

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate) DOCKET NO. 911188-WS
increase in Lee County by) ORDER NO. PSC-92-1082-PHO-WS
LEHIGH UTILITIES, INC.) ISSUED: 09/30/92

Pursuant to Notice, a Prehearing Conference was held on September 24, 1992, in Tallahassee, Florida, before Commissioner Betty Easley, as Prehearing Officer.

APPEARANCES:

KENNETH A. HOFFMAN, Esquire, and LAURA L. WILSON, Esquire, Messer, Vickers, Caparello, Madsen, Lewis, Goldman & Metz, P.A., 215 South Monroe Street, First Bank Building, Suite 701, Tallahassee, Florida 32301
On behalf of Lehigh Utilities, Inc.

PATRICK K. WIGGINS, Esquire, Wiggins & Villacorta, P.A., 501 East Tennessee Street, Tallahassee, Florida 32302
On behalf of Lehigh Fire Control & Rescue District

HAROLD McLEAN, Esquire, Office of Public Counsel, Claude Pepper Building, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of Citizens

CATHERINE BEDELL, Esquire, and LEEANN KNOWLES, Esquire, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0863
On behalf of the Commission Staff

PRENTICE PRUITT, Esquire, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0862
On behalf of the Commissioners

PREHEARING ORDER

I. CASE BACKGROUND

Lehigh Utilities, Inc. (Lehigh or utility) is a Class A utility providing water and wastewater services to approximately 10,000 residential and commercial customers within Lehigh Acres, in Lee County, Florida. The utility's 1990 Income Statement reflects an annual operating revenue of \$2,610,371 and net operating income of \$500,696. Lehigh is in an area which has been designated by the

INDEXED-DATE

11413 09 30 1992

FILED-RECORDS/REPORTING

South Florida Water Management District as a critical water supply problem area.

On March 15, 1991, the Resolution Trust Corporation (RTC) became the receiver of Security Savings and Loan Association. The property held by Security Savings and Loan Association included the stock of Land Resources Corporation (LRC) and its wholly-owned subsidiary, Lehigh. RTC transferred Lehigh to Seminole Utility Company (Seminole) on July 1, 1991. This Commission approved the transfer of majority organizational control of Lehigh from LRC to Seminole in Orders Nos. 25391 and 25391-A, which were issued on November 25, 1991, and February 24, 1992, respectively. The Commission last established rates for the Lehigh water and wastewater systems in Order No. 10981, issued on July 8, 1982.

On December 9, 1991, Lehigh filed an application for increased water and wastewater rates. The minimum filing requirements (MFRs) were determined to be deficient. The deficiencies were corrected on April 24, 1992, which has been established as the official date of filing. The application for increased rates is based on the projected test year ending September 30, 1992.

By Order No. PSC-92-0634-FOF-WS, issued July 8, 1992, the Commission suspended the utility's proposed rates and granted interim rates subject to refund.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 367.156, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section

DOCUMENT NUMBER-DATE

11413 SEP 30 1992

PSC-92-0634-FOF-WS

367.156, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 367.156, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to

the Court Reporter shall be retained in the Commission Clerk's confidential files.

III. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties and Staff has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

IV. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct</u>		
Arend J. Sandbulte	Lehigh	Policy Witness
Bert T. Phillips	Lehigh	Policy Witness, 29
Forrest L. Ludsen	Lehigh	9, 10, 22, 23, 25, 26, 27, 30-32, 41
Scott W. Vierima	Lehigh	11, 16, 20
Bruce Gangnon	Lehigh	12, 19, 29, 35-38
Gerald C. Hartman	Lehigh	5-7, 14
Robert C. Nixon	Lehigh	8, 17, 18, 39, 40, 42, 44, 46

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct</u>		
William Denny	Lehigh	3
Kimberly N. Dismukes	OPC	4, 9, 10, 13, 23-30, 33
Victoria A. Montanaro	OPC	12, 21, 35, 36
Samuel H. Gatlin	OPC	14, 15, 21, 34, 45
James Grob	Staff	3
William D. Allen	Staff	3
Richard Brown	Staff	4
<u>Rebuttal</u>		
Bert T. Phillips	Lehigh	33
Forrest L. Ludsen	Lehigh	9, 32, 34
Scott W. Vierima	Lehigh	15
Bruce Gangnon	Lehigh	12, 36
Gerald C. Hartman	Lehigh	4, 8, 14
Charles L. Sweat	Lehigh	13, 21, 45
Judith J. Kimball	Lehigh	4, 24, 28, 29

V. BASIC POSITIONS

LEHIGH: The Minimum Filing Requirements ("MFRs") were initially filed by Lehigh Utilities, Inc. ("Lehigh") on March 25, 1992. The official date of filing of the MFRs was established by the Commission as April 24, 1992. Lehigh requests annual revenues of \$2,051,795 for water operations (a \$430,552 or 26.56% increase) and annual revenues of \$2,420,658 for wastewater operations (a \$1,215,082 or 100.79% increase). These revenue requirements are based on a projected test year for the

twelve months ended September 30, 1992, therefore, the projected year actually will have been completed prior to the commencement of the final hearings scheduled for October 1-2, 1992. Lehigh's need for rate relief is reflected by its rates of return and returns on equity for its water and wastewater systems during the projected test year. Under rates in existence during the projected test year (prior to the recently authorized interim rates), Lehigh would experience a rate of return for the water system of only .62% (a -11.15% return on equity) and a negative rate of return for the wastewater system of -7.62% (a -32.33% return on equity).

The need for rate relief has resulted, in principal part, from additional investments in water and wastewater facilities of approximately \$4.8 million and \$7.8 million, respectively, since Lehigh's last rate case (Order No. 10981 issued July 8, 1982) and increased operations and maintenance expenses incurred over that same approximate ten (10) year period. Operations and maintenance expense increases and capital investments have been impacted by the need to comply with environmental regulations. A significant event which occurred since Lehigh's last rate filing was the transfer of ownership of Lehigh into the family of utilities operated by Southern States Utilities, Inc. ("Southern States"). As a result of the transfer, which was approved by the Florida Public Service Commission on November 25, 1991, Lehigh's administrative and general ("A&G") and customer service operations are coordinated with and provided by Southern States. The A&G, customer service and other common costs of Lehigh and Southern States have been pooled and reallocated to all customers served by each of the systems operated by Southern States. Lehigh believes the proposed allocation based on customers is reasonable since each customer receives equal benefits from these services and would thus be asked to contribute equally to the costs.

For these reasons as well as the reasons reflected in the MFRs and the testimony and exhibits of Lehigh's witnesses, Lehigh believes that the requested increases in Lehigh's annual revenue requirements are justified and the rates proposed by Lehigh are just and reasonable.

OPC: For a variety of reasons the rates proposed by Lehigh are excessive. The case presented by Lehigh fails to sustain

the utility's burden of proof in that it fails to show that the rates currently charged are unreasonable.

STAFF: The information gathered through discovery and prefiled testimony indicates, at this point, that the utility is entitled to some level of increase. The specific level cannot be determined until the evidence presented at hearing is analyzed.

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VI. ISSUES AND POSITIONS

LEGAL ISSUES TO BE BRIEFED BY PARTIES

ISSUE 1: Do the pronouncements of the Financial Accounting Standards Board legally compel the Commission to use any specific accounting methodology for rate making procedures under Florida Statutes?

POSITIONS

LEHIGH: The issue is not one of legal compulsion but rather whether FASB 106 expenses are prudently and necessarily incurred. Lehigh believes these costs are prudently incurred and should be recovered from customers.

OPC: No. Pronouncements of the Financial Accounting Standards Board are intended for purposes other than the economic regulation of utilities in the State of Florida and are thus advisory at best and misapplied in fact.

STAFF: The Commission is not bound by the pronouncements of the Financial Accounting Standards Board, although such pronouncements may be valid and useful for ratemaking purposes.

ISSUE 2: May the Commission substitute SFAS 106 as the standard by which it judges whether utility expenses are incurred, and if incurred, whether reasonably incurred?

POSITIONS

LEHIGH: The issue is not whether the Commission should substitute a FASB 106 standard but rather whether such costs or projected costs are prudently and necessarily incurred. The utility believes these costs are prudently incurred and therefore should be recovered from ratepayers.

OPC: No. The commission is required to critically examine all expenses incurred by the utility, irrespective of whether they are addressed in SFAS 106, to determine whether they are reasonably incurred. The commission cannot delegate any part of its jurisdiction to the Financial Accounting Standards Board.

STAFF: No.

QUALITY OF SERVICE

ISSUE 3: Is the quality of service provided by the utility satisfactory?

POSITIONS

LEHIGH: The record establishes that the quality of service provided by Lehigh is safe, efficient and sufficient, and in compliance with the standards promulgated by the Florida Department of Environmental Regulation. (Denny)

OPC: No position at this time pending customer testimony at the formal hearing.

STAFF: No position at this time, pending receipt of customer testimony. (Grob, Allen)

RATE BASE

ISSUE 4: Should plant-in-service be reduced by \$695,285 and \$385,228 for water and wastewater, respectively, because of missing or inadequate documentation?

POSITIONS

LEHIGH: No. Lehigh has presented an original cost study and other documentation which confirms Lehigh's investment in

plant in service during the period 1981 through 1985. Lehigh believes documentary support of the requested plant in service for the period 1986 through 1991 exists and can be produced. (Hartman, Kimball)

OPC: Agree with staff audit exception no. 1. (Dismukes)

STAFF: Yes, unless sufficient supporting documentation is produced for the record. (Brown)

ISSUE 5: **Should a margin reserve be included in the calculations of used and useful plant?**

POSITIONS

LEHIGH: Yes, a margin reserve should be included for water treatment distribution facilities and wastewater treatment and collection facilities. (Hartman)

OPC: No.

STAFF: Yes, a margin reserve should be included for the water and wastewater treatment facilities only.

ISSUE 6: **What is the appropriate method to determine margin reserve?**

POSITIONS

LEHIGH: The Utility agrees with staff. (Hartman)

OPC: Regression analysis is inappropriate to use in this case.

STAFF: The appropriate method to determine margin reserve is regression analysis.

ISSUE 7: **What is the appropriate amount of used and useful plant for Lehigh Utilities, Inc.?**

POSITIONS

LEHIGH: See direct testimony of Gerald C. Hartman, Exhibit No. ___ (GCH-2) and supporting schedules in the minimum filing requirements:

Raw water and water supply wells - 100%
Water treatment plant - 82%
Finished water storage - 91%
High service pumping - 100%
General plant (other facilities) - 100%

Wastewater treatment plant - 100%
Transmission and distribution - 88%
Collection and pumping station - 89%
Effluent disposal - 81%
(Hartman)

OPC: Neither margin reserve or fill-in lots should be included in used and useful.

STAFF: Agree with utility.

ISSUE 8: If a margin reserve is included in the used and useful determination, should CIAC be imputed as an offsetting measure?

POSITIONS

LEHIGH: No imputation of CIAC against margin reserve is appropriate. The margin reserve is required because Lehigh must stand ready to serve regardless of whether or not future customers materialize. An imputation of CIAC penalizes Lehigh by preventing recovery on the investment required by Lehigh to stand ready to serve. This penalty is premised on a minimum of two speculative assumptions: (1) customers will materialize, and (2) at the time customers materialize, the CIAC levels collected will be the same as those imputed in this proceeding. (Nixon)

OPC: Yes.

STAFF: Yes, CIAC should be imputed to offset the margin reserve.

ISSUE 9: Should general plant be allocated among operating systems based on relative customer numbers or is another method of allocation more appropriate?

POSITIONS

LEHIGH: General plant should be allocated based on number of customers. (Ludsen)

OPC: The number of customers is not necessarily the appropriate method. (Dismukes)

STAFF: Subject to evidence to the contrary, general plant should be allocated based on the number of customers.

ISSUE 10: What is the appropriate amount of allocated general plant?

POSITIONS

LEHIGH: The appropriate amount of allocated general plant is \$813,069 for water and \$636,178 for wastewater. See Schedule A-3 of the MFRs. (Ludsen)

OPC: Lehigh's share of general plant is dependant on allocation measures and other matters which are addressed in other issues and subject to further development of the record. The utility's general plant should be reduced by \$33,050 and the associated accumulated depreciation should be increased by \$13,431 to effectuate the allocation of these common costs to the utility's acquisition efforts. (Dismukes)

STAFF: Lehigh's share of general plant is dependant on allocation measures and other matters which are addressed in other issues and subject to further development of the record. Any adjustment for space attributable to acquisitions would be de minimus.

ISSUE 11: What is the appropriate method to calculate working capital and what is the proper amount to be included in rate base?

POSITIONS

LEHIGH: Working capital should be calculated pursuant to the formula method of 1/8th of Operations and Maintenance expenses in accordance with (1) the Commission's MFRs and Rule 25-30.437, F.A.C., requiring an applicant to provide the information required by the MFRs, and (2) Order Nos. 21202 and 21627 issued May 8, 1989 and July 8, 1989, respectively. (Vierima)

OPC: Working capital should be calculated using the balance sheet.

STAFF: The formula method (1/8th of operation and maintenance expense) should be used to calculate working capital. The amount of working capital to be included in rate base is subject to resolution of other issues.

ISSUE 12: If the Commission adopts SFAS 106 for ratemaking purposes, what is the appropriate treatment of the unfunded liability for post-retirement benefits other than pensions?

POSITIONS

LEHIGH: Unfunded liabilities should be treated in the manner indicated in the Commission's proposed Rule 25-14.012, F.A.C., approved by the Commission at the August 18, 1992 Agenda Conference (Docket No. 910840-PU). (Gangnon)

OPC: SFAS 106 is an inappropriate method for measuring post-retirement benefits for ratemaking. If, however, the Commission should adopt this methodology anyway, the amount of the unfunded liability should be reflected in the capital structure as a zero cost source of capital. If it is the intent of the Commission to reduce rate base by the amount of the unfunded liability, then the final order should reflect that intent and outline how the increasing unfunded liability will reduce rate base in the future. (Montanaro)

STAFF: The unfunded liability should reduce rate base.

ISSUE 13: What adjustment should be made to rate base for the purchase of 85 acres of land from a related party.

POSITIONS

LEHIGH: No adjustment is appropriate. (Sweat)

OPC: The land should be recorded at the lower of market or book value. (Dismukes)

STAFF: Should be recorded at the cost when the land was first dedicated to public service.

ISSUE 14: Should adjustments be made concerning the amount of CIAC included in the rate base?

POSITIONS

LEHIGH: No adjustment to CIAC concerning fill-in lots is appropriate. (Hartman)

OPC: Yes. An adjustment should be made to increase CIAC for the use of fill-in lots in the calculation of used and useful. (Gatlin)

STAFF: Pending further development of the record, some adjustment to CIAC may be appropriate.

ISSUE 15: Should an adjustment be made to recognize any part of the escrow account identified in MP&L's Due Diligence report?

POSITIONS

LEHIGH: No adjustment is appropriate. (Vierima)

OPC: The Commission should further evaluate the need for an adjustment associated with the \$4 million Escrow Account discussed in the Due Diligence report included as Attachment A to the testimony of Mr. Gatlin. (Gatlin)

STAFF: No, pending further discovery.

ISSUE 16: Should rate base be reduced for a negative acquisition adjustment?

POSITIONS

LEHIGH: No. (Vierima)

OPC: Yes.

STAFF: No. Order No. 25391, issued November 25, 1991, approved a stock transfer of majority organizational control. The rate base balance did not change. Therefore, no acquisition adjustment resulted.

ISSUE 17: What is the rate base amount?

POSITIONS

LEHIGH: A water rate base of \$4,353,973 and a wastewater rate base of \$6,562,749 as reflected in Schedules A-1 (water) and A-2 (wastewater) of the MFRs. (Nixon)

OPC: Amounts are arithmetic calculations subject to the resolution of other issues.

STAFF: The final amount is subject to the resolution of other issues.

COST OF CAPITAL

ISSUE 18: Has the utility removed the equity attributable to gas and garbage operations from the equity portion of capital structure?

POSITIONS

LEHIGH: Yes. The utility has removed equity attributable to gas and garbage operations from the equity portion of the capital structure. (Nixon)

OPC: Agree with staff.

STAFF: Any investments in non-utility operations should be removed from equity.

ISSUE 19: What is the appropriate amount of accumulated deferred income taxes to be included in the test year capital structure?

POSITIONS

LEHIGH: The appropriate amount is shown in the MFRs, at zero cost. (Gangnon)

OPC: No position at this time.

STAFF: The final amount is subject to the resolution of other issues.

ISSUE 20: What is the appropriate overall cost of capital including the proper components, amounts, and cost rates associated with the capital structure?

POSITIONS

LEHIGH: Fall-out issue based on capital structure per the minimum filing requirements and the resolution of other issues. (Vierima)

OPC: Amount is an arithmetic calculation subject to the resolution of other issues.

STAFF: Fall-out issue based on an appropriate capital structure and the determination in the issues above.

OPERATING INCOME

ISSUE 21: Is an adjustment necessary to impute revenue associated with the utility's reuse of effluent?

POSITIONS

LEHIGH: No. (Sweat)

OPC: Yes. The utility's test year revenues should be increased by \$36,500. (Gatlin)

STAFF: Yes. The utility's test year revenues should be increased by \$15,549 (\$.105 per 1,000 gallons x 400,000 gpd)

ISSUE 22: Should the utility's proposed escalation rate for payroll (5%) be approved?

POSITIONS

LEHIGH: Yes. (Ludsen)

OPC: No position.

STAFF: The increase for payroll should be 3.63%.

ISSUE 23: Is the utility's proposal to allocate administrative and general expenses and customer accounts expenses based upon relative customers reasonable?

POSITIONS

LEHIGH: Lehigh's proposed allocation of administrative and general and customer service expenses based on number of customers is reasonable. (Ludsen)

OPC: The Commission should consider methods other than the number of customers for allocating A&G costs between the Southern States Utilities and Lehigh Utilities Inc. customers. (Dismukes)

STAFF: Absent evidence to the contrary, these common expenses should be allocated on the basis of relative customers.

ISSUE 24: Is an adjustment necessary to allocate a portion of the common costs to the utility's acquisition efforts?

POSITIONS

LEHIGH: No. (Dismukes, Kimball)

OPC: Yes. The utility's common A&G expenses should be reduced by \$15,655 to effectuate the allocation of these common costs to the utility's acquisition efforts. The utility's depreciation expense should be reduced by \$2,293 to effectuate the allocation of general plant common costs to the utility's acquisition efforts.

STAFF: No position at this time pending further discovery.

ISSUE 25: Is an adjustment necessary to remove non-recurring costs associated with the merger of the SSU affiliates and subsidiaries?

POSITIONS

LEHIGH: No. (Ludsen)

OPC: Yes. The utility's test year O&M expenses should be reduced by \$1,079. (Dismukes)

STAFF: Yes.

ISSUE 26: Is an adjustment necessary to move cash discounts above the line for ratemaking purposes?

POSITIONS

LEHIGH: No. (Ludsen)

OPC: Yes. Net operating income should be increased by \$719 to move cash discounts above the line for ratemaking purposes. (Dismukes)

STAFF: Yes. Cash discounts taken should be accounted for above the line.

ISSUE 27: Is an adjustment necessary to remove charitable contributions for the test year?

POSITIONS

LEHIGH: With the sole exception of \$181.00 inadvertently included in the minimum filing requirements (\$103.00 attributable to water; \$78.00 attributable to wastewater - see response to Public Counsel Interrogatory No. 22), the utility believes that it has removed all charitable contributions from the minimum filing requirements. (Ludsen)

OPC: Yes. The utility's test year O&M expenses should be reduced by \$181. (Dismukes)

STAFF: Although the utility has removed some charitable contributions from the test year, some adjustments may be necessary to remove additional charitable contributions.

ISSUE 28: Is an adjustment necessary to remove non-recurring professional study expenses incurred during the test year?

POSITIONS

LEHIGH: No. (Kimball)

OPC: Yes. The utility's test year O&M expenses should be reduced by \$2,040. (Dismukes)

STAFF: Some adjustment to remove non-recurring professional study expenses may be necessary.

ISSUE 29: Is an adjustment necessary to remove chamber of commerce dues, other dues, and expenses associated with public relations efforts from the test year?

POSITIONS

LEHIGH: No, the utility and its customers receive benefits from membership in these organizations which should not be classified as "public relations efforts." (Kimball, Phillips)

OPC: Yes. The utility's test year O&M expenses should be reduced by \$280. (Dismukes)

STAFF: Any expenses determined to be related to image building should be removed.

ISSUE 30: Is the level of relocation expenses from the test year reasonable? If not, is an adjustment appropriate?

POSITIONS

LEHIGH: No. (Ludsen)

OPC: No position at this time.

STAFF: An adjustment may be necessary to remove excessive relocation expenses for the test year.

ISSUE 31: Is an adjustment necessary to legal expenses?

POSITIONS

LEHIGH: No. (Ludsen)

OPC: Yes.

STAFF: No position at this time.

ISSUE 32: What is the appropriate amount of test year allocated administrative and general expenses?

POSITIONS

LEHIGH: \$368,508 for water and \$288,336 for wastewater per Volume II of the MFRs. (Ludsen)

OPC: A portion of the common A&G costs should be allocated to the utility's acquisition efforts.

STAFF: No position at this time pending further discovery.

ISSUE 33: Should an adjustment be made to attribute a portion of the gain on the sale of St. Augustine Shores to Lehigh customers.

POSITIONS

LEHIGH: No. (Phillips)

OPC: Yes. An adjustment to increase test year income for the water operations by \$50,156 and for the sewer operations by \$39,211 is necessary to recognize the gain on the sale of St. Augustine Shores. (Dismukes)

STAFF: An adjustment may be appropriate to allocate a portion of the gain on the sale of St. Augustine Shores, amortized over 4 years, to Lehigh customers.

ISSUE 34: What is the appropriate amount of rate case expense?

POSITIONS

LEHIGH: Lehigh will update rate case expense shown in the MFRs at the evidentiary hearings to reflect actual to date and projected reasonable and prudent rate case expense. (Ludsen)

OPC: The appropriate amount of rate case expense that should be charged to ratepayers is 50% of prudently incurred expenses. (Gatlin)

STAFF: Only prudently incurred rate case expense should be approved. Further, adjustments may be necessary to remove excessive accounting charges, charges for determining and reconciling the undocumented plant additions.

ISSUE 35: What is the appropriate expense for post-retirement benefits other than pensions for the test year?

POSITIONS

LEHIGH: \$71,682 for water and \$56,087 for wastewater per Schedule B-3 of the MFRs. (Gangnon)

OPC: Any cost included in the measurement of post-retirement costs using SFAS 106 or any other method of calculating this alleged cost, which does not represent a known and measurable legal liability, should be removed for the presentation of the post-retirement benefit costs for ratemaking. The appropriate expense for post-retirement benefits other than pensions for the test year is the current pay-as-you-go-amount. At the time of the deposition the utility witness did not know the amount. OPC is awaiting a late-filed exhibit. (Montanaro)

STAFF: Upon proper showing, any reasonable amount of OPEBs should be allowed and should be accounted for pursuant to FAS 106.

ISSUE 36: Is a parent debt adjustment appropriate?

POSITIONS *The parties and staff agree that a parent debt adjustment is necessary and that the final amount is subject to the resolution of other issues. The issue has been left in the Prehearing Order in order to facilitate the preparation of the final rates recommendation. (Gangnon)

ISSUE 37: Should an adjustment be made to income taxes for the tax loss carry forwards of the utility?

POSITIONS

LEHIGH: Lehigh has no tax loss carry forwards. (Gangnon)

OPC: Yes.

STAFF: Yes, if an actual loss carry forwards exists.

ISSUE 38: What is the appropriate amount of income tax expense to be included in the test year.

POSITIONS

LEHIGH: \$119,226 for water and \$179,711 for wastewater per Schedules B-1 and B-2, respectively, of the MFRs. (Gangnon)

OPC: Fall-out issue.

STAFF: This is a fall-out issue and the final amount is subject to the resolution of other issues.

ISSUE 39: What is the adjusted operating income amount before any revenue increase?

POSITIONS

LEHIGH: Fall-out issue. (Nixon)

OPC: Fall-out issue.

STAFF: The final amount is subject to the resolution of other issues.

REVENUE REQUIREMENT

ISSUE 40: What is the revenue requirement?

POSITIONS

LEHIGH: Fall-out issue. (Nixon)

OPC: Amounts are arithmetic calculations subject to the resolution of other issues.

STAFF: The final amount is subject to the resolution of other issues.

INTERIM RATES

ISSUE 41: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

POSITIONS

LEHIGH: Lehigh believes the rate relief requested is justified. Therefore, no refund of interim rates is expected since the proposed final rates exceed the interim rates authorized by the Commission. (Ludsen)

OPC: No position.

STAFF: The final revenue requirement should be adjusted for items not representative of the period interim rates were in effect before comparing the final revenue requirement with the interim revenue requirement to determine whether a refund is necessary.

FINAL RATES AND RATE STRUCTURE

ISSUE 42: What are the appropriate water and wastewater rates?

POSITIONS

LEHIGH: Fall-out number. (Nixon)

OPC: No position. cf., Issue 47.

STAFF: No position at this time.

ISSUE 43: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

POSITIONS

LEHIGH: Fall-out number.

OPC: No position.

STAFF: Fall-out number.

ISSUE 44: Should the current wastewater gallonage cap be reduced from 10,000 gallons to 6,000 gallons?

POSITIONS

LEHIGH: The utility has proposed a 10,000 gallon wastewater cap but does not have any objection at this time to a cap of 6,000 gallons so long as revenue requirements are met. (Ludsen)

OPC: No position.

STAFF: Yes, the utility's current wastewater cap should be reduced from 10,000 gallons to 6,000 gallons.

ISSUE 45: What is the appropriate charge for effluent sold to the North Golf Course?

POSITIONS

LEHIGH: The appropriate charge for effluent sold to the North Golf Course is 10.65 cents per 1,000 gallons. (Sweat)

OPC: A minimum charge for the effluent should be \$.25 per 1000 gallons until the actual cost to the utility can be determined. (Gatlin)

STAFF: The appropriate charge for effluent should be 10.65 cents per 1,000 gallons with a 400,000 gpd minimum.

MISCELLANEOUS

ISSUE 46: Are adjustments to the utility's proposed allowance for funds prudently invested (AFPI) charges necessary?

POSITIONS

LEHIGH: No. The Commission should approve the proposed AFPI charge. (Nixon)

OPC: Agree with Staff.

STAFF: An adjustment may be necessary to reflect net plant, return on equity using the current leverage graph and other possible adjustments pending discovery.

VII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Hartman	Lehigh	GCH-1	Density Agreement
		GCH-2	Used and Useful Summary
		GCH-3	Original Study of (Rebuttal) Portions of Lehigh Utilities, Inc. for SSU -July, 1992
Nixon	Lehigh	RCN-1	List of Prior FPSC Dockets
Sweat	Lehigh	CLS-1 (Rebuttal)	Memorandum of Understanding
Ludsen	Lehigh	FLL-1	Financial Rate and Engineering MFRs of Lehigh Utilities, Inc.
		FLL-2	Supplemental Information Submitted on April 24, 1992 Concerning Lehigh's Analysis of O&M Costs as Compared to the Commission Benchmark Guideline
		FLL-3	FPSC September 1988 Management Audit Report
		FLL-4	PSC Audit Correspondence
		FLL-5	Pre and Post Audit Report Staffing Modifications of Lehigh/Southern States
		FLL-6	Descriptions of the D u t i e s a n d Responsibilities of the Administrative and Operations Departments of Lehigh/SSU

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Kimball	Lehigh	JJK-1 (Rebuttal)	Reconciliation of Plant in Service from General Ledger to Audited Financial Statements
		JJK-2 (Rebuttal)	Price Waterhouse Plant Audit Workpapers
		JJK-3 (Rebuttal)	Audited Financial Statements
		JJK-4 (Rebuttal)	Reconciliation of Audited Financial Statements to Tax Returns
		JJK-5 (Rebuttal)	Ending Consolidated Balance Sheet
		JJK-6 (Rebuttal)	Reconciliation of Contributions in Aid of Construction Between the General Ledger and the Audited Financial Statements
		JJK-7 (Rebuttal)	Reconciliation of CIAC from Tax Returns to Audited Financial Statements
		JJK-8 (Rebuttal)	Price Waterhouse CIAC Workpapers
Dismukes	OPC	KHD-1	consisting of one schedule; Appendix setting forth Qualifications
Montanaro	OPC	VAM-1	GTE letter to FASB, Nov. 9, 1989
		VAM-2	GTE letter to FASB, June 28, 1990

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Montanaro	OPC	VAM-3	Joint Letter July 11, 1990 to USTA re: FASB conference call
		VAM-4	Actuarial Valuation of Current and Alternative Benefits
		VAM-5	Foster and Higgins Study of Health Care Benefits
		VAM-6	Late filed Deposition Response Hewitt and Associates
		VAM-7	GTE's August 7, 1989 Letter to the FASB
		VAM-8	Goodwin's comments FASB's ED November 3, 1989
		VAM-9	Proposed Actuarial Compliance Guideline for SFAS 106
Gatlin	OPC	SHG-1	Due Diligence Report, March, 1991
Brown	Staff	RB-1	Audit Report dated August 4, 1992

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

VIII. PROPOSED STIPULATIONS

The following stipulations were entered into by the utility, staff and OPC, unless otherwise indicated. The Lehigh Fire Control and Rescue District did not participate in the Pre-hearing.

1. The testimony of James Grob and William D. Allen pre-filed on behalf of staff is to be inserted into the record as though read. The appearance of these witnesses will be excused.

2. The utility and staff have agreed that the cost of equity should be set using the leverage formula in effect at the time of the Agenda Conference for the final order in this case. OPC took no position.
3. The utility and staff have agreed that the appropriate cost rate for variable rate debt should be based on benchmark (Prime, LIBOR or other) rates current at the time of hearing. OPC took no position.
4. The escalation factor for projected expenses should be based on the price index factor in effect at the time of the Agenda Conference on the final rates. (28 from the first draft)
5. The \$7,500 of DER fines charged to Miscellaneous Expenses should be removed from test year expenses. (29)
6. The utility's requested miscellaneous service charges, which follow Second Revised Staff Advisory Bulletin (SAB) No. 13. should be approved OPC took no position (L- , OPC- , S-35 Draft 52)
7. Per Audit exception No. 4, Miscellaneous Expenses of \$2,000 and \$700 for water and wastewater, respectively, should be removed from test year expenses. Also, wastewater contractual services of \$1,700 for the historical test year should be removed. (30)

IX. PENDING MOTIONS AND OTHER PRELIMINARY MATTERS

1. Lehigh's Request for Confidential Classification and Motion for Protective Order filed on September 2, 1992 (and related Motion for Temporary Protective Order filed on July 7, 1992).
2. Lehigh's Second Request for Confidential Classification and Motion for Protective Order filed on September 8, 1992 (and related Second Motion for Temporary Protective Order filed on August 17, 1992).

X. RULINGS

The Prehearing Officer granted Lehigh's request, filed June 3, 1992, for waiver of Rule 25-22.0406(4)(a), Florida Administrative Code, regarding rate case synopsis.

The Prehearing Officer ruled that OPC's direct testimony and revised testimony would be deemed timely filed and admissible. However, should any appellate proceeding necessitate the filing of such testimony in accordance with the Order Establishing Procedure, OPC shall bear the burden of conforming such testimony to the requirements set forth in the Order Establishing Procedure.

It is therefore,

ORDERED by Commissioner Betty Easley, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Betty Easley, as Prehearing Officer, this 30th day of September, 1992.



BETTY EASLEY, Commissioner
and Prehearing Officer

(S E A L)

BE/CB/LK

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in

ORDER NO. PSC-92-1082-PHO-WS
DOCKET NO. 911188-WS
PAGE 28

the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.