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ORIGINAL
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May 20, 1996

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Case No. 950387-SU

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Post Hearing Statement. A diskette in IBM-compatible WordPerfect 5.1 is also submitted. Also submitted for filing is the original and 15 copies of Cheryl Walla Post Hearing Statement.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Harold McLean
Associate Public Counsel

- ACK _____
- AFA 2
- APP HM:bsr
- CAF _____
- CMU _____
- CTR _____
- EAG _____
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- REC _____
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- WAS Wallas
- OTH _____

PH Statement
DOCUMENT NUMBER-DATE
05547 MAY 20 96
FPSC-RECORDS/REPORTING

Walla's PH Statement
DOCUMENT NUMBER-DATE
05548 MAY 20 96
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
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In Re: Application for) DOCKET NO. 950387-SU
increased Wastewater)
Rates by Florida Cities) FILED: May 20, 1996
Water Company- North Ft.)
Myers Division in Lee)
County)

CHERYL WALLA POST HEARING STATEMENT

Cheryl Walla offers this her Post Hearing Statement, and identify any material changes or additions to the filed Pre-hearing Statement by means of an asterisk (*) preceding and following the new material.

BASIC POSITION

The rates Florida Cities Water Company are seeking for increase in capacity and their reuse facility from the Commission are based on flows to their plant inflated by infiltration. Therefore the existing means of effluent disposal was adequate had the 1992 implemented Infiltration and Inflow program of FCWC been successful. The reuse facility was not economically feasible for the 2500 customer base and all the variable cost that went with it. FCWC service is not satisfactory to its customers. The rate case expense is exorbitant not prudent.

DISCUSSION OF POSITIONS

QUALITY OF SERVICE

ISSUE 1: Did FCWC misrepresent with less than truthful statements in three public documents?

DOCUMENT NUMBER-DATE

05548 MAY 20 88

Position: Yes, the three documents are Exhibit 19 (CW-7, CW-8 & CW-10).

Discussion: *FCWC customer billing insert (Exhibit 19, CW-7) was sent to all FCWC and Poinciana utility customers as a general customer information piece to establish the value of water and wastewater, as stated by utility witness Coel.(Tr.762) All FCWC and Poinciana utility customers do not have anything in common. They **do not have** uniform rates, same amount of customers, same location, same gallonage usage, same plant or same expenses. There is nothing generally or valued the same among any of the divisions except for the owners. To represent to the customers of NFM division they pay only \$1.85 or \$2.09 (Tr. 763) per day for water/wastewater service is suggesting the average customer uses 2,597 or 3,982 gallons per month respectively. Since either generalization by the company would cause only 444,194 gpd or 592,258 gpd respectively to go to the treatment plant, this utility still has quite a bit of unused capacity or they misrepresented to the people.

In Exhibit 19 (CW-8) Mr. Dick attempted to discredit the merit of the protest to the rate increase by saying 12 persons had withdrawn when in fact none had. He based his statements to this committee of customers on "inner-company information" and not by verifying the information with the FPSC Divisions of Record and Reporting. This was a misrepresentation and poor management.

In utility witness Coel rebuttal testimony he rebutted the wrong exhibit. (Tr. 763) Exhibit 19(CW-10pg 2) On March

20,1996 Mr. McLean hand delivered to Lila Jaber & U.S. mailed the revision of this exhibit to everyone including the utility. This fact sheet dated 7/19/95 was given to customers. This sheet clearly announces to the customers on page 2 of 2 that there are no litigation expenses included in this rate case from the U.S. EPA vs. FCWC & Avatar legal case where they had violated the Clean Water Act repeatedly. In Exhibit 19 (CW-9) page 6 audit disclosure no. 2 clearly states that 1992-1994 legal expenses of \$210,734 were capitalized as part of this expansion project.

The utility misrepresented in all 3 public documents and should be penalized somehow for their less than truthful dis-service and misrepresentation to the customers.*

ISSUE 2: Should the Commission seriously consider customers' testimony on service when rendering its decision on quality of service?

POSITION:The Commission should consider the 1065 letters, the 54 name odor petition, the testimony of the customers at the customer meeting on July 26, 1995, and all subsequent testimony. Exhibit 19 (CW-6)*The Commission should also consider all customer testimony from 4/24/96 and 4/25/96.(Tr. 1-92 Tr. 351-466 Tr. 483-487)*

ISSUE 3: Is the quality of service satisfactory?

POSITION:No, it is inefficient and there is leakage in the pipes-infiltration.*Also the ongoing sewage odors emanating from the AWWTP constitutes inefficiency and

poor management of the plant.*

DISCUSSION: * The infiltration and inefficiency of the wastewater collection system will be discussed at length in Issue 5.

The odor petition Exhibit 19(CW-6) is representative of customers who have actually smelled the odors coming from the plant. In utility witness Karleskint testifying she said that she did not consider that the FCWC customers that signed the odor petition could have smelled the odors while at the marina or restaurant.(TR. 694-695) Staff witness Barienbrock from the DEP did not specifically state all odor complaints but testified that they were included in his mind.(Tr.200-201) To submit to the Commission the complaint of Schuckers Restaurant and not all other odor complaints was neglectful, after all the Commissioners are not mind readers.

Witness Barienbrock also stated DEP has not had a complaint since either last year or the year before.(TR.221) Commissioner Kiesling said that the PSC and DEP have a memoranda of understanding about cooperating in the exchange of information. (Tr. 219) This exchange of information should be used in this instance of investigating witness Barienbrock statements above.‡

RATE BASE

ISSUE 4: What capacity of the wastewater plant and what flows should be used to calculate used and useful?

POSITION: Whether you use annual average daily flows or peak flows, the flows shown by the utility include infiltration, and, therefore, used and useful is overstated.* Peak Capacity of the plant should be used to calculate used and useful.*

DISCUSSION:*The capacity of the wastewater plant was discussed by staffs DEP witness Shoemaker. In his opinion the permitted capacity of the facility is 1.5mgd with the disposal capacity of 1.3 mgd.(Tr.171, 177-178) Witness Shoemaker also states there is a lot of confusion on this project. (Tr. 179-180) This confusion is a direct result of FCWC trying to change there permitting capacity of disposal on there not yet acquired operating permit to 1.25mgd. There miscalculations in engineering of what Lochmoor Golf course could take for reuse has lessened from 300,000 to 250,000. This only changes what they are limited to by DEP as far as how much they will be permitted to dispose of and where. This has nothing to do with the actual capacity of the plant and what should be used for used and useful calculations.

The capacity was also discussed at length by utility witness Cummings. His testimony regarding Exhibit 26 the DEP Monthly Operating Report for July 1995 now brings up other capacity factors which need to be considered when rendering used and useful calculations. Witness Cummings stated hydraulically the plant is designed for 3 times with a peaking factor of 3 mgd. (Tr. 635)

In Exhibit 1 (LC-1) MFR schedule F-4 the utility offered to the Commission in No. 1 that the hydraulic rated capacity is current 1 mgd and projected 1.25 mgd. In witness Shoemaker testimony it is 1.5. (Tr. 171) The hydraulic capacity is different than construction permit. The utility was deficient on this schedule F-4 by not following the instructions and providing an explanation when the hydraulic capacity was different on the permit.

Biological treatment is above 2.048 mgd because witness Cummings said the flows were treated in July 1995 and the 2.048mgd was the highest on July 19, 1995. (Tr. 632) With regards to the BOD, CBOD and TSS probability of being lower this is simply not the case when looking at the MOR for that day. Exhibit 26)

Witness Cummings could not give us a peak biologic design at the time of hearing. Late filed Exhibit 27 asked for by Commissioner Garcia (Tr.-637) still does not give us in plain language the peak biologic design in what can be treated in mgd biologically.

With all of these questions concerning the capacity of the plant still at hand this issue of used and useful cannot possibly be rendered without further investigation. Staff DEP witness Shoemaker and utility witness Cummings testimonies are true testament to this fact.

If determination was to be made from record as it stands, the plant capacity is 3.0. That is the capacity that should be used for used and useful calculations.*

ISSUE 5: Does the wastewater collection system have excessive infiltration and inflow that should be removed when calculating used and useful?

POSITION: The public should not be compelled to pay increased wastewater rates because of an inefficient wastewater collection system. Moreover, if the utility's existing infiltration and inflow reduction program has not been vigorously pursued, then customers should not pay those costs.

DISCUSSION:*Witness Barienbrock used monthly operating reports from the water treatment plant and the wastewater treatment plant on which to base his opinion on infiltration.(Tr.198-199) He did not take out the 550 water only customers which equals 990 ERC when looking at the flow demands to the wwtp.(Tr.199) Witness Barienbrock also did not use water sold to customers figures because the water plant monthly operating report does not have those figures on there it only has water pumped and treated. It does not include water sold or unaccounted for water. Therefore his opinion is based on data which are not true by representative of any sort of study.

Utility witness Dick uses a paragraph from the Manual of Practice No. 9 (Exhibit 6) on which to base his opinion of the infiltration. Yet when asked if he agrees with a direct statement from page 30 of the MOP #9 he replied "no I don't. I agree with a portion of that statement. (Tr.252-253)So witness Dick only fully agrees with the portions of the MOP #9 that seem to fit his opinion on infiltration.Witness Dick also based his

opinion on 100% of water sold to customers returning back thru the wastewater collection system. Even when asked about the Commission criteria of only 80% residential flow returning to the plant he still insisted 100% of the flow goes back to the wwtp. (Tr. 248) Therefore utility witness Dicks opinion is based on a paragraph of MOP #9 and not on a true representative of any sort of study.

The only true representation of studies of fact done on infiltration in this docket are OPC witness Dismukes Exhibit 22 (schedule 12 & schedule 13) and Walla Exhibit 19 (CW-5). The utility has offered in two dockets now 910756-SU & 950387-SU the identical opinion of infiltration and what they believe to be their allowances. Neither docket had a true study of fact using data from their own MFR's.

Utility witness Acosta preparer of the Capacity Analysis Report (Exhibit 17) page 2 agreed that the I&I had increased at that point since 1985. Tr.322 He also stated he believes that a 25% reduction has not been achieved. Tr.329 Utility witness Acosta conceded that if a 25% reduction can be achieved this would add 50,000-75,000 gpd of capacity to the plant. Tr.330-331) Utility witness Acosta could not produce any hard numbers or hard evidence that the I&I program has been successful. He could only use the paragraph in the MOP# 9 to again justify flows.(Tr.327) Witness Acosta states that FCWC has spent \$99,203 in the last 4 years on the I&I program.(Tr.472) The utility did not offer any evidence in defense of these figures. They are portrayed inaccurately as shown in Walla

Supplemental testimony. (Tr.500-504) In exhibit 1 (LC-1 MFR schedule B-8 line #15) account 735 Contractual Services-other, the explanation includes increased source of supply expense for an ongoing I&I program. This is a very questionable increase. Where could the Commission possibly find the facts from this utility to back this up. Exhibit 1 (LC-1,MFRs) schedule B-11 this analysis of all maintenance projects ,major maintenance and source/contractual services other, are not the same figures Witness Acosta represented as fact to the Commission. (Tr.472)

The customers are paying for an I&I program without any evidence offered by FCWC of a success rate. The customers are now being told to pay for a \$1,600,000 expansion to plant because the program hasn't offered any success of decreasing the flows. The customers should not be obligated to pay any increase in rates because of mismanaged and inefficient programs along with an inefficient collection system. Excessive infiltration exists in this system. FCWC has had 4 years, since, 1992, when they became aware of the problem to gain some level of control of it. They have chosen to increase the capacity of the plant at the customers expense and treat the problem.

In Exhibit 1 (LC-1 MFRs) schedule F-4, no.2 the average daily flow max month. This peak month was influenced by 508,300 gpd (tr.725) of infiltration and there was no explanation on a separate page as told to explain. Therefore MFR scedule F-4 is deficient in its filing.*

ISSUE 6: What is the appropriate amount of used and useful?

POSITION: The used and useful is 54%, as per testimony. This is a difficult and vague concept. It should not be rendered as a matter of opinion but should be a written standard that all concerned can use the same methodology. It should always have infiltration amounts taken out to give truer used and useful plant.

DISCUSSION:*See discussion under Issue #4. This cannot be determined until actual biological treatment capacities and hydraulic capacity can be determined. Position remains same if staff position remains same for Issue #4.*

ISSUE 7: Should a margin reserve be allowed?

POSITION: This policy of including margin reserve should be totally excluded from rate making practices. The present customer base should never have the burden of the cost to provide for future customers.

DISCUSSION:*There is discrepancy in the number of customers and also in ERCs FCWC uses in different documents. These documents that will be referred to may also fall under Issue#1.

According to utility witness Dick (Exhibit 12) fact sheet dated February 19, 1993 FCWC represented they had 2,996 customers included in their system. At that point the plant was at 1 million gpd capacity. (Tr.254-255) How is it FCWC could serve 2996 Customers at 1 million gpd in 1993 and cannot serve

2,559 customers at 1 million gpd in 1995. This is the same plant in 1993 & 1995. In 1995 there are 437 less customers than 1993 yet they cannot be served by the 1 million gpd capacity plant. If Exhibit 12 were a true representative of customers, FCWC already has room for 437 customers and this would be their margin reserve. Utility witness Dick did suggest that this number on FCWC own fact sheet was not accurate. (Tr.-255) This is another document by utility witness Dicks own omission that misrepresents to the public and can be included under Issue # 1.

In docket No. 910756-SU issued 7/1/92, Order No. PSC-19-0594-FOF-SU NFM division FCWC there was a utility witness Harrison who testified the plant had capacity to serve 5,413 customers. In the 1995 docket we only have 4,590 ERCS for the 1mgd plant has to serve. The 823 ERC difference is their margin reserve. (Tr.342-344) This 1992 docket #910756 is yet another document which misrepresents. Or is this an allowable practice? FCWC can bounce different numbers from document to document to fit their needs at the time.

FCWC margin reserve is already in the capacity of the plant as it stands. They would have thousands of gpd unused capacity if not for their excessive infiltration problem.*

ISSUE 8: Should the Commission approve a year-end rate base value in this proceeding?

POSITION: *No, the Commission should not approve a year-end rate base value in this proceeding. The utility's investment in rate base is substantially enlarged under year-end considerations because they chose to expand their plant to treat infiltration. Further the improvements are not in the public interest they are in FCWC interest to increase their assets. Maintaining their collection system over the past 4 years would have been in the public's interest.*

DISCUSSION:

ISSUE 9: If the Commission does allow a margin reserve, should it impute CIAC associated with the margin reserve?

POSITION:* Yes, consistent with Commission practice.*

DISCUSSION:

ISSUE 10: Should working capital be adjusted?

POSITION:*Adjustments should be made.*

DISCUSSION:

ISSUE 11: What rate base amount should be approved?

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

DISCUSSION:

COST OF CAPITAL

ISSUE 12: What is the appropriate rate of return on equity?

POSITION: Agrees with OPC.

DISCUSSION:

ISSUE 13: Should any adjustments be made to the equity component of the Company's capital structure?

POSITION: No position.

DISCUSSION:

ISSUE 14: Should any adjustment be made to the debt component of the Company's capital structure?

POSITION: Agrees with OPC.

DISCUSSION:

ISSUE 15: Should any adjustments be made to the cost of investment tax credits?

POSITION: Agrees with OPC.

DISCUSSION:

ISSUE 16: What is the appropriate overall cost of capital?

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

DISCUSSION:

NET OPERATING INCOME

ISSUE 17: Should chemical and purchased power expense adjustments be made to recognize inflow and infiltration?

POSTION: Yes,*for reasons discussed in Issue # 5.*

DISCUSSION:

ISSUE 18: Are the proposed adjustments to water and waste-water expenses to reflect customer growth and the PSC index appropriate?

POSITION: Agrees with OPC.

DISCUSSION:

ISSUE 19: Is the Company's adjustment to increase expense for postage and envelope billing costs appropriate?

POSITION: Agrees with OPC.

DISCUSSION:

ISSUE 20: Should any adjustment be made to affiliate expenses charged to the Company?

POSITION: Agrees with OPC.

DISCUSSION:

ISSUE 21: What is the appropriate provision for rate case expense?

POSITION: *There should be a detailed list of prudent expenses allowed by a utility.*

DISCUSSION:*The Commission staff should conduct an invoice to invoice audit of all exhibits of rate case expense. The prudence of many invoices and hours logged for work on this case are very questionable. OPC touched on some briefly with

Utility witness Coel. (Tr.146-151) Also in the record are just some of the expenses that should not be paid by the customers. (Tr.504-506) *

ISSUE 22: What personal property tax expense is appropriate?

POSITION: Agrees with OPC.

DISCUSSION:

ISSUE 23: What regulatory assessment fee expense is appropriate?

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

DISCUSSION:

ISSUE 24: What income tax expense is appropriate?

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

DISCUSSION:

ISSUE 25: What is the test year operating income before any revenue increase?

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

DISCUSSION:

REVENUE REQUIREMENT

ISSUE 26: What is the appropriate revenue requirement?

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

DISCUSSION:

RATES AND CHARGES

ISSUE 27: What reuse rate should be approved?

POSITION: *The reuse rate of .32¢ per 1000 gallons should be used.*

DISCUSSION:*According to utility witness Acosta the reuse system and all associated costs was \$800,000.(Tr.474) Utility witness Acosta also states the wastewater customers are the ones that are creating that cost and should bear that cost. (Tr.480-481) The customers are not creating that cost FCWC are the cost causer. FCWC has used poor management decisions in choosing to expand their plant to treat infiltration instead of maintaining their collection system. Therefore needing added means of disposal.Where now the reuse system costing \$800,000 comes to being. The utility now not only wants the customers to pay for the \$800,000 reuse system but also the difference in rate of reuse they are going to charge the end-user.(Exhibit 32)

In Exhibit 32 reuse facility calculation of revenue requirement the rate is shown to be .32¢ per 1000 gallons. Also Utility witness Coel states that to be a stand alone basis selling price per 1000 gallons. (Tr.789-790) Using a rate of

.13¢ per 1000 would have the customers bearing the burden of additional cost of .19¢ per 1000 gallons which is \$20,259 per year. At a rate of .21¢ per 1000 the cost to the rate-payers is .11¢ per 1000 which is \$11,499 per year.

The rate of .32¢ per 1000 gallons should be the rate charged to the end-user. The customers are bearing the burden of the \$800,000 already then to include an additional \$20,259 or \$11,499 per year without any benefit.

As utility witness Karleskint stated she realized they were keeping the rate artificially low and that's not probably the true rate of what it's costing FCWC. (Tr.702)*

ISSUE 28: Was Lochmoor Golf Course a prudent choice for the reuse site?

POSITION:*The selection of Lochmoor Golf Course reflects questionable reuse site design. Specifically the inadequate study (poor research) by the engineering firm Black & Veatch to evaluate the reuse needs of the golf course.*

DISCUSSION:*Witness Cummings engineer of reuse design requested in his rebuttal testimony that after Final Design the actual irrigation rate was less than originally estimated. It was reduced to account for reduced usage during wet weather periods at Lochmoor. Exhibit 21 (JV-3) Three weeks later in Hearing, Utility witness Cummings states when asked "Was there a decrease in the provision of reclaimed water to Lochmoor?" and Do you know why there was this decrease? He answered "No, I don't know. I have ideas but I don't know for certain why there's a

decrease. (TR-653) This is an example of why the customers find it confusing to understand what establishes the plants rated capacity, its questionable link to reuse requirements at Lochmoor.

Customer testimony by Don Artis resident at Lochmoor Golf Course states during rainy season every summer the golf course is so wet you cannot even leave the cart paths to go to the tee, as it is a sloppy, muddy mess. They cannot use additional irrigation during rainy season, as much as six months year. (Tr-427-428)

Witness Artis spoke of a conversation he had with the owner and course superintendent the last week in April, the 23rd. They confirmed that little water was brought in from the wastewater plant. During the dry season December- May so little water was required by the golf course. Presently they are not being charged for reuse. Exhibit 28 (JLK-4) If they needed water, they would certainly take it at this time. (Tr. 428)*

ISSUE 29: What are the appropriate wastewater rates for Florida Cities Water Company-NFM Wastewater Division?

POSITION: * The final rates are subject to the resolution of other issues.*

DISCUSSION:

ISSUE 30: 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, FL Statutes?

POSITION: The final rates are subject to the resolution of other issues.

DISCUSSION:

ISSUE 31: Should the utility be required to refund a portion of the revenues implemented pursuant to Order No.PSC 95-1360-FOF-SU, issued November 2, 1995?

POSITION: The final amount, if any, is subject to the resolution of other issues.

DISCUSSIONS:

POLICY ISSUES AND POSITIONS:

ISSUE 32: Does the Order Establishing Procedure facilitate the participation of lay customers in the hearing process?

POSTTION: This procedure does not allow an average customer to successfully protest an order of the Commission without outside assistance of professionals.

DISCUSSION:*There is always the outside chance that Office of Public Counsel may not believe that a customer has a valid reason for protesting an order set out by the Public Service Commission. If that customer is adversely affected by the order they still have the right to protest it. There should be a booklet drawn up by the PSC showing the different steps that are required to follow to go from PAA order to the final hearing stage. It should include how the protest sheet, testimony, interrogatories, request for documents, pre-hearing statement and post hearing statement need to be set up so that the Public Service Commission will not reject them or there format. It should include specific examples of each of these documents. In my specific case of protesting this order such a booklet would have saved me phone calls, time and personal funds.*

ISSUE 33: Does the commission waive, to the extent legally possible, its charges for documents provided to intervening customers?

POSITION: A person whom intervenes in a case should not be charged for documents that are needed for discovery purposes from the Commission. After all, unlike the Utility the expense is all out of pocket and cannot be recovered in rate case expense like the utility.

Respectfully submitted,

Cheryl Walla

Cheryl Walla

1750 Dockway Drive
N. Ft. Myers, FL 33903

CERTIFICATE OF SERVICE

DOCKET NO.950387-SU

I HEREBY CERTIFY the original and 15 true and correct copies of the post-hearing statement were hand delivered to the Director of the Division of Records and Reporting on May 20, 1996. A true and correct copy of the foregoing has been furnished by U.S. Mail to the following:

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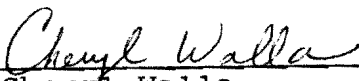
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