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State of Florida

Public Service Commission

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TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF ECONOMIC REGULATION (MERTA, WENJIORA, MASSOUDI, DAVIS) *mm*
OFFICE OF THE GENERAL COUNSEL (JAEGER) *SM [Signature] [Signature] [Signature]*

RE: DOCKET NO. 020439-SU - APPLICATION FOR STAFF-ASSISTED RATE CASE IN LEE COUNTY BY SANIBEL BAYOUS UTILITY CORPORATION.

DOCKET NO. 020331-SU - INVESTIGATION INTO ALLEGED IMPROPER BILLING BY SANIBEL BAYOUS UTILITY CORPORATION IN LEE COUNTY IN VIOLATION OF SECTION 367.091(4), FLORIDA STATUTES.
COUNTY: LEE

AGENDA: 05/20/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION EXCEPT FOR ISSUES 10, 14, 16, AND 17 - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: WAIVED

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\ECR\WP\020439.RCM

DOCUMENT NUMBER-DATE
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CASE 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 the 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, 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 the Commission. 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 staff's September 5, 2001 letter.

Following a review of the information provided by the utility, on October 8, 2001, staff notified SBUC that it 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, staff requested, within 30 days of the letter, that the utility

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provide additional billing information to calculate the amount of the customer refunds. 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, which details the SARC process.

The utility failed to respond with the requested billing data within the timeframe requested. On two subsequent occasions, 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, 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, met with staff to discuss the improper increases in rates, possible refunds, and the possibility of the utility filing for a SARC. Mr. Winrow provided staff additional billing, plant, and CIAC information 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, 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)

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treat connection fees as CIAC, and (4) seek a staff assisted rate case. In addition, the utility intends 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, 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, 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 Rule 25-30.455(8)(c) and (d), Florida Administrative Code, to qualify for a SARC, a current annual report must be on file with the Commission and the utility must be current in its payment of 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, the Commission issued Order No. PSC-02-1298-PAA-SU, in Docket No. 020331-SU. In that Order, the Commission 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 staff and auditors with the information requested, a show cause proceeding would be initiated.

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

Staff has audited the utility's records for compliance with the Commission 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. Staff has selected a historical test year ending March 31, 2002, for this rate case.

Staff conducted a customer meeting on November 14, 2002, in the Sanibel Community Association Auditorium. Seven customers attended the meeting; 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 in Issue No. 1.

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, staff attempted to contact Mr. Winrow by telephone. Staff left messages asking Mr. Winrow to read staff's recommendation, and contact staff with any questions he had. Staff received no response. On the morning of the Agenda, 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 staff a request to defer the case and provided staff with a waiver of the statutory timeframe. The Commission approved the request for deferral.

In a January 31, 2003 letter, Mr. John Guastella, on behalf of SBUC, requested that staff reconsider its recommendation. Mr. Guastella stated that the utility located documentation to verify CIAC of \$213,400. It should be noted that 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 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, staff requested that Mr. Winrow provide the records supporting the CIAC, the plant additions and additional rate case expense. Staff requested that the utility

submit the above documentation by March 7, 2003. However, it was not received by that date.

Staff 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; it was not received. Staff again telephoned SBUC on April 4 to inquire as to the status of the document mailing and was informed that it had been mailed, but that they would check into it. On April 7, 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, staff revised its January 9, 2003 recommendation, as set forth below.

The following is a list of acronyms and commonly used technical terms which are used throughout the staff recommendation.

COMPANY AND PARTY NAMES

FDEP Florida Department of Environmental Protection
FPSC Florida Public Service Commission
NARUC National Association of Regulatory Utility Commissioners
OPC Office of Public Counsel

GLOSSARY OF TECHNICAL TERMS

BFC Base Facility Charge - A charge designed to recover the portion of the total expenses required to provide water and sewer service incurred whether or not the customer actually uses the services and regardless of how much is consumed.

CIAC Contributions In Aid Of Construction - Any amount or item of money, services, or property received by a utility, from any person or governmental agency, any portion of which is provided at no cost to the utility, and which is utilized to offset the acquisition, improvement, or construction costs of the utility's property, facilities, or equipment used to provide utility services to the public. The term includes, but is not limited to, system capacity charges, main extension charges, and customer connection charges.

ERCs Equivalent Residential Connections - A statistic used to quantify the total number of water or wastewater connections that can be served by a plant of some specific capacity. The consumption of each connection is considered to be that of a single family residential connection, which is usually considered to be a unit comprised of 3.5 persons.

gpd Gallons Per Day - The amount of liquid that can be delivered or actually measured during a 24-hour period.

gpm Gallons Per Minute - The amount of liquid that can be delivered or actually measured during a one-minute time period.

O&M Operations and Maintenance Expense

RAF Regulatory Assessment Fees

SARC Staff Assisted Rate Case

UPIS Utility Plant in Service - The land, facilities, and equipment used to generate, transmit, and/ or distribute utility service to customers.

Used and Useful The amount of plant capacity that is used by current customers including an allowance for the margin reserve.

USOA Uniform System of Accounts - A list of accounts for the purpose of classifying all plant and expenses associated with a utility's operations.

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ISSUE 1: Is the quality of service provided by Sanibel Bayous Utility Corporation considered satisfactory?

RECOMMENDATION: No. The quality of the wastewater plant-in-service provided by SBUC should not be considered satisfactory. The utility should complete any and all improvements to the system that are necessary to satisfy the standards set by the Florida Department of Environmental Protection (FDEP). Also, it is recommended that a local emergency phone number, which can be easily seen, be posted at the plant and at each lift station. The emergency phone number should be posted at all locations no later than 90 days from the date of the Consummating Order for this rate case. (M. MASSOUDI)

STAFF ANALYSIS: Rule 25-30.433(1), Florida Administrative Code (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.

Staff addresses each of these three components below based on the information available.

Sanibel Bayous Utility Corporation is a class C wastewater utility serving customers in Lee County. SBUC is located on Sanibel Island off the coast of Southwest Fort Myers along the Sanibel-Captiva Road. According to information provided by the utility, the utility is serving 150 residential, 116 multi-family and 4 general service customers in Sanibel Bayous Subdivision, Heron's Landing Subdivision, the Ridge Subdivision, and Blind Pass

Condominiums on Sanibel Island. The Island Water Association is providing drinking water to these customers.

1- 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, 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. Staff reported this issue to the FDEP inspector. The FDEP personnel inspected the utility on September 19, 2002 and March 12, 2003. The inspector claimed that during his field inspections, he 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 FDEP found that the utility violated F.A.C. Rule 62-600.440(4)(b) 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 FDEP found that the utility violated F.A.C. Rule 62-600.440(2)(b)4. which requires any one sample to not exceed 800 fecal coliform colonies per 100 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 milliliters (ml).
4. The FDEP found that the utility violated F.A.C. Rule 62-600.740(1)(b)1.d. 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 milligrams per liter (mg/L).

Based on the above, the quality of utility's product should be not 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 should complete any and all improvements to the system that are necessary to satisfy the standards set by the FDEP.

2- OPERATIONAL CONDITIONS AT THE PLANT

Wastewater

During the field investigation on July 17, 2002, staff observed that the plant did not appear to be well maintained. 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. This yields a 67% used and useful (see staff analysis for Issue No. 2).

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. Staff believes that currently, the utility is 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.

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- 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. F.A.C. Rule 62-600.440(4)(b) 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.
- 14) During the inspection, FDEP personnel observed non-essential debris and equipment on and around the plant causing safety hazards. F.A.C. Rule 62-600.410(8) 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

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above violations been improved, but he also observed more violations by the utility. The following are the 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) During the March 12, 2003 inspection, 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.
- 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 will be issued very soon, to reach settlement of all of the above issues. As of the current date, 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 Sanibel Bayous Utility should 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 should complete any and all improvements to the system that are necessary to satisfy the standards set by the FDEP. ,

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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 staff's Quality of Utility's Product analysis and possible Violation Nos. 10, 11, and 13 that are mentioned in staff's 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 in Issue Nos. 3 and 7.

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

An informal customer meeting was held on November 14, 2002, at 6:00 P.M. in the Sanibel Community Association Auditorium in Sanibel, Florida. The utility serves 270 customers. Out of this customer base, seven customers attended the customer meeting. Only one quality of service complaint was brought to 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

Staff recommends that the quality of the wastewater plant-in-service provided by SBUC should not be considered satisfactory. The utility should complete any and all improvements to the system that are necessary to satisfy the standards set by FDEP. Also, it is recommended that a local emergency phone number, which can be

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easily seen, be posted at the plant and at each lift station. The telephone number should be posted at all locations no later than 90 days from the date of the Consummating Order for this rate case.

USED AND USEFUL

ISSUE 2: What portions of Sanibel Bayous Utility Corporation are used and useful?

RECOMMENDATION: The utility wastewater treatment plant should be considered to be 67% used and useful. The wastewater collection system should be considered to be 100% used and useful. (M. MASSOUDI)

STAFF ANALYSIS:

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, staff calculates 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, the formula used on the calculation sheet (Attachment A, Sheet 1 of 2) indicates 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), the used and useful percentage is calculated to be 100%. By the formula method, it is recommended that the wastewater collection system be considered 100% used and useful.

ISSUE 3: What is the appropriate test year rate base for the utility?

RECOMMENDATION: The appropriate test year rate base for the utility is \$52,147. The utility should be required to complete all pro forma additions, as discussed in the staff analysis, within six months of the Commission's Consummating Order. (MERTA, IWENJIORA)

STAFF ANALYSIS: Rate base has never been established for SBUC. Staff has selected a historical test year ended March 31, 2002, for this rate case. During the audit investigation, staff discovered that the utility did not have sufficient documentation to support its investment in plant. Therefore, an original cost study was conducted by staff. Rate base components have been adjusted using the original cost study 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. Staff has decreased UPIS by \$17,092 to reflect UPIS per the original cost study. SBUC provided staff a schedule of plant additions that showed additions of \$1,023 in 1981, \$52,799 in 1983 and \$1,206 in 1986. Staff did not include these additions 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 staff does not believe that is sufficient evidence to allow inclusion in rate base. Invoices with descriptions and cost information are needed to identify additions and justify including them in rate base. It should be noted 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 staff 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. Staff included the following items in rate base and believes these items are reasonable. Staff has increased UPIS by \$47,359 to record pro forma plant. The following is a description of staff adjustments for 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 discussed in Issue No. 1. Further repairs and improvements will be required to comply with FDEP standards; however, at this time the specifics and costs are unknown.

There was no averaging adjustment made to pro forma plant. Staff believes that making this adjustment would unfairly penalize the utility by reducing the amount of pro forma plant included in rate base by half. Staff recommends the UPIS be increased by \$47,359 to include pro forma plant. The utility should be required to complete the pro forma surge tank, fence, and lift station overhaul within six months of the Commission's Consummating Order.

Staff's adjusted balance for UPIS is \$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, 4.5 acres would be valued at \$11,475. Therefore, staff has decreased land by \$11,432 (\$22,907-\$11,475) to reflect staff's calculation of land value.'

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. Staff obtained a copy of the 1975 warranty deed that transferred the land to SBUC.

Based on the above, staff recommends average land cost of \$11,475.

Non-used and Useful Plant: Staff has determined the used and useful percentages for each plant account. 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, staff recommends a zero balance for non-used and useful plant.

Contribution in Aid of Construction (CIAC): SBUC was not authorized by the Commission to collect connection fees. However, in Order No. PSC-02-1298-PAA-SU, issued September 23, 2002, the Commission 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.

The Commission could require SBUC to refund the unauthorized connection fees or in the alternative, it could require the utility to record these unauthorized fees as CIAC. Recording the connection fees as CIAC will benefit customers by reducing rate base, thereby reducing the return the utility is allowed to earn on its investment. In Order 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, the Commission 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.

Staff believes that requiring a refund of CIAC would place an insurmountable burden on the utility. Staff believes the Commission should take into consideration a utility's financial viability and ability to raise debt in determining any refund. Requiring a refund

would probably bankrupt the utility. 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, staff recommends that connection fees 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 staff's recommendation to impute \$341,377 in CIAC was filed, 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 staff reconsider its recommendation on CIAC. Mr. Broeder, the original developer, furnished individual customer cards to verify CIAC. Staff examined the CIAC records provided by the utility and believes 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 ($203,050 - 5,250 = 197,800$), therefore these were removed from staff's calculation. The utility and staff accounted for the same number of connections. The difference between the utility's amount of \$203,050 and staff's original imputed amount of \$341,377 was the assumption by 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.

Staff decreased CIAC by \$28,776 per staff's calculation. CIAC was further decreased 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 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. No CIAC was imputed for the Ridge and

Blind Pass Condominiums, but staff cannot determine that it was not collected and the utility was not able to provide any documentation that proved that it was not collected. If CIAC were imputed on the 28 Ridge units and the 108 condominium units at \$2,625 each, an additional \$357,000 would be added to CIAC. Staff is not recommending this additional \$357,000 be included in CIAC because staff could not determine it was collected.

Based on staff's adjustments, staff recommends an average CIAC balance for the historical test year of \$184,675.

Accumulated Depreciation: The utility recorded a balance for accumulated depreciation of \$217,253. Consistent with Commission practice, staff has recalculated accumulated depreciation using the prescribed rates in Rule 25-30.140, F.A.C. Staff's calculated accumulated depreciation for the historical test year is \$199,509. Therefore, staff decreased accumulated depreciation by \$17,744 (\$217,253-\$199,509).

Staff 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, Uniform System of Accounts 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, staff 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. Staff recommends an accumulated depreciation balance for the historical test year of \$191,912.

Amortization of CIAC: The utility recorded CIAC amortization of \$69,490. Amortization of CIAC has been recalculated by staff using composite depreciation rates. Staff calculated amortization for the historical test year of \$40,089. Therefore, staff has decreased CIAC amortization by \$29,401 to reflect staff's calculated historical test year amortization of CIAC. An averaging adjustment was made to decrease CIAC amortization by \$2,179. Staff recommends average amortization of CIAC for March 31, 2002, of \$37,910.

Working Capital Allowance: Working Capital is defined as the

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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., staff has calculated working capital using the one-eighth of operation and maintenance (O&M) expense formula approach. Based on that formula, staff recommends a working capital allowance of \$6,318, based on O&M of \$50,543.

Rate Base Summary: Based on the foregoing, staff recommends that the appropriate historical average test year rate base is \$52,147.

Rate base is shown on Schedule No. 1-A. Related adjustments are shown on Schedule No. 1-B.

ISSUE 4: Should SBUC's return on equity be reduced by 100 basis points for unsatisfactory quality of service and mismanagement?

RECOMMENDATION: Yes, staff recommends that SBUC's return on equity be reduced by 100 basis points for unsatisfactory quality of service and mismanagement. (MERTA, IWENJOIRA)

STAFF ANALYSIS: Pursuant to Section 367.111, Florida Statutes, the Commission has 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, the Commission has 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. Gulf Power v. Wilson, 597 So. 2d 270 (Fla. 1992).

As discussed in Issue No. 1, 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 in Issue No. 1, 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. Staff reviewed a draft of the Consent Order which set out sixteen requirements to bring the utility into compliance with FDEP standards. FDEP specified the timeframes 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, staff believes 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, the Commission 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 the Office of Public Counsel to reduce rates and to bill monthly, the utility continued to bill the unauthorized rates quarterly.

SBUC appears to have disregarded the Commission's admonition in Order No. PSC-02-1298-PAA-SU to cooperate with staff. This is evidenced by the consistent ignoring of deadlines for submitting information and documentation needed by staff to process the SARC and by what appeared to be a lack of interest in the case and working with staff. As stated in the Case Background, SBUC failed to produce requested billing data by November 8, 2002; it was finally received January 14, 2003, after two telephone calls and a letter which stated a show cause proceeding may be recommended. On another occasion, staff requested documentation of SBUC's CIAC by March 7, 2003; it was received April 3, 2003, after three telephone calls. On a third occasion, staff telephoned Mr. Winrow three times to urge him to read staff's 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.

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, staff was told the records had been destroyed. After

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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 staff requested a meeting prior to the visit. Also, on at least two occasions, staff suggested that the utility respond to items in staff's audit report that the utility disagreed with; however, the utility chose not to respond.

Based on the foregoing, the Commission should 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 of equity and is therefore consistent with Gulf. This recommendation is also consistent with past Commission 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.

COST OF CAPITAL

ISSUE 5: What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility?

RECOMMENDATION: The appropriate rate of return on equity is 9.23% with a range of 9.23% to 11.23%. The appropriate overall rate of return is 9.23%. (MERTA, IWENJIORA)

STAFF ANALYSIS: According to staff's 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.

The capital structure has been reconciled with staff's recommended 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 in Issue No. 4, staff recommends that the return on equity be reduced by 100 basis points. This reduction is due to the unsatisfactory quality of service being provided by the utility and mismanagement. Therefore, staff recommends that the return on equity be 9.23%. The overall rate of return is also 9.23% with a range of 9.23% - 11.23% because the capital structure is 100% equity. Both the return on equity and the overall rate of return are at the lower end of the range and are consistent with Gulf.

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

NET OPERATING INCOME

ISSUE 6: What is the appropriate test year revenue?

RECOMMENDATION: The appropriate test year revenue for this utility is \$43,560. (MERTA, IWENJIORA)

STAFF ANALYSIS: 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. Therefore deposit slips were used to determine revenue collected by SBUC, since revenue billed could not be determined. Because of an inaccurate list of customers, the company did not bill all of its customers. In addition, as a result of 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. Further, the utility is billing its customers on a quarterly basis in violation of its tariffs; this will be addressed in Issue No. 16.

The utility's current tariffs authorize temporary monthly flat rates of \$14.00 residential, \$12.00 multi-family, and \$25.00 general service subject to refund.

Staff annualized revenues for the historical test year using the temporary rates above as approved in Order No. PSC-02-1298-PAA-SU, times the number of bills. Per 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. Staff increased historical test year revenues by \$6,393 to reflect annualized revenue based on existing rates.

SBUC recorded \$313 in Other Revenues. Staff increased revenues by \$143 to reflect \$456 in Other Revenues identified in the audit workpapers. Staff recommends test year revenues of \$43,560.

Test year revenues are shown on Schedule Nos. 3-A, and the related adjustments are shown on Schedule No. 3-B.

ISSUE 7: What is the appropriate amount of operating expense?

RECOMMENDATION: The appropriate amount of operating expense for this utility is \$58,538. The utility should be required to provide the Commission with proof of: the purchase of insurance within 90 days of the Consummating Order, 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 staff analysis, within six months of the Consummating Order. (MERTA, IWENJIORA)

STAFF ANALYSIS: 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 the National Association of Regulatory Utility Commissioners. Staff coded the checks written from April 1, 2001, to March 31, 2002, to determine expenses for this utility.

The utility provided 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. 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. Staff's review of the actual bills for the test year reflect that the average purchased power cost during the test year was \$683 per month. Staff believes this cost is reasonable. Therefore, staff annualized the average monthly purchased power cost which results in a \$346 increase to this account. Further, per Audit Exception No. 7, staff 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. Staff's 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. Staff believes that the cost is reasonable and prudent. Therefore, staff increased chemical cost by \$196.

Materials & Supplies - (720) - The utility recorded \$0 in this account during the test year. Staff 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. Staff believes that the cost is reasonable and prudent. Therefore, staff 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., staff amortized these costs over 5 years which results in a \$359 increase to expenses. ($\$926 + \$5,500/5 = \$1,285 - \$926 = \$359$). Staff's 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>

Staff has determined that the appropriate annual FDEP required testing expense is \$915. Therefore, staff 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). Staff 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. Staff estimated that the annual cost of cleaning the ponds should be \$1,000 and all costs over that amount should be amortized over five years. Therefore, per Audit Exception No. 7, staff 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 and discussed in Issue No. 1. Staff increased this account by \$1,000 to amortize the cost over 5 years.

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, staff has 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. Staff believes that this cost should be amortized over three years at \$924 ($\$2,772 / 3 = \924) a year. Therefore, staff 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 staff 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." Staff does not believe a shorter period of time is justified 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, staff believes the amortization of these items is reasonable.

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>Staff Recommended</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, the Commission approved a \$25 an hour fee for a contracted manager. Staff believes 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. Staff believes transportation should be recorded in Account No. 750, Transportation Expense, and that it should not be included in the management fee. Staff addresses transportation expense below.

The utility requested \$3,000 annually for office rent. Staff believes that rent should be recorded in Account No. 740, Rents, and that it should not be included in the management fee. Staff addresses rent below.

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The utility requested \$900 annually for office expenses. SBUC recorded \$841 in Account No. 775, Miscellaneous Expense, for office supplies. Staff believes the \$841 is a reasonable level for office expenses and that it 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, staff is not including 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, staff has increased Account No. 736 by \$3,725 for management fees.

Staff's 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). Staff believes this amount is excessive. By Order No. PSC-02-0382-PAA-SU, issued March 21, 2002, in Docket No. 010828-SU, the 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, the Commission allowed \$100 per month rent for Breeze Hill Utilities for use of a spare room in a home. Staff believes \$1,200 annually (\$100 X 12) is reasonable for a utility of this size and consistent with prior Commission decisions. Therefore, staff 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. SBUC requested

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\$1,274 for annual transportation expense; the utility calculated 80 miles times 32.5 cents per mile times 49 weeks. Staff believes that 32.5 cents per mile is too much, and in accordance with allowances for state travel, an allowance of 29 cents per mile is considered more reasonable for utility travel in personal vehicles. Therefore, staff 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 staff with an estimate from Sutton and Associates for \$2,828 for commercial general liability insurance coverage. Therefore, staff included the \$2,828 as insurance expense for the test year. The utility should provide 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. Staff amortized this amount over four years which resulted 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. Staff 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. Staff believes that \$244 is a reasonable amount to be recovered, based on the number of customers, for additional mailing and copying expenses associated with this rate case. Staff amortized this amount over four years which resulted in a \$61 increase to this account. Finally, the utility paid its accountant an additional \$1,000 for data requested by staff for use in this rate case. Staff believes this amount should 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 staff's February 6, 2003 letter, Mr. Guastella provided invoices in support of \$6,142 in additional rate case expense. Staff has reviewed the charges submitted by Mr. Guastella. 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 staff sooner and more thoroughly. However, he believes the utility needed some assistance beyond staff's in order to understand the process.

After filing its recommendation, 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 staff about his questions and concerns, a consultant may not have been necessary. Staff's February 6 letter requested that the utility provide documentation of additions and newly discovered CIAC records to staff; the utility mailed them to Mr. Guastella for his analysis. This analysis was a task that staff could perform. The utility merely needed to provide the documents to staff and no analysis by a consultant was needed. Throughout the case, staff explained the regulatory process to Mr. Winrow and was willing to explain and discuss the staff report and staff recommendation with him. Staff believes it was imprudent for SBUC to hire a consultant for a staff assisted rate case. Therefore, staff believes the additional rate case expense was imprudent and should be disallowed in its entirety.

Rule 25-30.455(1), F.A.C., specifies that:

If a utility that chooses to utilize the staff assistance option employs outside experts to assist in developing information for staff or to assist in evaluating staff's schedules and conclusions, the reasonable and prudent expense will be recovered through the rates developed by staff.

For the reasons stated above, staff recommends that the \$6,000 in additional rate case expense be disallowed. However, should the

Commission decide to allow some level of these expenses, staff believes that Mr. Guastella's hourly rate is high compared to other accounting and rate consultants that practice before the Commission. The Commission has previously reduced Mr. Guastella's hourly rate. (See Order No. PSC-02-1657-PAA-WU, issued November 26, 2002, in Docket No. 011621-WU; Order No. PSC-01-0327-PAA-WU, issued February 6, 2001, in Docket No. 000295-WU; and Order No. PSC-97-1225-FOF-WU, issued October 10, 1997, in Docket No. 970164-WU). Staff believes that an hourly rate of \$170 is reasonable; this is 67% of the \$255 hourly rate charged by Mr. Guastella. Order No. PSC-02-1657-PAA-WU allowed 67% of Mr. Guastella's hourly rate (\$245) based on the hourly rate (\$165) of Mr. White, an accounting witness who also represented the utility. Staff also believes the hourly rate of the accounting staff should be reduced from \$170 to \$113 and the hourly rate of administrative staff should be reduced from \$43 to \$29. This preserves the ratio of the original rates of \$255 to \$170 and \$43. Additional rate case expense would be \$4,095.

Also, staff believes 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) should 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. Staff believes this cost is the responsibility of the utility and should not be recovered from customers. Therefore, staff decreased this account by \$1,679. With the additions noted above, the net adjustment to this account is a decrease of \$1,093. Therefore, staff recommends total rate case expense of \$586 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 billed to the incorrect name or address. However, since the accountant has been billing the customers, only \$450 remains outstanding. Therefore, staff has included \$450 in Bad Debt Expense.

DATE: MAY 8, 2003

Operation and Maintenance Expense Summary - The total O&M adjustment is an increase of \$5,195. Staff's recommended O&M expenses are \$50,543 and are shown on Schedule 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. Depreciation was calculated by staff using the prescribed rates in Rule 25-30.140, F.A.C. Staff decreased depreciation expense by \$2,274 to reflect staff's calculated depreciation expense of \$7,728. 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. Staff increased this account by \$1,267 to reflect one half year's depreciation on pro forma plant. Staff also increased depreciation expense by \$4,620 to reflect staff's 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, staff's adjustment has a positive impact on depreciation expense because staff's calculated amount of \$4,679 is less than the utility's amount of \$9,299, so depreciation expense must be increased. Staff's net adjustment to this account is an increase of \$3,613 to reflect staff's 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. Staff 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, staff 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. Staff 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.

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

DOCKET NOS. 020439-SU, 020331-SU
DATE: MAY 8, 2003

Operating Revenues - Revenues have been increased by \$19,792 to reflect the change in revenue required to cover expenses and allow the recommended 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 - The application of staff's recommended adjustments to the audited test year operating expenses results in staff's calculated operating expenses of \$58,538.

Operating expenses are shown on Schedule No. 3-A. The related adjustments are shown on Schedule No. 3-B.

ISSUE 8: What is the appropriate revenue requirement?

RECOMMENDATION: The appropriate revenue requirement is \$63,352.
 (MERTA, IWENJIORA)

STAFF ANALYSIS: The utility should 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	<u>\$4,813</u>
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><u>\$63,352</u></u>
Adjusted Test Year Revenues	<u>\$43,560</u>
Percent Increase/(Decrease)	<u><u>45.44%</u></u>

Revenue requirements are shown on Schedule No. 3-A.

ISSUE 9: What are the appropriate rates, rate structure, and billing cycle for the system?

RECOMMENDATION: The appropriate rate structure for this system is the flat rate structure. Customers should be billed on a quarterly basis. The recommended rates should be designed to produce revenue of \$62,896 excluding miscellaneous service charge revenue, as shown in the staff analysis. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. Customers must receive notice of the rate increase plus the late fee and the miscellaneous services charges, and such notice should be submitted to staff for prior approval. The rates should not be implemented until notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice. (MERTA, IWENJIORA)

STAFF ANALYSIS: SBUC provides wastewater service to approximately 150 residential customers, 116 multi-family customers, and 4 general service customers. Currently, all customers are charged flat monthly rates of \$14, \$12 and \$25, respectively. The utility's current rate structure was originally approved by the Commission in 1976 under grandfather provisions. All customers are metered by Island Water Association, which provides their water service.

It has been Commission 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, 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, 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, staff believes that it is not cost effective to implement usage based rates for this utility. A change from flat rates to usage rates will 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, the Commission approved flat rates for residential metered customers because it was not cost effective to implement usage based rates. Therefore, staff recommends that the flat rate basis 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 in Issue No. 16, 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. Staff believes 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 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 will 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. Staff inquired at the customer meeting as to the customers' preferences for monthly or quarterly billing; all the customers present preferred quarterly billing. In Order No. PSC-96-0491-FOF-WU, issued April 8, 1996, in Docket No. 960143-WU, the 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, staff recommends that a quarterly billing cycle be approved for SBUC.

During the test year the utility provided service to

approximately 270 customers. As discussed in Issue No. 8, the appropriate revenue requirement is \$63,352. As discussed in Issue No. 8, the utility has other revenues of \$456. Other revenues should be used to reduce the revenue requirement recovered through rates; therefore, staff has designed rates to produce the revenue requirement of \$62,896 not covered by the Other Revenues.

Staff has 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. Schedules of the utility's current rates and staff's recommended rates are as follows:

Monthly Flat Rates - Wastewater

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

Staff's recommended increase in revenue requirements is \$19,792 or approximately 45.44%. The rates approved for the utility should be designed to produce revenues of \$62,896 (excluding miscellaneous service charge revenues).

If the Commission approves staff's recommendation, these rates should 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 staff's verification that the tariffs are consistent with the Commission's 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.

ISSUE 10: 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?

RECOMMENDATION: The wastewater rates should be reduced as shown on Schedule No. 4, to remove rate case expense grossed-up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should 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. (MERTA, IWENJIORA)

STAFF ANALYSIS: 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 regulatory assessment fees 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 should be required to file revised tariff sheets no later than one month prior to the actual date of the required rate reduction. The utility also should be required to 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 should 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.

ISSUE 11: Should the utility be authorized to collect service availability charges, and if so what are the appropriate charges?

RECOMMENDATION: No. The utility should not be authorized to collect service availability charges. The utility should cease collecting the temporary service availability charge upon issuance of the Consummating Order. (MERTA, IWENJIORA)

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

In order to evaluate the utility's service availability charges, staff relied 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, staff recommends that the utility not be authorized to collect service availability charges and that the utility cease collecting the temporary service availability charge upon issuance of the Consummating Order.

ISSUE 12: Should the utility be authorized to collect late fees, and if so what are the appropriate charges?

RECOMMENDATION: Yes. The utility should be authorized to collect a \$5.00 late fee. The utility should file revised tariff sheets which are consistent with the Commission's vote within one month of the Commission's final vote. The revised tariff sheets should be approved upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the late payment charge should become effective on the stamped approval date of the revised tariff sheets, if no protest is filed and provided customers have been notified. (MERTA, IWENJIORA)

STAFF ANALYSIS: 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, staff determined that SBUC is charging a \$25 late payment fee and collected approximately \$750 in late payment fees from January 2000 to June 2002, as addressed in Issue No. 15.

Staff believes that 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. The Commission has 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, Commission rules provide that late payers may be required by the utility to provide an additional deposit. However, the Commission 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, the Commission 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.

Staff believes that the goal of allowing late fees to be charged by a utility is twofold: first, to encourage current and future customers to pay their bills on time; and second, if payment is not made on time, to insure that the cost associated with the late payments is not passed on to the customers who do pay on time.

Though SBUC did not request a late payment fee, staff believes there may be a need for this incentive. As discussed in Issue No. 7, staff is recommending an allowance for bad debt expense, and as stated above, the utility instituted a late fee without Commission 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 the majority of utilities who have Commission approved late fees charge \$5.00. The utilities who have higher charges have provided adequate documentation in support of those higher fees. Staff believes that \$5.00 is a reasonable fee for SBUC. If the utility can document a higher fee, it should file the appropriate request with the Commission.

Therefore, staff recommends that, consistent with the orders cited above, a \$5.00 late payment should be approved. The utility should file revised tariff sheets which are consistent with the Commission's vote within one month of the Commission's final vote. The revised tariff sheets should be approved upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the late payment charge should 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.

ISSUE 13: Should the utility be authorized to collect miscellaneous service charges, and if so, what are the appropriate charges?

RECOMMENDATION: Yes, the utility should be authorized to collect miscellaneous service charges as recommended in the staff analysis. The utility should file revised tariff sheets which are consistent with the Commission's vote within one month of the Commission's final vote. The revised tariff sheets should be approved upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the miscellaneous service charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed. (MERTA, IWENJIORA)

STAFF ANALYSIS: The utility's existing tariff does not provide Commission approved miscellaneous service charges. Staff recommends that the utility be authorized to collect charges consistent with Rule 25-30.460, F.A.C., and past Commission practice. The recommended 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. A schedule of staff's recommended charges follows:

Wastewater

<u>Description</u>	<u>Staff's Recommended Charges</u>
Initial Connection	\$15.00
Normal Reconnection	\$15.00
Violation Reconnection	Actual Cost
Premises Visit (in lieu of disconnection)	\$10.00

Definition of each charge is provided for clarification:

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

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

ISSUE 14: Should the recommended rates be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility?

RECOMMENDATION: Yes. Pursuant to Section 367.0814(7), Florida Statutes, the recommended rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the utility should be subject to the refund provisions discussed below in the staff analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(7), F.A.C., the utility should file reports with the Division of Commission Clerk and Administrative Services no later than 20 days after each monthly billing. These reports should indicate the amount of revenue collected under the increased rates subject to refund. (MERTA, IWENJIORA)

STAFF ANALYSIS: This recommendation proposes 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, staff recommends that the recommended rates be approved as temporary rates. The recommended rates collected by the utility shall be subject to the refund provisions discussed below.

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

If the utility chooses a bond as security, the bond should 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 should 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 should 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 should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should 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 should be maintained by the utility. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C. The utility should 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 should file reports with the Division of Commission Clerk and Administrative Services no later than 20 days after each monthly billing. These reports should indicate the amount of revenue collected under the increased rates subject to refund.

DATE: MAY 8, 2003

ISSUE 15: Should SBUC be required to make an additional refund to customers for amounts it collected in violation of Section 367.091(4), Florida Statutes, and if so, what is the amount of the additional refund?

RECOMMENDATION: Yes. SBUC should be required to make an additional refund in the amount of \$6,732 in service rates. In addition the utility should be required to refund approximately \$750 in unauthorized late payment fees. The refunds should be made with interest in accordance with Rule 25-30.360(4), F.A.C. Further, the refunds should be made within 90 days in accordance with Rule 25-30.360(2), F.A.C. The refunds and the accrued interest should 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. Pursuant to Rule 25-30.360(7), F.A.C., the utility shall provide monthly reports on the status of the refund by the 20th 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. The utility should treat any unclaimed refunds in accordance with Rule 25-30.360(8), F.A.C. In no instance should maintenance and administrative costs associated with any refund be borne by the customers; the costs are the responsibility of, and should be borne by, the utility. (MERTA, IWENJIORA)

STAFF ANALYSIS: 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, the Commission 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 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.

It should be noted that per 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, staff believes SBUC included the Ridge customers in its calculation of revenue generated and refunded. Therefore, staff 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. Staff calculated the amount of the refund made by SBUC to be \$5,082 based on Audit Exception No. 5 and the audit workpapers.

In spite of the utility's March 6, 2002 agreement with 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. It should be noted that by billing quarterly, SBUC is in violation of its tariffs which specify monthly bills; this will be addressed in Issue No. 16.

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. Staff calculated the amount of the refund to be \$11,814. Therefore, staff recommends an additional refund of \$6,732 (\$11,814 - \$5,082) in service rates. The customers of Sanibel Bayous should be refunded \$3,208, Heron's Landing \$1,011, the Ridge \$2,152 and the general service customers should be refunded \$360.

Per Audit Exception No. 5, staff determined that SBUC is charging a \$25 late payment fee and collected approximately \$750 in late payment fees from January 2000 to June 2002. As stated in Issue No. 12, the utility is not authorized to collect late payment fees. Therefore, staff is also recommending that the utility refund approximately \$750 to customers who were charged late fees from January 2000 through the current date. Staff is not recommending that late payment fees collected prior to January 2000 be refunded because of the administrative burden of identifying those customers who would be due a refund.

The refunds should be made with interest in accordance with Rule 25-30.360(4), F.A.C. The refunds and the accrued interest should 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 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. The utility should 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 should be made within 90 days of the Commission's Consummating Order unless a different time frame is prescribed by the Commission. 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.

ISSUE 16: Should Sanibel Bayous Utility Corporation be ordered to show cause, in writing within 21 days, why it should not be fined for collecting rates and charges not approved by the Commission, in apparent violation of Sections 367.081(1) and 367.091(4), Florida Statutes, and Rule 25-30.135(2), F.A.C.

RECOMMENDATION: Yes. Sanibel Bayous should be ordered to show cause, in writing within 21 days, why it should not be fined \$300 for its apparent violation of those statutes and rule. The order to show cause should incorporate the conditions stated below in the staff analysis. (JAEGER, MERTA)

STAFF ANALYSIS: As stated in Issue No. 15, SBUC has been charging unauthorized rates and charges since 1976. On June 4, 1976, the 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, the Commission 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 a connection fee of \$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, as stated in Issue No. 15, Audit Exception No. 5 revealed that 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 staff and Office of Public Counsel. Rates were finally reduced in October 2002.

As stated in Issue No. 15, the Commission 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 the 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.

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

Staff recommends that Sanibel Bayous should be ordered to show cause, in writing, within 21 days, why it should not be fined \$300 for the apparent violations addressed above. Staff believes that the continued pattern of disregard for the Commission's rules and statutes warrants more than just a warning. Staff notes that 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, Sanibel Bayous, in violation of its tariffs, billed its customers quarterly as of September 2002.

Staff believes that 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, staff believes a \$100 fine is warranted, and so the total fine would be \$300. Based on the size of the utility, the recommendation to reduce the president's salary, the recommendation to reduce the return on equity by 100 basis points, and the apparent fines imposed by DEP, staff believes 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. Staff believes that the utility should be advised that subsequent violations could result in higher fines.

Staff recommends that the show cause order incorporate the following conditions: Sanibel Bayou's response to the show cause order must contain specific allegations of fact and law. Should Sanibel Bayous 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 Sanibel Bayous fails to file a timely response to the show cause order, the fine is deemed assessed with no further action required by the Commission.' Reasonable collection efforts should consist of two certified letters requesting payment. If the utility

DOCKET NOS. 020439-SU, 020331-SU
DATE: MAY 8, 2003

fails to respond to reasonable collection efforts by the Commission staff, the collection of penalties should 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 should 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 should be considered resolved.

ISSUE 17: Should these dockets be closed?

RECOMMENDATION: No. If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, these dockets should remain open for an additional seven months from the Consummating Order to allow staff to verify completion of pro forma items as described in Issue Nos. 3 and 6, to verify that the utility has purchased insurance within 90 days as described in Issue No. 7, to verify that the refund has been made to SBUC customers, and to process the show cause proceeding. Once staff has verified that this work has been completed, the docket should be closed administratively. (JAEGER, MERTA, IWENJIORA)

STAFF ANALYSIS: Staff has recommended that the utility complete pro forma items described in Issue No. 3 and that the utility purchase insurance, remove vegetation from the pond berm, and add baffles and diffusers as described in Issue No. 7. If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, these dockets should 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 refund has been made to SBUC customers. Further, this docket should remain open pending the resolution of the show cause proceeding and any subsequent hearing. Upon verification of the above by staff and conclusion of the show cause proceeding, the docket should be closed administratively.

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	STAFF ADJUST. TO UTIL. BAL.	BALANCE PER STAFF	
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>
Total	<u>\$31,276</u>

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>
Total	<u>\$0</u>

CIAC

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

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
Total	<u>\$25,341</u>

AMORTIZATION OF CIAC

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

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 STAFF	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	0	0	0					
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.	0	0	0	0	0	0.00%	0.00%	0.00%
TOTAL LONG TERM DEBT	0	0	0	0	0	0.00%		
9. CUSTOMER DEPOSITS	0	0	0	0	0	0.00%	6.00%	0.00%
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>	

DATE: MAY 8, 2003

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	STAFF ADJUSTMENTS	STAFF 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
 TEST YEAR ENDING MARCH 31, 2002
 ADJUSTMENTS TO OPERATING INCOME

Schedule No. 3-B
 DOCKET NO. 020439-SU
 Page 1 of 2
WASTEWATER

OPERATING REVENUES

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>

OPERATION AND MAINTENANCE EXPENSES

1. Purchased Power (715)	
a. To annualize purchased power	\$346
b. To remove amount billed for demolished building	<u>(165)</u>
Subtotal	<u>\$181</u>
2. Chemicals (718)	
a. To reflect chemical expense per engineer	<u>\$196</u>
3. Materials & Supplies (720)	
a. To reflect materials & supplies per engineer	<u>\$235</u>
4. Contractual Services - Professional (731)	
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>
5. Contractual Services - Testing (735)	
a. To reflect annual testing per engineer	<u>(\$46)</u>
6. Contractual Services - Other (736)	
a. To reflect annual contract maintenance - operator	\$1,150
b. To amortize cost of clearing ponds over 5 years	<u>(7,129)</u>
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	<u>(1,848)</u>
f. To increase management fee	<u>3,725</u>
Subtotal	<u>(\$2,702)</u>
7. Rents (740)	
a. To include rent expense per Audit Exception No. 7	<u>\$1,200</u>
8. Transportation (750)	
a. To include transportation expense	<u>\$1,137</u>
9. Insurance Expenses (755)	
a. To include insurance expense	<u>\$2,828</u>

(O & M EXPENSES CONTINUED ON NEXT PAGE)

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

10. Regulatory Expense (765)	
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>
11. Bad Debt Expense (770)	
a. To include bad debt expense per Audit Exception No. 7	<u>\$450</u>
12. Miscellaneous Expense (775)	
Subtotal	<u>\$0</u>
TOTAL OPERATION & MAINTENANCE ADJUSTMENTS	<u>\$5,195</u>
DEPRECIATION EXPENSE	
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>
AMORTIZATION	
1.	<u>\$0</u>
TAXES OTHER THAN INCOME	
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	STAFF ADJUST- MENT		TOTAL PER STAFF
(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>

RECOMMENDED 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 RECOMMENDED 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