

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-) DOCKET NO. 900025-WS
assisted rate case in Pasco) ORDER NO. 24084
County by SHADY OAKS MOBILE-) ISSUED: 2-8-91
MODULAR ESTATES, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
BETTY EASLEY
GERALD L. GUNTER
FRANK S. MESSERSMITH
MICHAEL MCK. WILSON

FINAL ORDER GRANTING TEMPORARY RATES
IN EVENT OF PROTEST

AND

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING INCREASED RATES AND CHARGES, AND
REQUIRING IMPROVEMENTS AND REPORTS

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the actions discussed herein, except the granting of increased rates on a temporary basis in the event of a protest, are preliminary in nature, and as such, will become final unless a person whose interests are substantially affected files a petition for a formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

CASE BACKGROUND

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

On July 11, 1972, the provisions of Chapter 367, Florida Statutes, became applicable in Pasco County, Florida, whereby those utilities not qualifying for exemption from regulation became subject to the Commission's jurisdiction. Order No. 14540, issued on July 8, 1985, found Shady Oaks subject to the Commission's

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jurisdiction. By Order No. 15633, issued February 6, 1986, the Commission issued Water Certificate No. 451-W and Sewer Certificate No. 382-S to Shady Oaks.

Commission Order No. 14540 took note of the Final Judgment of the Circuit Court of the Sixth Judicial Circuit upholding restrictive covenants included in the deeds of existing lot holders receiving service from Shady Oaks. A covenant in each deed requires the developer, Shady Oaks, to provide certain services at a fixed annual cost. These services include water, wastewater and other services. Based upon the data presented at that time, the Commission decided that the utility should continue billing its customers based on the deed restrictions.

On January 10, 1990, Shady Oaks applied for this staff-assisted rate case and has submitted the filing fee. We reviewed the utility's books and records to determine those components necessary for rate-setting, conducted an engineering investigation, and a field inspection of the service area. The test period is the average twelve-month period ended June 30, 1990.

A customer meeting was held on November 28, 1990 in the service area. The customers concerns are addressed subsequently in this Order.

NAME CHANGE AND RESTRUCTURE

During the test year, the land and all the utility facilities were owned and operated by Shady Oaks Mobile-Modular Estates, Inc. In August, 1990, the owner of Shady Oaks transferred the title of the utility's land to himself and his wife. He has indicated that he intends to transfer the entire utility, land, buildings and related supplies, from the mobile home park to a separate entity. According to the owner, this will assist in accounting for the utility separately as well as protecting the property from any liens that could result from future unpaid property taxes on mobile home property.

The land transfer was made without Commission approval. The utility states that it was not aware of the requirement of prior Commission approval. We note that the utility has been cooperative in attempting to correct the problem. Upon consideration, we will not penalize the utility for the unauthorized transfer. However, the utility is hereby put on notice that no future transfers of

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utility land or property shall be made without prior Commission approval.

Because the utility is merely "spinning off" the utility portion of the mobile home park and there will be no change in control of the utility, we find that this sort of restructure is not a transfer within the intent of Section 367.071, Florida Statutes. The utility is still owned by the same persons in the same percentages. Therefore, the utility is hereby directed to file a request for acknowledgement of a restructure and a name change within 60 days from the date of this Order.

QUALITY OF SERVICE

We contacted the Department of Environmental Regulation (DER) and our Consumer Affairs and Water and Wastewater Divisions to determine if the utility had active complaints or violations against it. The Commission had no active complaints. However, DER had numerous complaints and violations on file. To settle the issues, DER and the utility entered into a Consent Order whereby the utility will make specific repairs and improvements to its system by March, 1991, which should improve the quality of service to a satisfactory level. We are informed that the utility is behind schedule on the needed improvements.

During the customer meeting held on November 28, 1990, the customers complained of low pressure, water shut-offs, line breaks, bad taste (chlorine) in the water, leaks left unrepaired, and excessive vegetation around the wastewater plant. The utility acknowledged these problems but added that it has responded as diligently as possible considering its lack of needed financial resources. It asserts that the deed restrictions that prevented the utility from increasing its rates have been the main cause of the utility's quality of service problems.

Upon consideration of the foregoing, we find that the quality of service is unsatisfactory. Accordingly, we hereby levy a fine of \$2,000, but suspend the fine for a period of nine months. This will provide the utility with six months to demonstrate its willingness to comply with the DER consent order and complete the needed repairs, and give the Commission three months to investigate compliance after the six month period. The utility shall place \$333.34 each month into an escrow account for the next six months to accumulate the \$2,000 fine.

To bring the utility's quality of service to a satisfactory level, the utility should comply with DER's consent order within that order's prescribed deadline. Specifically, it should construct a new effluent disposal system, obtain the necessary permits to operate, and operate the wastewater facilities within DER Standards. In addition, as discussed later in this Order under the section on preventative maintenance, if at the end of six months the utility has not expanded eighty-five percent of its maintenance expense allowance, the utility shall submit a written schedule showing what monthly maintenance the utility will implement. After six months, we will reinspect the plant and assess the performance of the utility to determine the quality of service. If found to be satisfactory, we may suspend the fine permanently.

RATE BASE

Our calculation of the appropriate rate base for the purpose of this proceeding is depicted on Schedule No. 1. Our adjustments are itemized on Schedule No. 1-A. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on those schedules without further discussion in the body of this Order. The major adjustments are discussed below.

Used and Useful

The system has two wells; each well has a rated capacity of 125 gallons per minute (GPM). The plant has no storage capacity, therefore, both wells are required to meet maximum hour demand, which is approximately 115 GPM. One of the two wells must function as a backup well, therefore, we find that the plant is 100 percent used and useful.

This utility does not have a flow meter. Flows reported to DER are estimated. We shall use a designed capacity for mobile homes of 150 gallons per day (GPD) and equivalent residential connection (ERC), whereby the total capacity necessary to serve the existing 185 ERCs is approximately 27,750 GPD. Estimated flows reported by Shady Oaks to DER average about 17,641 GPD. Using the average of these two estimates, daily flows are 22,695 GPD. The wastewater plant has a capacity of 20,000 GPD; therefore, we find that it is 100 percent used and useful.

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The collection and distribution systems provide service to 242 platted lots in the service area. Considering the distribution of the 185 connections, we find that the collection and distribution systems are 100% used and useful.

Plant-in-Service

Shady Oak's application reflects water utility plant of \$13,888 and wastewater utility plant of \$45,632. The utility does not have original cost documentation to support these figures. We reviewed tax returns, several cost estimates, and plant components. The 1972 tax return indicates a water plant cost of \$11,588 and a wastewater plant cost of \$45,632. We find that the tax return reflects reasonable estimates of the original cost. The utility also provided invoices to support two additional items of plant: a master meter installed in 1984-1985 and a replacement pump installed in 1989-1990. The master meter cost \$1,300 and the pump replacement was a \$151 net reduction to plant. The year-end balance of the water plant has been adjusted to reflect this test year retirement and addition. We will use these estimates and costs to establish utility plant-in-service.

In fiscal year 1980/1981, the utility added the second stage of its transmission/distribution system and collection lines. The utility's estimate indicates that the water transmission and distribution lines cost \$25,060 and the wastewater collection lines cost \$47,129. We accept these estimated costs as reasonable. Based on the foregoing, we find that the utility plant balance at June 30, 1990 is \$37,797 for the water system and \$103,546 for the wastewater system.

Projected Plant Improvements

On March 7, 1989, Shady Oaks signed a Consent Final Judgment with the DER. The utility agreed to construct an additional effluent disposal system to eliminate discharge from the plant. The construction permit sets a March 31, 1991 deadline for this construction. The utility has received several estimates for the work. The latest estimate was for \$199,725. We believe that a reasonable estimate to complete the work is \$125,000. This includes the relocation of the existing pond, installation of a pump station, installation of a main from the wastewater treatment plant to the new pond site, additional engineering work, materials, construction of the pond, and improvements to the wastewater

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treatment plant. Accordingly, we find that this \$125,000 cost should be included in rate base.

During the test year, the utility spent \$2,265 on engineering costs related to the development of the plans for the new percolation pond. These costs shall be removed from expenses and capitalized and added to the \$125,000 estimated cost of the pro forma plant.

As discussed subsequently in this Order, Shady Oaks will convert from a flat rate to a base facility/gallongage charge rate structure. This change will require the installation of water meters. \$100 is a reasonable estimate of each water meter installation, including the meter, meter box, labor, all valves and other appurtenances. Therefore, \$100 multiplied by the existing 185 customer sites results in a cost of \$18,500, which shall be capitalized and included in the rate base.

When pro forma plant is included in rate base, our policy is to increase accumulated depreciation by one year's depreciation on that plant. Therefore, following this policy, we find that accumulated depreciation attributable to the pro forma plant is \$1,092 for the water system and \$4,709 for the wastewater system.

Shady Oaks' percolation pond is not percolating properly. The Shady Oaks area has a high water table. A new percolation pond is to be constructed in an area where the water table is lower, on a site owned by the utility's President. Because the new site has not been previously dedicated to public use, the utility requests that the value of this land be placed in rate base at its current market value. The utility provided us with a copy of a contract for a sale of 4.65 acres of this land in 1985. The stated sale price per acre was \$68,817. Several customers at the customer meeting pointed out that the sale was never consummated. The same property is currently for sale at approximately \$32,895 per acre. We do not believe the 1985 contract price for a sale that never occurred is a valid basis for determining the current market value of the land.

We have considered several methods in arriving at our decision on the cost of the additional land to be included in rate base. The first method would allow the actual price paid for the land. This method determines the "original cost" of the land to the owner. Using this method would include in rate base the "actual"

cash investment that the owner has in the property, but the value applied to the land will not necessarily equal the land's value at the time the land is first dedicated to public use.

Commission policy has been to consider the value of the property at the time it is first dedicated to public use. The utility's President developed his system in the early 1970's and set aside the land required for the utility. Due to the fact that the current percolation pond is no longer operating properly, the President now finds himself in the position of acquiring additional land or setting aside some of his other property for utility use. We do not believe that the retirement of the old pond is through any negligence on the part of the owner, nor that he used poor judgment in choosing the initial site. Through no fault of the owner, the utility now requires additional land. Therefore, we believe that the value of the land when it is first dedicated to public use is the current value. If the full value were to be included in rate base, it would have a serious impact on this small system.

We have considered as another option, the possibility of indexing forward the original cost of the land. For instance, using the CPI as an index, the original cost of \$1,460 an acre would be increased to approximately \$4,400 an acre. Order No. 22166, issued November 9, 1989 (Poinciana Utilities, Inc.), discussed this issue of the valuation of land. We believe that Order No. 22166 clearly states the preference of the Commission to use the value of the land at the time the property is dedicated to public use. Further, the Commission discussed the methodology of using an index and stated that the methodology resulted in an unreasonably low and unrealistic per acre cost. Therefore, in that case, the Commission chose an independent appraisal as the basis for the determination of the land cost.

The best evidence we have in this case on which to base the current fair market value of this land is to start with the value placed thereon by the County Property Appraiser, which is \$11,803.53 per acre. We believe this value represents at least 65 percent of the land's actual current market value. Accordingly, we find it appropriate to increase the property appraiser's value, based on an assumed appraisal at 65 percent of current market value, to calculate a full market value of \$18,160 per acre. We multiply this per acre value by the four acres needed for the

percolation pond site, to establish a current total market value of \$72,640.

The transfer of the four acres from the utility to the utility's President is a related party transaction and not a "sale" of land in the tax sense. The President will not recognize a gain on this transfer for tax purposes. He will, however, be acquiring the "benefits" of the transfer because he will be earning a return on the increased value of the land added to rate base. Therefore, it is appropriate to reduce the current value per acre by the "tax savings" that the President receives from the increased value. We have calculated this "tax savings" by multiplying the increase in value of \$16,700 per acre (\$18,160 less \$1,460) by the tax rate of 28 percent. This results in a total reduction of \$20,339, for a net value of the four acres of \$52,301, which we find to be the appropriate value of the four acres to be added to rate base.

The site of the old percolation pond must be retired from rate base and a gain recognized. The current percolation pond occupies approximately one acre. Because this land may be reclaimed after the new percolation pond is built, it can be sold or used for other purposes. We adjust the revenue requirement to match the retirement of the one acre with the purchase of the additional four acres. The current market value of the one acre is \$16,700 more than its original purchase price. This gain will be recognized in the revenue requirement. The one acre has been owned by the utility and included in rate base. Therefore, any financial benefits from the sale of the one acre should accrue to the ratepayers. Commission policy is to amortize such a gain over a period of time. In prior cases, the Commission has chosen the amortization period by allowing the amortization expense to equal the depreciation and return on investment in rate base of the retired item. Utilization of this method results in an amortization period of seven years. Based on the foregoing, we find that a yearly amortization of \$2,386 should be included in the revenue requirement.

Because the utility has not acquired contracts for the construction, we find that the rate increase related to the pro forma plant and land shall be placed in an escrow account with an independent financial institution established pursuant to a staff-approved written escrow agreement. Any withdrawals of funds from this escrow account are subject to the prior approval of this Commission through the Director of Records and Reporting. Six

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months from the effective date of this Order, the utility shall submit to the Commission copies of the invoices to verify the costs to complete the construction. Staff will make a recommendation regarding the escrowed funds after reviewing the invoices and the completed construction. We expect staff's recommendation to be complete within eight or nine months from the effective date of Order.

Land Currently Owned

In 1971, Shady Oaks Mobile-Modular Estates, Inc. purchased 63 acres for \$92,000, or \$1,460 per acre. The water system is located on approximately 1/2 acre and the wastewater system currently occupies approximately 2.1 acres. During the test year, land and all utility facilities were owned and operated by Shady Oaks Mobile-Modular Estates, Inc. The owner of Shady Oaks transferred the title of the land to himself and his wife in August, 1990. The owner has indicated his intention to transfer all utility property from the mobile home park to a separate entity. Although the name on the utility's certificate does not currently match the name of the land title because of the recent transfer, the land and plant shall be included in rate base. We find that the original cost of \$1,460 per acre shall be applied to the acreage for a land cost of \$730 in the water system and \$3,066 in the wastewater system.

Accumulated Depreciation

We have calculated an accumulated depreciation balance using the estimated plant costs and the estimated construction dates. We find that a forty year life (a 2.5 percent depreciation rate) is an appropriate estimate for calculating the accumulated depreciation. Using these facts and including the retirement of two minor plant items, we have calculated a year end test year balance of accumulated depreciation of \$9,408 for the water system and \$37,286 for the wastewater system. We find that averaging the test year changes results in an average test year balance of \$8,936 for the water system and \$35,992 for the wastewater system.

Contributions-in-Aid-of-Construction (CIAC)

As discussed earlier, the utility was unable to provide original cost documentation for utility plant-in-service. While we did not perform an original cost study, we reviewed engineering estimates and tax returns. The utility's tax returns for the years

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1971 - 1983 show a water plant balance of \$11,588 and a wastewater plant balance of \$45,632. We find that the difference between the tax returns and the original cost estimates for plant additions prior to 1985 shall be imputed as CIAC. This results in a 1983 balance of \$25,060 for the water system and \$57,914 for the wastewater system.

In addition, the federal tax return for the fiscal year ended July 31, 1989 includes an impact fee collected in the amount of \$2,085. The \$2,085 shall be included in the test year balance of CIAC and be divided evenly between the water and wastewater systems. We find that this increases the year-end balance of CIAC for the water system to \$26,103 and for the wastewater system to \$58,956. The utility did not change its CIAC balance during the test year; therefore, no averaging adjustment is needed.

Accumulated Amortization of CIAC

Using the same methodology to calculate the accumulated depreciation balance, we have calculated a year-end balance for accumulated amortization of CIAC of \$5,991 for the water system and \$16,220 for the wastewater system. This balance has been adjusted to an average for the test year. We find that the resulting balance of \$5,665 for the water system and \$15,483 for the wastewater system shall be included in rate base.

Working Capital Allowance

Using the formula method (one-eighth of operation and maintenance expenses) to calculate the working capital allowance, we find that the appropriate amount of working capital to be included in rate base is \$3,176 for the water system and \$3,613 for the wastewater system.

Test Year Rate Base

After incorporating all adjustments, we find that the average test year rate base is \$29,812 for the water system and \$204,157 for the wastewater system.

COST OF CAPITAL

Our calculation of the appropriate cost of capital, including our adjustments, is depicted on Schedule No. 2, attached to this

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Order. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on that schedule without further discussion in the body of this Order.

During the test year, Shady Oaks had three issues of short-term debt. The first issue was from the 1st National Bank of Pasco for \$2,492, issued on June 25, 1990 for 24 months. The second issue was from Mark Sims for \$2,000, issued on December 22, 1989 for 12 months. The third issue was also from the 1st National Bank of Pasco for \$975, and issued on November 21, 1988 for 24 months. These issues will be classified as short-term debt. The average balance of these three debt issues for the test year is \$1,121, which shall be included in the capital structure at the average interest rate paid during the test year of 16.80 percent.

At the end of the test year, Shady Oaks had a balance of long-term debt outstanding of \$172,542. In December, 1989, \$3,000 in debt was added to the balance. The \$3,000 has been averaged to determine the average test year balance. The entire balance of the long-term debt is owed to the owners of the utility. The utility has not paid interest or principal on any of these notes. This debt is a total of approximately 90 promissory notes made in varying amounts since 1973. Each note has an individual interest rate stated on its face. There is no direct correlation between the prime rate and the stated interest rates. The average rate for this debt, based on the stated rates, is 17.254 percent. We believe it appropriate to recalculate the average rate by substituting the prime rate plus 3 percent for each of the stated rates. Based on this analysis, we find that the average rate is 13.4 percent.

In 1988, Shady Oaks Mobile-Modular Estates, Inc. went through a reorganization under Chapter 11 of the Bankruptcy Code and a final judgment was issued on August 2, 1988. This judgment listed the debts of the company and stated the debts would bear interest at the rate of 11.5 percent. We find that the interest rate on all the debts incurred before the final judgment shall be adjusted to the 11.5 percent interest rate specified in the judgment. The small portions of debt incurred after the bankruptcy court's final judgment will be included at their averaged actual interest rates. This brings the total average rate to 11.55 percent. Therefore, considering all adjustments, we find that the average long-term debt for the test year is \$171,157 at an average interest rate of 11.55 percent.

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Return on Equity

At the end of the test year, the utility/mobile home park had a \$5,000 balance in common stock, a \$1,785 balance in paid-in capital, and a negative retained earnings of \$290,577. While the entire balance of negative retained earnings does not belong to the utility, the utility's share is significantly higher than its investment through common stock and paid-in capital. Commission policy is to include a zero equity balance when a negative balance of retained earnings is larger than the investment through stock. Accordingly, we find that a zero equity balance exists for the test year.

Earlier in this Order we held that a substantial amount of plant shall be included in rate base as a pro forma item. The utility will need financing to pay for this plant. The most likely source of funding is through equity or personal loans. Therefore, the best measure of the cost of this financing is to include the pro forma item as equity and use our leverage graph to determine the cost of the financing. The Commission's leverage graph was last adjusted in Docket No. 900006-WS, Order No. 23318 on August 7, 1990. Using that graph, the proper cost of this equity is 12.49 percent. Therefore, we find that the pro forma equity shall be included in the capital structure at a cost of 12.49 percent, with a range of 11.49 percent to 13.49 percent.

Overall Rate of Return

Considering all adjustments, the appropriate overall cost of capital is calculated by using the utility's capital structure with each item reconciled to rate base on a pro rata basis. We find that this results in an overall cost of capital of 12.10 percent.

NET OPERATING INCOME

Our calculation of net operating income is depicted on Schedule No. 3, with our adjustments itemized on Schedule No. 3-A. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on those schedules without further discussion in the body of this Order. The major adjustments are discussed below.

Test Year Revenues

Shady Oak's tariffs do not specify a stated rate for water and wastewater service. As discussed in the Case Background, the utility has certain deed restrictions which required the developer, Shady Oaks, to provide certain services at a fixed cost of \$25 per month. These services include water, wastewater, and other services. Based upon data presented in the original certificate case in 1986, the Commission decided that the utility should continue billing its customers in accordance with the deed restrictions. Therefore, the utility's existing tariffs reflect that the water rate and the wastewater rate are part of the monthly \$25 charge.

Currently, some of Shady Oak's customers are paying \$25 rate for water and wastewater. Some are paying a \$35 rate for water, wastewater, and garbage. Others are paying a \$40 rate for water, wastewater, garbage and streetlights. It appears that \$25 per month rate is all that is being charged to cover water and wastewater service. Therefore, we have calculated annualized revenues using \$25 per month multiplied by the 185 test year customers, which results in an annualized revenue of \$55,500. We find that this revenue shall be split equally between water and wastewater, resulting in annualized revenue of \$27,750 for water service and of \$27,750 for wastewater service.

Operation and Maintenance Expenses (O & M)

The test period ending June 30, 1990 was used to determine the appropriate expense levels which follow. The audited totals and detailed components of each expense account were examined for reasonableness, taking into consideration both average test period customers and year-end customers. Reclassification adjustments, annualizing adjustments, adjustments for appropriate levels and known changes were made to arrive at expense allowances. The results of our analysis are detailed below. Schedule No. 4, attached, includes a summary of each account.

1) Salaries and Wages - Employees - The utility pays its Secretary \$250 a month for an average of ten hours a week for office expense incurred relating to delinquent customer billing, record keeping and other duties. This amount is reasonable. However, because the utility is changing to a base facility/gallorage charge rate

structure, we estimate an additional 8 hours of work each month will be required to calculate and prepare customers' bills. This results in a \$50 per month increase, for a total annual expense of \$3,600, to be divided equally between water and wastewater.

2) Salaries and Wages - Officers - The utility pays its President for the day-to-day operation of the utility system. His rate of pay is \$1,500 a month for an average of thirty hours each week. He may be spending close to 30 hours a week at the present time because of the DER Consent Order, however the normal course of business should require only 10 hours a week for his services. The utility is changing to the base facility/gallorage charge rate structure. Therefore, we estimate that the President will spend additional time each month reading meters. We believe an allowance of \$100 per month is a reasonable amount to compensate for those additional duties. These adjustments result in a total annual expense of \$7,200, which is a reduction of \$10,800 per year. Accordingly, we find that the total salaries and wage expenses for Officers shall be \$3,000 for water and \$4,200 for wastewater.

3) Employee Pensions and Benefits - During the test year, the utility spent \$4,205.40 for employee benefits, including \$3,528 for hospitalization insurance for its President and Secretary and \$677 for other medical expenses. Several customers did not agree that the rates should include a provision for hospitalization insurance for "part-time" employees. These two employees are the officers of the mobile home park and a portion of their hours are spent on the utility. It is reasonable for the company officers to receive hospitalization insurance, but the utility should not pay the entire expense. The number of hours spent on utility work indicates that a majority of the Officers' labor hours are spent on other duties. Accordingly, the test year expenses are hereby reduced to reflect 20 hours of labor per week, combined total of both Officers, which is a 75 percent reduction. Effective February 10, 1991, the insurance premium will be increased to \$670 a month, or \$8,040 per year. The expected insurance premium of \$670 a month plus the other miscellaneous expenses are hereby allowed; however, only 25 percent of these amounts shall be allocated to the utility. These adjustments decrease test year expenses by \$796 for the water system and a like amount for the wastewater system.

4) Purchased Power - The electric meter that meters the water treatment plant also meters the power usage at the mobile home park's recreation center. We have analyzed the power requirements

of the water treatment plant pump and have prorated these expenses. This proration results in the purchased power expense for the water system to be reduced by \$3,302, to \$730 per year. No adjustment is necessary to wastewater purchased power expense.

5) Preventative Maintenance - The utility must increase its preventative maintenance because of the unsatisfactory level of service. Maintenance expenses are hereby authorized to be increased to \$1,700 a month to allow for the extra maintenance. The test year maintenance expenses include materials, supplies, and labor for maintenance performed during the test year that totalled \$1,242 for the water system and \$1,700 for the wastewater system. These expenses are hereby increased by \$8,958 for the water system and \$8,500 for the wastewater system, for an annual total of \$20,400.

This increase in allowed expenses is substantial. We will monitor the expenditure of these funds to insure they are used for their intended purposes. Therefore, at the end of six months from the effective date of this Order, the utility shall provide to the Commission a detailed record of its maintenance expenditures. We will review these records to determine if the funds are being used as intended. If the utility has not begun to spend a substantial amount (85 percent) of the allowance, the utility shall submit a statement as to the reasons why a substantial amount of these funds have not been utilized and a detailed statement of its future plans to maintain the system. If the maintenance is not performed, we will consider initiating a show cause proceeding to fine the utility for not performing as ordered.

6) Contractual Services - During the test year, Shady Oaks paid \$11,737 for contractual services; \$4,347 in the water system and \$7,391 in the wastewater system. These expenses are hereby adjusted to \$3,217 in the water system and \$7,488 in the wastewater system. The specifics of several adjustments are noted below.

\$114.76 was found in accounts payable for accounting services during the test year. This is an expense and is hereby transferred to the contractual service expense account, to be divided evenly between water and wastewater.

Four invoices for a total of \$500 were paid during the test year for services received in the prior period. These invoices are

removed from test year expense, resulting in a reduction of \$225 to water expense and \$275 to wastewater expense.

Test year expenses included \$2,000 in attorneys' fees for settlement in a bankruptcy proceeding. This is an extraordinary, non-recurring item that is disallowed. Accordingly, we reduce water expenses by \$1,000 and we reduce wastewater expenses by \$1,000.

The contractual services expenses also included \$2,755 for items which should more appropriately be included in other accounts: telephone bills (\$44.06), gasoline charges (\$9.75), repayment of principal and interest (\$436.49) and engineering costs related to the development of the plans for the new percolation pond (\$2,265.00). The telephone and gasoline charges are hereby reclassified to the appropriate expense account. Further, the debt and interest charges are removed as expenses and will be recovered as discussed in the Rate Base portion of this Order. Moreover, the expense related to the development of the percolation pond is removed from contractual services and reclassified to the wastewater system as a part of the pro forma plant addition.

The largest part of the contractual services account is paid to Mathis Water and Wastewater, Inc. for operation of the facilities. During the test year, the utility was charged \$350 per month for the contract service, \$126 for chemical samples, \$306 for chlorine, and \$907 for miscellaneous items. This fee is being increased by the contractor from \$350 per month to \$450 per month. This reasonable increase is approved. The chlorine cost is reasonable, but has been reclassified to chemical expense. The miscellaneous charges include \$320 for sludge hauling; this item has been reclassified to the sludge removal expense account. The utility's books do not appear to reflect the total expense for the test year on an accrual basis. The expense must be adjusted to reflect the increased contractual services fee and the same test year related expense - samples, and miscellaneous charges. After these adjustments, we approve an increase to the contractual services expenses of \$767 for the water system and \$1,042 for the wastewater system.

7) Rents - In 1985, the utility signed a lease to rent office space for \$250 each month. This expense should be allocated partially to the mobile home park. The utility allocates 35 percent of transportation expense to the mobile home park. This is

a reasonable allocation for the office space. Allocation of 35 percent of the rent expense to the park reduces the utility's rent expense to \$975 per year for the water systems and \$975 per year for the wastewater system.

8) Transportation - The utility records indicate a transportation expense of \$2,042 (plus \$10 reclassified from another account) for the water system and \$2,040 for the wastewater system. This expense includes expenditures for gasoline, auto insurance and auto repairs. We find that the transportation expense is reasonable, provided it is properly allocated among the various activities.

Shady Oaks' gas expense included all payments the utility had made during the year, with thirty-five percent allocated to the mobile home park, which is reasonable. The utility paid \$924 for auto repairs during the year. Thirty-five percent of these expenses, or \$323, should be allocated to the mobile home park. Therefore, we remove \$155 from water system expenses and \$168 from wastewater system expenses. Finally, the insurance expense of \$1,262 must be reclassified to the insurance expense account. These adjustments result in a balance for the transportation expense of \$1,266 in the water system and \$1,241 for the wastewater system.

9) Insurance - The utility paid \$1,262 for automobile insurance for the President's and the Secretary's automobiles during the test year. The Secretary's car is not used to any material extent for utility business. The President's car is used approximately 65 percent of the time for utility business. We will allow only the insurance expense relating to the President's car and allocate 35 percent of that expense to the mobile home park. \$571 of the insurance premiums were for the President's car. After allocating 35 percent of this expense to the mobile home park, the utility's expense is \$370, which shall be divided equally between water and wastewater.

The utility has requested that liability insurance be included in its revenue requirement. The utility provided a policy for the period 7/16/85 to 7/16/86 with premium costs of \$4,168 for the utility premises, the recreation building, and the office. The utility requests that this policy be used as an estimate of the liability expense. We believe that the policy provides a reasonable estimate of the expense. The utility should acquire the liability insurance and the expense should be allocated based on

the limits of liability shown in the policy for each of the structures. Also, 35 percent of the cost of the coverage for the office shall be allocated to the mobile home park. We find that these adjustments result in an expense for liability insurance of \$144 for the water system and \$198 for the wastewater system.

10) Regulatory Commission Expense - The only cost related to this case is a filing fee of \$300. This amount shall be amortized over four years, consistent with Section 367.0816, Florida Statutes. This results in a reduction to the expense of \$1,882 for the water system and a like amount for the wastewater system. We find that the proper expense is \$37.50 for water and \$37.50 for wastewater, for a four year period.

11) Other Regulatory Expense - The utility's books reflected \$1,800 in other regulatory expenses. This entire amount was paid to the DER Pollution Recovery Fund for fines assessed by DER. Commission policy is to disallow any fines incurred by a utility. Therefore, we find that this expense should be reduced to zero.

12) Office Supplies and Expense - The utility recorded office supplies and expense for the test year in the amount of \$683 (plus \$44 reclassified from another account) for the water system and \$727 for the wastewater system. We find that the water expense should be reduced by \$35 and the wastewater expense should be reduced by \$36 to eliminate out of test year telephone expenses.

Depreciation Expense

Using the rates prescribed by Chapter 25-30.140, Florida Administrative Code, we calculate depreciation on test year plant of \$1,232 for the water system and \$3,705 for the wastewater system. Using the same rates, the amortization of CIAC totals \$791 for the water system and \$2,181 for the wastewater system. The same rates as applied to the proforma plant add \$1,092 to the water system and \$4,709 to the wastewater system. We find that the appropriate depreciation expense to include in the revenue requirement is \$1,533 for the water system and \$6,233 for the wastewater system.

Amortization Expense

Earlier in this Order we held that the gain on the retirement of one acre of the wastewater land will be amortized over seven years. The gain totalled \$16,700. Amortizing that amount over seven years results in an annual amortization amount of \$2,386. We find that this amortization shall be used to offset a portion of the wastewater revenue requirement by including it as a negative amortization expense.

Taxes Other than Income Taxes

The utility's records do not reflect any taxes other than income. However, earlier in this Order, we held that certain salary expenses for the President and Secretary be allowed. The related payroll taxes will also be allowed. These taxes result in a payroll expense of \$923.

In the past, the utility has been delinquent in paying its tangible and real property taxes. This expense will nevertheless be included in rates to eliminate a risk that any utility property could be lost to the tax collector. We allow \$347 for tangible property taxes. The utility's ad valorem tax millage rate of .019 percent results in a total test year real estate tax of \$14 for the water system and \$58 for the wastewater system. Applying the .019 rate to the pro forma land for the new percolation pond results in a pro forma real estate tax expense of \$1,772.

We find that the regulatory assessment fees, at 4.5 percent of the test year revenues, total \$2,498, which we hereby approve.

Based on the above considerations, we find that the test year taxes other than income are \$1,870 for the water system and \$3,742 for the wastewater system.

Income Tax Expense

Shady Oaks is a Subchapter S corporation. No income tax expense should be included in the rates of a Subchapter S corporation as the corporation itself does not pay taxes. Therefore, we find that the income tax expense for Shady Oaks shall be zero.

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Based on the previous adjustments, we find that the test year operating loss is \$1,061 for the water system and the test year operating loss is \$8,744 for the wastewater system.

REVENUE REQUIREMENTS

Based on the utility's books and records and the adjustments discussed above, we find that the annual revenues required are \$32,639 for the water system and \$62,799 for the wastewater system. This is an increase of \$4,889, or 17.6 percent for the water system and an increase of \$35,029, or 126.2 percent for the wastewater system. This will allow the utility the opportunity to recover its expenses of \$28,811 in the water system and \$36,494 in the wastewater system and earn a 12.10 percent return on its investment in rate base.

RATES AND CHARGES

Commission Authority to Increase Rates

The developer, Shady Oaks, entered into contracts for the sale of land which contain certain provisions regarding utility service. The charge for utility service is included as an unspecified portion of an annual fee of \$300 for a variety of services.

As previously stated, Order No. 14540, issued July 8, 1985, found that Shady Oaks is subject to the jurisdiction of this Commission. By Order No. 15633, issued February 6, 1986, we issued Water Certificate No. 451-W and Sewer Certificate No. 382-S. Order No. 15633, issued March 7, 1986, stated that the utility should file tariff pages consistent with its then current rates. The specific language in the tariff states that "the customers pay an annual fee of \$300 (\$25/month) that is fixed by deed restriction. An undetermined portion of this amount applies to water service."

The Florida Supreme Court recognized the Commission's exclusive jurisdiction to establish rates for utility service in Storey v. Mayo, 217 So.2d 304 (Fla. 1968). All private contracts with a utility are regarded as entered into subject to the reserved authority of the State acting through the Public Service Commission under the police power to modify the contract in the interest of public welfare, State ex rel. Ellis v. Tampa Waterworks Co., 48 So. 639 (Fla. 1908); State ex rel. Triay v. Burr, 84 So. 61 (Fla. 1920); Miami Bridge Co. v. Railroad Comm., 20 So.2d 356 (Fla.

1945); and Midland Realty Co. v. Kansas City Power & Light Co., 300 U.S. 687 (1937). In the Midland case, the court opined that rates which were approved subsequent to the contract were proper, although they were higher than an existing contract rate between the parties. The Court stated:

"A state has the power to . . . prohibit service at rates too low to yield the cost rightly attributable to it." Midland, supra.

In Cohee v. Crestridge Utilities Corp. 324 So.2d 155 (Fla 2nd DCA 1975), the Court held that the Commission has authority to raise, as well as lower, rates established by a pre-existing contract when deemed necessary in the public interest. The Commission's power to establish rates supersedes preexisting agreements that establish such rates. Hampton Utilities Co. v. Hampton Homeowners Ass'n, 252 So.2d 286 (Fla 4th DCA 1971) and H. Miller & Sons, Inc. v. Hawkins, 373 So.2d 913 (Fla 1979). While a state may exercise its power to modify or abrogate private rate contracts, it is under no obligation to do so merely to relieve a contracting party from the burden of an improvident undertaking; rather, the power to fix rates . . . in contravention of a contract must be exercised solely for the public welfare. Arkansas Natural Gas Co., v. Arkansas R. Comm., 261 U.S. 67 (1936). We believe that adequate service cannot be provided to customers through the year 2000 at an annual rate of \$300. The system is already approaching a critical need for additional funds to not only maintain the system, but to maintain a satisfactory quality of service. This Commission has the authority to establish rates irrespective of the pre-existing contract, and must do so in order to maintain a satisfactory quality of service to the Shady Oaks' customers.

We are not without concern for the ratepayers. However, this result is required under the mandates of Section 367.081(2), Florida Statutes, which requires rates that are just, fair, compensatory and not unfairly discriminatory. The fact that there exists a Circuit Court judgement styled Emerson French and Louisa Ann French v. Shady Oaks Mobile-Modular Estates, Incorporated issued on October 7, 1983, in Case No. 83-430 in the Circuit Court (Pasco County) does not alter our decision. The judgement does not address these issues and the Commission was not a party to that lawsuit. There is no indication the Trial Judge was aware of the

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Commission's primary jurisdiction over the subject matter of these rates.

For purposes of this case and in determining the test year revenues, we have assumed the entire \$300 yearly payment charged to most of the park residents was for utility services. This may or may not be the case. The rates listed below are the total rates necessary to give the utility the opportunity to recover its expenses and a reasonable rate of return on its investment in rate base. The Commission has no authority as to what portion of the \$300 yearly payment which the customers may or may not still owe to the mobile home park. This question must be discussed between the customers and the utility President and, if not resolved, it would be a matter for the circuit court. The utility is reminded that pursuant to Rule 25-30.320, Florida Administrative Code, service cannot be discontinued if the customers pay their utility bills and comply with the utility's rules and regulations which are set forth in its tariff.

RATES AND CHARGES

The rates established by this Order have been designed to allow the utility the opportunity to recover its expenses and earn a 12.10 percent return on its investment. The utility's current rate structure is a flat rate. Flat rates are not conducive to conservation. We find that the utility shall employ the base facility/ gallonage charge rate structure, which establishes a fixed charge for each customer to recover a proportionate share of fixed operating costs and a variable gallonage charge to recover the variable costs of providing the services.

We have used an average of 6,000 gallons per month per customer and the average test year number of customers to compile a billing analysis for the test year and to calculate rates. Because the customer usage has not been previously metered, there is no historical data to determine the customers' actual consumption. Our estimate of usage is based on average usage in other mobile home parks in Florida. While not every customer resides in Shady Oaks for twelve months, and not every household has two persons who use 100 gallons per day each, we believe that the estimated 6,000 gallons per month is a reasonable average. Although the swimming pool, laundry and office are not typical household users of water, the total of 6,000 gallons per month per customer is a good estimate of all water used by all sources. We

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find the following rates and rate structure to be fair, just and reasonable.

WATER

MONTHLY RATES

Residential

<u>Base Facility Charge</u>	<u>Commission Approved</u>
<u>Meter Size</u>	
5/8" x 3/4"	\$ 6.34
3/4"	9.51
1"	14.84
1-1/2"	29.01
2"	46.02
3"	91.36
4"	142.36
6"	284.05
<u>Gallonage Charge</u>	
Per 1,000 gallons	\$ 1.39

General Service

<u>Base Facility Charge</u>	<u>Commission Approved</u>
<u>Meter Size</u>	
5/8" x 3/4"	\$ 6.34
3/4"	9.51
1"	14.84
1-1/2"	29.01
2"	46.02
3"	91.36
4"	142.36
6"	284.05
<u>Gallonage Charge</u>	
Per 1,000 gallons	\$ 1.39

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WASTEWATER

MONTHLY RATES

Residential

<u>Base Facility Charge</u>	<u>Commission Approved</u>
All Meter Sizes	\$ 12.50
<u>Gallonage Charge</u>	
Per 1,000 gallons (6,000 gal. maximum)	\$ 2.63

General Service

<u>Base Facility Charge</u>	<u>Commission Approved</u>
<u>Meter Size</u>	
5/8" x 3/4"	\$ 12.50
3/4"	18.75
1"	31.08
1-1/2"	62.02
2"	99.15
3"	198.16
4"	309.55
6"	618.96
<u>Gallonage Charge</u>	
Per 1,000 gallons (No maximum)	\$ 3.15

The utility has requested that it be allowed to implement the rate increase prior to the installation of the water meters. The utility states that it will be difficult to find financing to purchase meters and install them without revenues produced by the increased rates. We find that implementation of the rate increase prior to the installation of the meters is a reasonable solution.

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We will approve flat rates as follow, until the water meters are installed.

Monthly Water Flat Rate	\$ 14.70
Monthly Wastewater Flat Rate	\$ 28.28

The utility must install water meters for all customers as quickly as possible. We believe that six months is more than adequate time to install 185 water meters. If all water meters have been installed at or before six months of the effective date of this Order, the utility may begin to charge all customers the base facility and gallonage charges, effective not earlier than 30 days after approval of new tariffs. If all of the water meters have not been installed within six months of the effective date of this Order, the utility shall begin billing the appropriate base facility charges to all customers, but shall charge the gallonage charge only to those customers who have a functioning water meter installed at the respective customer's service site. In no event shall the gallonage charge be applied to any customer earlier than for meter readings taken on or after 30 days following the stamped approval date of the revised tariff pages implementing the base facility charge rate structure.

The Commission's investigation in this case indicated that there are a couple of lots which are not being charged the same as other lots. Rule 25-30.135(2), Florida Administrative Code, states that no utility may modify or revise its rates until the utility files and receives approval from the Commission for any such modification or revision. Accordingly, we find that the rates approved herein should be applied, without discrimination, to all customers.

Customer Access to Information

Customers have questioned whether the utility has a policy and procedures manual. No manual is maintained by the utility. However, the tariff includes the rates, charges and various operating rules required by the Commission. Rule 25-30.135(3), Florida Administrative Code, requires that the utility maintain for customer inspection, a copy of Chapter 25-30, Florida Administrative Code, and a copy of the utility's tariffs, rules, regulations and schedules at the utility office in the service area and make them readily accessible to the customers during office hours. The utility must comply with these requirements.

Rates After Amortization of Rate Case Expense

The only rate case expense incurred by the utility for this case was a \$300 filing fee. Following the requirements of Section 367.0816, Florida Statutes, the appropriate recovery period for this fee is four years which allows the utility to recover approximately \$37 per year per system through its rates. This revenue recovery grossed up to account for regulatory assessment fees results in an annual revenue of \$39 per system. Therefore, at the end of four years the utility's rates for water and for wastewater should each be reduced by \$39 annually. Based on the existing circumstances, the effect of this rate reduction is a \$.01 reduction in the utility's water base facility charge and a \$.01 reduction in the utility's wastewater gallonage charge. The utility shall file revised tariff pages no later than one month prior to the actual date of the required rate reduction. The utility also shall file a proposed customer letter setting forth the lower rates and the reason for the reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

Miscellaneous Service Charges

Currently, the utility's tariff has no provision for miscellaneous service charges. Miscellaneous service charges are designed to provide revenues to a utility for services other than the direct provision of potable water and wastewater collection and treatment. These fees are designed to more accurately defray the costs associated with each service and place the responsibility for the cost on the persons creating it rather than the ratepaying body as a whole. The four types of miscellaneous service charges are as follows:

Initial Connection: This charge is to be levied for service initiation at a location where service did not exist previously.

Normal Reconnection: This charge is to be levied for transfer of service to a new customer account at a previously served location, or reconnection of service subsequent to a customer requested disconnection.

Violation Reconnection: This charge is to be levied prior to reconnection of an existing customer after disconnection of service for cause according to Rule 25-30.320(2), Florida Administrative Code, including a delinquency in bill payment. (Actual cost is limited to direct labor and equipment rental.)

Premises Visit Charge (in lieu of disconnection): This charge is to be levied when a service representative visits a premises for the purpose of discontinuing service for nonpayment of a due and collectible bill and does not discontinue service because the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill.

We approve the following miscellaneous service charges as being appropriate.

	<u>WATER</u>	<u>WASTEWATER</u>
Initial Connection:	\$ 15.00	\$ 15.00
Normal Reconnection	\$ 15.00	\$ 15.00
Violation Reconnection	\$ 15.00	Actual Cost(1)
Premises Visit (in lieu of disconnection)	\$ 10.00	\$ 10.00

(1) Actual cost for a wastewater violation reconnection is limited to materials and equipment rental.

When both water and wastewater services are provided, only a single charge is appropriate unless circumstances beyond the control of the utility require multiple actions.

Service Availability Charges

The utility's tariff does not include any service availability charges. However, in 1989 the utility collected an impact fee of \$2,085. While this was not an authorized charge, we believe that it is beneficial to the contribution level of the utility and should not be refunded. However, the utility is admonished to collect only those charges approved in the tariff.

Rule 25-30.580, Florida Administrative Code states that:

(1) A utility's service availability policy shall be designed in accordance with the following guidelines:

- (a) The maximum amount of contributions-in-aid-of-construction, net of amortization, should not exceed 75 percent of the total original cost, net of accumulated depreciation, of the utility's facilities and plant when the facilities and plant are at their designed capacity; and
- (b) The minimum amount of contributions-in-aid-of-construction should not be less than the percentage of such facilities and plant that is represented by the water transmission and distribution and sewage collection systems.

We estimate that the utility will add approximately 57 additional customers and that it will take 11 years before the system is built out. Considered along with the current depreciation rate of 3.26 percent for the water system, we believe the guidelines in the rule would require a water charge within the range of \$28 to \$210. Because the maximum is a relatively low charge, it is hereby approved as the water service availability charge.

Considering the same facts and a composite depreciation rate of 3.70 percent for the wastewater system, the rule would require a wastewater charge within the range of \$677 to \$2,854. This range is unusually high because of the high cost of the pro forma plant and land that the utility is required to add. If the maximum charge is approved, it would in effect be making all new customers pay 75 percent of not only their share of the new construction, but 75 percent of the current customers' share of the new construction. This is not reasonable. It is more appropriate for future customers to pay their share of the construction and for the current customers to pay for their share through rates.

Based on charges for similar utilities, we find that a service availability charge of \$1,200 for wastewater is appropriate. That charge places the utility at a 30 percent contribution level at build-out.

ESCROW ACCOUNT - PLANT AND PENALTY

We have held that the portion of the increase related to the pro forma plant and the penalty be placed in escrow until the construction is complete and our final review of the quality of service is complete. The portion of rates which relates to the pro forma plant is \$.17 for the water gallonage charge or \$.99 of the water flat rate. The wastewater portion related to the pro forma plant is \$1.65 of the gallonage charge, or \$9.90 of the flat rate. The portion of the rates which relates to the proposed penalty is \$.15 for the water gallonage charge and \$.90 for the water flat rate. The wastewater portion related to the proposed penalty is \$.15 for the wastewater gallonage charge and \$.90 for the wastewater flat rate. Therefore, we find that a total of \$.32 of the water gallonage charge, or \$1.89 of the water flat rate be escrowed and a total of \$1.80 of the wastewater gallonage charge, or \$10.80 of the wastewater flat rate be escrowed to accumulate the proper sums as required.

RATES IN THE EVENT OF PROTEST

This Order proposes an increase in water and wastewater rates. A timely protest could delay what may be a justified rate increase, pending a formal hearing and final order in this case, resulting in an unrecoverable loss of revenue to the utility.

Accordingly, in the event a timely protest is filed by anyone other than the utility, we authorize the utility to collect the rates approved herein, subject to refund, provided that the utility furnishes security for such a potential refund. The security should be in the form of a bond or letter of credit in the amount of \$40,000. Alternatively, the utility may establish an escrow account with an independent financial institution pursuant to a written agreement. If this alternative is chosen, all revenue collected under the rate increase will be subject to the escrow. Any withdrawals of funds from the escrow account shall be subject to the written approval of the Commission through the Director of Records and Reporting. Should any refund ultimately be required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code.

In addition, Shady Oaks shall file reports with the Division of Records and Reporting no later than the twentieth day following the monthly billings, after the increased rates are in effect,

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indicating the amount of revenue collected under the implemented rates. Shady Oaks must also keep an account of all monies received by reason of the increase authorized herein, specifying by whom and in whose behalf such monies were paid.

EFFECTIVE DATE OF RATES AND CHARGES

The approved flat rates shall be effective for service rendered on or after the stamped approval date on the revised tariff pages provided the utility has provided its customers with a written notice explaining the new rates. The approved flat rates shall be discontinued as soon as the utility has installed meters for each of its customers or at the end of six months following the effective date of this Order, whichever comes first. The utility shall then file revised tariff pages to reflect the base facility/gallongage charge rates approved herein. These rates shall be effective for meter readings taken on or after 30 days after the stamped approval date on the revised tariff pages. All customers not then having a functioning water meter properly installed at the service site shall be charged only the base facility charge with no gallongage charge. Each such customer shall be required to pay the gallongage charge only after the utility properly installs the customer's water meter.

The service availability charges approved herein shall be effective for connections on or after the stamped approval date on the revised tariff pages. Miscellaneous service charges will be effective for service rendered on or after the stamped approval date on the revised tariff pages.

The revised tariff pages will be approved upon staff's verification that the tariffs are consistent with the Commission's decision, that the proposed customer notice is adequate, and that the required security, if needed, has been provided.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the application of Shady Oaks Mobile-Modular Estates, Inc. for an increase in its water and wastewater rates in Pasco County is approved to the extent set forth in the body of this Order. It is further

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ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that all matters contained in the body of this Order and in the schedules attached hereto are by reference incorporated herein. It is further

ORDERED that the provisions of this Order issued as proposed agency action shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc. shall, within sixty (60) days after the effective date of this Order, file with the Commission a request for acknowledgement of a name change and restructure. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc. is authorized, subject to stated prerequisites, to charge the new rates and charges set forth in the body of this Order. It is further

ORDERED that the flat rates approved herein shall be effective for service rendered after the stamped approval date on the revised tariff pages. It is further

ORDERED that the metered rates approved herein shall be effective for meter readings taken on and after thirty (30) days after the stamped approval date of the revised tariff pages. It is further

ORDERED that the miscellaneous service charges approved herein shall be effective for services rendered on or after the stamped approval date on the revised tariff pages. It is further

ORDERED that the service availability charges approved herein shall be effective for connections made on or after the stamped approval date on the revised tariff pages. It is further

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ORDERED that prior to its implementation of the rates approved herein, Shady Oaks Mobile-Modular Estates, Inc. shall submit and have approved revised tariff pages and a proposed notice to its customers of the increased rates and charges and the reasons therefor. The revised tariff pages will be approved upon Staff's verification that they are consistent with our decisions herein and that the protest period has expired. The proposed customer notice will be approved upon Staff's determination of its adequacy. It is further

ORDERED that if at six months after the effective date of this Order, Shady Oaks Mobile-Modular Estates, Inc. has not expended at least 85 percent of the increase approved herein for maintenance, it shall then submit a written schedule to the Commission to show what monthly maintenance schedule will be adopted along with a statement of the reasons such funds were not expended for preventative maintenance. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc. shall establish an escrow account with an independent financial institution, pursuant to a written agreement, to escrow the fine imposed and to escrow the maintenance allowance as set out in the body of this Order. It is further

ORDERED that in the event of a protest by any substantially affected person other than Shady Oaks Mobile-Modular Estates, Inc., the utility, is authorized to collect the rates approved herein on a temporary basis, subject to refund in accordance with Rule 25-30.360, Florida Administrative Code, provided that Shady Oaks Mobile-Modular Estates, Inc., has established the required security for any potential refund and provided that it has submitted and staff has approved revised tariff pages and a proposed customer notice. It is further

ORDERED that after the expiration of the protest period, this Order shall become final if no timely protest is filed. It is further

ORDERED that this docket will not be closed, but will remain open until the contingencies specified in this Order have been accomplished.

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By ORDER of the Florida Public Service Commission this 8th
day of FEBRUARY, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

As identified in the body of this order, our actions other than granting of temporary rates in the event of a protest, are preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on March 1, 1991. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

SCHEDULE NO. 1

COMPONENT	(A) AVERAGE TEST YEAR PER UTILITY	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) PRO FORMA ADJUSTMENTS	(C) PRO FORMA TEST YEAR
1					
2					
3 UTILITY PLANT IN SERVICE	\$ 13,888	\$ 23,984	\$ 37,872	\$ 18,500	\$ 56,372
4 LAND	0	730	730		730
5 C.W.I.P.	0	0	0		0
6 NON-USED AND USEFUL COMPONENTS	0	0	0		0
7 C.I.A.C.	0	(26,103)	(26,103)		(26,103)
8 ACCUMULATED DEPRECIATION	(11,599)	2,663	(8,936)	(1,092)	(10,028)
9 AMORTIZATION OF C.I.A.C.	0	5,665	5,665		5,665
10 ADVANCES FOR CONSTRUCTION	0	0	0		0
11 WORKING CAPITAL ALLOWANCE	0	3,176	3,176		3,176
12					
13 RATE BASE	\$ 2,289	\$ 10,115	\$ 12,404	\$ 17,408	\$ 29,812
14					
15					

COMPONENT	(A) AVERAGE TEST YEAR PER UTILITY	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) PRO FORMA ADJUSTMENTS	(C) PRO FORMA TEST YEAR
1					
2					
3 UTILITY PLANT IN SERVICE	\$ 45,632	\$ 57,914	\$ 103,546	\$ 127,265	\$ 230,811
4 LAND	0	3,066	3,066	50,841	53,907
5 C.W.I.P.	0	0	0		0
6 NON-USED AND USEFUL COMPONENTS	0	0	0		0
7 C.I.A.C.	0	(58,956)	(58,956)		(58,956)
8 ACCUMULATED DEPRECIATION	(32,275)	(3,717)	(35,992)	(4,709)	(40,701)
9 AMORTIZATION OF C.I.A.C.	0	15,483	15,483		15,483
10 ADVANCES FOR CONSTRUCTION	0	0	0		0
11 WORKING CAPITAL ALLOWANCE	0	3,613	3,613		3,613
12					
13 RATE BASE	\$ 13,357	\$ 17,403	\$ 30,760	\$ 173,397	\$ 204,157
14					

SCHEDULE 1-A
PAGE 1 OF 2

ADJUSTMENT -----	WATER -----	SEWER -----
1 UTILITY PLANT IN SERVICE		
2 -----		
3 1. To adjust the utility's balance to the		
4 original cost estimate.	\$ (2,300)	\$ 10,785
5		
6 2. To include Phase 2 line additions.	25,060	47,129
7		
8 3. To record installation of master meter.	1,300	
9		
10 4. To reflect replacement of pump in 1989.	(151)	0
11		
12 5. To reflect the average test year balance.	75	
13		
14 TOTAL ADJUSTMENTS TO UTILITY PLANT	\$ 23,984	\$ 57,914
15	=====	=====
16		
17 LAND		
18 ----		
19 1. To include land based on the original		
20 purchase price.	\$ 730	\$ 3,066
21	=====	=====
22		
23 CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION		
24 -----		
25 1. To reflect cash contribution shown on the		
26 tax return.	\$ (1,043)	\$ (1,042)
27		
28 2. To reflect lines imputed based on tax		
29 return plant balance (1971-1972).	0	(10,785)
30		
31 3. To include Phase 2 lines not reflected		
32 on tax return.	(25,060)	(47,129)
33	-----	-----
34 TOTAL ADJUSTMENTS TO CIAC	\$ (26,103)	\$ (58,956)
35	=====	=====
36		
37 ACCUMULATED DEPRECIATION		
38 -----		
39 1. To adjust accumulated depreciation		
40 using the adjusted balance of U.P.I.S.		
41 and a 2.5% composite depreciation rate.	\$ 2,191	\$ (5,011)
42		
43 2. To reflect the average test year balance.	472	1,294
44	-----	-----
45 TOTAL ADJUSTMENTS TO ACCUMULATED DEPRECIATION	\$ 2,663	\$ (3,717)
46	=====	=====

SCHEDULE 1-A
PAGE 2 OF 2

ADJUSTMENT	WATER	SEWER
-----	-----	-----
1 AMORTIZATION OF C.I.A.C.		
2 -----		
3 1. To reflect accumulated amortization on		
4 the adjusted balance of CIAC		
5 and a 2.5% composite depreciation rate.	\$ 5,991	\$ 16,220
6		
7 2. To reflect the average test year balance.	(326)	(737)
8	-----	-----
9 TOTAL ADJUSTMENTS TO AMORTIZATION OF CIAC	\$ 5,665	\$ 15,483
10	=====	=====
11		
12 WORKING CAPITAL ALLOWANCE		
13 -----		
14 1. To record the working capital allowance		
15 using the formula method.	\$ 3,176	\$ 3,613
16	=====	=====
17		
18 PRO FORMA PLANT		
19 -----		
20 1. To include projected cost of percolation pond.	\$ 0	\$ 125,000
21		
22 2. To include estimated cost of meters.	18,500	0
23		
24 3. To include the engineering costs spent		
25 for the perc pond design.	0	2,265
26	-----	-----
27 TOTAL ADJUSTMENTS TO PRO FORMA PLANT	\$ 18,500	\$ 127,265
28	=====	=====
29		
30 PRO FORMA LAND		
31 -----		
32 1. To include the current cost of the		
33 land required for the new percolation pond.	\$ 0	\$ 52,301
34		
35 2. To retire the original cost of the land for the		
36 old percolation pond.	0	(1,460)
37	-----	-----
38 TOTAL ADJUSTMENTS TO PRO FORMA LAND	\$ 0	50,841
39	=====	=====
40		
41 PRO FORMA ACCUMULATED DEPRECIATION		
42 -----		
43 1. To include one year's depreciation on		
44 pro forma plant.	\$ (1,092)	\$ (4,709)
45	=====	=====

SCHEDULE NO. 2

COMPONENT	AVERAGE TEST YEAR	COMMISSION ADJUSTMENTS	COMMISSION ADJUSTED TEST YEAR	PRO RATA ADJUSTMENTS	ADJUSTED BALANCE	WEIGHT	COST	WEIGHTED COST
1								
2								
3 LONG-TERM DEBT	171,157		171,157	(72,406)	98,751	42.21%	11.55%	4.87%
4 SHORT-TERM DEBT	1,121		1,121	(474)	647	0.28%	16.80%	0.05%
5 CUSTOMER DEPOSITS	0		0	0	0	0.00%	0.00%	0.00%
6 COMMON EQUITY	0	233,242	233,242	(98,671)	134,571	57.52%	12.49%	7.18%
7 ITC'S	0		0	0	0	0.00%	0.00%	0.00%
8 DEFERRED INCOME TAXES	0		0	0	0	0.00%	0.00%	0.00%
9 OTHER CAPITAL	0		0	0	0	0.00%	0.00%	0.00%
10								
11								
12 TOTAL	172,278	233,242	405,520	(171,551)	233,969	100.00%		12.10%
13								
14								
15								
16								
17								
18								
19								
20								

	RANGE OF REASONABLENESS:	
	HIGH	LOW
EQUITY	13.49%	11.49%
OVERALL RATE OF RETURN	12.68%	11.53%

SCHEDULE NO. 3

	(A)	(B)	(C)	(D)	(E)
DESCRIPTION	AVERAGE TEST YEAR PER UTILITY	ADJUSTMENTS TO THE TEST YEAR	ADJUSTED TEST YEAR	CONSTRUCTED ADJUSTMENTS	CONSTRUCTED TEST YEAR
1					
2					
3 OPERATING REVENUES	\$ 27,750	\$	\$ 27,750	\$ 4,889	\$ 32,639
4 OPERATING EXPENSES:					
5 OPERATION & MAINTENANCE	\$ 17,268	\$ 8,140	\$ 25,408		\$ 25,408
6 DEPRECIATION	0	1,533	1,533		1,533
7 AMORTIZATION	0	0	0		0
8 TAXES OTHER THAN INCOME	0	1,870	1,870	220	2,090
9 INCOME TAXES	0	0	0	0	0
10					
11 TOTAL OPERATING EXPENSES	\$ 17,268	\$ 11,543	\$ 28,811	\$ 220	\$ 29,031
12					
13 OPERATING INCOME	\$ 10,482	\$ (11,543)	\$ (1,061)	\$ 4,669	\$ 3,608
14					
15 RATE OF RETURN	457.93%		-8.55%		12.10%
16					
17					

	(A)	(B)	(C)	(D)	(E)
DESCRIPTION	AVERAGE TEST YEAR PER UTILITY	ADJUSTMENTS TO THE TEST YEAR	ADJUSTED TEST YEAR	CONSTRUCTED ADJUSTMENTS	CONSTRUCTED TEST YEAR
1					
2					
3 OPERATING REVENUES	\$ 27,750	\$	\$ 27,750	\$ 35,029	\$ 62,779
4 OPERATING EXPENSES:					
5 OPERATION & MAINTENANCE	\$ 18,022	\$ 10,883	\$ 28,905		\$ 28,905
6 DEPRECIATION	0	6,233	6,233		6,233
7 AMORTIZATION	0	(2,386)	(2,386)		(2,386)
8 TAXES OTHER THAN INCOME	0	3,742	3,742	1,576	5,318
9 INCOME TAXES	0	0	0	0	0
10					
11 TOTAL OPERATING EXPENSES	\$ 18,022	\$ 18,472	\$ 36,494	\$ 1,576	\$ 38,070
12					
13 OPERATING INCOME	\$ 9,728	\$ (18,472)	\$ (8,744)	\$ 33,453	\$ 24,709
14					
15 RATE OF RETURN	0.00%		-28.43%		12.10%
16					

SCHEDULE 3-A
 PAGE 1 OF 3

ADJUSTMENT -----	WATER -----	SEWER -----
1 OPERATION AND MAINTENANCE		
2 -----		
3 1. To estimate the salary for the secretary.	\$ 1,800	\$ 1,800
4		
5 2. To estimate the salary for the president.	3,000	3,000
6		
7 3. To allow additional expense for meter reading.	1,200	
8		
9 4. To recognize the increased cost of		
10 hospitalization insurance.	2,254	2,254
11		
12 5. To remove 75% of medical costs		
13 to match benefits to utility work-hours.	(3,050)	(3,050)
14		
15 6. To reduce the purchased power expense		
16 to the staff engineer's estimate.	(3,302)	0
17		
18 7. To adjust materials and supplies expense		
19 to properly accrue expenses.	5	60
20		
21 8. To accrue an accounting services invoice.	57	57
22		
23 9. To remove four invoices for services		
24 in a prior period.	(225)	(275)
25		
26 10. To remove costs to settle bankruptcy.	(1,000)	(1,000)
27		
28 11. To remove non-expense items - perc pond		
29 engineering costs and debt/interest payments.	(530)	(2,171)
30		
31 12. To recognize the projected increase in the contrac-		
32 tual services rate and accrue the yearly expense	767	1,042
33		
34 13. To accrue rental expense for the office.	975	975
35		
36 14. To allocate a portion of the auto repairs		
37 to the mobile home park.	(155)	(168)
38		
39 15. To adjust automobile insurance.	(446)	(446)
40		
41 16. To include liability insurance.	144	198
42		
43 17. To remove out of period reg. comm. exp.	(1,770)	(1,770)
44		
45		
46		
47		
48		
49		

SCHEDULE 3-A
 PAGE 2 OF 3

ADJUSTMENT	WATER	SEWER
-----	-----	-----
1 OPERATION AND MAINTENANCE (CONT'D)		
2 -----		
3 18. To amortize the filing fee over four years.	(112)	(112)
4		
5 19. To remove fines and penalties.	(950)	(900)
6		
7 20. To increase expenses to allow additional		
8 amounts for preventative maintenance.	8,958	8,500
9		
10 21. To allow mowing costs for the percolation pond.		2,925
11		
12 22. To remove telephone expense		
13 related to prior period.	(35)	(36)
14		
15 23. To allow postage for mailing bills.	555	
16	-----	-----
17 TOTAL ADJUSTMENTS TO OPERATION		
18 AND MAINTENANCE	\$ 8,140	\$ 10,883
19	=====	=====
20		
21 DEPRECIATION		
22 -----		
23 1. To reflect depreciation expense		
24 on test year plant.	\$ 1,232	\$ 3,705
25		
26 2. To reflect amortization		
27 on test year CIAC.	(791)	(2,181)
28		
29 3. To include depreciation expense		
30 on pro forma plant.	1,092	4,709
31	-----	-----
32 TOTAL ADJUSTMENTS TO DEPRECIATION	\$ 1,533	\$ 6,233
33	=====	=====
34		
35 AMORTIZATION		
36 -----		
37 1. To amortize the gain on the retiremnet		
38 of the old percolation pond land.	\$ 0	\$ (2,386)
39	=====	=====

SCHEDULE 3-A
 PAGE 3 OF 3

ADJUSTMENT -----	WATER -----	SEWER -----
1 TAXES OTHER THAN INCOME		
2 -----		
3 1. To reflect regulatory assessment		
4 fees on test year revenues.	\$ 1,249	\$ 1,249
5		
6 2. To include tangible property tax.	94	253
7		
8 3. To include real estate taxes		
9 on utility plant sites.	14	58
10		
11 4. To include real estate taxes on the		
12 pro forma land.	0	1,772
13		
14 5. To include federal and state unemployment taxes		
15 on salaries.	54	43
16		
17 6. To include FICA taxes on salaries.	459	367
18		
19 TOTAL ADJUSTMENTS TO TAXES OTHER THAN INCOME	\$ 1,870	\$ 3,742
20	=====	=====
21		
22 OPERATING REVENUES		
23 -----		
24 To reflect recommended increase (decrease)		
25 to allow a fair rate of return.	\$ 4,889	\$ 35,029
26	=====	=====
27		
28 TAXES OTHER THAN INCOME		
29 -----		
30 To reflect regulatory assessment		
31 fees on revenue change.	\$ 220	\$ 1,576
32	=====	=====

SCHEDULE NO. 4

ACCT NO.	ACCOUNT TITLE	(A) UTILITY BALANCE PER BOOKS	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) PRO FORMA ADJUSTMENTS	(E) PRO FORMA TEST YEAR
1	601 SALARIES AND WAGES - EMPLOYEES	\$ 0	\$ 1,800	\$ 1,800	\$ 0	\$ 1,800
2	603 SALARIES AND WAGES - OFFICERS	0	4,200	4,200	0	4,200
3	604 EMPLOYEE PENSIONS & BENEFITS	2,103	(796)	1,307	0	1,307
4	615 PURCHASED POWER	4,032	(3,302)	730	0	730
5	618 CHEMICALS	0	145	145	0	145
6	620 MATERIALS AND SUPPLIES	1,040	8,963	10,003	0	10,003
7	630 CONTRACTUAL SERVICES	4,347	(1,130)	3,217	0	3,217
8	640 RENTS	0	975	975	0	975
8	650 TRANSPORTATION EXPENSES	2,042	(776)	1,266	0	1,266
9	655 INSURANCE	0	329	329	0	329
10	665 REGULATORY COMMISSION EXPENSE	1,920	(1,882)	38	0	38
11	668 OTHER REGULATORY EXPENSE	950	(950)	0	0	0
12	675 MISCELLANEOUS EXPENSES	151	0	151	0	151
13	680 OFFICE SUPPLIES & EXPENSE	683	564	1,247	0	1,247
14						
15	TOTAL	\$ 17,268	\$ 8,140	\$ 25,408	\$ 0	\$ 25,408
16						
17						
18						
19						
20	SEWER OPERATION & MAINTENANCE EXPENSES					
21						
22		(A)	(B)	(C)	(D)	(E)
23		UTILITY	ADJUSTMENTS			
24	ACCT	BALANCE	TO THE	ADJUSTED	PRO FORMA	PRO FORMA
25	NO.	PER BOOKS	TEST YEAR	TEST YEAR	ADJUSTMENTS	TEST YEAR
26						
27	701 SALARIES AND WAGES - EMPLOYEES	\$ 0	\$ 1,800	\$ 1,800	\$ 0	\$ 1,800
28	703 SALARIES AND WAGES - OFFICERS	0	3,000	3,000	0	3,000
29	704 EMPLOYEE PENSIONS & BENEFITS	2,103	(796)	1,307	0	1,307
30	711 SLUDGE REMOVAL EXPENSE	0	320	320	0	320
31	715 PURCHASED POWER	2,457	0	2,457	0	2,457
32	718 CHEMICALS	0	161	161	0	161
33	720 MATERIALS AND SUPPLIES	286	8,560	8,846	0	8,846
34	730 CONTRACTUAL SERVICES	7,391	97	7,488	0	7,488
35	740 RENTS	0	975	975	0	975
36	750 TRANSPORTATION EXPENSES	2,040	(799)	1,241	0	1,241
37	755 INSURANCE	0	383	383	0	383
38	765 REGULATORY COMMISSION EXPENSE	1,920	(1,882)	38	0	38
39	768 OTHER REGULATORY EXPENSE	900	(900)	0	0	0
40	775 MISCELLANEOUS EXPENSES	198	0	198	0	198
41	780 OFFICE SUPPLIES & EXPENSE	727	(36)	691	0	691
42						
43	TOTAL OPERATION AND MAINTENANCE	\$ 18,022	\$ 10,883	\$ 28,905	\$ 0	\$ 28,905
44						