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October 8, 1996

**HAND DELIVERY**

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

RE Docket No. **951593-WS**  
Application of Palm Coast Utility Corporation  
for an Increase in Service Availability Charges  
in Flagler County, Florida

Dear Ms Bayo

Enclosed for filing are an original and fifteen copies of Suggestion of Errors in Staff Recommendation, in reference to the above docket

Please acknowledge receipt of the foregoing by stamping the enclosed extra copy of this letter and returning same to my attention

Very truly yours,

B. Kenneth Gatlin

- ACK \_\_\_\_\_
  - AFA \_\_\_\_\_
  - ALL \_\_\_\_\_
  - CAF \_\_\_\_\_
  - CFI \_\_\_\_\_
  - EA \_\_\_\_\_
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DOCUMENT NUMBER DATE  
**10759 OCT-8 1996**  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application of Palm Coast )  
Utility Corporation for an Increase )  
in Service Availability Charges in )  
Flagler County, Florida )

Docket No. 951593-WS  
Filed: October 8, 1996

SUGGESTION OF ERRORS IN STAFF RECOMMENDATION

Palm Coast Utility Corporation (PCUC) hereby submits its Suggestion of Error in the September 26, 1996 Staff Recommendation for a Proposed Agency Action.

1. This Suggestion of Error addresses factual errors in the text of the recommendation, legal implications of the Staff's recommendation, and mathematical errors in the schedules attached to the recommendation.

2. Factual Error No. 1. The recommendation states:

For its calculation of the proposed system capacity charges, PCUC adjusted its utility plant in service (UPIS) as of 1995. The adjustment reflects the limiting factor of ERCs in plant. *This results in UPIS net of used and useful.* This is shown on Schedule No. FS-5, pages 1 & 2 of PCUC's application.

The statement that the adjustments result in UPIS net of used and useful is incorrect. The adjustments result in the allocated gross investment in UPIS serving the number of ERCs at the next milestone; i.e., when the treatment plants will be built out.

3. Factual Error No. 2. The recommendation states:

*This methodology deviates from the Commission practice in calculating service availability charges.*

This statement is incorrect. The methodology used in this application is the Commission practice as applied to PCUC. PCUC, in preparing its application, relied on the Staff methodology testified to by Commission staff member John D. Williams in Docket No. 810485-WS and formalized by his exhibit, "Revised Appendix A". Docket No. 810485-WS is the docket in which PCUC's present wastewater service availability charge (SAC) was authorized. Attachment No.1 to this Suggestion of Error is a copy of "Revised Appendix A". Order No. 12957 in Docket No. 810485-WS set the wastewater SAC at the amount recommended by Mr. Williams

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as determined using the Commission Staff methodology.

4. Factual Error No. 3. The recommendation states:

Also, as shown on Schedules Nos. A-12 & A-14 of PCUC's application, the utility did not include the amount of prepaid CIAC. PCUC recorded \$34,440,537 in prepaid CIAC and \$8,124,376 in CIAC in trust as of December 31, 1995. Staff believes these amounts should be included in the calculation of service availability charges.

The statement that Staff believes these [prepaid] amounts should be included is inconsistent with the position established by Staff when it developed the existing charges in Docket No. 810485-WS, upon which PCUC relied in preparing its filing. Staff witness Williams' "Revised Appendix A" [Attachment No. 1 to this Pleading], uses the existing wastewater "used" CIAC net at 12/82, in the amount of \$2,640,507, in calculating the proper level of the SAC. The 1982 Annual Report for PCUC, as filed with this Commission, shows existing wastewater CIAC net, including prepayments, as \$25,712,967. The testimony of Mr. Williams indicates that he was aware that there very large amounts of prepaid sewer CIAC. In developing the Staff position, he knowingly did not include prepaid CIAC.

5. Legal Considerations. Regulatory law requires the utility to charge the SAC in effect at the time of connection. H. Miller and Sons, Inc. v Hawkins, 373 So. 2d 913 (Fla. 1979).

The Staff recommendation to cease collecting the SAC is equivalent to setting the SAC at zero. If the Staff recommendation is adopted, the SAC that will in effect will be zero, at the time lot purchasers that prepaid to the developer connect to the system. In accordance with H. Miller and Sons v Hawkins, at the time of connection, customers that prepaid to the developer must pay the difference between the SAC in effect and the amount prepaid. If the amount in effect at the time of connection is less than the amount prepaid, the difference must be refunded. This is the practice followed by PCUC.

When a homesite purchaser requests service, what he has previously paid is credited against the then prevailing charge. At that time, the party would either be requested to pay the difference between the previous payments and the SAC applicable at the time of connection or, in those cases where the previous payments would exceed current SAC, the utility would refund the

difference to the customer. (Docket No. 810485-WB; Tr. 114). (Emphasis added)

The recommendation to cease collecting CIAC will cause PCUC to refund in its entirety all prepaid CIAC, thereby making those amounts unavailable to the utility. The Staff's recommendation wipes out the prepayments upon which it has relied in its calculation.

6. Mathematical Error No. 1. In determining the proper level of the SAC, the Staff recommendation includes prepaid CIAC as a given amount.

The prepayments collected by the developer at the time a lot purchase contract is entered into is not necessarily the SAC that will be in effect at the time of connection. The purpose of the SAC analysis is to determine what the SAC should be at the time of connection to keep the utility within the Commission's guidelines for the relation of net CIAC to net plant at buildout. It is not mathematically possible to determine what the SAC should be at time of connection, if the amount prepaid toward that amount is included in the calculation. Including the prepaid amount in the calculation is circular reasoning and will always cancel out the amount of CIAC to be collected at buildout. If the prepaid amount is included, there can be no determination of the proper level of SAC against which to measure the difference between the prepaid amount and the amount to be collected at time of connection. If this error is corrected by excluding prepaid CIAC from Schedule No.3 of the Staff recommendation, the resulting maximum allowable SAC in Schedule Nos. 2-A&B, using but not necessarily endorsing, Staff's other assumptions would be \* \$2,776.94 for water and ~~\$458.75~~ 1,346.74 for wastewater. With this correction alone, the total allowable combined SAC is \* ~~\$3,235.94~~ 4,123.68 compared to the \$3,100 total combined SAC requested by petitioner.

7. Mathematical Error No. 2. The amount of prepaid CIAC used in the Staff's calculation of the water SAC in its Schedule No. 3 is overstated by \$16,706,383.

As previously pointed out, it is legally and mathematically incorrect to include prepaid CIAC in the calculation of the SAC. Nevertheless, the Staff calculation which utilizes this approach contains a mathematical error which should be pointed out. On Schedule No. 3 of the Staff recommendation, staff states that it has allocated 25.75% of the \$34,440,537 prepaid CIAC to water. However, the actual calculation includes 74.25% of the prepaid CIAC instead of 25.75%, overstating the prepaid CIAC allocated to water by \$16,706,383. The effect of correcting this error is to increase the allowable water SAC from zero to a maximum allowable amount of \$1,795.03, based on all of Staff's assumptions,

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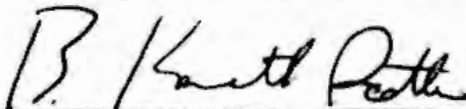
\* Corrected 10/08/96, to also remove prepayments in trust.

including recognition of prepaid CIAC.

8. PCUC has not had the opportunity to determine if there are other errors in the Staff Recommendation, but failure to correct the errors identified will a) deny PCUC access to CIAC which it is entitled to collect, b) will place PCUC in jeopardy of having to refund \$34 million already prepaid, c) jeopardize PCUC's ability to finance future capital improvements, and d) endanger the future financial viability of the utility. In addition, it will unduly discriminate against existing customers that have paid the proper charges by allowing future customers to connect without paying their allocated cost of the system, and burden all customers with rate increases necessary to recover the cost of capital necessary to replace the refunded CIAC amounts and the lack of CIAC resources in the future.

Based on the foregoing, Palm Coast Utility Corporation requests that this Suggestion of Errors in Staff Recommendation be considered by the Commission, that the errors be corrected, and the total requested SAC be approved.

Respectfully submitted, this  
8th day of October, 1996



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REVISED  
APPENDIX "A"

Palm Coast Utility  
Docket No. 810485-WS

Calculation of Service Availability Charge for Wastewater System

Plant	Annual Report 1982	Adjustments	Totals	Allocation	Cost/ERC	θ Units	Total	
Intangible	\$ 83,775	\$	\$ 83,775	40,862	2.05	6,952	\$ 14,253	
Pumping	2,859,830		2,859,830	40,862	69.99	6,952	486,553	Net PEP = 4,301 x 619.39 - (.025 x 4,301/12 x 12(12+1)) x 619.39 2
Pumping Addition		684,500	684,500	40,862	16.75	6,952	116,456	
Treatment	4,268,979	299,998	4,568,977	6,952	657.22	6,952	4,568,977	
Collection-Gravity	26,213,121		26,213,121	(A)23,967	1,093.72	(C)5,176	5,661,081	
-PEP	5,678,089		5,678,089	16,895	336.08	(B)1,776	596,880	
-Force Mains	470,690		470,690	40,862	11.52	6,952	80,080	
PEP Unit Tanks		25,342,500	25,342,500	16,895	1,500.00	(B)1,776	2,664,000	- θ new cost. x avg. PEP/cust. - (depr. rate x θ cust. add. per year x depr. periods) x avg. PEP/cust.
General (#58.52)	682,228		682,228	40,862	16.70	6,952	116,070	
<b>Totals</b>	<b>\$40,256,712</b>	<b>\$26,326,998</b>	<b>\$66,583,710</b>				<b>\$14,304,350</b>	<b>= 2,231,098</b>

(A) 40,862 - 16,895  
(B) (6,952 - 2,651) x .413  
(C) 4,301 - 1,776

Gross Plant @ milestone	\$ 14,304,350
- PEP Tanks	(2,664,000)
sub.	11,640,350
x net/gross plt. ratio	x .9183
Net bal. @ 12/82	10,640,350
less depr. to 12/94	(3,476,561)
Net bal. @ 12/94	7,212,772
Add net PEP	2,231,098
Net Plc. @ 12/94	9,443,870
x .75 (net CIAC)	x .75
Net desired CIAC	7,082,903
less existing CIAC (net) 12/82	(2,640,507)
plus added amortization	839,406
CIAC to be collected	<u>\$ 5,281,802</u>

Net new CIAC desired

$$55,281,802 = 4,301 A - (.025 \times 4,301/12 \times 12(12+1)) A$$

$$= 3,602 A$$

$$A = \underline{\$1,466}$$

service availability charge per  
each new connection = \$1,466

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Suggestion of Errors in Staff Recommendation has been furnished by fax to Mr. Raj Agarwal, Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, on this 7th day of October, 1996.



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