

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

| | |
|------------------------------------|----------------------|
| In re: Application of ST. GEORGE) | DOCKET NO. 871177-WU |
| ISLAND UTILITY COMPANY, LTD. for) | |
| increased rates and service) | ORDER NO. 25437 |
| availability charges for water) | |
| service in Franklin County) | ISSUED: 12/5/91 |
|) | |

Pursuant to notice, a prehearing conference was held on November 6, 1991, before Commissioner Easley, as Prehearing Officer, in Tallahassee, Florida

APPEARANCES:

GENE D. BROWN, Esquire, 3836 Killearn Court, Tallahassee, Florida 32308
On behalf of St. George Island Utility Company, Ltd.

BARBARA SANDERS, Esquire, 53 Avenue C, Post Office Box 157, Apalachicola, Florida 32320
On behalf of St. George Island Water Sewer District

CATHERINE BEDELL, 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 ORDERI. Case Background

By Order No. 21122, issued April 24, 1989, increased rates were approved for water service provided by St. George Island Utility Company, LTD. (SGIU or utility). The Order also implemented a moratorium against further connections, required that SGIU make a number of physical improvements, required SGIU to maintain the utility books in substantial compliance with the Uniform System of Accounts and the Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities, and required SGIU to maintain all of its books and records at one location so as to lessen the likelihood of the misplacement of

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further records. The Order also stated that the Commission would order SGIU to show cause why it should not be fined if it failed to comply with the requirements of Order No. 21122.

The Commission monitored and audited SGIU's compliance with Order No. 21122 and as a result, Order No. 23038 was issued on June 6, 1990, covering thirteen show cause issues. Several of those issues concerned the condition of the books and records. Based upon SGIU's response to the show cause order, the Commission set the matter directly for hearing. A subsequent audit of the utility, completed in July of 1990, found that the utility was in substantial compliance with the above portions of Orders Nos. 21122 and 23038. During the pendency of the show cause proceedings, SGIU drafted and submitted a proposed stipulation of settlement. On October 22, 1990, the Commission issued Order No. 23649 which approved the utility's proposed stipulation in settlement. As part of the stipulation the utility agreed that it would continue to maintain its records in accordance with the NARUC Uniform System of Accounts and that the utility would continue to abide by the rules, regulations and orders of the Commission. Subsequent to the stipulation and Order, another audit was initiated. The purpose of the audit, which started on March 25, 1991, was to review the status of the moratorium and compliance with the stipulation. The results of that audit were the subject of Order to Show Cause, Order No. 24807, issued July 11, 1991. On July 31, 1991, SGIU timely filed a response to the Show Cause Order and requested a hearing.

This case is scheduled for an administrative hearing in Tallahassee on December 12 and 13, 1991.

II. Prefiled Testimony and Exhibits

Testimony of all witnesses to be sponsored by the parties and the Staff of this Commission (Staff) has been prefiled. 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

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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> | | |
| Gene D. Brown | Utility | 1,2,3 |
| Thomas R. Day | Intervenor | 3 |
| Everett Broussard | Staff | 1,2 |
| <u>Rebuttal</u> | | |
| Barbara Withers | Utility | 1,2 |

IV. Basic Positions

Utility: While there may have been technical deficiencies in its record-keeping procedures, the utility has not knowingly refused to comply with, or willfully violated, any provision of the Florida Statutes or any rule or order of the Commission.

Intervenor: Adopts Staff's position.

Staff: The information gathered through discovery and prefiled testimony indicates, at this point, that the utility has failed to comply with Commission Orders and Rules in maintaining its books and records.

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V. Issues and Positions

ISSUE 1: Has the utility maintained its books and records in accordance with Orders Nos. 21122 and 23649, and Rules 25-30.110(1)(a) and 25-30.115(1), Florida Administrative Code?

POSITIONS

UTILITY: If there were technical deficiencies in the utility's bookkeeping procedures as of April 23, 1991, these deficiencies have been cured and the utility is now in substantial compliance with the Commission's orders and directives.

INTERVENOR: Adopts Staff's position.

STAFF: As of April 23, 1991, the books and records were not in compliance with the above mentioned Orders and Rules. At the end of the audit fieldwork, September 5, 1991, the utility was in substantial compliance with the Commission Directives except for the audit exceptions and disclosures stated in the 3rd Supplemental Compliance Audit Report. (Broussard)

ISSUE 2: Did the utility fail to properly pay interest on or refund customer deposits in accordance with Rule 25-30.311(4), (5) and (6), Florida Administrative Code, and Order No. 23649?

POSITION

UTILITY: The utility acknowledges that as of September 5, 1991, there were some customers who had not received timely refunds and/or timely payment of interest on such deposits. However, the utility would show that the status of its customer deposit accounting was in better shape on September 5, 1991, than it had ever been in the past, and that with the assistance of a new recently installed computer software program, the utility can and will pay all subsequent deposit interest and refunds in a timely manner.

INTERVENOR: Adopts Staff's position.

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STAFF: Yes, based upon the September 5, 1991 audit, the utility has failed to pay interest on and refund customer deposits in a timely manner. Improvements in the utility's record keeping system are necessary to enable the utility to pay all subsequent deposit interest and refunds in a timely manner. (Broussard)

ISSUE 3: Should the utility be fined pursuant to Section 367.161, Florida Statutes, for failure to comply with Commission Orders and Rules?

POSITION

UTILITY: No. Even if it should be determined that the utility has failed to properly maintain its books and records or that the utility has failed to properly pay interest on or refund customer deposits, such violations were the result of inadequate funding and personnel, and do not constitute a knowing refusal to comply with, or a willful violation of, any provision of the Florida Statutes or any rule or order of the Commission.

INTERVENOR: Adopts Staff's position.

STAFF: Yes. The St. George Island Utility Company, Ltd. should be fined up to \$5,000 a day pursuant to Section 367.161, Florida Statutes.

VII. Exhibits

| <u>Witnesses</u> | <u>Proffered By</u> | <u>I.D. No.</u> | <u>Description</u> |
|------------------|---------------------|-----------------|--------------------|
| Broussard | Staff | EB-1 | Audit |

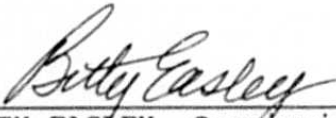
Parties and Staff reserve the right to identify exhibits for the purpose of cross-examination.

Based upon the foregoing, it is

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

By ORDER of Commissioner Betty Easley, as Prehearing Officer,
this 5th day of DECEMBER, 1991.



BETTY EASLEY, Commissioner
and Prehearing Officer

(S E A L)

BE/CB