

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in Lee County by Sanibel Bayous Utility Corporation.

DOCKET NO. 020439-SU

In re: Investigation into alleged improper billing by Sanibel Bayous Utility Corporation in Lee County in violation of Section 367.091(4), Florida Statutes.

DOCKET NO. 020331-SU  
ORDER NO. PSC-03-0699-PAA-SU  
ISSUED: June 9, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

ORDER GRANTING TEMPORARY RATES IN EVENT OF PROTEST AND INITIATING SHOW CAUSE PROCEEDINGS AND NOTICE OF PROPOSED AGENCY ACTION ORDER APPROVING MISCELLANEOUS SERVICE CHARGES, LATE FEES, AND INCREASED RATES, REQUIRING ADDITIONAL REFUNDS, AND DISCONTINUING AUTHORIZATION TO COLLECT SERVICE AVAILABILITY CHARGES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein, except for the authorization of temporary rates in the event of protest, the initiation of show cause proceedings, and the requirement to reduce rates after four years, is preliminary in nature and 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.

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BACKGROUND

Sanibel Bayous Utility Corporation (SBUC or utility) is a Class C wastewater utility located in Lee County. The utility provides wastewater service to approximately 150 residential, 116 multi-family, and four general service customers in Sanibel Bayous Subdivision, Heron's Landing Subdivision, the Ridge Subdivision, and Blind Pass Condominiums on Sanibel Island. Water service is supplied by Island Water Association. Tariff rates were approved during the grandfather process on June 4, 1976.

The utility was granted Wastewater Certificate No. 207-S pursuant to Order No. 7402, issued August 24, 1976, in Docket No. 760364-S. The utility has never had a rate case and rate base has never been established. The utility's 2001 Annual Report shows annual operating revenue of \$46,239, operating expenses of \$91,712, and a net operating loss of \$45,473.

According to annual reports filed with this Commission, SBUC was owned by Mr. William Broeder from 1976 until 1989. In 1990, the utility was jointly owned by Mr. Broeder (50%) and Mr. Gary Winrow (50%). Mr. Winrow has been actively involved in the management and day-to-day operations of the utility since 1994 as part of an arrangement to obtain wastewater service for his development of some real estate units. Although Mr. Winrow was able to compile billing information from 1988 to date, detailed records for earlier years were not available.

By letter dated September 5, 2001, our staff notified SBUC that it appeared, in reviewing its 2000 Annual Report, that the utility was in violation of Section 367.091(4), Florida Statutes, which specifies that a utility may impose and collect only those rates and charges approved by this Commission. Our staff requested that billing information be provided within 30 days of the date of the September letter. On October 2, 2001, the utility's accountant provided part of the billing information requested in our staff's September 5, 2001, letter.

Following a review of the information provided by the utility, on October 8, 2001, our staff notified SBUC that it appeared that SBUC was, indeed, in violation of Section 367.091(4), Florida Statutes, and that it must immediately reduce customer charges to the authorized tariff rates and that the increase in rates must be refunded. In addition, our staff requested, within 30 days of the letter, that the utility provide additional billing information to calculate the amount of the customer refunds. Our staff provided a list of consultants who could assist the utility with the refund calculation and enclosed a staff assisted rate case (SARC) application along with a copy of Rule 25-30.455, Florida Administrative Code (F.A.C.), which details the SARC process.

The utility failed to respond with the requested billing data within the time frame requested. On two subsequent occasions, our staff telephoned the utility, inquiring as to the status of SBUC's response to staff's billing data requests. To the first inquiry, the utility indicated the information would be provided by November 30, 2001; to the second inquiry, SBUC stated that staff would receive its response by December 21, 2001. On January 3, 2002, our staff attached a copy of the October 8, 2001 letter and requested that the utility respond, or staff would recommend the initiation of a show cause proceeding. On January 14, 2002, the utility provided the requested information on the rates and charges collected by the utility.

In an effort to reach a resolution of this matter, on March 6, 2002, Mr. Winrow, Mr. John Guastella, the utility's consultant, and Mr. Michael Jenkins, Office of Public Counsel (OPC), met with our staff to discuss the improper increases in rates, possible refunds, and the possibility of the utility filing for a SARC. Mr. Winrow provided additional billing, plant, and information on

contributions in aid of construction (CIAC) and a pro forma income statement. The utility offered: to refund to residential customers the rate increase initiated in April 2000; to continue charging rates of \$12 and \$14 per month for multiple dwelling and single family residential customers, and \$25 per month for general service customers, respectively; to record connection fees as CIAC; and to file a SARC. Mr. Winrow stated that the utility's method of refund was to provide free service to residential customers for the last quarter of 2001. He claimed that adjustment nearly offset all of the additional amounts collected under the \$2.67 monthly increase from April 2000 through September 2001.

On April 5, 2002, our staff received a memorandum from Mr. Guastella that proposed a resolution, outlined the events that had transpired since October 3, 2001, and provided informational schedules. The utility proposed to: (1) maintain the \$12 and \$14 rates it claims that it has always charged residential customers, (2) maintain the \$25 rate charged to General Service customers, (3) treat connection fees as CIAC, and (4) seek a staff assisted rate case. In addition, the utility indicated that it intended to undertake substantial improvements to its system, estimated at \$47,000, in order to comply with anticipated Florida Department of Environmental Protection (FDEP) requirements with respect to the utility's pending renewal of its Operating Permit. Finally, the Memorandum described SBUC's refund of amounts collected under the \$2.67 increase from April 2000 through September 2001. Based on the above, our staff opened Docket No. 020331-SU on April 15, 2002, to investigate the apparent improper billing practices of SBUC.

In a May 8, 2002 letter, our staff reminded the utility of the need to file its SARC prior to staff's filing a recommendation addressing the proposal. Applying for the SARC was an element of the proposal and demonstrated the utility's good faith effort to come into compliance with Florida Statutes. SBUC was also reminded to file its Annual Report and to pay its Regulatory Assessment Fee (RAF). Pursuant to Rules 25-30.455(8)(c) and (d), F.A.C., to qualify for a SARC, a current annual report must be on file with this Commission, and the utility must be current in its payment of regulatory assessment fees (RAFs). The utility applied for a SARC on May 16, 2002, and Docket No. 020439-SU was opened to address this application.

On September 23, 2002, we issued Order No. PSC-02-1298-PAA-SU, in Docket No. 020331-SU. In that Order, we approved the utility's resolution as modified, approved temporary rates, stated that the question of refunds would be addressed in the SARC, required reports on revenue collected subject to refund, required security, consolidated this docket with Docket No. 020331-SU, and put the utility on notice that if it did not bill properly in accordance with its tariffs, or if it did not cooperate and provide our staff and auditors with the information requested, a show cause proceeding would be initiated.

This Order addresses the SARC, an additional refund of revenue collected through unauthorized rates, and the amount and disposition of connection fees.

Our staff audited the utility's records for compliance with our rules and orders and determined the components necessary for rate setting. The staff engineer 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. We have used an historical test year ending March 31, 2002, for this rate case.

Our staff conducted a customer meeting on November 14, 2002, in the Sanibel Community Association Auditorium. Seven customers attended the meeting, and three customers commented about the utility and its service. The customers were asked whether they preferred quarterly or monthly billing. All the customers present preferred quarterly billing. The only complaint concerned the fact that there is no emergency telephone number posted at the lift stations. When an alarm signaling an operational problem sounds at a lift station, the customers do not know who to call to resolve the problem. This concern will be addressed below.

Our staff originally filed its recommendation in this docket on January 9, 2003, for the January 21, 2003 Agenda Conference. On three occasions prior to the Agenda, our staff attempted to contact Mr. Winrow by telephone. Although our staff left messages asking Mr. Winrow to read the recommendation and contact staff with any questions he had, our staff received no response until the morning of the Agenda. On that morning, our staff received a voice mail

message requesting that the SARC be deferred so that Mr. Winrow could hire representation. Prior to the Agenda, Mr. Winrow faxed to our staff a request to defer the case and provided staff with a waiver of the statutory time frame. This Commission approved the request for deferral.

In a January 31, 2003 letter, Mr. John Guastella, on behalf of SBUC, requested that our staff reconsider its recommendation. Mr. Guastella stated that the utility located documentation to verify CIAC of \$213,400. It should be noted that our audit staff requested numerous times that the utility provide CIAC and plant records. The utility responded that the documentation could not be found and had been destroyed. In addition, Mr. Guastella requested that our staff include in rate base additions to plant of \$52,799. These additions were not included in the original cost study because SBUC could not verify the exact nature of the improvements or provide documentation. Further, Mr. Guastella requested a higher level of O&M expense and that additional rate case expense be allowed.

In a February 6, 2003 letter, our staff requested that Mr. Winrow provide the records supporting the CIAC, the plant additions, and additional rate case expense by March 7, 2003. However, it was not received by that date.

Our staff then telephoned SBUC on March 17, 2003, to determine whether the utility intended to respond to staff's February 6 letter. Mr. Winrow's assistant relayed a message that the documentation would be mailed to staff on March 21, 2003; however, it was not received. Therefore, our staff again telephoned SBUC on April 4, 2003, to inquire as to the status of the document mailing. Our staff was informed that it had been mailed, but that the utility would check into it. On April 7, 2003, our staff telephoned the utility to advise them that the documents had not been received. Mr. Winrow's assistant explained that staff's copy of the documents had inadvertently been mailed to Mr. Guastella, SBUC's consultant, and that she would overnight the documents. The documents were finally received on April 8, 2003.

After analyzing the documentation provided by the utility, our staff revised its January 9, 2003, recommendation, and filed its new recommendation on May 8, 2003.

Our decision on the appropriate rates and charges for SBUC is set forth below. We have jurisdiction pursuant to Sections 367.081, 367.0814, 367.0816, 367.091, and 367.101, Florida Statutes.

#### QUALITY OF SERVICE

Rule 25-30.433(1), F.A.C., states 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 preceding 3-year period shall also be considered. DEP and HRS officials' testimony concerning quality of service as well as the testimony of utility's customers shall be considered.

We have addressed each of these three components below based on the information available.

#### QUALITY OF UTILITY'S PRODUCT

##### Wastewater

FDEP's South District has jurisdiction to regulate wastewater facilities in Lee County. During the field investigation on July 17, 2002, our staff observed that the effluent leaving the plant was not clear and appeared to contain solids. The color of effluent in the chlorine contact chamber was dark brown which is indicative of insufficient treatment. Our staff reported this issue to the FDEP inspector. FDEP inspected the utility on September 19, 2002 and March 12, 2003, and observed the following violations:

1. The chlorine contact chamber had an accumulation of sludge which may increase the facility's potential for a total suspended solids violation and/or reduce the required disinfection time;
2. The utility violated Rule 62-600.440(4)(b), F.A.C., which requires a total chlorine residual of at least 0.5 mg/L to be maintained after at least 15 minutes contact time at peak hourly flow. During the March 12, 2003 inspection a chlorine residual reading was determined at the point of discharge in the chlorine contact chamber. The reading indicated a chlorine residual of 0.00 milligrams per liter (mg/L);
3. The utility violated Rule 62-600.440(2)(b)4., F.A.C., which requires any one sample to not exceed 800 fecal coliform colonies per 100 milliliters (ml) of sample. During the March 12, 2003 inspection a fecal coliform grab sample was taken. The sample result of the fecal coliform analysis was 60,000 fecal coliform colonies per 100 ml; and
4. The utility violated Rule 62-600.740(1)(b)1.d., F.A.C., which requires any reclaimed water or effluent grab sample to not exceed 60 mg/L. During the March 12, 2003 inspection a total suspended solids (TSS) sample was taken. The sample result indicated that the TSS concentration was 197 mg/L.

Based on the above, the quality of the utility's product shall not be considered satisfactory at this time. The utility must satisfy all of the current violations and bring the plant up to current regulatory standards. Also, the utility shall complete any and all improvements to the system that are necessary to satisfy the standards set by the FDEP in its Consent Order within the time frames set forth in the Consent Order or within one year, whichever is longer.

OPERATIONAL CONDITIONS AT THE PLANT

Wastewater

During the field investigation on July 17, 2002, our staff observed that the plant did not appear to be well maintained, and that the plant site was cluttered and unorganized. The service area serves a very seasonal customer base, and, during peak season, the overall capacity of the wastewater plant appears insufficient to process the average daily flows. The existing capacity of the wastewater treatment plant is permitted by FDEP on an annual average daily flow (AADF) which normalizes the peak flows. Our calculations, in the used-and-useful section below, yield a 67% used and useful percentage.

According to the FDEP's warning letter dated October 29, 2002, to Mr. Gary Winrow, the FDEP inspector observed the following violations during his field inspection on September 19, 2002:

1. The utility's operating permit expired on September 4, 2002. The utility has submitted its application for permit renewal, but it was not a complete permit renewal application, and it was not submitted on time. Therefore, it appears that the utility is currently functioning with an expired operating permit;
2. The air diffusers in the aeration tanks and the digesters were missing or not functioning as intended;
3. Excessive algae growth was observed on the clarifier weirs;
4. The concrete on the chlorine contact chamber was cracking and in a state of disrepair;
5. The skimmer on the south clarifier had a collapsible hose attached resulting in the failure to function properly;

6. Air leaks were detected in several places of the air supply system;
7. The air line in the first digester was loose;
8. Neither of the two blowers had air filters;
9. The originally designed area of the percolation pond has been reduced by a large natural or man-made extension of the berm into the middle of the pond;
10. The utility percolation pond had no means to discourage the entry of animals or unauthorized persons;
11. The utility percolation pond was heavily overgrown with trees and vegetation;
12. One of the two pump meters on the main lift station was inoperable;
13. During the inspection, the chlorine contact chamber was dye tested in order to determine the reclaimed water detention time with chlorine. The detention time was approximately 19 minutes during extremely low flow. Rule 62-600.440(4)(b), F.A.C., requires a total chlorine residual of at least 0.5 milligrams per liter to be maintained after at least 15 minutes contact time at peak hourly flow; and
14. FDEP personnel observed non-essential debris and equipment on and around the plant causing safety hazards. Rule 62-600.410(8), F.A.C., states that in the event that the treatment facilities or equipment no longer function as intended, are no longer safe in terms of public health and safety, or odor, noise, aerosol drift, or lighting adversely affect the neighboring developed areas at the levels prohibited by Rule 62-600.400(2)(a), F.A.C., corrective action (which may include

additional maintenance or modification of the treatment plant) shall be taken by the permittee. Other corrective action may be required to ensure compliance with the rules of the FDEP.

The FDEP inspector inspected the utility again on March 12, 2003, to see if any of the above violations or problems had been improved. The inspector claimed that not only had none of the above violations been improved, but he also observed more violations by the utility. The following are the additional violations that the FDEP inspector observed during his field inspection on March 12, 2003:

1. The FDEP found that the utility violated Rule 62-601.200(17)(b)1. and 3., F.A.C., and Permit Condition B.3., which states elapsed time measurements on pumps where pumps are used for the flow measurement are to be calibrated at least annually. A file review by the FDEP indicates that the calibrations for the lift station pumps and meters for flow measurements have not been conducted for 2002 and 2003;
2. FDEP personnel observed the log book did not contain all of the records and book keeping information as required by Rule 62-600.740(2)(e), F.A.C.; and
3. The FDEP found that the utility violated Rule 62-600.740(2)(e), F.A.C., which prohibits the submission, by the owner, manager, or operator of a domestic wastewater facility, or agent or employee thereof, of misleading, false, or inaccurate information or operational reports to the FDEP, either knowingly or through neglect. Review of FDEP's files indicates that all of the 2002-2003 DMR's and other required documents have been submitted with inaccurate flow information.

The FDEP has drafted a Consent Order, which should be issued soon, to reach settlement of all of the above issues. As of the date of our vote, the utility has not been issued a wastewater permit by the FDEP. A wastewater permit for operation of the

facility is required pursuant to Sections 403.087 and 403.088, Florida Statutes, and Chapters 62-4 and 62-620, F.A.C. The Consent Order is not intended to directly or indirectly authorize the temporary or permanent operation of the facility.

All things considered, the quality of the wastewater plant-in-service provided by the utility shall not be considered satisfactory at this time. The utility must satisfy all of the current violations and bring the plant up to current regulatory standards. Also, the utility shall complete any and all improvements to the system that are necessary to satisfy the standards set by the FDEP within the time frames set forth by FDEP, or within one year, whichever is longer.

Since the service area serves a very seasonal customer base, and during a peak season the overall capacity of the wastewater plant appears insufficient to process the average daily flows, the FDEP continues to look into the utility's need for additional capacity at the plant before an operating permit can be renewed. This matter is under investigation.

The utility has previously submitted pro forma projects which attempt to respond and correct the possible Violation No. 1 that is mentioned in our Quality of Utility's Product analysis and possible Violation Nos. 10, 11, and 13 that are mentioned in our Operational Conditions at the Plant analysis. These pro forma projects were a result of FDEP requirements for the upcoming operational permit renewal process. The utility has requested \$25,000 for a surge tank, \$9,500 for fencing, \$5,000 for pond maintenance, \$2,000 for improvements to the chlorine contact chamber, and \$12,859 for lift station rehabilitation. These items are further addressed below in the appropriate sections of this Order.

At this time, the utility's owner is not able to submit any other pro forma projects for the improvement of the other possible violations until the utility meets with FDEP. The utility's owner might consider a limited proceeding pursuant to Section 367.0822, Florida Statutes. Therefore, there are no additional pro forma items for this utility at this time.

UTILITY'S ATTEMPT TO ADDRESS CUSTOMER SATISFACTION

Out of a customer base of 270 customers, seven customers attended the customer meeting held on November 14, 2002. Only one quality of service complaint was brought to our staff's attention. Mr. Tim Gardner stated that when the lift station overflows the alarm rings but there is no telephone number posted on the lift station for emergencies.

CONCLUSION

We find that the quality of the wastewater plant-in-service provided by SBUC is not satisfactory. The utility shall complete any and all improvements to the system that are necessary to satisfy the standards set by FDEP within the time frames set by FDEP, or within one year, whichever is longer. Also, a local emergency phone number, which can be easily seen, shall be posted at the plant and at each lift station. The telephone number shall be posted at all locations no later than 90 days from the date of the Consummating Order for this rate case.

RATE BASE

USED AND USEFUL PERCENTAGES

Wastewater Treatment Plant

The existing capacity of the wastewater treatment plant is permitted by FDEP as a 80,000 gpd annual average daily flow (AADF) plant that is operating in the extended aeration mode of treatment. The AADF for the plant was measured and calculated to be 47,909 gpd. Using the statutory cap of 5% per year for the five-year growth period required by Section 367.081(2)(a)2.b., Florida Statutes, we calculate that growth in the used and useful calculation is limited to 6 ERCs per year. It is estimated that the increase in demand for the five-year statutory growth period will be 5,636 gpd. There does not appear to be an excessive infiltration problem occurring within the collection system. Therefore, based on the formula used on the calculation sheet (Attachment A, Sheet 1 of 2), we calculate a used and useful percentage of 67%.

Wastewater Collection System

The utility's potential customer base is 283 ERCs. The average number of customers in ERCs for the test year was 255. Using the statutory cap of 5% per year for the five-year growth period (6 ERCs per year), future growth for the next five years is calculated to be 30 ERCs. In accordance with the formula method used on the calculation sheet (Attachment A, sheet 2 of 2), we calculate the used and useful percentage for the wastewater collection system to be 100%.

RATE BASE

Rate base has never been established for SBUC. For this rate case, we have used an historical test year ended March 31, 2002. During the audit investigation, our staff discovered that the utility did not have sufficient documentation to support its investment in plant. Therefore, our staff conducted an original cost study. Using this original cost study, we have adjusted rate base components for plant balances through March 31, 2002. A discussion of each rate base component follows:

Utility Plant in Service (UPIS)

The utility recorded UPIS of \$341,755 for the test year ended March 31, 2002. Based on the original cost study, UPIS should be \$324,663 for the same period. Therefore, we have decreased UPIS by \$17,092 to reflect UPIS per the original cost study.

The utility provided our staff a schedule of plant additions that showed additions of \$1,023 in 1981, \$52,799 in 1983 and \$1,206 in 1986. However, these additions were not included in the original cost study because the utility did not provide sufficient information to verify the exact nature of the improvements or documentation in support of the additions. Mr. Guastella requested in his January 31, 2003 letter that staff reconsider the \$52,799 addition to plant. According to Mr. Guastella, the improvement related to a structure at the treatment facility. The utility provided an inspection report and a building permit, but did not provide invoices with descriptions and cost information. Without these invoices with descriptions and cost information, we do not believe that there is sufficient evidence and justification to allow

inclusion of this \$52,799 in rate base. Also, we note that if this was indeed the building at the sewage treatment plant, the structure was torn down in 2002, and would have been approximately 70% depreciated. Therefore, the impact on revenue requirement would have been an increase of approximately \$1,600.

Per Audit Exception No. 1, the utility incurred costs in the test year of \$592 for a hookup and \$1,426 for a new grinder pump. Therefore, we have increased UPIS by \$2,018 to capitalize these items. UPIS was decreased by \$1,009 to reflect an averaging adjustment.

#### Pro Forma Plant

The utility requested that pro forma plant items be included in rate base. We believe the following described pro forma items are reasonable, and have increased UPIS by \$47,359 to record pro forma plant.

As discussed previously, SBUC's application for an operating permit is currently in the review process. In order to comply with FDEP requirements and anticipated conditions with respect to the pending renewal of its operating permit, the utility has requested a surge tank (\$25,000), 550 feet of fencing at \$17 per linear foot (\$9,500), and lift station overhaul (\$12,859). These additions are required by FDEP.

A later FDEP inspection revealed the additional violations noted above. Further repairs and improvements will be required to comply with FDEP standards; however, at this time the specifics and costs are unknown.

We have made no averaging adjustment to pro forma plant, because we believe that making this adjustment would unfairly penalize the utility by reducing the amount of pro forma plant included in rate base by half. Therefore, we have increased UPIS by \$47,359 to include pro forma plant. The utility shall complete the pro forma surge tank, fence, and lift station overhaul within six months of the Consummating Order making this Order final.

With the above-noted adjustment, UPIS is calculated to be \$373,031.

Land

SBUC recorded land of \$22,907. Per Audit Exception No. 2, the land should be valued at \$11,475.

On October 20, 1969, the original owner, Mr. Bill Broeder's company, Nationwide Realty Corp., bought the land the utility uses. He purchased 220 acres of land for \$561,000 or about \$2,550 an acre. Mr. Broeder deeded a parcel of land to the utility in 1975. According to the property assessor's office, the land that relates to the deed is a parcel of 4.5 acres. Using the original cost of the land, the 4.5 acres should be valued at \$11,475. Therefore, we have decreased land by \$11,432 (\$22,907-\$11,475) to reflect the appropriate amount for the value of the land.

Pursuant to Rule 25-30.433(10), F.A.C., the utility is required to own the land upon which the utility treatment facilities are located, or possess the right to the continued use of the land, such as a 99-year lease. Our staff has obtained a copy of the 1975 warranty deed that transferred the land to SBUC.

Based on the above, we find the average land cost to be \$11,475.

Non-used and Useful Plant

Applying the non-used and useful percentages to average plant results in average non-used and useful plant of \$13,097. The average non-used and useful accumulated depreciation is \$13,097. This results in a net non-used and useful plant of zero. This occurred because there was only one plant account to which the non-used and useful percentage was applied, and it was fully depreciated. Therefore, we find that there is a zero balance for non-used and useful plant.

Contributions in Aid of Construction (CIAC)

SBUC was not authorized by this Commission to collect connection fees. However, in Order No. PSC-02-1298-PAA-SU, issued September 23, 2002, we allowed SBUC to continue collecting CIAC, as a temporary charge, subject to refund, pending the proper disposition and determination of the amount of the CIAC collection

in the SARC.

Although we could require SBUC to refund the unauthorized connection fees, we find that requiring the utility to record these unauthorized fees as CIAC will benefit customers by reducing rate base, thereby reducing the return the utility is allowed to earn on its investment. In Orders Nos. PSC-01-2511-PAA-WS, issued December 24, 2001, in Docket No. 010396-WS, and PSC-00-1676-PAA-SU, issued September 19, 2000, in Docket No. 000715-SU, we allowed Burkim Enterprises, Inc. and North Peninsula Utilities Corporation to keep unauthorized CIAC collections from the developer, which benefitted the customers. In its proposed resolution to resolve the issues in Docket No. 020331-SU, the utility agreed to record connection fees as CIAC.

Moreover, we note that requiring a refund of CIAC would place an insurmountable burden on the utility and jeopardize the utility's financial viability and ability to raise debt. It does not appear that the utility has the financial ability to make such a large refund. In addition, many customers from whom the connection fees were collected may no longer be customers of SBUC. Therefore, the connection fees shall be recorded as CIAC.

The utility recorded a balance for CIAC of \$226,576 for the test year ended March 31, 2002. As stated above, the utility tariff does not provide for CIAC. According to the company vice president, Mr. Gary Winrow, the company has been charging \$2,667 per connection since 1988. The \$2,667 amount was traced to contracts and was found in deposit slips going back to 1996. Deposit slips and sales contracts for lots prior to this time were requested numerous times from the utility, but never provided. The original owner, Mr. Bill Broeder, claims to have destroyed the information when he retired. However, after our staff filed its recommendation to impute \$341,377 in CIAC, the utility found documents showing \$203,050 in hook-up fees collected by SBUC from 1975 through 2003.

Mr. Guastella, in his January 31, 2003 letter, requested that our staff reconsider its recommendation on CIAC. Mr. Broeder, the original developer, furnished individual customer cards to verify CIAC. Upon examination of the CIAC records provided by the utility, we find that \$197,800 is the appropriate amount of CIAC

for the test year ended March 31, 2002. SBUC included two hook-ups of \$2,625 each for connections made after the test year (203,050 - 5,250 = 197,800), and these have been removed. The utility and our staff accounted for the same number of connections. The difference between the utility's amount of \$203,050 and our staff's original imputed amount of \$341,377 was the assumption by our staff that the utility collected \$2,667 for every connection, whereas SBUC's records show that amounts from \$300 to \$2,625 were collected for connections over the years.

Based on composite rates, we have decreased CIAC by \$28,776. Also, we have further decreased CIAC by \$13,125 for an averaging adjustment.

According to Mr. Broeder, he developed both the Ridge and Blind Pass Condominiums and did not record CIAC for it. Since our staff could not obtain sales agreements, we could not determine if any property should be considered contributed or if Mr. Broeder did charge any of the homeowners CIAC. However, in the CIAC records provided by the utility, there were none reflecting CIAC collected from Ridge or Blind Pass customers. Therefore, we have imputed no additional amounts for CIAC.

Based on the above adjustments totaling \$41,901, we have reduced CIAC from \$226,576 to \$184,675.

#### Accumulated Depreciation

The utility recorded a balance for accumulated depreciation of \$217,253. We have recalculated accumulated depreciation using the prescribed rates in Rule 25-30.140, F.A.C. Based on this recalculation, accumulated depreciation for the historical test year is \$199,509. Therefore, we have decreased accumulated depreciation by \$17,744 (\$217,253-\$199,509).

We have increased accumulated depreciation by \$1,267 to include accumulated depreciation on the pro forma additions to plant. During the test year, FDEP required the utility to remove a building constructed over the plant due to its dilapidated/hazardous condition. According to Accounting Instruction No. 5(D), National Association of Regulatory Utility Commissioners (NARUC), Uniform System of Accounts (USOA) for Class

C Wastewater Utilities (1996), Accumulated Depreciation and Amortization of Utility Plant in Service shall be charged with the costs of removal of retired plant. Therefore, we have decreased this account by \$5,004 to reflect the cost of removal of a building. An adjustment was made to decrease accumulated depreciation by \$3,860 to reflect an averaging adjustment. Based on the above, we calculate an accumulated depreciation balance for the historical test year of \$191,912.

#### Amortization of CIAC

The utility recorded CIAC amortization of \$69,490. We have recalculated Amortization of CIAC using the composite depreciation rates. Based on this recalculation, the amortization for the historical test year is \$40,089, and we have decreased CIAC amortization by \$29,401 to reflect this recalculation. Also, we have made an averaging adjustment to decrease CIAC amortization by \$2,179. Based on these adjustments, the average amortization of CIAC for March 31, 2002, is \$37,910.

#### 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), F.A.C., we have calculated working capital using the one-eighth of operation and maintenance (O&M) expense formula approach. Based on that formula and O&M expenses of \$50,543, we calculate a working capital allowance of \$6,318.

#### Rate Base Summary

Based on the foregoing, the appropriate historical average test year rate base is \$52,147. Our calculation of rate base is shown on Schedule No. 1-A, and our related adjustments are shown on Schedule No. 1-B.

### COST OF CAPITAL

#### REDUCTION TO RETURN ON EQUITY

Pursuant to Section 367.111, Florida Statutes, we have the

authority to reduce a utility's return on equity if the utility has failed to provide its customers with water and wastewater service that meets the standards promulgated by FDEP. Moreover, we have the authority to reduce a utility's return on equity for mismanagement. However, the reduction must fall within the reasonable range of return on equity. See, Gulf Power v. Wilson, 597 So. 2d 270 (Fla. 1992).

As discussed above, the utility failed to provide its customers with wastewater service that complies with the standards set forth by FDEP. The utility was inspected by FDEP on September 19, 2002. In an October 29, 2002 warning letter, FDEP advised the utility of seven possible statute and rule violations. One of the violations noted was that SBUC's operating permit expired on September 4, 2002, and a complete permit renewal application had not been received. FDEP further advised the utility that "[t]he activities observed during the Department's field inspection and any activity at the facility that may be contributing to violations of the above described statutes and rules should be ceased." The letter also stated that continued activities at the facility in violation of statutes and rules may result in liability for damages and restoration and the imposition of civil penalties.

As described under in analysis of the quality of service, FDEP inspected the utility again on March 12, 2003, to determine whether SBUC had initiated any action to correct the operation of its plant. The inspector reported that none of the violations had been corrected or improved. Moreover, the inspector found three additional rule violations. Therefore, it appears that as of this date, the utility has taken no action to bring its facilities into compliance with FDEP.

In a second attempt to settle the issues, a Consent Order will be issued by FDEP to SBUC. An initial draft of the Consent Order sets out sixteen requirements to bring the utility into compliance with FDEP standards. FDEP specifies the time frames in which these tasks must be completed. If the utility fails to meet all of the requirements, FDEP may require SBUC to interconnect with a regional wastewater system and decommission the plant. In addition, FDEP may fine SBUC \$8,000 for civil penalties and costs incurred by FDEP.

In addition to the unsatisfactory quality of service, we find there are numerous examples of mismanagement. A prudent utility manager assures that the utility is in compliance with federal and state laws and the rules and orders of all agencies that regulate the utility. In Order No. PSC-02-1298-PAA-SU, we found that SBUC was in violation of Section 367.091(4), Florida Statutes, because the utility was charging unauthorized rates and charges. In addition to unauthorized rates, the utility was also charging unauthorized service availability fees and late payment fees. Moreover, the utility was billing its customers quarterly in violation of its tariff, which authorized monthly billing. The monthly billing continued even after the above Order put the utility on notice that if it did not bill in accordance with its tariffs, a show cause proceeding would be initiated. Further, after reaching an agreement with staff and OPC to reduce rates and to bill monthly, the utility continued to bill the unauthorized rates quarterly.

SBUC appears to have disregarded our admonition in Order No. PSC-02-1298-PAA-SU to cooperate with our staff. This is evidenced by the consistent ignoring of deadlines for submitting information and documentation needed by our staff to process the SARC and by what appeared to be a lack of interest in the case and working with our staff. As stated above, SBUC failed to produce requested billing data by November 8, 2002. This data was not produced until January 14, 2003, and only then after two telephone calls and a letter which stated a show cause proceeding might be recommended. On another occasion, our staff requested documentation of SBUC's CIAC by March 7, 2003; however, it was not produced until April 3, 2003, and only then after three telephone calls. On a third occasion, our staff telephoned Mr. Winrow three times to urge him to read the recommendation and to discuss any questions or concerns he might have with staff. These calls were not returned; a voice mail message on the morning of the Agenda requested that the item be deferred.

Our auditing staff had similar problems with the utility. Documentation was requested May 29, 2002, and on July 10, 2002, this documentation had still not been received. When CIAC documentation was requested, our staff was told the records had been destroyed. After the staff recommendation had been filed, these records were then found. In addition, management did not

make time to meet with the staff auditor and engineer when they visited the utility even though our staff requested a meeting prior to the visit. Also, on at least two occasions, our staff suggested that the utility respond to items in the staff audit report that the utility disagreed with; however, the utility chose not to respond.

Based on the foregoing, we find it appropriate to reduce SBUC's return on equity by 100 basis points for unsatisfactory quality of service and mismanagement. This reduction falls within the reasonable range of return on equity and is therefore consistent with Gulf. This reduction is also consistent with our past decisions in this regard. See Orders Nos. 14931 (Docket No. 840267-WS), 17760 (Docket No. 850646-SU), 24643 (Docket No. 910276-WS), PSC-98-0763-FOF-SU (Docket No. 971182-SU), and PSC-02-0487-PAA-SU (Docket No. 010919-SU), issued September 11, 1985, June 29, 1987, June 10, 1991, June 3, 1998, and April 8, 2002, respectively.

#### RATE OF RETURN ON EQUITY AND OVERALL COST OF CAPITAL

According to the staff audit the utility recorded the following items in capital structure: common stock of \$200, paid-in-capital of \$332,337, and negative retained earnings of \$131,259. There is no record of debt. Therefore, the utility's capital structure is 100% equity.

We have reconciled the capital structure with our calculation for rate base. Using the current leverage formula approved in Order No. PSC-02-0898-PAA-WS, issued July 5, 2002, in Docket No. 020006-WS, the appropriate rate of return on equity is 10.23% with a range of 9.23% - 11.23%. As addressed above, we have reduced the return on equity by 100 basis points from the midpoint. This reduction is due to the unsatisfactory quality of service being provided by the utility and mismanagement. Therefore, the return on equity is calculated to be 9.23%. Because the capital structure is 100% equity, the overall rate of return is also 9.23% with a range of 9.23% - 11.23%. Both the return on equity and the overall rate of return are at the lower end of the range and are consistent with Gulf.

Our calculation of the return on equity is shown on Schedule No. 2.

NET OPERATING INCOME

TEST YEAR OPERATING REVENUE

The utility recorded revenues during the 12-month period ended March 31, 2002, of \$37,024. According to Audit Exception No. 5, the utility was asked for billing registers but claimed it did not maintain them. Because revenue billed could not be determined, deposit slips were used to determine revenue collected by SBUC. Also, because of an inaccurate list of customers, the utility did not bill all of its customers. Further, as a result of our staff's investigation into the utility's overbilling, SBUC made a refund to customers in the Sanibel Bayous and Heron's Landing developments by not charging them for the fourth quarter of 2001. Finally, we note the utility is billing its customers on a quarterly basis in violation of its tariffs.

By Order No. PSC-02-1298-PAA-SU, we authorized temporary monthly flat rates of \$14.00 residential, \$12.00 multi-family, and \$25.00 general service subject to refund. We have annualized revenues for the historical test year using the temporary rates times the number of bills. As noted in our Staff's Supplemental Audit, one home in the Sanibel Bayous subdivision and a real estate office at the entrance to the property were not billed by SBUC. Revenues were imputed for these two customers. It was also determined that two townhomes in Heron's Landing are not individually metered. They each have one meter for four units and therefore have been included in the calculation of revenues at the multi-family rate. We have increased historical test year revenues by \$6,393 to reflect annualized revenue based on existing rates.

SBUC recorded \$313 in Other Revenues. We have increased revenues by \$143 to reflect \$456 in Other Revenues identified in the audit workpapers. Based on the above, we find that test year revenues should be \$43,560.

Our calculation of test year revenues is shown on Schedule No. 3-A, and our related adjustments are shown on Schedule No. 3-B.

OPERATING EXPENSES

The utility recorded operating expenses of \$47,981 during the

test year ending March 31, 2002. Per Audit Exception No. 8, the utility does not maintain its records in conformity with the Uniform System of Accounts. In addition, SBUC uses the cash basis of accounting rather than the accrual basis of accounting as specified by NARUC. Our staff coded the checks written from April 1, 2001, to March 31, 2002, to determine expenses for this utility.

The utility provided our staff 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 12-month period ended March 31, 2002. Our 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.

Operation and Maintenance Expense (O&M)

Purchased Power - (715) - The utility recorded \$7,850 in this account during the test year. A review of the actual bills for the test year shows that the average purchased power cost during the test year was \$683 per month. This cost appears to be reasonable. Therefore, annualization of the average monthly purchased power cost results in a \$346 increase to this account. Further, per Audit Exception No. 7, we have decreased this account by \$165 to remove the amount billed for a meter that was eliminated when the building structure surrounding the treatment plant was torn down. The net adjustment to this account is an increase of \$181.

Chemicals - (718) - The utility recorded \$3,858 in this account during the test year. According to the utility invoices, chemical cost was \$4,054. This cost appears to be reasonable and prudent. Therefore, we have increased chemical cost by \$196.

Materials & Supplies - (720) - The utility recorded \$0 in this account during the test year. We have increased this account by \$235 to include supplies and repairs that occurred during the test period but were not recorded.

Contractual Services - Professional - (731) - The utility

recorded \$2,276 in this account during the test year; \$1,350 related to accounting and \$926 was associated with engineering. Per Audit Exception No. 7, the utility's certified public accountant provided an estimate of \$3,800 annually for the cost for maintaining the general ledger, billing the customers quarterly, making deposits, preparing the tax returns, and the annual reports. This cost appears to be reasonable and prudent. Therefore, we have increased this account by \$2,450. In addition, per Audit Exception No. 7, SBUC recorded \$926 in engineering costs. The utility's engineer estimated additional permit renewal costs of \$5,500. Pursuant to Rule 25-30.433(8), F.A.C., we have amortized these costs over five years which results in a \$359 increase to expenses. ( $\$926 + \$5,500/5 = \$1,285 - \$926 = \$359$ ). The net adjustment to this account is an increase of \$2,809.

Contractual Services-Testing - (735) - The utility recorded \$961 in this 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 Chapter 62-600, F.A.C., and enforced by FDEP. The tests and the frequency at which those tests must be repeated for this utility are as follows:

<u>Chapter</u>	<u>Description</u>	<u>Frequency</u>	<u>Cost</u>
62-600 F.A.C.	CBOD/TSS (includes Nitrate & Nitrite)	monthly	\$552/yr
62-600 F.A.C.	Fecal Coliform	monthly	\$120/yr
62-600 F.A.C.	Sludge Analysis	yearly	<u>\$243/yr</u>
	Total		<u>\$915/yr</u>

Based on the above, the appropriate annual FDEP required testing expense is \$915. Therefore, we have decreased this account by \$46.

Contractual Services-Other - (736) - The utility recorded \$23,394 in this account. Of the total, \$5,750 relates to operator services. The utility contracts operator services through John Huckaba, d/b/a Pelican Utility, for a basic monthly fee of \$575 ( $\$575 \times 12 \text{ mo.} = \$6,900$  per year). Therefore, we have increased this account by \$1,150 to recognize the annual cost for operator services of \$6,900.

The utility included \$9,911 of costs related to cleaning the

ponds. We estimate that the annual cost of cleaning the ponds should be \$1,000 and all costs over that amount shall be amortized over five years. Therefore, per Audit Exception No. 7, we have decreased this account by \$7,129 ( $\$9,911 - \$1,000 = \$8,911 / 5 = \$1,782$ ;  $\$1,782 + \$1,000 - \$9,911 = \$7,129$ ) to amortize the costs of clearing the pond, pursuant to Rule 25-30.433(8), F.A.C. In addition, SBUC requested \$5,000 for removing vegetation from the pond berm as required by FDEP. To amortize this cost over 5 years, we increased this account by \$1,000.

The utility requested \$2,000 to add baffles in the chlorine contact chamber and new diffusers in some of the aeration tanks. This is required by FDEP. Therefore, we have increased this account by \$400 to amortize the cost over 5 years.

Per Audit Exception No. 7, the utility recorded \$2,772 for lift station repair. We find that this cost shall be amortized over three years at \$924 ( $\$2,772 / 3 = \$924$ ) a year. Therefore, we further reduced this account by \$1,848 to amortize the cost paid for lift station repair.

In his January 31, 2003 letter, Mr. Guastella objected to amortizing four non-recurring expenses (pond cleaning, berm clearing, chlorine contact chamber, and lift station) described above and requested a higher level of maintenance and repair expenses. Mr. Guastella stated that although each of these specific items may not occur annually, different types of repair and maintenance items should be anticipated. Rule 25-30.433(8), F.A.C., states, "[n]on-recurring expenses shall be amortized over a 5-year period unless a shorter or longer period of time can be justified." We find that the utility has not justified a shorter period of time for these expenses. Although there may be a need for different types of repair and maintenance items in the future, when and how frequently such costs will be incurred is uncertain. Therefore, we find that it is reasonable to amortize these items as set out above.

SBUC recorded \$2,400 in management fees for the test year. The utility's owner has requested a management fee of \$25,749. The management duties include responding to governmental requests, customer inquiries and complaints, plant changes and modifications, processing invoices, and payment of invoices. Management fees were

estimated as follows:

<u>Description</u>	<u>Requested</u>	<u>Commission Estimate</u>
Gary Winrow	\$18,375	\$6,125
Transportation*	\$1,274	0
Office Rent*	\$3,000	0
Office Expenses*	\$ 900	0
Bill Broeder	<u>\$2,200</u>	<u>0</u>
	<u>\$25,749</u>	<u>\$6,125</u>

\*Allocated to other than management fee.

Mr. Winrow indicated that he spends five hours a week on utility business for 49 weeks and requested \$95 per hour. In Order No. PSC-02-0487-PAA-SU, issued April 8, 2002, in Docket No. 010919-SU, this Commission approved a \$25 an hour fee for a contracted manager. We find that the \$25 an hour fee is appropriate (see also Order No. PSC-00-2500-PAA-WS, issued December 26, 2000, in Docket No. 000327-WS and Order No. PSC-95-0142-FOF-WU, issued January 31, 1995, in Docket No. 940558-WU).

SBUC requested \$1,274 annually for transportation. We find that transportation should be recorded in Account No. 750, Transportation Expense, and that it should not be included in the management fee. Transportation expense is addressed below.

The utility requested \$3,000 annually for office rent. We find that rent should be recorded in Account No. 740, Rents, and that it should not be included in the management fee. Rental expense is addressed below.

The utility requested \$900 annually for office expenses. SBUC recorded \$841 in Account No. 775, Miscellaneous Expense, for office supplies. The \$841 is a reasonable level for office expenses and should not be included in management fees.

SBUC requested \$2,200 annually for Mr. Bill Broeder. According to the utility, Mr. Broeder spends 2 hours a month for 10 months on utility business and requested \$110 per hour. Mr. Broeder's duties include long range planning, financial planning, and real estate matters. Per Audit Exception No. 7, Mr. Broeder was in Colorado for most of the audit and has indicated that he is

retired. Therefore, we find that it is not appropriate to include the requested amount in management fees for Mr. Broeder. Further, Audit Exception No. 7 indicates that Mr. Broeder stated that he threw away all original source documentation for plant-in-service when he retired.

Based on the above, we have increased Account No. 736 by \$3,725 for management fees. Therefore, the net adjustment to Account No. 736 is a decrease of \$2,702.

Rent Expense - (740) - SBUC recorded \$0 in this account. Mr. Winrow was paying \$700 in rent for a small warehouse type office near the entrance to Sanibel Island. This office was eliminated and he is now working out of his other business office. Per Audit Exception No. 7, the utility requested annual rent of \$3,000 (\$250/mo. X 12). We believe this amount is excessive. By Order No. PSC-02-0382-PAA-SU, issued March 21, 2002, in Docket No. 010828-SU, this Commission approved \$100 per month rent for Harder Hall-Howard, Inc., for shared space in its clubhouse. By Order No. PSC-02-1114-PAA-WS, issued August 14, 2002, in Docket No. 011481-WS, this Commission allowed \$100 per month rent for Breeze Hill Utilities for use of a spare room in a home. We find that \$1,200 annually (\$100 X 12) is reasonable for a utility of this size and note that this is consistent with our prior decisions. Therefore, we have increased this account by \$1,200 to recognize this cost.

Transportation Expense - (750) - The utility recorded \$0 in this account. In the performance of utility duties, Mr. Winrow uses his personal vehicle to monitor the service area, attend meetings with regulatory personnel, make bank deposits, transport financial information to the accountant, pick up parts for repairs, run utility related errands, and pick up supplies. Based on 80 miles times 32.5 cents per mile times 49 weeks, SBUC requested \$1,274 for annual transportation expense. We find that 32.5 cents per mile is too much, and in accordance with allowances for state travel, we find that an allowance of 29 cents per mile is more reasonable for utility travel in personal vehicles. Therefore, we have increased this account by \$1,137 (80 miles x .29 cents x 49 weeks).

Insurance Expense - (755) - The utility did not record an insurance expense for the test year because the utility does not

currently carry insurance. However, the utility provided our staff with an estimate from Sutton and Associates for \$2,828 for commercial general liability insurance coverage. Therefore, we included the \$2,828 as insurance expense for the test year. The utility shall provide our staff with a signed contract with Sutton and Associates or other insurer and proof of the insurance policy within 90 days of the Consummating Order.

Regulatory Commission Expense - (765) - The utility recorded \$1,679 in this account for consultant fees. Pursuant to Rule 25-30.020, F.A.C., the utility paid a rate case filing fee of \$1,000. Amortizing this amount over four years results in a \$250 increase to this account. In addition, SBUC paid \$100 to obtain customer billing data from Island Water Association for use in this rate case. We have amortized this amount over four years and increased this account by \$25. Further, the utility is required by Rule 25-30.475(1)(a), F.A.C., to mail notices of any rate increase to its customers. Based on the number of customers, for additional mailing and copying expenses associated with this rate case, we find that \$244 is a reasonable amount to be recovered. Amortizing this amount over four years, results in a \$61 increase to this account. Finally, the utility paid its accountant an additional \$1,000 for data requested by our staff for use in this rate case. This amount shall be amortized over four years which results in an increase of \$250 to this account.

In a January 31, 2003 letter, Mr. Guastella requested "at least \$6,000" in additional rate case expense on behalf of SBUC. In response to our staff's February 6, 2003 letter, Mr. Guastella provided invoices in support of \$6,142 in additional rate case expense. Our staff has reviewed the charges submitted by Mr. Guastella, and notes that these charges relate to: reviewing staff's audit report; reviewing the staff recommendation, discussions with the company and staff, preparing the letter to staff; and discussions with staff and the utility regarding the letter. Mr. Guastella charged the utility for 22.5 hours of work at a rate of \$255 per hour. In addition, 2 hours at \$170 per hour and 1.5 hours at \$43 per hour were charged for financial/accounting and administrative staff, respectively. Mr. Guastella stated that SBUC management has no experience in the rate setting regulatory process, and cannot be expected to cope with complex rate setting issues. He further stated that it is unreasonable to allow nothing

for outside expertise and, thereby, deny the utility a fair opportunity to function in a complicated regulatory process. Mr. Guastella agreed that some of his fees could have been avoided had the utility responded to our staff sooner and more thoroughly. However, he thought that the utility needed some assistance beyond our staff's assistance in order to understand the process.

As noted previously, after filing its first recommendation, our staff telephoned Mr. Winrow three times to urge him to read the recommendation and to discuss any questions he might have with staff. These calls were not returned. Had Mr. Winrow taken the time to read the recommendation and talk to our staff about his questions and concerns, a consultant may not have been necessary. Also, by letter dated February 6, 2003, our staff requested that the utility provide documentation of additions and newly discovered CIAC records; instead, the utility mailed them to Mr. Guastella for his analysis. This analysis was a task that our staff could have performed. The utility merely needed to provide the documents to our staff and no analysis by a consultant was needed. Throughout the case, our staff explained the regulatory process to Mr. Winrow and was willing to explain and discuss the staff report and staff recommendation with him. We find it was imprudent for SBUC to hire a consultant for a staff assisted rate case. Therefore, the additional rate case expense was imprudent and shall be disallowed in its entirety.

Also, we find that the full amount of the consulting fees of \$1,679 paid to Guastella Associates, Inc., for work done in Docket No. 02331-SU (Investigation into Alleged Improper Billing) shall be removed. As stated in Order No. PSC-02-1298-PAA-SU, issued in that docket, "[i]n no instance should the maintenance and administrative costs associated with a refund be borne by the customers. These costs are the responsibility of, and should be borne by, the utility." In addition, by charging unauthorized rates, the utility placed itself in the position of requiring assistance to calculate the amount of a refund. Had SBUC adhered to its Commission approved tariffs, there would have been no need to hire a consultant to assist it with a refund. Therefore, this cost shall be the responsibility of the utility and shall not be recovered from customers, and we have decreased this account by \$1,679. With the additions noted above, the net adjustment to this account is a decrease of \$1,093. Therefore, we find that \$586 of

total rate case expense is appropriate for the test year.

Bad Debt Expense - (770) - The utility recorded \$0 in this account. SBUC estimated \$6,426 in uncollectible accounts in its application for a SARC. Per Audit Exception No. 7, it appears that many customers were not billed at all, or that bills were sent to the incorrect name or address. However, since the accountant has been billing the customers, only \$450 remains outstanding. Therefore, we have included \$450 in Bad Debt Expense.

Operation and Maintenance Expense Summary - The total O&M adjustment is an increase of \$5,195, for total O&M expenses of \$50,543. Our calculations and adjustments are shown on Schedules Nos. 3-B and 3-C.

Depreciation Expense

The utility recorded depreciation expense of \$10,002 and amortization of CIAC of \$9,299 during the test year for a net expense of \$703. Using the prescribed rates in Rule 25-30.140, F.A.C., we have recalculated the depreciation expense to be \$7,728. Therefore, we have decreased depreciation expense by \$2,274. There was no adjustment made to depreciation expense to reflect non-used and useful depreciation because there was only one plant account to which the non-used and useful percentage was applied, and it was fully depreciated. We have increased this account by \$1,267 to reflect one half year's depreciation on pro forma plant. We have also increased depreciation expense by \$4,620 to reflect our calculated amortization of CIAC of \$4,679. Non-used and useful depreciation and amortization of CIAC have a negative impact on depreciation expense. However, in this case, our adjustment has a positive impact on depreciation expense because our calculated amount of \$4,679 is less than the utility's amount of \$9,299, so depreciation expense must be increased. The net adjustment to this account is an increase of \$3,613 to reflect our calculated annual net depreciation expense of \$4,316.

Taxes Other Than Income

The utility recorded property taxes of \$1,930 in taxes other than income during the test year. We have increased this account by \$1,960 to reflect RAFs of 4.5% on annualized revenue. During

the test year, FDEP required the utility to remove a building constructed over the plant due to its dilapidated/hazardous condition. This structure was included in the property tax assessment and the utility paid property taxes on it in the test year. To remove the property tax associated with the building, we calculated the ratio of the assessed value of the building to the total assessed value of the building plus the land and multiplied this ratio times the property tax paid. We reduced taxes other than income by \$1,102 to remove the property taxes associated with the building. Total adjustments for this account result in an increase of \$858 ( $\$1,960 - \$1,102 = \$858$ ).

#### Income Tax

SBUC is a Subchapter S corporation, therefore pursuant to Rule 25-30.433(7), F.A.C., income tax expense shall not be recovered through rates.

#### Operating Revenues

Revenues have been increased by \$19,792 to reflect the change in revenue required to cover expenses and allow the approved return on investment.

#### Taxes Other Than Income

An adjustment to increase taxes other than income by \$891 was made to reflect RAFs of 4.5% on the change in revenues.

#### Operating Expenses Summary

Based on the above-noted adjustments to the audited test year operating expenses, total operating expenses are \$58,538. Our calculation of operating expenses is shown on Schedule No. 3-A. The related adjustments are shown on Schedule No. 3-B.

#### REVENUE REQUIREMENT

The utility shall be allowed an annual increase of \$19,792 (45.44%) for wastewater. \* This will allow the utility the opportunity to recover its expenses and earn a 9.23% return on its investment. The calculations are as follows:

	<u>Wastewater</u>
Adjusted rate base	\$52,147
Rate of Return	x .0923
Return on investment	\$ 4,813
Adjusted O & M expense	\$50,543
Depreciation expense (Net)	\$ 4,316
Taxes Other Than Income	\$ 3,679
Income Taxes	<u>\$ 0</u>
Revenue Requirement	<u>\$63,352</u>
Adjusted Test Year Revenues	<u>\$43,560</u>
Percent Increase/(Decrease)	<u>45.44%</u>

Our calculation of the revenue requirement is shown on Schedule No. 3-A.

#### RATES AND CHARGES

Currently, SBUC is authorized to charge all of its customers flat monthly rates of \$14, \$12 and \$25, respectively. The utility's current rate structure was originally approved by this Commission in 1976 under grandfather provisions. All customers are metered by Island Water Association, which provides their water service.

It has been our practice that whenever possible, a flat rate structure is converted to a base facility and gallonage charge rate structure in order to promote state conservation goals and to eliminate subsidization of those who use excessive amounts of water by those who do not. However, it appears that the base facility and gallonage charge rate structure is not economically feasible for this wastewater utility.

#### FLAT RATES VERSUS METERED RATES

SBUC currently pays \$1,800 annually for quarterly billing at flat rates. To compare the cost of billing usage rates, our staff obtained estimates from SBUC's accountant and from Island Water Association for costs relating to billing services and meter reading, as well as estimates of initial set-up charges for this arrangement. The estimated annual costs of billing and meter reading for usage rates totals approximately \$4,436 for quarterly billing and \$9,636 for monthly billing, with initial set-up charges

totaling \$775. The cost of billing usage rates is higher because of the need to pay Island Water Association for consumption data and because of the increased time required by accounting staff to calculate each customer's bill. Because of this, we find that it is not cost effective to implement usage based rates for this utility. A change from flat rates to usage rates would require an increase to O&M expense to allow the additional costs associated with billing to be recovered from customers. In Order No. PSC-95-0967-FOF-SU, issued August 8, 1995, in Docket No. 941270-SU, this Commission approved flat rates for residential metered customers because it was not cost effective to implement usage based rates. Therefore, we find that the flat rate basis shall be continued for this utility because of the substantial savings which would result from continued use of that methodology.

#### QUARTERLY RATES VERSUS MONTHLY RATES

As stated above, SBUC is currently billing its customers on a quarterly basis in violation of its tariff. The utility has requested a change in its tariff from a monthly to a quarterly billing cycle. The change will result in cost savings in billing costs because customers would be billed four times per year as opposed to twelve times per year. The utility currently pays \$1,800 annually for quarterly billing at flat rates; SBUC's accountant estimates the annual cost would be \$5,400 to bill monthly. The accountant's fee to bill usage rates monthly would be \$7,800, not including the fee from the Island Water Association. By billing quarterly at flat rates, SBUC would realize an annual cost savings of \$3,600 (\$5,400 - \$1,800). The cost savings represent 9.72% of 2002 operating revenues. A change from quarterly to monthly billing would require an increase to O&M expense to allow the additional costs associated with billing to be recovered from customers. Further, SBUC's customers are accustomed to paying and budgeting for a quarterly bill. Our staff inquired at the customer meeting as to the customers' preferences for monthly or quarterly billing, and all the customers present preferred quarterly billing. In Order No. PSC-96-0491-FOF-WU, issued April 8, 1996, in Docket No. 960143-WU, this Commission approved a tariff change from a monthly to a quarterly billing cycle for Quail Meadow Utilities, Inc., because the utility's administrative cost of sending bills on a monthly basis was overly burdensome for the small utility and because many of its customers

surveyed indicated they would prefer quarterly billing. Therefore, a quarterly billing cycle shall be approved for SBUC.

During the test year the utility provided service to approximately 270 customers. The appropriate revenue requirement is \$63,352, and the utility has other revenues of \$456. The other revenues serve to reduce the revenue requirement recovered through rates, and the rates are designed to produce the revenue requirement of \$62,896.

We have calculated flat rates using the base facility charge determined for a residential 5/8" x 3/4" meter, times the meter equivalent factor for residential, multi-family, and general service customers, respectively. The utility's temporary existing monthly flat rates and our approved quarterly flat rates are set forth below:

Flat Rates - Wastewater

<u>Customer Class</u>	<u>Temporary Existing Monthly Rates</u>	<u>Commission Approved Quarterly Rates</u>
Residential	\$14.00	\$62.70
Multi-Family	\$12.00	\$50.16
General Service	\$25.00	\$125.40

The increase in revenue requirement is \$19,792 or approximately 45.44%. The rates approved for the utility are designed to produce revenues of \$62,896 (excluding miscellaneous service charge revenues).

These rates shall 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 our staff's verification that the tariffs are consistent with our 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 shall be prorated based on the number of days in the billing cycle before the effective date of the new rates. The new

charge shall 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 shall the rates be effective for service rendered prior to the stamped approval date.

FOUR-YEAR RATE REDUCTION

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 RAFs which is \$614 annually. 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 Schedule No. 4.

The utility shall file revised tariff sheets no later than one month prior to the actual date of the required rate reduction. The utility shall also 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 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.

SERVICE AVAILABILITY CHARGES

The utility collected service availability charges in violation of its Commission approved tariffs. However, in Order No. PSC-02-1298-PAA-SU, we allowed SBUC to collect CIAC, as a temporary charge, pending a decision in this SARC. Based on our staff's original cost study, the utility's current contribution level is 81.03%.

In order to evaluate the utility's service availability charges, we rely on Rule 25-30.580, F.A.C., 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 and sewage collection systems.

Based on the above, the utility has exceeded the maximum contribution level for its wastewater plant prescribed in Rule 25-30.580, F.A.C. Allowing the utility to continue collecting service availability will further cause the utility to exceed its maximum contribution level. Therefore, the utility shall not be authorized to collect service availability charges, and the utility shall cease collecting the temporary service availability charge upon issuance of the Consummating Order.

#### LATE FEES

SBUC is not currently authorized to collect late payment charges and the utility did not request to implement a late payment charge. Per Audit Exception No. 5, our staff determined that SBUC was charging a \$25 late payment fee and had collected approximately \$750 in late payment fees from January 2000 to June 2002.

The purpose of a late payment 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. In the past, late payment fee requests have been handled on a case-by-case basis. We have 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; Order No. PSC-01-2468-TRF-WU, issued December 18, 2001, in Docket No. 011482-WU; and Order No. PSC-02-1168-PAA-WS, issued August 26, 2002, in Docket No. 010869-WS.

Presently, our rules provide that late payers may be required by the utility to provide an additional deposit. However, we 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, we 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.

Though SBUC did not request a late payment fee, we believe there is still a need for this incentive. We have made an allowance for bad debt expense, and as stated above, the utility instituted a late fee without this Commission's approval. Apparently, 30 customers paid late from January 2000 to June 2002 and it is these customers who should pay the costs associated with their late payments. It appears that for the majority of utilities who have approved late fees, we have approved a charge of \$5. The utilities who have higher charges have provided adequate documentation in support of those higher fees. If the utility can document a higher fee, it should file the appropriate request with this Commission. However, at this time, we find that \$5 is a reasonable fee for SBUC, and this amount is approved.

The utility shall file revised tariff sheets which are consistent with our decision within one month of our vote. The revised tariff sheets shall be approved upon our staff's verification that the tariffs are consistent with our decision. If revised tariff sheets are filed and approved, the late payment charge shall become effective on the stamped approval date of the tariff sheets, pursuant to Rule 25-30.475(2), F.A.C., if no protest is filed and provided customers have been noticed.

#### MISCELLANEOUS SERVICE CHARGES

The utility's existing tariff does not provide Commission approved miscellaneous service charges. The utility shall be authorized to collect charges consistent with Rule 25-30.460, F.A.C., and our past practice. The charges are designed to defray the costs associated with each service and place the responsibility of the cost on the person creating it rather than on the rate paying body as a whole. No expenses incurred for miscellaneous

service charges were included in the calculation of test year operating expenses. The approved miscellaneous service charges are set forth below:

Wastewater

<u>Description</u>	<u>Commission Approved</u>
Initial Connection	\$15.00
Normal Reconnection	\$15.00
Violation Reconnection	Actual Cost
Premises Visit(in lieu of disconnection)	\$10.00

A Definition of each charge is provided for clarification:

Initial Connection - This charge shall be levied for service initiation at a location where service did not exist previously.

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

Violation Reconnection - This charge shall be levied prior to reconnection of an existing customer after disconnection of service for cause according to Rule 25-30.320(2), F.A.C., including a delinquency in bill payment.

Premises Visit Charge (in lieu of disconnection) - This charge shall be levied when a service representative visits a premises for the purpose of discontinuing service for non-payment 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.

The utility shall file revised tariff sheets which are consistent with our vote within one month of our vote. The revised tariff sheets shall be approved upon our staff's verification that the tariffs are consistent with our decision. If revised tariff sheets are filed and approved, the miscellaneous service charges shall become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed.

OTHER ISSUES

RATES SUBJECT TO REFUND

By this Order, we propose an increase in 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, the proposed agency action rates shall be approved as temporary rates. The temporary rates collected by the utility shall be subject to the refund provisions discussed below.

The utility shall be authorized to collect the temporary rates upon our staff's approval of an appropriate security for both the potential refund and a copy of the proposed customer notice. The security shall be in the form of a bond or letter of credit in the amount of \$13,299. Alternatively, the utility may establish an escrow agreement with an independent financial institution.

If the utility chooses a bond as security, the bond shall 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 shall refund the amount collected that is attributable to the increase.

If the utility chooses a letter of credit as a security, it shall 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 shall 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 shall be an interest bearing account.
- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers.
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility.
- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.
- 6) The amount of revenue subject to refund shall 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 the 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 shall the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and shall 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 shall be maintained by the utility. If a refund is ultimately required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C. The utility shall 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), F.A.C., the utility shall file reports with the Division of Commission Clerk and Administrative Services no later than 20 days after each monthly billing. These reports shall indicate the amount of revenue collected under the increased rates subject to refund.

#### REFUND OF IMPROPER BILLINGS

Section 367.091(4), Florida Statutes, provides that "[a] utility may only impose and collect those rates and charges approved by the commission for the particular class of service involved. A change in any rate schedule may not be made without commission approval."

SBUC's Original Tariff Sheet No. 17.0, approved June 4, 1976, authorized a rate of \$12.00 per month for residential service and Original Tariff Sheet No. 17.1 authorized a rate of \$10 per month per unit for multiple dwelling units. Based on data supplied by the utility on March 8, 2002, SBUC has charged \$14 per month for residential service and \$12 per month for multiple dwelling service, and \$25 per month for general service since 1976. The utility increased its residential and general service rates to \$16.67 and \$29.00 per month, respectively, in April 2000. The multiple dwelling rate has never been changed.

In Order No. PSC-02-1248-PAA-SU, we found that SBUC was in violation of Section 367.091(4), Florida Statutes, because it had been charging unauthorized rates and charges. The following table shows the monthly rates charged by SBUC and the temporary rates.

	COMMISSION APPROVED TARIFF RATES June 4, <u>1976</u>	RATES CHARGED 1976- <u>3/2000</u>	RATES CHARGED 4/2000- <u>9/2002</u>	COMMISSION APPROVED TEMPORARY RATES <u>10/2002</u>
Residential	\$ 12	\$ 14	\$ 16.67	\$ 14
Multi-Dwelling	\$ 10	\$ 12	\$ 12	\$ 12
General Service	\$ 0	\$ 25	\$ 29	\$ 25

Upon notification by our staff that it was in violation of Florida Statutes, the utility, on its own initiative, provided free service to the residential customers for the last quarter of 2001. According to SBUC, that action offset nearly all of the additional amounts collected under the \$2.67 increase from \$14 to \$16.67 to residential customers from April 2000 through September 2001. The utility asserts that the increase generated \$6,921 of additional revenues through September 2001, and the amount refunded was \$6,258.

However, we note that pursuant to Audit Exception No. 5, only Sanibel Bayous and Heron's Landing were provided free service; SBUC continued to charge the Ridge and the pool houses for the last quarter of 2001. Per Audit Exception No. 5, it appears that SBUC included the Ridge customers in its calculation of revenue generated and refunded. Therefore, we have recalculated the amount the utility actually refunded by multiplying the number of customers in Sanibel Bayous and Heron's Landing by \$14.00 times three months. Based on this recalculation, Audit Exception No. 5 and the audit workpapers, it appears that SBUC only refunded \$5,082.

In spite of the utility's March 6, 2002, agreement with our staff and OPC to reduce residential rates to \$14 and general service rates to \$25, SBUC did not institute this change until its September 2002 quarterly billing for the months of October, November, and December.

The amount to be refunded is based on the \$2.67 difference between the \$14 temporary rate and the \$16.67 rate charged to the

residential customers of Sanibel Bayous, The Ridge, and Heron's Landing plus the \$4 difference between the \$25 temporary rate and the \$29 rate charged to the general service customers from April 2000 through September 2002. Based on this calculation, the amount of the refund should have been \$11,814. Therefore, SBUC shall refund an additional amount of \$6,732 (\$11,814 - \$5,082). The customers of Sanibel Bayous shall be refunded \$3,208, Heron's Landing \$1,011, the Ridge \$2,152, and the general service customers shall be refunded \$360.

Moreover, pursuant to Audit Exception No. 5, it appears that SBUC has been charging an unauthorized \$25 late payment fee, and has collected approximately \$750 in late payment fees from January 2000 to June 2002. The utility shall refund approximately \$750 to customers who were charged late fees from January 2000 through the current date. The utility shall not be required to refund late payment fees collected prior to January 2000 because of the administrative burden of identifying those customers who would be due a refund.

The refunds shall be made with interest in accordance with Rule 25-30.360(4), F.A.C. The refunds and the accrued interest shall be paid only to those customers who paid the unauthorized service rates from April 2000 through September 2002 and the unauthorized late payment fees from January 2000 to the current date. In no instance shall the maintenance and administrative costs associated with a refund be borne by the customers. These costs are the responsibility of, and shall be borne by, the utility. The utility shall treat any unclaimed refunds as CIAC in accordance with Rule 25-30.360(8), F.A.C.

Pursuant to Rule 25-30.360(2), F.A.C., the refunds shall be made within 90 days of the Consummating Order. The utility shall provide monthly reports on the status of the refund by the 20th of the following month in accordance with Rule 25-30.360(7), F.A.C. The Rule further requires:

In addition, a preliminary report shall be made within 30 days after the date the refund is completed and again 90 days thereafter. A final report shall be made after all administrative aspects of the refund are completed. The above reports shall specify the following:

- (a) The amount of money to be refunded and how that amount was computed;
- (b) The amount of money actually refunded;
- (c) The amount of any unclaimed refunds; and
- (d) The status of any unclaimed amounts.

SHOW CAUSE PROCEEDING

As stated above, SBUC has been charging unauthorized rates and charges since 1976. On June 4, 1976, this Commission approved flat rates of \$12 for residential service and \$10 for multi-family service, with no recognition of any rates for general service customers. Also, we did not authorize a connection fee.

However, the utility appears to have charged a flat rate charge of \$14 for residential service, \$12 for multi-family service, and \$25 for general service from 1976 through March of 2000. Also, the utility appears to have charged connection fees of \$300 to \$2,667 from 1976 to date. Moreover, in April 2000, the utility increased its residential (to \$16.67) and general service (to \$29.00) rates. Part of this increase was refunded to residential customers during the last quarter of 2001. In addition, the utility charged a \$25 late payment fee and collected approximately \$750 in late payment fees from January 2000 to June 2002. Further, per Audit Exception No. 5, the utility has been billing its customers on a quarterly basis instead of monthly as required by its tariff.

Order No. PSC-02-1298-PAA-SU, issued September 23, 2002, in Docket No. 020331-SU, put the utility on notice that if it did not bill properly in accordance with its tariffs, a show cause proceeding would be initiated. In September 2002, bills were mailed to customers for October, November and December (a quarterly billing when tariffs only authorize monthly billing). Finally, the utility failed to reduce its rates immediately as agreed at a March 6, 2002, meeting with our staff and OPC. Rates were finally reduced in October 2002.

We found that SBUC was in apparent violation of Section 367.091(4), Florida Statutes, by Order No. PSC-02-1298-PAA-SU, because it was charging unauthorized rates and charges. Also, Section 367.091(3), Florida Statutes, requires that "[e]ach utility's rates, charges, and customer service policies must be contained in a tariff approved by and on file with the commission." Section 367.091(4), Florida Statutes, provides that "[a] utility may only impose and collect those rates and charges approved by the commission for the particular class of service involved. A change in any rate schedule may not be made without commission approval." Section 367.081(1), Florida Statutes, also provides that "a utility may only charge rates and charges that have been approved by the commission." It appears that the utility is also in violation of Rule 25-30.135(2), F.A.C., which provides "[n]o utility may modify or revise its rules or regulations or its schedules of rates and charges until the utility files and receives approval from the Commission for any such modification or revision."

Section 367.161, Florida Statutes, authorizes this 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. Each day that such refusal or violation continues constitutes a separate offense.

Utilities are charged with the knowledge of the Commission's orders, 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 charging an unauthorized rate, late fee, or service availability charge, would meet the standard for a "willful violation." In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, entitled 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., 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.

We can ascertain no mitigating circumstances which contributed to the utility's apparent violation of the above-noted statutes and rules. The utility is charged with the knowledge of the Commission's order's, statutes, and rules.

The continued pattern of disregard for our rules and statutes warrants more than just a warning. Even after it had been advised of the necessity for complying with the statutes and rules by Order No. PSC-02-1298-PAA-SU, issued September 23, 2002, the utility, in violation of its tariffs, billed its customers quarterly as of September 2002. The utility shall show cause, in writing, within 21 days, why it should not be fined \$300 for the apparent violations addressed above.

The initial increase in 1976 from \$12 to \$14 for residential, and from \$10 to \$12 for multi-family might not have warranted a show cause proceeding because it was done prior to Mr. Winrow obtaining a 50% ownership interest in 1990. However, the utility compounded the initial error by increasing rates improperly in April of 2000. Moreover, the utility has also been improperly charging late fees of \$25 and connection fees (service availability charges) of \$2,625. For each of these improper charges and the improper rate increase, we find that a \$100 fine is warranted, and so the total fine is \$300. Based on the size of the utility, the decision to reduce the president's salary, the decision to reduce the return on equity by 100 basis points, and the apparent fines imposed by DEP, and considering the utility's continuing viability, we find that a \$300 fine is appropriate, and will be enough to impress upon the utility the need to comply with all Commission orders, rules, or statutes. Subsequent violations could result in higher fines.

The utility's response to the show cause order must contain specific allegations of fact and law. Should SBUC file a timely written response that raises material questions of fact and makes a request for a hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes, a further proceeding will be scheduled before a final determination of this matter is made. If a protest is also filed and a request for a formal hearing is made on other issues in this docket, the issues would be addressed in a single hearing to be scheduled in this docket. A failure to file a timely written response to the show cause order shall constitute an admission of

the facts herein alleged and a waiver of the right to a hearing on this issue. In the event that SBUC fails to file a timely response to the show cause order, the fine is deemed assessed with no further action required by this Commission. Reasonable collection efforts shall consist of two certified letters requesting payment. If the utility fails to respond to reasonable collection efforts by our staff, the collection of penalties shall be referred to the Department of Financial Services for further collection efforts. The referral to the Department of Financial Services would be based on the conclusion that further collection efforts by this Commission would not be cost effective. If the utility responds timely but does not request a hearing, a recommendation shall be presented to the Commission regarding the disposition of the show cause order. If the utility responds to the show cause by remitting the fine, the show cause matter shall be considered resolved.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the petition of Sanibel Bayous Utility Corporation for a staff assisted rate case to implement increased wastewater rates is granted as set forth in the body of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, except for the authorization of temporary rates in the event of protest, the initiation of show cause proceedings, and the requirement to reduce rates after four years, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

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 attachments and schedules attached hereto are incorporated herein by reference. It is further

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ORDERED that Sanibel Bayous Utility Corporation is hereby authorized to charge the new rates, miscellaneous service charges, and late fees as set forth in the body of this Order. It is further

ORDERED that 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 shall be prorated based on the number of days in the billing cycle before the effective date of the new rates. The new charge shall 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 shall the rates be effective for service rendered prior to the stamped approval date.

ORDERED that Sanibel Bayous Utility Corporation shall file revised tariff sheets and a proposed customer notice to reflect the approved rates. It is further

ORDERED that the rates shall not be implemented until our staff has approved the proposed customer notice, and the notice has been received by the customers. It is further

ORDERED that the approved rates shall 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, provided customers have received notice. The tariff sheets will be approved upon our staff's verification that the tariffs are consistent with this Order and the customer notice is adequate. It is further

ORDERED that in no event shall the rates be effective for service rendered prior to the stamped approval date. It is further

ORDERED that Sanibel Bayous Corporation shall complete any and all improvements to the system that are necessary to satisfy the standards set by the Florida Department of Environmental Protection (FDEP) within the time frames set by FDEP, or within one year, whichever is longer. It is further

ORDERED that Sanibel Bayous Utility Corporation shall post a local emergency phone number, which can be easily seen, at the plant and at each lift station. The telephone number shall be

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posted at all locations no later than 90 days from the date of the Consummating Order for this rate case. It is further

ORDERED that Sanibel Bayous Corporation shall complete the pro forma surge tank, fence, and lift station overhaul within six months of the Consummating Order making this Order final. It is further

ORDERED that Sanibel Bayous Utility Corporation shall credit Contributions in Aid of Construction for the total amount of service availability charges as set forth in the body of this Order. It is further

ORDERED that Sanibel Bayous Utility Corporation shall complete the removal of vegetation from the pond berm, the addition of baffles in the chlorine contact chamber, and the addition of new diffusers in some of the aeration tanks, as discussed in the body of this Order, within six months of the Consummating Order. It is further

ORDERED that Sanibel Bayous Utility Corporation shall provide our staff with a signed contract with Sutton and Associates or other insurer and proof of the insurance policy within 90 days of the Consummating Order. It is further

ORDERED that Sanibel Bayous Utility Corporation shall discontinue charging service availability charges upon the issuance of the Consummating Order making this Order final. It is further

ORDERED that for all notices required by this Order, Sanibel Bayous Utility Corporation shall provide proof of the date notice was given within 10 days after the date of the notice. It is further

ORDERED that Sanibel Bayous Utility Corporation shall reduce its rates following the expiration of the four-year rate case expense recovery period pursuant to Section 367.0816, Florida Statutes. It is further

ORDERED that Sanibel Bayous Utility Corporation shall file revised tariff sheets and a proposed customer notice to reflect the approved lower rates and the reason for the reductions no later

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than one month prior to the actual date of the required rate reductions. It is further

ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-40.475(1), Florida Administrative Code. It is further

ORDERED that the reduction in rates shall not be implemented until our staff has approved the proposed customer notice, and the notice has been received by the customers. It is further

ORDERED that if Sanibel Bayous Utility Corporation 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. It is further

ORDERED that if no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of this Order, a Consummating Order will be issued. It is further

ORDERED that this docket shall remain open for our staff's verification that the revised tariff sheets and notices have been filed and approved, but may then be administratively closed. It is further

ORDERED that Sanibel Bayous Utility Corporation, in regards to the late fee and miscellaneous service charges, shall file revised tariff sheets which are consistent with our vote within one month of the vote. It is further

ORDERED that the revised tariff sheets shall be approved upon staff's verification that the tariffs are consistent with our decision. If revised tariff sheets are filed and approved, the late payment fee and miscellaneous service charges shall become effective on the stamped approval date of the tariff sheets, pursuant to Rule 25-30.475(2), F.A.C., if no protest is filed and provided customers have been noticed. It is further

ORDERED that Sanibel Bayous Utility Corporation shall be

required to make additional refunds in the amount of \$6,732 in service rates, and approximately \$750 in unauthorized late payment fees. It is further

ORDERED that the refunds shall be made with interest in accordance with Rule 25-30.360(4), F.A.C. Further, the refunds shall be made within 90 days in accordance with Rule 25-30.360(2), F.A.C. The refunds and the accrued interest shall be paid only to those customers who paid the unauthorized service rates from April 2000 through September 2002 and the unauthorized late payment fees from January 2000 to the current date. It is further

ORDERED that, pursuant to Rule 25-30.360(7), F.A.C., Sanibel Bayous Utility Corporation shall provide monthly reports on the status of the refunds by the 20<sup>th</sup> of the following month, a preliminary report within 30 days after the date the refund is completed, again in 90 days, and a final report after all administrative aspects of the refund are completed. It is further

ORDERED that Sanibel Bayous Utility Corporation shall treat any unclaimed refunds as contributions in aid of construction in accordance with Rule 25-30.360(8), F.A.C. It is further

ORDERED that, pursuant to Rule 25-30.360, Florida Administrative Code, in the event of a protest by any substantially affected person other than the utility, Sanibel Bayous Utility Corporation is authorized to collect the approved rates and charges on a temporary basis, subject to refund, provided that the utility has furnished satisfactory security for any refund and a proposed customer notice. It is further

ORDERED that if Sanibel Bayous Utility Corporation implements temporary rates, the utility shall maintain an account of all monies received as a result of the rate increase. This account must specify by whom and on whose behalf such monies were paid. If a refund is ultimately required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code. It is further

ORDERED that if Sanibel Bayous Utility Corporation implements temporary rates, the utility shall maintain a record of the amount of the bond, and the amount of revenues that are subject to refund.

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In addition, after the increased temporary rates are in effect, pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall file reports with the Division of Commission Clerk and Administrative Services no later than 20 days after each monthly billing. These reports shall indicate the amount of revenue collected under the increased temporary rates. It is further

ORDERED that Sanibel Bayous Utility Corporation is hereby ordered to show cause, in writing, within 21 days, why it should not be fined \$300 for collecting rates and charges not approved by the Commission and as set forth in its tariffs, in apparent violation of Sections 367.081(1) and 367.091(4), Florida Statutes, and Rule 25-30.135(2), F.A.C. The utility is warned that subsequent violations could result in higher fines. It is further

ORDERED that Sanibel Bayous Utility Corporation's response to this show cause order must contain specific allegations of fact and law. Should Sanibel Bayous Utility Corporation file a timely written response that raises material questions of fact and makes a request for a hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes, a further proceeding will be scheduled before a final determination of this matter is made. If a protest is also filed and a request for a formal hearing is made on other issues in this docket, the issues will be addressed in a single hearing to be scheduled in this docket. A failure to file a timely written response to the show cause order shall constitute an admission of the facts herein alleged and a waiver of the right to a hearing on this issue. It is further

ORDERED that any response to this Order shall be filed with the Director, Division of the Commission Clerk and Administrative Services within 21 days of the date of issuance of this Order. It is further

ORDERED that in the event that Sanibel Bayous Utility Corporation fails to file a timely response to the show cause order, the fine is deemed assessed with no further action required by this Commission. If the utility responds timely but does not request a hearing, a recommendation will be presented to the Commission regarding the disposition of the show cause order. If the utility responds to the show cause by remitting the fine, the

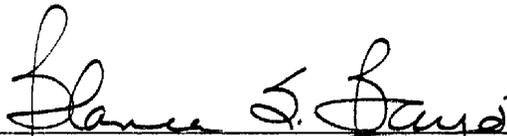
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show cause matter shall be considered resolved. It is further

ORDERED that these dockets shall remain open for an additional seven months from the Consummating Order to verify completion of the pro forma items and purchase of insurance and to verify that the refunds have been made to SBUC customers. Further, these dockets shall remain open pending the resolution of the show cause proceeding and any subsequent hearing. It is further

ORDERED that upon verification of the above by our staff and conclusion of the show cause proceeding, the dockets shall be closed administratively.

By ORDER of the Florida Public Service Commission this 9th Day of June, 2003.



BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

( S E A L )

RRJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein, except for the show cause proceeding, the temporary rates in event of protest, and the four-year statutory rate reduction, are preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 30, 2003.

In the absence of such a petition, the aforementioned proposed actions shall become final and effective upon the issuance of a Consummating Order.

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.

Any party adversely affected by the temporary rates in event of protest, and the four-year statutory rate reduction, which are 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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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Any person whose substantial interests are affected by the show cause order may file a response within 21 days of issuance of the show cause order as set forth herein. This response must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 30, 2003.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing and a default pursuant to Rule 28-106.111(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to the proposed agency action portion of this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk, 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.

Attachment A, page 1 of 2

WASTEWATER TREATMENT PLANT - USED AND USEFUL DATA  
 Docket No. 020439-SU - Sanibel Bayous Utility

1)	Permitted Capacity of Plant (AADF)	80,000 gallons per day
2)	Average Daily Flow (AADF)	47,909 gallons per day
3)	Growth	5,636 gallons per day
	a) Test year Customers in ERCs: (April 01-March 02)	Beginning 252 Ending 258 Average 255
	b) Customer Growth in ERCs using Regression Analysis for most recent 5 years including Test Year	6 ERCs
	c) Statutory Growth Period	5 Years
	(b x c) x [3/(a)] = 5,636 gallons per day for growth	
4)	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	N/A
	b) Reasonable Amount	6,937 gallons per day
	(500 gpd per inch dia pipe per mile)	
	c) Excessive Amount	N/A gallons per day

USED AND USEFUL FORMULA

$$[(2)+(3) - (4)] / (1) = 67\% \text{ Used and Useful}$$

WASTEWATER COLLECTION SYSTEM - USED AND USEFUL DATA

Docket No. 020439-SU - Sanibel Bayous Utility

1)	Capacity of System (Number of potential ERCs)	283	ERCs
2)	Test year connections		
	a) Beginning of Test Year	252	ERCs
	b) End of Test Year	258	ERCs
	c) Average Test Year	255	ERCs
3)	Growth	30	ERCs
	a) customer growth in connections for last 5 years including Test Year using Regression Analysis	6	ERC
	b) Statutory Growth Period	5	Years
	(a)x(b) = (6)x(5) = 30		ERCs allowed for growth

USED AND USEFUL FORMULA

$$[(2)+(3)] / (1) = 100\% \text{ Used and Useful}$$

Sanibel Bayous Utility Corporation TEST YEAR ENDING MARCH 31, 2002 SCHEDULE OF WASTEWATER RATE BASE		SCHEDULE NO. 1-A DOCKET NO. 020439-SU	
DESCRIPTION	BALANCE PER UTILITY	COMMN ADJUST. TO UTIL. BAL.	BALANCE PER COMMN
1. UTILITY PLANT IN SERVICE	\$341,755	\$31,276	\$373,031
2. LAND & LAND RIGHTS	22,907	(11,432)	\$11,475
3. NON-USED AND USEFUL COMPONENTS	0	0	\$0
4. CIAC	(226,576)	41,901	(\$184,675)
5. ACCUMULATED DEPRECIATION	(217,253)	25,341	(\$191,912)
6. AMORTIZATION OF CIAC	69,490	(31,580)	\$37,910
7. WORKING CAPITAL ALLOWANCE	<u>0</u>	<u>6,318</u>	<u>6,318</u>
8. WASTEWATER RATE BASE	(\$9,677)	\$61,824	\$52,147

**Sanibel Bayous Utility Corporation  
 TEST YEAR ENDING MARCH 31, 2002  
 ADJUSTMENTS TO RATE BASE**

**SCHEDULE NO. 1-B  
 DOCKET NO. 020439-SU**

**WASTEWATER**

**UTILITY PLANT IN SERVICE**

1. Plant per original cost study	(\$17,092)
2. To include additions in the test year	2,018
3. Averaging Adjustment	(1,009)
4. Pro Forma Plant	<u>47,359</u>
<b>Total</b>	<b><u>\$31,276</u></b>

**LAND AND LAND RIGHTS**

1. Land value determined by Auditor	<u>(\$11,432)</u>
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**NON-USED AND USEFUL PLANT**

1. To reflect non-used and useful plant.	(\$13,097)
2. To reflect non-used and useful accumulated depreciation.	<u>13,097</u>
<b>Total</b>	<b><u>\$0</u></b>

**CIAC**

1. Per calculation based on composite rates	\$28,776
2. Averaging Adjustment	<u>13,125</u>
<b>Total</b>	<b><u>\$41,901</u></b>

**ACCUMULATED DEPRECIATION**

1. Accumulated depreciation per Rule 25-30.140, FAC	\$17,744
2. To include accumulated depreciation on pro forma	(1,267)
3. To include the cost of removal of building	5,004
4. Averaging adjustment	3,860
<b>Total</b>	<b><u>\$25,341</u></b>

**AMORTIZATION OF CIAC**

1. To adjust Amortization of CIAC based on composite rates	(\$29,401)
2. Averaging adjustment	(2,179)
3.	<u>0</u>
<b>Total</b>	<b><u>(\$31,580)</u></b>

**WORKING CAPITAL ALLOWANCE**

1. To reflect 1/8 of test year O & M expenses.	<u>\$6,318</u>
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Sanibel Bayous Utility Corporation  
 TEST YEAR ENDING MARCH 31, 2002  
 SCHEDULE OF CAPITAL STRUCTURE

SCHEDULE NO. 2  
 DOCKET NO. 020439-SU

CAPITAL COMPONENT	PER UTILITY	SPECIFIC ADJUST-MENTS	BALANCE		BALANCE PER COMMN	PERCENT OF TOTAL	COST	WEIGHTED COST
			BEFORE PRO RATA ADJUSTMENTS	PRO RATA ADJUST-MENTS				
1. COMMON STOCK	\$200	\$0	\$200					
2. PREFERRED STOCK	0	0	0					
3. PAID IN CAPITAL	332,337	0	332,337					
4. RETAINED EARNINGS	(131,259)	0	(131,259)					
5. OTHER COMMON EQUITY	<u>0</u>	<u>0</u>	<u>0</u>					
TOTAL COMMON EQUITY	\$201,278	\$0	201,278	(149,131)	52,147	100.00%	9.23%	9.23%
LONG TERM DEBT								
6.	0	0	0	0	0	0.00%	0.00%	0.00%
7.	0	0	0	0	0	0.00%	0.00%	0.00%
8.	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
TOTAL LONG TERM DEBT	0	0	0	0	0	0.00%		
9. CUSTOMER DEPOSITS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	6.00%	<u>0.00%</u>
10. TOTAL	<u>\$201,278</u>	<u>\$0</u>	<u>\$201,278</u>	<u>(\$149,131)</u>	<u>\$52,147</u>	<u>100.00%</u>		<u>9.23%</u>
RANGE OF REASONABLENESS						<u>LOW</u>	<u>HIGH</u>	
RETURN ON EQUITY						<u>9.23%</u>	<u>11.23%</u>	
OVERALL RATE OF RETURN						<u>9.23%</u>	<u>11.23%</u>	

Sanibel Bayous Utility Corporation TEST YEAR ENDING MARCH 31, 2002 SCHEDULE OF WASTEWATER OPERATING INCOME			SCHEDULE NO. 3-A DOCKET NO. 020439-SU		
	TEST YEAR PER UTILITY	COMMN ADJUSTMENTS	COMMN ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1. OPERATING REVENUES	<u>\$37,024</u>	<u>\$6,536</u>	<u>\$43,560</u>	<u>\$19,792</u> 45.44%	<u>\$63,352</u>
OPERATING EXPENSES:					
2. OPERATION & MAINTENANCE	45,348	5,195	50,543	0	50,543
3. DEPRECIATION (NET)	703	3,613	4,316	0	4,316
4. AMORTIZATION	0	0	0	0	0
5. TAXES OTHER THAN INCOME	1,930	858	2,788	891	3,679
6. INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7. TOTAL OPERATING EXPENSES	<u>\$47,981</u>	<u>\$9,666</u>	<u>\$57,647</u>	<u>\$891</u>	<u>\$58,538</u>
8. OPERATING INCOME/(LOSS)	<u>(\$10,957)</u>		<u>(\$14,087)</u>		<u>\$4,814</u>
9. WASTEWATER RATE BASE	<u>(\$9,677)</u>		<u>\$52,147</u>		<u>\$52,147</u>
10. RATE OF RETURN	<u>113.23%</u>		<u>(27.01%)</u>		<u>9.23%</u>

Sanibel Bayous Utility Corporation	Schedule No. 3-B
TEST YEAR ENDING MARCH 31, 2002	DOCKET NO. 020439-SU
ADJUSTMENTS TO OPERATING INCOME	Page 1 of 2
	<u>WASTEWATER</u>
<b>OPERATING REVENUES</b>	
1. To adjust utility revenues to annualized test year amount	\$6,393
2. To adjust Other Revenues to audited test year amount	143
Subtotal	<u>\$6,536</u>
<b>OPERATION AND MAINTENANCE EXPENSES</b>	
<b>1. Purchased Power (715)</b>	
a. To annualize purchased power	\$346
b. To remove amount billed for demolished building	<u>(165)</u>
Subtotal	<u>\$181</u>
<b>2. Chemicals (718)</b>	
a. To reflect chemical expense per engineer	<u>\$196</u>
<b>3. Materials &amp; Supplies (720)</b>	
a. To reflect materials & supplies per engineer	<u>\$235</u>
<b>4. Contractual Services - Professional (731)</b>	
a. To reflect annual accounting fee per Audit Exception No. 7	\$2,450
b. To include engineering fee for permit renewal and amortize over 5 yrs	<u>359</u>
Subtotal	<u>\$2,809</u>
<b>5. Contractual Services - Testing (735)</b>	
a. To reflect annual testing per engineer	<u>(\$46)</u>
<b>6. Contractual Services - Other (736)</b>	
a. To reflect annual contract maintenance - operator	\$1,150
b. To amortize cost of clearing ponds over 5 years	(7,129)
c. To amortize cost of removing vegetation from pond berm over 5 years	1,000
d. To amortize the addition of baffles & diffusers over 5 years	400
e. To amortize cost to repair lift station over 3 years	(1,848)
f. To increase management fee	<u>3,725</u>
Subtotal	<u>(\$2,702)</u>
<b>7. Rents (740)</b>	
a. To include rent expense per Audit Exception No. 7	<u>\$1,200</u>
<b>8. Transportation (750)</b>	
a. To include transportation expense	<u>\$1,137</u>
<b>9. Insurance Expenses (755)</b>	
a. To include insurance expense	<u>\$2,828</u>
<b>(O &amp; M EXPENSES CONTINUED ON NEXT PAGE)</b>	

**Sanibel Bayous Utility Corporation**  
**TEST YEAR ENDING MARCH 31, 2002**  
**ADJUSTMENTS TO OPERATING INCOME**

**Schedule No. 3-B**  
**DOCKET NO. 020439-SU**  
 Page 2 of 2

**WASTEWATER**

<b>10. Regulatory Expense (765)</b>	
a. To amortize rate case filing fee over 4 years	\$250
b. To amortize cost of billing data from Island Water Assn. over 4 years	\$25
c. To amortize cost of customer notices over 4 years	\$61
d. To amortize cost of accounting fees over 4 years	\$250
e. To remove consultant fee	<u>(1,679)</u>
Subtotal	<u>(\$1,093)</u>
<b>11. Bad Debt Expense (770)</b>	
a. To include bad debt expense per Audit Exception No. 7	<u>\$450</u>
<b>12. Miscellaneous Expense (775)</b>	
Subtotal	<u>\$0</u>
<b>TOTAL OPERATION &amp; MAINTENANCE ADJUSTMENTS</b>	<u>\$5,195</u>
<b>DEPRECIATION EXPENSE</b>	
1. To reflect test year depreciation calculated per 25-30.140, F.A.C.	(\$2,274)
2. Non-Used and Useful Depreciation	0
3. To include pro forma depreciation expense	1,267
4. To include amortization of CIAC per Composite rates	<u>\$4,620</u>
Total	<u>\$3,613</u>
<b>AMORTIZATION</b>	
1.	<u>\$0</u>
<b>TAXES OTHER THAN INCOME</b>	
1. To include RAF's on Annualized Revenue	\$1,960
2. To remove property tax on demolished building	<u>(1,102)</u>
3.	
4.	
Total	<u>\$858</u>

Sanibel Bayous Utility Corporation TEST YEAR ENDING MARCH 31, 2002 ANALYSIS OF WASTEWATER OPERATION AND MAINTENANCE EXPENSE		SCHEDULE NO. 3-C DOCKET NO. 020439-SU	
	TOTAL PER UTILITY	COMMN ADJUST- MENT	TOTAL PER COMMN
(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	3,753	0	\$3,753
(715) PURCHASED POWER	7,850	181 [1]	\$8,031
(716) FUEL FOR POWER PRODUCTION	0	0	\$0
(718) CHEMICALS	3,858	196 [2]	\$4,054
(720) MATERIALS AND SUPPLIES	0	235 [3]	\$235
(730) CONTRACTUAL SERVICES - BILLING	0	0	\$0
(731) CONTRACTUAL SERVICES - PROFESSIONAL	2,276	2,809 [4]	\$5,085
(735) CONTRACTUAL SERVICES - TESTING	961	(46) [5]	\$915
(736) CONTRACTUAL SERVICES - OTHER	23,394	(2,702) [6]	\$20,692
(740) RENTS	0	1,200 [7]	\$1,200
(750) TRANSPORTATION EXPENSE	0	1,137 [8]	\$1,137
(755) INSURANCE EXPENSE	0	2,828 [9]	\$2,828
(765) REGULATORY COMMISSION EXPENSES	1,679	(1,093) [10]	\$586
(770) BAD DEBT EXPENSE	0	450 [11]	\$450
(775) MISCELLANEOUS EXPENSES	<u>1,577</u>	<u>0</u>	<u>\$1,577</u>
	<u>45,348</u>	<u>5,195</u>	<u>50,543</u>

FOUR YEAR RATE REDUCTION SCHEDULE

Sanibel Bayous Utility Corporation  
 TEST YEAR ENDING MARCH 31, 2002

SCHEDULE NO. 4  
 DOCKET NO. 020439-SU

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

QUARTERLY WASTEWATER RATES

	<u>QUARTERLY APPROVED RATES</u>	<u>QUARTERLY RATE REDUCTION</u>
<u>RESIDENTIAL SERVICE</u>		
FLAT RATE	\$ 62.70	0.61
<u>MULTI FAMILY SERVICE</u>		
FLAT RATE	\$ 50.16	0.49
<u>GENERAL SERVICE</u>		
FLAT RATE	\$ 125.40	1.21