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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of POINCIANA) DOCKET NO. 881503-WS
UTILITIES, INC. for a rate increase) ORDER NO. 21553
in Osceola County.) ISSUED: 7-17-89

Pursuant to Notice, a Prehearing Conference was held on July 5, 1989, in Tallahassee, before Commissioner Gerald L. Gunter, Prehearing Officer.

APPEARANCES: KATHRYN COWDERY, Esquire, Gatlin, Woods,
Carlson & Cowdery, 1709-D Mahan Drive,
Tallahassee, Florida 32308
On behalf of Poinciana Utilities, Inc.

JOHN ROGER HOWE, Esquire, Office of Public
Counsel, c/o Florida House of Representatives,
The Capitol, Tallahassee, Florida 32399-1300
On behalf of the Citizens

SUZANNE F. SUMMERLIN, Esquire, Florida Public
Service Commission, 101 East Gaines Street,
Tallahassee, Florida 32399-0850
On behalf of the Commission Staff

DAVID E. SMITH, Esquire, Florida Public Service
Commission, 101 East Gaines Street,
Tallahassee, Florida 32399-0850
Counsel to the Commission

PREHEARING ORDER

BACKGROUND

On February 22, 1989, Poinciana Utilities, Inc., (Poinciana or the utility) filed an application for increased water and sewer rates in Osceola County. The information met the minimum filing requirements for a general rate increase. Accordingly, the official filing date was established as February 22, 1989. The utility did not request interim rates.

By letter dated November 18, 1988, Poinciana Utilities, Inc., requested the test year ended October 31, 1988, for this

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FPSC-RECORDS/REPORTING

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proceeding. That test year was approved by letter dated December 1, 1988.

By Order No. 20974, issued April 3, 1989, the Commission suspended Poinciana's proposed rates because we believe that the utility's filing requires further amplification, explanation and cross-examination of the data filed, as well as additional and/or corroborative data. Therefore, this matter is scheduled on the Commission's own motion for an administrative hearing at 10:30 AM, Thursday, July 20, 1989, through Friday, July 21, 1989, with an evening session at 7:00 PM, Thursday, July 20, 1989. The hearing will be held at the Poinciana Community Center, Dover Plum Center, Poinciana, Florida.

The scope of this proceeding shall be based upon the issues raised by the parties and Commission Staff during the prehearing conference, unless modified by the Commission. The hearing will be conducted according to the provisions of Chapter 120, Florida Statutes, and the rules and regulations of this Commission.

PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties has been prefiled, except that the utility will file supplemental rebuttal testimony by July 14, 1989. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After opportunity for opposing parties to object and cross-examine, the document may be moved into the record. All other exhibits will be similarly identified and entered at the appropriate time during hearing.

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

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ORDER OF WITNESSES

	<u>Appearing For</u>	<u>Issues</u>
William Darling	Staff	Issue 1
Gary P. Miller	Staff	Issue 1
Robert J. Kollinger	Staff	Issue 1
Antone Reeves, III (and rebuttal and supplemental rebuttal)	Poinciana	Issue 1,4
Keith R. Cardey (and rebuttal and supplemental rebuttal)	Poinciana	Issues 2,3,5,6,7,8,9, 10,11,13,14,15,16,17,18, 19,20,22,26
Shari Miller	Poinciana	Issues 12,21,23,24,25
Hugh Larkin, Jr. (and supplemental direct)	Citizens	Issues 2,3,4,5,6,7,8,9, 10,11,12,13,14,15,16,17, 18,19,20,21,22,23,24,25, 26

BASIC POSITIONS

POINCIANA: The Applicant's basic position is that all the information compiled in the Minimum Filing Requirements filed with the Florida Public Service Commission on February 28, 1989, is true and correct and the Applicant is entitled to charge the rates reflected in this filing.

PUBLIC COUNSEL: The company's requested revenue increases of \$124,574 for water operations and \$218,895 for sewer operations are excessive. The Commission should award no more than \$66,763 and \$143,958 respectively, and even these amounts may prove to be excessive after considering certain issues being developed through discovery. In particular, it appears that the utility will be unable to establish the prudence of amounts purportedly invested in land.

STAFF: Staff's basic position is that a rate increase may be warranted, but certain adjustments need to be made to Poinciana's rate base and operating statements.

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ISSUES AND POSITIONS

Quality of Service

1. ISSUE: Is the quality of service provided by Poinciana Utilities, Inc. satisfactory?

POSITIONS

POINCIANA: Yes, the quality of service is satisfactory. (Reeves)

PUBLIC COUNSEL: No position at this time pending customer testimony to be presented at the formal hearing. (Customers)

STAFF: No position at this time pending customer testimony at the hearing. (Darling, Miller, Kollinger)

Rate Base

2. ISSUE: What used and useful adjustments are necessary in this case?

POSITIONS

POINCIANA: None. (Cardey)

PUBLIC COUNSEL: A used-and-useful adjustment is unnecessary if, in fact, all excess capacity is offset by advances or CIAC as the company contends. Whether all excess capacity has actually been excluded in this manner must be demonstrated by the company. (Larkin)

STAFF: Used and useful adjustments are not appropriate in this proceeding.

3. Is an adjustment for land included in the water and sewer rate bases necessary?

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POSITIONS

POINCIANA: No position at this time. (Cardey)

PUBLIC COUNSEL: Yes. It appears that the land accounts are overstated at a level above what the developer paid for the property. The precise adjustment cannot be determined at this time. (Larkin)

STAFF: No position at this time.

4. ISSUE: What is the appropriate amount of CWIP to include in rate base?

POSITIONS

POINCIANA: The appropriate amount of CWIP to include in rate base is:

a) water	\$697,045
b) wastewater	\$999,358

(Reeves)

PUBLIC COUNSEL: No CWIP should be included in rate base. However, due to the utility's method of funding rate base, CWIP supported by offsetting advances should be included. CWIP should be reduced by \$15,440 for water and \$26,657 for sewer to achieve this result. (Larkin)

STAFF: No position at this time.

5. ISSUE: Should deferred rate case expense be included in the working capital?

POSITION

POINCIANA: Yes. (Cardey)

PUBLIC COUNSEL: No. The customers are unfairly treated when made to pay 100% of the utility's rate case expense. It would be even more unfair to make them pay a return on the deferred portion. Working capital should be reduced by \$22,679 for water and \$39,798 for sewer. (Larkin)

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STAFF: Yes, deferred rate case expense in the amount of \$35,000 should be included in the working capital allowance.

6. ISSUE: Is an adjustment to remove accrued interest from the working capital calculation necessary?

POSITIONS

POINCIANA: No. The loan should not be considered cost free. (Cardey)

PUBLIC COUNSEL: Yes. A \$2,442,910 loan for WWTP#2 should be considered cost free to the utility since the parent is supplying funds to meet the interest payments. Accrued interest of \$20,508 should be removed from the working capital calculation. (Larkin)

STAFF: Yes. A \$2,442,910 loan for WWTP#2 should be considered cost free to the utility since the parent is supplying funds to meet the interest payments. Accrued interest of \$20,508 should be removed from the working capital calculation.

7. ISSUE: Is it appropriate to exclude accrued federal and state income taxes from the working capital calculation?

POSITIONS

POINCIANA: Agrees with staff. (Cardey)

PUBLIC COUNSEL: Yes. No income tax expense should be allowed in this case. Therefore no accrued amount should be included in the working capital calculation. However, if the Commission allows an income tax expense then the accrued taxes should be included. (Larkin)

STAFF: No, the accrued federal and state income taxes should be included in the working capital calculation.

8. ISSUE: What is the appropriate working capital allowance?

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POSITIONS

POINCIANA: The appropriate 13-month average working capital allowance is \$80,729 in the water operations and \$141,665 in the wastewater operations. (Cardey)

PUBLIC COUNSEL: The appropriate working capital allowance is \$64,316 for water and \$112,863 for sewer. (Larkin)

STAFF: The appropriate working capital allowance is \$62,379 for water and \$109,466 for sewer excluding deferred rate case expense and accrued taxes payable.

9. ISSUE: What is the test year rate base?

POSITIONS

POINCIANA: The appropriate 13-month average rate base is \$1,021,752 in the water operations and \$1,337,910 in the wastewater operations. (Cardey)

PUBLIC COUNSEL: \$1,022,813 for water and \$1,344,760 for sewer subject to further adjustments for land per Issue 3. (Larkin)

STAFF: The test year rate base is \$1,036,316 for water and \$1,368,020 for sewer excluding deferred rate case expense and accrued taxes.

Capital Structure

10. Should the balance of the loan for WWTP#2 be considered cost free to the utility?

POSITIONS

POINCIANA: No. Balance of loan should not be cost free. (Cardey)

PUBLIC COUNSEL: Yes. The parent supplies funds to make 100% of the interest payments on this loan thus making it cost free to the utility. \$2,442,910 of capital should be considered cost free. (Larkin)

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STAFF: We agree with Public Counsel on this.

11. ISSUE: What is the appropriate accumulated deferred income tax balance for the test year?

POSITIONS

POINCIANA: Poinciana's accumulated deferred income tax balance on October 31, 1988 was \$581,925. (Cardey)

PUBLIC COUNSEL: Since the ratepayers should not have to pay an income tax expense, accumulated deferred taxes to be included in the capital structure should be zero. (Larkin)

STAFF: No position at this time, pending further discovery.

12. ISSUE: What is the appropriate accumulated deferred investment tax credit (ITC) balance for the test year?

POSITIONS

POINCIANA: The amount of ITC is \$153,849 which is amortized over 35 years or \$4,396 per year. \$1,903 is allocated to water and \$2,493 to wastewater. Shari Miller will testify in this regard. (Miller)

PUBLIC COUNSEL: Since the ratepayers should not have to pay an income tax expense, accumulated deferred investment tax credits to be included in the capital structure should be zero. (Larkin)

STAFF: The test year accumulated deferred ITC should be zero.

13. ISSUE: What is the appropriate overall cost of capital?

POSITIONS

POINCIANA: The appropriate cost of capital is that of Avatar Utilities, Inc. and subsidiaries. (Cardey)

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PUBLIC COUNSEL: Overall cost of capital should be 11.50%.
(Larkin)

STAFF: The appropriate overall cost of capital should be 10.12%.

Net Operating Income

14. ISSUE: Should test year operation & maintenance (O & M) expenses for major maintenance be adjusted?

POSITIONS

POINCIANA: No. (Cardey)

PUBLIC COUNSEL: Yes. Water should be reduced by \$5,459 and sewer reduced by \$20,098 to reflect actual expenses.
(Larkin)

STAFF: Yes, major maintenance expense should be reduced by \$5,459 for water and \$20,098 for sewer to the actual test year levels.

15. ISSUE: Is an adjustment necessary to the test year miscellaneous expense of \$5,355.00 for the initial sampling of the monitoring wells at wastewater treatment plant #2?

POSITIONS

POINCIANA: No. (Cardey)

PUBLIC COUNSEL: No position at this time pending response to Commission Staff's Third Set of Interrogatories.
(Larkin)

STAFF: No position at this time pending response to Commission Staff's Third Set of Interrogatories.

16. ISSUE: Is an adjustment necessary to expenses as a result of unaccounted-for water and/or infiltration?

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POSITIONS

POINCIANA: No. (Cardey)

PUBLIC COUNSEL: No position at this time pending response to Commission Staff's Third Set of Interrogatories. (Larkin)

STAFF: No position at this time pending response to Commission Staff's Third Set of Interrogatories.

- 17. ISSUE: Should O & M expenses be reduced based on the benchmark analysis?

POSITIONS

POINCIANA: No. (Cardey)

PUBLIC COUNSEL: Yes. O & M should be reduced by \$7,948 for water and \$14,157 for sewer. (Larkin)

STAFF: No, a benchmark adjustment is not necessary.

- 18. Should legal fees be adjusted for possible nonrecurring items?

POSITIONS

POINCIANA: No position at this time. (Cardey)

PUBLIC COUNSEL: Yes. Reduce O & M for water by \$1,199 and sewer by \$1,480. (Larkin)

STAFF: No position at this time.

- 19. ISSUE: What is the appropriate level of O & M expenses for the test period?

POSITIONS

POINCIANA:

- (a) For the water system \$308,303
- (b) For the wastewater system \$506,855

(Cardey)

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PUBLIC COUNSEL:

(a) For the water system	\$280,476
(b) For the wastewater system	\$461,378

(Larkin)

STAFF: The appropriate level of O & M expenses is \$288,813 for water and \$475,877 for sewer excluding rate case expense.

20. ISSUE: What is the appropriate regulatory assessment fee factor?

POSITIONS

POINCIANA: The appropriate adjusted regulatory assessment fee is:

a) water	\$ 7,093
b) wastewater	\$10,119

(Cardey)

PUBLIC COUNSEL: 1.65% pursuant to Order No. 15796 and the response to Citizens' Interrogatory No. 70. (Larkin)

STAFF: No position at this time.

21. ISSUE: What is the appropriate amount of income tax expense for the test year?

POSITIONS

POINCIANA: \$61,503. (Miller)

PUBLIC COUNSEL: Zero. Computing taxes on a "stand alone" basis for the utility, as the company has done, would produce zero tax expense because of net operating loss carryovers and ITCs. (Larkin)

STAFF: No position at this time, pending further discovery.

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22. ISSUE: Should a parent debt adjustment be made in this case?

POSITIONS

POINCIANA: Yes. (Cardey)

PUBLIC COUNSEL: Yes if income taxes are allowed. (Larkin)

STAFF: Agrees with Public Counsel.

23. ISSUE: What is the appropriate amount of the ITC interest synchronization adjustment?

POSITIONS

POINCIANA: \$2,675 for the water operations and \$3,502 for the wastewater operations. (Miller)

PUBLIC COUNSEL: Zero since no income tax expense should be allowed. (Larkin)

STAFF: No, there would be no interest synchronization adjustment if there is no ITC balance.

24. ISSUE: What is the appropriate amount of ITC amortization in the test year?

POSITIONS

POINCIANA: The amount of ITC is \$153,849 which is amortized over 35 years or \$4,396 per year. \$1,903 is allocated to water and \$2,493 to wastewater. (Miller)

PUBLIC COUNSEL: Zero, since no income tax expense should be allowed. (Larkin)

STAFF: There would be no ITC amortization if there is no ITC balance.

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25. ISSUE: What is the appropriate excess deferred tax adjustment?

POSITIONS

POINCIANA: The excess tax reserve for depreciation is \$1,053 per year for water and \$1,378 per year for wastewater. The estimated excess tax reserve for miscellaneous expenses are:

- a) For water \$529 per year
- b) For wastewater \$692 per year

(Miller)

PUBLIC COUNSEL: Zero, since no income tax expense should be allowed. (Larkin)

STAFF: No position at this time, pending further discovery.

Revenue Requirement

26. ISSUE: What are the appropriate revenue requirements?

POSITIONS

POINCIANA: The proper amount of revenues at proposed rates for the test year are:

- a) For the water system \$525,594
- b) For the wastewater system \$807,395

(Cardey)

PUBLIC COUNSEL: The proper amount of revenues at proposed rates for the test year are:

- a) For the water system \$467,783
- b) For the wastewater system \$732,368

(Larkin)

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STAFF: No position at this time.

STIPULATIONS

The parties have reached the following proposed stipulations.

1. Is there a misclassification of sewer plant-in-service between plant and land?

STIPULATION: Yes. The following adjusting entry should be made:

	<u>DEBIT</u>	<u>CREDIT</u>
A/C 354.2 - Struct and Improv	14,096	
A/C 361.0 - Collection Sewers	17,136	
A/C 353.2 - Land		31,232
(Audit Exception No. 2)		

2. Is the balance of accumulated depreciation misstated?

STIPULATION: Yes, the utility has not recorded an adjustment which was incorporated in FPSC Order No. 15796. Both average and year-end accumulated depreciation should be increased by \$20,285 for water and decreased by \$17,058 for sewer. (Audit Exception No. 1)

3. Should the reserve balance of accumulated depreciation and amortization of CIAC be increased because of the increase to net depreciation expense?

STIPULATION: Yes, accumulated depreciation should be increased by \$9,100 for water and \$13,142 for sewer.

4. Is the balance of accumulated amortization of CIAC misstated?

STIPULATION: Yes, the utility has not recorded an adjustment which was incorporated in FPSC Order no. 15796. The filed 13-month average balances should be increased by \$62,299 for water and \$58,393 for sewer. (Audit Exception No. 3)

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5. Should the preliminary survey and investigation charges be included in the working capital allowance?

STIPULATION: No, these charges should be removed from the calculation.

6. What is the appropriate capital structure to use in this case?

STIPULATION: The capitalization and cost of Avatar Utilities, Inc. & Subsidiaries, consistent with the Commission's Order in the prior case, should be used.

7. What is the appropriate return on equity?

STIPULATION: The appropriate return on equity is that indicated by the current leverage graph established by Order No. 19718, issued on July 26, 1988.

8. Is the balance of purchased power correctly reflected?

STIPULATION: No. The following adjustments should be made:

		WATER	SEWER
A)	Adjust for out-of-period expenses	\$ 345	\$6,163
B)	Remove end of year accrual	(53)	(592)
C)	Correct expenses for coding error miscellaneous expenses		2,482
	TOTAL	<u>\$ 292</u>	<u>\$8,053</u>

(Audit Exception No. 5)

9. Should the rate case expense included in the utility's filing related to a prior case be removed?

STIPULATION: Yes. \$13,760 annual expense should be removed because this expense will be fully amortized shortly after rates for the current case go into effect.

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10. What amortization period should be used for rate case expense?

STIPULATION: A four-year period should be used consistent with Commission policy. This reduces the utility's estimated annual amount from \$15,000 to \$11,250.

11. Should rate case expense related to the service availability portion of the costs of Docket No. 840007-WS be adjusted?

STIPULATION: Yes. The Commission allowed \$25,700 for this expense amortized over 8 years. Annual expense should be increased from \$2,894 to \$3,212.

12. Is depreciation expense misstated due to depreciation of power-operated equipment?

STIPULATION: Yes, depreciation expense should be reduced by \$5,203 for water and \$1,153 for sewer. (Audit Exception No. 4)

13. What is the appropriate depreciation expense in the determination of rates?

STIPULATION: The appropriate net depreciation expense is \$30,956 for water and \$40,526 for sewer.

EXHIBITS

<u>Witness</u>	<u>Preferred By</u>	<u>Exhibit No.</u>	<u>Description</u>
Gary P. Miller	Staff	Composite 1	GM-1 - Warning notice of June 6, 1989 and inspection report GM-2 - Deficiency letter of June 5, 1989 and inspection report

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Robert J. Kollinger Staff		Composite 2	RK-1 - Inspection report for Water Treatment Plant #3 of May 2, 1989 RK-2 - Inspection report for Water Treatment Plant #5 of May 2, 1989 RK-3 - Utility response to deficiencies of May 15, 1989
Antone Reeves, III	Poinciana	3	Rev-1 - Poinciana's MFRs Document
Keith R. Cardey	Poinciana	Composite 4	KC-1 - Comparative analysis 1983 and 10/31/88 of indexing expenses for customer growth and CPI; KC-2 - Rate base, operating income, rate of return for water operations; KC-3 - Rate base, operating income, rate of return for wastewater operations
Hugh Larkin, Jr.	OPC	5	HL-1 - Revised Schedules 1-8, Schedule 9 and Attachment 1

Staff reserves the right to introduce exhibits for the purpose of cross-examination, including all interrogatory responses and responses to requests for production submitted by Poinciana.

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RULINGS

Oral argument was heard on Poinciana's Motion to Strike the Public Counsel's Supplemental Direct Testimony of Mr. Larkin. The Motion was denied from the bench. However, Poinciana was given until July 14, 1989, to file Supplemental Rebuttal Testimony in response to Mr. Larkin's Supplemental Direct Testimony.

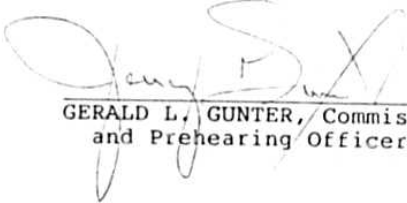
PENDING MATTERS

There are no matters pending at this time.

Based upon the foregoing, it is

ORDERED by Commissioner Gerald L. Gunter, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth below unless modified by the Commission.

By ORDER of Commissioner Gerald L. Gunter as Prehearing Officer, this 17th day of July, 1989.



GERALD L. GUNTER, Commissioner
and Prehearing Officer

(S E A L)

SFS