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State of Florida

Public Service Commission

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COMMISSION CLERK

DATE: July 25, 2002

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF ECONOMIC REGULATION (MONIZ, FITCH, DAVIS, LINGO)
OFFICE OF THE GENERAL COUNSEL (JAEGER)

RE: DOCKET NO. 010869-WS - APPLICATION FOR STAFF-ASSISTED RATE CASE IN MARION COUNTY BY EAST MARION SANITARY SYSTEMS, INC.
COUNTY: MARION

AGENDA: 08/06/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION EXCEPT ISSUES 17, 18, 19, AND 20 - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: 15-MONTH EFFECTIVE DATE: WAIVED (SARC)

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\ECR\WP\010869.RCM

DOCUMENT NUMBER-DATE
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FPSC-COMMISSION CLERK

CASE BACKGROUND

East Marion Sanitary Systems, Inc. (East Marion or utility) is an existing Class "C" utility which during the historic test year was providing water and wastewater service to approximately 41 residential customers. Pursuant to Order No. 17837, issued July 14, 1987, in Docket Nos. 870388-SU and 870389-WU, East Marion was granted Water and Wastewater Certificates Nos. 490-W and 425-S. The certificates were issued prior to the establishment of rates and charges to enable the utility to obtain its construction permits. The Commission approved the utility's existing rates and charges in Order No. 18545, issued December 14, 1987, but rate base was not established at that time since the utility had not been constructed.

On June 29, 1990, The utility applied for a transfer of majority organizational control of East Marion Water Distribution, Inc., and East Marion Sanitary Systems, Inc., in Marion County from Penelope A. Wagner, Trustee, to Forest Lake Village - Del American Ltd. East Marion Water Distribution, Inc. and East Marion Sanitary Systems, Inc., were originally owned by Mr. Eric Wagner, who passed away shortly after commencing development of the subdivision served by the utilities. By Order No. 24553, issued May 20, 1991, the Commission approved the transfer of the systems from Mr. Wagner's estate to Del American, Ltd. The systems were largely inactive from 1991 through 1995.

On October 2, 1997, the Commission received an application for approval of the transfer of majority organizational control of East Marion Water Distribution, Inc., and East Marion Sanitary Systems, Inc., from the First Federal Savings & Loan Association of Osceola County (First Federal) to Mr. Herbert Hein. According to the application, the systems were acquired by First Federal through foreclosure in 1992. The systems were in foreclosure until majority organizational control was transferred to Herbert Hein on February 14, 1995, prior to Commission approval. Mr. Hein also requested to operate both utilities under the name, East Marion Sanitary Systems, Inc. By Order Number PSC-98-0928-FOF-WS, issued July 7, 1998, the Commission approved the transfer.

On June 19, 2001, East Marion filed an application for a staff assisted rate case (SARC) and paid the appropriate filing fee on August 21, 2001. The Commission has the authority to consider this rate case pursuant to Section 367.0814, Florida Statutes. Staff

has audited the utility's records for compliance with Commission rules and Orders and determined the components necessary for rate setting. Staff also conducted a field investigation of the utility's plant and service area. A review of the utility's operation expenses, maps, files, and rate application was also performed to obtain information about the physical plant operating cost. Staff has selected a projected test year ended December 31, 2002 for this rate case.

A customer meeting was held in the service area on April 18, 2002. Approximately 45 customers attended the meeting and 13 customers chose to give comments. Staff also conducted informal afternoon meetings with customer representatives. Prior to the customer meeting, staff received several letters from customers voicing their concerns about the proposed increase. The most common concern raised among customers was that the customers did not know who to call for a billing inquiry, emergency service, or for general questions. Contact information will be addressed in Issue Nos. 1 and 18. Customers also commented about high levels of chlorine; this item will be addressed in Issue No. 1. Customers gave comments that the owner would threaten turning off the water for reasons other than non-payment; this will be addressed in Issue No. 18.

Many of the customers read the staff report and had specific questions concerning the allowance for a maintenance person and the high cost of a pump repair. These specific items will be addressed in issue Nos. 5 and 8.

The following is a list of acronyms and commonly used technical terms which are used throughout this staff report:

COMPANY AND PARTY NAMES

DEP	Department of Environmental Protection
PSC	Florida Public Service Commission
NARUC	National Association of Regulatory Utility Commissioners
OPC	Office of Public Counsel
SJRWMD	St. John's River Water Management District

GLOSSARY OF TECHNICAL TERMS

BFC Base Facility Charge - A charge designed to recover the portion of the total expenses required to provide water and sewer service incurred whether or not the customer actually uses the services and regardless of how much is consumed.

CIAC Contributions In Aid Of Construction - Any amount or item of money, services, or property received by a utility, from any person or governmental agency, any portion of which is provided at no cost to the utility, and which is utilized to offset the acquisition, improvement, or construction costs of the utility's property, facilities, or equipment used to provide utility services to the public. The term includes, but is not limited to, system capacity charges, main extension charges, and customer connection charges.

ERCs Equivalent Residential Connections - A statistic used to quantify the total number of water or wastewater connections that can be served by a plant of some specific capacity. The consumption of each connection is considered to be that of a single family residential connection, which is usually considered to be a unit comprised of 3.5 persons.

gpd Gallons Per Day - The amount of liquid that can be delivered or actually measured during a 24-hour period.

gpm Gallons Per Minute - The amount of liquid that can be delivered or actually measured during a one-minute time period.

O&M Operations and Maintenance Expense

RAF Regulatory Assessment Fees

SARC Staff Assisted Rate Case

UPIS Utility Plant in Service - The land, facilities, and equipment used to generate, transmit, and/ or distribute utility service to customers.

Used and Useful	The amount of plant capacity that is used by current customers including an allowance for the margin reserve.
USOA	Uniform System of Accounts - A list of accounts for the purpose of classifying all plant and expenses associated with a utility's operations.

ISSUE 1: Is the quality of service provided by East Marion Sanitary Systems, Inc., considered satisfactory?

RECOMMENDATION: No. The utility's quality of service should not be considered satisfactory until emergency phone numbers have been posted at each plant and both lift stations. The utility should be given 90 days from the effective date of the order to post the emergency phone numbers. This item is further addressed in Issue No. 18. (T.DAVIS & MASSOUDI)

STAFF ANALYSIS: Rule 25-30.433(1), Florida Administrative Code, specifies that:

> The Commission in every rate case shall make a determination of the quality of service provided by the utility. This shall be derived from an evaluation of three separate components of water and wastewater utility operations: quality of utility's product (water and wastewater); operational conditions of utility's plant and facilities; and the utility's attempt to address customer satisfaction. Sanitary surveys, outstanding citations, violations and consent orders on file with the Department of Environmental Protection (DEP) and county health departments (HRS) or lack thereof over the proceeding 3-year period shall also be considered. DEP and HRS officials' comments and testimony concerning quality of service as well as the comments and testimony of the utility's customers shall be considered.

Staff's preliminary analysis below addresses each of these three components based on the information available.

East Marion is a Class C water utility operating in Marion County which is located east of Silver Springs along state highway 40 approximately 3 ½ miles east of county road 314A. The utility serves a subdivision originally known as Trails East which was later renamed Lakeview Woods. Lakeview Woods has a potential of 181 single family home sites that is estimated to be 181 ERCs. During the staff engineering investigation, there were 41 active customers (estimated at 41 ERCs), two completed homes ready for occupancy, four additional homes under construction, and two lots cleared for construction. Two general service connections are the

recreation pavilion (estimated to be one ERC), and the wastewater treatment plant (estimated to be one ERC).

QUALITY OF UTILITY'S PRODUCT

Water

Currently, operations for the water treatment plant at Lakeview Woods/Trails East are contracted out to Aqua Pure, Inc. of Silver Springs, Fla., a company that specializes in providing water and wastewater operations in accordance with the regulatory standards required by the DEP. Aqua Pure is also the certified laboratory in the area for testing and chemical analysis. All required testing and analysis has been performed to insure safe potable water. Those tests have been kept current, are up-to-date, and are considered satisfactory by the DEP. The product appears to meet or exceed all regulatory standards for safe drinking water.

Wastewater

Aqua Pure is also the certified laboratory that oversees the testing and chemical analysis for the wastewater treatment plant. All required wastewater testing and analysis has been performed in a timely manner, and meets or exceeds all standards for safe discharge of treated effluent as required by the DEP. The safe treatment of wastewater appears to meet or exceed all regulatory standards, and is considered satisfactory.

By all appearances, the product provided to the customers of East Marion is considered satisfactory.

OPERATIONAL CONDITIONS AT THE PLANT

Water

The operations and maintenance of the physical plant facilities are also contracted through Aqua Pure. Aqua Pure provides a certified and licensed operator to service the water treatment plant in accordance with standards required by the DEP. The owner, while on visits to Florida, performs more involved housekeeping and general plant up-keeping duties. At other times, the owner hires a local maintenance person to perform basic repairs and maintenance duties that fall outside of the operator's contract with Aqua Pure. During the engineering field inspection, water

plant equipment appeared to be on a regular maintenance schedule. The pumphouse was freshly painted on the outside and tidy on the inside. The plant grounds within the fenced in area were organized and neat. The Lakeview Woods water treatment plant-site appeared well maintained. The utility plant in service appears to be satisfactory.

Wastewater

Maintenance at the Lakeview Woods wastewater plant-site was not as tidy as the water plant, but appears to have been receiving regular attention. The totalizer flow measuring equipment between the chlorine contact chamber and the percolation ponds has been removed thereby allowing treated effluent to flow through the "V" notch weir to the percolation ponds unrecorded. This causes the operator to rely on the lapse time meters at each lift station to provide estimated flows. Registration by lapse time meters is not optimal, but it is accepted by DEP. Up to now, estimated flows have not been an issue because the flow volume is well under the capacity of the plant. The capacity of the plant was designed and built to process the development's wastewater flow at build out. The current demand on the plant only requires timed injections of air and disinfectant and a minimum of attention from the operator. However, equipment at the wastewater plant appears to be properly maintained, and operating according to standards. Wastewater plant in service appears to be satisfactory.

UTILITY'S ATTEMPT TO ADDRESS CUSTOMER SATISFACTION

A series of informal customer meetings were held on April 18, 2002, in the Marion County Commission Auditorium in Ocala, Florida. Several customers requested individual meetings with staff to discuss issues related to the pending rate proceeding and to discuss problems with the utility. At these afternoon meetings customers raised issues about the increasing water rates, sulfur smell, and excessive chlorine in the drinking water.

Customers also expressed concerns about the utility's accounting practices, and certain expenses that were being allowed by staff. There were further concerns about the general maintenance person's duties, and about the cost of a pump at the water treatment plant.

At the 6:00 P.M. evening meeting in the Marion County Commission Auditorium, there were 44 persons in attendance. There were 15 customers that went on record with comments and concerns about the utility. The primary concern was the amount of the potential rate increase. It became apparent at the customer meeting that there is an overall lack of trust in the new owner of the utility which is fostered by the customers having difficulty in contacting the owner. There is no local utility office and no telephone number is posted at utility plant for emergencies. Customers also raised questions about a new pump that was recently replaced and the credentials of the person installing the pump. One customer reported that Mr. Hein shuts the water off for any reason without any notice to customers. The quality of service issues raised at the customer meeting were the taste and odor of the water, and the high levels of Chlorine.

In the past, the owner of the utility relied on the management company which had been providing a turn-key service for the utility through its foreclosure years. Of late, that service has been shifted to Aqua Pure, a local company that specializes in operation and maintenance of utilities. This has caused some confusion since phone numbers are not posted at either of the two plants or the lift stations. Mr. Hein is in Michigan a large portion of each year and contact by phone is difficult, even for staff. It is recommended that a local emergency phone number be posted at both plants and at each lift station so that someone can respond to an emergency in a timely manner. Those postings should occur no later that 90 days from the date of the Order for this rate case.

Since the customer meeting, staff has made a special review of the invoice of the new pump installation. The replacement pump was installed by a licensed well drilling company that specializes in drilling and installing wells and well pumps. This substantiates a customer's comment received by staff the next day after the meeting. A customer stated that he was an eye witness, and was present during the pump replacement. The cost is considered reasonable and prudent for the replacement of a six-inch submersible pump.

Prior to the customer meeting, one customer had called the Commission about a threat by Mr. Hein to shut her water off if she did not pay her bill on time. Staff contacted Mr. Hein and advised him of the proper procedure for termination of service and resolving non-payment accounts. The customer was also advised (at

the customer meeting) of the proper procedures set forth in Commission rules that the utility must follow in order to terminate service for nonpayment. This item is further discussed in Issue No. 18.

Regarding the excessive Chlorine in the drinking water and the Sulfur taste/odor experienced by the customers, the utility owner just recently changed the manner in which the dosages of Chlorine were being injected into the system. Currently, the Chlorine pump is set on a timer that only injects disinfectant while the pump is engaged. The disinfection process is complicated by the fact that the raw water at East Marion does contain substantial levels of Hydrogen Sulfide. Hydrogen Sulfide is a secondary compound that is not considered to be a health hazard by the DEP. In order to remove Hydrogen Sulfide at the plant, the utility would have to invest in approximately $100,000 of additional equipment (aeration, ground storage and high service pumping facility). This would drive the rates even higher for the small customer base and would not be considered cost effective. The next best thing is to treat the Hydrogen Sulfide with Chlorine since the two will not coexist in the same environment together. Staff attempted to explain to the customers that levels of Hydrogen Sulfide will vary from day to day. When Chlorine is fed into the raw water, it first reacts with any Iron, Manganese, or Hydrogen Sulfide that may be in the water. If any residual (un-reacted) Chlorine remains, it will next react with organic material (including bacteria) present. The interactive variables are constantly in flux and results will shift from moment to moment. In order to ensure that the water remains protected throughout the distribution system, an excess of Chlorine, usually 0.5 parts per million (ppm) is added (minimum required chlorine residual is 0.2 ppm by DEP Rule 62-550.518(4), F.A.C.) This "rate of feed" is normally adjusted to make sure that sufficient Chlorine is available to fully react with the organics that may be present. When both the mineral and organic reactions have been completed, any residual Chlorine remains in the drinking water. Therefore, the residences that are located at the beginning of the distribution system may experience higher residual levels than other people in their community. Sensitivity to the taste of water with residual Chlorine is subjective and some customers are more sensitive than others. However, while there is a 0.2 parts per million minimum free chlorine residual requirement, an upper limitation is not specified in Rule 62-550.518, F.A.C. which governs disinfection.

It is recommended that the utility's attempt to address customer satisfaction should not be considered satisfactory until emergency phone numbers have been posted. The utility should be given 90 days from the effective date of the order to post the emergency phone numbers. This item is further addressed in Issue No. 18.

ISSUE 2: Should the Commission approve a projected test year for the utility?

RECOMMENDATION: Yes, the Commission should approve a projected test year for the utility to better match expenses with customer growth on a going forward basis. A projected test year ending December 31, 2002, should be approved. (MONIZ, FITCH)

STAFF ANALYSIS: For audit purposes staff selected a historic test year ending December 31, 2000. Because the utility is growing at an exceptionally high rate (10 connections a year or 25%), staff believes that rates based on historical data alone will be significantly different than rates based on current or even future conditions. Staff believes that a projected test year (ending December 31, 2002) is appropriate in this case and will better match increasing revenues with recommended expenses on a going forward basis.

This is consistent with Order No. 15725, issued February 21, 1986, in Docket No. 840315-WS, In re: Application of Martin Downs Utilities, Inc. For an increase in water and wastewater rates to its customers in Martin County, Florida, in which the Commission found the following:

> The test year is an analytical device used in rate making proceedings to compute current levels of investment and income in order to determine the amount of revenue that will be required to assure a company a fair return on its investment. Test year data must be adjusted to properly reflect conditions in the future period for which rates are being fixed. Based upon historical data we anticipate Martin Downs will continue to experience rapid growth of demand for its services.

Based on the above, the Commission found a projected test year was appropriate.

Staff believes that using a projected test period in cases of extremely high growth will keep the utility from overearning in the short run and will promote rate stability. The Commission has also approved a projected test year for high growth in Order No. PSC-01-1246-PAA-WS, issued June 4, 2001, in Docket No. 001382-WS.

Because of the above factors, staff recommends that a projected test year rate base is appropriate, in this case, to better match expenses with customer base on a going forward basis. Staff recommends that a projected test year ending December 31, 2002, should be approved.

USED AND USEFUL

ISSUE 3: What portions of East Marion Sanitary System, Inc., are used and useful?

RECOMMENDATION: The East Marion utility water treatment plant is considered 60% used and useful, the water distribution and wastewater collection systems are considered to be 38.7% used and useful with the exception of Account Number 334 (Meters and Meter Installations) which are installed upon demand and should be considered 100% used and useful. The wastewater treatment plant is considered to be 7.5% used and useful. (T. DAVIS)

STAFF ANALYSIS:

Water Treatment Plant

The water treatment plant is a closed system operation that should be evaluated on a gallon per minute basis. The plant's ability to meet instantaneous fluctuations in flow demands currently rests on the capacity of the 20 horsepower submersible well pump (rated at 250 gpm). Since this plant is a closed system, the used and useful calculation is more representative with a comparison study of the minimum standard of 1.1 gpm in accordance with General Waterworks Design Criteria to the number of customer connections. This standard is backed by the American Water Works Association (AWWA), and is recommended to be met by the lowest capacity well. Currently, this system has only one well, and the actual capacity of this well (250 gpm) was applied in the used and useful formula. For rate making purposes, used and useful will be analyzed by projecting customer demand two years from the historical test year.

Customer growth has been steady over the last five years. A linear regression analysis yields an anticipated 10 ERC per year future growth. Staff estimates that the utility will serve an average of 55 customers two years from the test year. This exceeds the statutory growth cap of 5% per year for the five year growth calculation pursuant to Section 367.081(2)(a)2.b., Florida Statutes. The growth in ERCs used to calculate the five year statutory growth period is 3 ERCs per year which yields an estimated 18 gpm. From the flow analysis, there does not appear to be an excessive unaccounted for water problem. By the formula, the water plant is calculated to be 60% used and useful.

Therefore, in accordance with the calculation sheet (Attachment "A", Sheet 1 of 4), it is recommended that the used and useful for the water treatment plant should be 60%. This percentage should be applied to:

Account No. 307 (Wells and Springs)
Account No. 309 (Supply Mains)
Account No. 311 (Pumping Equipment)
Account No. 320 (Water Treatment Equipment)
Account No. 339 (Other Plant and Misc Equipment)

Water Distribution System

The water distribution system has the potential of serving 181 customers (estimated to be 181 ERCs). The average number of customers anticipated two years into the future is 55 customers (estimated to be 55 ERCs). Using the statutory cap of 5% per year (3 ERCs) for the five year growth period, the future growth is calculated to be 15 ERCs. By the formula approach, staff calculates the distribution system to be 38.7% used and useful (See Attachment "A", Page 2 of 4), with the exception of Account Number 334 (Meters and Meter Installations) which are installed upon demand and should be considered 100% used and useful.

It is recommended that 38.7% be applied to:

Account No. 330 (Distribution Reservoirs and Standpipes)
Account No. 331 (Transmission and Distribution Mains)
Account No. 333 (Services)

Wastewater Treatment Plant

The wastewater treatment plant at Lakeview Woods is permitted by the DEP as a 0.05 million gallon per day (50,000 gpd) annual average daily flow (AADF) facility. During the twelve-month review period, the annual average daily flow was 1,827 gpd. The annual average daily flow estimated for those customers in the future test year is 2,955 gpd. Using the limitation of 3 ERCs per year determined by the statutory 5% per year cap for the growth calculation, staff estimates the increased demand for the five year statutory growth period to be 806 gpd. There does not appear to be an excessive infiltration problem occurring within the collection system. Therefore, the formula used on the calculation sheet

(Attachment "A", Sheet 3 of 4) indicates a used and useful of 7.5% which should be applied to:

Account No.	355	Power Generation Equipment
Account No.	364	Flow Measuring Devices
Account No.	365	Flow Measuring Installations
Account No.	380	Treatment and Disposal Equipment
Account No.	381	Plant Sewers
Account No.	382	Outfall Sewer Lines
Account No.	489	Other Plant and Misc. Equipment

Wastewater Collection System

The utility's potential customer base is 181 ERCs. The average number of customers projected for the future test year is estimated to be 55. Using the statutory cap of 5% per year for the five year growth period (3 ERCs per year), future growth for the next five years is calculated to be 15 ERCs. In accordance with the formula method used on the calculation sheet (See Attachment "A", sheet 4 of 4), the used and useful is calculated to be 38.7%. By the formula method, it is recommended that the wastewater collection system be considered 38.7% used and useful which should be applied to the following accounts.

Account No.	360	Collection Sewers - Force
Account No.	361	Collection Sewers - Gravity
Account No.	362	Special Collecting Structures
Account No.	363	Services to Customers
Account No.	370	Receiving Wells

ISSUE 4: What is the appropriate regulatory treatment of the land upon which the utility's treatment facilities are located?

RECOMMENDATION: The utility should be required to purchase the land on which it operates or enter into a long-term lease, such as a 99-year lease, pursuant to Section 367.1213, Florida Statutes, and submit either a warranty deed or copy of a long-term lease in the utility's name within 60 days of the Consummating Order. For rate setting purposes, the utility should be allowed to recover an annual amount equal to the return on the original cost of the land when placed in service. If the utility does not submit a warranty deed or long-term lease in compliance with the above noted requirements, pursuant to Section 367.161, Florida Statutes, the utility should be made to show cause, in writing, within 21 days, why it should not be fined up to $5,000 per day for each offense for its apparent violation of Section 367.1213, Florida Statutes, Rule 25-30.037(2)(q), Florida Administrative Code, and the above noted requirements. (MONIZ, FITCH, JAEGER)

STAFF ANALYSIS: Audit Disclosure No. 1 specifies that the utility plant is located on property that is not owned by the utility, but by Universal Sonlight, Inc., a Nevada Corporation as Trustee. According to the audit report, the utility has an unwritten lease with the property owner that requires the utility to pay all the taxes and maintenance on the property. Pursuant to Section 367.1213, Florida Statutes, a utility is required to own the land or possess the right to continued use of the land upon which its treatment facilities are located.

This is not the first time this issue has been raised with this utility. The utility applied for a transfer of majority organizational control to Mr. Hein on October 2, 1997. In Order No. PSC-98-0928-FOF-WS, issued July 7, 1998, in Docket No. 971269-WS, the Commission Ordered the following:

> ORDERED that Herbert Hein shall provide warranty deeds or long-term leases in the name of East Marion Sanitary Systems, Inc. as proof that the utility owns or has continued use of the land upon which its facilities are located, within 60 days of the date this Order is issued.

In response to this order, the utility submitted and the Commission accepted an affidavit dated October 14, 1998, which stated:

> That I Herbert Hein as President of East Marion Sanitary Systems, Inc. have sole control & power of direction of the Land Trusts & Trustees for the above referenced properties. These properties are where the water & sewer plants for the utility are located.

In this SARC proceeding, the utility indicated that beginning January 1, 2001, the utility will be required to pay $600 per month to the property owner in addition to paying all the taxes and any maintenance on the property. As of the date of this recommendation, staff has not been provided with a copy of a lease containing the above provisions. Further, at the customer meeting, when staff asked Mr. Hein who Universal Sonlight, Inc. was, Mr. Hein answered that he did not know.

The utility has contended that it can be evicted if it is not able to pay the new rent. This does not appear to be consistent with the affidavit submitted by Mr. Hein. Either Mr. Hein did not have sole control and power of direction of the Land Trusts & Trustees, as his affidavit stated, or he released such control and power in violation of Section 367.071, Florida Statutes, without securing the land in such a way that it satisfies Section 367.1213, Florida Statutes.

Therefore, the utility should be required to purchase the land on which it operates or enter into a long-term lease, such as a 99-year lease, pursuant to Section 367.1213, Florida Statutes, and submit either a warranty deed or copy of a long-term lease in the utility's name within 60 days of the Consummating Order. The Commission should not accept an affidavit as proof of meeting Section 367.1213, Florida Statutes; only a warranty deed or a written lease should be accepted.

The utility believes it can enter into a long-term lease with Universal Sonlight, Inc. with the terms listed above. Financial Accounting Standard (FAS) 13 lists the criteria for classifying leases. Paragraph 25 of this document states that when land is the sole item of property leased, the following criteria must be met to qualify for a capital lease:

a. The lease transfers ownership of the property to the lessee by the end of the lease term; and
b. The lease contains a bargain purchase option.

If the listed criteria are not met, then the lease is an operating lease. If the oral lease, which has been conveyed to staff, is reduced to writing, staff does not believe that this lease would meet the criteria of a capital lease pursuant to FAS 13. Therefore, this lease should be recorded as an operating lease.

However, staff does not believe the annual lease amount of $7,200 is reasonable. This amount would result in approximately $10 of each customer's monthly bill going to recover rent. Consistent with Order No. PSC-00-0807-PAA-WU, issued April 25, 2000, in Docket No. 991290-WU, staff believes that the maximum lease amount should be the annual rate of return, based on the utility's current capital structure, times the original cost of the land when placed in service. Staff was able to determine the original cost of the land when it was originally placed in service. According to the Marion County Property Appraiser, the original cost of the land per acre when the utility was constructed was $1,600. As discussed in Issue No. 6, the recommended rate of return is 10.00%.

The utility contends that it cannot purchase the land for the original cost or enter into a lease for less than the $600 per month. When the utility was first placed into service, the utility did own the land on which the treatment facilities were located. After several transfers and foreclosures, the common stock of the utility along with 171 lots was sold to Mr. Hein for a lump sum. Apparently the utility land was not part of this purchase. Staff does not believe that it was prudent for Mr. Hein to purchase the utility assets without also making arrangements for continued use of the land.

Staff views this land issue to be similar to an acquisition adjustment. It has been Commission practice to approve an acquisition adjustment only in extraordinary circumstances. Staff notes that Florida is an original cost state and that approving all acquisition adjustments would move cost based regulation to market based regulation. (See Order Nos. 6553, 7522, and 10465) Further, staff believes that merely a change in ownership should not cause an increase in rates. The only thing that changed for this utility was ownership. The new owner did not secure the land pursuant to Section 367.1213, Florida Statutes, as part of the lump sum purchase. To allow the utility to recover current market price of the land would be inconsistent with the above-referenced orders and

Commission practice, and would place an unreasonable burden on the utility's rate payers. (See Order No. 11180, issued September 21, 1982, in Docket No. 810333-S)

Pending either proof of purchase of the land or submission of a signed 99-year lease, an adjustment should be made to remove land from the utility's rate base. For rate setting purposes, the utility should be allowed an annual rent amount of $405 ($1,600 x 2.53 acres x 10.00%) for water and $582 ($1,600 x 3.64 acres x 10.00%) for wastewater to reflect annual rent expense consistent with the above-referenced orders.

In Issue No. 19, staff is recommending that the utility show cause why it should not be fined $500 for its apparent violation of Section 367.1213, Florida Statutes, Rule 25-30.037(2)(q), Florida Administrative Code, and Order No. PSC-98-0928-FOF-WS, which requires the utility to either own the land on which its treatment facilities are located or have continued use of the land. Order No. PSC-98-0928-FOF-WS had required this, and staff is again recommending in this issue that the utility be made to either purchase the land on which its treatment facilities are located or enter into a long-term lease such as a 99-year lease in order to satisfy the above rule, statute, and order. Issue No. 19 recommends a nominal penalty for the utility's apparent violation of the above rule, statute, and order. However, if the utility does not comply with the Commission's final order in this docket, then the utility should be made to show cause, in writing, within 21 days, why it should not be fined up to $5,000 per day for each offense for its continued apparent violation of Section 367.1213, Florida Statutes, Rule 25-30.037, Florida Administrative Code, and the Commission's final action.

ISSUE 5: What is the appropriate projected test year rate base for this utility?

RECOMMENDATION: The appropriate projected test year rate base for this utility is $29,619 for water and $63,821 for wastewater. The utility should be required to complete the pro forma fence replacement and installation of the lift station alarm within 90 days of the Commission's final Order. (MONIZ, FITCH)

STAFF ANALYSIS: Pursuant to Order No. 17837, issued July 14, 1987, in Docket Nos. 870388-SU and 870389-WU, East Marion was granted Water and Wastewater Certificates Nos. 490-W and 425-S. The certificates were issued prior to the establishment of rates and charges to enable the utility to obtain its construction permits. The Commission approved the utility's existing rates and charges in Order No. 18545, issued December 14, 1987, but rate base was not established at that time.

During the audit investigation, staff discovered that the utility did not have sufficient documentation to support its investment in plant. Therefore, an original cost study has been conducted by staff. Rate base components have been adjusted using the original cost study for plant balances through December 31, 2000. As discussed in Issue No. 2, staff has recommended a December 31, 2002, projected average test year be used. A discussion of each component of rate base follows:

Utility Plant in Service (UPIS): The utility recorded UPIS balances of $89,867 and $191,262, for water and wastewater, respectively. Based on the original cost study, UPIS should be $137,698 for water and $465,010 for wastewater for the same period. Staff has increased UPIS by $47,831 for water and $273,748 for wastewater to reflect UPIS per the original cost study at December 31, 2000.

Staff has increased Account No. 311 by $5,999 to reclassify a replacement pump recorded in Account No. 636 as a pump repair. Because this is a replacement pump, the old pump should be retired. Staff has decreased Account No. 311 by $8,050 to retire the original cost of the pump based on staff's original cost study.

For the projected test year ending December 31, 2002, staff has included ten additional customers per year (the average customer's growth rate). Based on this projection, staff has

increased water UPIS by $1,400 ($70 x 20 meters) to reflect the costs of meters associated with the additional customers.

The utility has provided staff with pro forma plant additions. These additions are not required by DEP at this time and the majority of these additions are related to growth. Staff believes that revenues associated with the extremely high growth of this utility will offset future plant additions. Staff has considered the requested pro forma in Issue No. 14 in order to recommend service availability charges.

There are two items of pro forma plant that staff believes should be included in this case. Neither item is related to growth. The utility has requested replacing the existing fence around the water and wastewater treatment plants. According to the utility owner, a great deal of time and expense is being spent patching together the existing fence (100 hours annually). Staff believes that allowing a new fence in rate base would be less of an impact on customers than allowing the continued repair expense. Therefore, staff has increased UPIS by $2,138 for water and $17,906 for wastewater to allow for the replacement of the fence. Because the fence is being replaced, the old fence should be retired from rate base. Therefore, staff has decreased UPIS by $1,738 for water and $9,702 for wastewater to retire the old fence from UPIS based on the original cost study.

The second item of pro forma requested was the installation of a lift station alarm. Staff has increased UPIS by $1,431 to include the installation of a lift station alarm based on estimates provided by the utility. Staff's total adjustments to include pro forma plant is $3,538 ($1,400 meters + $2,138 fence) for water and $19,337 ($17,906 fence + $1,431 lift station alarm) for wastewater.

Staff has decreased UPIS by $550 for water and by $4,818 for wastewater to reflect an averaging adjustment. Staff's recommended UPIS is $136,897 for water and $469,827 for wastewater.

Land: The utility recorded land values of $35,000 for water and $50,000 wastewater. As discussed in Issue No. 4, because the land is not owned by the utility, and staff believes that the utility's land lease is an operating lease, the value of land recorded by the utility should be removed from rate base. Therefore, staff has made an adjustment to remove land from rate base in the amount of $35,000 for water and $50,000 for wastewater.

Non-used and Useful Plant: Staff has determined the used and useful percentages for each plant account in Issue No. 3. Applying the non-used and useful percentages to average plant results in average non-used and useful plant of $73,832 for water and $333,326 for wastewater. The average non-used and useful accumulated depreciation is $22,493 for water and $174,041 for wastewater. This results in net non-used and useful plant of $51,339 for water and $159,285 for wastewater.

Contribution in Aid of Construction (CIAC): The utility recorded a balance for CIAC of $13,865 for water and $26,600 for wastewater. Staff recalculated CIAC using the utility's tariffed system capacity charge. Staff's calculated CIAC is $14,430 for water and $27,885 for wastewater. Therefore, staff has increased CIAC by $565 for water and $1,285 for wastewater to reflect staff's calculated CIAC.

Additionally, staff has increased CIAC to reflect the ten additional customers per year that will be added for the projected test year. This adjustment results in a $7,735 increase for water and a $15,100 increase for wastewater. Staff calculated projected CIAC based on projected customers to be added over the projection period and the service availability charges anticipated to be in effect during that period. An averaging adjustment has also been made to reduce CIAC by $2,018 for water and $3,975 for wastewater.

Based on staff's adjustments, staff recommends average CIAC balances for the projected year of $20,147 and $39,010 for water and wastewater, respectively.

Accumulated Depreciation: The utility recorded a balance for accumulated depreciation of $25,212 for water and $63,265 for wastewater. Consistent with Commission practice, staff has recalculated accumulated depreciation using the prescribed rates in Rule 25-30.140, Florida Administrative Code. Staff's calculated accumulated depreciation for the historic test year is $42,759 for water and $192,105 for wastewater. Therefore, staff has increased accumulated depreciation by $17,547 for water and $128,840 for wastewater to reflect staff's calculated accumulated depreciation.

Staff also increased accumulated depreciation by $8,615 for water and $38,600 for wastewater, to reflect depreciation for the projected test year. Staff has decreased this account for water by $8,050 to remove depreciation associated with the pump retirement

discussed above. Further, staff has decreased this account by $1,738 for water and $9,702 for wastewater to reflect the retirement of the old fence. An adjustment has also been made to decrease accumulated depreciation by $1,297 for water and $4,843 for wastewater, to reflect an averaging adjustment. Staff recommends an accumulated depreciation balance for the projected test year of $40,289 for water and $216,160 for wastewater.

Amortization of CIAC: The utility recorded CIAC amortization of $1,654 for water and $2,405 for wastewater. Amortization of CIAC has been recalculated by staff using composite depreciation rates. Staff calculated amortization for the historic test year of $1,675 for water and $4,239 for wastewater. Therefore, staff has increased CIAC amortization by $21 for water and $1,834 for wastewater, to reflect staff's calculated historic test year end amortization of CIAC.

Staff also increased CIAC amortization by $1,147 for water and $2,894 for wastewater, to reflect the amortization of CIAC for the projected test year. An averaging adjustment has been made to decrease CIAC amortization by $318 for water and $797 for wastewater. Staff recommends average amortization of CIAC for December 31, 2002, of $2,504 for water and $6,336 for wastewater.

Working Capital Allowance: Working Capital is defined as the investor-supplied funds necessary to meet operating expenses or going-concern requirements of the utility. Consistent with Rule 25-30.433(2), Florida Administrative Code, staff has calculated working capital using the one-eighth of operation and maintenance (O&M) expense formula approach. Based on that formula, staff recommends a working capital allowance of $1,993 (based on O&M of $15,943) for water and $2,113 (based on O&M of $16,902) for wastewater.

Rate Base Summary: Based on the foregoing, staff recommends that the appropriate projected average test year rate base is $29,619 for water and $63,821 for wastewater.

Rate base is shown on Schedule Nos. 1-A and 1-B. Related adjustments are shown on Schedule No. 1-C.

COST OF CAPITAL

ISSUE 6: What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility?

RECOMMENDATION: The appropriate rate of return on equity is 10.00% with a range of 9.00% - 11.00%. The appropriate overall rate of return for the utility is 10.00%. However, if Order No. PSC-02-0898-PAA-WS, issued July 5, 2002, in Docket No. 020006-WS, is not protested, the appropriate rate of return on equity should be 10.23% with a range of 9.23% - 11.23% and the appropriate overall rate of return for the utility should be 10.23%. (MONIZ, FITCH)

STAFF ANALYSIS: The utility recorded the following items in capital structure for the historic test year: common stock of $1,000, negative retained earnings of $75,921, paid-in-capital of $313,018, and long-term debt of $3,350.

The utility's $3,350 of long-term debt is related party debt which is not supported by a debt instrument or an interest cost. By Order No. PSC-00-1165-PAA-WS, issued June 27, 2000, in Docket No. 990243-WS, the Commission classified utility debt that was not supported by a debt instrument or an interest cost as other common equity. Therefore, staff has made an adjustment to reclassify $3,350 from long term debt to paid in capital.

Using the current leverage formula approved by Order No. PSC-01-2514-FOF-WS, issued December 24, 2001, in Docket No. 010006-WS, the appropriate rate of return on equity for all capital structures with an equity ratio of 100% is 10.00%. Since the utility's capital structure is 100% equity, the rate of return on equity is 10.00% with a range of 9.00% - 11.00%.

The utility's capital structure has been reconciled with staff's recommended rate base. Staff's recommended return on equity is 10.00% with a range of 9.00% - 11.00% and an overall rate of return of 10.00%.

The return on equity and overall rate of return are shown on Schedule No. 2.

Order No. PSC-02-0898-PAA-WS, issued July 5, 2002, in Docket No. 020006-WS, establishes a new leverage formula to determine the appropriate range of return on equity. However, the protest period

for this order expires one day after the filing of this recommendation. If this Order is not protested, the appropriate rate of return on equity should be 10.23% with a range of 9.23% - 11.23% and the appropriate overall rate of return for the utility should be 10.23%, based on the leverage formula approved in Order No. PSC-02-0898-PAA-WS, issued July 5, 2002, in Docket No. 020006-WS.

ISSUE 7: What are the appropriate projected test year revenues?

RECOMMENDATION: The appropriate projected test year revenues for this utility are $15,794 for water and $14,949 for wastewater. (MONIZ, FITCH)

STAFF ANALYSIS: The utility recorded revenues for the 12-month period ended December 31, 2000, of $8,357 and $8,319 for water and wastewater, respectively.

The utility's current residential tariff authorizes a base facility charge of $8.70 and a gallonage charge of $1.27 per 1,000 gallons for water, and a base facility charge of $9.61 and a gallonage charge of $1.83 per 1,000 gallons with a maximum cap of 10,000 gallons for wastewater services.

Staff has annualized revenues for the historical test period ended December 31, 2000, using the current rates times the number of bills and consumption provided in the billing analysis. Staff has increased historic test year revenues by $64 for water and decreased historic test year revenues by $181 for wastewater to reflect annualized revenue based on existing rates.

Because staff is using a projected test year, revenues must be adjusted to reflect the increase in revenues associated with an increase in customer base. Therefore, staff has increased historic test year revenues by $7,373 for water and $6,811 for wastewater to reflect revenues based on the projected test year. Projected test year revenues are based on ten additional customers per year and average use for those customers. Staff recommends test year revenues of $15,794 for water and $14,949 for wastewater.

Test year revenues are shown on Schedule Nos. 3-A and 3-B and the related adjustments are shown on Schedule No. 3-C.

ISSUE 8: What is the appropriate amount of operating expense?

RECOMMENDATION: The appropriate amount of operating expense for this utility is $18,679 for water and $21,263 for wastewater. The utility should be required to provide staff with proof of insurance within 90 days of the Commission's final order. (MONIZ, FITCH)

STAFF ANALYSIS: The utility recorded operating expenses of $16,099 for water and $15,604 for wastewater during the twelve-month period ending December 31, 2000. The utility provided the auditor with access to all books and records, invoices, canceled checks, and other utility records to verify its O&M and taxes other than income expense for the twelve-month period ended December 31, 2000. Staff has determined the appropriate operating expenses for the test year and a breakdown of expenses by account class using the documents provided by the utility. Adjustments have been made to reflect the appropriate annual operating expenses that are required for utility operations on a going forward basis.

The utility's contracted operating, billing, management, engineering, and bookkeeping during the historic test year was provided by Enviro-Masters. These services are no longer being performed by Enviro-Masters. The utility has entered into new contracts with an alternate management company and has provided staff with copies of the contracts. Staff has made adjustments to reflect the new contracted costs.

Operations and Maintenance Expenses (O&M)

Sludge Removal Expense-(711) The utility did not record an amount in this account during the historic test year. Based on the utility's growth, staff determined that the utility would need sludge removal on a regular basis. Staff believes that $500 per year is reasonable for sludge hauling expenses on a going forward basis. Therefore, staff increased this account by $500 to reflect annual sludge removal.

Purchased Power-(615/715) - The utility recorded $1,298 for water and $1,298 for wastewater in this account during the historic test year. Staff has decreased purchased power by $696 for water and has increased purchased power by $844 for wastewater to annualize and reallocate purchased power expense based on the utility's cost documentation. Staff also increased purchased power by $602 for water and $2,112 for wastewater to reflect an increase in purchased

power based on projected test year gallons. Staff has decreased this account by $120 for water and by $547 for wastewater to reflect a repression adjustment. Staff recommends purchased power expense of $1,084 for water and $3,706 for wastewater.

Chemicals-(618/718) - The utility recorded $199 for water and $0 for wastewater in this account during the historic test year. Based on the engineering investigation, staff has determined the appropriate amount of chemical use for this utility to be $364 for water and $164 for wastewater. Therefore, staff has increased this account by $165 for water and $164 for wastewater to reflect the staff's recommended chemicals expense. Staff also increased this account by $364 for water and $162 for wastewater to reflect chemical expense on projected test year gallons. Staff has decreased this account by $73 for water and by $42 for wastewater to reflect a repression adjustment. Staff recommends chemicals expense of $655 for water and $284 for wastewater.

Materials and Supplies-(620/720) - The utility recorded $94 for water and $80 for wastewater in this account during the historic test year. Staff has decreased this account by $14 for water and $36 for wastewater to remove out-of-period expense. Staff has increased this account by $121 for water and $113 for wastewater to reclassify materials and supplies from Account Nos. 636 and 736 (Contractual Services-Other). Staff recommends materials and supplies expense of $201 for water and $157 for wastewater.

Contractual Services-Billing-(630/730) - The utility recorded $1,040 for water and $950 for wastewater in this account during the historic test year. These expenses were associated with the billing, operating, and management services provided by Enviro-Masters. The new management contract includes billing services; however, a specific dollar amount is not associated with the billing. Therefore, staff believes that the amounts in this account should be reclassified to the contractual service-other account and should be adjusted to reflect the new management contracts. Staff has reallocated $1,040 for water and $950 for wastewater to Account Nos. 636 and 736 (Contractual Services-Other).

Contractual Services-Testing-(635/735) - The utility recorded $160 in this account for water and $1,235 for wastewater during the historic test year. Staff has increased this account by $1,075 for water and decreased this account by $1,075 for wastewater to

reclassify water testing expense recorded in the wastewater account.

Each utility must adhere to specific testing conditions prescribed within its operating permit. These testing requirements are tailored to each utility as required by the Florida Administrative Code and enforced by the DEP. The tests and the frequency at which those tests must be repeated for this utility are:

Water

Test	Frequency	Annual Amount
Microbiological	Monthly	$380
Primary Inorganics	3 Years	$70
Secondary Inorganics	3 Years	$53
Asbestos	1/9 Years	$27
Nitrate & Nitrite	Annual	$26
Volatile Organics	Qrtly/1st yr/36 mos.	$358
Pesticides & PCB	3 Years	$220
Radionuclides Group I	3 Years	$30
Radionuclides Group II	3 Years	$35
Unregulated Organics Group I	Qrtly/1st yr./9yr.	$105
Unregulated Organics Group II	3 Years	$45
Unregulated Organics Group III	3 Years	$70
Lead & Copper	Biannual	$320
Total		$1,739

Wastewater

Test	Frequency	Annual Amount
Biochemical Oxygen Demand (includes Nitrate, Nitrite)	Monthly	$60

Staff has increased contractual services-testing by $504 ($1,739 - $1,235) for water and decreased contractual services-testing by $100 ($60 - $160) for wastewater to reflect annualized DEP required testing.

Contractual Services Other-(636/736) - The utility recorded $9,413 for water and $3,870 for wastewater in this account during the historic test year.

Staff has increased this account by $1,040 for water and by $950 for wastewater to reclassify contractual services from the contractual services-billing account. This adjustment results in a contractual services-other balance of $10,453 for water and $4,820 for wastewater. Of this amount $2,454 for water and $3,811 for wastewater is associated with contracted operating, management, meter reading, and billing associated with Enviro-Masters. As discussed above, Enviro-Masters no longer provides these services to East Marion. The utility has provided staff with signed contracts for the above listed services as follows:

	Total	Water	Wastewater
Operator	$4,500	$2,250	$2,250
Management/ Billing	$4,200	$2,100	$2,100
Enviro-Master	($6,265)	($2,454)	($3,811)
Net Adjustment	$2,435	$1,896	$539

The operator services will be provided by Aqua Pure Water & Sewage Services, Inc. (Aqua Pure) and the management/billing services will be provided by JNP Management & Repair Services (JNP). Staff has increased contractual services-other by $1,896 for water and by $539 for wastewater to annualize contracted operator, management, and billing associated with the new contracts. It should be noted that during the test year the utility hired a local resident to collect payments and deposit the payments. Since the utility has contracted with a management company to perform these services staff has not made an allowance for the local resident.

During the test year, the owner hired a local resident to perform the day-to-day maintenance of the utility. However, the utility has not recorded an expense for this service.

The general maintenance person should be a part-time employee that specializes in the operations and maintenance of both the water and wastewater utility plants in accordance with Federal, State, and Local regulatory standards. As a local person, his duties would begin where the contract operator's duties end, act as a liaison between customers and the utility, investigate complaints, perform general system repairs, pick up parts, do regular maintenance checks of the water and wastewater plants, read meters, and assist and supervise contract service projects. In the preliminary staff report presented to the customers prior to the customer meeting, staff made an allowance of 20 hours a week at $12 an hour for the maintenance person or $6,240 annually per system.

Many customers commented that this allowance was too high. Among the customers who commented on this was the existing maintenance person, Mr. Pakola. According to Mr. Pakola, he received $85 a month to perform the general maintenance duties and read meters. However, since the customer meeting, staff discovered that Mr. Pakola no longer is performing these services. The utility has hired another local resident to perform these services.

According to Mr. Pakola, he spent approximately 3.5 hours a week on utility business. This amount is significantly lower than staff's original estimation. After the customer meeting staff informed Mr. Hein that the maintenance allowance recommended would likely be changed to reflect the actual hours performed by Mr. Pakola. Mr. Hein did not object and pointed out that it was staff who came up with the original estimation of 20 hours a week. Approximately two weeks later, Mr. Hein contacted staff and inquired about the allowance for a maintenance person. Staff informed Mr. Hein that staff was going to recommend a maintenance allowance based on the information obtained at the customer meeting of 3.5 hours a week and $12 an hour as appropriate for this utility. Mr. Hein disagreed with staff stating that staff should not rely on Mr. Pakola's word because he was not competent. Further Mr. Hein stated that it was he who actually performed the bulk of the maintenance at the utility.

Staff does not agree that Mr. Hein performed the bulk of the maintenance. Staff notes that all contact with Mr. Hein during the two to three months prior to the customer meeting, and a majority of the contact with Mr. Hein after the customer meeting, was through his residence in Michigan. By letter dated April 29, 2002, the utility requested that the 15-month statutory time frame be

waived for six weeks so that the utility could discuss the maintenance person allowance with staff. By letter dated June 21, 2002, the utility submitted an annual list by hour of the duties that Mr. Hein performs. Again, staff questions the amount of time Mr. Hein is actually in the state of Florida. Staff has received correspondence from residents who have stated Mr. Hein may spend as little as three months a year in Florida. However, staff has reviewed the hours submitted and although staff does not believe that Mr. Hein personally is performing all of these functions, a reasonable allowance should be made for these functions. Mr. Hein requested an allowance of 15 hours a week for himself and 5 hours a week for the local maintenance person. As discussed above staff believes that 3.5 hours a week is reasonable for the local maintenance person.

Mr. Hein sent hourly documentation to justify the 15 hours per week (780 hours annually). Staff believes that 340 of the 780 annual hours Mr. Hein requested should be adjusted as follows:

Duties	Requested Hours (Annually)	Recommended Hours (Annually)
Gathering estimates and hiring new employees	117 hrs.	0 hrs.
Fence Repairs	100 hrs.	0 hrs.
CUP Permit Renewal	15 hrs.	.75 hrs.
Reimbursable Repairs	45 hrs.	0 hrs.
Capitalized Labor	25 hrs.	0 hrs.
Painting/ Roof Repairs	33 hrs.	6.6 hrs.
Water Audit	5 hrs.	1 hrs.
Total	340 hrs.	8.35 hrs.

The utility estimated 117 hours annually for getting bids on new contracts, including insurance contracts, and hiring a new maintenance person. Staff believes the requested amounts are inflated since the utility rehired its existing lawn maintenance company and since staff assisted Mr. Hein with information for several potential insurance providers. Further, these costs will not be incurred in the near future and therefore should not be

included in a determination of Mr. Hein's annual duties on a going forward basis. As discussed in Issue No. 5, staff is recommending that the utility replace its existing fence. Since staff is recommending that the fence be replaced, staff does not believe hours spent repairing the old fence should be included in rates on a going forward basis.

Mr. Hein estimated 15 hours annually to renew the utility's consumptive use permit. The permit expires 20 years from the date of issuance. Therefore, staff believes that the permit should be amortized over 20 years and that .75 hours annually (15 hours ÷ 20 years) should be included in rates over that period. Mr. Hein also lists several hours for repairs which were necessary due to damage by contractors and public utilities. These damages should be reimbursable from those responsible for the damage, and therefore, staff has removed these hours above. Staff also made an adjustment to remove the hours associated with installing capital items of plant. The labor associated with capital items is reflected in staff's original cost study.

The final items include painting, roof repairs, and hours spent performing a water audit. All of these items should be considered non-recurring and amortized over five years pursuant to Rule 25-30.433(8), Florida Administrative Code.

The above adjustments to the utility's request result in approximately 12 hours a week for the maintenance person (3.5 hrs.) and Mr. Hein (8.5 hrs.). Mr. Hein submitted a record for a three-and-one-half-week period from May 28, 2002, to June 20, 2002. His records indicated an average work week of 16.7 hours. As discussed above, according to the residents, Mr. Hein spends approximately three months out of the year in Florida. If staff were to extrapolate the three-and-one-half-week period over a three-month period this would result in approximately 4 hours a week. Being presented with two significantly different hours between the utility and customers, staff believes that the actual hours that are appropriate are somewhere between the two. When the three-month (customer) amount is averaged with the utility's requested amount of 15 hours a week for Mr. Hein, it results in an average of 9.5 hours a week. This amount is closer to the amount staff believes is appropriate (8.5 hrs.) based on the above adjustments.

Based on the utility's request and information obtained from customers, staff believes that 12 hours a week is reasonable for

Mr. Hein and the local maintenance person. Therefore, staff has increased this account by $3,744 each for water and wastewater (12 hours a week x 52 weeks x $12 an hour ÷ 2) to reflect staff's recommended maintenance expense.

Staff has reclassified $163 from water to wastewater for grounds keeping to reflect the percentage allocation of grounds keeping per system, based on the size of land and required maintenance, of 40% for water and 60% for wastewater.

The utility recorded $5,999 as a repair to a well pump during the historic test year. At the customer meeting, many customers commented that the repair was too high and that it would have been cheaper to purchase a new pump. After the customer meeting, staff members talked with several customers who were on site during the "repair" of the pump. Those customers commented that the cost was reasonable considering that the damaged pump was replaced with a new pump. Staff agrees that the cost of the repair appears to be a bit high and would be more in line with the cost of purchasing a reconditioned pump. Based on the cost documentation provided is not clear whether or not the pump is a repair or a replacement. Therefore, staff believes it is reasonable to consider the cost to be a replacement that should be capitalized. Therefore, staff has decreased this account by $5,999 to reclassify the replacement pump to plant Account No. 311.

Staff has reclassified $121 for water and $113 for wastewater from contractual services-other to Account No. 620 and 720 (Materials and Supplies) to reclassify materials and supplies recorded in the wrong account. Staff has increased contractual services-other by $172 for wastewater to reflect repair cost incurred by the utility but not recorded during the test year.

Staff's net adjustments to this account is an increase of $397 for water and $5,455 for wastewater. Staff recommends contractual services-other of $9,810 for water and $9,325 for wastewater.

Rents - (640/740) - The utility did not record an amount for this account during the historic test year. Audit Disclosure No. 1 specifies that the utility plant sits on property that is not owned by the utility, but by Universal Sonlight, Inc., a Nevada Corporation as Trustee.

Staff has recommended in Issue No. 4 that the appropriate rent amount for land should be the annual rate of return, based on the utility's current capital structure, times the original cost of the land in service. Staff was able to determine the original cost of the land. According to the Marion County Property Appraiser, the original cost of the land per acre when the utility was constructed was $1,600. As discussed earlier, staff's recommended rate of return is 10.00%. Therefore, staff increased this account by $405 ($1,600 x 2.53 acres x 10.00%) for water and by $582 ($1,600 x 3.64 acres x 10.00%) for wastewater to reflect annual rent expense.

Transportation Expense- (650/750) - The utility did not record an amount in this account during the historic test year. The owner and maintenance person use their personal vehicles to meet with regulatory personnel, run errands, make regular visits to Aqua Pure and JNP's home office, perform minor repairs and upkeep at the plants that are outside of Aqua Pure's contract. Staff has estimated that the owner and maintenance person travels approximately 200 miles per month performing these functions. Staff has increased this account by $348 each for water and wastewater for transportation expense (200 miles a month x 12 months x $0.29 a mile).

Insurance Expense- (655/755) - The utility did not record an amount in this account during the test year. The utility has requested general liability insurance for this utility and has provided staff with a written estimate for $1,714. The insurance expense should be allocated 50/50 to the water and wastewater plant. Therefore, staff has increased this account by $857 ($1,714 ÷ 2) each for water and wastewater to reflect the requested insurance. The utility should be required to provide staff with proof of insurance within 90 days of the Commission's final order.

Regulatory Commission Expense-(665/765) - The utility recorded $382 for water and $357 for wastewater in this account for the historic test year. These amounts are Regulatory Assessment Fees (RAFs) and should be recorded as taxes other than income. Staff has reclassified $382 for water and $357 for wastewater from this account to the taxes other than income account. The utility paid a $500 rate case filing fee for water and wastewater each. Staff has increased regulatory commission expense by $125 ($500/4 years) for water and wastewater each to amortize rate case expense over four years. Staff recommends regulatory commission expense of $125 for water and wastewater each.

The utility has requested $5,000 for the services of its attorney during this case. This request was not accompanied by any cost justification. Rule 25-30.455(1), Florida Administrative Code, specifies that:

> If a utility that chooses to utilize the staff assistance option employs outside experts to assist in developing information for staff or to assist in evaluating staff's schedules and conclusions, the reasonable and prudent expense will be recovered through the rates developed by staff.

The utility hired its attorney after a disagreement with staff regarding two issues: the maintenance expense allowance and the regulatory treatment of the land. Staff believes that the SARC provisions contained in the Florida Statutes were designed so that the high cost of rate case expense would be minimized for small utility's with small customer bases. In a SARC, the Commission staff assists the utility in providing the information necessary to justify rate base, rate of return, expenses, and ultimately rates such that the Commission can approve rates on a going forward basis. Throughout this case, Mr. Hein has inquired about different items including insurance and pro forma plant. Staff has told Mr. Hein what was needed by staff to consider these items in this rate proceeding and Mr. Hein has provided staff with this information.

As discussed above Mr. Hein had a disagreement with staff about the maintenance allowance. Staff asked Mr. Hein for a list of hours and duties to justify the hours Mr. Hein believed was reasonable. Mr. Hein sent a faxed list of hours to his attorney and the attorney included this list in a letter to staff. Staff does not believe that it was prudent or necessary to incur the cost of an attorney to provide this information to staff. This information was developed by Mr. Hein and could have been sent directly to staff as Mr. Hein has done throughout this case rather than through the attorney.

Included in the attorney's letter containing the hourly justification for the maintenance person was the utility's position regarding the regulatory treatment of the land. Staff believes that it has adequately stated the utility's position regarding the land in Issue No. 4. Thus, staff believes that the recommendation contains sufficient analysis of both sides such that the Commission can make an informed decision. Further, the letter from the

attorney references the history of the purchase which was already addressed by the Commission in the transfer docket. This item is discussed in Issue No. 20.

Based on the forgoing, staff does not believe that the cost the utility has incurred for an attorney in this rate case is reasonable or prudent. Even if staff believed that some of the cost incurred by the attorney was reasonable, the utility has not submitted cost documentation justifying its request. Staff believes that the utility could have provided the requested information to staff without the use of an attorney. Staff also believes that, in both the staff report and this recommendation, staff has adequately presented the utility's contentions, which were reiterated by the attorney. Further, staff believes that allowing these expenses would be an unreasonable burden on the utility's small rate base considering staff's discussion above.

Miscellaneous Expense-(675/775) - The utility recorded $0 for water and $30 for wastewater in this account for the test year. The utility's annual bank fee for holding an account is $60. The utility recorded an annual bank fee of $30 in the miscellaneous account for wastewater but did not record this amount for water. Therefore, staff has increased this account by $30 for water to reflect the water system's share of bank fees. The utility did not record the cost incurred ($1,193) in obtaining a wastewater operating permit during the test year. Staff has amortized this cost over five years (the life of the permit) and increased this account by $239 for wastewater to reflect one fifth of the cost associated with the operating permit.

Operation and Maintenance Expense (O&M Summary) - The total O&M adjustment is an increase of $2,668 for water $8,393 for wastewater. Staff's recommended O&M expenses are $16,902 for water and $15,943 for wastewater. O&M expenses are shown on Schedules 3-D and 3-E.

Depreciation Expense - The utility recorded net depreciation expense of $2,400 ($2,841 depreciation and $441 amortization of CIAC) for water and $6,023 ($6,659 depreciation and $636 amortization of CIAC) for wastewater. Depreciation expense has been recalculated by staff using the prescribed rates in Rule 25-30.140, Florida Administrative Code. Staff has calculated depreciation expense of $4,359 for water and $19,567 for wastewater. Therefore, staff has increased depreciation expense by

$1,518 ($4,359 - $2,841) for water and $12,908 ($19,567 - $6,659) for wastewater to reflect staff's calculated depreciation expense. Staff has decreased depreciation expense by $2,196 for water and $15,166 for wastewater to reflect non-used and useful depreciation. Staff has recalculated amortization of CIAC, based on composite depreciation rates, of $703 for water and $1,772 for wastewater. Therefore, staff has decreased depreciation expense by $262 ($441 - $703) for water and $1,136 ($636 - $1,772) for wastewater to reflect staff's calculated amortization of CIAC. Non-used and useful depreciation, and amortization of CIAC has a negative impact on depreciation expense. Net depreciation expense is $1,460 for water and $2,629 for wastewater.

Taxes Other Than Income - The utility recorded taxes other than income of $424 for water and $1,072 for wastewater during the test year. Staff has increased this account by $382 for water and $357 for wastewater to reclassify RAFs from the regulatory commission expense account. Staff has increased taxes other than income by $329 for water and $316 for wastewater to reflect RAFs on staff's annualized revenue.

Staff has decreased taxes other than income by $122 for water and $584 for wastewater to reflect non-used and useful tangible property taxes associated with non-used and useful tangible plant. Staff recommends taxes other than income of $1,013 for water and $1,161 for wastewater.

Income Tax - The utility recorded income tax of $0 for water and wastewater. East Marion is a 1120 C corporation; however, the utility has a large amount of loss carry forwards based on its current income tax return. These loss carry forwards are in excess of staff's recommended return on equity, and will continue to be so over the next couple of years. Therefore, staff has not made an adjustment to this account.

Operating Revenues - An adjustment to increase operating revenues by $5,847 for water $12,696 for wastewater has been made to reflect the change in revenue required to cover expenses and allow the recommended return on investment.

Taxes Other Than Income - An adjustment to increase taxes other than income by $263 for water and $571 for wastewater has been made to reflect regulatory assessment fees of 4.5% on the change in operating revenues.

Operating Expenses Summary - The application of staff's recommended adjustments to the audited test year operating expenses results in staff's calculated operating expenses of $18,679 for water and $21,263 for wastewater.

Operating expenses are shown on Schedule Nos. 3-A and 3-B. The related adjustments are shown on Schedule No. 3-C.

ISSUE 9: What are the appropriate revenue requirements?

RECOMMENDATION: The appropriate revenue requirements for water and wastewater are $21,641 and $27,645, respectively. However, if Order No. PSC-02-0898-PAA-WS, issued July 5, 2002, in Docket No. 020006-WS, is not protested, the appropriate revenue requirements for water and wastewater are $21,716 and $27,797, respectively. (MONIZ, FITCH)

STAFF ANALYSIS: The utility should be allowed an annual increase of $5,847 (37.02%) for water and $12,696 (84.93%) for wastewater. This will allow the utility the opportunity to recover its expenses and earn a 10.00% return on its investment. The calculations are as follows:

	Water	Wastewater
Adjusted rate base	$29,619	$63,821
Rate of Return	x .10	x .10
Return on investment	$2,962	$6,382
Adjusted O & M expense	$15,943	$16,902
Depreciation expense (Net)	$1,460	$2,629
Taxes Other Than Income	$1,276	$1,732
Revenue Requirement	$21,641	$27,645
Adjusted Test Year Revenues	$15,794	$14,949
Percent Increase/(Decrease)	37.02%	84.93%

Revenue requirements are shown on Schedules Nos. 3-A and 3-B.

As discussed in Issue No. 6, Order No. PSC-02-0898-PAA-WS, issued July 5, 2002, in Docket No. 020006-WS, establishes a new leverage formula to determine the appropriate range of return on equity. However, the protest period for this order expires one day after the filing of this recommendation. If this Order is not protested, the appropriate revenue requirements for water and wastewater should be $21,716 and $27,797, respectively.

ISSUE 10: Is a continuation of the utility's current rate structure for its water system appropriate in this case, and, if not, what is the appropriate rate structure?

RECOMMENDATION: No, a continuation of the utility's current rate structure for its water system is not appropriate in this case. The rate structure should be changed to a two-tier inclining-block rate structure. The usage blocks should be set at 0-10,000 gallons (10 kgal) and for usage above 10 kgal, with usage block rate factors of 1.0 and 1.50, respectively. A 30% conservation adjustment should also be implemented. (LINGO)

STAFF ANALYSIS: The utility's current rate structure consists of a traditional base facility charge (BFC)/gallonage charge rate structure, in which the BFC is $8.70 per month and all usage per month is charged $1.27 per kgal. Traditionally, this has been the Commission's preferred rate structure, because it is a usage sensitive rate structure which allows customers to reduce their total bill by reducing their water consumption. However, in response to the Governor's stated water conservation policy, as well as water supply concerns throughout the state, the state's five Water Management Districts have requested the implementation of inclining-block rate structures whenever possible. The Commission has complied with this request in the majority of recent cases in which utilities have sought rate relief.

The utility's current consumptive use permit (CUP) as issued by the St. John's River Water Management District (SJRWMD or District) requires that the utility implement a conservation rate structure such as an inclining-block or seasonal rate structure. Based on the foregoing, staff recommends that East Marion's current rate structure be eliminated to be consistent not only with current Commission practice, but with the overall statewide goal of eliminating conservation-discouraging water rate structures, and to enable the utility to comply with one of the requirements of its CUP.

The goal of the inclining-block rate structure is to reduce average demand. Under this rate structure, it is anticipated that demand in the higher usage block(s) will be more elastic (responsive to price) than demand in the first block. Water users with low monthly usage will benefit, while water users with higher monthly use will pay increasingly higher rates, thereby creating a greater incentive to conserve. Factors to consider when designing

inclining-block rates include, but are not limited to, the selection of the appropriate: a) conservation adjustment; b) usage blocks; and c) usage block rate factors. Consideration of other rate structure issues, such as a target usage established by environmental regulators, elasticity of demand, and revenue stability will also have an impact on how each of the components in the inclining-block rate structure should be designed.

Conservation Adjustment

A rate design adjustment which results in more conservation-oriented rates is a conservation adjustment, whereby a portion of the cost recovery is shifted from the BFC to the gallonage charge. This adjustment is made in the majority of water rate cases. Staff analyzed conservation adjustments of 10%, 20% and 30%. The results of our analysis, pre-repression adjustment, is shown below.

CONSERVATION ADJUSTMENT ANALYSIS			
	PERCENTAGE PRICE CHANGES AT DIFFERENT LEVELS OF CONSERVATION ADJUSTMENTS		
MONTHLY USAGE	10%	20%	30%
0 kgal	37.1%	21.8%	6.7%
1 kgal	37.6%	25.7%	13.8%
2 kgal	38.0%	28.6%	19.4%
3 kgal	38.3%	31.0%	23.8%
4 kgal	38.5%	32.9%	27.4%
5 kgal	38.7%	34.6%	30.4%
10 kgal	39.4%	39.7%	40.1%
20 kgal	40.0%	44.3%	48.6%
35 kgal	40.3%	47.0%	53.8%

As seen above, at the 10% conservation adjustment level, lesser monthly water users receive virtually no benefit, and greater monthly users receive no greater incentive, because the percentage increase is spread relatively evenly across all usage

levels. Therefore, the 10% adjustment was removed from consideration.

A review of the remaining conservation adjustments reveals that the 30% adjustment results in the lowest percentage increases at more nondiscretionary (e.g., 5 kgal or less) monthly usage levels, while resulting in the highest percentage increases at usage levels with more monthly discretionary consumption (e.g., 10 kgal or more). This provides lesser water users with the most benefit, while providing the high water users with greater incentive to conserve. Therefore, staff recommends that a 30% conservation adjustment be implemented.

Usage Blocks and
Usage Block Rate Factors

Analysis of the utility's test year residential billing and consumption information indicates that the overall residential average monthly consumption is approximately 10.5 kgal. This is greater than the target desired by the SJRWMD. Based on 150 gallons per day per capita and an average of two persons per household, the District's targeted average monthly consumption is approximately 9.0 kgal. Further analysis of the billing and consumption data indicates that approximately 65% of customers' bills are accounted for at monthly consumption per customer of 10 kgal or less, representing average monthly consumption for this group of 5.0 kgal. However, the remaining bills represent average monthly consumption of 21.0 kgal.

In this case, staff believes it is important to target average monthly consumption greater than 10 kgal with a higher usage rate. Therefore, we examined two different two-tier inclining-block rate structures. Both had usage blocks of 0-10 kgal and 10+ kgal, with rate factors for the second block of 1.25 and 1.50, respectively. We also considered a three-tier rate structure with usage blocks of 0-5 kgal, 5-10 kgal and 10+ kgal, with rate factors of 1.25 and 1.5 for the second and third usage blocks. The results of our analysis are included in the table on the following page.

ANALYSIS OF USAGE BLOCKS AND USAGE BLOCK RATE FACTORS			
	PERCENTAGE PRICE CHANGES AT DIFFERENT USAGE BLOCKS (KGAL) AND RATE FACTORS		
MONTHLY USAGE	Usage Blocks 0-10/10+ Rate Factors 1.0/1.25	Usage Blocks 0-10/10+ Rate Factors 1.0/1.50	Usage Blocks 0-5/5-10/10+ Rate Factors 1.0/1.25/1.50
0 kgal	6.7%	6.7%	6.7%
1 kgal	12.1%	10.6%	9.8%
2 kgal	16.4%	13.7%	12.3%
3 kgal	19.7%	16.1%	14.2%
4 kgal	22.5%	18.1%	15.8%
5 kgal	24.8%	19.8%	17.1%
10 kgal	32.1%	25.1%	31.2%
20 kgal	52.7%	55.7%	56.0%
35 kgal	65.2%	74.1%	70.9%

As discussed earlier, the goal of the inclining-block rate structure is to reduce average demand. This is accomplished by having water users with higher monthly use receive increasingly higher percentage increases, thereby creating a greater incentive to conserve. Based on this criteria, the results of staff's analysis at usage levels of 10 kgal or greater are ambiguous. At monthly usage of 10 kgal, the two-tier inclining-block rate structure with a rate factor of 1.25 for the second block would receive the greatest percentage increase. At the 20 kgal usage level, the three-tier inclining-block rate structure provides the greatest incentive to conserve, while the two-tier structure with a rate factor of 1.5 for the second block provides the greatest incentive to conserve at monthly usage of 35 kgal. At nondiscretionary usage levels, the benefit of providing lesser water users the lowest price increase is best accomplished using the three-tier inclining-block rate structure.

When the results of our analysis are ambiguous, another method of analysis is to calculate the total percentage point spread between 1 kgal of consumption and the greatest consumption level examined. In this case, the evaluation yields the following results:

COMPARISON OF PRICE INCREASE SPREADS			
	PERCENTAGE PRICE CHANGES AT DIFFERENT USAGE BLOCKS (KGAL) AND RATE FACTORS		
MONTHLY USAGE	Usage Blocks 0-10/10+ Rate Factors 1.0/1.25	Usage Blocks 0-10/10+ Rate Factors 1.0/1.50	Usage Blocks 0-5/5-10/10+ Rate Factors 1.0/1.25/1.50
1 kgal	12.1%	10.6%	9.8%
35 kgal	65.2%	74.1%	70.9%
TOTAL PERCENTAGE POINT SPREAD =	53.1%	63.5%	61.1%

As shown in the above table, the two-tier inclining-block rate structure with a rate factor of 1.5 in the second block produces the greatest total percentage point spread between 1 kgal of consumption and the greatest consumption level examined.

Based on the foregoing, a continuation of the utility's current rate structure for its water system is not appropriate in this case. The rate structure should be changed to a two-tier inclining-block rate structure. The usage blocks should be set at 0-10,000 gallons (10 kgal) and for usage above 10 kgal, with usage block rate factors of 1.0 and 1.50, respectively. A 30% conservation adjustment should also be implemented.

ISSUE 11: Is an adjustment to reflect repression of consumption appropriate in this case due to the price increase and change in rate structure, and, if so, what are the appropriate repression adjustments to the respective water and wastewater systems?

RECOMMENDATION: Yes, repression adjustments of 722.5 kgal for the water system and 578.0 kgal for the wastewater system are appropriate. In order to monitor the effects of both the change in rate structure and the recommended revenue increase, the utility should be ordered to prepare monthly reports detailing the number of bills rendered, the consumption billed and the revenue billed. These reports should be provided, by customer class and meter size, on a quarterly basis for a period of two years, beginning with the first billing period after the increased rates go into effect. (LINGO)

STAFF ANALYSIS: Based on information contained in our database of utilities receiving rate increases and decreases, there were eleven water utilities which experienced similar price increases, as well as very comparable prior consumption and prior prices, based on monthly usage levels below 10 kgal. On average, these utilities experienced an approximate 26% price increase while experiencing an approximate 9.4% reduction (repression) in average monthly consumption. Because of the comparability of these eleven utilities to East Marion, we believe an anticipated repression adjustment of 9.4% in the first usage block is reasonable and appropriate.

An examination of our database revealed no sufficiently similar utilities upon which staff could base a recommended repression adjustment for monthly usage levels above 10 kgal. Absent any comparable utilities, staff assumed the following relationship:

$$\frac{\text{Avg price incr of all utilities of 33.3\%}}{\text{Avg consump decr of all utilities of 7.0\%}} = \frac{\text{East Marion's avg price incr of 57.5\%}}{X}$$

Solving for X, the anticipated repression in the second usage block is 12.2%. Based on the average monthly consumption per customer in the second usage block of 21.0 kgal, staff believes this adjustment is reasonable.

Therefore, the overall repression adjustment to the water system is 722.5 kgal, with a corresponding adjustment of 578.0 kgal to the wastewater system. In order to monitor the effects of both

the changes in rate structure and the recommended revenue increases, the utility should be ordered to prepare monthly reports detailing the number of bills rendered, the consumption billed and the revenue billed. These reports should be provided, by customer class and meter size, on a quarterly basis for a period of two years, beginning with the first billing period after the increased rates go into effect.

ISSUE 12: What are the appropriate rates for each system?

RECOMMENDATION: The recommended rates should be designed to produce revenue of $21,166 for water and $27,270 for wastewater excluding miscellaneous service charges, as shown in the staff analysis. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates should not be implemented until notice has been received by the customers. The notice should include contact numbers for emergency, billing, and general inquiries. The utility should provide proof of the date notice was given within 10 days after the date of the notice. Further, the utility should modify its customer bills to include a telephone number customers can contact for billing inquiries. However, if Order No. PSC-02-0898-PAA-WS, issued July 5, 2002, in Docket No. 020006-WS, is not protested, staff should be given administrative authority to design rates to produce revenue of $21,241 for water and $27,422 for wastewater excluding miscellaneous service charges. (MONIZ, FITCH, LINGO)

STAFF ANALYSIS: As discussed in Issue No. 9, the appropriate revenue requirement is $21,641 for the water system and $27,645 for the wastewater system. However, for rate setting purposes, the revenue requirement, excluding miscellaneous service charges of $475 for water and $375 for wastewater, is $21,166 for water and $27,270 for wastewater. Miscellaneous service charges should be used to reduce the revenue requirement recovered through rates; therefore, staff has designed rates to produce the revenue requirement excluding miscellaneous service charges. As discussed in Issue No. 10, staff recommends that the water system's rate structure be changed to a two-tier inclining-block rate structure, with usage blocks of 0-10 kgal and 10+ kgal. Staff recommends that the usage block rate factors be set at 1.0 and 1.50, respectively, and that a 30% conservation adjustment be implemented. As discussed in Issue No. 11, staff recommends that the appropriate repression adjustment for the water system is 722.5 kgal, and that the corresponding repression adjustment for the wastewater system is 578.0 kgal.

Staff has calculated rates using projected test year number of bills and projected consumption as well as the repression adjustment discussed above. Staff's calculated rates for wastewater have been calculated based on 80% of the projected water used by residential customers less a repression adjustment and

actual usage for the general service customers. Schedules of the rates and rate structure in effect at the end of the test year and staff's preliminary recommended rates and rate structure are as follows:

Monthly Rates - Water
Residential and General Service

Base Facility Charge

Meter Sizes	Test Year Rates	Staff's Recommended Rates
5/8" x 3/4"	$8.70	$9.28
3/4"	$13.05	$13.92
1"	$21.75	$23.20
1 ½"	$43.50	$46.40
2"	$69.60	$74.24
3"	$139.20	$148.48
4"	$217.50	$232.00
6"	$435.00	$464.00
Gallonage Charge		
Residential Per 1,000 Gallons		
0-10,000 Gallons	$1.27	$1.93
Above 10,000 Gallons	$1.27	$2.90
General Service		
Per 1,000 Gallons	$1.27	$2.27

Monthly Rates - Wastewater

RESIDENTIAL

	Test Year Rates	Staff's Recommended Rates
Base Facility Charge		
Meter Size:		
All Meter Sizes	$9.61	$14.37
Gallonage Charge		
Per 1,000 Gallons (10,000 gallon cap)	$1.83	$4.41

Monthly Rates - Wastewater

GENERAL SERVICE

	Test Year	Staff's Recommended Rates
Base Facility Charge		
Meter Sizes		
5/8" x 3/4"	$9.61	$14.37
3/4"	$14.42	$21.56
1"	$24.03	$35.93
1 ½"	$48.05	$71.86
2"	$76.88	$114.97
3"	$153.76	$229.95
4"	$240.25	$359.29
6"	$480.50	$718.58
Gallonage Charge		
Per 1,000 Gallons	$1.83	$5.29

Approximately 32% ($6,808) of the water and 38% ($10,376) of the wastewater system revenue requirement net of other revenues is recovered through the recommended base facility charge. The fixed costs are recovered through the BFC based on the number of factored ERCs. The remaining 68% ($14,358) for water and 62% ($16,894) for

wastewater of the revenue requirement net of other revenues represents revenues collected through the consumption charge based on the number of factored gallons.

The following is a comparison of residential water and wastewater rates at 3,000, 5,000, and 10,000 gallons. Average residential use for this utility is 9,466 gallons per month for water and 5,653 capped gallons per month for wastewater.

	Existing Rate		Recommended Rate	
Gallons	Water	Wastewater	Water	Wastewater
3,000	$12.51	$15.10	$15.07	$27.60
5,000	$15.05	$18.76	$18.93	$36.42
10,000	$21.40	$27.91	$28.58	$58.47

If the Commission approves staff's recommendation, these rates should be effective for service rendered as of the stamped approval date on the tariff sheets provided customers have received notice. The tariff sheets will be approved upon staff's verification that the tariffs are consistent with the Commission's decision and the customer notice is adequate.

If the effective date of the new rates falls within a regular billing cycle, the initial bills at the new rate may be prorated. The old charge should be prorated based on the number of days in the billing cycle before the effective date of the new rates. The new charge should be prorated based on the number of days in the billing cycle on and after the effective date of the new rates. In no event should the rates be effective for service rendered prior to the stamped approval date.

At the customer meeting, many customers commented that they did not know who to call for emergencies, billing inquiries, and general inquiries. This is partly because the utility has changed both the contracted management and operator. Staff recommends that the utility should be required to add a billing inquiry phone number to its customer bills. This is consistent with the information contained on the bills provided by the previous billing company. Utility contact information will be further discussed in Issue No. 18.

As discussed in Issue No. 6, Order No. PSC-02-0898-PAA-WS, issued July 5, 2002, in Docket No. 020006-WS, establishes a new equity ratio to be used by the Commission. However, the protest period for this order expires one day after the filing of this recommendation. If this Order is not protested, staff should be given administrative authority to design rates to produce revenue of $21,241 for water and $27,422 for wastewater excluding miscellaneous service charges.

ISSUE 13: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

RECOMMENDATION: The water and wastewater rates should be reduced as shown on Schedules 4 and 4A, to remove rate case expense grossed-up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should 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. (MONIZ, FITCH)

STAFF ANALYSIS: Section 367.0816, Florida Statutes requires that the rates be reduced immediately following the expiration of the four year period by the amount of the rate case expense previously included in the rates. The reduction will reflect the removal of revenues associated with the amortization of rate case expense and the gross-up for regulatory assessment fees which is $131 annually for water and $131 annually for wastewater. Using the utility's current revenues, expenses, capital structure and customer base the reduction in revenues will result in the rate decreases as shown on Schedules Nos. 4 and 4A.

The utility should be required to file revised tariff sheets no later than one month prior to the actual date of the required rate reduction. The utility also should be required to file a proposed customer notice 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 should 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.

ISSUE 14: Should the utility's current system capacity charge be revised to reflect a main extension charge and a plant capacity charge, and if so, what are the appropriate charges?

RECOMMENDATION: Yes, the utility's current system capacity charge should be revised to reflect a main extension charge of $255 for water and $517 for wastewater and a plant capacity charge of $112 for water and $358 for wastewater. The utility should file revised tariff sheets and proposed notice which are consistent with the Commission's vote. The service availability charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed and provided that customers have been noticed. (MONIZ, FITCH)

STAFF ANALYSIS: The utility's existing tariff authorizes a system capacity charge of $300 for water and $715 for wastewater. Staff is recommending recalculating the existing system capacity charge as a plant capacity and main extension charge.

The utility's current contribution level is 15.41% for water and 5.45% for wastewater. The utility's water and wastewater facilities can accommodate additional connections.

In order to evaluate the utility's service availability charges, staff relied on Rule 25-30.580, Florida Administrative Code, which states in part that:

> (1) The maximum amount of contributions-in-aid-of-construction, net of amortization, should not exceed 75% 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
>
> (2) 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 lines and sewage collection systems.

Staff has designed service availability charges such that the utility's contribution level will approach the maximum level prescribed in Rule 25-30.580, Florida Administrative Code, at build

out. A schedule of the utility's existing charges and staff's recommended charges are as follows:

Water

System Capacity Charge	Existing Charge	Recommended Charge
Residential-Per ERC (349 GPD)	$300.00	N/A
All Others-Per Gallon	N/A	N/A
Main Extension Charge		
Residential-Per ERC (349 GPD)	N/A	$255.00
All Others-Per Gallon	N/A	$0.73
Plant Capacity Charge		
Residential-Per ERC (349 GPD)	N/A	$112.00
All Others-Per Gallon	N/A	$0.32

Wastewater

System Capacity Charge	Existing Charge	Recommended Charge
Residential-Per ERC (349 GPD)	$715.00	N/A
All Others-Per Gallon	N/A	N/A
Main Extension Charge		
Residential-Per ERC (349 GPD)	N/A	$517.00
All Others-Per Gallon	N/A	$1.48
Plant Capacity Charge		
Residential-Per ERC (349 GPD)	N/A	$358.00
All Others-Per Gallon	N/A	$1.03

The service availability charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed and provided customers have been notice.

ISSUE 15: What are the appropriate customer deposits for this utility?

RECOMMENDATION: The appropriate customer deposits should be as specified in the staff analysis. The utility should file revised tariff sheets and proposed notice, which are consistent with the Commission's vote. The customer deposits should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed and provided customers have been noticed. (MONIZ, FITCH)

STAFF ANALYSIS: Rule 25-30.311, Florida Administrative Code, provides guidelines for collecting, administering and refunding customer deposits. It also authorizes customer deposits to be calculated using an average monthly bill for a 2-month period. The utility's existing tariff authorizes the utility to collect a $10 customer deposit for water and for wastewater. This amount will not provide an average bill for a 2-month period based on staff's recommended rates in Issue No. 11. Therefore, staff has calculated customer deposits using recommended rates and an average monthly bill for a 2-month period. A schedule of the utility's existing and staff's recommended deposits follows:

Water

Residential and General Service

Meter Size	Existing Deposit	Staff's Recommended Deposit
5/8" x 3/4"	$10.00	$61.00
All over 5/8" x 3/4"	$10.00	2 x Average Bill

Wastewater

Residential and General Service

Meter Size	Existing Deposit	Staff's Recommended Deposit
5/8" x 3/4"	$10.00	$80.00
All over 5/8" x 3/4"	$10.00	2 x Average Bill

The utility should file revised tariff sheets and , which are consistent with the Commission's vote. The customer deposits should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed and provided customers have been noticed.

ISSUE 16: Should the utility's request to implement a late payment charge be approved and, if so, what is the appropriate charge?

RECOMMENDATION: Yes, the utility should be allowed to implement a $5.00 late payment charge. The utility should file revised tariff sheets and proposed notice, which are consistent with the Commission's vote. The late payment charge should become effective on the stamped approval date of the revised tariff sheets, if no protest is filed and provided customers have been noticed. (MONIZ, FITCH)

STAFF ANALYSIS: The utility requested, with its SARC application, approval to implement a $5.00 late payment charge. Staff believes that the purpose of this charge is not only to provide an incentive for customers to make timely payment, thereby reducing the number of delinquent accounts, but also to place the cost burden of processing such delinquencies solely upon those who are the cost causers. The utility's contracted billing company charges $5 per bill to process late payment charges. Staff believes that this amount is reasonable.

In the past, late payment fee requests have been handled on a case-by-case basis. The Commission has approved late fees in the amount of $5 in the following Orders: Order No. PSC-98-1585-FOF-WU, issued November 25, 1998, in Docket No. 980445-WU; Order No. PSC-01-2093-TRF-WS, issued October 22, 2001, in Docket No. 011034-WS; and Order No. PSC-01-2468-TRF-WU, issued December 18, 2001, in Docket No. 011482-WU.

Presently, Commission rules provide that late payers may be required by the utility to provide an additional deposit. However, the Commission found in Order No. PSC-96-1409-FOF-WU, issued November 20, 1996, in Docket No. 960716-WU, Crystal River Utilities, Inc., that there is no further incentive for either delinquent or late paying customers to pay their bills on time after the additional deposit. In that same Order, the Commission also found that the cost causer should pay the additional cost incurred to the utility by late payments, rather than the general body of the utility's rate payers.

Staff believes that the goal of allowing late fees to be charged by a utility is two fold: first, to encourage current and future customers to pay their bills on time; and second, if payment

is not made on time, to insure that the cost associated with the late payments is not passed on to the customers who do pay on time.

Therefore, staff recommends that, consistent with the dockets cited above, a $5.00 late payment should be approved. The utility should file revised tariff sheets and proposed notice, which are consistent with the Commission's vote. The late payment charge should become effective on the stamped approval date of the tariff sheets, if no protest is filed and provided customers have been noticed.

ISSUE 17: Should the recommended rates be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility?

RECOMMENDATION: Yes. Pursuant to Section 367.0814(7), Florida Statues, the recommended rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the utility should be subject to the refund provisions discussed below in the staff analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(7), Florida Administrative Code, the utility should file reports with the Division of Commission Clerk and Administrative Services no later than 20 days after each monthly billing. These reports should indicate the amount of revenue collected under the increased rates subject to refund. (FITCH, MONIZ, JAEGER)

STAFF ANALYSIS: This recommendation proposes an increase in water and wastewater rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the utility. Therefore, pursuant to Section 367.0814(7), Florida Statutes, in the event of a protest filed by a party other than the utility, staff recommends that the recommended rates be approved as temporary rates. The recommended rates collected by the utility should be subject to the refund provisions discussed below.

The utility should be authorized to collect the temporary rates upon the staff's approval of an appropriate security for both the potential refund and a copy of the proposed customer notice. The security should be in the form of a bond or letter of credit in the amount of $12,605. Alternatively, the utility could establish an escrow agreement with an independent financial institution.

If the utility chooses a bond as security, the bond should contain wording to the effect that it will be terminated only under the following conditions:

1) The Commission approves the rate increase; or

2) If the Commission denies the increase, the utility should refund the amount collected that is attributable to the increase.

If the utility chooses a letter of credit as a security, it should contain the following conditions:

1) The letter of credit is irrevocable for the period it is in effect.

2) The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

If security is provided through an escrow agreement, the following conditions should be part of the agreement:

1) No refunds in the escrow account may be withdrawn by the utility without express approval of the Commission.

2) The escrow account should be an interest bearing account.

3) If a refund to the customers is required, all interest earned by the escrow account should be distributed to the customers.

4) If a refund to the customers is not required, the interest earned by the escrow account should revert to the utility.

5) All information on the escrow account should be available from the holder of the escrow account to a Commission representative at all times.

6) The amount of revenue subject to refund should be deposited in the escrow account within seven days of receipt.

7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its

order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.

8) The Director of Commission Clerk and Administrative Services must be a signatory to the escrow agreement.

This account must specify by whom and on whose behalf such monies were paid.

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. Irrespective of the form of security chosen by the utility, an account of all monies received as result of the rate increase should be maintained by the utility. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code. The utility should maintain a record of the amount of the bond, and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(7), Florida Administrative Code, the utility should file reports with the Division of Commission Clerk and Administrative Services no later than 20 days after each monthly billing. These reports should indicate the amount of revenue collected under the increased rates subject to refund.

ISSUE 18: Should East Marion Sanitary Systems, Inc. be ordered to show cause, in writing, within 21 days, why it should not be fined for: (1) Failing to provide customers with telephone numbers for regular and after hours and other information as required in Rules 25-30.330(1) and (2), Florida Administrative Code, and (2) for failing to follow the correct procedures for discontinuance of service as set forth in Rule 25-30.320, Florida Administrative Code?

RECOMMENDATION: No, show cause proceedings should not be initiated at this time. However, the utility should be directed to review Rule 25-30.320, Florida Administrative Code, in detail to insure that it knows under what conditions service may be discontinued and that it uses the correct procedures for discontinuance of service. If a courtesy call is made by the utility to a customer, the utility should specifically advise the customer that the customer must also receive five working days written notice before service may be discontinued. Moreover, the utility should be directed to place emergency numbers in a prominent place at the plant, and to place the number for billing inquiries and emergency service on its bills to its customers. (JAEGER, MONIZ, FITCH)

STAFF ANALYSIS: On March 27, 2002, staff received a call from Ms. Tonia Nieves who was very concerned that her water and wastewater service was about to be cut off. She states that Mr. Herbert Hein, President of East Marion, had called her, and advised her that he had not received her payment for the last bill, that it was past due, and that he could cut her off at any time. Ms. Nieves further stated that she never received any written notice, had mailed the payment two days ahead of the due date to a local post office box, and that it had always been received timely before. Ms. Nieves further advised staff that there was no local telephone number to call for either billing problems or in case of emergecy.

Upon investigation, staff discovered that Mr. Hein had a telephone number listed for the Michigan area and after a couple of calls reached him at this number. Mr. Hein denied that he had threatened to cut Ms. Nieves off, but that he had called her as a courtesy to tell her that he had not received payment. He also advised staff that he had just recently changed management companies, and that the customers had not yet been advised of this change and of the new address and telephone number.

Staff discussed the appropriate rules for cut off and the need for a local number in case of emergencies and also for billing inquiries. Mr. Hein stated that he had never intended to cut Ms. Nieves off and that he had since received payment for the past-due bill. Staff immediately called Ms. Nieves and advised her that her payment had been received and that she was not in danger of having her service cut off.

At the customer meeting held on April 18, 2002, several customers complained that they had also been threatened with cut off without receiving written notice, and that they had been unable to reach Mr. Hein and did not know of the change in management companies. However, these customers did admit that the local maintenance man, who was also a customer, apparently knew how to contact Mr. Hein. Also, at least two customers said they had been threatened with cut off for matters that were unrelated to their water and wastewater service (i.e., for either violating homeowners' covenants or for improper removal of dirt).

Staff notes that Ms. Nieves appeared to be traumatized by the telephone call of Mr. Hein, and that, with small children at home, she was very concerned that she would be without water. Also, other customers expressed the same concerns as Ms. Nieves.

Section 367.161, Florida Statutes, authorizes the Commission to assess a penalty of not more than $5,000 per day for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated any Commission rule, order, or provision of Chapter 367, Florida Statutes. Utilities are charged with the knowledge of the Commission's rules and statutes. Additionally, "it is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

Thus, any intentional act, such as the utility's improper discontinuance of service or failure to provide required information to customers, would meet the standard for a "willful violation." In In Re: Investigation Into The Proper Application of Rule 25-14.003, Florida Administrative Code, Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, the Commission having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "'willful'

implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id. at 6.

Although regulated utilities are charged with knowledge of the Commission's rules and statutes, staff does not believe that it is absolutely clear that East Marion has violated Rules 25-30.320 and 330, Florida Administrative Code. Rule 25-30.320(2)(g), Florida Administrative Code, states that a utility may discontinue service:

> For nonpayment of bills, . . . only after there has been a diligent attempt to have the customer comply, including at least 5 working days' written notice to the customers. Such notice shall be separate and apart from any bill for service. For purposes of this subsection, "working day" means any day on which the utility's office is open and the U.S. Mail is delivered.

Also, Rule 25-30.320(6), Florida Administrative Code, states:

> No utility shall discontinue service to any customer, between 12:00 noon on a Friday and 8:00 a.m. the following Monday or between 12:00 noon on the day preceding a public holiday and 8:00 a.m. the next working day; provided, however, that this provision shall not apply when:
> (a) Discontinuance is requested by or agreed to by the customer; or
> (b) A hazardous condition exists; or
> (c) Meters or other utility-owned facilities have been tampered with; or
> (d) Service is being obtained fraudulently or is being used for unlawful purposes.

It is unclear whether the utility has actually violated the above-noted provisions, but staff is very concerned about the traumatizing effects of verbal threats. Therefore, while staff is recommending that no show cause proceeding be initiated in regard to improper discontinuance of service, the utility should be required to review in detail under what conditions service may be discontinued, and, also, the proper procedures for discontinuing service. If the utility chooses to make a courtesy call, the utility should specifically state that the customer must also receive five working-days written notice before service may be discontinued.

Rule 25-30.330, Florida Administrative Code, provides:

> (1) Each utility shall provide its customers with the following information on at least an annual basis:
> (a) Telephone numbers regular and after hours;
> (b) Office address;
> (2) Each utility shall provide its customers, upon request, with such other information and assistance as reasonably may be necessary to ensure that the customer receives safe, efficient service.

Again, it is unclear whether the utility has violated these provisions, and staff recommends that no show cause proceeding be initiated based on the provisions in Rule 25-30.330, Florida Administrative Code. However, staff believes that the utility should be directed to place emergency numbers in a prominent place at the water treatment plant and wastewater plant, and to place the number for billing inquiries and emergency service on its bills to its customers.

ISSUE 19: Should East Marion Sanitary Systems, Inc. be ordered to show cause, in writing, within 21 days, why it should not be fined for its apparent violation of Section 367.1213, Florida Statutes, Rule 25-30.037(2)(q), Florida Administrative Code, or Order No. PSC-98-0928-FOF-WS, all of which require either ownership of the land or continued use of the land on which the utility treatment facilities are located?

RECOMMENDATION: Yes, East Marion Sanitary Systems, Inc., should be ordered to show cause, in writing, within 21 days, why it should not be fined $500 for its apparent violation of Section 367.1213, Florida Statutes, Rule 25-30.037(2)(q), Florida Administrative Code, or Order No. PSC-98-0928-FOF-WS. (JAEGER, FITCH)

STAFF ANALYSIS: By Order No. PSC-98-0928-FOF-WS, issued July 7, 1998, in Docket No. 971269-WS, the Commission approved the transfer of majority organizational control of East Marion Sanitary Systems, Inc., and East Marion Water Distribution, Inc., from Del-American/First Federal of Osceola to Herbert Hein. The water system was originally operated by East Marion Water Distribution, Inc., and the wastewater system was operated by East Marion Sanitary Systems, Inc. However, in that same Order, the Commission granted the request of Mr. Hein to discontinue use of the name, East Marion Water Distribution, Inc., and operate the water system and wastewater system under one name, East Marion Sanitary Systems, Inc.

Moreover, Order No. PSC-98-0928-FOF-WS further noted that "ownership of the land upon which the facilities are located was transferred to East Marion Sanitary System Trust and East Marion Water Distribution Trust." Because the deeds were not in the name of the utility, the Commission stated in the body of the Order that: "[w]e find it appropriate to require Mr. Hein to provide warranty deeds or other evidence in the name of the utility as proof that it owns or has continued use of the land upon which the facilities are located . . . ." Moreover, in the ordering paragraphs, the Commission ordered "that Herbert Hein shall provide warranty deeds or long-term leases in the name of East Marion Sanitary Systems, Inc. as proof that the utility owns or has continued use of the land upon which its facilities are located, within 60 days of the date this Order is issued."

In response to this requirement, Mr. Hein submitted an affidavit dated October 14, 1998, and received by the Legal Division on November 4, 1998, which provided as follows:

> TO: Florida Public Service Commission
>
> RE: Ownership of Tract "B & C" of Trails East Subdivision as recorded in Plat Book "Z", pages 37 through 40, inclusive, of the Public Records of Marion County, Florida.
>
> NOW COMES Herbert Hein being duly sworn deposes and says:
>
> That I Herbert Hein as President of East Marion Sanitary Systems Inc. have sole control and power of direction of the Land Trusts & Trustees for the above referenced properties. These properties are where the water & sewer plants for the utility are located.

The affidavit was signed by Mr. Hein and notarized by a notary public, Ms. Donna Congdon. Staff accepted this as proof of ownership or continued use of the land upon which the facilities are located and sent a memorandum, with the affidavit attached, to the Division of Records and Reporting saying that the requirements of Order No. PSC-98-0928-FOF-WS had been satisfied and that the docket could be closed (both that memorandum and affidavit are attached to this recommendation).

However, in this staff assisted rate case, Mr. Hein's attorney, by letter dated June 21, 2002, states:

> Mr. Hein acquired the Utility from a bank after foreclosure of a loan due to the bank from the original owner of the Utility and the development. Mr. Hein is not related to either the original owner or the bank in any way. The land was separately sold by the bank to a third party and Mr. Hein had to specifically work out an arrangement whereby the Utility was allowed to use that property. Therefore, during the certification proceeding undertaken by the Commission in Docket No. 971269, Mr. Hein provided an Affidavit that he had control and power of direction over the land trusts and trustees for those properties. This statement was made as a result of the fact that he had a five year arrangement in effect from

> 1995 through the year 2000, whereby he was allowed to utilize that property simply by paying the property taxes and maintaining the property. That original arrangement with the landowners has now expired and as such, the landowners are demanding rental payments in the amount of $600 per month. The Utility's current owner has no alternative but to pay that or to purchase the property at a cost of approximately $70,000, for which the current landowners have agreed to sell. In either case, the Utility has no choice but to pay either the monthly rental fee or to purchase the property and to receive a return on that investment, either of which must appropriately be recognized in rate setting. To do otherwise is not only unreasonable, but is confiscatory.

In the above-noted portion of the letter, the attorney writes that the Affidavit states that Mr. Hein "had control and power of direction over the land trusts and trustees for those properties," and then explains that this control was only for the five-year period ending December 31, 2000.

Staff notes that the affidavit specifically states that Mr. Hein has "sole control & power of direction of the Land Trusts & Trustees for the above-referenced properties," and says nothing about a time-period. Order No. PSC-98-0928-FOF-WS specifically references Rule 25-30.037, Florida Administrative Code, and subsection (2)(q) of that rule states that an application for transfer must contain:

> evidence that the utility owns the land upon which the utility treatment facilities are located, or a copy of an agreement which provides for the continued use of the land, such as a 99-year lease. The Commission may consider a written easement or other cost-effective alternative.

Staff believes that the afore-mentioned affidavit submitted by Mr. Hein was at best misleading, and that if the agreement with the Land Trusts and Trustees was truly only a 5-year agreement, then Mr. Hein and East Marion Sanitary Systems, Inc., were in violation of Section 367.1213, Florida Statutes, Rule 25-30.037(2)(q), Florida Administrative Code, and Order No. PSC-98-0928-FOF-WS requiring continued use of the land. Moreover, Order No. PSC-98-0928-FOF-WS specifically referred to a long-term lease, and five

years cannot be considered to be a long-term lease. Staff believes that a 5-year agreement in no way complies with either the statute, rule or the Order, and that five years is not "continued use of the land."

Section 367.161, Florida Statutes, authorizes the Commission to assess a penalty of not more than $5,000 per day for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated any Commission rule, order, or provision of Chapter 367, Florida Statutes. Utilities are charged with the knowledge of the Commission's rules and statutes. Additionally, "it is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

Thus, any intentional act, such as the utility's failure to comply with Section 367.1213, Florida Statutes, Rule 25-30.037(2)(q), Florida Administrative Code, or Order No. PSC-98-0928-FOF-WS, would meet the standard for a "willful violation." In In Re: Investigation Into The Proper Application of Rule 25-14.003, Florida Administrative Code, Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, the Commission having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id. at 6.

Staff believes that the submission of the afore-mentioned affidavit, without advising of the five-year time limitation, in effect, circumvented and violated both Section 367.1213, Florida Statutes, Rule 25-30.037(2)(q), Florida Administrative Code, and Order No. PSC-98-0928-FOF-WS. If the agreement had originally had no time limit and was later amended to reflect a 5-year time limit, then this would be a transfer in apparent violation of Section 367.071, Florida Statutes, and staff would propose the same fine for this apparent violation. However, this does not seem to be the case in this instance, and staff believes that there has been a violation of the above-noted statute, rule, and Order. Therefore, staff recommends that East Marion Sanitary Systems, Inc., be ordered to show cause, in writing, within 21 days, why it should not be fined $500 for its apparent violation of Section 367.1213,

ISSUE 20: Should the docket be closed?

RECOMMENDATION: No. If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, this docket should remain open for an additional 90-days from the effective date of the Order to allow staff to verify the utility has purchased insurance as described in Issue No. 8, that the utility has completed the pro forma improvements described in Issue No. 5, and that the utility has purchased the land on which its treatment systems are located or has entered into a long-term lease such as a 99-year lease (within 60-days) as described in Issue No. 4. Further, this docket should remain open pending the resolution of the show cause proceeding and any subsequent hearing. Upon verification of the above by staff and conclusion of the show cause proceeding, the docket may be administratively closed. (MONIZ, FITCH, JAEGER)

STAFF ANALYSIS: If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. This docket should remain open for an additional 90-days from the effective date of the Order to allow staff to verify the utility has purchased insurance as described in Issue No. 8, that the utility has completed the pro forma improvements described in Issue No. 5, and that the utility has purchased the land on which its treatment systems are located or has entered into a long-term lease such as a 99-year lease (within 60-days) as described in Issue No. 4. Further, this docket should remain open pending the resolution of the show cause proceeding and any subsequent hearing. Upon verification of the above by staff and conclusion of the show cause proceeding, the docket may be administratively closed.

Florida Statutes, Rule 25-30.037(2)(q), Florida Administrative Code, and Order No. PSC-98-0928-FOF-WS.

The proper treatment of the cost of the land is discussed in Issue No. 4.

WATER TREATMENT PLANT - USED AND USEFUL DATA

Docket No. 010396-WS - East Marion Sanitary Systems, Inc.

1)	**Capacity of Plant**	250	gallons per minute
2)	**Average of 5 Highest Days From Maximum Month** (60 cut X 1.1 gpm X 2)	132	gallons per minute
3)	**Average Daily Flow** (60 cut X 1.1 gpm)	66	gallons per minute
4)	**Fire Flow Capacity**	0	gallons per minute

a) Required Fire Flow: 250 gpm is not sufficient to support Fire Flow

5)	**Growth**	18	gallons per minute

a) Test year Customers in ERCs:

Begin	49
End	60
Average	55

(Use average number of customers)

b) Customer Growth in ERCs using Regression Analysis for most recent 5 years including Test Year: 3 ERCs

c) Statutory Growth Period: 5 Years

(b)x(c)x [3\(a)]= 18 gallons per minute for growth

6)	**Excessive Unaccounted for Water**	0	gallons per minute
	a) Total Unaccounted for Water	N/A	gallons per minute
	Percent of Average Daily Flow	10%	
	b) Reasonable Amount	N/A	gallons per minute
	(10% of average Daily Flow)		
	c) Excessive Amount	N/A	gallons per minute

USED AND USEFUL FORMULA

[(2)+(4)+(5)-(6)]/(1) = 60.0% Used and Useful

WATER DISTRIBUTION SYSTEM - USED AND USEFUL DATA

Docket No. 010396-WS - East Marion Sanitary Systems, Inc.

1)	**Capacity of System** (Number of Potential Customers, ERCs or Lots Without Expansion)	181	ERCs
2)	**Test year connections**		
	a) Beginning of Test Year	49	ERCs
	b) End of Test Year	60	ERCs
	c) Average Test Year	55	ERCs
3)	**Growth**	15	ERCs
	a) customer growth in connections for last 5 years including Test Year using Regression Analysis	3	ERCs
	b) Statutory Growth Period	5	Years

(a)x(b) = 15 connections allowed for growth

USED AND USEFUL FORMULA

[2+3]/(1) = 38.7% Used and Useful

WASTEWATER TREATMENT PLANT - USED AND USEFUL DATA

Docket No. 010396-WS - East Marion Sanitary Systems, Inc.

1)	**Permitted Capacity of Plant** (AADF)	50,000	gallons per day	
2)	**Maximum Daily Flow**	3,528	gallons per day	
3)	**Average Daily Flow**	2,955	gallons per day	
4)	**Growth**	806	gallons per day	
	a) Test year Customers in ERCs:	Beginning		49
		Ending		60
		Average		55
	b) Customer Growth in ERCs using Regression Analysis for most recent 5 years including Test Year	3	ERCs	
	c) Statutory Growth Period	5	Years	
	(b x c) x [3/(a)]= 806 gallons per day for growth			
5)	Excessive Infiltration or Inflow (I&I)	N/A	gallons per day	
	a) Total I&I:	N/A	gallons per day	
	Percent of Average Daily Flow	0.00%		
	b) Reasonable Amount	6,800	gallons per day	
	(500 gpm per inch dia pipe per mile)			
	c) Excessive Amount	N/A	gallons per day	

USED AND USEFUL FORMULA

[(3)+(4)-(5)]/(1) = 7.5% Used and Useful

WASTEWATER COLLECTION SYSTEM - USED AND USEFUL DATA

Docket No. 010396-WS - East Marion Sanitary Systems, Inc.

1)	Capacity of System (Number of potential customers, ERCs or Lots without expansion	181	ERCs
2)	Test year connections		
	a) Beginning of Test Year	49	ERCs
	b) End of Test Year	60	ERCs
	c) Average Test Year	55	ERCs
3)	Growth	15	ERCs
	a) customer growth in connections for last 5 years including Test Year using Regression Analysis	3	ERCs
	b) Statutory Growth Period	5	Years

(a)x(b) = 15 connections allowed for growth

USED AND USEFUL FORMULA

[(2)+(3)]/(1) = 38.7% Used and Useful

EAST MARION SANITARY SYSTEMS, INC.
TEST YEAR ENDING 12/31/02
SCHEDULE OF WATER RATE BASE

SCHEDULE NO. 1-A
DOCKET NO. 010869-WS

DESCRIPTION	BALANCE PER UTILITY	STAFF ADJUST. TO UTIL. BAL.	BALANCE PER STAFF
1. UTILITY PLANT IN SERVICE	$89,867	$47,030	$136,897
2. LAND & LAND RIGHTS	35,000	(35,000)	$0
3. NON-USED AND USEFUL COMPONENTS	0	(51,339)	($51,339)
4. CIAC	(13,865)	(6,282)	($20,147)
5. ACCUMULATED DEPRECIATION	(25,212)	(15,077)	($40,289)
6. AMORTIZATION OF CIAC	1,654	850	$2,504
7. WORKING CAPITAL ALLOWANCE	0	1,993	$1,993
8. WATER RATE BASE	$87,444	($57,825)	$29,619

EAST MARION SANITARY SYSTEMS, INC.
TEST YEAR ENDING 12/31/02
SCHEDULE OF WASTEWATER RATE BASE

SCHEDULE NO. 1-B
DOCKET NO. 010869-WS

DESCRIPTION	BALANCE PER UTILITY	STAFF ADJUST. TO UTIL. BAL.	BALANCE PER STAFF
1. UTILITY PLANT IN SERVICE	$191,262	$278,565	$469,827
2. LAND & LAND RIGHTS	50,000	(50,000)	$0
3. NON-USED AND USEFUL COMPONENTS	0	(159,285)	($159,285)
4. CIAC	(26,600)	(12,410)	($39,010)
5. ACCUMULATED DEPRECIATION	(63,265)	(152,895)	($216,160)
6. AMORTIZATION OF CIAC	2,405	3,931	$6,336
7. WORKING CAPITAL ALLOWANCE	0	2,113	$2,113
8. WASTEWATER RATE BASE	$153,802	($89,981)	$63,821

EAST MARION SANITARY SYSTEMS, INC. TEST YEAR ENDING 12/31/02 ADJUSTMENTS TO RATE BASE	SCHEDULE NO. 1-C DOCKET NO. 010869-WS	
	WATER	**WASTEWATER**
UTILITY PLANT IN SERVICE		
1. Plant per original cost study	$47,831	$273,748
2. Capitalize Pump from Acct 636	$5,999	$0
3. Retire Old Pump	($8,050)	$0
4. Projected meter additions/ fence and lift station alarm	3,538	19,337
5. Retire Old Fence	(1,738)	(9,702)
6. Averaging adjustment	(550)	(4,818)
Total	$47,030	$278,565
LAND		
1. Remove Land not owned by the utility	($35,000)	($50,000)
NON-USED AND USEFUL PLANT		
1. To reflect non-used and useful plant.	($73,832)	($333,326)
2. To reflect non-used and useful accumulated depreciation.	22,493	174,041
Total	($51,339)	($159,285)
CIAC		
1. CIAC based on tariffed service availability charges	($565)	($1,285)
2. Projected CIAC for 10 customers a year x 2 years	(7,735)	(15,100)
3. Averaging adjustment	2,018	3,975
Total	($6,282)	($12,410)
ACCUMULATED DEPRECIATION		
1. Depreciation adjustment per Rule 25-30.140 FAC	($17,547)	($128,840)
2. Projected depreciation	(8,615)	(38,600)
3. Retire Old Pump	8,050	0
4. Pro forma Retirement	1,738	9,702
5. Averaging adjustment	1,297	4,843
Total	($15,077)	($152,895)
AMORTIZATION OF CIAC		
1. To adjust amortization of CIAC based on composite rates	$21	$1,834
2. Projected amortization	1,147	2,894
3. Averaging adjustment	(318)	(797)
Total	$850	$3,931
WORKING CAPITAL ALLOWANCE		
1. To reflect 1/8 of test year O & M expenses.	$1,993	$2,113

EAST MARION SANITARY SYSTEMS, INC.
TEST YEAR ENDING 12/31/02
SCHEDULE OF CAPITAL STRUCTURE

SCHEDULE NO. 2
DOCKET NO. 010869-WS

CAPITAL COMPONENT	PER UTILITY	SPECIFIC ADJUST-MENTS	BALANCE BEFORE PRO RATA ADJUSTMENTS	PRO RATA ADJUST-MENTS	BALANCE PER STAFF	PERCENT OF TOTAL	COST	WEIGHTED COST
1. COMMON STOCK	$1,000	$0	$1,000					
2. RETAINED EARNINGS	(75,921)	0	(75,921)					
3. PAID IN CAPITAL	313,018	3,350	316,368					
4. TREASURY STOCK	0	0	0					
5. TOTAL COMMON EQUITY	$238,097	$3,350	241,447	(148,007)	93,440	100.00%	10.00%	10.00%
6. TOTAL LONG TERM DEBT	3,350	(3,350)	0	0	0	0.00%	0.00%	0.00%
7. CUSTOMER DEPOSITS	0	0	0	0	0	0.00%	6.00%	0.00%
8. TOTAL	$241,447	$0	$241,447	($148,007)	$93,440	100.00%		10.00%

RANGE OF REASONABLENESS	LOW	HIGH
RETURN ON EQUITY	9.00%	11.00%
OVERALL RATE OF RETURN	9.00%	11.00%

EAST MARION SANITARY SYSTEMS, INC.
TEST YEAR ENDING 12/31/02
SCHEDULE OF WATER OPERATING INCOME

SCHEDULE NO. 3-A
DOCKET NO. 010869-WS

	TEST YEAR PER UTILITY	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1. OPERATING REVENUES	$8,357	$7,437	$15,794	$5,847 37.02%	$21,641
OPERATING EXPENSES:					
2. OPERATION & MAINTENANCE	13,275	2,668	15,943	0	15,943
3. DEPRECIATION (NET)	2,400	(940)	1,460	0	1,460
4. AMORTIZATION	0	0	0	0	0
5. TAXES OTHER THAN INCOME	424	589	1,013	263	1,276
6. INCOME TAXES	0	0	0	0	0
7. TOTAL OPERATING EXPENSES	$16,099	$2,317	$18,416	$263	$18,679
8. OPERATING INCOME/(LOSS)	($7,742)		($2,622)		$2,962
9. WATER RATE BASE	$87,444		$29,619		$29,619
10. RATE OF RETURN	-8.85%		-8.85%		10.00%

EAST MARION SANITARY SYSTEMS, INC.
TEST YEAR ENDING 12/31/02
SCHEDULE OF WASTEWATER OPERATING INCOME

SCHEDULE NO. 3-B
DOCKET NO. 010869-WS

	TEST YEAR PER UTILITY	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1. OPERATING REVENUES	$8,319	$6,630	$14,949	$12,696 84.93%	$27,645
OPERATING EXPENSES:					
2. OPERATION & MAINTENANCE	8,509	8,393	16,902	0	16,902
3. DEPRECIATION (NET)	6,023	(3,394)	2,629	0	2,629
4. AMORTIZATION	0	0	0	0	0
5. TAXES OTHER THAN INCOME	1,072	89	1,161	571	1,732
6. INCOME TAXES	0	0	0	0	0
7. TOTAL OPERATING EXPENSES	$15,604	$5,088	$20,692	$571	$21,263
8. OPERATING INCOME/(LOSS)	($7,285)		($5,743)		$6,382
9. WASTEWATER RATE BASE	$153,802		$63,821		$63,821
10. RATE OF RETURN	-4.74%		-9.00%		10.00%

EAST MARION SANITARY SYSTEMS, INC. TEST YEAR ENDING 12/31/02 ADJUSTMENTS TO OPERATING INCOME	SCHEDULE NO. 3-C DOCKET NO. 010869-WS PAGE 1 OF 2	
	WATER	WASTEWATER
OPERATING REVENUES		
1. Annualize revenues for test year	$64	($181)
2. Projected Revenues	7,373	6,811
Subtotal	$7,437	$6,630
OPERATION AND MAINTENANCE EXPENSES		
1. Sludge Removal Expense (711)		
a. To include sludge hauling per staff	$0	$500
2. Purchased Power (615/ 715)		
a. Reallocate and annualize expense per staff	($696)	$844
b. To reflect projected usage	602	2,112
c. To reflect a repression adjustment	(120)	(547)
Subtotal	($214)	$2,408
3. Chemicals (618/ 718)		
a. To reflect chemicals per staff	$165	$164
b. To reflect projected usage	364	162
c. To reflect a repression adjustment	(73)	(42)
Subtotal	$456	$284
4. Materials & Supplies (620/ 720)		
a. Out of period expense	($14)	($36)
b. Reclassify from Acct# 736	121	113
Subtotal	$107	$77
5. Contractual Services - Billing (630/ 730)		
a. Reallocate to Contracted Services Other (636/ 736)	($1,040)	($950)
6. Contractual Services - Testing (635/ 735)		
a. Reallocate testing expense to water from wastewater	$1,075	($1,075)
b. To Include annualized DEP required testing	504	(100)
Subtotal	$1,579	($1,175)

(O & M EXPENSES CONTINUED ON NEXT PAGE)

EAST MARION SANITARY SYSTEMS, INC. TEST YEAR ENDING 12/31/02 ADJUSTMENTS TO OPERATING INCOME		SCHEDULE NO. 3-C DOCKET NO. 010869-WS PAGE 2 OF 2
(O & M EXPENSES CONTINUED)	WATER	WASTEWATER
7. Contractual Services - Other (636/ 736)		
a. Reallocate from Contracted Services Billing (630/ 730)	$1,040	$950
a. Adjustment to include salaries for a maintenance employee	$3,744	$3,744
b. Include new contracted services per contracts	1,896	539
c. Reallocate Grounds Keeping (40/60)	(163)	163
d. Capitalize Pump in Acct 311	(5,999)	0
e. Reclassify to Account (620/720)	(121)	(113)
f. Unrecorded repairs	0	172
Subtotal	$397	$5,455
8. Rents (640/ 740)		
a. To include Land rent calculated per staff	$405	$582
9. Transportation Expense (650/750)		
a. Transportation expense per staff	$348	$348
10. Insurance Expense (655/755)		
a. To include allowance for insurance	$857	$857
11. Regulatory Expense (665/ 765)		
a. Reclassify RAF's as Taxes Other Than Income	($382)	($357)
b. Amortize rate case filing fee over 4 years ($1000/4)	125	125
Subtotal	($257)	($232)
12. Miscellaneous Expense (675/ 775)		
a. Reallocate bank fees	$30	$0
b. Operating permit (amort. 5 years)	0	239
Subtotal	$30	$239
TOTAL OPERATION & MAINTENANCE ADJUSTMENTS	$2,668	$8,393
DEPRECIATION EXPENSE		
1. To reflect test year dep. calculated per 25-30.140, F.A.C.	$1,518	$12,908
2. Non-used and useful depreciation	(2,196)	(15,166)
3. To reflect test year CIAC amortization calculated by staff	(262)	(1,136)
Total	($940)	($3,394)
TAXES OTHER THAN INCOME		
1. Reallocate from Regulatory Expense (665/ 765)	$382	$357
2. Adjust RAF's to annualized revenue	329	316
3. Non used & useful tangible property taxes	(122)	(584)
Total	$589	$89

EAST MARION SANITARY SYSTEMS, INC.
TEST YEAR ENDING 12/31/02
ANALYSIS OF WATER OPERATION AND MAINTENANCE EXPENSE

SCHEDULE NO. 3-D
DOCKET NO. 010869-WS

	TOTAL PER UTILITY	STAFF PER ADJUST.		TOTAL PER STAFF
(601) SALARIES AND WAGES - EMPLOYEES	$0	$0		$0
(603) SALARIES AND WAGES - OFFICERS	0	0		$0
(604) EMPLOYEE PENSIONS AND BENEFITS	0	0		$0
(610) PURCHASED WATER	0	0		$0
(615) PURCHASED POWER	1,298	(214)	[1]	$1,084
(616) FUEL FOR POWER PRODUCTION	0	0		$0
(618) CHEMICALS	199	456	[3]	$655
(620) MATERIALS AND SUPPLIES	94	107	[4]	$201
(630) CONTRACTUAL SERVICES - BILLING	1,040	(1,040)	[5]	$0
(631) CONTRACTUAL SERVICES - PROFESSIONAL	650	0		$650
(635) CONTRACTUAL SERVICES - TESTING	160	1,579	[6]	$1,739
(636) CONTRACTUAL SERVICES - OTHER	9,413	397	[7]	$9,810
(640) RENTS	0	405	[8]	$405
(650) TRANSPORTATION EXPENSE	0	348	[9]	$348
(655) INSURANCE EXPENSE	0	857	[10]	$857
(665) REGULATORY COMMISSION EXPENSE	382	(257)	[11]	$125
(670) BAD DEBT EXPENSE	39	0		$39
(675) MISCELLANEOUS EXPENSES	0	30	[12]	$30
	13,275	2,668		15,943

EAST MARION SANITARY SYSTEMS, INC.
TEST YEAR ENDING 12/31/02
ANALYSIS OF WASTEWATER OPERATION AND MAINTENANCE EXPENSE

SCHEDULE NO. 3-E
DOCKET NO. 010869-WS

	TOTAL PER UTILITY	STAFF ADJUST-MENT		TOTAL PER STAFF
(701) SALARIES AND WAGES - EMPLOYEES	$0	$0		$0
(703) SALARIES AND WAGES - OFFICERS	0	0		$0
(704) EMPLOYEE PENSIONS AND BENEFITS	0	0		$0
(710) PURCHASED SEWAGE TREATMENT	0	0		$0
(711) SLUDGE REMOVAL EXPENSE	0	500	[1]	$500
(715) PURCHASED POWER	1,298	2,408	[2]	$3,706
(716) FUEL FOR POWER PRODUCTION	0	0		$0
(718) CHEMICALS	0	284	[3]	$284
(720) MATERIALS AND SUPPLIES	80	77	[4]	$157
(730) CONTRACTUAL SERVICES - BILLING	950	(950)	[5]	$0
(731) CONTRACTUAL SERVICES - PROFESSIONAL	650	0		$650
(735) CONTRACTUAL SERVICES - TESTING	1,235	(1,175)	[6]	$60
(736) CONTRACTUAL SERVICES - OTHER	3,870	5,455	[7]	$9,325
(740) RENTS	0	582	[8]	$582
(750) TRANSPORTATION EXPENSE	0	348	[9]	$348
(755) INSURANCE EXPENSE	0	857	[10]	$857
(765) REGULATORY COMMISSION EXPENSES	357	(232)	[11]	$125
(770) BAD DEBT EXPENSE	39	0		$39
(775) MISCELLANEOUS EXPENSES	30	239	[12]	$269
	8,509	8,393		16,902

RECOMMENDED RATE REDUCTION SCHEDULE

EAST MARION SANITARY SYSTEMS, INC. | **SCHEDULE NO. 4**
TEST YEAR ENDING 12/31/02 | **DOCKET NO. 010869-WS**

CALCULATION OF RATE REDUCTION AMOUNT
AFTER RECOVERY OF RATE CASE EXPENSE AMORTIZATION PERIOD OF FOUR YEARS

MONTHLY WATER RATES

RESIDENTIAL AND GENERAL SERVICE BASE FACILITY CHARGE:		MONTHLY PRELIMINARY RATES	MONTHLY RATE REDUCTION
Meter Size:			
5/8"X3/4"	$	9.28	0.11
3/4"		13.92	0.17
1"		23.20	0.28
1-1/2"		46.40	0.56
2"		74.24	0.90
3"		148.48	1.80
4"		232.00	2.81
6"		464.00	5.61
RESIDENTIAL GALLONAGE CHARGE (per 1,000 Gallons)			
0-10,000 GALLONS	$	1.93	0.02
ABOVE 10,000 GALLONS	$	2.90	0.04
GENERAL SERVICE GALLONAGE CHARGE PER 1,000 GALLONS	$	2.27	0.03

RECOMMENDED RATE REDUCTION SCHEDULE

EAST MARION SANITARY SYSTEMS, INC. | **SCHEDULE NO. 4A**
TEST YEAR ENDING 12/31/02 | **DOCKET NO. 010869-WS**

CALCULATION OF RATE REDUCTION AMOUNT
AFTER RECOVERY OF RATE CASE EXPENSE AMORTIZATION PERIOD OF FOUR YEARS

MONTHLY WASTEWATER RATES

		MONTHLY PRELIMINARY RATES	MONTHLY RATE REDUCTION
RESIDENTIAL			
BASE FACILITY CHARGE:			
Meter Size: All Meter Sizes	$	14.37	0.14
GALLONAGE CHARGE:			
PER 1,000 GALLONS (10,000 gallon cap)	$	4.41	0.04
GENERAL SERVICE			
BASE FACILITY CHARGE:			
Meter Size:			
5/8"X3/4"	$	14.37	0.14
3/4"		21.56	0.20
1"		35.93	0.34
1-1/2"		71.86	0.68
2"		114.97	1.09
3"		229.95	2.18
4"		359.29	3.40
6"		718.58	6.80
GALLONAGE CHARGE:			
PER 1,000 GALLONS	$	5.29	0.05