State of Florida

Public Service Commission

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DATE: August 21, 2003

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

FROM: DIVISION OF ECONOMIC REGULATION (SARGENT, WILLIS)
OFFICE OF THE GENERAL COUNSEL (K. FLEMING, M. BROWN)
KEF MCB JDJ

RE: DOCKET NO. 020010-WS - APPLICATION FOR STAFF-ASSISTED RATE CASE IN HIGHLANDS COUNTY BY THE WOODLANDS OF LAKE PLACID, L.P.
COUNTY: HIGHLANDS

AGENDA: 09/02/03 - REGULAR AGENDA - POST HEARING DECISION - PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: 15-MONTH EFFECTIVE DATE: WAVIED (SARC)

SPECIAL INSTRUCTIONS: ITEM SHOULD BE SCHEDULED IMMEDIATELY BEFORE RECOMMENDATION IN DOCKET NO. 030102-WS

FILE NAME AND LOCATION: S:\PSC\ECR\WP\020010.RCM

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CASE BACKGROUND

The Woodlands of Lake Placid, L.P. (Woodlands or utility) is a Class C water and wastewater utility providing service in Highlands County. The utility provides water and wastewater service to 151 residential customers located within the Lake Placid Camp Florida Resort RV park (Camp Florida, Resort or RV park) and water service to 33 residential customers located outside the park (Hickory Hills and Lake Ridge Estates). It also provides water service to four general service customers outside the park and water and wastewater service to two general service customers located within the RV park. The Camp Florida Resort Homeowners Association is one of the general service customers with nine connections. The other general service customer is the RV park with 164 connections, consisting of 162 rental lots, the Community Center, and the Guard House. The utility is in both the Highlands Ridge and Southern Water Use Caution Areas of the Southwest Florida Water Management District (SWFWMD).

In March, 1999, the Commission opened Docket No. 990374-WS, regarding certification of the Woodlands. During the course of that docket, staff determined that the utility had implemented an unauthorized rate increase. Order No. PSC-02-0250-PAA-WS (Certificate Order), issued February 26, 2002, allowed the utility to continue to collect its current rates on a temporary basis, but required that the revenues from the unauthorized rate increase be held subject to refund pending establishment of permanent rates and charges.

In January, 2002, the instant Staff Assisted Rate Case (SARC) docket was opened to establish the permanent rates and charges for the Woodlands. In December, 2002, Order No. PSC-02-1739-PAA-WS (PAA Order) was issued, requiring the refund of $69,069, plus interest, due to overcollections from the unauthorized rate increase.

On September 27, 2002, Highvest Corporation (Highvest) acquired the water and wastewater utility systems of the Woodlands through a foreclosure action. L.P. Utilities Corporation (L.P.) then purchased the water and wastewater utility systems from Highvest on October 1, 2002.

On December 10, 2002, Order No. PSC-02-1739-PAA-WS was issued, granting temporary rates in the event of a protest and approving a decrease in water rates, an increase in wastewater rates, and ordering a refund. On December 30, 2002, Highvest Corporation and L.P. Utilities Corporation filed a Petition for a Formal Administrative Hearing, protesting Order No. PSC-02-1739-PAA-WS. A Prehearing Conference was held on May 5, 2003, in Tallahassee, Florida. The technical and customer service hearings were held on May 28, 2003, at the Sebring Civic Center, Sebring, Florida.

Stipulations

The Commission found that the following stipulations reached by the parties were reasonable and accepted the stipulated matters set forth below.

1. As established by Order No. PSC-02-1739-PAA-WS, a refund of $69,065, plus accrued interest, is due to the customers for unauthorized revenue collections from January, 1998, through the issuance of that PAA Order (PSC-02-1739-PAA-WS).

2. The testimony of Kathy L. Welch, including Exhibit KLW-1, shall be stipulated into the record without the necessity of the live appearance of Ms. Welch.

The Commission has jurisdiction pursuant to Section 367.0814, Florida Statutes.

ISSUE 1: What are the appropriate Contributions In Aid of Construction (CIAC) balances for the test year ended December 31, 2001?

RECOMMENDATION: The appropriate CIAC balances for the test year ended December 31, 2001 are $234,915 for water and $65,600 for wastewater. (SARGENT, K. FLEMING, M. BROWN)

POSITION OF THE PARTIES

UTILITY: The appropriate amount of CIAC balance for the test year ended December 31, 2001, is the same as in the PAA Order.

OPC: The level of CIAC proposed in the PAA should be increased by two separate adjustments. The first adjustment should be an increase of $30,608 that will be collected for the remaining meter installations. The second adjustment should be discussed within "Customer Issue" no. 14.

STAFF ANALYSIS: The utility's beginning balances for CIAC per the staff audit are $204,307 for water and $65,600 for wastewater. (EXH 1, pg 5) OPC witness DeRonne testified that in Order No. PSC-02-0250-PAA-WS (Certificate Order), the utility was required to install meters for all of its connections required under its Consumptive Use Permit (CUP). In Order No. PSC-02-0250-PAA-WS, in Docket No. 990374-WS, issued February 26, 2002, the Commission approved a meter installation charge of $189 for 5/8" x 3/4" meters and actual cost for larger meters. (TR Vol. 2, 116) Order No. PSC-02-1739-PAA-WS (PAA Order) reflected a $27,543 increase in plant in service for the cost of purchasing and installing 162 meters for the rental lots. However, the PAA Order did not offset the increase in plant in service with the associated CIAC. (TR Vol. 2, 115)

According to Ms. DeRonne, there is ample record evidence that the owners of the privately owned RV lots were required by Woodlands to pay the $189 meter installation fee. She contends that if the owners of the rental lots and the owners of the privately owned lots had been treated consistently as required by the Certificate Order, then the amount of CIAC included in rate base would have been increased by $30,608. (TR Vol. 2, 116)

Utility witness John Lovelette, testfied that the utility had only installed 157 meters, not 162 meters. And, out of the 157, only 146 had been paid for in full. The utility had only collected $28,084 out of the $29,673 that was owed for the installation of the meters. (TR Vol. 2, 200)

Whether or not the utility received payment for the meters installed on privately owned lots, the utility is authorized to collect $189 from each of its lot owners. Therefore, since the Commission included in the PAA Order an adjustment to increase the utility's rate base for the cost of the meters for the rental lots, a corresponding adjustment should also be made to impute CIAC of $189 in meter installation charges for each one of the rental lots. This equates to $30,608 for 162 rental lots.

Based on the above, staff recommends that CIAC should be increased by $30,608 for water. Corresponding adjustments should be made to increase accumulated amortization and test year amortization expense by $900 and $1,800, respectively.

ISSUE 2: What is the appropriate amount to be included in rate base for working capital?

RECOMMENDATION: Based on staff's recommended adjustments, the appropriate amount to be included in rate base for working capital is $4,454 for water and $3,586 for wastewater. (SARGENT)

POSITION OF THE PARTIES

UTILITY: One-eighth of operating and maintenance expenses.

OPC: The final amount is subject to the resolution of other issues. For the remaining issues that affect working capital (rate case expense and rent), the Citizens agree with the PAA.

STAFF ANALYSIS: Consistent with Rule 25-30.433(2), Florida Administrative Code, 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 $4,454 (based on O&M of $35,631) for water and $3,586 (based on O&M of $28,691) for wastewater.

ISSUE 3: What are the appropriate rate base amounts?

RECOMMENDATION: Based on staff's recommended adjustments, the appropriate average test year rate base amounts are $189,086 for water and $191,523 for wastewater. (SARGENT, K. FLEMING, M. BROWN)

POSITION OF THE PARTIES

UTILITY: The appropriate rate base amount is the same as in the PAA Order.

OPC: The final amount is subject to the resolution of other issues. Except for adjustments recommended in Issue 1 and Customer Issue 14, the Citizens agree with the PAA rate base.

STAFF ANALYSIS: Based on staff's recommended adjustments in Schedule 1-C the appropriate average test year rate base amounts are $189,086 for water and $191,523 for wastewater. At the hearing, customers testified that the land on which Water Plant 1 lies was conveyed to the utility at no cost [TR 24-26 (First Service Hearing)], and therefore no value for this land should be included in rate base. In its post-hearing brief OPC relied on this testimony to assert that this transaction should be treated as CIAC. Staff does not recommend, however, that the utility's rate base should be revised without more evidence to prove the customers' assertions. The rate base schedules are attached as Schedules Nos. 1-A and 1-B. The schedule of adjustments to rate base is attached as Schedule No. 1-C.

NET OPERATING INCOME

ISSUE 4: What is the appropriate amount of office rent to be included in O&M expenses?

RECOMMENDATION: The appropriate amount of office rent to be included in O&M expenses is $573 for water and $479 for wastewater.(SARGENT, K. FLEMING, M. BROWN)

POSITION OF THE PARTIES

UTILITY: Reasonable office rent is $300 per month, divided equally between water and sewer.

OPC: No rent should be allowed.

STAFF ANALYSIS: Staff witness Welch testified that she allocated office space based on the amount of time the employees spent working on utility business. Based on this methodology, Ms. Welch determined that 129 square feet of the sales office should be allocated to the utility. Using information obtained from local real estate agents, she determined that rental space in the area rents for an average of $8.13 per square foot. According to the audit report, the utility should be allowed to recover $1,053 annually for office rent (129 x $8.13) which was then allocated between water and wastewater. She allocated $573 to water and $479 to wastewater. (EXH 1, p. 16)

Staff witness Rendell testified that at the time of the audit, the auditors were under the assumption that the office building was owned by Highvest Corp., a related party. (TR Vol. 2, 151) The staff report, issued prior to the customer meeting, included an annual allowance of $1,053 for office rent. (TR Vol. 2, 151) However, subsequent to the customer meeting and also during the test year, staff discovered that the office building was owned by the Camp Florida Property Owners Association, which did not charge or collect rent from the utility. (TR Vol. 2, 117) According to the 2002 Proposed Budget of the Camp Florida Property Owners Association, the individual lot owners paid a portion of the electric expense, water and wastewater expense, insurance expense, cleaning expense, and maintenance expense for the sales office. (TR Vol. 2, 145-147) Therefore, according to Staff witness Rendell, since the utility was not paying rent for this office space and all other office expenses were being passed through to the lot owners, he recommended that the utility should not be entitled to recover rent expense for office space. (TR Vol. 2, 147)

On cross examination, Mr. Rendell testified that he had just learned about the change in ownership. (TR Vol. 2, 153) In earlier testimony Mr. Lovelette admitted that the building is now owned by Camper Corral. (TR Vol. 1, 71) Because of this change in circumstance, Mr. Rendell agreed to support the $573 for water and $479 for wastewater, which was based on staff witness Welch's assessment of rental fees in the area from two real estate agencies. (TR Vol. 2, 151-152)

Mr. Rendell was also asked about rate cases that he had supervised where the Commission had allowed office rent where none was booked. He testified that it was not uncommon for the Commission, in Staff Assisted Rate Cases (SARC), to grant rent expense when none was paid. (TR Vol. 2, 153) He agreed with the utility that in this case the amount allocated by the auditor was less than was approved by the Commission in other SARCs. However, in this case the office rent is based on an allocation from a related company. (TR Vol. 2, 153-154)

OPC witness DeRonne testified that since the association did not charge nor collect any rent from the utility during the test period and the utility is not paying rent for this office space, rent expenses should not be recovered through water and wastewater service rates. (TR Vol. 2, 117)

Utility witness J. Lovelette testified that he believes $300 per month is reasonable for office rent based upon comparable office space. (TR Vol. 1, 31) However, the record does not contain any evidence verifying the validity of Mr. Lovelette's rental costs. Only when asked by staff for explanation of the methodology and calculations used to support the $300, did the utility present the following:

> Brookline Development has an office building across the street from L.P. Utilities' current office. The smallest office space available there is 600 square feet at $8.50 per square foot ($425/mo), plus sales tax, common area maintenance and utilities. (EXH 2)

Since circumstances have changed and the property association no longer owns the building, (TR Vol. 2, 151) staff believes the utility is entitled to some recovery for rent expense. However, staff does not agree with the utility that it should be allowed to recover $300 per month in office rent. By their very nature, related party transactions require closer scrutiny. Although a transaction between related parties is not per se unreasonable, it is the utility's burden to prove costs are reasonable. Florida Power Corp. v. Cresse, 413 So. 2d 1187, 1191 (Fla. 1982). This burden is even greater when the transaction is between related parties. In GTE Florida, Inc. v. Deason, 642 So. 2d 545 (Fla. 1994) (GTE), the Court established that the standard to use in evaluating affiliate transactions is whether those transactions exceed the going market rate or are otherwise inherently unfair. In this case, the utility did not provide any support for its office rent. Thus, there was nothing to evaluate to determine whether the utility's rent amount exceeded the going market rate. However, witness Welch's calculations were supported by the expertise of real estate agents in the area. Therefore, staff recommends that the utility be allowed $1,053 in annual office rent.

Based on the above, staff recommends that operation and maintenance expenses should be increased by $574 for water and $479 for wastewater to include office rental expenses.

ISSUE 5: What is the appropriate amount of rate case expense?

RECOMMENDATION: The appropriate amount of rate case expense should be $3,376 for water and $2,896 for wastewater, resulting in annual expenses of $844 and $724 for water and wastewater, respectively. (SARGENT, K. FLEMING, M. BROWN)

POSITION OF THE PARTIES

UTILITY: Reasonable legal rate case expense is $29,112, which should be in addition to the Regulatory Commission Expense in the PAA Order.

OPC: $0. A utility is entitled only to expenses which are reasonable and prudent. The utility's pursuit of this case continues to be unreasonable and imprudent. The customers should not be required to pay for any of the expense for this rate case.

STAFF ANALYSIS: Pursuant to Order No. PSC-02-1739-PAA-WS, issued December 10, 2002, in this docket, the Commission authorized the Woodlands to recover $1,172 in rate case expense. This amount included $1,000 for a filing fee and $172 for the costs related to mailing the customer notices for this rate case.

In his prefiled testimony, utility witness J. Lovelette, estimated legal expenses for this rate case to be $60,000. (TR Vol. 1, 32) During the hearing, Mr. Lovelette identified an exhibit that revised his original rate case expense estimate to $29,112.

On June 6, 2003, the utility updated its hearing exhibit. The exhibit contained a total of $26,622 in legal costs which consisted of: $10,622 for actual legal billings, $9,135 for actual unbilled legal fees and $6,825 in estimated legal expenses. The exhibit also included support for the actual costs. (LF EXH 5)

OPC Witness DeRonne prefiled testimony challenging the utility's requested rate case expense. She testified that $60,000 in rate case expense is an imprudent cost because the PAA Order was more than fair and reasonable to the utility. According to Ms. DeRonne, the points the utility disputed in the PAA Order were without merit. She argued that:

> the utility customers should not be required to fund legal expenditures that appear to be driven by: (1) the utility owner's desire to avoid refunding the illegally over-collected rates to customers; and (2) the owner's apparent desire to not pay his fair share of revenue requirements for the RV rental lots. Clearly the Petitions were not filed in the interests of the utility customers as a whole, but rather, based entirely on the interests of one individual. That individual should be required to pay his own legal fees for the unmerited petitions, not the captive utility customers. (TR Vol. 2, 123-124)

In its brief, OPC argued that the utility should not be entitled to recover any rate case expense from its customers because the case should have never gone to hearing. (OPC BR p. 7-9)

Staff does not agree with OPC's conclusion that the utility should be prohibited from the recovery of any rate case expense. However, pursuant to Section 367.081(7), Florida Statutes, staff recommends that the customers should not be required to pay for any rate case expense that is determined to be unreasonable.

Upon staff's review of the estimate to complete this rate case, staff discovered that the utility included charges for post-order related legal expenses. Staff believes that these are inappropriate to include in rate case expense due to the uncertainty of their occurrence. In addition, the utility did not include a detailed description by hour of its estimate to complete the rate case. Therefore, staff has determined that the time should be estimated at five hours which was billed at $225 per hour. This adjustment reduces the utility's request by $1,125, which leaves a balance of $25,497.

Staff believes the utility should not automatically be awarded rate case expense without reference to the prudence of the costs incurred in the rate case proceedings. Meadowbrook Util. Sys., Inc. v. FPSC, 518 So. 2d 326, 327 (Fla. 1st DCA 1987), rehearing denied, 529 So. 2d 694 (Fla. 1988). Pursuant to Section 367.0814(6), Florida Statutes, a utility that has filed for a SARC is entitled to protest the Commission's PAA Order if the result is a decrease in the utility's existing rates and charges. However, staff does not agree that a utility is entitled to recover all rate case expense associated with every protest. Some protests are a prudent cost of doing business and some are not.

Staff believes this case includes essentially five contested matters, excluding rate case expense, which are as follows:

1. Imputation of CIAC
2. Office Rent
3. Offset of earnings
4. Separate Legal Entities
5. Legal responsibility for making Refunds

Based on staff's recommendation on the issues listed above, staff recommends the utility prevail only on the issue related to office rent for purposes of rate case expense. Although staff does not agree with the utility's position on office rent, based upon the record evidence staff recommends that the utility be allowed rate case expense recovery for arguing this issue. The utility should be allowed recovery for 1/5 of the total legal fees, or $5,099 ($25,497/5). Therefore, staff recommends that rate case expense be reduced further by $20,398, which allows the utility to recovery of $6,272, amortized over four years. This results in annual rate case expense of $844 and $724 for water and wastewater, respectively.

ISSUE 6: What is the appropriate test year operating income amount before any revenue increase?

RECOMMENDATION: The appropriate test year operating income before any revenue increase or decrease should be $16,229 for water and $13,083 for wastewater. (SARGENT)

POSITION OF THE PARTIES

UTILITY: Test year operating income before any revenue increase is set forth in the PAA Order as modified by L.P. Utilities' positions in this proceeding.

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

STAFF ANALYSIS: Based on the adjustments discussed in previous issues, staff recommends that the test year operating income before any revenue increase should be $47,889 for water and $7,267 for wastewater. The schedules showing the net operating income are attached as Schedules Nos. 3-A and 3-B and the adjustments are shown on Schedule No. 3-C.

REVENUE REQUIREMENT

ISSUE 7: What are the appropriate revenue requirements?

RECOMMENDATION: The following revenue requirements should be approved: (SARGENT)

	Total	$ Increase (Decrease)	% Increase (Decrease)
Water	$ 62,226	$ (35,929)	(36.60%)
Wastewater	$ 57,334	$ 6,790	13.43%

POSITION OF THE PARTIES

UTILITY: The revenue requirement for the water system is $74,082 and for the wastewater system is $65,293

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

STAFF ANALYSIS: The revenue requirement is a summation measure that depends upon previously approved provisions for rate base, cost of capital, and operating expenses. Based upon the stipulated adjustments from the PAA Order and staff's recommended adjustments, the utility earned above its authorized rate of return for water and below its authorized rate of return for wastewater. Staff recommends a revenue requirement of $62,226 for water and $57,334 for wastewater. This will allow the utility the opportunity to recover its expenses and earn a 7.18% return on its investment. The calculations are shown on the following page:

	Water	Wastewater
Adjusted rate base	$189,086	$191,523
Rate of Return	x .0718	x .0718
Return on investment	$13,576	$13,751
Adjusted O & M expense	$35,631	$28,691
Depreciation expense (Net)	$8,375	$8,245
Taxes Other Than Income	$4,644	$6,647
Revenue Requirement	$62,226	$57,334
Adjusted Test Year Revenues	$98,155	$50,544
Percent Increase/(Decrease)	(36.60)%	13.43%

RATES AND RATE STRUCTURE

ISSUE 8: What are the appropriate water and wastewater rates for Woodlands?

RECOMMENDATION: Consistent with staff's recommendation in Issue No. 7, the recommended rates should be designed to produce revenues of $62,226 for water and $57,334 for wastewater, excluding miscellaneous revenues. The approved rates and miscellaneous service charges should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to 25-30.475(1), Florida Administrative Code. The rates should not be implemented until proper 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 notice. (SARGENT, K. FLEMING, M. BROWN)

POSITION OF THE PARTIES

UTILITY: Rates should be reduced to reflect an annual decrease in revenue of $7,278.

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

STAFF ANALYSIS: As discussed in Issue No. 7, the appropriate revenue requirement is $62,226 for water and $57,334 for wastewater. The water and wastewater rate structure and repression adjustments were approved by the Commission in the PAA Order in this docket and were not contested by the parties to the docket. At the hearing customers testified that the number of lots not available for rental was overstated and more revenue should have been imputed for rentals [TR 14-15 (First Service Hearing)], and in its post-hearing brief OPC relied on this testimony to assert that position. Staff does not recommend, however, that the utility's rate structure should be revised based only on the customers' bare assertion that more lots are available for rental. More sufficient evidence would be necessary to prove the customers' assertions. Schedules of the rates and rate structure in effect at the end of the test year and staff's recommended rates and rate structure are as follows:

Monthly Rates - Water

Residential Service

Meter Sizes	Existing Rates	Staff's Recommended Rates
Base Facility Charge		
5/8" x 3/4"(.08 ERC)RV's Homes)	$22.00	$4.89
5/8" x 3/4"(1 ERC)Single Family	$22.00	$6.11
Gallonage Charge (Per 1,000 Gallons)	n/a	$2.17

Monthly Rates - Water

General Service

Meter Sizes	Existing Rates	Staff's Recommended Rates
Base Facility Charge		
5/8" x 3/4" RV/Lot Rentals	$22.00	$4.89
5/8" x 3/4" Park Commercial	$48.40	$6.11
3/4"	$48.40	$9.17
1"	$48.40	$15.28
1 1/2"	$48.40	$30.56
2"	$48.40	$48.89
3"	$48.40	$97.79
4"	$48.40	$152.79
6"	$48.40	$305.59
Gallonage Charge (Per 1,000 Gallons)	$1.00	$2.17

Monthly Rates - Wastewater

RESIDENTIAL

	Existing Rates	Staff's Rates
Base Facility Charge		
Meter Size:		
All Meter Sizes	$13.00	$6.53
Gallonage Charge		
Per 1,000 Gallons	N/A	$1.78
(6,000 gallon cap)		

Monthly Rates - Wastewater

GENERAL SERVICE

	Existing Rates	Staff's Rates
Base Facility Charge		
Meter Sizes		
5/8" x 3/4"/RV/Lot Rentals	$13.00	$6.53
3/4"	N/A	9.80
1"	N/A	16.33
1-1/2"	N/A	32.66
2"	N/A	52.26
3"	N/A	104.52
4"	N/A	163.31
6"	N/A	326.62
Gallonage Charge		
Per 1,000 Gallons	N/A	$2.13

Approximately 40% ($24,576) of the water and 46% (26,495) of the wastewater system revenue requirement is recovered through the recommended base facility charge. The fixed costs are recovered through the BFC based on the number of factored ERCs. The remainder of the revenue requirement, 60% ($37,650) for water and

54% ($30,839) for wastewater, represents revenues collected through the consumption charge based on the number of factored gallons.

The following is a comparison of residential water and wastewater rates at 3,000, 5,000, and 10,000 gallons.

Gallons	Existing Rates		Recommended Rates (Mobile Homes)		Recommended Rates (Single Family)
	Water	Wastewater	Water	Wastewater	Water (only)
3,000	$22.00	$13.00	$11.39	$11.85	$12.61
5,000	$22.00	$13.00	$15.73	$15.40	$16.95
10,000	$22.00	$13.00	$26.56	$24.28	$27.79

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

ISSUE 9: What are the appropriate amounts 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 water and wastewater rates should be reduced as shown on Schedules 4 and 4A, 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. (SARGENT)

POSITION OF THE PARTIES

UTILITY: Rates should be reduced to reflect an annual decrease in revenue of $7,278.

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

STAFF ANALYSIS: Section 367.0816, Florida Statutes, requires that 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 the annual revenues associated with the amortization of rate case expense and the gross-up for regulatory assessment fees which is $884 and $758 for water and wastewater, respectively. Using the utility's current revenues, expenses, capital structure, and customer base, the reduction in revenues results in the rate decreases as shown on Schedules Nos. 4 and 4A.

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 should also 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.

OTHER ISSUES

ISSUE 10: Should the utility be allowed to offset the underearnings from its wastewater system with the excess earnings from its water system.

RECOMMENDATION: No. The utility should not be allowed to offset the underearnings from its wastewater system with the excess earnings from its water system. (SARGENT, K. FLEMING, M. BROWN)

POSITION OF THE PARTIES

UTILITY: Yes.

OPC: It is the Citizens' understanding that Stipulation No. 1 has rendered this issue moot as it would apply to the refund [TR 8-10 (Technical).

STAFF ANALYSIS: In its Petition for a Formal Administrative Hearing filed on December 30, 2002, the utility protested the issue concerning the offsetting of the underearnings of the wastewater system with the overearnings of the water system. The petition states:

> The PSC policy is where the water customers and wastewater customers are substantially the same, any underearnings in one system is used to offset any overearnings in the other. That policy should have been applied in the instant case. (TR Vol. 2, 112)

The utility did not provide any evidence to corroborate its claim that the revenues should be offset. In fact, the only record evidence is the testimony of OPC witness DeRonne, which is in direct opposition to the utility's position. In her testimony, she questioned whether the utility had dropped the issue, since it had not been addressed in the pre-filed testimony. (TR Vol. 2, 112) However, the majority of Ms. DeRonne's testimony deals with the revenues related to the refunds, not with the revenues related to the rates on a going forward basis. She does argue that to offset the water overearnings with the wastewater underearnings is clearly without merit and grossly unfair to the utility's customers. (TR Vol. 2, 113-114)

Staff recommends that the record is void of any evidence supporting the utility's argument. The burden in rate cases is on the utility to demonstrate the reasonableness of its position. Florida Power Corp. v. Cresse, 413 So.2d 1187, 1191 (Fla. 1982). Staff recommends that the utility failed to meet this burden, and therefore, no adjustment should be made to offset the water overearnings with the wastewater underearnings.

ISSUE 11: Are The Woodlands of Lake Placid, L.P., Highvest Corporation, and L.P. Utilities, Inc., separate legal entities?

RECOMMENDATION: No. The Woodlands of Lake Placid, L.P., Highvest Corporation, and L.P. Utilities Inc. are inter-related and subject to the same regulatory obligations. (K. FLEMING, M. BROWN)

POSITION OF THE PARTIES

UTILITY: Yes.

OPC: Whether the three entities can be legally distinguishable for certain non-regulatory purposes is of no consequence to any decision required by the Commission in this case. The relevant issue, rather, is whether the Commission can hold L.P. Utilities responsible for making lawful refunds. It can (see Issue 12).

STAFF ANALYSIS: The Woodlands of Lake Placid, L.P. was the water and wastewater utility for the Camp Florida Resort in Lake Placid, Florida until September, 2002. (TR Vol. 1, 33) In March, 1999, the Commission opened Docket No. 990374-WS, regarding certification of the Woodlands. During the course of that docket, the Commission determined that the utility had implemented an unauthorized rate increase, and Order No. PSC-02-0250-PAA-WS, issued February 26, 2002, required that the revenues from this unauthorized rate increase be held subject to refund pending establishment of permanent rates and charges. (TR Vol. 2, 113; 146) The purpose of holding the rates subject to refund was to ensure that in the event the Commission determined that the utility was over-collecting revenues, money would be available for refunds to the customers. In January, 2001, this docket was opened to establish the permanent rates and charges for the Woodlands. In December, 2002, the Commission issued Order No. PSC-02-1739-PAA-WS requiring the refund of $69,065, plus interest, due to overcollections from the unauthorized rate increase.

The Woodlands is a limited partnership business entity, with Camper Corral, Inc. as the general partner and Anthony Cozier as the limited partner. (TR Vol. 1, 29; EXH 4). Camper Corral, Inc. is a corporate business entity, with the sole officer/director and shareholder Anthony Cozier. (TR Vol. 1, 29; TR Vol. 2, 168; EXH 4)

Until September, 2002, The Woodlands owned and operated the utility assets. (TR Vol. 1, 33) In July, 2002, Highvest

Corporation, a corporate business entity with Anthony Cozier as president, foreclosed on a note and mortgage it held from the Woodlands. (TR Vol. 1, 30) The record reflects that the Woodlands was substantially in arrears on payments due to Highvest, and Mr. Cozier was the person responsible for the failure of the Woodlands to pay Highvest. (TR Vol. 1, 39; TR Vol. 2, 170) The record evidence also reflects that Mr. Cozier was the person who made the ultimate decision to foreclose on the Woodlands. (Id.)

After obtaining the utility assets through a foreclosure sale, Highvest sold the assets to L.P. Utilities Corporation, with Mr. Cozier as director and AnBeth Corporation as sole shareholder. (TR Vol. 1, 31; TR Vol. 2, 168; EXH 4) AnBeth Corporation is a corporate business entity, whose officers/directors and shareholder is a trust formed by Anthony Cozier and his wife, Elizabeth Cozier. (Id.) Record testimony indicates Mr. Cozier is the ultimate decision maker for L.P. Utilities Corporation. (TR Vol. 2, 173) The record evidence supports the conclusion that the net effect of these transfers was to transfer the assets of the Woodlands, which Mr. Cozier controlled (and which had collected revenues subject to refund to the customers), to L.P. Utilities Corporation, which Mr. Cozier also controls. In spite of this evidence, LP asserts that it is not required to hold any utility charges subject to refund nor refund customers.

The entities involved in this case functioned as the alter egos of Anthony Cozier in the decision by Highvest to foreclose on the Woodlands' mortgage and purchase the Woodlands' utility assets at the foreclosure sale; and in the decision by Highvest to sell, and L.P. to purchase the Woodlands utility.

In its brief, OPC states that whether the three entities can be legally distinguishable is of no consequence; the relevant issue is whether the Commission can hold L.P. Utilities responsible for making refunds of the over-collections. (OPC BR p. 10) OPC argues that the Commission can and should hold L.P. Utilities, Inc. responsible, as discussed in Issue 12, below.

In its brief, Highvest asserts that corporations are legal entities separate and distinct from the persons comprising them. Highvest asserts that the general law regarding fiduciary duties owed by officers and directors of a corporation to the shareholders of that individual corporation applies to this case. (Highvest BR p. 9-10) Highvest contends that the formation of multiple corporations to avoid liability is a legitimate business purpose subject to protection under the law.

Highvest's legal argument, however, overlooks the well established exception to these general corporate law principles. That exception is quite simple; individuals and corporations cannot use the limited liability of a business entity to perpetrate fraud or for an improper purpose. The fiction of separate legal entities can be disregarded when the entity acts as an "alter ego" or "mere instrumentality" of its officers and directors.

This exception was perhaps most clearly articulated in Fickling Properties, Inc. v. Smith, 167 So. 42, 43 (Fla. 1936). The Florida Supreme Court clearly stated:

> [I]t is also the established law of this jurisdiction that a corporate fiction may be disregarded in equity where two or more separate corporations are controlled or owned by the same individuals and are used merely as a convenience for accomplishing an unconscionable transaction that is in the individual interest of the parties controlling both corporations, when such individuals have so contrived to use the fiction of the presumptively separate corporate identities of the participating corporations as a means of perpetrating a fraud, or effecting a breach of trust, to the prejudice of the complainant suing in equity for a redress of such a wrong.

This principle was extended and clarified in Dania Jai-Alai Palace, Inc v. Sykes, 450 So.2d 1114 (Fla. 1984), a case discussed at some length in Highvest's Brief on Issue 12. Contrary to Highvest's arguments, the central decision of Dania was to clarify that the "corporate veil" may only be pierced upon a showing of improper conduct. Dania at 1121. Essential to the decision is a statement from Mayer v. Eastwood-Smith & Co., 122 Fla. 34, 164 So. 684 (Fla. 1935):

> The overwhelming weight of authority is to the effect that courts will look through the screen of the corporate entity to the individuals who compose it in cases in which the corporation was a mere device or sham to accomplish some ulterior purpose, *or is a mere instrumentality or agent of another corporation or*

> *individual owning all or most of its stock*, or where the purpose is to evade some statute or to accomplish some fraud or illegal purpose. Mayer at 687; Dania at 1117.

[emphasis in original]

The principle has been repeatedly articulated in the law of this state[1] and is applicable to the facts of this case. The record clearly supports the conclusion that the Woodlands, Highvest, Camper Corral, L.P. Utilities, and AnBeth are all controlled directly by Anthony Cozier, who was and is ultimately responsible for the decisions made by these entities. The record further supports the conclusion that Mr. Cozier made the decision to default on the mortgage the Woodlands executed to Highvest; made the decision that Highvest would foreclose that mortgage; made the decision that Highvest would purchase the assets at a foreclosure sale; and made the decision that Highvest would transfer the utility assets to L.P. Utilities.

Staff recommends that these acts constitute an improper purpose, as contemplated by Fickling, Mayer, and Dania Jai-Alai namely, to avoid the regulatory obligation, ordered by the Commission, to pay $69,065, plus interest, in refunds clearly due and owing to the ratepayers of this utility. Staff further recommends that the related corporations are in fact "mere instrumentalities or agents" of Anthony Cozier, used as a device or sham to accomplish the purpose of avoiding liability for Mr. Cozier's decision to unilaterally raise the rates he charged the water customers of his utility without the approval of the Commission.

Staff also recommends, as OPC has suggested, that in this case the more relevant question is whether under applicable regulatory law Highvest and L.P., the successors to the Woodlands, can be held responsible for the refunds due to the utility customers. Staff addresses that question in the next issue.

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[1] *See* Aztec Motel, Inc. v. Faircloth, 251 So.2d 849 (Fla. 1971); USP Real Estate v. Discount Auto Parts, 570 So.2d 386 (Fla. 1st DCA 1990); Dole Food Company v. Patrickson, 2003 U.S. Lexis 3242, 123 S.Ct. 1655 (2003); United States v. Bestfoods, Inc., 524 U.S. 51, 118 S.Ct. 1876 (1998); Johnson Enterprises v. FPL, 162 F.3d 1290(11th Cir. 1998)

ISSUE 12: Whether Highvest and L.P. can be held legally responsible for making the refunds for revenue collected by The Woodlands of Lake Placid, L.P.?

RECOMMENDATION: Yes. The regulation of utilities is an exercise of the state's police power to safeguard the public interest. In this case, the public welfare requires that the Commission hold Highvest Corporation, L.P. Utilities, Inc., and R. Anthony Cozier responsible for refunding the unauthorized rates collected by the Woodlands of Lake Placid, L.P. The utility should refund the unauthorized water rate increase of $6.29 a month collected from January 1998 until the effective date of the final rates, within 12 months of the Final Order pursuant to Rule 25-30.360, Florida Administrative Code. The refunds should be made with interest in accordance with Rule 25-30.360(4), Florida Administrative Code. The refund and the accrued interest should be paid only to those water customers who paid the unauthorized rates from January 1998 through the implementation of the final rates. 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. The utility should provide refund reports pursuant to Rule 25-30.360(7), Florida Administrative Code. The utility should treat any unclaimed refunds in accordance with Rule 25-30.360(8), Florida Administrative Code. (K. FLEMING, M. BROWN)

POSITION OF THE PARTIES

UTILITY: No.

OPC: Upon its foreclosure, Highvest became obligated to provide a means for continuity of service. Its means for continuity was a transfer to L.P. Utilities. L.P. Utilities can be held legally responsible for making the refunds.

STAFF ANALYSIS: It is the Florida Legislature's intent that the Commission shall have exclusive jurisdiction over utilities with respect to authority, service, and rates pursuant to Section 367.011(2), Florida Statutes. In addition, Section 367.011(3), Florida Statutes, provides that the regulation of utilities is an exercise of the police power of the state for the protection of the public health, safety and welfare. The Commission's authority is to be liberally construed in order to accomplish the purposes set out by Chapter 367. Section 367.011(4) provides that Chapter 367 shall supersede all other laws on the same subject.

In its brief, OPC discusses the common ownership of the various entities controlled by Mr. Cozier, and argues that under the utility's position, no entity could ever be held accountable by the Commission, as any could choose to dissolve itself and form a new entity at will. (OPC BR p. 11-12) OPC then goes on to assert that the legislative intent of chapter 367, Florida Statutes, makes it clear that the Florida Legislature intended the PSC to have jurisdiction over all laws relating to rates, which would include laws addressing corporate restructurings that could be used to avoid the Commission's jurisdiction over rates. (OPC BR p. 13)

Highvest argues that the theory of "piercing the corporate veil" has no applicability in this case because the theory is one where the shareholders of a corporation are held personally liable for the actions of the corporation. Highvest further states that the issue is whether L.P. Utilities is responsible for the refunds of revenues collected when the utility system was owned by the Woodlands. (Highvest BR p. 11-12) Staff agrees that the material issue here is whether Highvest, L.P., and R. Anthony Cozier are obligated to make the refunds to the utility customers that the Commission has ordered.

As discussed in Issue 11, the Woodlands of Lake Placid, Highvest Corporation, Camper Corral, Inc. and L.P. Utilities, Inc. are all controlled, directly or indirectly, by R. Anthony Cozier. (EXH 4) Highvest argues that the law of Florida and Commission policy recognize that the purchaser of assets at a foreclosure does not assume the liabilities of the former owner of the assets. (Highvest BR p. 12-13) While this may be a general principle of law, it does not apply in this case. In usual foreclosure cases, parties are not interrelated, as they are here.

The principle of law that applies to this case is the principle embodied in Section 367.071(1), Florida Statutes, that a utility will not be permitted to operate in this state under a certificate of public convenience and necessity bestowed by the Commission unless it agrees to fulfill the commitments, obligations, and representations of its predecessor utility. This principle of law recognizes the importance of continuity and reliability in the provision of utility service, a business imbued with the public interest. It governs the Commission's actions in this case, and those actions are taken pursuant to an authority the Legislature has declared is exclusive of all competing statutes and laws. Highvest's argument that the foreclosure of the Woodlands' Mortgage by Highvest was an arm's length transaction, and that L.P. Utilities therefore assumes no liability for the Woodlands' debt is not persuasive and the record evidence does not support it. (See, Highvest BR p. 13) To the contrary, the record is clear that these inter-related business entities served to do the will of Mr. Cozier, and the present utility that Mr. Cozier controls is responsible to the utility's ratepayers, as was the previous utility.

Highvest is incorrect in its assertion that it had no involvement in utility operations. (Highvest BR p. 11) Highvest is controlled by Anthony Cozier, who is in fact the sole owner and shareholder of Camper Corral, Inc., which was the general partner of the Woodlands of Lake Placid, L.P.. (EXH 4) Highvest Corporation, under Mr. Cozier's direction, held the note and mortgage which financed the purchase of the utility assets by the Woodlands. (TR Vol. 2, 106-108) Highvest Corporation, under Mr. Cozier, made the determination to foreclose on those assets, and to repurchase them at the foreclosure sale. (TR Vol. 2, 170) Highvest Corporation and Mr. Cozier made the decision to sell the assets to another corporation owned and controlled by Mr. Cozier, L.P. Utilities, Inc. (Id.) While Highvest may not actually read the meters and collect the revenues, it is apparent from the record that Highvest and Mr. Cozier were in fact heavily involved in the management and decisions of the Woodlands. (TR Vol. 1, 37-41; 44-50; 167-174) Highvest can and should be held responsible for making the refunds.

The record in this docket contains ample evidence to deduce that the numerous transfers among allegedly distinct entities were designed to avoid liability of $69,065, plus accrued interest, in revenues collected from the customers without Commission approval or authorization, and to further attempt to divest the Commission, charged with protection of the public interest, of its statutory authority and responsibility. If the Commission accepts the position that neither Highvest nor L.P. can be held liable for any of the Woodland's obligations, staff agrees with OPC, that decision would essentially provide for the abrogation of the Commission's statutory responsibility to protect customers of the utility and the public interest.

The utility should refund the unauthorized water rate increase of $6.29 a month collected from January 1998 until the effective date of the final rates. The refunds should be made with interest in accordance with Rule 25-30.360(4), Florida Administrative Code. The refund and the accrued interest should be paid only to those water customers who paid the unauthorized rates from January 1998 through the implementation of the final rates. This includes only the 150 residential customers that own lots in the park and the 33 residential customers outside the park. As of August, 2003, the amount of refunds due is $78,268 excluding interest. 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. The utility should provide refund reports pursuant to Rule 25-30.360(7), Florida Administrative Code. The utility should treat any unclaimed refunds in accordance with Rule 25-30.360(8), Florida Administrative Code.

Pursuant to Rule 25-30.360(2), Florida Administrative Code, the refunds shall be made within 90 days of the Commission's order unless a different time frame is prescribed by the Commission. However, in this case staff has concerns that if the utility is required to make refunds in accordance with the above rule, the magnitude of the refund will have a significant impact on its financial viability. Therefore, staff recommends that the refunds with accrued interest be made within 12 months from the date of the Final Order.

Since the Commission has exclusive jurisdiction over utilities with respect to authority, service, and rates and the regulation of utilities is an exercise of the state's police power, staff recommends that it is in the public interest that Highvest Corporation, L.P. Utilities, Inc., and Anthony Cozier be responsible for refunding to customers the unauthorized and unapproved rates collected by the Woodlands of Lake Placid, L.P.

ISSUE 13: Should this docket be closed?

RECOMMENDATION: Upon the expiration of the appeal period, if no party timely appeals the order, upon staff's verification that the utility has completed the required refunds and upon the filing and staff's approval of the revised tariff sheets, this docket should be closed administratively. (SARGENT, K. FLEMING, M. BROWN)

STAFF ANALYSIS: Upon the expiration of the appeal period, if no party timely appeals the order, upon staff's verification that the utility has completed the required refunds and upon the filing and staff's approval of the revised tariff sheets, this docket should be closed administratively.

WOODLANDS OF LAKE PLACID
TEST YEAR ENDING 12/31/01
SCHEDULE OF WATER RATE BASE - POST HEARING

SCHEDULE NO. 1-A
DOCKET NO. 020010-WS

DESCRIPTION	BALANCE PER UTILITY	PAA STIPULATIONS	BALANCE PER PAA ORDER	STAFF ADJUSTMENTS	BALANCE PER STAFF
1. UTILITY PLANT IN SERVICE	$187,358	$305,291	$492,649	$0	$492,649
2. LAND & LAND RIGHTS	5,000	15,598	$20,598	0	$20,598
3. NON-USED AND USEFUL COMPONENTS	0	(16,196)	($16,196)	0	($16,196)
4. CIAC	0	(204,307)	($204,307)	($30,608)	($234,915)
5. ACCUMULATED DEPRECIATION	(53,647)	(58,005)	($111,652)	0	($111,652)
6. AMORTIZATION OF CIAC	0	33,248	$33,248	900	$34,148
7. WORKING CAPITAL ALLOWANCE	0	4,295	$4,295	$159	$4,454
8. WATER RATE BASE	$138,711	$79,924	$218,635	($29,549)	$189,086

WOODLANDS OF LAKE PLACID
TEST YEAR ENDING 12/31/01
SCHEDULE OF WATER RATE BASE - POST HEARING

SCHEDULE NO. 1-B
DOCKET NO. 020010-WS

DESCRIPTION	BALANCE PER UTILITY	PAA STIPULATIONS	BALANCE PER PAA ORDER	STAFF ADJUSTMENTS	BALANCE PER STAFF
1. UTILITY PLANT IN SERVICE	$1,007,173	($623,993)	$383,180	$0	$383,180
2. LAND & LAND RIGHTS	91,112	($55,112)	$36,000	0	$36,000
3. NON-USED AND USEFUL COMPONENTS	0	(36,087)	($36,087)	0	($36,087)
4. CIAC	0	(65,600)	($65,600)	0	($65,600)
5. ACCUMULATED DEPRECIATION	(26,308)	(121,997)	($148,305)	0	($148,305)
6. AMORTIZATION OF CIAC	0	18,749	$18,749	0	$18,749
7. WORKING CAPITAL ALLOWANCE	0	3,454	$3,454	132	$3,586
8. WASTEWATER RATE BASE	$1,071,977	($880,586)	$191,391	$132	$191,523

WOODLANDS OF LAKE PLACID
TEST YEAR ENDING 12/31/01
ADJUSTMENTS TO RATE BASE

SCHEDULE NO. 1-C
DOCKET NO. 020010-WS
PAGE 1 OF 1

	WATER	WASTEWATER
UTILITY PLANT IN SERVICE		
1. To adjust plant to agree with auditor's balance (Stipulated)	$266,579	($629,366)
2. Capitalize Organization Costs (AE 11 Adj 20) (Stipulated)	$414	$346
3. Capitalize Meters (AE 4 ADJ 6)(Lagrow) (Stipulated)	$552	$0
4. Capitalize Transmission Lines (AE 4 ADJ 6)(Lagrow) (Stipulated)	4,573	0
5. Averaging adjustment (Stipulated)	(2,770)	(173)
6. Proforma Plant (Stipulated)	35,943	5,200
Total	$305,291	($623,993)
LAND		
To agree with auditor's balance (AE 2)(1st audit)(Stipulated)	$15,598	($55,112)
NON-USED AND USEFUL PLANT		
1. To reflect non-used & useful plant(Stipulated)	(38,782)	($69,109)
2. To reflect non-used & useful accumulated depreciation (Stipulated)	9,201	33,022
3. To reflect non-used & useful CIAC (Stipulated)	15,899	0
4. To reflect non-used & useful accumulated amortization (Stipulated)	(2,514)	0
Total	($16,196)	($36,087)
CIAC		
1. CIAC based on Audit (AE 4)(1st audit) (Stipulated)	($204,307)	($65,600)
2. Impute CIAC for meters on rental lots (ISSUE No. 1)	($30,608)	$0
Total	($234,915)	($65,600)
ACCUMULATED DEPRECIATION		
1. Depreciation adjustment per Rule 25-30.140 FAC(Stipulated)	($64,386)	($128,620)
2. Averaging adjustment (Stipulated)	7,438	6,698
3. Proforma Plant (Stipulated)	(1,057)	(75)
Total	($58,005)	($121,997)
AMORTIZATION OF CIAC		
1. To adjust amortization of CIAC based on composite rates (Stipulated)	$36,374	$19,911
2. Averaging adjustment (Stipulated)	(3,126)	(1,162)
3. To reflect imputed CIAC on rental lot meters (Issue No.1)	900	0
Total	$34,148	$18,749
WORKING CAPITAL ALLOWANCE		
To reflect 1/8 of test year O & M expenses from PAA Order	$4,295	$3,454
To reflect change in test year expenses	$159	$132
Total	$4,454	$3,586

WOODLANDS OF LAKE PLACID
TEST YEAR ENDING 12/31/01
SCHEDULE OF CAPITAL STRUCTURE

SCHEDULE NO. 2
DOCKET NO. 020010-WS

CAPITAL COMPONENT	PER UTILITY	SPECIFIC ADJUST-MENTS	BALANCE BEFORE PRO RATA ADJUSTMENTS	PRO RATA ADJUST-MENTS	BALANCE PER STAFF	PERCENT OF TOTAL	COST	WEIGHTED COST
1. COMMON STOCK	$6,000	$0	$6,000					
2. RETAINED EARNINGS	(1,234,179)	0	(1,234,179)					
3. PAID IN CAPITAL	0	0	0					
4. TREASURY STOCK	0	0	0					
5. TOTAL COMMON EQUITY	($1,228,179)	$1,228,179	0	0	0	0.00%	11.10%	0.00%
6. LONG TERM DEBT-PARENT CO	17,547,808	0	17,547,808	(17,167,199)	380,609	100.00%	7.18%	7.18%
8. CUSTOMER DEPOSITS	0	0	0	0	0	0.00%	6.00%	0.00%
9. TOTAL	$16,319,629	$1,228,179	$17,547,808	($17,167,199)	$380,609	100.00%		7.18%

	LOW	HIGH
RANGE OF REASONABLENESS	LOW	HIGH
RETURN ON EQUITY	10.10%	12.10%
OVERALL RATE OF RETURN	7.18%	7.18%

WOODLANDS OF LAKE PLACID
TEST YEAR ENDING 12/31/01
SCHEDULE OF WATER OPERATING INCOME - POST HEARING

SCHEDULE NO. 3-A
DOCKET NO. 020010-WS

	TEST YEAR PER UTILITY	ADJ PER PAA ORDER	TOTAL PER PAA ORDER	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR	ADJUST FOR (DECREASE) FROM PAA	TOTAL PER STAFF
1. OPERATING REVENUES	$0	$65,004	$65,004	$0	$65,004	($2,778) -4.27%	$62,226
OPERATING EXPENSES:							
2. OPERATION & MAINTENANCE	89,848	($55,486)	34,362	1,269	35,631	0	35,631
3. DEPRECIATION (NET)	0	$10,175	10,175	(1,800)	8,375	0	8,375
4. AMORTIZATION	0	$0	0	0	0	0	0
5. TAXES OTHER THAN INCOME	0	$4,769	4,769	0	4,769	(125)	4,644
6. INCOME TAXES	0	$0	0	0	0	0	0
7. TOTAL OPERATING EXPENSES	$89,848	($40,542)	$49,306	($531)	$48,775	($125)	$48,650
8. OPERATING INCOME/(LOSS)	($89,848)		$15,698		$16,229		$13,575
9. WATER RATE BASE	$138,711		$218,635		$189,086		$189,086
10. RATE OF RETURN	-64.77%		7.18%		8.58%		7.18%

WOODLANDS OF LAKE PLACID
TEST YEAR ENDING 12/31/01
SCHEDULE OF WASTEWATER OPERATING INCOME - POST HEARING

SCHEDULE NO. 3-B
DOCKET NO. 020010-WS

	TEST YEAR PER UTILITY	ADJUSTMENTS PER PAA ORDER	TOTAL PER PAA ORDER	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR	ADJUST FOR INCREASE FROM PAA	TOTAL PER STAFF
1. OPERATING REVENUES	$0	$0	$56,215	$0	$56,215	$1,119 1.99%	$57,334
OPERATING EXPENSES:							
2. OPERATION & MAINTENANCE	211	27,421	27,632	1,059	$28,691	0	28,691
3. DEPRECIATION (NET)	24,859	(16,614)	8,245	0	$8,245	0	8,245
4. AMORTIZATION	0	0	0	0	0	0	0
5. TAXES OTHER THAN INCOME	0	6,596	6,596	0	$6,596	50	6,646
6. INCOME TAXES	0	0	0	0	0	0	0
7. TOTAL OPERATING EXPENSES	$25,070	17,403	$42,473	$1,059	$43,532	$50	$43,582
8. OPERATING INCOME/(LOSS)	($25,070)		$13,742		$12,683		$13,751
9. WASTEWATER RATE BASE	$1,071,977		$191,391		$191,523		$191,523
10. RATE OF RETURN	-2.34%		7.18%		6.62%		7.18%

WOODLANDS OF LAKE PLACID
TEST YEAR ENDING 12/31/01
ADJUSTMENTS TO OPERATING INCOME

SCHEDULE NO. 3-C
DOCKET NO. 020010-WS
PAGE 1 OF 3

	WATER	WASTEWATER
OPERATING REVENUES		
a. Annualize test year revenues(Stipulated)	$55,387	$25,272
b. Impute Revenues on rental lots(Stipulated)	42,768	25,272
Total	$98,155	$50,544
OPERATION AND MAINTENANCE EXPENSES		
Salaries and Wages Employees (601/ 701)(Stipulated)		
Record Salaries and Wages per auditor (AE 6/adj 10)	$14,056	$8,865
Sludge Removal Expense (711)(Stipulated)		
Reclassified from Misc Exp (675) (ADJ 25)	$0	$1,683
Purchased Water(610)(Stipulated)		
a. Reclassify to chemicals to Accts (618/718)(AE 8/ADJ 11)	($2,129)	$0
b. Reclassify operator services Accts (636/736)(AE 8/ADJ 11)	(3,271)	0
c. Reclassify operator services Accts (635/735)(AE 8/ADJ 11)	(1,563)	0
d. Reclassfiy Repairs to Acct (636) (AE 4 Adj 6)	(687)	0
e. Reclassify line replacement costs to Acct (636)(AE 4/ADJ 6)	(2,808)	0
f. Remove duplicate payment (AE 4/ADJ 6)	(112)	0
Subtotal	($10,570)	$0
Purchased Power (615/ 715)(Stipulated)		
a.Reclassify chemicals to Accts (618/718)(AE 8/ADJ 11)	($2,296)	$0
b.Reclassify operator services (636/736)(AE 8/ADJ 11)	(3,045)	0
c.Reclassify operator services (635/735)(AE 8/ADJ 11)	(1,989)	0
d. Remove non-utility costs (AE 7/ADJ 9,18)(-4398-767)	(5,166)	0
e. Allocate Purchased Power (AE 7/ADJ 9)	(3,422)	3,422
f. Capitalize Meters Accts (331/334)(AE 4/ADJ 6)	(552)	0
g. Reclassify to Pump Repairs to Acct (636)(AE 4/ADJ 6)	(569)	0
h. Reclassify to meter couplings to Acct (620)(AE 4/ADJ 6)	(112)	0
j. Repression Adjustment	(812)	(568)
Subtotal	($17,963)	$2,854
Chemicals (618/ 718) (Stipulated)		
a.Reclassified from Purch Power Acct (615)(AE 8 ADJ 11)(a)	$643	$1,653
b.Reclassified from Purch Water Acct (610)(AE 8 ADJ 11)(a)	768	1,361
c Repression Adjustment	(281)	(234)
Subtotal	$1,130	$2,780
Materials & Supplies (620/ 720)(Stipulated)		
a. Reclassified meter couplings from Acct (615)(AE 4/adj 6)	$112	$0
b. Reclassified pump parts from Acct (636) (AE 4/adj 6)	336	0
a. Record meter parts(AE 4/adj 6)	109	0
d. Remove non/utility expenses(Adj 19)	(1,290)	0
Subtotal	($733)	$0

(O & M EXPENSES CONTINUED ON NEXT PAGE)

WOODLANDS OF LAKE PLACID
TEST YEAR ENDING 12/31/01
ADJUSTMENTS TO OPERATING INCOME

SCHEDULE NO. 3-C
DOCKET NO. 020010-WS
PAGE 2 OF 3

(O & M EXPENSES CONTINUED)	WATER	WASTEWATER
Contractual Services - Prof (631/ 731)(Stipulated)		
a. Allocate Acct & Bk services to wastewater (AE 5)	($1,697)	$1,697
b. Remove costs related to foreign representation (AE 11 Adj 20)	(195)	0
c. Capitalize Organization Costs Acct(301/351) (AE 11 ADJ 20)	(760)	0
Subtotal	($2,652)	$1,697
Contractual Services - Testing (635/ 735)(Stipulated)		
a. Reclassify testing costs from Acct (615) (AE 8/Adj 11)	$740	$1,249
b. Reclassify testing costs from Acct (610) (AE 8/Adj 11)	664	899
c. Include additional costs for DEP required testing per staff engineer	1,628	479
Subtotal	$3,032	$2,627
Contractual Services - Other (636/ 736)(Stipulated)		
a. Reclassify operator services Acct (615) (AE 8/Adj 11)	$1,530	$1,515
b. Reclassify operator services Acct (610) (AE 8/Adj 11)	1,680	1,590
c. Remove contract labor costs as salaries Acct (601/701)(AE 6/ADJ 10)	(22,409)	0
d. Include costs for line replacement (AE 4/ADJ6)(Lagrow)	2,807	0
e. Amortize line replacement costs (5 years) (AE 4/ADJ6)(Lagrow)	(2,246)	0
f Reclassify pump repairs from Acct (675) (AE 12/ADJ 25)	60	247
g Reclassify labor for motor repairs from Acct (615) (AE 4/Adj 6)(Lagrow)	569	0
h. Reclassify repairs to hydro tank from Acct (610) (AE 4/Adj 6)(Lagrow)	326	0
i. Reclassify labor to prime pumps from Acct (610) (AE 4/Adj 6)(Lagrow)	360	0
j. Record contract labor for well repairs (AE 4/Adj 6)(Lagrow)	80	0
k. Increased costs for operator services(AE 8/Adj 11)	150	75
Subtotal	($17,093)	$3,427
Rents (640/ 740)		
a.Remove non/utility rental expenses (AE 9/Adj 15)(Stipulated)	($1,661)	$0
b.Include rent for office space per AE No. 6 (Issue No. 4)	$574	$479
Subtotal	($1,087)	$479
Transportation Expense (650/ 750)(Stipulated)		
Allocate truck expenses (AE 6/Adj 31) (Stipulated)	$993	$829
Insurance Expenses (655/ 755) (Stipulated)		
Allocate property and general liability insurance to utility(AE 6/adj 8) (STIP)	$737	$616
Regulatory Expense (665/ 765)		
a. To remove non regulatory expenses (Stipulated)	($18,254)	$0
b. Include Rate Case Expense for filing fee & costs for mailing notices	149	144
c. Include Additional Rate Case Expense (ISSUE 5)	695	580
Subtotal	($17,410)	$724

(O & M EXPENSES CONTINUED ON NEXT PAGE)

WOODLANDS OF LAKE PLACID TEST YEAR ENDING 12/31/01 ADJUSTMENTS TO OPERATING INCOME	SCHEDULE NO. 3-C DOCKET NO. 020010-WS PAGE 3 OF 3	
(O & M EXPENSES CONTINUED)	WATER	WASTEWATER
Miscellaneous Expense (675/ 775)(Stipulated)		
a. Remove Advertising Expenses (Adj 16)	(1,451)	0
b. Remove resort entertainment expense (ADJ 22)	(747)	0
c. Remove nonutility expenses(AE 12 ADJ 25,29)	0	(211)
d. Remove nonutility repair & maintenance expenses(AE 12 ADJ 25,29)	(4,433)	0
e. Reallocate bank charges (AE 10/adj 21)	(30)	30
f. Record telephone expenses (AE 10/ADJ)	41	376
g. Reclassify sludge removal to Acct (711) (AE 12 Adj 25)	(1,683)	0
h. Reclassify Pump repairs to Acct (636) (AE 4)	(60)	0
i. Reclassify Lift Station repairs to Acct (736) (AE 4)	(247)	0
j. Reclassify pump repairs to Acct (620) (AE 4 ADJ 6) (LAGROW)	(336)	0
k. Record billing costs @$1 per customer	2,289	1,704
Subtotal	($6,657)	$1,899
TOTAL OPERATION & MAINTENANCE ADJUSTMENTS	($54,217)	$28,480
DEPRECIATION EXPENSE		
Test year depreciation calculated per 25-30.140, FAC (Stipulated)	$14,957	$13,404
Test year CIAC amortization calculated by staff (Stipulated)	(6,252)	(2,324)
Non-used and useful depreciation expense (Stipulated)	(1,063)	(2,984)
Non-used and useful amort expense (Stipulated)	419	0
Depreciation Expense on proforma plant (Stipulated)	2,114	149
Amortization Expense on imputed CIAC for meter charges on rental lots	(1,800)	0
Total	$8,375	$8,245
TAXES OTHER THAN INCOME(Stipulated)		
Remove non utility expensesAE 14/Adj 32)	$0	($24,859)
Record property taxes 14/Adj 32)	$453	$3,608
Non-Used & Useful Property Taxes	($64)	($458)
Adjust RAF's to Annualized Revenue	$4,417	$2,274
Record Payroll Taxes	1,455	918
Total	$6,260	($18,518)

WOODLANDS OF LAKE PLACID
TEST YEAR ENDING 12/31/01
ANALYSIS OF WATER OPERATION AND
MAINTENANCE EXPENSE

SCHEDULE NO. 3-D
DOCKET NO. 020010-WS

	TOTAL PER UTILITY	ADJ PER PAA ORDER	TOTAL PER PAA ORDER	STAFF ADJ	TOTAL PER STAFF
(601) SALARIES AND WAGES - EMPLOYEES	$0	$14,056	$14,056	$0	$14,056
(603) SALARIES AND WAGES - OFFICERS	0	0	0	0	$0
(604) EMPLOYEE PENSIONS AND BENEFITS	0	0	0	0	$0
(610) PURCHASED WATER	10,570	(10,570)	0	0	$1
(615) PURCHASED POWER	21,230	(17,963)	3,267	0	$3,267
(616) FUEL FOR POWER PRODUCTION	0	0	0	0	$0
(618) CHEMICALS	0	1,130	1,130	0	$1,130
(620) MATERIALS AND SUPPLIES	1,320	(733)	587	0	$587
(630) CONTRACTUAL SERVICES - BILLING	0	0	0	0	$0
(631) CONTRACTUAL SERVICES - PROFESSIONAL	4,686	(2,652)	2,034	0	$2,034
(635) CONTRACTUAL SERVICES - TESTING	0	3,032	3,032	0	$3,032
(636) CONTRACTUAL SERVICES - OTHER	22,409	(17,093)	5,316	0	$5,316
(640) RENTS	1,661	(1,661)	0	574	$574
(650) TRANSPORTATION EXPENSE	0	993	993	0	$993
(655) INSURANCE EXPENSE	0	737	737	0	$737
(665) REGULATORY COMMISSION EXPENSE	18,254	(18,105)	149	695	$844
(670) BAD DEBT EXPENSE	0	0	0	0	$0
(675) MISCELLANEOUS EXPENSES	9,718	(6,657)	3,061	0	$3,061
	$89,848	($55,486)	$34,362	$1,269	$35,631

WOODLANDS OF LAKE PLACID
TEST YEAR ENDING 12/31/01
ANALYSIS OF WASTEWATER OPERATION AND MAINTENANCE EXPENSE

SCHEDULE NO. 3-E
DOCKET NO. 020010-WS

	TOTAL PER UTILITY	ADJ PER PAA ORDER	TOTAL PER PAA ORDER	STAFF ADJ	TOTAL PER STAFF
(701) SALARIES AND WAGES - EMPLOYEES	$0	$8,865	8,865	$0	8,865
(703) SALARIES AND WAGES - OFFICERS	0	0	0	0	0
(704) EMPLOYEE PENSIONS AND BENEFITS	0	0	0	0	0
(710) PURCHASED SEWAGE TREATMENT	0	0	0	0	0
(711) SLUDGE REMOVAL EXPENSE	0	1,683	1,683	0	1,683
(715) PURCHASED POWER	0	2,854	2,854	0	2,854
(716) FUEL FOR POWER PRODUCTION	0	0	0	0	0
(718) CHEMICALS	0	2,780	2,780	0	2,780
(720) MATERIALS AND SUPPLIES	0	0	0	0	0
(730) CONTRACTUAL SERVICES - BILLING	0	0	0	0	0
(731) CONTRACTUAL SERVICES - PROFESSIONAL	0	1,697	1,697	0	1,697
(735) CONTRACTUAL SERVICES - TESTING	0	2,627	2,627	0	2,627
(736) CONTRACTUAL SERVICES - OTHER	0	3,427	3,427	0	3,427
(740) RENTS	0	0	0	479	479
(750) TRANSPORTATION EXPENSE	0	829	829	0	829
(755) INSURANCE EXPENSE	0	616	616	0	616
(765) REGULATORY COMMISSION EXPENSES	0	144	144	580	724
(770) BAD DEBT EXPENSE	0	0	0	0	0
(775) MISCELLANEOUS EXPENSES	211	1,899	2,110	0	2,110
	$211	$27,421	$27,632	$1,059	$28,691

RECOMMENDED RATE REDUCTION SCHEDULE

WOODLANDS OF LAKE PLACID
TEST YEAR ENDING 12/31/01

SCHEDULE NO. 4
DOCKET NO. 020010-WS

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

MONTHLY WATER RATES

	MONTHLY RECOMMENDED RATES	MONTHLY RATE REDUCTION
BASE FACILITY CHARGE:		
Residential		
5/8"X3/4" (0.8 ERC) RV's	$4.89	$0.07
5/8"X3/4" (1 ERC) Single Family Homes	6.11	0.09
General Service		
5/8"X3/4" (0.8 ERC) Lot Rentals	$4.89	$0.07
5/8"X3/4" (1 ERC) Park Commercial Property	6.11	0.09
3/4"	9.17	0.13
1"	15.28	0.22
1-1/2"	30.56	0.43
2"	48.89	0.69
3"	97.79	1.39
4"	152.79	2.17
6"	305.59	4.34
RESIDENTIAL & GENERAL SERVICE GALLONAGE CHARGE (PER 1,000 GALLONS)	$2.17	$0.03

RECOMMENDED RATE REDUCTION SCHEDULE

WOODLANDS OF LAKE PLACID
TEST YEAR ENDING 12/31/01

SCHEDULE NO. 4A
DOCKET NO. 020010-WS

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

MONTHLY WASTEWATER RATES

	MONTHLY RECOMMENDED RATES	MONTHLY RATE REDUCTION
RESIDENTIAL		
BASE FACILITY CHARGE:		
Meter Sizes:		
All Meter Sizes	$6.53	$0.09
GALLONAGE CHARGE:		
PER 1,000 GALLONS (6,000 gallon cap)	$1.78	$0.02
GENERAL SERVICE		
BASE FACILITY CHARGE:		
Meter Sizes:		
5/8"X3/4" RV/ LOT	$6.53	$0.09
3/4"	9.80	0.13
1"	16.33	0.22
1-1/2"	32.66	0.43
2"	52.26	0.69
3"	104.52	1.38
4"	163.31	2.16
6"	326.62	4.32
GALLONAGE CHARGE:		
PER 1,000 GALLONS	$2.13	$0.03