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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a staff-)	DOCKET NO. 900505-WS
assisted rate case in Bay County by)	ORDER NO. 24787
Sandy Creek Utilities, Inc.)	ISSUED: 07-10-91
)	

Pursuant to notice, a prehearing conference was held on July 1, 1991, before Commissioner Betty Easley, as Hearing Officer, in Tallahassee, Florida.

APPEARANCES: WAYNE SCHIEFELBEIN, Esquire, Gatlin, Woods, Carlson & Cowdery, 1709-D Mahan Drive, Tallahassee, Florida 32308
On behalf of Sandy Creek Utilities, Inc.

H.F. MANN, II, Esquire, Office of Public Counsel, Auditor General Building, Room 810, 111 West Madison Street, Tallahassee, Florida 32399-1400
On behalf of Citizens

MATTHEW FEIL, Esquire, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0863
On behalf of the Commission Staff

PRENTICE PRUITT, Esquire, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0863
Counsel to the Commission

PREHEARING ORDER

I. Case Background

Sandy Creek Utilities, Inc. (Sandy Creek or utility) is a class "C" water and wastewater utility located in Bay County. On May 21, 1990, the utility filed an application for a staff-assisted rate case; the official date of filing is July 18, 1990. The case was processed using the historical test year ended December 31, 1989. By proposed agency action Order No. 24170, issued February 27, 1991, the Commission approved final rates designed to generate \$54,962 in water system revenues, an increase of 130%, and \$60,154 in wastewater system revenues, an increase of 158%. By petition filed March 20, 1991, Mr. Alton L. Walker, a customer, protested

DOCUMENT NUMBER-DATE

06926 JUL 10 1991

FPSC-RECORDS/REPORTING

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Order No. 24170. Subsequent to the timely protest of Mr. Walker (protestor), the Office of Public Counsel (OPC) intervened in the case on behalf of the utility's customers. The protestor, however, remains a party.

This case is scheduled for an administrative hearing on July 17 and 18, 1991.

II. Prefiled Testimony and Exhibits

Testimony of all witnesses to be sponsored by Sandy Creek, OPC, and the Staff of this Commission (Staff) has been prefiled. The protestor has not prefiled any testimony. 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 associated 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 all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

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

III. Order of Witnesses

<u>Witness</u>	<u>Appearing for</u>	<u>Issues #</u>
<u>Direct</u>		
Deborah D. Swain	Utility	1,2,2-A,3,4,4-A, 4-B,5,6,7,8,9,10,11, 12,13,14,15,16,17, 18,19,20
Robert L. King, P.E.	Utility	2,2-A,10,15,17

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<u>Witness</u>	<u>Appearing for</u>	<u>Issues #</u>
<u>Direct</u>		
Harry DeMeza	OPC	4, 4-A, 4-B
Hank Landis	Staff	1, 2, 3, 4, 4-A, 4-B, 5, 7, 8, 8-A, 10, 13, 14
Paulette Dewberry	Staff	3, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20
<u>Rebuttal</u>		
Arsenio Milian	Utility	4, 4-A, 4-B, 5, 10, 15, 17
Carol Linton Anderson	Utility	4, 10, 15

IV. Basic Positions

UTILITY:

The Commission should adopt the Staff Recommendation approved by Proposed Agency Action Order No. 24170 with four modifications: the Commission should utilize certain corrected and supplemental flow data in determining used and useful; the Commission should consider costs associated with needed collection system improvements (at a minimum, allowing the payroll cost of one employee projected by Commission Staff to no longer be needed to maintain existing pumps); allow reasonable rate case expenses; and the Commission should allow the utility to continue recovery of the costs of pumps and septic tanks associated with wastewater pretreatment.

OPC:

Rate bases for water and wastewater are overstated which results in an overstatement of revenue requirements.

PROTESTOR:

Same as OPC's basic position.

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STAFF: The information gathered and the analysis performed indicates, at this point, that the utility is entitled to some level of increase. The specific level cannot be determined until the evidence presented at hearing is analyzed.

V. Issues and Positions

Quality of Service

ISSUE 1: Is the quality of service provided by this utility satisfactory?

POSITIONS

UTILITY: Agree with Staff. (Swain)

OPC: No. Commission Order No. 24170 relates numerous customer complaints about service which were made at the customer meeting held on November 5, 1990. Additionally, considering these complaints and the need for substantial improvements to the systems, it appears that past utility maintenance practices were improper or deficient. Thus, any costs necessary to improve the systems should be borne by the utility. Customer testimony at the hearing will help determine this issue.

PROTESTOR: Agree with OPC.

STAFF: The quality of water service should be considered satisfactory. The quality of wastewater service should be considered unsatisfactory. (Landis)

Other

ISSUE 2: Should the Commission order the utility to submit a plan to improve its collection system, and if so by what date?

POSITIONS

UTILITY: Agree with Staff. (Swain, King)

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OPC: Yes, the Commission should order the utility to submit a plan of improvement. However, none of the costs of these improvements should be borne by the ratepayers, as they have supported the system over the years. Had the system been originally installed and then maintained properly, these additional costs would not now be necessary.

PROTESTOR: Agree with OPC.

STAFF: Yes, the Commission should order the utility to submit a plan to improve its collection system within 90 days of the date of the final order. (Landis)

ISSUE 2-A: Should the Commission allow the utility to recover the cost of any study mandated to determine if there is a feasible improvement to the current collection system?

POSITIONS

UTILITY: Yes. (Swain, King)

OPC: No. None of the costs of these improvements, including the costs of any studies necessary, should be borne by the ratepayers, as they have supported the system over the years. Had the system been originally installed and then maintained properly, these additional costs would not now be necessary.

PROTESTOR: Agree with OPC.

STAFF: No position at this time.

ISSUE 3: Is the utility providing water and wastewater service outside of its certificated area, and if so, should the utility be penalized?

POSITIONS

UTILITY: Agree with Staff. The amendment application was promptly filed with the Commission and is currently set for hearing to consider numerous objections, the basis of which is the Utility's failure to include additional areas within the amended service area. (Swain)

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OPC: It appears that the utility has been serving an area outside of its certificated area. The Commission should fine the utility for not requesting certification for this additional area prior to initiating service. Revenues should be imputed for any customers who were not included in the test year.

PROTESTOR: Agree with OPC.

STAFF: Yes, the utility is providing water and wastewater service outside its certificated area, but should not be penalized for doing so. The utility has already filed for an amendment to its certificate to include the area in question. (Landis, Dewberry)

Rate Base

ISSUE 4: What percent of the water treatment plant and distribution system and the wastewater treatment plant and collection system is used and useful?

POSITIONS

UTILITY: Agree with staff, except as to wastewater plant used and useful. The Commission should consider the several more months of accurate sewerage flow data that the Utility now has available, and the corrected flow data which the Utility resubmitted to DER. After Sandy Creek put its new wastewater treatment plant on line, it took several months to have the new flow meter properly calibrated. The Utility's operator felt bound to provide the actual readings which had been taken from the malfunctioning meter. Reliable flow data was not estimated and provided during the Commission staff engineer's review. If the new, available data is not considered, the used and useful portion of the wastewater treatment plant would be significantly understated. (Swain, Milian, Anderson)

OPC: The water treatment plant should be considered 55% used and useful and the distribution system should be considered 54% used and useful. The wastewater treatment plant should be considered 22% used and useful and the wastewater collection system should be considered 50% used and useful. (DeMeza)

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PROTESTOR: The water treatment plant should be considered 19% used and useful and the distribution system should be considered 54% used and useful. The wastewater treatment plant should be considered 8% used and useful and the wastewater collection system should be 50% used and useful. (Walker)

STAFF: The water treatment plant should be considered 93% used and useful; the distribution system should be considered 57% used and useful. The wastewater treatment plant should be considered 24% used and useful. The collection system which includes two major components, the force mains and pumping stations, should be considered 54% and 100% used and useful, respectively. (Landis)

ISSUE 4-A: Should a margin reserve be included in the calculation of used and useful?

POSITIONS

UTILITY: Agree with Staff. (Swain, Milian)

OPC: No. Including a margin reserve in this calculation introduces costs that are associated with future growth for recovery from current customers. (DeMeza)

PROTESTOR: Agree with OPC.

STAFF: Yes. (Landis)

ISSUE 4-B: Should a fireflow allowance be included in the calculation of used and useful?

POSITIONS

UTILITY: Agree with Staff. (Swain, Milian)

OPC: No. (DeMeza)

PROTESTOR: Agree with OPC.

STAFF: Yes. (Landis)

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ISSUE 5: Is the 1988 annual report a reasonable starting point to establish the utility's investment in assets used and useful?

POSITIONS

UTILITY: Yes. The 1988 annual report properly reflects the utility's investment in assets used and useful. (Swain, Milian)

OPC: No.

PROTESTOR: Agree with OPC.

STAFF: Yes. (Dewberry, Landis)

ISSUE 6: Who owns the land on which the water treatment and wastewater treatment plants are located and what is the proper valuation of land to be included in the systems' rate bases?

POSITIONS

UTILITY: Agree with Staff. (Swain)

OPC: The land should be valued at its original cost.

PROTESTOR: Agree with OPC.

STAFF: The utility owns the land on which the water treatment and wastewater treatment plants are located, and the appropriate valuation to be included in the rate bases is \$1,209 for the water system and \$720 for the wastewater system.

ISSUE 7: Should Construction Work In Progress (CWIP) be allowed in rate base, and if so, what is the appropriate amount?

POSITIONS

UTILITY: Agree with Staff. (Swain)

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OPC: No. Construction Work In Progress should not be included in rate base nor should the improvements required by the Department of Environmental Regulation. These costs should be borne by the utility. Refer also to Public Counsel's position for Issue 2, above.

PROTESTOR: Agree with OPC.

STAFF: At the end of the test year, the utility had recorded \$42,615 in CWIP for the wastewater system. This CWIP, as well as \$244,266 in wastewater system improvements and \$45,909 in water system improvements that were required by the Department of Environmental Regulation, should be allowed in rate base as proforma plant. (Dewberry, Landis)

ISSUE 8: Is the utility's level of unaccounted-for water, unacceptable, and if so, what corrective action should be required of the utility?

POSITIONS

UTILITY: Agree with Staff. (Swain)

OPC: Unaccounted-for water has been found to be 18%. This is excessive under the Commission guidelines. An adjustment should be made to reduce variable operating costs by 8%.

PROTESTOR: Agree with OPC.

STAFF: The utility's level of unaccounted-for water is 18%, which is unacceptable. To reduce this level of unaccounted-for water, the utility should be ordered to install five irrigation meters 90 days from the date of the final order. (Landis, Dewberry)

ISSUE 8-A: Is there excess infiltration into the collection system?

POSITIONS

UTILITY: Agree with Staff.

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OPC: Yes. Based on the information provided, there appears to be excess infiltration which results in additional treatment costs. These costs should not be recovered by the utility from the customers.

PROTESTOR: No position.

STAFF: Based on the information available, infiltration cannot accurately be determined. (Landis)

ISSUE 9: What is the appropriate method of calculating working capital allowance, and what is the appropriate amount of working capital for each system?

POSITIONS

UTILITY: Agree with Staff, except as is necessary to recognize the effect of recovery of added payroll costs we are seeking. (Swain)

OPC: The utility has not proven any need for working capital. Rate base should thus be reduced as follows: water - \$2,910; sewer - \$4,739.

PROTESTOR: Agree with OPC.

STAFF: The one-eighth of operation and maintenance expense formula should be used for calculating working capital allowance, and the appropriate amount of working capital to be included in the rate bases is \$2,910 for the water system and \$4,739 for the wastewater system. (Dewberry)

ISSUE 10: What is the average test year rate base for each system?

POSITIONS

UTILITY: Agree with Staff, except insofar as used and useful would be modified by using the more reliable flow data now available, and except inasmuch as the Commission may recognize the costs of planning, reporting, and implementing collection system improvements. (Swain, King, Milian, Anderson)

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OPC: This is a fallout issue; however, the proper level of accumulated depreciation should be set based on the final calculation of plant in service, while the proper level of CIAC cannot be determined until after all customer testimony is considered.

PROTESTOR: Agree with OPC.

STAFF: The average test year rate bases should be \$155,501 for the water system and \$98,122 for the wastewater system. Average accumulated depreciation for the test year is \$62,748 for the water system and \$75,683 for the wastewater system. Average CIAC for the test year is \$64,125 for the water system and \$117,800 for the wastewater system. Average amortization of CIAC for the test year is \$11,239 for the water system and \$30,717 for the wastewater system. (Dewberry, Landis)

Cost of Capital

ISSUE 11: What is the appropriate rate of return on equity?

POSITIONS

UTILITY: Agree with Staff. (Swain)

OPC: The return on equity that should be used is that found in the current leverage graph formula, reduced by 200 basis points for poor quality of service and improper maintenance and management practices.

PROTESTOR: Agree with OPC.

STAFF: According to the Commission's current leverage graph formula established by Order No. 24246, effective April 9, 1991, the return on equity is 13.11%. (Dewberry)

ISSUE 12: What is the appropriate overall rate of return?

POSITIONS

UTILITY: Agree with Staff. (Swain)

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OPC: This is a fallout issue.

PROTESTOR: Agree with OPC.

STAFF: Taking into account the return on equity as calculated according to the current leverage graph, the overall rate of return is 12.32%. (Dewberry)

Net Operating Income (NOI)

ISSUE 13: What are the appropriate test year revenues?

POSITIONS

UTILITY: Agree with Staff. (Swain)

OPC: Revenues should be adjusted for any customers who are located in the unauthorized service area and who were thus not included fully in the test year. Also, in the event that post-test year plant is included, revenues should be imputed to annualize all customers and to include revenues for customers not yet on the system.

PROTESTOR: Agree with OPC.

STAFF: The appropriate test year revenues should be \$23,936 for the water system and \$23,329 for the wastewater system. (Dewberry, Landis)

ISSUE 14: What are the appropriate amounts for the systems' operation and maintenance expense, depreciation expense, and other taxes expense?

POSITIONS

UTILITY: Agree with Staff, except for the adjustment removing the payroll costs associated with Staff's elimination of one maintenance person projected to occur after collection system improvements. (Swain)

OPC: The test year operation and maintenance expenses are excessive. Expenses should be reduced for non-used and useful

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items that should be eliminated, as well as for excessive water losses and possible excess infiltration into the collection system. O&M expenses should be reduced by the cost incurred for excess maintenance personnel, regardless of when ordered improvements are made, as the customers should not be held responsible for excessive additional costs which will be incurred as a result of poorly designed or poorly maintained plant. Additionally, the proper level of depreciation expense should be set based on the final calculation of plant in service and the following non-used and useful adjustments should be made to personal property and real estate taxes: \$225 for the water system and \$112 for the sewer system.

PROTESTOR: Agree with OPC.

STAFF: The appropriate amounts for operation and maintenance expense should be \$23,287 for the water system and \$37,912 for the wastewater system. Average depreciation expense, net of amortization of CIAC, for the test year is \$7,567 for the water system and \$5,382 for the wastewater system. Average taxes other than income taxes for the test year is \$3,477 for the water system and \$3,840 for the wastewater system. (Dewberry, Landis)

ISSUE 15: What are the appropriate revenue requirements?

POSITIONS

UTILITY: Agree with Staff, except insofar as used and useful is modified by use of the more reliable flow data; to the extent necessary to recognize costs associated with needed collection system improvements; and to allow for recovery of reasonable rate case expense. (Swain, King, Milian, Anderson)

OPC: This is a fallout issue.

PROTESTOR: Agree with OPC.

STAFF: The appropriate revenue requirements are \$54,962 for the water system and \$60,154 for the wastewater system. (Dewberry)

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Rates and Tariff Charges

ISSUE 16: What are the appropriate rates and rate structure?

POSITIONS

UTILITY: Agree with Staff, except insofar as is necessary to recover the added revenue requirement related to use of the more reliable flow data, recognition of the costs associated with needed collection system improvements, and recovery of reasonable rate case expense. (Swain)

OPC: The rates and rate structure proposed in Order No. 24170 are excessive.

PROTESTOR: Agree with OPC.

STAFF: Rates should be set to allow the utility the opportunity to recover its expenses and earn a 12.46% return on its investments. The utility should employ the base facility/gallongage charge rate structure. The rates should be as follows.

WATER

MONTHLY RATES

RESIDENTIAL AND GENERAL SERVICE

<u>Meter Size</u>	<u>Base Facility Charge</u>
5/8 x 3/4"	\$ 9.46
3/4"	14.19
1"	23.65
1 1/2"	47.30
2"	75.68
3"	151.36
4"	236.50
6"	473.00

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WATER

MONTHLY RATES

RESIDENTIAL AND GENERAL SERVICE

Gallage Charge

Per 1,000 gallons \$ 2.22

WASTEWATER

MONTHLY RATES

RESIDENTIAL SERVICE

Meter Size

Base Facility Charge

All meter sizes \$ 19.85

Gallage Charge

Per 1,000 gallons (10,000 gal. max.) \$ 2.98

WASTEWATER

MONTHLY RATES

GENERAL SERVICE

Meter Size

Base Facility Charge

5/8 x 3/4"	\$ 19.85
3/4"	29.78
1"	49.63
1 1/2"	99.25
2"	158.80
3"	317.60
4"	496.25
6"	992.50

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WASTEWATER
MONTHLY RATES
GENERAL SERVICE

Gallonage Charge

Per 1,000 gallons

\$ 3.58

(Dewberry)

ISSUE 17: What is the appropriate amount of rate case expense?

POSITIONS

UTILITY: Actual reasonable rate case expense through the conclusion of this case should be recovered by the utility through its rates. The Commission should allow recovery of the filing fee for the case, postage and reproduction costs associated with disseminating the notice of hearing, consultants' and attorneys's fees and expenses, and the like. Attorneys' and consultants' fees through issuance of a final order were projected by the Utility on 5/8/91 to be \$35,000. The Utility should be given the opportunity to update this projection at the hearing, based upon actual expenditures and more current estimates. (Swain, King, Milian)

OPC: \$300 for the filing fee should be the total allowed since this is a staff assisted rate case.

PROTESTOR: Agree with OPC.

STAFF: Reasonably and prudently incurred rate case expense should be allowed. The amount of such rate case expense cannot be determined at this time. (Dewberry)

ISSUE 18: Should there be an apportionment of rate case expense as required by Section 367.0815, Florida Statutes?

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POSITIONS

UTILITY: No. No such apportionment is reasonable or appropriate in a staff-assisted rate case protested by parties other than the utility. (Swain)

OPC: Yes, if rate case expense is allowed, the adjustment required by Section 367.0815, Florida Statutes, should be made.

PROTESTOR: Agree with OPC.

STAFF: The adjustment required by Section 367.0815, Florida Statutes, should be made if the conditions set forth in that section are met. (Dewberry)

ISSUE 19: What are the appropriate service availability charges for this utility?

POSITIONS

UTILITY: Agree with Staff, except the utility's authority to recover the cost of pumps and septic tanks associated with wastewater pretreatment should be continued. (Swain)

OPC: No position at this time pending customer testimony.

PROTESTOR: Agree with OPC.

STAFF: The appropriate service availability charges for this utility should be those set forth below.

	<u>Water</u>	<u>Wastewater</u>
Plant Capacity Charge	\$300	\$250
Main Extension Charge		\$450

Meter Installation Fee

5/8" x 3/4"	\$150	
Over 2"	Actual Cost	
		(Dewberry)

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ISSUE 20: Should the utility be authorized to collect miscellaneous service charges, and if so, what should the charges be?

POSITIONS

UTILITY: Agree with Staff. (Swain)

OPC: No position at this time pending customer testimony.

PROTESTOR: Agree with OPC.

STAFF: Yes. The miscellaneous service charges should be those set forth below.

<u>Type Service</u>	<u>Water</u>	<u>Wastewater</u>
Initial Connection	\$ 15.00	\$ 15.00
Normal Reconnection	\$ 15.00	\$ 15.00
Violation Reconnection	\$ 15.00	Actual Cost
Premises Visit	\$ 10.00	\$ 10.00

(Dewberry)

VI. Proposed Stipulations

At the Prehearing Conference, the parties and Staff stipulated that if rate case expense was allowed, that rate case expense should be amortized over a four year period and that there should be a rate reduction at the end of that period.

VII. Exhibits

<u>Witnesses</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Deborah D. Swain	Utility	DS-1 composite	Corrected monthly operating reports filed with DER for June, 1990, through September, 1990, and original monthly

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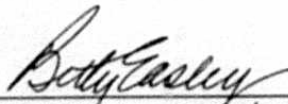
<u>Witnesses</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		Continued	operating reports for October, 1990, through March, 1991
Harry DeMeza	OPC	HD-1	Used and useful composite calculations
Paulette Dewberry (co-sponsor)	Staff	PD-1	Staff recommendation dated January 24, 1991
Hank Landis (co-sponsor)	Staff	PD-1	Staff recommendation dated January 24, 1991

Parties and Staff reserve the right to identify exhibits for the purpose of cross-examination.

Based upon the foregoing, it is

ORDERED by Commissioner BETTY EASLEY, as Hearing Officer, that this Prehearing Order shall govern the conduct of these proceedings unless modified by the Commission.

By ORDER of Commissioner BETTY EASLEY, as Hearing Officer, this 10th day of JULY, 1991.



BETTY EASLEY, Commissioner
 and Hearing Officer

(S E A L)

MF