BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for an Increase in Wastewater rates for South Ft. Myers System in Lee County by FLORIDA CITIES WATER COMPANY	DOCKET NO. 910477-SU ORDER NO. PSC-92-0266-FOF-SU ISSUED: 04/28/92

The following Commissioners participated in the disposition of this matter:

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FINAL ORDER ESTABLISHING INCREASED RATES FOR WASTEWATER SERVICE

BY THE COMMISSION:

CASE BACKGROUND

Florida Cities Water Company, South Ft. Myers system, (FCWC or utility) is a Class A utility which, as of December 31, 1990, provided wastewater service to 4,837 customers (a total of 8,573 equivalent residential connections (ERCs)) in Ft. Myers, Florida.

On August 14, 1991, FCWC completed the minimum filing requirements (MFRs) for a general rate increase, and that date was established as the official date of filing for this case. The approved test year for this proceeding is the projected twelve-months ending December 31, 1991. FCWC has requested final rates designed to generate annual wastewater revenues of $2,895,803, or an increase of $592,480 (25.72 percent).

By Order No. 25182, issued October 9, 1991, this Commission suspended FCWC's proposed rates and granted FCWC, subject to refund, an interim wastewater rate increase designed to generate $2,652,715 in revenues, or an increase of $412,165 (18.4 percent).

On October 9, 1991, the Office of Public Counsel (OPC) filed a notice of intervention in this case. By Order No. 25225, issued October 17, 1991, we acknowledged OPC's intervention.

An administrative hearing on this matter was held at the Airport Ramada in Fort Myers, Florida, on January 15th and 16th, 1992.

FINDINGS OF FACT, LAW, AND POLICY

Having considered the evidence presented, the briefs of the parties, and the recommendation of our staff, we hereby enter our findings of fact, law, and policy.

STIPULATIONS

Prior to the hearing, the utility, OPC, and the staff of this Commission proposed to stipulate the following: (1) Rate base should be reduced by $1,638 to remove an unapproved acquisition adjustment; (2) The appropriate rate of return on equity should be determined based on the leverage formula in effect at the time of the Commission's vote on final rates; (3) The cost rate of the investment tax credits (ITCs) should be calculated using investor sources of capital only. Upon consideration, we believe that these proposed stipulations are reasonable and hereby accept them.

QUALITY OF SERVICE

Mr. James Grob of the Florida Department of Environmental Regulation (DER) testified that FCWC's plant was properly permitted and adequate to serve its present customers and that the maintenance of FCWC's treatment plant and collection facilities was satisfactory. Mr. Grob also stated that FCWC had entered into a consent order with DER in September, 1989, but that FCWC complied with that order by installing odor control equipment.

Utility witness Griggs testified that FCWC's treatment plant was in compliance with regulations promulgated by the United States Environmental Protection Agency and DER. He also testified that on November 4, 1991, the Florida Pollution Control Operators Association honored FCWC's Fiesta Village plant (the utility's designation for the treatment plant involved in this proceeding) with the Earle B. Phelps award for the best operated advanced wastewater treatment plant in Florida. Mr. Griggs further noted that FCWC had won this same award for the Fiesta Village plant in 1989.

OPC witness Parrish testified that the utility's plant was an excellent facility and was very well operated. He explained that due to the surface water discharge of this plant (into the Caloosahatchee River), the permitted effluent limits are relatively severe.

Several FCWC customers testified that FCWC's rates were already high enough and suggested that perhaps FCWC should better control its spending. Other customers expressed concern because their wages have not kept up with the utility's increased wastewater rates. One customer testified that according to his research, FCWC's proposed rates were the highest of the four utilities he checked in the Ft. Myers area.

Although some customers expressed opposition to the rate increase proposed, we do not believe that there is any evidence in the record which demonstrates that FCWC's quality of service is less than satisfactory. In consideration of the foregoing, we find that FCWC's quality of service is satisfactory.

RATE BASE

Our calculation of the appropriate rate base for the purpose of this proceeding is depicted on Schedule No. 1-A, and our adjustments are itemized on Schedule No. 1-B. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on those schedules without further discussion in the body of this Order. The major adjustments are discussed below.

Completion of Phase II

FCWC included in rate base the costs of completing the installation of equipment--pumps, motors, as well as some appurtenances to the existing concrete tanks and structures--which would bring the existing wastewater treatment plant to its ultimate capacity of 5.0 million gallons per day (mgd). In the record, this expansion program is referred to as Phase II.

In its MFRs, FCWC projects that completing Phase II will cost $1,750,000. In its last rate case, FCWC projected that the same project, completing Phase II, would cost $1,156,000. For this case, the utility trended the latter amount upward for inflation or increased construction costs. FCWC argues that the total trended cost of $1,750,000 is reasonable and should be accounted for in calculating rate base. Therefore, FCWC proposes that $932,750 of the $1.75 million cost be included in rate base as the used and useful portion of the Phase II costs.

OPC argues that FCWC has not shown that the inclusion of these costs in rate base is necessary to the provision of wastewater service; therefore, OPC would have us reduce rate base by $880,250, the completion costs adjusted for used and useful. However, although OPC witness Parrish offered no specific testimony on the cost question, he considered the plant's capacity to be 5.0 mgd in his used and useful calculations.

As indicated on the plant operating reports submitted with the MFRs, current plant capacity, without the completion of Phase II, is 2.5 mgd. Average daily plant flow in 1991 was 2.291 mgd. If we consider 2.5 mgd as the capacity of the plant and we add in a margin reserve, the plant will exceed capacity. However, with the installation of the new equipment proposed, plant capacity is doubled to 5.0 mgd with a relatively small increase in rate base.

It is apparent that the utility is approaching the rated capacity of the plant in use during the test year, and, therefore, additional capacity will be needed in the near future. In this instance, we think it was prudent for the utility to recognize the economies of building a larger plant than was needed at the time of initial construction, as doing so inures to the benefit of the present and future customers.

We believe that it is appropriate to recognize the $1.75 million in costs which will be incurred to add capacity. As indicated above, in its MFRs, FCWC applied its used and useful figure to the Phase II completion costs and, therefore, included $932,750 in rate base. We think that applying the used and useful figure to the $1.75 million cost for plant expansion is appropriate. As stated below, we find that FCWC's treatment plant is 49 percent used and useful. Therefore, the proper amount of the $1.75 million to be included in rate base is $857,500.

Used and Useful--Treatment Plant

FCWC witness Harrison advocated an ERCs-paid method to calculate used and useful plant. With this method, he compared ERCs paid with ERCs of plant capacity, rather than comparing test year flows with capacity, as he noted the Commission has traditionally done in determining used and useful. Mr. Harrison was critical of the flow method primarily because it will produce varying results from one point in time to another when, for instance, flows have changed due to weather fluctuations or customer consumption patterns.

In support of its ERCs-paid method, FCWC argues that its plant was originally designed and certain projections were made, including the setting of service availability charges, based on the assumption that the plant would treat 250 gallons per day (gpd) per connection, or one ERC. Therefore, he states comparison in ERCs is appropriate. Further, FCWC asserts, it would be unfair to have the utility commit capital to construct new facilities using design criteria and then diminish the dollar value of its investment in those facilities by determining used and useful by the flow method. Using the ERCs-paid method, FCWC argues that its treatment facilities are 53.3% used and useful.

OPC witness Parrish used the flow method to calculate used and useful. He characterized this method as the normal way of calculating used and useful for treatment plant facilities. Mr. Parrish also testified that DER's rules and DER-issued operating permits limit use based on hydraulic flows. From information contained in Exhibit No. 14, which showed actual plant flows for 1991, Mr. Parrish calculated that average daily flow for the peak month, July, 1991, was 2.291 mgd. He then compared this 2.291 mgd to the 5.0 mgd plant capacity to arrive at a used and useful ratio of 46%. Mr. Parrish also testified that if the Commission were to employ FCWC's ERCs-paid method, the treatment facilities should be considered 45% used and useful, which is the ratio of contributions-in-aid-of-construction (CIAC) to plant. Mr. Parrish stated that this ratio should be used because the utility did not explain the difference between this ratio and the 53.3% ERCs-paid used and useful figure.

Mr. Harrison testified, and Mr. Parrish acknowledged, that treatment plant flows can change due to customer usage patterns. When flows increase or decrease, used and useful, as determined by the flow method, will proportionally increase or decrease. Admittedly, the flow method in such circumstances produces varying results from one point in time to another. However, we do not consider the ERCs-paid method superior, and we do not believe the utility's justification for using it was adequate.

We do not think that a utility places singular reliance upon the number of ERCs the design engineer estimated the plant could serve in planning its activities. If actual flows turned out to be different from projections, a utility may find itself with either not enough capacity to serve the original estimate and not enough CIAC or with more than enough capacity to serve the original estimate and more than enough CIAC. In addition, DER looks at plant flows, not ERCs, in evaluating the plant's limitations; and average daily flows per ERC are not constant. On the latter point, Mr. Harrison confirmed that for the 1990 base year, the average daily flows per ERC were 193 gpd/ERC, not 250 gpd/ERC as assumed by FCWC's ERCs-paid method. In consideration of the above, we believe that it is best to rely upon historical flows to determine used and useful, rather than ERC estimates made at the time of design.

To arrive at the used and useful percentage of the wastewater treatment plant and disposal facilities using the flow method, we divide the sum of the average daily flows and the margin reserve by the capacity of the plant. As was advocated by Mr. Parrish at the hearing, we shall use the most current flow information available, the 1991 data contained in Exhibit No. 14. Accordingly, we have divided the sum of the 2.291 mgd average daily flow and the 0.138 mgd margin reserve (calculated below) by the 5.0 mgd capacity of the plant. The quotient is 0.49. We therefore find that the wastewater treatment plant and disposal facilities are 49% used and useful. Rate base is adjusted as the result of our applying this used and useful figure to Accounts Nos. 354.2, 370, 371, 354.3, 380, 380.1, 382, 383, 384, and 389--all accounts under the System Pumping Plant and Treatment & Disposal Plant categories with the exception of Accounts Nos. 353.2 and 353.3, Land & Land Rights, and Account No. 381, which had a zero balance.

Some questions were asked at the hearing concerning the accuracy of the treatment plant's flow meter. FCWC witness Griggs testified concerning the infiltration and inflow experienced by the utility during wet and dry weather conditions and indicated that there was no flow meter error. In consideration of this testimony, we shall make no adjustments, in used and useful or elsewhere, to account for flow meter error.

Margin Reserve

The utility did not request margin reserve in its MFRs. FCWC witness Harrison testified that if the Commission did not accept the ERCs-paid used and useful methodology, FCWC should be allowed a margin reserve. In which case, Mr. Harrison suggested, witness Parrish's calculations for used and useful plant should be augmented to allow for a margin reserve.

Mr. Harrison advocated a 14.12% margin reserve, which he apparently calculated by subtracting a 5.88% allowance for growth from a perceived 20% cap on margin reserve. Mr. Harrison further suggested that if the Commission used CIAC from prepaid connections as an offset in rate base, some flows from these prepaid connections should be imputed. Margin reserve, as Mr. Harrison testified he understood it, is an allowance in used and useful of up to 20% over currently utilized capacity to account for unknown factors, such as peak demand or changing flow rates.

OPC witness Mr. Parrish testified that this Commission's purpose for providing a margin reserve is to recognize in rate base that portion of plant needed to serve the short term future customers. He further testified that he did not disagree with the concept, but opined that to the extent practical, existing customers should not bear the cost of plant for future use unless the growth prudently planned and provided for does not occur. He suggested that standby or service availability fees imposed upon new customers might be better methods for cost recovery.

As Mr. Parrish correctly noted, margin reserve is, fundamentally, an allowance for growth. In this proceeding, we took administrative notice of Order No. 23660, issued October 24, 1990, in Docket No. 890509-WU (Florida Cities Water Company, Golden Gate Division, rate case). Part of our discussion of margin reserve policy from that Order is as follows:

> Margin reserve represents capacity that the utility must have available beyond that which is demanded by the test year's customers. The purpose of the margin reserve is to enable the utility to connect new customers during the next eighteen months or so--the normal construction time for building new plant--without plant expansion. A water company is required to provide service to customers within its service area when they are ready for service. This is why a margin reserve is so important; the alternative is an inefficient utility trapped in a cycle of perpetual construction so that it can add small increments of capacity required to connect new customers.

As noted above, Order No. 23660 was the final order in the last rate case for FCWC's Golden Gate Division. In the Golden Gate case, where Mr. Harrison appeared as an accounting witness, the requested margin reserve allowance was based on growth. Judging from Mr. Harrison's testimony in the instant case, we believe that Mr. Harrison has a misunderstanding of margin reserve: he does not believe that margin reserve is an allowance for growth. Mr.

Harrison conceded, however, that the hearing in the instant case was the first time he had testified regarding margin reserve, and he explained that he had not spoken directly with anyone on our staff about the concept.

We think it appropriate in this case to include an allowance for growth, a margin reserve, in the treatment plant used and useful calculation. Staff witness Shafer advocated the use of linear regression to calculate margin reserve. He argued that linear regression is a more accurate forecasting method than the simple average method. We agree and shall, therefore, use linear regression to calculate margin reserve in this case.

From the historical data in the MFRs and the ERCs count in Exhibit No. 11, we have projected growth for 1991 and plant flows at the end of the 1991 projected test year. Using the linear regression projection methodology recommended by Mr. Shafer, we calculate that growth after the test year is on a downward trend. For 1992, we project FCWC to add 409 ERCs, and for half of 1993, 200 ERCs. By dividing the 1991 peak month average daily flows contained in Exhibit No. 11, 1.927 mgd, by the average number of ERCs for 1990, 8,573 ERCs, we calculate that the utility will experience 226 gpd/ERC for ERCs in the margin reserve. Thus, the ERCs in the margin reserve will generate 0.138 mgd in flows. As shown in our used and useful calculation above, we have allowed FCWC a margin reserve of 0.138 mgd.

Used and Useful--Collection System

OPC witness DeWard testified that he questioned the validity of the utility's assertion that its collection system was 100% contributed. He suggested that if the collection system installed was more than that needed to serve the current customers, a used and useful adjustment might be appropriate. However, OPC did not address this issue in its brief, which leads us to believe that OPC's concerns on the matter were resolved.

FCWC witness Harrison explained in his rebuttal testimony that during the early years after this system was being acquired by FCWC, FCWC funded the collection system. However, in the mid-1970's, FCWC changed its policy and required all on-site collection systems be contributed to the utility. Since that time, Mr. Harrison continued, the areas developed with "company funded" dollars have been fully developed, and any development currently underway is 100% contributed.

In consideration of the above, we shall consider the collection system to be 100% used and useful.

Prepaid CIAC

As stated above, the utility advocated the use of an ERCs-paid method to calculate used and useful plant. Included in the number of ERCs paid were a number of prepaid ERCs. As of the end of the projected test year, FCWC stated it would have 1,355 prepaid ERCs unconnected to the system. Further, FCWC calculated that it has received some $772,350 in prepaid CIAC from these unconnected ERCs--1,355 ERCs multiplied by the current plant capacity charge of $570 per residential ERC.

To be consistent with the used and useful methodology which we employed above, we have adjusted the CIAC accounts to reflect removal of CIAC associated with prepaid ERCs; thus, we reduced CIAC by $772,350, reduced accumulated amortization of CIAC by $174,429, and increased amortization expense by $34,756.

In addition, OPC witness DeWard testified that if the Commission includes a margin reserve in used and useful, the margin reserve should be offset by the inclusion of associated CIAC in rate base. Mr. DeWard added that he thought general policy was to include CIAC associated with a margin reserve in rate base, since such inclusion would reflect proper matching. FCWC, in its brief, stated that if the Commission approved its requested margin reserve, FCWC would not oppose including prepaid CIAC as an offset.

In consideration of the above, we think that it is appropriate to include in rate base the prepaid CIAC associated with the margin reserve. Therefore, we have increased CIAC by $347,130, the product of multiplying the 609 ERCs in the margin reserve by the $570 per ERC residential plant capacity charge, and have made corresponding adjustments to increase accumulated amortization of CIAC by $78,396 and to reduce test year amortization expense by $15,621.

Accumulated Amortization of CIAC

In the audit report, staff witness Stephens revealed that the utility erred by twice making a credit adjustment to accumulated amortization of CIAC for $38,000. This resulted in a $19,000 overstatement of average net CIAC. FCWC witness Harrison agreed that an error had been made and that the average rate base calculation should be increased by $19,000.

In consideration of the foregoing, we have increased accumulated amortization of CIAC by $19,000.

Accumulated Depreciation

OPC witness DeWard testified that accumulated depreciation should be increased by $600,337 because FCWC's method of calculating accumulated depreciation improperly attributes too much accumulated depreciation to non-used and useful plant.

Utility witness Harrison conceded that errors may have been made in the calculation of depreciation. He testified that he could not explain the apparent disparity between the reported amounts for depreciation and what appeared in the supporting documentation based on the limited amount of information he had available. Mr. Harrison also admitted that FCWC did not undertake additional analysis of accumulated depreciation by account number for the years 1984 through 1990. In its brief, FCWC argued that accumulated depreciation on used and useful plant should be increased by $46,634.

In any rate case, the utility has the burden of proof. Here, we find the record lacking in evidence which tends to support the accumulated depreciation figures in the MFRs. Likewise, we find the record lacking in evidence which adequately refutes Mr. DeWard's testimony.

In consideration of the above, we shall adjust accumulated depreciation to agree with our calculation of used and useful plant, an adjustment substantively the same as OPC's proposed adjustment. Therefore, we increased accumulated depreciation related to used and useful plant by $484,390 and reduced test year depreciation expense by $34,731.

Working Capital

The utility used the formula approach, or one-eighth of operation and maintenance expenses (1/8th of O&M), to calculate working capital. FCWC's use of the formula approach is consistent with what is required by the MFRs form, Form PSC/WAS 17, which is incorporated in Rule 25-30.437, Florida Administrative Code.

In its brief, OPC argues that the balance sheet method should be used because the formula approach will always yield a positive value for working capital. FCWC witness Harrison testified that if the balance sheet method were used, the working capital allowance would be much larger. Furthermore, no evidence was presented which would justify using a method other than that filed by the utility.

In consideration of the above, we have calculated working capital using the formula method. In a later section of this

Order, we find that the proper amount of test year operating and maintenance expense is $1,308,187. Therefore, we have included one-eighth of that amount, $163,523, in rate base as the utility's working capital allowance.

Test Year Rate Base

In consideration of the foregoing, we find that test year rate base is $5,883,120.

COST OF CAPITAL

Our calculation of the appropriate cost of capital, including our adjustments, is depicted on Schedule No. 2-A, and our adjustments are itemized on Schedule No. 2-B. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on those schedules without further discussion in the body of this Order. The major adjustments are discussed below.

Preferred Stock

As is shown in MFR Schedule D-2, FCWC included $4,500,000 of preferred stock in its capital structure. That amount represents the simple average for the 1991 projected test year, which the MFRs show as beginning with a zero balance and ending with a $9,000,000 balance. FCWC witness Harrison testified that FCWC issued $9,000,000 in preferred stock on June 15, 1991, to an affiliate, FCWC Holdings, Inc., which in turn issued preferred stock to Allstate Insurance Company.

Mr. Harrison also testified that this preferred stock issue had the effect of reclassifying $9,000,000 of common equity into a like amount of preferred stock. He agreed that the introduction of the preferred stock reduced FCWC's overall cost of capital, that the full amount of preferred stock will be in FCWC's capital structure when the rates set in this proceeding go into effect, and that the preferred stock cannot be redeemed until after March 1, 1997.

Although Mr. Harrison stated FCWC had little or no control over when the preferred stock was issued, he admitted that Avatar Holdings, the ultimate parent of FCWC, did have control over when the preferred stock was issued. The preferred stock issue, he said, was not planned to fit into any particular rate case. Mr. Harrison also argued that if the Commission were to use the year-end amount for preferred stock in the capital structure, it should be consistent and use a year-end amount for rate base.

OPC witness DeWard agreed generally that if the Commission uses an average rate base, it should be consistent and use an average capital structure. However, he noted an exception could be made where, as here, the utility had control over the timing of the preferred stock issue; and he emphasized the significance of the fact that the preferred stock issue in this case replaced a like amount of common equity and was not an addition to total capital. Therefore, he disagreed with Mr. Harrison's assertion that the Commission should use a year-end rate base if the year-end preferred stock balance is used. In the end, however, Mr. DeWard was somewhat equivocal by stating that there was merit and precedent for using either the average or year-end balances for preferred stock in the capital structure.

We think that FCWC's ultimate parent, Avatar Holdings, certainly had control over the timing of the preferred stock issue. In its brief, FCWC argues that the record contains no evidence that FCWC manipulated the timing of the preferred stock issue and that, absent such evidence, Mr. DeWard indicated agreement with Mr. Harrison that rate base and cost of capital treatment should match on an average to average or year-end to year-end basis. We agree that there is no evidence indicating that the preferred stock issue was timed with the purpose of changing capital structure for a particular rate case. However, we do not think that the utility's intent in issuing the preferred stock at a certain time is necessarily relevant to or dispositive of the issue.

Mr. DeWard made a critical distinction in our view when he noted that the preferred stock issue replaced an equivalent amount of common equity and did not increase total capital. No plant improvements were built from funds infused by the preferred stock issue. It was a conversion of capital. Conceptually, it is no different from reclassifying an amount from one plant account to another.

We place further reliance on another concept. In the course of this proceeding, we took notice of Order No. 17304, issued March 19, 1987, in Docket No. 850062-WS (rate case and overearnings investigation of Meadowbrook Utility Systems, Inc). In that case, the utility refinanced its high cost debt and lease obligations in July of the calendar year 1984 test year. In that Order, we stated,

> We believe it is appropriate to account for this known change and have used the six-month average capital structure taken from the test-year period from July 1984 through December 1984 as a proxy for the 13-month average capital structure.

Here, as in Order No. 17304, we believe it is appropriate to utilize a year-end amount for a particular source of capital in order to take into account a known change. Therefore, we have included the year-end amount of preferred stock, $9,000,000, in FCWC's capital structure.

Debt

On Schedule D-5 of its MFRs, FCWC listed the average balances of the Series G and Series J bonds as $1,498,500 and $3,000,000, respectively. FCWC witness Harrison testified that the Series G bonds became redeemable on September 15, 1991, and that those bonds were redeemed on October 1, 1991. The unamortized issuance expense for these bonds, he explained, was included in the issuance cost of the Series J bonds. The total redemption cost for the Series G bonds, $73,978, was added to the Series J issuance cost, which totaled $253,377. Witness Stephens, the staff auditor, disclosed that the average balance for the Series J bonds should be $3,500,000.

In consideration of this testimony, we used a year-end balance of zero and recalculated the average balance of the Series G bonds to be $817,500. Also, we eliminated the unamortized issuance cost of the Series G bonds since FCWC transferred that amount to the unamortized issuance cost for the Series J bonds. Thus, the average balance for the Series J unamortized issuance expense is $126,689 and the amortization of the issuance expense is $9,149. With these adjustments, the effective cost rates for the Series G and Series J bonds are 16.68% and 9.81%, respectively.

Stephens also disclosed that the utility projected the balance for the line of credit without considering the paydown of the line with the proceeds of the Series J bonds. FCWC witness Harrison agreed that the balance for the line of credit was overstated. Based on the information contained in late-filed Exhibit No. 12, the actual balance for the line of credit at the end of the test year was $7,000,000; the average balance is $6,375,000. In its MFRs, FCWC shows the cost rate for the line of credit to be 9.00%. Mr. Harrison testified that the cost rate for the line of credit was the prime rate, and he agreed that the current prime rate is 6.5%. We think it is appropriate to use $6,375,000 as the balance for the line of credit and 6.5%, the current prime rate, as the cost rate.

As a result of the above adjustments, we calculate the average balance for total debt is $28,246,625 and the weighted average cost of debt is 9.47 percent.

Accumulated Deferred Taxes

In its brief, FCWC states that it generally agrees that total company accumulated deferred income taxes should be $4,881,527. Mr. Harrison advocated, however, that $459,481 in prepaid income taxes on CIAC associated with the South Fort Myers system should be included in the overall calculation of accumulated deferred taxes on a full weight, division-specific basis, rather than as a part of the overall allocation of total company accumulated deferred taxes. In accounting for the aforementioned prepaid income taxes on a full-weight basis, FCWC reduced the deferred tax balance by $459,481 after it had reconciled the balance to rate base. In its brief, FCWC asserts that accounting for the prepaid income taxes in this manner will more appropriately recognize variations among the company's different systems as to the level of capacity fees and rates of customer growth.

OPC witness DeWard maintained that the utility has not properly accounted for deferred taxes and has understated this cost-free source of capital. He also pointed out that the utility specifically allocated the full amount of deferred tax charges against the South Fort Myers division even though the capital structure is calculated on a total Florida Cities Water Company basis. Mr. DeWard calculated that an accumulated deferred income tax balance of $4,187,645 should be included in the capital structure before reconciliation to rate base. However, OPC did not update this number for other changes in its brief.

We agree with OPC that the accumulated deferred income tax balance reflected in the MFRs is understated. The proper calculation of deferred taxes, however, should take into account the corrected figures contained in the staff's audit report, Exhibit No. 10. The audit report revealed that the utility made errors in computing its deferred tax balance.

Further, we agree with OPC that the utility erred in specifically allocating prepaid income taxes to the South Fort Myers division after the capital structure had been reconciled to rate base. FCWC states that it generally agrees that the balance of accumulated deferred income taxes should be $4,881,527; yet this amount includes the $459,781 debit deferred income taxes related to CIAC. Further reduction to accumulated deferred income taxes would result in a double adjustment understating the deferred tax balance. In addition, FCWC treated no other capital accounts in the manner it treated accumulated deferred income taxes. When total company capital structure is reconciled to the South Fort Myers division's rate base, such reconciliation should be done entirely on a pro rata basis. Since no other specific allocations were made, we think it would be inappropriate to specifically allocate only a portion of deferred taxes.

Mr. Harrison, referring to one of the Commission's gross-up orders, stated, "The Commission said if you gross-up then you can include the negative deferred taxes associated with that in your capital structure . . . ." The gross-up order that Mr. Harrison is referring to is Order No. 23541, issued October 1, 1990. He correctly stated that this Order allows debit deferred taxes to be reflected in the capital structure. However, the order does not indicate that the negative deferred income taxes should be reflected after the capital structure is reconciled to rate base. In fact, Mr. Harrison admitted during cross-examination that he had no knowledge of our acceptance of such an adjustment in other cases.

In consideration of the above, we find that the proper amount of accumulated deferred taxes to be included in the capital structure before reconciliation is $4,881,527. We reject the utility's proposed $459,781 adjustment to accumulated deferred taxes after reconciliation.

Equity

As shown in the "Stipulations" section above, the appropriate cost of equity should be based on the leverage formula in effect at the time of our agenda conference vote for final action in this case. The current leverage formula was established by Order No. 24246, dated March 18, 1991. The equity ratio in the adjusted capital structure is less than 40%. The utility's cost of equity according to Order No. 24246 is 13.11%. Therefore, we hereby find that the appropriate rate of return on equity for this utility is 13.11%, with a range of reasonableness between 12.11% and 14.11%.

Overall Rate of Return

In its brief, FCWC states that the overall rate of return that should be allowed is 10.79%.

As discussed above, we have made several specific adjustments to the capital structure and cost rates presented in the MFRs. We used a $9,000,000 balance for preferred stock with the reported cost rate of 9%. The balance for common equity after adjustments is $17,699,000; the cost rate is 13.11% as discussed above. The balance for debt is $28,246,625; the weighted average cost of debt is 9.47%. The balance for accumulated deferred taxes is $4,881,527; the cost rate is zero. The balance of ITCs is $2,100,530; the cost rate is 10.57% as stipulated to above. We then reconciled the capital structure to rate base.

In consideration of the above, we find that the weighted average cost of capital for the projected test year ending December 31, 1991, is 9.73%.

NET OPERATING INCOME

Our calculation of net operating income is depicted on Schedule No. 3-A, and our adjustments are itemized on Schedule No. 3-B. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on those schedules without further discussion in the body of this Order. The major adjustments are discussed below.

OPERATING AND MAINTENANCE EXPENSE (O & M)

Infiltration--Chemicals and Purchased Power

The utility experienced a tremendous amount of infiltration in its wastewater system during the base year due to a broken main caused by a contractor working with Lee County. This contributed to increased flows that were not billed to customers. Wet weather also contributed to the inflow volume. Witness Griggs explained that three or four such incidents of contractors breaking lines occur annually, but with less impact upon flows.

From utility records and calculations, the system is experiencing infiltration of 10,800 gpd per mile of pipe, which is within the wet condition allowance set forth by the Water Pollution Control Federation Manual of Practice No. 9 (WPCF MOP 9). This engineering manual suggests up to 30,000 gpd/mile of pipe is an acceptable level. The company recognizes that the infiltration problem exists, and it plans to address the problem in the future.

This Commission agrees with OPC's position that the costs of treating excess infiltration should be removed. However, based upon the testimony, no excess infiltration exists. Witness Parrish did not address this point, nor was it discussed in OPC's brief.

The peak flow month for base year 1990 was August, which would be the month we would consider in our calculation for used and useful plant. However, in this case, we are relying upon the testimony of Witness Parrish and his used and useful calculation which refers to 1991 flows. Therefore, the flows that entered the system due to the main break do not affect the used and useful calculation.

Another factor that might contribute to the amount of unbilled flows is the fact that a cap exists on wastewater flows billed, so that residential customers are not billed for wastewater generated above the cap.

Therefore, while some disparity exists between wastewater treated and billed, we find this difference is explained adequately by testimony addressing infiltration and inflow and by the residential cap billing structure. Therefore, no adjustments shall be made for infiltration.

Benchmark

The utility states that the operation and maintenance expenses, overall, have not grown faster than the benchmark. In fact, the increase has been 11.66 percent, which is lower than the benchmark increase of 14.68 percent, which reflects the annual customer growth plus the CPI-Consumer Price Index.

OPC, in its brief, argues that the expenditure of $80,000 for a computer system will greatly reduce labor costs. OPC also stated that labor expenses should be reduced dollar for dollar. Utility witness Harrison testified that there is no planned reduction in the labor force at the plant as a result of the installation of the new computer. He added that any potential savings in labor costs, due to a decrease in hours worked by employees, will be offset by additional work time required for maintenance, cleanup, and additional testing.

Based on our review of Late-Filed Exhibit No. 18, "1990 and 1991 Operator Overtime For The Fiesta Village Treatment Plant", there has not been a significant reduction in the amount of overtime at the wastewater facility. This evidence further supports the utility's contention that no major reductions in labor will be experienced due to the installation of the new computer system. Based on this and the fact that the expenses were less than the benchmark, we find that no adjustment is necessary.

Major O & M Expenses

The utility has projected expenses for the test year by escalating the base year amounts for increases in customer growth and the Public Service Commission Index Factor. OPC argues that the projected amounts for major maintenance, chemical, sludge removal, purchased power, and contractual service expenses should be reduced. To support this contention, the balances for these expenses, as reported for the year ending August 31, 1991, were divided by eight and multiplied by twelve to arrive at an annualized figure. From this analysis, OPC witness DeWard determined that these expense accounts, in the aggregate, were overstated by $46,915.

Utility witness Harrison argued that the analysis done by OPC was arbitrary and unrealistic. He added that O & M expenses are not incurred evenly throughout the year, since many costs are seasonable or otherwise variable in nature.

We agree with utility witness Harrison that seasonal and variable effects will have an effect on these expenses. Since the record does not support any specific adjustment to these accounts, we believe that the utility projections are reasonable, and, therefore, we find that no adjustment is necessary.

Insurance

In its MFRs, the utility requested recovery of $20,081 for self-insurance claims involving sewer backups. Utility witness Harrison stated that the utility has benefitted from substantial savings through the self-insurance retention program and that the utility has taken an aggressive approach in reducing its potential for loss through safety and security procedures.

OPC witness DeWard testified that the provision for self-insurance should be eliminated since the utility made no payments for the program in 1988 or 1989, thereby establishing the non-recurring nature of the expenses.

Utility witness Harrison refuted witness DeWard's testimony by explaining that the general body of ratepayers have benefitted from the substantial reductions in insurance costs through this self-insurance program. The amount reported by utility witness Harrison for self-insurance savings since 1987, on a company-wide basis, approximates $1,000,000. Witness Harrison further testified that the customers of the utility receive the benefit of reduced insurance premiums resulting from the self-insurance retention program. He continued that these same ratepayers should also share in the expense to support such a program.

We agree with the utility that the ratepayers should bear an expense which directly benefits them. Insurance is certainly such an expense. Since the self-insurance program has generated savings for the total company, these savings would also be passed down to the South Ft. Myers sewer system. Therefore, we believe that the requested expense is reasonable, and no adjustment is necessary.

Regulatory Commission Expense

The OPC argues that FCWC has overstated its regulatory commission expense by the amount of $2,006. This amount relates to an index/pass-through from 1990 that was paid in 1991. OPC witness DeWard testified that this amount should not be allowed because the amount being requested for rate case expense was more than sufficient.

Utility witness Harrison testified that this amount did refer to an indexing in 1990, but the record is silent regarding utility support of the propriety of this expense.

The crux of this issue is whether or not the utility has proven that this is a necessary and reasonable expense and one which will recur annually. In accordance with Section 367.081(4)(a), Florida Statutes, regarding index filings, the utility is not entitled to have an index filing during a rate increase proceeding or for one year from the official filing date of a rate case, unless the case is completed at an earlier date. Accordingly, the utility is prevented from filing an index from August 14, 1991 (official filing date for this rate case) to August 14, 1992, or to the end of this case, whichever is sooner. The utility will be allowed to recover its prudent rate case costs in this proceeding. In accordance with the statute, no index should be filed during a rate case. To allow an additional expense for another type of rate increase is the equivalent to a non-recurring expense during the test year. We agree with OPC that this adjustment should be made. Therefore, we have reduced regulatory commission expense by $2,006.

Rate Case Expense (Before Statutory Apportionment)

OPC argues that the appropriate rate case expense should be limited to the amount of $65,000, which is the amount the utility originally requested.

The utility has stated that if the full requested revenue requirement is approved, it will limit its requested rate case expense to the amount stated in its MFRs - $65,000. However, the utility added that if less revenues are approved by this Commission, the revised rate case expense of $127,467 should be approved.

The MFRs include a total estimated rate case expense of $65,000. The reported components were: $20,000 for accounting services provided by an affiliated company, $2,500 for travel expenses, $30,000 for legal fees, $2,500 for filing fees, and $10,000 for customer mailings. Exhibit No. 3, entitled Rate Case Expense, reflects the utility's requested and updated rate case costs.

The utility reports that the appropriate allowance for rate case expense is now $127,467. We find that this amount of rate case expense shall be reduced by $24,713, for a total rate case expense of $102,754. This results in an increase to the utility's filing of $9,439 in the annual amortization of rate case expense.

Accounting Consultant

The utility initially estimated that accounting services by a related company would be $20,000. In Exhibit No. 3, the utility projected these accounting charges to be $45,183, or an increase of $25,183.

Utility witness Harrison testified that additional preparation time was spent working on a computer program. He further elaborated that Lotus programming was applied in order to link the various calculations on the MFR schedules. In addition, time was spent writing base programs that could be used for various applications. Testimony revealed that the bill of an affiliated company, Consolidated Water Services, rose from $20,000 to $36,533 as a result of the programming that had to be done for the MFRs. Utility witness Harrison testified that these programs could not be used for other applications, but he did not give an explanation or a reason for his opinion on the matter. This evidence, in addition to testimony that the utility has little experience with handling rate cases in-house, seems to indicate that the utility has benefitted from the training and learning involved in this procedure. The record shows that both utility witness Harrison and utility employee Coel have only experienced one complete rate case prior to this case. We believe that the other systems in this company should share in the expense of training the rate department, as they will all benefit once the knowledge and expertise is acquired. Witness Harrison testified that several of the company's other systems are currently filing rate cases. We find it appropriate that these start-up costs be shared.

The original MFR's contained no provision in the rate case expense for charges from Avatar Utility Company, a related company. According to utility witness Harrison, the $8,000 fee included in the revised rate case expense relates to bill analysis, customer notices, and keeping track of the interim rates in case a refund is ordered. We believe that the amount requested is reasonable, and should be allowed.

The MFRs, as originally filed, were deficient and had to be corrected. Utility witness Harrison testified that it took several weeks to correct the deficiencies. We believe that time spent correcting the deficiencies should be removed from the rate case expense. Based on review of Exhibit No. 3, $2,450 in accounting fees were charged to this system between the original filing date and the official filing date. We find that rate case expense should be reduced to eliminate the expense associated with errors in the utility's filing.

We are unable to precisely quantify the total amount of training costs which could be shared between the other systems. Further, the record states that several of the other systems owned by Florida Cities and Avatar are currently filing rate cases, but it does not reflect the exact number of such instances. We are, therefore, unable to make an exact allocation for the amount of training costs which should be shared between the other systems.

We believe that the accounting costs are excessive in relation to the time the utility staff had to spend learning Commission practice and procedure, and due to the extent of errors made in the filing. The record states that at least $16,533 in additional costs were related to programming costs above those originally estimated. We also find it appropriate to remove $2,450 as unnecessary costs incurred as a result of filing deficient MFRs. Therefore, we hereby allow the utility to recover the $20,000 original estimate for Consolidated Water Services, plus $8,000 for the billing costs from Avatar. This will allow a total of $28,000 for accounting costs in this rate case. By removing the remaining $17,183, we believe that this amount reflects an allocation of training costs to the other systems, as well as a disallowance of costs related to errors.

Legal Services

The reported legal expenses in Exhibit No. 3 include $23,441 for services through November 1991, and projected completion costs of $50,371, for a total cost of $73,812. This compares with an original estimate of $30,000 for outside legal expenses in the MFRs. The supporting invoices were reviewed, and the invoices matched the projected overall expense.

OPC argues that legal fees should be reduced, and supports its position by addressing numerous items of unnecessary and/or imprudent expenditures. As examples, OPC stated that the utility's legal counsel unnecessarily attended a tour of the plant by an OPC engineer. The utility incurred additional legal expense when FCWC decided, after the rate case process had begun, to fire a senior member of management. In addition, instead of filing revised schedules to cure deficiencies, a complete set of new MFRs was submitted. Since the company required a legal review of all submitted schedules, as indicated by witness Harrison, all of the revisions and refiling resulted in increased expense. OPC also contends that the utility failed to justify an 8 percent increase, from $125 to $135, in the hourly legal fee paid to its legal representative.

Among other issues of mismanagement concerning the legal expenses for this matter, there was no initial budget developed for legal expenses. No competitive bids were received, and there was no formal contract to limit legal expenses. We cannot precisely quantify the cost or the potential savings that would have resulted if the utility had requested bids from competing law firms, or if the rate case expense had been budgeted; however, we believe that if a budget had been developed, the rates and fees could have been set, and the total expenses could have been limited.

Also, FCWC incurred unnecessary expenses in order to pay the costs for the errors in the filing of the MFRs and for the time devoted to non-rate case activities. We find it appropriate to reduce rate case expense by $1,420, the amount that is associated with errors in the utility's filing. Further, we find it appropriate to disallow $571 which resulted from the termination of a member of the utility's senior management. In addition, we believe that the 8 percent increase in fees by legal counsel is unsupported. When this increase is applied against the estimates to complete the case, a reduction of $4,029 is warranted.

We agree with OPC that legal representation at the plant tour, done by an engineer working for OPC, was unwarranted, and that the associated costs of $1,510, should be reduced.

The utility failed to demonstrate the need for the increased legal expenses incurred in this rate case, which was not a complex case. Moreover, the utility failed to show that the expenses requested were prudent or necessary.

Based on the foregoing, we find that the utility's request for legal expenses is hereby reduced from the requested amount of $73,812, to $66,282.

Miscellaneous

The MFRs included a $15,000 combined provision for filing fees $2,500, postage of $10,000, and travel expenses of $2,500. In accordance with Exhibit No. 3 that details the revised estimate, filing fees of $2,500, postage costs of $6,000 and travel costs of $200 are projected. We find these revised miscellaneous charges to be appropriate, which results in a reduction of $6,528 from the original request in the MFRs.

Summary

This Commission is making an adjustment to the total rate case expense requested in late-filed Exhibit No. 3 of $127,467 to $102,754. This results in a reduction of $24,713. As the total amount approved is $37,754 greater than the amount reported in the MFRs, we find that the expense for the test period is hereby increased by $9,439 to reflect the four year amortization/recovery period for rate case expense. In addition, the utility is hereby required to submit, within 60 days of the issuance of this final Order, an itemized report of the actual rate case expense incurred. The information shall be submitted in the same manner as required in Schedule B-10 of the MFRs.

PROPERTY TAX EXPENSE

OPC argues that the allocation of property tax expense between the South Ft. Myers water and wastewater systems has been skewed to the detriment of the ratepayers of the wastewater system. There is agreement among the parties that the actual tax calculated by the county was based on the used and useful plant, but OPC argues that the allocation between the South Ft. Myers water and wastewater systems is incorrect because this calculation is based on gross plant values. OPC witness DeWard recommended adjusting this expense to reflect the ratio of used and useful plant to total plant for each system.

The utility argued that no adjustment is necessary because the calculation of property taxes by the county is done without considering nonused and useful plant. According to the testimony of witness Harrison, the water division is considered to be 100 percent used and useful. The allocation of the property tax expense between the two systems was based on proportionate plant values.

Based on our review of Late-Filed Exhibit No. 4, the allocation made by the utility between the water and wastewater systems does not account for the fact that one system is fully used and useful, and the other is not. To properly allocate the tax between the two systems, a calculation is necessary to compare the used and useful plant of the wastewater system and the used and useful plant of the water system. The resulting ratio of plant is applied to the overall tax bill. The South Ft. Myers wastewater system should be allocated 24.94 percent of the property taxes applied to the South Ft. Myers water and wastewater combined plant. This percentage, when applied to the total property taxes owed by both systems ($414,832), results in an allocated amount of $103,450 to the wastewater system. The amount reported in the MFRs is $136,507. Thus, we find an adjustment of $33,057 to be appropriate.

MISCELLANEOUS SERVICE REVENUES

OPC witness Deward testified that during the test year, the utility recorded $44,414 in miscellaneous service revenues to the water division and did not allocate any of the miscellaneous service revenues to the wastewater division. He testified that an allocation of $11,024 of the subject revenues should be assigned to the South Ft. Myers wastewater division, based on the relationship of total water and wastewater revenues to total miscellaneous service charge revenues. This amounts to 24.82 percent of the total miscellaneous service revenues.

Utility witness Harrison testified that miscellaneous service revenues should not be included as wastewater revenues for the following reasons. First, the utility does not have Commission approved tariff sheets for wastewater miscellaneous service charges. Second, the miscellaneous revenues are attributable to water operations, not wastewater operations. Miscellaneous revenues are comprised primarily of connection and reconnection charges. Connection and reconnection charges for wastewater service are not possible since wastewater is not metered. This fact makes it illogical to attribute miscellaneous service revenues to wastewater operations.

On cross examination, staff counsel questioned utility witness Harrison regarding his testimony that the utility did not have approved tariff sheets for wastewater miscellaneous service charges. Staff counsel asked witness Harrison if the utility's presently approved wastewater miscellaneous service charges were listed in the MFRs on page 85. He also asked if South Ft. Myers Wastewater Tariff Sheet No. 24.0 reflected the approved miscellaneous service charges. As a result of the cross-examination, witness Harrison testified that he agreed that miscellaneous service charges had been approved for the South Ft. Myers wastewater division.

Utility witness Harrison is correct in that the water is metered while the wastewater is not. However, the physical action of turning a water meter on or off represents only an infinitesimal component of the miscellaneous service charge cost. Also, operating the meter triggers both water and wastewater services, by providing or discontinuing service to the customer.

In the instant case, which is a wastewater application only, we agree with OPC witness Deward that a portion of the miscellaneous service charge revenues should be allocated to the wastewater operations. Therefore, we find it appropriate that 24.82 percent, or $11,024, of the miscellaneous service charge revenues collected be assigned to the South Ft. Myers wastewater division.

INCOME TAX EXPENSE

This is a mathematical calculation based on the level of revenues and expenses approved by this Commission in this case. The appropriate amount of income tax expense included in the test year is $135,017.

Parent-Debt Adjustment

Pursuant to Rule 25-14.004, Florida Administrative Code, when a regulated utility is a subsidiary and the subsidiary and the parent file a consolidated income tax return, the subsidiary company's income tax expense is adjusted to reflect the amount of income tax expense of the parent company's debt which is incurred by investing in the equity of the subsidiary. Although South Ft. Myers is a subsidiary of Consolidated Water Company (CWC) who, in turn, is a subsidiary of Avatar Utilities, only a single parent-debt adjustment is necessary because the capital structure of CWC is being used in this case.

FCWC Witness Harrison, acknowledged that Rule 25-14.004 was applicable, but stated that according to his calculations no adjustment should be made. No other testimony was presented on this issue.

We disagree with Mr. Harrison's latter statement. Based on our determination of rate base and capital structure, we find that a parent debt adjustment in the amount of $7,097 is appropriate.

OPERATING INCOME

The adjusted income level, or the difference between the utility's test year revenues and operating expenses, shows the expected earnings amount (or loss condition) if current rates were retained. Based on previously discussed adjustments, the resulting income from wastewater system revenues would be $464,688.

TEST YEAR REVENUES

We calculated the test year revenues using projected usage for the test year and the rates that would have been collected if this application had not been filed. The adjusted test year revenue amount is $2,338,022.

REVENUE REQUIREMENT

In its MFRs, FCWC requested an increase of $592,480, an increase of 25.72%. Based on the adjustments discussed above, the annual revenue requirement for this utility before the rate case expense apportionment required by Section 367.0815, Florida Statutes, is $2,519,156. This revenue requirement represents an annual increase in revenue of $181,154 (7.75%).

Statutory Apportionment of Rate Case Expense

Section 367.0815, Florida Statutes, dictates that we apportion rate case expense between the utility and its customers to the extent that the approved rate increase is less than what the utility requested. "However," Section 367.0815 states, "no such apportionment shall be allowed if it will cause the utility's return on equity to drop below its authorized range."

In its brief, FCWC argues that the Commission should eschew Section 367.0815 because it requires the arbitrary disallowance of what is otherwise reasonable and prudently incurred rate case expense. We think that since we are required by law to make the apportionment adjustment, we should abide by the law.

First, we calculated the revenue requirement including the amount of rate case expense approved above. We then compared the revenue increase which we have approved herein to the amount the utility requested and derived a percentage difference between these two figures. We applied the percentage to the amount of approved rate case expense to determine the amount of rate case expense which is subject to the apportionment reduction. Since we used the formula method to calculate working capital, and since rate case expense is an O&M item, we made a corresponding reduction to working capital in rate base. To calculate the total revenue effect of apportionment, we added the amount of the potential reduction to rate case expense with the amount of the reduction to the return due to the rate base adjustment, including the tax effect, then escalated this amount for regulatory assessment fees (RAFs). The end figure represents the total decrease in revenue due to an apportionment adjustment to rate case expense.

After we calculated the total revenue effect of the adjustment, we had to determine whether by making the adjustment, we would reduce the utility's return on equity below its authorized range. The range on the overall rate of return is 9.45% to 10.02%. By our calculations, we would reduce the utility's return to 9.53% if we made the apportionment adjustment, and 9.53% is within the rate of return range mentioned above. Therefore, we have reduced the amount of rate case expense approved above by $18,987. The adjusted revenue requirement, which we hereby approve, is $2,500,169. Our calculation of the statutory adjustment to rate case expense is shown on the attached Schedule No. 4.

RATES AND CHARGES

Monthly Service Rates

We have calculated new rates designed to allow the utility to achieve the revenue requirement approved herein. We find that these new rates are fair, just, and reasonable, and are not unduly discriminatory. The utility's existing rates, its approved interim rates, its requested final rates, and the rates which we hereby approve are set forth below for comparison. We have designed these rates using the base facility charge (BFC) rate structure. The BFC rate structure allows the utility to more accurately track its costs and allows the customers to have some control over their bills. Each customer pays for his or her pro rata share of the fixed costs necessary to provide utility service through the base facility charge and pays for his or her usage through the gallonage charge.

WASTEWATER

RESIDENTIAL

Meter Size	Utility Present Rates	Commission Approved Interim Rates	Utility Proposed Final Rates	Commission Approved Final Rates
All Sizes	$12.61	$15.00	$13.32	$13.06
Gallonage Charge	$ 2.12	$ 2.52	$ 2.92	$ 2.25
Maximum Gallons	6M	6M	6M	6M
Minimum Bill	$12.61	$15.00	$13.32	$13.06
Maximum Bill	$25.33	$30.12	$30.84	$26.56

GENERAL SERVICE
(INCLUDES COMMERCIAL, MULTI-FAMILY AND PUBLIC AUTHORITY)

Meter Size	Utility Present Rates	Commission Approved Interim Rates	Utility Proposed Final Rates	Commission Approved Final Rates
5/8"x3/4"	$ 12.61	$ 15.00	$ 13.32	$ 13.06
1"	$ 30.60	$ 36.40	$ 33.30	$ 32.65
1 1/2"	$ 60.59	$ 72.07	$ 66.60	$ 65.30
2"	$ 96.57	$114.86	$106.56	$104.48
3"	$192.54	$229.01	$213.12	$208.96
4"	$300.49	$357.40	$333.00	$326.50
6"	$600.37	$714.08	$666.00	$653.00
Gallonage Charge (No Maximum)	$ 2.55	$ 3.03	$ 3.51	$ 2.70

RECLAIMED WATER (WASTEWATER) RATE
(NEW CLASS OF SERVICE)

Meter Size	Utility Present Rates	Commission Approved Interim Rates	Utility Proposed Final Rates	Commission Approved Final Rates
All Sizes	-	-	No Charge	No Charge
Gallonage Charge per 1,000 Gallons	-	-	$.13	$.13

The rates which we have approved herein shall be effective for meter readings taken on or after thirty (30) days from the stamped approval date on the revised tariff sheets. The utility shall submit revised tariff sheets reflecting the approved rates along with a proposed customer notice listing the new rates and explaining the reasons therefor. The revised tariff sheets will be approved upon our staff's verification that the tariff sheets are consistent with our decision herein and that the proposed customer notice is adequate.

Four Year Statutory Rate Reduction

Section 367.0816, Florida Statutes, states,

> The amount of rate case expense determined by the commission . . . to be recovered through . . . rate[s] shall be apportioned for recovery over a period of 4 years. At the conclusion of the recovery period, the rate[s] . . . shall be reduced immediately by the amount of rate case expense previously included in rates.

In its brief, FCWC argues that the Commission should question the soundness of such an automatic rate reduction made without reference to prudent expenses which may have increased since the rate order and which may not be recovered if rates are reduced. FCWC also urges that we exercise caution in devising any methodology to implement the rate reduction so as to ensure that customer growth does not unfairly inflate the revenue loss associated with the reduced rates.

We think that it is appropriate to make a rate reduction at the end of four years as provided by the above-quoted section. Accordingly, we have amortized the amount of allowed rate case expense over four years and then adjusted the altered revenue requirement for RAFs. By our calculations, at the end of the four-year recovery period, the utility's rates should be reduced to reflect a $8,225 reduction in revenues. The rates at the end of this period are shown on Schedule No. 5, which is attached hereto.

The utility shall file revised tariff sheets no later than one month prior to the actual date of the required rate reduction. The utility shall also 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 a pass-through rate adjustment, separate data shall be filed for each rate change.

Reclaimed Water Charge

In its MFRs, FCWC included $36,781 from reclaimed water sales as a part of the total projected test year revenues. It arrived at the $36,781 figure by estimating that it would sell 282,931,000 gallons of reclaimed water to three golf courses at a rate of $.13 per 1,000 gallons.

Utility witness Griggs testified that the three golf courses receiving the reclaimed water were Cypress Lake, Myerlea, and The Landing and that as far as he knew, the utility did not own any lines on the golf courses. Mr. Harrison testified that the rate of

$.13 per 1,000 gallons was proposed because it is what the county was charging for reclaimed water, and the utility wanted to be competitive with the county. Mr. Harrison further testified that the $36,781 in reclaimed water revenues, included in total revenues, would inure to the benefit of all the customers.

In its brief, OPC expressed agreement with the utility's proposed sales of reclaimed water if all revenues collected therefrom benefitted the customers. We think that, in light of the way revenues are accounted for by the utility, this will be the case.

In consideration of the above, we accept the utility's treatment of the projected $36,781 in reclaimed water revenues and approve the rate of $.13 per 1,000 gallons. However, the tariff sheet containing this rate should bear the caveat that the rate is available only to large volume users, such as golf courses. We think it safe to infer from the record that this type of water service is readily available only to large volume users like golf courses, but not to small commercial users, such as nurseries.

Service Availability Charges

In its MFRs, the utility did not request a change in its service availability charges. Mr. Harrison testified that he did not know off-hand what the CIAC level would be at build-out, but he provided a calculation for it in late-filed Exhibit No. 13. According to this exhibit, the CIAC level at build-out will be approximately 65.2 percent. We believe that this calculation is reasonably accurate.

Since the 65.2% level falls within the guidelines of Rule 25-30.580, Florida Administrative Code, we shall not at this time change the utility's current service availability charges.

Miscellaneous Service Charges

Rule 25-30.345, Florida Administrative Code, permits utilities to assess charges for miscellaneous services. The principal purpose of such charges is to provide a means by which the utility can recover its costs of providing miscellaneous services from those customers who require the services. Thus, costs are more closely borne by the cost causer rather than the general body of ratepayers. The Commission has encouraged utilities to establish charges for the following miscellaneous services:

INITIAL CONNECTION - This charge would be levied for service initiation at a location where service did not exist previously.

NORMAL RECONNECTION - This charge would be levied for transfer of service to a new customer account at a previously served location or reconnection of service subsequent to a customer requested disconnection.

VIOLATION RECONNECTION - This charge would be levied prior to reconnection of an existing customer after disconnection of service for cause according to Rule 25-30.320(2), Florida Administrative Code, including a delinquency in bill payment.

PREMISES VISIT CHARGE (IN LIEU OF DISCONNECTION) - This charge would be levied when a service representative visits a premises for the purpose of discontinuing service for nonpayment of a due and collectible bill and does not discontinue service because the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill.

The charges proposed by FCWC in this case are consistent with what we have approved in the past. The following table shows the present charges, the proposed charges, and the charges which we hereby approve.

WASTEWATER

	Present		Proposed		Commission Approved	
Type Charge	Bus.	After	Bus.	After	Bus.	After
Initial Connection	$10	$15	$15	$15	$15	$15
Normal Reconnection	$10	$15	$15	$15	$15	$15
Violation Reconnection	$10	$15	Actual Cost	Actual Cost	Actual Cost	Actual Cost
Premises Visit	$10	$15	$10	N/A	$10	N/A

Bus. = During Business Hours
After = After Business Hours

When both water and wastewater services are provided, only a single charge is appropriate unless circumstances beyond the control of the utility require multiple actions. If a utility must disconnect service to a wastewater-only customer, actual costs incurred may be recovered from the customer before service is restored. The new miscellaneous service charges are hereby approved and will become effective for service rendered on or after the stamped approval date on the revised tariff sheet.

REFUND OF EXCESS INTERIM RATES

By Order No. 25182, issued on October 9, 1991, the utility's proposed rates were suspended and interim rates were approved. Based on the projected test year billing determinants, the interim rates authorized will produce annual revenues of $2,765,572, which includes $11,024 in miscellaneous service charge revenues and $63,483 in guaranteed revenue charges, for a total of $74,507 in other revenues.

Our approved final revenue requirement is $2,500,169. However, this revenue figure includes $11,024 in miscellaneous service charge revenues, $36,781 in reclaimed water revenues, and $63,483 in guaranteed revenue charges, for a total of $111,288.

The reclaimed water revenues were not billed or collected during the period that interim rates were in effect, but we took the $36,781 in reclaimed water revenues into consideration in setting final rates. The utility cannot rebill its customers under the final rates and compare this total to the amount billed under the interim rates and refund the difference. The $36,781 in reclaimed water revenues has to be taken into consideration.

We think this problem may be solved one of two ways: (1) the utility may apply a percentage factor of 9.87%, plus interest, to the interim revenues collected by customer, and refund this amount; or (2) in making its computer comparison calculation, the utility may apply a percentage increase factor of 1.54% to the approved final rates and refund the difference plus interest. We think either method is acceptable. We emphasize that the 1.54% figure should be used only for the refund calculation. The refund shall be made with interest and in conformity with Rule 25-30.360, Florida Administrative Code.

CONCLUSIONS OF LAW

1. This Commission has jurisdiction to establish FCWC's rates and charges pursuant to Section 367.081, Florida Statutes.

2. As the applicant in this case, FCWC has the burden of proof that its proposed rates and charges are justified.

3. The rates approved herein are just, fair, reasonable, compensatory, not unfairly discriminatory, and set in accordance

with the requirements of Section 367.081, Florida Statutes, and other governing law.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the application of Florida Cities Water Company, South Ft. Myers, for an increase in its wastewater rates in Lee County is approved as set forth in the body of this Order. It is further

ORDERED that each of the findings made in the body of this Order are by reference incorporated herein. It is further

ORDERED that all that is contained in the schedules attached hereto are by reference incorporated herein. It is further

ORDERED that Florida Cities Water Company, South Ft. Myers, is authorized to charge the new rates and charges as set forth in the body of this Order. It is further

ORDERED that the rates approved herein shall be effective for meter readings taken on or after thirty (30) days after the stamped approval date on the revised tariff pages. It is further

ORDERED that the miscellaneous service charges approved herein shall be effective for services rendered on or after the stamped approval date on the revised tariff pages. It is further

ORDERED that prior to its implementation of the rates and charges approved herein, Florida Cities Water Company, South Ft. Myers, shall submit and have approved a proposed notice to its customers showing the increased rates and charges and explaining the reasons therefor. The notice will be approved upon Staff's verification that it is consistent with our decision herein. It is further

ORDERED that prior to its implementation of the rates and charges approved herein, Florida Cities Water Company, South Ft. Myers, shall submit and have approved revised tariff pages. The revised tariff pages will be approved upon Staff's verification that the pages are consistent with our decision herein. It is further

ORDERED that Florida Cities Water Company, South Ft. Myers, shall refund with interest as set forth in the body of this Order the excess interim rates it has collected. It is further

ORDERED that Florida Cities Water Company, South Ft. Myers, shall submit, within sixty (60) days of the date of this Order, an itemized report of the actual rate case expense incurred as set forth in the body of this Order. It is further

ORDERED that the docket may be closed upon our staff's verification that the utility has completed the required refunds and upon the utility's filing and staff's approval of revised tariff sheets.

By ORDER of the Florida Public Service Commission, this 28th day of April, 1992.

STEVE TRIBBLE, Director,
Division of Records and Reporting

(S E A L)

MJF

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

FCWC – SOUTH FT. MYERS DIVISION
SCHEDULE OF WASTEWATER RATE BASE
DECEMBER 31, 1991

SCHEDULE NO. 1–A
910477–SU

COMPONENT	TEST YEAR PER UTILITY	UTILITY ADJUSTMENTS	ADJUSTED TEST YEAR PER UTILITY	COMMISSION ADJUSTMENTS	COMMISSION ADJUSTED TEST YEAR
1 UTILITY PLANT IN SERVICE	$ 24,064,370	$ 0	$ 24,064,370	$	$ 24,064,370
2 LAND	6,327	0	6,327		6,327
3 NON–USED & USEFUL COMPONENTS	(5,829,068)	0	(5,829,068)	(1,534,647)	(7,363,715)
4 ACCUMULATED DEPRECIATION	(3,080,191)	0	(3,080,191)	(484,390)	(3,564,581)
5 ACQUISITION ADJUSTMENT – NET	1,638	0	1,638	(1,638)	0
6 CIAC	(10,027,870)	0	(10,027,870)	425,220	(9,602,650)
7 AMORTIZATION OF CIAC	2,267,252	0	2,267,252	(77,032)	2,190,220
8 DEBIT DEFERRED INCOME TAXES	0	0	0		0
9 ADVANCES FOR CONSTRUCTION	(10,374)	0	(10,374)		(10,374)
10 WORKING CAPITAL ALLOWANCE	162,594	0	162,594	929	163,523
RATE BASE	$ 7,554,678	$ 0	$ 7,554,678	$ (1,671,558)	$ 5,883,120

FCWC - SOUTH FT. MYERS DIVISION
ADJUSTMENTS TO RATE BASE
DECEMBER 31, 1991

SCHEDULE NO. 1-B
PAGE 1 OF 1
910477-SU

EXPLANATION	WASTEWATER
1. UTILITY PLANT IN SERVICE	
	$ 0
2. NON-USED AND USEFUL COMPONENTS	
A. Used and useful adjustment for treatment plant facilities	$ (1,534,647)
3. ACCUMULATED DEPRECIATION	
A. Used and useful adjustment for treatment plant facilities	$ (484,390)
4. ACQUISITION ADJUSTMENT	
A. Adjustment to remove unapproved acquisition adjustment	$ (1,638)
5. CIAC	
A. Adjustment to eliminate prepaid ERCs	772,350
B. Adjustment to offset margin reserve with prepaid ERCs	(347,130)
	$ 425,220
6. ACCUMULATED AMORTIZATION OF CIAC	
A. Adj. to eliminate acc. amort. of CIAC on prepaid ERCs	(174,429)
B. Adj. to restore acc. amort. of CIAC related with prepaid ERCs	78,396
C. Adjustment to reflect utility understatement per audit	19,000
	$ (77,032)
7. WORKING CAPITAL	
A. Adjustment to reflect changes in O & M expenses	929
	$ 929

FCWC - SOUTH FT. MYERS DIVISION
CAPITAL STRUCTURE
DECEMBER 31, 1991

SCHEDULE NO. 2-A
910477-SU

DESCRIPTION	ADJUSTED TEST YEAR PER UTILITY	WEIGHT	COST	UTILITY WEIGHTED COST	COMMISSION RECONC. ADJ. TO UTILITY EXHIBIT	BALANCE PER COMMISSION	WEIGHT	COST	WEIGHTED COST PER COMMISSION
1 LONG TERM DEBT	$ 3,673,160	51.77%	10.05%	5.20%	$ (989,735)	$ 2,683,425	45.61%	9.47%	4.32%
2 SHORT TERM DEBT	0	0.00%	0.00%	0.00%	0	0	0.00%	0.00%	0.00%
3 CUSTOMER DEPOSITS	0	0.00%	8.00%	0.00%	0	0	0.00%	0.00%	0.00%
4 PREFERRED STOCK	525,110	7.40%	9.00%	0.67%	329,889	854,999	14.53%	9.00%	1.31%
5 COMMON EQUITY	2,590,426	36.51%	13.11%	4.79%	(909,024)	1,681,402	28.58%	13.11%	3.75%
6 INVESTMENT TAX CREDITS	245,113	3.45%	11.04%	0.38%	(45,563)	199,550	3.39%	10.57%	0.36%
7 DEFERRED TAXES	61,089	0.86%	0.00%	0.00%	402,655	463,744	7.88%	0.00%	0.00%
8 TOTAL CAPITAL	$ 7,094,898	100.00%		11.04%	$ (1,211,778)	$ 5,883,120	100.00%		9.73%

RANGE OF REASONABLENESS	LOW	HIGH
RETURN ON EQUITY	12.11%	14.11%
OVERALL RATE OF RETURN	9.45%	10.02%

FCWC - SOUTH FT. MYERS DIVISION
ADJUSTMENTS TO CAPITAL STRUCTURE
DECEMBER 31, 1991

SCHEDULE NO. 2-B
910477-SU

	DESCRIPTION	SPECIFIC ADJUSTMENT (EXPLAIN) 1	SPECIFIC ADJUSTMENT (EXPLAIN) 2	PRO RATA RECONCILE 3	NET ADJUSTMENT 4
1	LONG TERM DEBT	$ 27,804,465	$ (3,231,000)	$ (25,563,200)	$ (989,735)
2	SHORT TERM DEBT	0	0	0	0
3	CUSTOMER DEPOSITS	0	0	0	0
4	PREFERRED STOCK	3,974,890	4,500,000	(8,145,001)	329,889
5	COMMON EQUITY	19,608,574	(4,500,000)	(16,017,598)	(909,024)
6	INVESTMENT TAX CREDITS	1,855,417	0	(1,900,980)	(45,563)
7	DEFERRED INCOME TAXES	4,402,571	417,867	(4,417,783)	402,655
8	**TOTAL CAPITAL**	**$ 57,645,917**	**$ (2,813,133)**	**$ (56,044,562)**	**$ (1,211,778)**

NOTE 1 - Adjustments in Column 1 relate to reconciliation to total capital struture per MFRs.
NOTE 2 - Adjustments in Column 2 relate to adjustments made by financial section(AFAD).

FCWC – SOUTH FT. MYERS DIVISION
STATEMENT OF WASTEWATER OPERATIONS
DECEMBER 31, 1991

SCHEDULE NO. 3-A
910477-SU

DESCRIPTION	TEST YEAR PER UTILITY	UTILITY ADJUSTMENTS	UTILITY ADJUSTED TEST YEAR	COMMISSION ADJUSTMENTS	COMMISSION ADJUSTED TEST YEAR	REVENUE INCREASE	REVENUE REQUIREMENT	ADJ FOR STATUTORY RC EXPENSE	REVENUE REQUIRED
1 OPERATING REVENUES	$ 2,303,323	$ 592,480	$ 2,895,803	$ (557,801)	$ 2,338,002	$ 181,154	$ 2,519,156	$ (18,987)	$ 2,500,169
OPERATING EXPENSES						7.75%			
2 OPERATION AND MAINTENANCE	$ 1,300,754	$ 0	$ 1,300,754	$ 7,433	$ 1,308,187	$	1,308,187	(17,834)	1,290,352
3 DEPRECIATION	273,565	0	273,565	(15,596)	257,969		257,969		257,969
4 AMORTIZATION	1,167	0	1,167	0	1,167		1,167		1,167
5 TAXES OTHER THAN INCOME	267,571	26,662	294,233	(58,158)	236,075	8,152	244,227	(1,153)	243,074
6 INCOME TAXES	(20,871)	212,917	192,046	(122,130)	69,916	65,101	135,017		135,017
7 TOTAL OPERATING EXPENSES	$ 1,822,186	$ 239,579	$ 2,061,765	$ (168,451)	$ 1,873,314	$ 73,253	$ 1,946,568	(18,987)	1,927,579
8 OPERATING INCOME	$ 481,137	$ 352,901	$ 834,038	$ (369,350)	$ 464,688	$ 107,902	$ 572,590	$ (0)	$ 572,590
9 RATE BASE	$ 7,554,678		$ 7,554,678		$ 5,883,120		$ 5,883,120		$ 5,883,120
RATE OF RETURN	6.37%		11.04%		7.90%		9.73%		9.73%

FCWC - SOUTH FT. MYERS DIVISION
ADJUSTMENTS TO OPERATING STATEMENTS
DECEMBER 31, 1991

SCHEDULE NO. 3-B
PAGE 1 OF 1
910477-SU

EXPLANATION		WASTEWATER
1. OPERATING REVENUES		
A. Adjustment to remove requested rate increase		(592,480)
B. Adjustment for miscellaneous revenue		11,024
C. Adjustment for error in billing analysis		(389)
D. Adjustment for rate indexing		24,044
	$	(557,801)
2. OPERATING AND MAINTENANCE EXPENSE		
A. Increase rate case expense		9,439
B. Decrease regulatory commission expense		(2,006)
	$	7,433
3. DEPRECIATION EXPENSE		
A. Used and useful adjustment		(34,731)
B. Adjustment for amortization of prepaid CIAC		34,756
C. Adj. for amort. of prepaid CIAC used as offset to margin reserve		(15,621)
	$	(15,596)
4. TAXES OTHER THAN INCOME TAXES		
A. Remove provision for added RAF taxes		(25,101)
B. Adjust property taxes for non used and useful		(33,057)
	$	(58,158)
5. INCOME TAXES		
A. Remove provision for increased income taxes	$	(122,130)
6. OPERATING REVENUES		
A. Additional revenues to achieve revenue requirement	$	181,154
7. TAXES OTHER THAN INCOME TAXES		
A. Adjustment for RAF taxes	$	8,152
8. INCOME TAXES		
A. Adjustment to reflect increased income	$	65,101
9. ADJ FOR STATUTORY RATE CASE EXPENSE		
A. Revenue adjustment		18,987
B. Adjustment for reduced expense		(17,834)
C. Adj. for taxes and regulatory assessment fees		(1,153)
	$	0

FCWC – SOUTH FT. MYERS DIVISION
RATE CASE EXPENSE REDUCTION PER
SECTION 367.0815, FLORIDA STATUTES
DECEMBER 31, 1991

SCHEDULE NO. 4
910477 -SU

DESCRIPTION			SEWER
REVENUE INCREASE PER COMMISSION			181,154
REVENUE INCREASE REQUESTED			592,480
% OF INCREASE RECOMM TO AMT REQUESTED			30.58%
PRUDENT RATE CASE EXPENSE AMORTIZATION			25,689 30.58%
STATUTORY LEVEL OF RATE CASE EXPENSE			7,854
TOTAL REDUCTION TO RATE CASE EXPENSE			(17,834)
EFFECT ON RATE BASE (1/8 O&M)	(2,229)		
RETURN REDUCTION ASSOC WITH RATE BASE			(217)
INCOME TAX EFFECT ON RATE BASE			(82)
TOTAL EXPENSE ADJUSTMENT GROSS-UP FOR RAF			(18,133) 0.955
TOTAL REVENUE ADJUSTMENT			(18,987)
TOTAL RAF ADJUSTMENT			(854)
AUTHORIZED NOI LESS: RATE CASE EXPENSE			579,380 (18,987)
ADJUSTED NOI			560,393
RATE BASE			5,883,120
GENERATED ROR			9.53%
RANGE OF OVERALL RATE OF RETURN	9.45%	TO	10.02%

SCHEDULE NO. 5
Page 1 of 1

Rate Schedule

SCHEDULE OF STAFF RECOMMENDED FINAL RATES AND RATE DECREASE IN FOUR YEARS

WASTEWATER

(MONTHLY RATES)

RESIDENTIAL

Meter Size	Commission Approved Rates	Rate Decrease
All Sizes	$ 13.06	$ .04
Gallonage Charge	$ 2.25	$ .01

GENERAL SERVICE

Meter Size	Commission Approved Rates	Rate Decrease
5/8" x 3/4"	$ 13.06	$ .04
1"	32.65	.11
1-1/2"	65.30	.22
2"	104.48	.36
3"	208.96	.71
4"	326.50	1.11
6"	653.00	2.22
Gallonage Charge	$ 2.70	$ .01