 30 days of written request from DER for additional information necessary to process the application, Respondent shall submit all requested information to DER. In any event, Respondent shall not operate the plant without an appropriate and currently valid operating permit after September 1, 1989. If through no fault of Respondent and for



good cause shown, the deadlines above may be extended by agreement between the parties.

7. Respondent is prohibited from connecting more than five new lots to the existing system. No additional connections other than the five authorized in this paragraph, shall be authorized by DER until the requirements of paragraph 6.a. above are completed.

8. Until such time as an operating permit is issued, Respondent shall operate the plant in such a manner as to comply with all applicable standards in Florida Administrative Code Chapters 17-3, 17-6, 17-16, and 17-19.

9. Within thirty (30) days of the entry of this Consent Final Judgment, Respondent shall pay \$200 to the Department of Environmental Regulation (Pollution Recovery Fund). Respondent shall pay an additional \$200 each month thereafter to the Department for the next eleven (11) months with an aggregate amount of \$2,400. Payment shall be sent to the Environmental Manager, Department of Environmental Regulation, Southwest District Office, 4520 Oak Fair Boulevard, Tampa, Florida 33610-7347.

10. Within 395 days of the entry of this Consent Final Judgment, Respondent shall pay \$4,000 to the Department of Environmental Regulation "Pollution Recovery Fund." Payment shall be sent to the Environmental Manager, Department of Environmental Regulation, Southwest District Office, 4520 Oak Fair Boulevard, Tampa, Florida 33610-7347.

11. Within 760 days of the entry of this Consent Final Judgment, Respondent shall pay \$6,000 to the Department of Environmental Regulation "Pollution Recovery Fund." Payment shall be sent to the Environmental Manager, Department of Environmental Regulation, Southwest District Office, 4520 Oak Fair Boulevard, Tampa, Florida 33610-7347.

12. For and in consideration of the complete and timely performance of the obligations described in this Consent Final Judgment, DER waives its right to seek judicial or administrative

imposition of damages or civil penalties for the violations alleged in the Petition for Enforcement.

13. The court retains jurisdiction to enter such orders necessary to enforce the terms of the Consent Final Judgment.

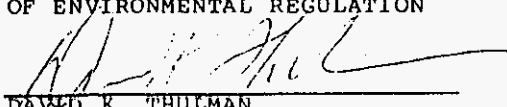
DONE AND ORDERED this 7 day of Mar., 1989.

A TRUE COPY

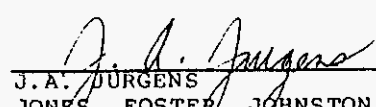
CIRCUIT JUDGE  
WAYNE L. COBB

WE CONSENT TO THE ENTRY OF THIS CONSENT FINAL JUDGMENT WITHOUT FURTHER NOTICE.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION

  
DAVID R. THULMAN  
Assistant General Counsel  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400  
Telephone: (904) 488-9730

SHADY OAKS MOBILE MODULAR  
ESTATES, INC.

  
J.A. DURGENS  
JONES, FOSTER, JOHNSTON &  
SPUBBS, P/A.  
505 South Flagler Drive  
Suite 1100  
P.O. Drawer E  
West Palm Beach, FL 33402-3475  
Telephone: (407) 659-3000

**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT PB-3**

**WITNESS: PETE BURGHARDT**

**ON BEHALF OF THE STAFF**

**OF THE FLORIDA PUBLIC SERVICE COMMISSION**

**DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**JULY 8, 1991 COURT ORDER ON DER'S  
MOTION FOR CONTEMPT**

**FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET**

**NO. \_\_\_\_\_ EXHIBIT NO. \_\_\_\_\_**

**COMPANY/**

**WITNESS: \_\_\_\_\_**

**DATE: \_\_\_\_\_**

IN THE CIRCUIT COURT OF THE  
SIXTH JUDICIAL CIRCUIT IN AND FOR  
PASCO COUNTY, FLORIDA.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION,

Plaintiff,

CASE NO.: 87-3788CA DIV. Y

v.

FLORIDA BAR NO.: 356115

SHADY OAKS MOBILE MODULAR  
ESTATES, INC.,

Defendant.  
\_\_\_\_\_

ORDER ON DER'S MOTION FOR CONTEMPT

This cause came before me on the State of Florida Department of Environmental Regulation's Motion for Contempt against the Defendant, Shady Oaks Mobile Modular Estates, Inc., and pursuant to the stipulation of the parties reached in chambers, the following relief is

ORDERED:

1. The purpose of this stipulated settlement is to require the Defendant to completely remove its sewage treatment plant from operation and divert all of its flow to Pasco County's sewage collection system. To that end, within six months of the entry of this Order, Defendant will have completed the connection of its sewage treatment system with Pasco County's sewage collection system. During this time period, Defendant shall acquire all permits, contracts and approvals needed to construct the connection to the Pasco County sewage collection system.

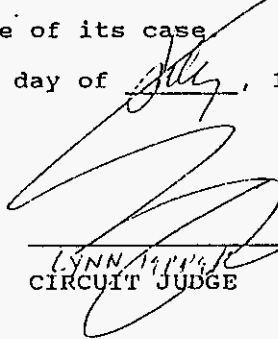
RECEIVED  
OCT 10 1991  
Dept. of Environmental Reg.  
Atty. General Counsel

2. Within 30 days of the completion of the connection of Defendant's sewage system to the County's system, the Defendant shall decommission its sewer plant and shall modify the plant and disposal system so that they no longer pose a threat to public health or safety. As part of the decommissioning, Defendant shall drain the percolation ponds and destroy some or all of the berms of those ponds so that they no longer will retain water. Defendant shall also dismantle and remove the treatment plant and/or create enough holes in the components of the plant so that they will no longer retain water.

3. Until such time as the connection is made, Defendant shall operate the treatment plant in such a manner so as to comply with all DER treatment standards including, but not limited to, maintaining sufficient chlorine residual.

4. Upon complete compliance by the Defendant of all of the terms of this Order, this case will be closed and DER will file a voluntary dismissal with prejudice of its case.

DONE AND ORDERED this 8 day of July, 1991.

  
\_\_\_\_\_  
LYNN, 1991  
CIRCUIT JUDGE

cc: David K. Thulman  
Richard Sims

**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT PB-4**

**WITNESS: PETE BURGHARDT  
ON BEHALF OF THE STAFF  
OF THE FLORIDA PUBLIC SERVICE COMMISSION  
DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**AGREED ORDER GRANTING DEP'S MOTION FOR CONTEMPT  
DATED FEBRUARY 18, 1994**

**FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET**

**NO. \_\_\_\_\_ EXHIBIT NO. \_\_\_\_\_**

**COMPANY/**

**WITNESS: \_\_\_\_\_**

**DATE: \_\_\_\_\_**

IN THE CIRCUIT COURT OF THE  
SIXTH JUDICIAL CIRCUIT IN AND FOR  
PASCO COUNTY, FLORIDA.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,  
(formerly known as, Department  
of Environmental Regulation,

Plaintiff,

CASE NO.: 87-3788CA DIV. Y

v.

FLORIDA BAR NO.: 356115

SHADY OAKS MOBILE MODULAR  
ESTATES, INC.,

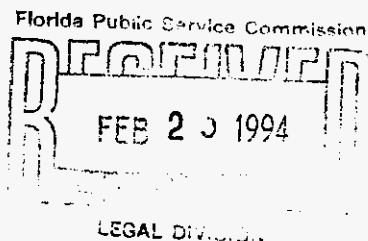
Defendant.

AGREED ORDER GRANTING DEP'S MOTION FOR CONTEMPT

This cause came before me on Plaintiff, State of Florida Department of Environmental Protection ("DEP") moved for contempt against Defendant Shady Oaks Mobile Modular Estates, Inc. ("Shady Oaks"), and pursuant to the stipulation of the parties, it is

ORDERED:

1. On July 8, 1991, this court ruled on a previous motion by the Plaintiff for contempt against the Defendant. In the hearing on that motion, the Defendant represented that it would completely remove its sewage treatment plant from operation and divert its flow to the Pasco County sewage collection system. The Defendant did not comply with this order.
2. The parties have stipulated that the Defendant had the ability to comply with the July 8, 1991 order but that it did not do so.
3. The Court finds that the Defendant's sewage treatment plant still must be removed from service.



4. The Court takes judicial notice of Public Service Commission Order No. PSC-93-0542-FOF-WS wherein the Public Service Commission ordered that a revocation proceeding be initiated to revoke the utility's certificate for failure to comply with, among other things, this Court's order. (Exhibit 1.)

5. The Court finds that Richard Sims is the president of the Defendant and the person responsible for complying with this Court's orders concerning the sewage treatment plant.

6. The parties stipulate and this Court finds that Shady Oaks is in contempt of this Court's order of July 8, 1991. Shady Oaks may purge itself of contempt by complying with one of the following options:

a. Within 120 days from the entry of this order Shady Oaks will have completed the connection of its sewage treatment system with Pasco County's sewage collection system. During this time period, Shady Oaks shall acquire all permits, contracts and approvals needed to construct the connection to the Pasco County sewage collection system. Within 30 days of the completion of the connection of the Defendant's sewage system to the County's system, Shady Oaks shall decommission its sewer plant and shall modify the plant and disposal system so that they will not pose a threat to public health or safety. As a part of decommissioning, Shady Oaks shall drain the percolation ponds and destroy some or all of the berms of those ponds so that they no longer will retain water. All sludge from the sewer plant and any significant accumulation of sludge at the bottom of the pond shall be removed and disposed of in accordance with F.A.C. Rule 17-7. Shady Oaks



shall also dismantle and remove the sewer plant and/or create enough holes in the components of the plant so that they no longer retain water.

b. Within 120 days from the entry of this order Shady Oaks shall sell or otherwise convey the sewage treatment, collection and transmission system and the sewage treatment utility free and clear of all liens and encumbrances. The sale or conveyance shall not be to Richard Sims, his wife or any family member, or to any company or other entity owned or controlled, in whole or in part, directly or indirectly, by Richard Sims, his wife or any family member. The sale or conveyance must meet with the approval of the Public Service Commission. The new owner shall be responsible for complying with paragraph 6.a. above within the time periods specified therein. The time periods will commence from the date the sale or conveyance is complete.

7. If the Plaintiff demonstrates, upon affidavit, that Shady Oaks has failed to purge itself of contempt as provided herein, this Court shall order the Sheriff to arrest Richard Sims and incarcerate him in the county jail until such time as Shady Oaks complies.

8. In the event Shady Oaks fails to purge itself of contempt as provided herein, the Plaintiff may move for the appointment of a receiver to comply with the terms of this order.

The failure to purge shall constitute constructive notice of intent to abandon the system pursuant to section 367.165, Florida Statutes.

DONE AND ORDERED this \_\_\_\_ day of February, 1994.

SIGNED AND DATED

FEB 18 1994

LYNN TEPPERJUDGE LYNN TEPPER  
Circuit JudgeCIRCUIT JUDGE

cc: David K. Thulman  
Thomas Patrick McAlvanah

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for staff- ) DOCKET NO. 900025-WS  
assisted rate case in Pasco ) ORDER NO. PSC-93-0542-FOF-WS  
County by Shady Oaks Mobile- ) ISSUED: 04/09/93  
Modular Estates, Inc. )

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD  
SUSAN P. CLARK  
JULIA L. JOHNSON

Pursuant to notice, an administrative hearing was held on January 7, 1993, in Zephyrhills, Florida, before Commissioner Thomas M. Beard, sitting as Hearing Officer.

APPEARANCES:

MATTHEW J. FEIL, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863  
On behalf of the Commission Staff.

RICHARD BELIAK, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862  
On behalf of the Commissioners.

The Hearing Officer's Recommended Order was entered on February 11, 1993. No exceptions to the order were filed. After consideration of the evidence, we now enter our Order.

FINAL ORDER FINING UTILITY AND  
ORDERING THAT REVOCATION PROCEEDINGS BE INITIATED

BY THE COMMISSION:

Background

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. On January 10, 1990, Shady Oaks applied for

ORDER NO. PSC-93-0542-FOF-WS

DOCKET NO. 90025-WS

PAGE 2

a staff-assisted rate case. By proposed agency action (PAA) Order No. 24084, issued February 8, 1991, the Commission approved a rate increase for Shady Oaks and ordered it to take various actions, including, that it install meters for all of its customers within six months, improve its quality of service, file information needed to process a name change, spend a fixed amount on preventative maintenance, and escrow a set portion of revenues. By Order No. 24409, issued April 22, 1991, the Commission dismissed a protest to the PAA Order on jurisdictional grounds and revived Order No. 24084, making it final and effective.

By Order No. 25296, issued November 4, 1991, the Commission found that the utility had failed to comply with the requirements of Order No. 24084. However, since numerous customers had not paid their utility bills as a result of a court dispute over the utility's rates, the Commission decided not to order the utility to show cause why it should not be fined for its noncompliance; instead, the Commission ordered the utility to obey its prior Order and bring the escrow account up to its proper balance. Upon reviewing the utility's situation a second time several months later, the Commission found that the utility had failed to abide by the above Orders. Therefore, by Order No. PSC-92-0367-FOF-WS, issued May 14, 1992, the Commission ordered the utility to show cause why it should not be fined for its continued noncompliance with Orders Nos. 24084 and 25296. Shady Oaks requested a hearing in response to the Order to Show Cause. Pursuant to that request, an administrative hearing was held on January 7, 1993, before Commissioner Beard sitting as Hearing Officer. Shady Oaks did not appear or participate in the hearing.

In accord with Order No. PSC-93-0083-PCO-WS, establishing post-hearing procedure, staff timely filed proposed findings of fact and conclusions of law. The utility did not file anything. The Hearing Officer filed his Recommended Order on February 11, 1993.

The full text of the Hearing Officer's Recommended Order is set forth below, beginning with "Findings of Fact."

II. FINDINGS OF FACT

The following abbreviations are used herein for purposes of citation: "TR" for Transcript, "EX." for Exhibit No., and "p." and "pp." for page(s).

DOCUMENT NUMBER-DATE

03905 APR-98

FPSC-RECORDS/REPORTING

ORDER NO. PSC-93-0542-POP-WS  
DOCKET NO. 90025-WS  
PAGE 3

I accept each and every proposed finding of fact submitted by the staff and, having considered the evidence presented at the hearing, I hereby make the following findings of fact.

ISSUE 1: Did the utility timely comply with Commission Orders Nos. 24084 and 25296 with respect to the meter installation requirements?

1. By Order No. 24084, issued February 8, 1991, the utility was to install water meters on all its customers' connections within six months, by August, 1991. (EX 5, FJL-2, pp. 6, 31)

2. In Order No. 25296, issued November 4, 1991, the Commission noted that the utility had installed 31 of the 185 meters required, but allowed the utility an additional five months, by April, 1992, to complete the meter installations. (EX 5, FJL-3, p. 5)

3. As of May 14, 1992, when the Order to Show Cause, Order No. PSC-92-0367-POP-WS, was issued, the utility had installed a total of 47 of the 185 meters required. (EX 5, FJL-4, pp. 5, 6, 11)

4. The last meters were installed on June 17, 1992, which is 74 days past the extended deadline established in Order No. 25296. (TR 59)

5. The utility does not deny it failed to timely comply, but in a letter to the Commission, the utility claimed that the meter installations were delayed because of an additional monthly expense of \$1,155 for loan service expense and for past due engineering fees. (EX 6, p. 31)

6. The utility did not timely comply with the Commission's Orders with regard to meter installations. (TR 58, 59)

7. Some of the meters that were installed were installed in a haphazard fashion. (TR 64-66, 68-71)

ORDER NO. PSC-93-0542-POP-WS  
DOCKET NO. 90025-WS  
PAGE 4

ISSUE 2: Has the utility complied with Commission Orders Nos. 24084 and 25296 with respect to improving its quality of service?

1. By Order No. 24084, issued February 8, 1991, the Commission found that the utility's quality of service was unsatisfactory, so the Commission took the following action: (1) It imposed a \$2,000 fine on the utility for unsatisfactory service and required the utility to accumulate the fine in an escrow account; however, the Commission suspended the fine for nine months pending review of the utility's service for improvement; (2) It ordered the utility to comply with a Department of Environmental Regulation (DER) Consent Order requiring specific repairs and improvements necessary for the proper operation of the utility's wastewater treatment and disposal facilities within the time period prescribed by that Consent Order; and (3) It directed the utility to spend a minimum of 85% of the \$1,700 per system per month preventative maintenance expense allowance on repairs and maintenance, and it ordered that if the utility had not spent the minimum over a period of six months, the utility must submit an explanation and a detailed statement of future plans to maintain the system. (EX 5, FJL-2, pp. 3, 4, 15)

2. By Order No. 25296, issued November 4, 1991, the Commission (1) suspended the \$2,000 fine until February, 1992; (2) required the utility to escrow the fine as previously ordered; (3) found that the quality of service had deteriorated, noting numerous customer complaints against the utility and the derelict condition of the utility systems; (4) required the utility to interconnect its wastewater system with Pasco County as agreed to in a court-approved settlement between the utility and DER; and (5) found that the utility had failed to spend the minimum of the monthly preventative maintenance allowance, but announced it would review the situation again before further action. (EX 5, FJL-3, pp. 6-9)

3. By Order No. PSC-92-0367-POP-WS, issued May 14, 1992, the Commission lifted suspension of the fine and noted that the utility continued to disobey the Commission's directives. (EX 5, FJL-4, pp. 1-9)

ORDER NO. PSC-93-0542-FOF-WS  
DOCKET NO. 90025-WS  
PAGE 5

4. The utility believes customer relations have improved, but does not deny it failed to interconnect with Pasco County or that it failed to expend funds on preventative maintenance, but it claims to have had cash flow problems. (EX 6, pp. 31-32)

5. The utility has failed to interconnect its wastewater system with Pasco County. (TR 59)

6. The utility's customer relations have not improved. (TR 13-53, 59; EX 1-5)

7. The utility has not spent sufficient funds on preventative maintenance or provided a schedule of its maintenance plans. (TR 78-80; EX. 6, pp. 11, 31)

8. The utility has violated the Commission's Orders regarding quality of service, and its quality of service remains unsatisfactory. (TR 59, all above citations)

ISSUE 1: Has the utility complied with Commission Orders Nos. 24084 and 25296 with respect to the name change and restructure requirements?

1. By Order No. 24084, the Commission required the utility to file a request for acknowledgement of a restructure and a name change within sixty days of the date of the Order. (TR. 76-78; EX 5, FJL-2, pp 2-3)

2. On March 17, 1991, staff received a letter from the utility requesting official recognition of the utility's new name, S&D Utility (S&D). On April 1, 1991, staff wrote the utility that the name change could not be recognized until the utility produced evidence that the utility land and assets had been properly transferred to S&D and that S&D had been properly registered as a fictitious name. (EX 5, FJL-3, p. 4)

3. In reliance on the utility owner's representation that he would be able to correct the title to the utility land and assets as part of a payment plan he entered into in a bankruptcy proceeding, the Commission allowed the utility, in Order No. 25296, an additional sixty days to complete the name change and restructure requirements.

ORDER NO. PSC-93-0542-FOF-WS  
DOCKET NO. 90025-WS  
PAGE 6

If the utility failed to produce the required documentation, it was ordered to operate under its certificated name Shady Oaks Mobile-Modular Estates, Inc. (TR 76-78, EX. 5, FJL-3, p. 4)

4. Staff wrote the utility twice, by letters dated January 22, 1992, and July 21, 1992, to remind the utility of the filing requirements regarding the name change. (TR 77; EX 5, FJL-1 and FJL-5)

5. According to the utility, (1) The land upon which the utility assets are located is titled in the names of Richard D. Sims and Caroline Sue Sims, jointly, and the utility's assets are owned individually by Richard D. Sims d/b/a S&D Utility; (2) The utility is now a sole proprietorship for federal income tax purposes; and (3) The utility does not understand what it is supposed to file. (EX 6, pp. 5, 6, 30)

6. The utility is operating under the name S&D Utility. (TR 78, EX 5, FJL-6)

7. The utility has not filed the documents for a name change and restructure, nor has it complied with the Commission's order to revert to operating under its certificated name of Shady Oaks Mobile-Modular Estates, Inc.; therefore, the utility has not complied with Orders Nos. 24084 and 25296 with respect to the name change and restructure requirements. (TR 78; EX 6, pp. 5, 30, 31)

ISSUE 4: Has the utility complied with Commission Orders Nos. 24084 and 25296 with respect to the preventative maintenance requirements?

1. By Order No. 24084, the Commission allowed in rates a \$1,700 per system per month preventative maintenance expense allowance, directed the utility to spend a minimum of 85% of that allowance, and ordered that if the utility had not spent the minimum over a period of six months, the utility must submit an explanation and a detailed statement of future plans to maintain the system. (EX 5, FJL-2, pp. 3, 4, 15)

2. In Order No. 25296, the Commission found that the utility's failure to spend the maintenance allowance was

ORDER NO. PSC-93-0542-POF-WS  
DOCKET NO. 90025-WS  
PAGE 7

likely due to decreased revenues collected due to a Court dispute, and, therefore, ordered the utility to comply with the requirements of Order No. 24084 on a prospective basis. (TR 79; EX 5, FJL-3)

3. For the months of September, 1991, through February, 1992, the utility's actual expenditures represented less than 40% of what the utility was ordered to spend. (TR 70)

4. Required expenditures for maintenance up to February, 1992, were \$8,670. Actual expenditures for maintenance by February, 1992, were \$3,291. (EX 5, FJL-7)

5. The utility does not deny it failed to expend funds on preventative maintenance, but claims to have had cash flow problems. (EX 6, pp. 31-32)

6. The utility has not submitted a written schedule to the Commission showing what monthly maintenance will be adopted, along with a statement of the reason such funds were not expended, and a detailed statement of its future plans to maintain the system, and has, therefore, violated the Commission's Orders. (TR 78-80; EX 6, pp. 11, 31)

ISSUE 5: Has the utility complied with Commission Orders Nos. 24084 and 25296 with respect to the escrow requirements?

1. By Order No. 24084, the Commission required the utility to escrow that portion of the rate increase related to the pro forma plant allowed and the \$2,000 fine imposed, but suspended, until such time as the pro forma plant was constructed and the Commission reviewed the utility's quality of service. (TR 80-81; EX 5, FJL-2, pp. 3, 29)

2. In Order No. 25296, the Commission recognized that the utility did not comply with Order No. 24084 regarding the escrow requirements in large part because many of the utility's customers did not pay their water and wastewater bills. However, the utility was admonished for unilaterally ceasing to escrow without Commission approval. The utility was ordered to immediately correct

ORDER NO. PSC-93-0542-POF-WS  
DOCKET NO. 90025-WS  
PAGE 8

the deficiency in the escrow account, and to continue placing the appropriate portion of revenues in the escrow account. (TR 80-81; EX 5, FJL-3, pp. 4, 5)

3. As of November 30, 1991, the utility had placed \$1,201 into escrow, or approximately \$3,417 less than the appropriate escrow amount of \$4,618. (TR 81)

4. As of September, 1992, the required escrow account balance was \$20,109, but the actual escrow account balance was \$9,251. (EX 5, FJL-8 (revised))

5. The utility does not deny it has not escrowed the required amounts, but claims it has been unable to meet the escrow obligation because of cash flow problems resulting from the Chapter 11 filing wherein the utility owner must escrow \$886.08 to cover back real estate taxes and must make payments (now delinquent) to the U.S. Trustee. According to the utility, Richard D. Sims d/b/a S&D Utility filed for Chapter 11 bankruptcy on June 22, 1992. (EX 6, p. 31)

6. The utility has violated the Commission's Orders requiring that a set amount of funds be escrowed and that the escrow account be brought up to the appropriate balance. (TR 81; above citations)

ISSUE 6: What punitive action should the Commission take against the utility?

1. The utility has failed to comply with Orders Nos. 24084 and 25296 regarding timely installation of water meters, implementing specific directives to improve quality of service, filing appropriate name change and restructuring documents, meeting preventative maintenance requirements, and escrow requirements. (See above citations)

\* 2. The utility should be fined in the amount of rate base. The Commission should initiate a proceeding to reduce the utility's rates by the amount of proforma plant and preventative maintenance expense that has not been spent by the utility. The utility's certificate should be revoked. (TR 84)

ORDER NO. PSC-93-0542-POP-WS  
DOCKET NO. 90025-WS  
PAGE 9

3. Total rate base, less the wastewater system proforma allowances is \$60,572. (EX 5, FJI-2, p. 36)

### III. CONCLUSIONS OF LAW

The Florida Public Service Commission has jurisdiction over the subject matter of this proceeding pursuant to Chapters 120, 350, and 367, Florida Statutes.

In consideration of the evidence presented and the above proposed findings, I make the following conclusions of law.

**ISSUE 1:** Did the utility timely comply with Commission Orders Nos. 24084 and 25296 with respect to the meter installation requirements?

No, utility did not timely install the meters. The utility was in violation of Order No. 25296 for 74 days.

**ISSUE 2:** Has the utility complied with Commission Orders Nos. 24084 and 25296 with respect to improving its quality of service?

No. The quality of service is still unsatisfactory.

**ISSUE 3:** Has the utility complied with Commission Orders Nos. 24084 and 25296 with respect to the name change and restructure requirements?

No.

**ISSUE 4:** Has the utility complied with Commission Orders Nos. 24084 and 25296 with respect to the preventative maintenance requirements?

No.

**ISSUE 5:** Has the utility complied with Commission Orders Nos. 24084 and 25296 with respect to the escrow requirements?

No.

ORDER NO. PSC-93-0542-POP-WS  
DOCKET NO. 90025-WS  
PAGE 10

**ISSUE 6:** What punitive action should the Commission take against the utility?

The record supports fining the utility \$60,572 and taking action to revoke the utility's certificate. The record also supports the Commission's initiating action to reduce the utility's rates to remove from the rate calculation all pro forma plant not constructed by the utility and the allowance for preventative maintenance not performed.

Chapter 367, Florida Statutes, bestows upon the Florida Public Service Commission exclusive jurisdiction over each utility with respect to its authority, service, and rates. Section 367.011(2), Florida Statutes. Further, section 367.011(3), Florida Statutes, declares, "The regulation of utilities is declared to be in the public interest, and this [Chapter] is an exercise of the police power of the state for the protection of the public health, safety, and welfare." In order for this Commission to prevent further violations of its regulatory directives and to protect the health, safety, and welfare of the customers of this utility, we find the above punitive measures are necessary.

### IV. RECOMMENDATION

In consideration of the foregoing, I recommend that the Commission enter an Order consistent with the above findings and conclusions and recommend that the Commission fine the utility \$60,572, take action to revoke the utility's certificate, and initiate action to reduce the utility's rates to remove from the rate calculation all proforma plant not constructed by the utility and the allowance for preventative maintenance not performed.

Upon consideration, we find the Hearing Officer's findings to be supported by competent substantial evidence in the record, and therefore, adopt the Recommended Order in all respects except two. The record reflects that the proceeding related to both the utility's water and wastewater certificates, and not just one of the utility's certificates as the Recommended Order indicates.

ORDER NO. PSC-93-0542-FOF-WS  
DOCKET NO. 90025-WS  
PAGE 11

The second change that we believe is appropriate is that we will not revoke the utility's certificates at this time, but will initiate a proceeding to revoke the certificates. This is because Section 367.045(6), Florida Statutes, provides that the Commission shall give 30 days' notice before it initiates any such action. This was not a proceeding initiated to revoke the utility's certificates. During the 30 days following the notice, the utility will have the opportunity to file an objection to the Commission's notice of intent to initiate a revocation proceeding. If an objection is received, we will set the revocation proceeding for hearing at which time the utility will have the opportunity to put on evidence that revocation of its certificates is not appropriate. Based on the record in that proceeding, the Commission will ultimately determine if it is appropriate to revoke Shady Oaks' water and wastewater certificates.

Upon review and consideration of the complete record, we find that Shady Oaks has violated the provisions of Order Nos. 24084 and 25296 and that it is appropriate to fine the utility \$60,572. We also find it appropriate to initiate a proceeding to revoke the utility's water and wastewater certificates. Finally, we find it appropriate to initiate action to reduce the utility's rates to remove from the rate calculation all pro forma plant not constructed by the utility and the allowance for preventative maintenance not performed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each and every finding herein is specifically approved. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., is hereby fined \$60,572. It is further

ORDERED that this docket shall remain open for the proceeding discussed in the body of this order.

ORDER NO. PSC-93-0542-FOF-WS  
DOCKET NO. 90025-WS  
PAGE 12

By ORDER of the Florida Public Service Commission, this 21th day of April, 1993.

  
STEVE TRIPLE, Director  
Division of Records and Reporting

( S E A L )

SFS

#### NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.



**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT PB-5**

**WITNESS: PETE BURGHARDT**

**ON BEHALF OF THE STAFF**

**OF THE FLORIDA PUBLIC SERVICE COMMISSION**

**DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**INSPECTION REPORT DATED FEBRUARY 17, 1994**

**FLORIDA PUBLIC SERVICE COMMISSION**

**DOCKET**

**NO. \_\_\_\_\_ EXHIBIT NO. \_\_\_\_\_**

**COMPANY/**

**WITNESS: \_\_\_\_\_**

**DATE: \_\_\_\_\_**

DEPARTMENT OF ENVIRONMENTAL REGULATION  
SOUTHWEST DISTRICT SEWAGE TREATMENT PLANT INSPECTION REPORT

ERI

FACILITY: ~~Shelby Oaks~~ DATE: 2/17/94 TIME: 5:06 pm - Rain Lt.

INSPECTOR: BURGHARDT CB COUNTY: PASCO

FENCED/LOCKED: Y/Y TYPE: EA-CS-AS 1020 MGD

APPEARANCE: Overgrown / un kept. ODOR: Yes

MOTORS/BLOWERS: Single

BACKFLOW: None TIME CLOCK: By Passed?

AERATION BASINS: RAW DIFFUSERS: on High

SLUDGE RETURN: Clogged or off → No Return

CLARIFIER: Raw sewage sagging thru sys. STILLING WELL: Not functional

WEIR: completely over flowed; Not visible SKIMMER: ~~Not~~ Not Funct.

DIGESTOR: Unused & Aerated

CHLORINATOR: None RESIDUAL: None / RAW

CL<sub>2</sub> CONTACT CHAMBER: Discharging RAW EFFLUENT: RAW / un treated

ADDITIONAL EQUIPMENT/TREATMENT: None

EFFLUENT DISPOSAL METHOD: Single Pond - overgrown

LIFT STATION(S): One Pump out ALARMS: Audible NONE  
Last Entry Feb 16, 1992 Light NONE

OPERATOR LOG:  SITE TIME: NONE IN/OUT:

LOG ENTRIES: None (since 6/12/92)

COMMENTS: Plant is Not Functioning - Raw sewage discharging  
un chlorinated to Overgrown Pond

MORS: Last Submitted 12/93 for the month of November 1993

SLUDGE ANALYSIS:  GWMP: NA

**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT PB-6**

**WITNESS: PETE BURGHARDT  
ON BEHALF OF THE STAFF OF  
THE FLORIDA PUBLIC SERVICE COMMISSION  
DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION  
JUNE 23, 1994 COURT ORDER**

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IN THE CIRCUIT COURT OF THE  
SIXTH JUDICIAL CIRCUIT IN AND FOR  
PASCO COUNTY, FLORIDA

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION,

Plaintiff,

v.

Case No.: 87-CA  
Div. Y

SHADY OAKS MOBILE MODULAR  
ESTATES, INC.,

Defendant.

---

O R D E R

THIS CAUSE came on for hearing on June 15, 1994 upon the Defendant's Motion for Extension of Time to Comply With Court Order. Having heard the arguments of counsel and testimony and the Court being otherwise fully advised in the premises, it is, upon consideration,

ORDERED that Defendant's Motion for Extension of Time to Comply With Court Order be and the same is hereby GRANTED in part and DENIED in part as follows:

1. The Defendant's request for an extension of time in which to exercise the option spelled out in subparagraph 6a of the Order of this Court dated February 18, 1994 is DENIED.

2. The Defendant's request for extension of time is GRANTED to the extent that the Defendant shall have through and including July 18, 1994 in which to sell or otherwise convey its wastewater treatment facility free and clear as provided in subparagraph 6b of the February 18, 1994 Order. In addition, the strictures of

subparagraph 6b are hereby MODIFIED to the extent that the purchaser of the utility shall negotiate with the Plaintiff for additional time to interconnect the facility to the Pasco County utility system and to dismantle the plant. The purchaser shall, likewise, have additional time in which to negotiate the necessary transfer of PSC Certificate No. 401-S.

DONE and ORDERED in Chambers, this \_\_\_\_\_ day of June, 1994.

LYNN TEPPER SIGNED AND DATED  
CIRCUIT JUDGE JUN 23 1994  
JUDGE LYNN TEPPER  
CIRCUIT JUDGE

COPIES FURNISHED TO:

Cheryl J. Lister, Esq  
Law Offices of Gerald T. Buhr, P.A.  
P.O. Box 1647  
Lutz, Fl 33549-1647

David K. Thulman, Esq.  
Assistant General Counsel  
Florida Department of  
Environmental Regulation  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400

**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT PB-7**

**WITNESS: PETE BURGHARDT**

**ON BEHALF OF THE STAFF OF  
THE FLORIDA PUBLIC SERVICE COMMISSION  
DIVISION OF WATER AND WASTEWATER**

**DESCRIPTION**

**JULY 20, 1994 INSPECTION REPORT**

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
SOUTHWEST DISTRICT SEWAGE TREATMENT PLANT INSPECTION REPORT

FACILITY: Shady Oaks DATE: 7/20/94 TIME: 8:30AM  
INSPECTOR: BURGHARDT COUNTY: PASCO  
FENCED/LOCKED: X/Y (changed) TYPE: EA-CS-AS MGD  
APPEARANCE: Overgrown Pond ODOR:   
MOTORS/BLOWERS: Single  
BACKFLOW: None TIME CLOCK: NT  
AERATION BASINS: weat  
SLUDGE RETURN:  DIFFUSERS:   
CLARIFIER: Turbid STILLING WELL:   
WEIR:  SKIMMER: DN  
DIGESTOR:  FLOW CALC.:   
CHLORINATOR: NONE (Trichlor) CL<sub>2</sub> RESIDUAL: NC  
CL<sub>2</sub> CONTACT CHAMBER: Turbid/No EFFLUENT: Pool  
ADDITIONAL EQUIPMENT/TREATMENT:

EFFLUENT DISPOSAL METHOD: Pond/Overgrown

LIFT STATION(S): one pump only

ALARMS: Audible   
Light

OPERATOR: NONE

SITE TIME:

LOG ENTRIES: NO LOG Since 6/92

IN/OUT:

COMMENTS: Plant ON Line @ time of Inspr

I called Stan Reiger of the PSC - No Application to change owner  
SoSunkov to P.S.C., Referred to D. Theleney 8/6 C via E-mail

7/20/94

MORS: LAST 12/93

SLUDGE ANALYSIS:

GWMP:



**SHADY OAKS MOBILE-MODULAR ESTATES, INC.**

**DOCKET NO. 930944-WS**

**EXHIBIT BA-1**

**WITNESS: BRENDA ARNOLD**

**ON BEHALF OF THE STAFF**

**OF THE FLORIDA PUBLIC SERVICE COMMISSION**

**DIVISION OF WATER AND WASTEWATER**

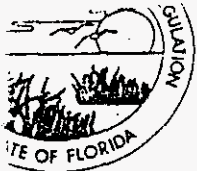
**DESCRIPTION**

**WARNING LETTER DATED FEBRUARY 18, 1992**

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET  
NO. 930944-WS EXHIBIT NO. 17  
COMPANY/ FPSC/Arnold  
WITNESS: Aug 4, 1994  
DATE:

DOCUMENT NUMBER-DATE  
**03040 MAR 31 1994**  
FPSC-RECORDS/REPORTING

D. E. R.



# Florida Department of Environmental Regulation

Southwest District

4520 Oak Fair Boulevard

Tampa, Florida 33610-7347

Lawton Chiles, Governor

813-623-5561

SOUTHWEST DISTRICT

TAMPA M. Browner, Secretary

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

February 18, 1992

Dick Sims  
38616 Shady Oaks Drive  
Zephyrhills, Florida 34248

Florida Department of Environmental Regulation

RECEIVED  
FEB 18 1992

## WARNING NOTICE # 92-021PW51-SWD

LEGAL DIVISION

RE: Shady Oaks Mobile Modular Estates

Dear Mr. Sims:

Our records indicate you may not be in compliance with Chapter 403, Florida Statutes and the regulations promulgated thereunder in the following areas for the above-referenced drinking water system.:

Florida Administrative Code Rule 17-550.510(2), requires community water systems using groundwater, to analyze for Primary Organic Contaminants every 36 months.

Our records indicate Primary Organic results for this system have not been submitted since July 12, 1988.

You are hereby requested to contact Sandra Sequeira of this office within 10 days of receipt of this Warning Notice to discuss the issues raised in this Warning Notice.

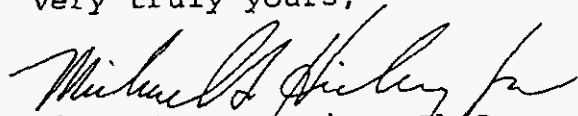
PLEASE BE ADVISED that this Warning Notice is part of an agency investigation preliminary to agency action in accordance with Section 120.57(4), Florida Statutes. The purpose of this Notice is to advise you of potential violations and to set up a meeting, or to discuss possible resolutions to any potential violations that may have occurred for which you may be responsible. If the Department determines that an enforcement proceeding should be initiated in this case, it may be initiated by issuing a Notice of Violation or by filing a judicial action in accordance with Section 403.121, Florida Statutes. If the Department issues a Notice of Violation, and you are named as a party, you will be informed of your rights to contest any determination made by the Department in the Notice of Violation. The Department can also resolve any violation through entry into a Consent Order.

Warning Notice # 92-021PW51-SWD  
Shady Oaks Mobile Modular Estates

Page Two

Please direct your response and/or questions to Sandra Sequeira  
of the Drinking Water Section at (813) 623-5561, Extension 395.

Very truly yours,



Richard D. Garrity, Ph.D.  
Director of District Management  
Southwest District

RDG/ssm

cc: Pasco CPHU  
Mathis Water