

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a Rate ) DOCKET NO. 910637-WS  
Increase in Pasco County by MAD ) ORDER NO. PSC-93-0295-FOF-WS  
HATTER UTILITY, INC. ) ISSUED: 02/24/93  
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The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
SUSAN F. CLARK

APPEARANCES:

F. MARSHALL DETERDING, Esquire, Rose, Sundstrom & Bentley, 2548 Blairstone Pines Drive, Tallahassee, Florida 32301, and

RANDALL C. GRANTHAM, Esquire, Cotterill, Gonzalez & Grantham, P.A., 1519 N. Dale Mabry, Suite 100, Lutz, Florida 33549  
On behalf of Mad Hatter Utility, Inc.

MR. TIMOTHY G. HAYES, Esquire, Hayes & Albrechta, P. A., 21859 State Road 54, Suite 200, Lutz, Florida 33549  
On his own behalf

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On behalf of the Citizens of the State of Florida

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On behalf of the Commission Staff

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On behalf of the Commissioners

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FINAL ORDER ESTABLISHING INCREASED RATES  
FOR WATER AND WASTEWATER SERVICE

BY THE COMMISSION:

CASE BACKGROUND

Mad Hatter Utility, Inc., (MHU or utility) is a class "B" utility located in Lutz, Florida. MHU owns and operates water and wastewater systems in three separate communities: Linda Lakes, Foxwood and Turtle Lakes. According to MHU's 1990 annual report, MHU serves 1,234 water customers and 1,231 wastewater customers.

On October 18, 1991, MHU completed the minimum filing requirements for a general rate increase and that date was established as the official date of filing for this proceeding. The approved test year for determining interim and final rates is the twelve-month period ended December 31, 1990. By Order No. 25589, issued January 9, 1992, the Commission suspended MHU's proposed rates and approved interim rates.

By Order No. 25589, we did not allow MHU to recover in interim rates the costs it incurred to interconnect the Foxwood and Turtle Lakes wastewater systems with Pasco County. We explained that we interpret §367.082, Florida Statutes, to require that interim rates be calculated based on historical data only, and the interconnect occurred outside the interim test year. Subsequently, on December 16, 1991, MHU filed a petition for an emergency limited proceeding. By Order No. 25711, issued February 12, 1992, in Docket No. 911206-SU, we allowed MHU to collect emergency, temporary rates, subject to refund, which were designed to allow MHU to collect sufficient revenues to pay Pasco County for bulk wastewater treatment. We reserved judgment on MHU's rates and the disposition of funds which we ordered held in escrow for this proceeding.

By Proposed Agency Action (PAA) Order No. PSC-92-0123-FOF-WS, issued March 31, 1992, we allowed MHU increased rates, required the refund of excess interim and emergency rates, reduced MHU's service availability charges, and found MHU in violation of several Commission rules. On April 21, 1992, Mr. Timothy G. Hayes filed a timely protest to the PAA Order. Pursuant to Mr. Hayes' protest, an administrative hearing in this matter was held on September 2

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and 3, 1992, in Land O' Lakes, Florida, and on September 25, 1992, in Tallahassee, Florida.

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

At the Prehearing Conference, the parties and our staff reached a number of proposed stipulations. We believe the stipulations are reasonable, and hereby accept them. The stipulations are shown below and are divided into two categories: (1) those where all parties and our staff agreed and (2) those where MHU and staff agreed, without Mr. Hayes or OPC participating in the stipulation or taking a position on the issue which was the substance of the stipulation.

In the former category are the following stipulations:

- (1) Test year rental expenses should be reduced by \$1,800 to remove expenses for renting a backhoe.
- (2) Long-term debt should be reduced by \$297,458 to reflect the retirement of debt.
- (3) The Foxwood, Turtle Lakes, and Linda Lakes water treatment plants and water distribution systems should all be considered 100% used and useful.
- (4) Test year expenses should be reduced by \$761 to remove dues and donations.
- (5) Advertising expenses should be reduced by \$750.
- (6) Test year expenses should be reduced by \$405 to remove Staff lunch and dinner expenses.

(7) Insurance expenses should be reduced by \$126 to remove the cost of vehicle insurance related to Scarecrow Utilities' use of Mad Hatter vehicles, and insurance expenses should also be reduced by \$189 to remove a portion of the DeLucenays' health insurance costs and allocate it to Scarecrow Utilities.

(8) The miscellaneous service charge for wastewater violation reconnections during regular business hours should allow the Utility to collect actual costs. All of the Utility's other miscellaneous service charges should remain unchanged.

(9) The Utility did not refund deposits and pay interest in accordance with Rule 25-30.311(4), (5) and (6), Florida Administrative Code. The Utility agrees to make the refunds and pay the interest that are due. Also, the Utility agrees to improve its deposit records so that all future refunds and interest payments are timely.

(10) General plant should be reduced by \$806 to reflect the shared use of facilities by a related company, Scarecrow Utilities. Accumulated depreciation should be reduced by \$183, and test year depreciation should be reduced by \$149.

(11) General plant, which the Utility assigned exclusively to the Foxwood water system, should be allocated among all of the Utility's water and wastewater systems. The allocation should be based on the systems' number of customers: 50.10% should be allocated to the water systems and 49.90% should be allocated to the wastewater systems, with the latter amount further allocated 96.3% to the Foxwood and Turtle Lakes wastewater systems and 3.70% to the Linda Lakes wastewater system. Accumulated depreciation and depreciation expense should also be adjusted accordingly.

(12) The Utility shall report to the Commission any future sales of abandoned land and shall also report any proposed rate reduction resulting therefrom.

(13) Chemical expenses should be reduced by \$485 per year to reflect the shutdown of the Foxwood and Turtle Lakes wastewater treatment plants.

(14) Sludge removal expense should be reduced by \$695 per year to reflect the shutdown of the Foxwood and Turtle Lakes wastewater treatment plants.

(15) Purchased power expense should be reduced by \$30,087 to reflect the shutdown of the Foxwood and Turtle Lakes wastewater treatment plants.

(16) Contractual accounting services should be reduced by \$27,912 to remove certain accounting fees.

(17) Requested rent expense should be reduced by \$487 to allocate a portion of rent expense to a related company, Scarecrow Utilities. The remaining \$12,902 should be shared by the Utility's systems based on the number of customers in the percentages set forth in Stipulation No. 12 above.

(18) Contractual engineering services should be reduced by \$23,346 to reflect the abandonment of the Foxwood and Turtle Lakes sewer treatment facilities.

(19) Taxes other than income taxes should be reduced by \$5,571 for penalties and discounts lost.

(20) The Utility should refund excess interim and emergency rates. The parties defer to the Commission as to the method for calculating the amount of the refund(s), if any.

In the latter category of stipulations, are the following:

(21) The Linda Lakes wastewater treatment plant and all three of the wastewater collection systems should be considered 100% used and useful.

(22) The Foxwood wastewater treatment plant should be considered 69% used and useful prior to abandonment, and the Turtle Lakes wastewater treatment plant should be considered 66% used and useful prior to abandonment.

(23) The following adjustments should be made to remove abandoned wastewater plant: plant-in-service should be reduced by \$634,281; land should be reduced by \$83,036; accumulated depreciation should be reduced by \$125,093; CIAC should be reduced by \$46,798. In addition, amortization of CIAC, depreciation expense, and plant-held-for-future-use should be adjusted accordingly.

(24) The allowance for purchased wastewater treatment should be calculated by multiplying 1990 test year flows for the Foxwood and Turtle Lakes treatment plants by the \$4.12/thousand gallons charge now assessed the Utility by Pasco County.

#### QUALITY OF SERVICE

Forty customers testified at the hearing in Land O' Lakes on September 2 and 3, 1992. A majority of the customers complained about the proposed rate increase, but many testified about specific quality of service problems. With regard to MHU's water service, the majority of the customers complained about excess chlorine. Several customers complained that the water was not clear or that water pressure was inconsistent. Some noted that they used bottled water because MHU's water was not drinkable. Still others questioned whether MHU was actually reading meters in light of the inconsistent use shown on their bills. A few customers complained of MHU's recent practice of soliciting payment from those customers with separate irrigation lines. With regard to MHU's wastewater service, the majority of customers expressed concern with the health and environmental consequences of MHU's effluent disposal problems. Several customers expressed dismay over what they perceived to be the utility's unresponsiveness to or lack of concern for health and safety, some even mentioned a sewage backup incident where raw waste was rinsed off a street and into storm drains. Finally, numerous customers complained about MHU's overdue deposit refunds.

Staff witness Barker, a water regulations compliance inspector with the Florida Department of Environmental Regulation (DER), testified on the subject of MHU's water quality. He stated that MHU's water treatment facilities and distribution systems were sufficient to serve its present customers; that MHU maintains the required 20 pounds per square inch minimum pressure throughout the distribution system; that the overall maintenance of the treatment plants and distribution system is satisfactory; that MHU's water

meets State and Federal maximum contaminant levels for primary and secondary water quality standards; that chemical analyses indicate no additional treatment is necessary; and that MHU maintains the required chlorine residual or its equivalent throughout its systems. In response to concerns about excess chlorine, Mr. Barker testified that while there is a state standard for minimum chlorine residuals, there is currently no state standard for maximum chlorine residuals.

The record reveals a fairly detailed history of MHU's problems with its percolation ponds at Foxwood and Turtle Lakes, particularly Foxwood. DER, the Pasco County Public Health Unit (PCPU) of the Department of Health and Rehabilitative Services (HRS), and the Florida Game and Freshwater Fish Commission (GFC) have all initiated legal action against MHU because of the percolation ponds. MHU's president, Mr. DeLucenay, emphasized that the ponds were permitted by DER and constructed in accordance with their permits. Mr. DeLucenay maintained, however, that the percolation ponds did not function properly because of the rising water table in the area, caused or exacerbated by a developer's failure to construct a water drainage structure which Pasco County required.

Mr. DeLucenay elaborated on the circumstances of the ponds' problems. He explained that a developer, DMT Associates, Inc., (DMT) was authorized by Pasco County to construct a planned unit development sometime around April, 1986. The plan required the developer to build a road through the Foxwood area and construct stormwater structures so that the surface and groundwater levels would remain as they were before the project began. The groundwater levels would have been unchanged if DMT had complied with Pasco County's requirements. However, DMT developed the land in the area, which surrounds the Foxwood wastewater effluent ponds, but did not build the required water control and drainage structures. During rainy periods from 1986 through 1991, the groundwater level rose and did not recede. At the time that DER issued the Foxwood wastewater treatment plant construction permit, the stated groundwater level was at an elevation of approximately 67.10 inches. After the development was constructed, the elevation of the water table level was about 72.30 inches. As a result, the Foxwood percolation ponds did not percolate as designed and permitted. The ponds filled and did not dry out. The utility could not perform the pond-bottom cleaning that was necessary, nor could it divert flows from the Turtle Lakes plant to the Foxwood plant in order to clean the Turtle Lakes ponds.

In support of MHU's claim that it was blameless as to the ponds' failure, Mr. DeLucenay sponsored the following documents in composite Exhibit No. 56: an Order entered by the 6th Judicial Circuit Court denying DER's petition for injunction against MHU, the recommended order of a Division of Administrative Hearings (DOAH) Hearing Officer to dismiss HRS's complaint against MHU for a sanitary nuisance, and HRS's final order on same complaint. Mr. DeLucenay noted, however, that charges filed by GFC against MHU are still pending.

In the Circuit Court's Order denying DER's injunction request, the Court states that "there has been no evidence presented that the Defendant, [MHU], has done anything improper or has failed to do something required" and that "the actual causation of the problem in the area which was the subject matter of this suit is the artificially high water level caused by the . . . stormwater drainage system." In the DOAH Hearing Officer's recommended order, he found that MHU's hydrological explanation was correct and that

[MHU's] consulting engineer, Robert William Griffiths, credibly testified that a number of agencies having oversight responsibility such as Pasco County, the Southwest Florida Water Management District and [DER], mandated that the drainage system be completed prior to the entire build-up of [Foxwood]. Despite the mandate, the drainage system was not completed and the County allowed the development to continue.

The Hearing Officer concluded, "The nuisance came about as a result of matters which were not in [MHU's] control," and he recommended dismissing HRS's complaint in its entirety. In its final order, HRS adopted the Hearing Officer's findings, but held that dismissal was inappropriate since it was shown that a sanitary nuisance existed. However, HRS agreed that the nuisance was not MHU's fault, so it imposed no fine.

From Mr. DeLucenay's testimony and composite Exhibit No. 56, the following other pertinent facts may be gleaned. The operating permit for the Turtle Lakes plant expired in May, 1991, and DER notified MHU that the permit would not be renewed. In August, 1991, DER sent MHU a Notice of Permit Revocation for Foxwood's permit. In an effort to solve its problems, MHU entered into a temporary bulk wastewater treatment agreement with Pasco County. Prior to the time that MHU's interconnection with the County system was scheduled to take place, Pasco County unilaterally completed



the interconnection. When MHU could not pay its bill, the County terminated service to MHU, who in turn diverted the wastewater from Foxwood and Turtle Lakes back through its own treatment plants and into the percolation ponds. Subsequently, Pasco County resumed service to MHU. MHU then entered into a Consent Order with DER wherein MHU agreed to shut down the Foxwood and Turtle Lakes treatment plants and percolation ponds and enter into a permanent bulk service agreement with the County. Staff witness Burghardt, a wastewater compliance inspector for DER, confirmed the substance of the Consent Order. Exhibit No. 31 is the bulk service agreement between MHU and the County.

Mr. Hayes called five witnesses to testify on the subject of MHU's percolation ponds. They were Mr Bruce Wirth, Director of Resource Projects at the Southwest Florida Water Management District (SWFWMD); Mr. Ken Barret, Enforcement Supervisor with SWFWMD; Sergeant Larry Vinson, an investigator for the GFC; Mr. William Burke, Health and Rehabilitative Services Environmental Health Specialist for the PCPU; and Mr. Glenn Thompson, Health and Rehabilitative Services Environmental Health Supervisor, PCPHU. The latter two witnesses testified as to their observations regarding the sanitary nuisance created by the percolation ponds' malfunctioning. Mr. Wirth testified that the ponds' malfunction was a violation of the Florida litter law and that Mr. DeLucenay was charged with such violation. Mr. Wirth and Mr. Barret testified regarding the hydrology of the area, and Mr. Wirth testified that he thought the stormwater system did not interfere with the operation of the percolation ponds.

In its brief, OPC emphasizes the customers' complaints and requests that MHU be penalized by a reduction to its return on equity. In his brief, Mr. Hayes stresses MHU's mishandling customers' deposits, its endangering public health and safety, its failure to operate the percolation ponds properly, its failure to fill out DER water reports properly, and its inconsistent use of chlorine, which was usually excessive. Mr. Hayes recommends that we take action to revoke MHU's certificate.

In making our determination of MHU's quality of service, we find the following considerations to have the greatest import: (1) MHU's water is meeting DER standards; (2) MHU's believable, and previously accepted, explanation for the malfunction of the ponds; and (3) MHU's curing the problems with its effluent disposal by interconnecting with Pasco County. Additionally, we note that in the stipulations above, MHU admitted it did not refund deposits and

pay interest in accordance with Rule 25-30.311(4), (5) and (6), Florida Administrative Code, and it agreed to improve its deposit records so that all future refunds and interest payments would be timely.

In consideration of the foregoing, we find that for the three water treatment plants and the Linda Lakes wastewater treatment plant, MHU's quality of service is satisfactory. For the Foxwood and the Turtle Lakes wastewater treatment plants, we find that the quality of service provided during the test year was unsatisfactory. However, since the Foxwood and Turtle Lakes wastewater treatment systems were closed in December, 1991, and the collection systems interconnected with Pasco County, we now consider the quality of service for those two systems to be satisfactory.

This latter finding notwithstanding, we have important concerns with MHU's overall quality of service and the performance of its management in light of the complaints of the customers, the events surrounding MHU's abandoning the Foxwood and Turtle Lakes wastewater treatment plants, and other facts elicited at the hearing, such as MHU's expenses for meals and materials and its charging unauthorized service availability charges. Accordingly, in a later section of this Order, we summarize those concerns and reduce the salary of MHU's president in response. This remedy, we believe, will have a direct and immediate impact equal to or greater than a reduction to the return on equity. We also believe it sends the proper signal to management to make improvements. Accordingly, we shall not implement OPC's recommendation to penalize MHU's return on equity. Further, in consideration of the above, we reject Mr. Hayes' recommendation to revoke MHU's certificate.

#### RATE BASE

Our calculations of the appropriate rate bases are depicted on Schedule No. 1-A for the water systems, on Schedule No. 1-B for the Foxwood and Turtle Lakes wastewater systems, and on Schedule No. 1-C for the Linda Lakes wastewater system. Adjustments appear on Schedule No. 1-D. 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.

Additionally, as is apparent from the analysis below, we have grouped all three of MHU's water systems as one for the purpose of calculating water rates. We have also combined the Turtle Lakes and Foxwood wastewater systems to arrive at a uniform rate for those systems, but have calculated stand-alone rates for the Linda Lakes wastewater system. MHU proposed this grouping in its MFRs, and none of the parties expressed opposition to it. We believe the grouping is appropriate, so we have adopted it.

#### Force Main - Proforma Plant

As noted above, DER has not renewed MHU's operating permit for the Turtle Lakes wastewater treatment plant and has revoked MHU's operating permit for the Foxwood plant. MHU agreed to interconnect with Pasco County as a bulk wastewater customer. Mr. DeLucenay explained that a small section of the Foxwood collection system was not integrated with the remainder of the system, and, thus, the effluent from that section of Foxwood could not immediately be directed to the County. Since the Consent Order entered into between DER and MHU required that all of MHU's Foxwood flows be delivered to the County, MHU had to integrate the previously unintegrated portion of Foxwood by constructing a force main. Mr. DeLucenay testified that the total actual cost of construction for this project was \$45,255. He explained that the main could have been installed for \$33,735, but Pasco County refused to allow MHU to cut open certain residential streets, so MHU had to jack and bore the main under those streets.

In consideration of the above, we have increased plant by the actual cost of the force main, \$45,255, increased depreciation expense by \$1,504, and increased accumulated depreciation by \$754.

#### Investment in Abandoned Plant

##### Allowance for Abandonment Loss

OPC witness Dismukes testified that it is not sound regulatory policy for the Commission to require the ratepayers to shoulder the costs of abandoning the Foxwood and Turtle Lakes wastewater treatment plants. MHU's weakened financial condition, she opined, is not a valid basis for allowing MHU to recover the abandonment loss, especially since MHU's financial position did not result from the plant abandonments alone. She also pointed out that MHU had considerable plant under construction which it now anticipates abandoning. MHU's debt service, she explained, is not only related

to plant which is in service, but to plant under construction as well.

In summary, Ms. Dismukes asserted MHU should not be allowed to recover the cost of the abandoned plants for the following reasons: (1) MHU offered no reason for requiring ratepayers to bear the cost of abandoned plant, other than the weakened financial position of the utility; (2) The customers should not be forced to be the insurer of utility facilities; and (3) MHU may have legal remedies against entities who caused the abandonment--remedies it did not pursue. In addition, if a loss were allowed, Ms. Dismukes proposed adjusting MHU's abandonment calculation to account for salvage value, which she stated was not considered. She also proposed a longer amortization period in order to lessen the impact on the customers.

MHU witnesses Nixon and DeLucenay provided detailed testimony and supporting exhibits regarding the circumstances of the abandonment, the regulatory theory that supports recognition of the loss, and the appropriate accounting treatment for the loss. According to Mr. Nixon, MHU was forced to abandon the Foxwood and Turtle Lakes wastewater treatment plants because it was not able to resolve its problems with DER and other regulatory agencies; thus, MHU had to interconnect with Pasco County and purchase wastewater treatment on a permanent basis. MHU is in such desperate financial straights, Mr. Nixon testified, that it has not been able to service its bank debt since January, 1990.

Mr. Nixon stated that since events beyond MHU's control forced MHU to abandon the plants on a permanent basis, MHU must be permitted to recover its loss on abandonment over a period of eight years. He explained that it has been Commission policy to allow recovery of the remaining book value of abandoned or obsolete plants over a reasonable period of time if the plant was prudently constructed and the need to retire or abandon the plant was reasonable. The construction of the Foxwood and Turtle Lakes wastewater treatment plants was specifically authorized by DER and the State as being in the public interest. The plants were constructed in the anticipation of wastewater service demands. However, Mr. Nixon claimed, MHU was compelled to abandon these plants as a result of factors beyond its control.

As detailed above, Mr. DeLucenay explained the hydrological reason for the ponds' malfunctioning. According to Mr. DeLucenay, the situation worsened over time, and when he became concerned with

the problem, he asked DER and the County to help, but to no avail. Mr. DeLucenay stated that during the 1991 flooding MHU tried to acquire a permit for alternative wastewater effluent disposal using drip field systems in Hillsborough County. MHU was granted a permit for the drip fields, but the people whose homes were located near the proposed site objected, and the permit was revoked.

On cross-examination by OPC, Mr. DeLucenay admitted that from 1985 to the present MHU and DMT have had common shareholders. Although Mr. and Mrs. DeLucenay apparently never held an interest in DMT, Mr. DeLucenay confirmed that various DMT principals at one time or another held a stake in MHU and that MHU is currently owned 50% by the DeLucenays and 50% by a principal in the now-defunct DMT. Mr. DeLucenay indicated that he had alerted one of the common shareholders to the problem regarding the stormwater structure, but never threatened any legal action against DMT. OPC witness Dismukes stated that DMT may have gone out of business sometime in 1989, but it was not dissolved until December, 1990.

Ms. Dismukes also testified that if MHU was a victim of poor government planning, bad permitting, or even agency infighting, it is not the duty of the customers to make the company whole. Ms. Dismukes opined that MHU should seek recovery of its abandonment costs from the third party wrongdoers that caused the abandonment. She continued that MHU may have legal remedies against the wrongdoers, but that the customers did not. Ms. Dismukes implied that MHU did not bring a suit against the developer because of the existence of common shareholder(s). However, during cross-examination, Ms. Dismukes admitted she is not an attorney and that she has no training which would qualify her to render legal advice. She also conceded that she never heard of a case in which a water and wastewater utility sued a regulatory agency.

In consideration of the above evidence, we believe that MHU is entitled to recover a loss on the abandoned plants. MHU designed its percolation ponds according to its permits, and it is relatively clear from the record that the problems with the ponds resulted from the lack of the stormwater structure. Although we question MHU's motives for not instituting legal action against the developer, it is uncontroverted in the record that the government agencies MHU contacted did little or nothing to help MHU before the problem with the ponds became serious. Furthermore, there is insufficient evidence in the record to establish that Mr. DeLucenay actually realized or should have realized the potential magnitude of the ponds' problems, in light of government inaction, at the

time the developer was still in business. We think it is purely speculation on OPC's part that MHU had a cause of action against any of the governmental entities involved. Finally, once the full import of the ponds' malfunctioning was recognized, we think MHU had little choice but to assent to a permanent interconnect with Pasco County. As part of the Consent Order MHU entered into with DER, MHU had to abandon the Foxwood and Turtle Lakes plants.

#### Calculation of Loss

Mr. Nixon testified that the loss in this case meets the test of prudence and is eligible for recovery. He prepared composite Exhibit No. 53, which contains his calculation for determining the amount of the loss and the recovery period. According to Mr. Nixon, the appropriate yearly amortization expense is \$51,362 and the total loss on abandonment is \$414,606.

Ms. Dismukes testified that MHU did not account for salvage value for the land or the plants in its loss calculations; MHU assumed that the land and the equipment were worthless. Ms. Dismukes stated that the land was not being abandoned in any real sense and thought it unlikely that the land was without value. If the Commission decides to allow MHU to recover the cost of abandonment, Ms. Dismukes concluded, it should not do so without scrutinizing the abandonment estimate and reducing the loss by an estimate of the salvage value of the plant and the market value of the land. On cross-examination, Ms. Dismukes agreed that she had little knowledge of whether there was a market value for used wastewater treatment package plants, like MHU's, and that she had no education, training, or experience in land valuation.

In rebuttal, Mr. DeLucenay sponsored two documents as part of composite Exhibit No. 56 which confirm MHU's assumption regarding salvage value. The first document is a letter to MHU from a company dealing in the purchase and resale of plant equipment. The letter states that MHU's equipment has no real salvage value. Mr. DeLucenay stated that the letter confirms what has been his own experience. No evidence contradicts this claim. Therefore, we shall not adjust MHU's figures for equipment salvage value. The second document Mr. DeLucenay sponsored is a letter from a local real estate broker who estimated the value of the abandoned land once the ponds are filled and returned to their original state. We note that the cost of restoring the land to the DER-required reclamation state would be more than the market value of the land.

Nonetheless, since MHU stipulated (in stipulation no. 12) that it would report to the Commission any future sale of the subject land and any proposed rate reduction resulting from same, we do not think it necessary to estimate salvage value for the land at this time.

If the Commission were to allow the abandonment loss, Ms. Dismukes proposed extending the amortization period from the eight years requested by MHU to fifteen years. Increasing the amortization period, she testified, would balance the interests of MHU and its customers, more fairly split the cost between the two, and lessen the impact on rates. Ms. Dismukes noted that under MHU's proposal, stockholders would be absorbing approximately 42% of the loss since they would be denied a rate of return on the loss being amortized. In its brief, OPC emphasizes that Commissions in other jurisdictions have amortized losses over extended periods under similar circumstances.

Mr. Nixon testified that MHU's proposed amortization period is based on Commission practice regarding determination of amortization periods and the Commission's proposed rule on such losses. Mr. Nixon agreed with Ms. Dismukes' statement regarding MHU's shouldering 42% of the loss under its proposal, but he maintains that MHU's proposal is already confiscatory and should not be made even more so by extending the amortization period to fifteen years. We agree with MHU that the proper amortization period is eight years.

#### Closure Costs

MHU requests that it be allowed to recover costs incurred to close the Foxwood and Turtle Lakes plant sites in accordance with DER requirements. MHU refers to these costs as closure costs. Mr. DeLucenay testified that closure costs would be \$23,167 for Foxwood and \$9,347 for Turtle Lakes. MHU witness Nixon sponsored Exhibit No. 53, which was a schedule of accounting for the closure costs. According to this exhibit, MHU advocates including 100% of the closure costs in the abandonment loss. Mr. Nixon and Mr. DeLucenay explained that the closure costs were (or are to be) incurred for sludge removal, dismantling the plant, materials, and similar expenses necessary to take the plants out of service. The expenses had to be incurred to comply with DER requirements, Mr. Nixon testified; they were not incurred for the purpose of making the land ready for sale and development. On cross-examination, Mr. Nixon was asked why MHU requested recovery of only the used and

useful portion of the plant loss but the entire amount of closure costs. He replied that the entire amount of the closure costs were incurred to meet DER requirements for sludge removal and other materials, which are all attributable to existing customers.

In its brief, OPC contends that MHU should not be allowed to charge rates which include the cost of restoring the treatment plant sites since those costs, like the investment in the abandoned plant, provide no benefit to the ratepayers. Since MHU imprudently failed to pursue a remedy for the problems that caused the plant abandonment, OPC argues that it would be unfair and unreasonable to pass either the plant loss or the closure costs on to the ratepayers.

We find it appropriate for MHU to recover the closure costs. The same reasoning we applied on the loss question pertains here. However, we do not agree with Mr. Nixon's view that there should be no used and useful adjustment to the closure costs. Just as the customers should be expected to pay for only the used and useful portion of the total plant loss, they should be expected to pay for only the used and useful portion of the appurtenant closure costs. In consideration of the above, we have reduced the closure costs by that portion of non-used plant.

#### Summary

In consideration of the above, we find that MHU's calculation of the loss is correct, with the exception of the adjustment to closure costs discussed above. Therefore, we hereby allow MHU a loss of \$400,535 to be amortized over an eight-year period at an annual amount of \$50,067. Our calculations appear in the chart below.



MAD HATTER - LOSS ON ABANDONMENT OF FOXWOOD/TURTLE LAKES

	<u>BALANCE</u> <u>12/31/90</u>	<u>USED &amp;</u> <u>USEFUL</u> <u>PERCENT</u>	<u>USED &amp;</u> <u>USEFUL</u> <u>AMOUNT</u>
<u>FOXWOOD</u>			
Plant in Service	\$513,017	69%	\$353,982
Land	83,021	100%	83,021
Accumulated Depr	(66,035)	69%	(45,564)
Est. closure costs	23,167	69%	15,985
Foxwood Loss	<u>\$546,751</u>		<u>\$407,424</u>
<u>TURTLE LAKES</u>			
Plant in Service	\$148,264	66%	\$ 97,854
Land	15	100%	15
Accumulated Depr	(69,059)	66%	(45,579)
CIAC	(81,145)	100%	(81,145)
Acc. Amort. CIAC	15,797	100%	15,797
Est. closure costs	9,347	66%	6,169
Turtle Lakes Gain	<u>\$ 23,189</u>		<u>\$ 6,889</u>
Combined Net Loss			<u>\$400,535</u>
Rate of Return			10.78%
Annual Return on Aband. Plant			\$ 43,178
Depr. on Aband. Plant - Foxwood			8,683
Depr. on Aband. Plant - Turtle Lakes			4,900
Amort. of CIAC - Turtle Lakes			<u>(3,936)</u>
Total Return & Expenses			<u>\$ 52,825</u>
Total Loss			\$400,535
Divide by Annual Return and Expenses			<u>52,825</u>
Amortization Period			<u>8</u>
Annual Amortization of Loss			<u>\$50,067</u>

Backhoe Purchased From Related Party

MHU included \$17,500 in rate base for a backhoe it purchased from a related party. Mr. Nixon testified that the \$17,500 purchase price on the utility's books was the current market value of the asset as estimated by a heavy equipment dealer.

OPC witness Dismukes testified that in an arm's-length transaction, it might be appropriate to include the appraised value of the acquired asset in rate base. However, where, as in this case, a utility purchases equipment from a related party, it would be more appropriate to use the lower of the net book value or market value. According to Ms. Dismukes, by using the lower of these two values, the Commission would be assured that rate base was not artificially inflated by a related-party transaction. Ms. Dismukes then testified that the appraised value of the backhoe should be reduced by 50% or \$8,750, since MHU had not earlier provided documentation showing the net book value of the backhoe.

After the hearing, MHU filed Late-filed Exhibit No. 55, a retail installment contract, warranty, and purchase order for the subject backhoe. These documents show that the backhoe was originally purchased by Mr. DeLucenay on February 18, 1987, for \$38,930 and that Mr. DeLucenay had apparently traded in equipment as part of a down payment. The exhibit does not show a calculation of net book value, but Mr. Nixon testified that, assuming a 12-year depreciable life, the net book value at the date of MHU's purchase was \$25,954.

In its brief, OPC asserts that the information in Late-filed Exhibit No. 55 is insufficient to show net book value at the date of MHU's purchase; the exhibit gives no information on the property traded in, and it does not show whether Mr. DeLucenay depreciated the entire value of the backhoe prior to transferring it to MHU. Under such circumstances, OPC advocates disallowing the entire \$17,500 cost of the backhoe. In the alternative, if the Commission believes an allowance for the backhoe is necessary, OPC recommends reducing the appraised value by 50%, thereby allowing only \$8,750.

Although we agree with Ms. Dismukes that related-party transactions require close scrutiny, we do not agree that the presence of such a transaction mandates our allowing in rate base the lower of net book value or market value. The appropriate test is whether the cost of the asset purchased from the related party is reasonable and prudent in light of the facts and circumstances

of the case. Further, we do not agree that Late-filed Exhibit No. 55 casts sufficient doubt on MHU's claim that the net book value of the asset at the time of transfer was \$25,954.

In consideration of the evidence on the record, we believe that the \$17,500 shown in the MFRs is a reasonable allowance for the backhoe.

#### Working Capital

MHU used the formula approach, or one-eighth of operation and maintenance expenses, to calculate working capital. The formula approach is what is required by the MFRs form, Form PSC/WAS 17, which is incorporated into Rule 25-30.437, Florida Administrative Code.

OPC witness Dismukes testified that she zeroed out MHU's working capital request. Even though she had not calculated a provision for working capital using the balance sheet approach, based on her review of MHU's balance sheet, she thought that the calculation would yield a negative working capital requirement.

In rebuttal, Mr. Nixon testified that §367.081(2)(a), Florida Statutes, requires the Commission to recognize a utility's requirements for working capital and, in his view, this does not mandate the use of a test year balance sheet to calculate working capital. Where a utility is not earning a fair return and, particularly where, as here, a utility is losing money, Mr. Nixon testified that the utility's balance sheet will always show depressed working capital. He conceded that the test year balance sheet provision for MHU would be zero but that, he said, does not represent MHU's working capital requirements. He concluded saying that the formula approach for calculating working capital is the best solution for dealing with the very complex problems of determining working capital when setting rates for the future.

In consideration of the evidence on the record, we believe that the only reasonable way to calculate a working capital requirement in this case is by using the formula method. The balance sheet method would produce a zero balance for working capital, and we do not believe this is reasonable in this case where working capital is undoubtedly needed.

In a later section of this Order, we find that the proper amounts for test year operating and maintenance expense are

\$234,744 for the water systems, \$442,258 for the Foxwood and Turtle Lakes wastewater systems, and \$13,295 for the Linda Lakes wastewater system. Therefore, we have included one-eighth of those amounts, \$29,343, \$55,282, and \$1,662, in the systems' respective rate bases for working capital.

Test Year Rate Base & Adjustment to Land

On November 13, 1992, MHU filed a Motion to Strike wherein it requested that the Commission strike all references in OPC's brief to an issue related to MHU's ownership of certain land. OPC filed a timely response, and by Order No. PSC-93-0135-FOF-WS, issued January 26, 1993, we denied MHU's motion. As a result of our ruling in that Order, we will consider whether the reclassification of certain land from MHU's wastewater operations to its water operations was proper and justified, but we will not question whether MHU owns the land. Our discussion on the reclassification question follows.

At the hearing, Mr. Steve Gordon, a customer of MHU, questioned why MHU reclassified \$153,662 in land from its wastewater operations to its water operations. He did not question whether MHU owned the land, only the reason it was transferred. He even referred to the staff audit report, Exhibit No. 40, which recognizes the transfer as a pro forma adjustment.

MHU witness Nixon, who prepared the MFRs and made the pro forma reclassification, appeared to have little knowledge as to whether the subject land was in fact used in the provision of water service and, hence, whether the reclassification was proper. OPC asked Mr. Nixon numerous questions regarding Exhibits Nos. 8 and 9, which consisted of OPC's Document Request No. 9 and MHU's response thereto. More specifically, Document Request No. 9 solicited all documents in MHU's possession which verified the contention that the \$153,662 of land previously booked to the wastewater operations should have been booked to its water operations. MHU's response consisted of a settlement statement and an unsigned quitclaim deed. MHU did not object to Exhibit No. 8's admission into evidence, nor did it object to the numerous questions regarding the reclassification posed to its witnesses.

On cross-examination by OPC, Mr. Nixon responded that the two documents produced in response to OPC's Document Request No. 9 were the only documents in his possession relevant to proving that the land in fact belonged to the utility's water operations. Mr. Nixon

conceded that one could not determine from the documents produced whether the land should be booked to the water or the wastewater operations. He also admitted that MHU probably should not have submitted the information it did in response to the OPC document request. Moreover, Mr. Nixon agreed that a notation in the legal description on the quitclaim deed refers to a wastewater lift station. On redirect, Mr. Nixon explained that, in his experience as a utility consultant, deeds usually do not describe the purpose of the land conveyed as being for water or wastewater.

Mr. DeLucenay, on cross-examination by Mr. Hayes, agreed that one parcel of land described on the quitclaim deed was used for wastewater service. However, Mr. DeLucenay never specified which of the described parcels were used for water service. In addition, MHU failed to present any other evidence to clarify whether all or some of the subject land was used for water service, apparently because it believed such evidence pertained to ownership, which it did not consider at issue.

In its brief, OPC argues that the Commission should not require ratepayers to pay for a return on property which has not been proven to be used and useful in the provision of water service. OPC asserts that the record contains no "substantial evidence upon which to find that the property in question belongs to the Utility's water operations."

In consideration of the evidence on the record, we are compelled to agree with OPC. We cannot verify from the evidence whether the land is used for the provision of water service or wastewater service. Thus, we cannot allow the land to be included in rate base for wastewater (where it was before the reclassification) any more than we can allow it to be included in rate base for water. We have, therefore, reduced land for the water system by \$153,662. Of course, MHU is not precluded from requesting that this land be included in rate base in any future proceedings; but, at that time, MHU must explicate the land's purpose and the reasonableness of the investment.

Upon accounting for all of the above adjustments, we find that the beginning-and-end-of-year test year average rate bases are \$204,307 for the water systems, \$280,211 for the Foxwood and Turtle Lakes wastewater systems, and \$4,689 for the Linda Lakes wastewater system.

### COST OF CAPITAL

We calculated MHU's cost of capital on a total company basis. Our calculation of the appropriate cost of capital is depicted on Schedule No. 2-A, and our adjustments are depicted 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. We have made a pro rata reconciliation of capital structure to rate base. The major adjustments are discussed below.

#### Cost of Equity

According to the adjusted capital structure shown on Schedule No. 2-A, the equity ratio for MHU is 7.01%. In the MFRs, Mr. Nixon used the leverage graph formula to calculate the cost of equity. MHU agreed to using the leverage graph formula in effect at the time of the Commission's vote, which is set forth in Order No. PSC-92-0686-FOF-WS, issued on July 21, 1992, which we took administrative notice of for this proceeding. Earlier in this Order, we addressed OPC's recommendation to reduce MHU's return on equity by one percent for its unsatisfactory service.

The appropriate rate of return on equity is 12.44%, and a range of reasonableness between 11.44% to 13.44% is authorized.

#### Deferred Taxes

OPC proposed adding to the capital structure deferred taxes which would have resulted if MHU had been a "C" corporation during the test year. At the hearing, OPC voluntarily withdrew that portion of Ms. Dismukes' testimony advocating the addition of deferred taxes. MHU witness Nixon explained that during the test year MHU was a subchapter "S" corporation and switched to a "C" corporation in 1991. He testified that MHU has no deferred taxes and, therefore, no deferred taxes should be considered in the capital structure. In consideration of the evidence, we find that no adjustment to the capital structure for deferred taxes is necessary.

#### Overall Rate of Return

We adjusted MHU's capital structure as specified above. In addition, we made a pro rata adjustment over all sources of capital to reconcile the capital structure with our approved rate base. We

then applied the cost rates shown on the schedules to the adjusted components in the capital structure and determined a weighted average cost of capital. As shown on the attached schedules, MHU's overall cost of capital is 10.78%, with a range of 10.71% to 10.85%.

#### NET OPERATING INCOME

Our calculations of net operating incomes are depicted on Schedule No. 3-A for the water systems, Schedule No. 3-B for the Foxwood and Turtle Lakes wastewater systems, and Schedule No. 3-C for the Linda Lakes wastewater system. Our adjustments are itemized on Schedule No. 3-D. 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.

#### OPERATION AND MAINTENANCE EXPENSE (O & M)

##### Salaries Expense

In its MFRs, MHU claims \$217,890 in test year salaries for eleven employees. The total shown in the MFRs exceeds actual test year salaries by \$114,840, the amount of a pro forma adjustment for wage increases and additional employees. In Exhibit No. 44, MHU reduced its salaries request to \$183,800 for eight employees.

OPC witness Dismukes testified that what the Commission allowed for salaries in its PAA Order was, in her view, reasonable. Although she explained that in adopting the PAA Order salaries, she relied on the expertise of the Commission and the staff, she also testified that she independently evaluated the PAA Order salaries by comparing them with those of other utilities. Based on her comparison between the PAA Order salaries and the salaries of utilities of comparable size, she thought the PAA Order salary provision of \$108,457 for four employees was reasonable.

Ms. Dismukes confirmed and agreed with the PAA Order's reduction to requested salaries to remove salaries for the following: (1) a resident engineer, because MHU already contracted for engineering services; (2) a financial liaison officer, whose duties overlapped those of the president; and (3) two operators and a laborer, because of reduced operating requirements.

MHU witness Doughty, the resident engineer, testified regarding the work he did for the utility, which related primarily to bookkeeping and financial matters. Both Mr. DeLucenay and Mr. Nixon testified about Mr. Doughty's work responsibilities and confirmed that his services were more related to financial matters than engineering matters. Mr. Nixon recommended allowing Mr. Doughty a salary of \$26,000. However, on cross-examination by OPC, Mr. Doughty acknowledged that not all of the nineteen work duties he enumerated in his testimony were recurring. We note that of the nineteen, only five (26%) appear to be recurring. We think Mr. Doughty performs some needed services for MHU, but we find it appropriate to allow only \$6,842 (26% of \$26,000) of the salary requested for Mr. Doughty.

OPC witness Dismukes acknowledged that the Commission could look to the testimony of the staff DER witnesses for guidance on adjusting salaries for operational requirements. Staff witness Barker testified that DER's rules require six visits per week including one weekend visit for water plants. Mr. Barker also testified that during each visit, plant measurements must be taken, reports to DER must be filled out, and a maintenance log must be maintained to record daily flows, pounds of chlorine used, and the chlorine residual.

MHU operates three water systems, which consist of six treatment plants and associated distribution systems. Therefore, MHU would be required to make a total of thirty-six weekly visits to water plants. In addition, MHU will continue to operate and maintain one wastewater treatment plant, thirteen lift stations, and a network of wastewater collection systems. A certified operator would be needed to perform maintenance on the aforementioned facilities. Staff witness Burghardt testified that MHU is required to have a certified operator make three visits a week at the Linda Lakes wastewater. Mr. DeLucenay testified that a dual certified water/wastewater operator would cost MHU approximately \$24,500 per year. In Exhibit No. 44, MHU also requested \$18,700 in wages for a laborer.

In its brief, OPC argues that the level of salaries expense MHU requested in its MFRs is dubious in light of the plant abandonments, which will mean fewer labor demands. We agree; however, we must strike a balance between those decreased labor demands and improving the quality of the customers' service. In its MFRs, MHU requested salaries for three operators and a laborer. In consideration of the above, we think MHU will require two



operators, one of whom would be the dual water/wastewater operator Mr. DeLucenay referenced. We also believe that MHU will still require a laborer for meter reading, grounds maintenance, hydrant flushing (MHU has approximately 150 hydrants), line repair assistance, meter installations, customer complaints, and other tasks. We shall therefore allow a salary of \$18,700 for a laborer. However, we shall not allow MHU salaries for the financial liaison, third operator, and part-time laborer requested in the MFRs, as we do not believe MHU has shown these employees are necessary.

OPC witness Dismukes testified that another utility, Scarecrow Utilities (Scarecrow), is operated by Mr. and Mrs. DeLucenay, MHU's principals, out of MHU's office. Ms. Dismukes testified that Mr. DeLucenay related he and Mrs. DeLucenay do not receive a salary from Scarecrow, but he reads Scarecrow's meters, Mrs. DeLucenay does billing work for Scarecrow, MHU's receptionist answered the phone for both companies, and MHU's operator maintained Scarecrow facilities on an emergency basis. Ms. Dismukes concluded that all assistance rendered to Scarecrow is provided by MHU's owners and employees. In the absence of time records showing the time MHU employees spent on duties for Scarecrow, and in consideration of the above facts, Ms. Dismukes advocated assigning 3.64% of MHU's salaries to Scarecrow because 3.64% of the total MHU and Scarecrow equivalent residential connections (ERCs) are Scarecrow ERCs. Ms. Dismukes also recommended corresponding adjustments to payroll taxes and worker's compensation.

Mr. DeLucenay and Mr. Nixon admitted that nearly all of the services required by Scarecrow are performed by the DeLucenays, but that those services were performed after hours at their home. Mr. Nixon testified that no allocation to Scarecrow is justified since all of the expenses incurred by MHU are necessary for its operation, regardless of Scarecrow. Mr. Nixon also stated that the DeLucenays recently hired a field person to operate Scarecrow, but Mr. Nixon admitted that this event took place outside of the test year.

In consideration of the above, we find it appropriate to allocate a portion of MHU's salaries to Scarecrow. The factor of greatest import, here, is that MHU did not keep, and therefore could not produce, time records in support of its position. Yet, Mr. DeLucenay admitted that MHU's employees devoted some time to Scarecrow, Mr. Nixon agreed to allocate telephone expenses to Scarecrow, and MHU stipulated to allocating general plant to Scarecrow. Therefore, we have allocated 3.64% of MHU's salaries to

Scarecrow and made corresponding adjustments to payroll taxes and worker's compensation.

Finally, we find it appropriate to reduce the salary of MHU's president because of our concerns with MHU's overall quality of service and the performance of its management. We think MHU's problems, which are discussed in various sections of this Order, cannot all be blamed on ill fortune. MHU had, in our view, suspect motives for not instituting legal action against the developer when MHU first noticed a problem; it mishandled customer deposits; and, for several years, it knowingly charged unapproved guaranteed revenue and service availability charges. We think it appropriate for the person ultimately responsible for the conduct of the corporate entity, its president, to be held accountable. In the MFRs, MHU requested \$65,000 for the president's salary. In Exhibit No. 44, it revised its request to \$52,000. In consideration of the foregoing, we shall allow only \$50,000 for the president's salary.

Taking into account the above adjustments, we find that total salaries is \$152,552, which is \$65,338 less than the \$217,890 requested in the MFRs. We have made corresponding adjustments to payroll taxes and worker's compensation.

#### Telephone Service Expenses

Exhibit No. 40, the staff audit report, reveals that MHU has two telephone lines, one for MHU and one for Scarecrow. For the test year, all telephone expenses incurred for both of these lines were charged to MHU. For the Scarecrow line, MHU paid \$2,312. In audit disclosure no. 4, the staff auditor stated that MHU did not maintain telephone logs to document which local or long distance telephone calls were made for which utility business. MHU was, therefore, unable to substantiate which charges were properly attributable to MHU, so the auditor recommended removing all expenses related to the Scarecrow line. MHU witness Nixon stated MHU agreed with this item from the audit.

In its brief, however, MHU argues a completely different position. It maintains that both telephone lines and long distance charges are primarily, and almost exclusively, for use in serving MHU customers. The audit adjustment, MHU asserts, appears to be based solely on the fact that the second phone line may have been listed under Scarecrow's name in the phone book, but any use of the line for Scarecrow is minimal and so rare as to be immaterial. MHU concludes that any allocation should be limited to 3.64%--the same

allocation made for other items to Scarecrow--since a minimum of two phone lines is needed for a utility of MHU's size.

We believe that the record does not support MHU's argument in light of MHU's own witness stating that he did not disagree with the audit adjustment. Therefore, we shall remove \$2,312 from test year telephone expenses.

On cross-examination by OPC, Mr. and Mrs. DeLucenay described other expenses MHU incurred for telecommunications, such as expenses for cellular phones, beepers, and radio phones. Late-filed Exhibit No. 6 reveals that \$1,982 was included in test year expenses for a cellular phone. Mr. DeLucenay agreed that some of the cellular telephone expenses were for personal purposes, but the phone was intended for business purposes. Mrs. DeLucenay testified that MHU does not keep a record of personal calls and that MHU does not have established procedures for reimbursing MHU for personal calls made on a cellular phone. According to Mrs. DeLucenay, a call made by her or her husband to their home could be for either business or personal purposes. On redirect, Mrs. DeLucenay stated that she and her husband own radio telephones, which they use exclusively for utility business.

In its brief, MHU argues that the cellular telephone expenses were necessary in order for MHU to operate efficiently, given the very low level of staffing MHU had during the test year. MHU also references the cover of Late-filed Exhibit No. 6, which indicates that to the extent that expenses for additional staffing are authorized, it may be reasonable to assume that the cellular telephone for Mrs. DeLucenay will no longer be necessary.

Upon review of the record, we believe MHU has not met the burden of showing that the cellular phones are reasonable and necessary, and we cannot determine the degree to which the cellular phones were used for personal or business purposes. It is evident from Late-filed Exhibit No. 6 that the cellular phone is the most expensive option of the four services shown on the bills. Since the DeLucenays' own radio phones, we think the use of those phones would be more prudent. Accordingly, we shall disallow the entire amount incurred in the test year for cellular phones.

In its brief, MHU argues that the remaining communications services are primarily for MHU business purposes, and to the extent that any of the services are used for Scarecrow or personal purposes, any adjustment would be immaterial. In its brief, OPC

advocates allocating a portion of these expenses to Scarecrow. However, we agree with MHU that any adjustments to these amounts would be immaterial, so we decline to make them.

In consideration of the above, we have reduced test year communications expense by a total of \$4,294.

Expenses for Financial Services

During the 1990 test year, MHU incurred \$14,663 for services provided by Carr & Associates to compile financial information required by MHU's debtholder. OPC witness Dismukes testified that Mr. DeLucenay indicated that these expenses would be recurring in nature, but she found no additional expenses beyond the services rendered in 1990. Ms. Dismukes added that MHU indicated in discovery responses that it had incurred somewhat similar expenses from Doughty & Associates (the same Mr. Doughty referred to earlier) during 1991. In her review, Ms. Dismukes found that of the total \$9,500 incurred for 1991, only a small amount appeared to be related to financial assistance. Ms. Dismukes accepted that 100 of the 380 total hours billed by Doughty & Associates were related to financial services. At \$25 per hour, the financial services portion of the invoice amounted to approximately \$2,500 per year. Ms. Dismukes opined that future need for financial projections would be smaller since MHU already has a base from which to work. Ms. Dismukes, therefore, concluded that MHU should be allowed a recurring expense of \$2,500 and that the remaining \$12,163 should be amortized over a four-year period.

Utility witness Nixon agreed with a four-year amortization period, but for the entire \$14,663 of the Carr & Associates expenses. Since MHU secured the services of Mr. Doughty, Mr. Nixon recommended allowing Mr. Doughty's entire salary, as Mr. Doughty would be performing the duties previously performed by Carr & Associates, among other things.

Both OPC and MHU agree that some portion of the Carr & Associates expense is non-recurring and should be amortized over four years. The dispute rests with the amount amortized and how (or whether) any annually recurring expense should be recovered. As to the latter, we believe that the record supports an annual allowance of \$2,500 for the compilation of the required financial data. As to the former, the record supports amortizing the remaining costs over four years. Thus, test year expenses are reduced by \$9,123.

Legal Expenses

In its MFRs, MHU lists \$19,537 in test year legal expenses. OPC witness Dismukes proposed reducing MHU's legal expenses by 70% because MHU failed to produce all of the test year legal bills OPC requested. She testified that with 70% of MHU's legal expenses removed, the amount left in the test year would likely be reasonable after all documentation was received.

Utility witness Nixon testified on rebuttal that he had reviewed all of MHU's legal invoices and concluded that of the \$19,537 originally requested, only \$9,705 should be included in test year expenses since \$9,832 in expenses were either unsupported or outside of the test year. On cross-examination, Mr. Nixon was questioned about Exhibit No. 15, which shows \$6,188 of legal fees billed by the law firm of Dykema & Gossett. Many of the services itemized on the bills reference "Connections," "Connection fees," and "Developer Agreement." Mr. Nixon responded that the bills he reviewed indicated that the related services were all general utility matters and should be recovered from the ratepayers. He testified that legal fees for preparation, processing, and advice relating to developer agreements normally are included by the Commission above the line but that guaranteed revenues were treated below the line. Mr. Nixon was unable to specifically identify what services were performed by Dykema & Gossett, and he made no effort to categorize the services listed on the bills into any category, such as general, service availability, or guaranteed revenues.

Mr. DeLucenay confirmed that the Dykema & Gossett firm handled only a limited number of issues for MHU. The most recent matter that the firm handled was to perfect title on some parcels of land purchased and then resold. When asked if the invoices in Exhibit No. 15 represent the title clearance work, Mr. DeLucenay thought that some of that work was included in the exhibit, but some of the work continued into 1991. Mr. DeLucenay could not explain what specific services were rendered for the invoices in the exhibit.

We find that MHU failed to adequately explain the bills in Exhibit No. 15. As noted above, the bills have many references to developer agreements and connections. Revenues associated with guaranteed revenues are recorded below the line, so legal expenses associated with arranging guaranteed revenues should also be recorded below the line. Also, some portion of these expenses apparently related to clearing title to land purchased and later resold, and we note that Mr. DeLucenay never specified whether the

land was used for the provision of water or wastewater services. Mr. DeLucenay should have had at least a working knowledge of what services the law firm provided, especially in light of the amount involved. In consideration of the above, we shall reduce test year legal expenses by the \$6,188 in fees billed by Dykema & Gossett, as well as by the \$9,832 recommended by Mr. Nixon. Therefore, total test year legal expenses is \$3,517.

#### Materials and Supplies

During the test year, MHU incurred expenses for materials and supplies related to the Foxwood and Turtle Lakes wastewater treatment facilities. OPC witness Dismukes testified that since the wastewater facilities will be abandoned in the future, the materials and supplies expenses should be removed from the test year expenses. MHU agreed to Ms. Dismukes' \$1,437 adjustment.

In its brief, OPC proposed an adjustment of \$1,413 to allocate administrative and customer related materials and supplies to Scarecrow. However, while the record indicates that MHU's facilities and other resources are used for Scarecrow, the record is silent with respect to administrative and customer related materials and supplies. Therefore, we do not believe that sufficient evidence was presented to support allocating administrative materials and supplies expenses to Scarecrow.

In its MFRs, MHU listed \$2,191 in meals and materials expenses for the test year. Exhibit No. 16 contains receipts relative to these expenses. Many of the receipts were for meals for MHU employees purchased at local eating establishments. Other receipts, according to Mr. DeLucenay, related to lunch and dinner expenses with developers, developer's engineers, and MHU's engineers. Mr. DeLucenay opined that expenses for lunches with consultants or engineers save MHU a substantial amount of money because by taking professionals out to lunch, MHU obtains advice without incurring professional fees. Exhibit No. 16 also contains receipts for expenses which Mr. DeLucenay explained were incurred so he could attend a funeral of a former employee in Michigan and receipts for dry cleaning, which Mr. DeLucenay said were for a business purpose because he needed clean suits for banking functions. Some of the receipts appear to be for office supplies.

In its brief, OPC argues that while some of the expenses included in Exhibit No. 16 may be legitimate business expenses that could be charged to customers, many of them are not. In the

absence of evidence proving which expenses are legitimate and which are not, OPC argues the benefit of the doubt should be given to the ratepayers and all of the expenses should be removed.

In its brief, MHU argues just the converse. MHU asserts that none of the parties presented or solicited testimony identifying which particular expenses were unreasonable. "To the extent there is some suggestion that any particular expenses are not appropriate for reimbursement by MHU's customers through their rates," MHU argues, "those individual expenses should be adjusted rather than the across-the-board elimination of all such expenses, as proposed by OPC."

We agree with OPC. Although some of the expenses in Exhibit No. 16 may be legitimate business expenses, it is nearly impossible for us to determine which ones are given the sketchy details of the information provided. MHU has the burden to justify that its expenses are reasonable and prudent. On this issue, there is sufficient doubt in the record as to whether all of the expenses should be paid for by the ratepayers, especially when we consider Mr. DeLucenay's testimony that he thinks dry cleaning bills should be paid for by MHU's customers. Accordingly, we have reduced test year materials and supplies expenses by \$2,191.

#### Transportation Expense

During the test year, MHU made some lease payments on Mr. DeLucenay's personal vehicle. Late-filed Exhibit No. 6 shows that \$5,257 was included in test year transportation expenses for such payments.

Mr. DeLucenay testified that MHU owns three vehicles: one used for transporting chlorine, one used by a field person installing meters and performing maintenance, and a third used as a primary service vehicle. Mr. DeLucenay stated that he drove his personal vehicle, the one for which the lease payments were made, when out on utility business. However, he also testified that he used this vehicle for personal as well as business purposes and that he maintained no records to distinguish between the two uses. Although he admitted he had no evidence other than his word to support it, Mr. DeLucenay claimed he used the vehicle for utility business approximately 99.9% of the time. However, he considered driving to and from work as utility related. Mr. DeLucenay pointed out that he is on call 24 hours a day. In his opinion, it was normal for someone on emergency call to either be provided with a

company vehicle or to be given some consideration for the use of his or her personal vehicle. He said the alternatives to the lease payments were the acquisition of another company vehicle or a mileage charge for the use of his personal vehicle, which he thought would cost the customers much more.

In its brief, OPC argues that since Mr. DeLucenay maintained no records distinguishing his personal use of this vehicle from his business use, the customers should not have to reimburse Mr. DeLucenay for use of this vehicle. Secondly, OPC argued that there was no need for MHU to lease this vehicle from Mr. DeLucenay during the test year given the size of the utility and the three vehicles it already has.

We agree with OPC. It would be inappropriate to have the customers reimburse Mr. DeLucenay for personal use of his own vehicle; he undoubtedly used the vehicle, at least in part, for personal uses, which we believe includes driving to and from work. Further, we think the vehicle which Mr. DeLucenay referred to as the primary service vehicle could be used by someone on 24 hour call. Accordingly, we have reduced test year transportation expense by \$5,257.

In its brief, OPC recommends that a portion of transportation expenses should be allocated to Scarecrow. OPC cogently argues that since vehicles are included in rate base as a part of general plant and all parties agree that a portion of vehicle cost in general plant should be allocated to Scarecrow, logic would dictate that the expenses related to those vehicles also be allocated. Using the same allocation factor, OPC advocates a \$828 reduction to transportation expenses as Scarecrow's allocated share. We again agree with OPC.

In consideration of the above, we have reduced test year transportation expense by a total of \$6,085.

#### General Liability Insurance

Utility witness Nixon testified that there might be a reduction in general liability insurance as a result of MHU's retiring the Foxwood and Turtle Lakes wastewater treatment plants. Mrs. DeLucenay testified that she inquired of the insurance carrier about that possibility and she was told MHU would receive a \$734 reduction in its premium. Late-filed Exhibit No. 10 confirms this



amount. In consideration of the foregoing, we have reduced test year general liability insurance expense by \$734.

#### Rate Case Expense

In its MFRs, MHU requested \$62,500 in rate case expense for expenses up through the PAA stage of the case. Exhibit No. 53 includes a prefiled document labeled RCN-9 which shows MHU's actual costs and estimated costs for completion as of August 31, 1992, to be \$153,241. MHU also submitted Late-filed Exhibit No. 54 wherein MHU updates RCN-9 to reflect total rate case expense, including actual and estimated costs for completion, to be \$188,335. This total consists of \$69,233 for accounting services, \$111,247 for legal services, \$1,796 for engineering services, and \$6,059 for filing fees and other expenses.

In its brief, OPC proposes adjustments to MHU's requested rate case expense. Specifically, OPC recommends disallowing \$5,670 in costs associated with Mr. Grantham's representing MHU. OPC states, "It is neither fair nor appropriate for Mad Hatter's customers to pay for the legal representation associated with Mr. DeLucenay's alleged criminal activities." OPC then recommends allowing only 25% of MHU's remaining \$142,669 in rate case expense since the majority of the activity in this case was a function of the plant abandonment, which OPC asserts MHU had undertaken imprudently. If the Commission did not agree with the latter adjustment, OPC suggested amortizing the \$142,669 expense over 15 years or over whatever period is employed for amortizing the abandonment loss.

In his brief, Mr. Hayes argues that all rate case expenses related to the "continued certification" portion of the proceeding should be eliminated. He also asserts that rate case expense attributable to educating Mr. Deterding about the case after he replaced Mr. Rose of the same law firm should be disallowed. Mr. Hayes also suggests reducing that portion of legal rate case expense attributable to two motions filed by MHU which the Commission denied. Mr. Hayes did not specify dollar amounts for these reductions, nor did he propose any methods for arriving at them.

According to RCN-9 and to Mr. Nixon, Mr. Grantham participated in this rate case because he had considerable, previously acquired knowledge of the circumstances surrounding MHU's abandonment of the Foxwood and Turtle Lakes wastewater treatment facilities and because having Mr. Grantham present was the most cost-effective way

to deal with the witnesses that Mr. Hayes intended to call. Mr. Grantham represented MHU in Circuit Court proceedings concerning MHU's alleged non-compliance with the consent judgment requiring abandonment, and he represented MHU before a DOAH Hearing Officer in HRS's complaint regarding an alleged sanitary nuisance. MHU prevailed in both cases. Both cases had factual issues and witnesses common to this case, Mr. Nixon explained, and Mr. Rose would have spent a good deal of time familiarizing himself with what Mr. Grantham already knew.

We agree with Mr. Nixon. Since Mr. Grantham was familiar with the witnesses sponsored by Mr. Hayes and the substance of what those witnesses might say, we think it was reasonable for MHU to pay Mr. Grantham the sum it did. Furthermore, we are unsure whether OPC opposes Mr. Grantham's fee because his presence related to matters that were essentially irrelevant to this proceeding or because the real purpose for Mr. Grantham's presence was to protect Mr. DeLucenay's interests in a collateral criminal investigation. We note, however, that Mr. Nixon testified that rate case expense does not include charges for Mr. Grantham's time to defend MHU in other proceedings or to defend Mr. DeLucenay in any criminal prosecution. We believe Mr. Grantham's presence was supported and his fee was reasonable.

We reject OPC's recommendation to allow only 25% of rate case expense. OPC makes that recommendation because it claims that only 25% of rate case expense did not relate to the abandonment, which OPC claims resulted from mismanagement and imprudence. Above, we find that MHU's abandonment was prudent and allow MHU to recover the resulting loss. Therefore, we do not think it would be appropriate to disallow rate case expense related to MHU's defending its position in this area. Further, OPC does not explain how it arrived at the 25% figure. Even if we were to agree that an adjustment was appropriate, we would be concerned with making such a broadbrush disallowance without an explanation supporting the figure used.

Similarly, we must reject Mr. Hayes' suggestion that we disallow rate case expense associated with MHU's defense against possible penalties for regulatory violations. Mr. Hayes proposes no specific amount or methodology for arriving at an adjustment. Additionally, we find no significance to Mr. Hayes' argument that were it not for his protest to our PAA Order, the issues concerning violations and a penalty would have been considered in a separate proceeding. The violations and penalty issues were issues properly

considered at the hearing, and many aspects of the violations were inextricably intertwined with other issues in the case, such as quality of service and abandonment.

OPC proposes to amortize rate case expense over 15 years or over the amortization period for the abandonment loss. Although OPC does not enunciate a rationale for its proposed amortization period, we assume OPC would argue that since most of the rate case expense was attributable to the abandonment loss issue, rate case expense should be amortized over the same period and that the extended period would lessen the impact on the ratepayers. OPC's rationale notwithstanding, since § 367.0816, Florida Statutes, prescribes that allowed rate case expense be apportioned for recovery over four years, we do not think OPC's recommendation is appropriate.

We do not agree with Mr. Hayes' suggestion to disallow rate case expense associated with two MHU motions we denied, as there has been no showing that such motions were unreasonably or imprudently undertaken. However, we find cause for concern with Mr. Hayes' other suggestion regarding additional rate case costs attributable to MHU's switching attorneys from Mr. Rose to Mr. Deterding (of the same firm) after the August 17 prehearing, but before the September 2 and 3 hearing.

The invoices from Mr. Rose's and Mr. Deterding's law firm do not indicate the name of the attorney who performed the services itemized. Comparing RCN-9, contained in Exhibit No. 53, with Late-filed Exhibit No. 54, we note that total legal expenses went from \$85,385 as of August 31, 1992, to \$111,247 as of October 9, 1992--a \$25,862 difference. To further illustrate, the estimate for legal expenses required to complete the case increased by 60 hours from one exhibit to the other. According to Late-filed Exhibit No. 54, the increase to estimated costs are accounted for as follows: 10 additional hours to review Mr. Hayes' brief, 3 additional hours to review the staff recommendation, 8 additional miscellaneous hours, and 39 hours for a petition for reconsideration.

We can conceive of only three reasons why legal rate case expense would have increased by so much from one exhibit to the next: (1) the Commission's allowing the testimony from the five witnesses called by Mr. Hayes (none of whom prefiled testimony), (2) the one additional day of hearing required (in Tallahassee on September 25), and (3) MHU's changing attorneys. The record is devoid of any other explanations. For clarity, however, we note

that Mr. Hayes' brief was only some seven-and-a-half pages of substance and that we consider a petition for reconsideration a possibility only, not a certainty, and, as such, something we normally do not allow in rate case expense.

As discussed above, we allowed Mr. Grantham's entire fee in rate case expense. His fee includes the time he spent at the hearing cross-examining the five witnesses and his contribution to MHU's brief. Therefore, we do not think that any fees in addition to Mr. Grantham's should have been required on account of the five witnesses sponsored by Mr. Hayes. In addition, we think the one additional day of hearing should have accounted for only a fraction of the increase in legal fees. Legal fees for the additional hearing day should not have been much more than \$2,160, 16 hours for the attorney to prepare for and appear at the final hearing day at the rate of \$135 per hour.

The only remaining explanation for the increase is MHU's changing attorneys. The reason for the change is unexplained and unjustified on the record. The increase in fees which we conclude resulted from the change must, therefore, be disallowed. Accordingly, we have increased the amount of total rate case legal fees listed in RCN-9 (contained in Exhibit No. 53) by an allowance for an extra day of hearing. Total rate case legal fees is \$87,304.

Comparing RCN-9 with Late-filed Exhibit No. 54, we also note that total accounting and other rate case expenses increased by \$7,053 and \$2,179, respectively, between the dates of the two exhibits, August 31, 1992, and October 9, 1992. Since we do not believe that these dramatic increases could reasonably be attributable to an extra day of hearing, we find it appropriate to reduce these amounts as well.

Beginning with the \$62,180 shown for accounting fees in RCN-9, we will exclude \$468 attributable to Mr. Nixon's assistant, who was present at the Land O' Lakes portion of the hearing. We do not think the assistant's presence was justified on the record. To the difference, we added an appropriate amount for the extra day of hearing: \$1,170 (10 hours at \$117 per hour) for Mr. Nixon's preparation for and attendance at the last day of the hearing and \$350 in expenses for Mr. Nixon to travel to Tallahassee. The sum, \$63,232, is our total allowance for accounting rate case expense allowance. Finally, we do not think the \$2,179 increase in other

rate case expenses was justified. Therefore, total allowed other rate case expenses allowed is the amount shown in RCN-9, \$5,676.

The burden to prove entitlement to an expense is on the utility, and with respect to the areas addressed above, MHU failed to meet that burden. Therefore, based on our past experience in determining reasonable rate case expense and our evaluation of the record as a whole, we find that a reasonable allowance for rate case expense is \$156,212, which is \$32,123 less than the \$188,335 requested in Late-filed Exhibit No. 54. Allowed rate case expense shall be amortized over four years and allocated annually in the following manner: \$11,737 for the water systems, \$11,258 for the Foxwood/Turtle Lakes wastewater systems, and \$433 for the Linda Lakes wastewater system.

The utility shall submit a detailed statement of the actual rate case expense it incurred within 60 days after the final order is issued, or if applicable, within sixty days after the issuance of an order entered in response to a motion for reconsideration of such final order. The information should be submitted in the form prescribed for Schedule B-10 of the MFRs.

#### TAXES OTHER THAN INCOME TAXES

We have reduced taxes other than income taxes by \$13,325 to remove property taxes associated with the abandoned plants. Consistent with the salary adjustments made above, we have reduced payroll taxes by \$6,009 and worker's compensation by \$1,633.

#### INCOME TAX EXPENSE

The appropriate allowance for income tax expense is an arithmetical calculation based on the resolution of other issues in this case. In consideration of the adjusted capital structure, revenues, and expenses we calculate that the appropriate amounts of test year income tax expense are \$437 for the water systems, \$599 for the Foxwood-Turtle Lakes wastewater systems, and \$10 for the Linda Lakes wastewater system.

#### TEST YEAR OPERATING INCOME

Test year operating income, before increased revenues, is negative for all three service groups: (\$43,011) for the water systems, (\$199,689) for the Foxwood-Turtle Lakes wastewater systems, and (\$5,319) for the Linda Lakes wastewater system.

#### REVENUE REQUIREMENT

In its MFRs, MHU requested annual revenues of \$411,774 for the water systems, \$765,664 for the Foxwood-Turtle Lakes wastewater systems, and \$18,031 for the Linda Lakes wastewater system. Based on the adjustments discussed above, we find that the appropriate annual revenue requirements for this utility are \$318,153 for the water systems, \$586,120 for the Foxwood-Turtle Lakes wastewater systems, and \$15,924 for the Linda Lakes wastewater system. These revenue requirements represent annual increases of \$84,785 (36.33%) for the water systems, \$299,699 (104.64%) for the Foxwood-Turtle Lakes wastewater systems, and \$7,593 (91.14%) for the Linda Lakes wastewater system.

#### RATES AND CHARGES

##### Monthly Service Rates

In its MFRs, MHU requested uniform rates for all its water systems. Further, in contemplation of interconnecting with Pasco County, MHU requested uniform wastewater rates for Foxwood and Turtle Lakes, but stand-alone rates for Linda Lakes. Utility witness Nixon testified in support of this grouping, and none of the parties expressed opposition to it. We find this grouping efficient and appropriate, and we, therefore, approve uniform water rates for all three of MHU's water systems, uniform rates for the Foxwood and Turtle Lakes wastewater systems, and a stand-alone rate for the Linda Lakes wastewater system.

The new rates are designed using the base facility charge (BFC) rate structure, which MHU proposed in its MFRs. As MHU witness Nixon testified, the BFC rate structure allows the customers to have some control over their bills. Under the BFC rate structure, each customer will pay his or her pro rata share of the fixed costs necessary to provide utility service through the base facility charge and will pay for his or her usage through the gallonage charge. Further, under the uniform water rates, residential, general service, and multi-residential customers are treated equally based on meter size.

In its MFRs, MHU also proposed a uniform residential wastewater gallonage cap of 10,000 gallons per month for all three systems. Utility Witness Nixon testified that 10,000 gallons per month is the appropriate residential wastewater gallonage cap for

all three wastewater systems. However, he admitted he did not specifically consider a lower cap and that the customer base was predominantly single family residences. He agreed that if a lower cap would produce a lower maximum bill, he would accept it. We have reviewed MHU's billing analysis in Exhibit No. 5 and conclude that 88% of all wastewater billed during the test year was 8,000 gallons or less per month. Therefore, we believe it is appropriate to set the residential wastewater gallonage cap at 8,000 gallons per month for all three systems. There is no cap on usage for general service wastewater bills. The differential in the gallonage charge for residential and general service wastewater customers recognizes that a portion of a residential customer's water usage will not be returned to the wastewater system.

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, interim rates, emergency rates (as applicable), the utility's requested final rates, and the rates which we hereby approve are set forth on Schedule No. 4, pages 1-3, for water and Schedule No. 5, pages 1-3, for wastewater.

The rates which we have approved 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.

Accordingly, we have amortized the amount of allowed rate case expense over four years and then adjusted the altered revenue requirement for regulatory assessment fees (RAFs). By our calculations, at the end of the four-year recovery period, the utility's water revenues should be reduced by \$20,488, its Foxwood-Turtle Lakes wastewater revenues should be reduced by \$19,650, and its Linda Lakes wastewater revenues should be reduced by \$755. The rate reductions at the end of this period are shown on Schedule No. 6 for water and Schedule No. 7, pages 1-2, for wastewater.

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.

#### Service Availability Charges

Rule 25-30.580, Florida Administrative Code, states that a utility's service availability policy must be designed such that the maximum amount of contributions-in-aid-of-construction (CIAC), net of amortization, does not exceed 75% of the total original cost, net of accumulated depreciation, of the utility's facilities and plant when the facilities and plant are at their designed capacity. The Rule also states that the minimum amount of CIAC should not be less than the percentage of such facilities and plant that are represented by the water transmission and distribution system and/or wastewater collection system.

MHU witness Mrs. DeLucenay testified that MHU's accountant, Mr. Nixon, prepared a report that indicated MHU's CIAC levels were at or near the levels specified by the Commission's Rule. In its brief, MHU maintains that CIAC levels for water and wastewater are within the Rule guidelines. Mrs. DeLucenay also testified that MHU's failure to request meter installation fees for all its systems in this proceeding was an oversight. When asked what effect it would have on MHU if it were not allowed to collect meter installation fees, Mrs. DeLucenay testified that MHU simply did not have the money to pay for meters up front. Mr. Nixon testified that it was absolutely essential that MHU be allowed to at least charge for meters and installation.



MHU's current service availability tariffs are contained in Exhibit No. 46. The tariffs indicate that for Linda Lakes, Foxwood, and Turtle Lakes wastewater systems, developers were required to donate to MHU all on-site transmission and distribution and/or collection facilities. However, only Turtle Lakes had any other authorized charges. It was authorized to charge a \$250 water and \$650 wastewater plant capacity charge, and the following meter installation fees:

<u>Meter Size</u>	<u>Meter Installation Charge</u>
5/8" x 3/4"	\$ 90.00
3/4"	\$120.00
1"	\$175.00
1 1/2"	\$250.00
2"	\$325.00
3"	\$500.00

As is detailed below, in addition to these charges, MHU collected unauthorized service availability and guaranteed revenue charges.

By our calculations, as of December 31, 1990, MHU's company-wide contribution level was 83.19% for water and 79.91% for wastewater, excluding abandoned plant from the formula. These levels exceed the guidelines of Rule 25-30.580, Florida Administrative Code. Since MHU's CIAC levels exceed the 75% maximum prescribed in the Rule, we order MHU to discontinue collection of all service availability charges, authorized and unauthorized, except meter installation fees. Meter installation fees are simply a cost recovery item, and their continued collection will not actively increase the existing level of CIAC. Therefore, we shall allow MHU to implement the current Turtle Lakes meter installation fees for Foxwood and Linda Lakes. All other tariffs containing service availability charges shall be cancelled effective on the date of this Order. MHU shall submit revised tariff sheets for the meter installation fees, and such tariffs will be effective for connections made on or after the stamped approval date of the tariffs.

The February 11, 1992, bulk treatment agreement between the utility and the County, Late-filed Exhibit No. 31, addresses impact fees according to certain groups of customers: new development, existing development, and committed development. New development within MHU's service area will pay the county's charges for retail

utility customers. These fees are to be paid to the County prior to connection to MHU's system and will be collected by the County. Existing development presently connected to MHU's system will not be required to pay any additional charges. Committed development, where fees for that development had been paid or partially paid to MHU, would not be required to pay additional fees to the County. However, any developers who have partially paid MHU's fees would be required to pay the remaining amount to the County.

This arrangement, where the utility does not even play the role of collection agent for the county, is consistent with what was done in another case concerning Meadowbrook Utility. Meadowbrook signed an agreement with Palm Beach County where customers paid impact fees directly to the County. A customer would be issued a receipt, which he or she would then present to the utility authorizing connection for wastewater service.

We are somewhat concerned with this arrangement because under Chapter 367 and our rules, MHU must collect its own service availability charges, if any, from every customer in its territory. In this case, we have revoked all of MHU's tariff authority to collect service availability charges, other than meter installation fees. We wish to make it clear that MHU is required to charge these meter installation fees. If MHU is authorized to collect new service availability charges in the future, we think that there should be a clear understanding among all persons involved that MHU will be required to collect those charges regardless of the arrangement with the County.

Effective Impact Fee Assessed by Pasco County

The bulk service agreement between MHU and Pasco County reveals that of the \$4.12 per thousand gallons charge, \$1.00 is attributable to impact fees. OPC raised the issue of whether MHU should be required to keep track of the effective impact fee paid by MHU customers. However, none of the parties offered or solicited any testimony regarding this issue at the hearing. In its brief, MHU argues such a requirement would be burdensome and that nothing in the record demonstrates that keeping the information would benefit anyone. Neither Mr. Hayes nor OPC discuss the issue in their briefs.

In consideration of the foregoing, we find that MHU should not be required to keep records of the effective impact fee assessed by

Pasco County, as no benefit to MHU's doing so was demonstrated on the record.

SERVICE AVAILABILITY OVERCHARGES

MHU, through Mrs. DeLucenay, admitted that it collected unauthorized service availability charges. Exhibits Nos. 46 and 48, sponsored by Mrs. DeLucenay, reveal the amount of the overcharges. Exhibit No. 46 shows the overcharges for 1991 and part of 1992; Exhibit No. 48 shows information for subsequent periods. According to these exhibits, MHU collected \$585,585 in unauthorized plant capacity charges, \$72,115 in unauthorized or over-stated meter installation fees, and \$879,925 in unauthorized guaranteed revenues.

Mrs. DeLucenay elaborated that MHU charged the \$110 meter installation fee approved for Turtle Lakes to Foxwood customers as well. She explained that the charge was calculated by MHU's former accountant based upon the actual cost of the meter and labor to install it. She also testified that MHU had mistakenly charged a meter installation charge of \$120 for a 5/8" x 3/4" meter, instead of the \$90 charge authorized by the tariff. According to the utility's tariff, \$120 is the authorized charge for a full 3/4" meter.

Mrs. DeLucenay also testified that MHU charged unauthorized plant capacity charges for the Foxwood system and unauthorized guaranteed revenue charges for Foxwood and Turtle Lakes. When asked why MHU did so, she explained that MHU had planned to apply for a rate increase when the Foxwood plant was expanded, but the Foxwood area developed very quickly, MHU ran into "legal problems," and, consequently, never filed the rate case or requested approval of revised tariff sheets. She also testified that MHU was aware that there was a problem with the charges at the time this case was filed, but she testified she divulged the problem to those who came into the utility office investigating the rate request.

Mrs. DeLucenay testified that all plant capacity and meter installation charges collected, whether authorized or unauthorized, were booked as CIAC. Mr. Nixon confirmed this treatment. Mr. Nixon and Mrs. DeLucenay both testified that MHU reported these CIAC and guaranteed revenue collections in their annual reports to the Commission ever since MHU began charging them. Mr. Nixon noted that guaranteed revenue collections were not CIAC, so they were not booked as CIAC.

Section 367.091(2), Florida Statutes, states that each utility's rates, charges, and customer service policies must be contained in a tariff approved by and on file with the Commission. Subsection (3) of that section and § 367.081(1), Florida Statutes, state that a utility may only impose and collect those rates and charges approved by the Commission and a change in any rate schedule may not be made without Commission approval.

Section 367.161, Florida Statutes, provides that the Commission may impose a penalty against a utility which has refused to comply with or has "willfully violated" any lawful Commission rule or order or any provision of Chapter 367. In Order No. 24306, issued April 1, 1991, involving GTE-Florida Inc., we explored the meaning of "willfully violated" as contained in Section 364.285, Florida Statutes. Since the description of the Commission's authority to impose penalties in Section 364.285 is virtually identical to that contained in Section 367.161, we shall apply the principles established by Order No. 24306 here.

In Order No. 24306, we held that utilities are charged with knowledge of the Commission's rules and statutes; that the inquiry into willfulness is made of the act itself and is not an inquiry into the utility's intention to violate a specific rule, order, or statute; and that to be willful the act must be, to some degree, intentional. In evaluating intent, we will consider whether the act was committed accidentally (e.g., a typographical error on a bill), whether the utility knew or should have known the underlying facts which made the act unlawful, and the utility's actions before and after the unlawful act.

In consideration of the above, we conclude that MHU willfully violated the law. However, rather than fine the utility for the above transgression, as discussed earlier, we have reduced the salary of MHU's president. In addition, we shall not require MHU to refund the overcharges.

Mr. Nixon testified that he believed that requiring MHU to refund the CIAC and guaranteed revenue collections would cause MHU to declare bankruptcy. He added that he was not sure which claims would be superior to a refund order, but First Florida Bank has a first mortgage on all MHU property, with a current claim for over a million dollars. Both Mr. and Mrs. DeLucenay testified that a refund would be financially devastating for the utility. Mr. Nixon and Mr. and Mrs. DeLucenay testified that they did not think it

would make a difference if a refund was undertaken over a protracted period.

Mrs. DeLucenay testified that most of the service availability overcharges were charged to developers rather than individual customers, so any required refund should be made to the developers. None of the developers involved, she stated, had requested a refund of any overcharges, but she also stated that some of the developers had gone out of business.

Witness Nixon testified that, using a 10.83% rate of return and estimated depreciation of 3.3%, and accounting for the effect of regulatory assessment fees, he calculated that the revenue requirement would increase by about \$214,000 if MHU were required to refund the CIAC overcollections. This recalculated revenue requirement did not include the unauthorized guaranteed revenue collections, he explained, because those were below-the-line revenues which would have no effect on CIAC after the refund.

When asked how the unauthorized collections were used, Mr. Nixon testified that he understood that funds from some of the subdivisions were paid directly to the bank. Almost all of the collections were used for plant expansion, he stated, but some of the funds could have been used to support utility operations. He added that there was nothing that he was aware of that indicated that MHU's owners had used the collections for their own purposes.

We believe that MHU reported the CIAC overcollections and properly incorporated them into the rate calculation as a reduction to rate base. Although unauthorized, the CIAC collections have served to reduce MHU's rates. Further, judging from the CIAC levels which the utility has achieved, we think it apparent that the overcharges collected were at or near what this Commission would have approved if MHU had petitioned for approval prior to assessing the charges. Additionally, developers paid the unauthorized service availability charges, so any refunds would have to be made to them. Forcing a refund under such circumstances would cause the end-user customers to pay twice: they paid once when the service availability charges were passed on from the developer through the cost of their homes, and they would pay a second time through the higher rates that would result from the refund. Finally, although some of the customers expressed a desire to force MHU out of business, a bankrupt utility is not in the customers' best interests.

REFUND OF EXCESS INTERIM AND EMERGENCY RATES

By Order No. 25589, issued January 9, 1992, we suspended the utility's proposed rates and granted it interim rates, subject to refund. The interim water revenues yielded a company-wide increase of 49.76% over the utility's test year revenues. Interim revenues for the Foxwood-Turtle Lakes wastewater systems were \$51,850 (18.10%) greater than test year revenues. Interim revenues for the Linda Lakes wastewater system were \$6,545 (78.56%) greater than test year revenues. By Order No. 25711, issued February 12, 1992, we granted the utility's request for an emergency limited proceeding and approved emergency, temporary rates for its Foxwood-Turtle Lakes wastewater systems. This resulted in additional annual revenues of \$672,498. For the Foxwood-Turtle Lakes wastewater systems, the total increase, including interim and emergency rates, was a 134.79% increase above test year revenues. The temporary emergency rates were also granted subject to refund.

According to § 367.082(4), Florida Statutes,

Any refund . . . shall be calculated to reduce the rate of return of the utility . . . during the pendency of the proceeding to the same level within the range of the newly authorized rate of return which is found fair and reasonable on a prospective basis.

Adjustments made in the rate case test period that do not relate to the period interim rates are in effect should be removed. Examples of these adjustments would be an attrition allowance or rate case expense, which are recovered only after final rates are established. We note here that the parties stipulated to defer to the Commission the calculation of the refund.

In this proceeding, the test period for establishment of interim, emergency, and final rates was the twelve months ended December 31, 1990. The approved interim rates did not include any pro forma provisions for pro forma expenses or plant. The interim rates were designed solely to allow the utility to earn the minimum of its last authorized range for a return on equity.

To establish the proper refund amount, we calculated a revised revenue requirement for the interim period using the same data used to establish final rates, but excluding the pro forma provision for rate case expense. This pro forma item was excluded since it was not an actual expense during the interim collection period. No

other adjustments were necessary since MHU's interconnection with the County was in place during the time interim and emergency rates were collected. We then computed the comparable revenue requirement using the overall cost of capital for final rates. The adjusted revenue requirement for the combined water systems is \$298,853, which is \$50,640 (14.49%) less than the interim revenue requirement of \$349,493. The adjusted revenue requirement for the Foxwood-Turtle Lakes wastewater systems combined is \$567,606, which is \$104,892 (15.60%) less than the combined interim and limited proceeding revenue requirement of \$672,498. The adjusted revenue requirement for the Linda Lakes wastewater system is \$15,213, which is \$337 more than the interim revenue requirement of \$14,876.

Therefore, MHU shall refund 14.65% of the water service revenues collected under interim rates, and 15.60% of the Foxwood-Turtle Lakes wastewater service revenues collected under interim and limited proceeding rates. No refund is required for the Linda Lakes wastewater system. The difference in the percentage reduction for interim water revenues and the refund results from our removing miscellaneous service revenues. Because of a change in the rate structure for the Turtle Lakes water system, the utility shall submit a refund plan to the Commission for approval before the refund is implemented. The refund shall be made with interest in conformity with Rule 25-30.360, Florida Administrative Code. The escrow accounts shall be closed upon verification by staff that the refund has been completed. The docket may also be closed upon staff's verification of the refund.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction to determine the water and wastewater rates and charges of Mad Hatter Utility, Inc., pursuant to Sections 367.081 and 367.101, Florida Statutes.
2. As the applicant in this case, Mad Hatter Utility, Inc., has the burden of proof that its proposed rates and charges are justified.
3. The rates and charges approved herein are just, reasonable, compensatory, not unfairly discriminatory and in accordance with the requirements of Section 367.081(2), Florida Statutes, and other governing law.

4. Pursuant to Chapter 25-9.001(3), Florida Administrative Code, no rules, regulations, or schedules of rates and charges, or modifications or revisions of same, shall be effective until filed with and approved by the Commission.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the application of Mad Hatter Utility, Inc., for an increase in its water and wastewater rates in Pasco 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 Mad Hatter Utility, Inc., is authorized to charge 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 meter installation charges approved herein shall be effective for connections made 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, Mad Hatter Utility, Inc., shall submit and have approved a proposed notice to its customers of the increased rates and charges and 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, Mad Hatter Utility, Inc., 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 and the customer notice has been approved. It is further



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ORDERED that the tariffs for service availability charges previously approved for Mad Hatter Utility, Inc.'s Turtle Lakes wastewater system are hereby cancelled, effective on the date of this Order. It is further

ORDERED that Mad Hatter Utility, Inc., shall henceforth cease and desist from collecting unauthorized service availability and guaranteed revenue charges. It is further

ORDERED that Mad Hatter Utility, Inc., shall refund with interest and in conformity with Rule 25-30.360, Florida Administrative Code, 14.65% of the water service revenues collected under interim rates, and 15.60% of the Foxwood and Turtle Lakes wastewater service revenues collected under interim and limited proceeding rates. It is further

ORDERED that Mad Hatter Utility, Inc., shall submit to this Commission a refund plan for approval before the refund is implemented. It is further

ORDERED that the escrow accounts may be closed upon staff's verification of the completion of the refund. It is further

ORDERED that this docket will be closed upon staff's verification of the completion of the refund.

By ORDER of the Florida Public Service Commission, this 24th day of February, 1993.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

MJF

by: Kay Flynn  
Chief, Bureau of Records

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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

MAD HATTER UTILITY, INC. - TOTAL COMPANY  
 SCHEDULE OF WATER RATE BASE  
 TEST YEAR ENDED DECEMBER 31, 1990

SCHEDULE NO. 1-A  
 DOCKET NO. 910637-WS

COMPONENT	TEST YEAR PER UTILITY	UTILITY ADJUSTMENTS	ADJUSTED TEST YEAR PER UTILITY	COMMISSION ADJUSTMENTS	COMMISSION ADJUSTED TEST YEAR
1 UTILITY PLANT IN SERVICE	\$ 1,059,938	\$ 12,998	\$ 1,072,936	\$(11,452)	1,061,484
2 LAND	1,050	153,662	154,712	(153,662)	1,050
3 NON-USED & USEFUL COMPONENTS	0	0	0	0	0
4 CONSTRUCTION WORK IN PROGRESS	0	0	0	0	0
5 ACCUMULATED DEPRECIATION	(180,173)	(1,435)	(181,608)	2,599	(179,009)
6 CIAC	(798,171)	0	(798,171)	0	(798,171)
7 AMORTIZATION OF CIAC	89,610	0	89,610	0	89,610
8 ACQUISITION ADJUSTMENTS -NET	0	0	0	0	0
9 ADVANCES FOR CONSTRUCTION	0	0	0	0	0
10 WORKING CAPITAL ALLOWANCE	0	37,160	37,160	(7,817)	29,343
<b>RATE BASE</b>	<b>\$ 172,254</b>	<b>\$ 202,385</b>	<b>\$ 374,639</b>	<b>\$(170,332)</b>	<b>204,307</b>

MAD HATTER UTILITY, INC.—FOXWOOD & TURTLE LAKES  
 SCHEDULE OF WASTEWATER RATE BASE  
 TEST YEAR ENDED DECEMBER 31, 1990

SCHEDULE NO. 1-B  
 DOCKET NO. 910637-WS

COMPONENT	TEST YEAR PER UTILITY	UTILITY ADJUSTMENTS	ADJUSTED TEST YEAR PER UTILITY	COMMISSION ADJUSTMENTS	COMMISSION ADJUSTED TEST YEAR
1 UTILITY PLANT IN SERVICE	\$ 1,643,716	\$ 20,964	\$ 1,664,680	\$(578,774)	1,085,906
2 LAND	236,698	(153,662)	83,036	(83,036)	0
3 NON-USED & USEFUL COMPONENTS	(137,544)	0	(137,544)	137,544	0
4 CONSTRUCTION WORK IN PROGRESS	0	0	0	0	0
5 ACCUMULATED DEPRECIATION	(285,420)	(1,847)	(287,267)	122,012	(165,255)
6 CIAC	(844,582)	0	(844,582)	46,798	(797,784)
7 AMORTIZATION OF CIAC	113,382	0	113,382	(11,320)	102,062
8 ACQUISITION ADJUSTMENT -NET	0	0	0	0	0
9 ADVANCES FOR CONSTRUCTION	0	0	0	0	0
10 WORKING CAPITAL ALLOWANCE	0	74,647	74,647	(19,365)	55,282
<b>RATE BASE</b>	<b>\$ 726,250</b>	<b>\$(59,898)</b>	<b>\$ 666,352</b>	<b>\$(386,141)</b>	<b>280,211</b>

MAD HATTER UTILITY, INC.—LINDA LAKES  
 SCHEDULE OF WASTEWATER RATE BASE  
 TEST YEAR ENDED DECEMBER 31, 1990

SCHEDULE NO. 1-C  
 DOCKET NO. 910637-WS

COMPONENT	TEST YEAR PER UTILITY	UTILITY ADJUSTMENTS	ADJUSTED TEST YEAR PER UTILITY	COMMISSION ADJUSTMENTS	COMMISSION ADJUSTED TEST YEAR
1 UTILITY PLANT IN SERVICE	\$ 68,184	\$ 500	\$ 68,684	\$ 394	69,078
2 LAND	0	0	0	0	0
3 NON-USED & USEFUL COMPONENTS	0	0	0	0	0
4 CONSTRUCTION WORK IN PROGRESS	0	0	0	0	0
5 ACCUMULATED DEPRECIATION	(26,859)	(55)	(26,914)	(89)	(27,003)
6 CIAC	(55,785)	0	(55,785)	0	(55,785)
7 AMORTIZATION OF CIAC	16,737	0	16,737	0	16,737
8 ACQUISITION ADJUSTMENT - NET	0	0	0	0	0
9 ADVANCES FOR CONSTRUCTION	0	0	0	0	0
10 WORKING CAPITAL ALLOWANCE	0	1,896	1,896	(235)	1,662
<b>RATE BASE</b>	<b>\$ 2,277</b>	<b>\$ 2,341</b>	<b>\$ 4,618</b>	<b>\$ 71</b>	<b>4,689</b>

MAD HATTER UTILITY, INC. - TOTAL COMPANY ADJUSTMENTS TO RATE BASE TEST YEAR ENDED DECEMBER 31, 1990		SCHEDULE NO. 1-D DOCKET NO. 910637-WS		
EXPLANATION	WATER	FOX & TUR. SEWER	LINDA LKS. SEWER	
<b>(1) UTILITY PLANT IN SERVICE</b>				
A. Pro forma adjustment to reflect equipment related to purchase sewage treatment.	0	45,255	0	
B. Adjusted to reflect alloc. share of gen pit.	(11,452)	10,252	394	
C. Remove costs of abandoned plant	0	(634,281)	0	
	<u>\$ (11,452)</u>	<u>\$ (578,774)</u>	<u>\$ 394</u>	
<b>(2) LAND</b>				
A. Remove costs of unsupported land	(153,662)		0	
B. Remove costs of abandoned land		(83,036)	0	
	<u>\$ (153,662)</u>	<u>\$ (83,036)</u>	<u>\$ 0</u>	
<b>(3) NON-USED &amp; USEFUL PLANT</b>				
A. Eliminated Used and useful adjustment due to abandonment	\$ 0	\$ 137,544	\$ 0	
<b>(3) ACCUMULATED DEPRECIATION</b>				
A. Adjusted to reflect alloc. share of gen pit.	2,599	(2,327)	(89)	
B. Adjustment related to pro forma pit.		(754)		
C. Adjustment related to abandon pit.		125,093		
	<u>\$ 2,599</u>	<u>\$ 122,012</u>	<u>\$ (89)</u>	
<b>(4) CIAC</b>				
A. Adjustment related to abandon pit.	\$ 0	\$ 46,798	\$ 0	
<b>(5) ACCUMULATED AMORT. OF CIAC</b>				
A. Adjustment related to abandon pit.	\$ 0	\$ (11,320)	\$ 0	
<b>(6) WORKING CAPITAL</b>				
A. Adjustment to reflect change in O & M expenses.	\$ (7,817)	\$ (19,355)	\$ (235)	

MAD HATTER UTILITY, INC. - TOTAL COMPANY CAPITAL STRUCTURE TEST YEAR ENDED DECEMBER 31, 1990						SCHEDULE NO. 2-A DOCKET NO. 910637-WS				
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	\$ 891,804	85.29%	10.78%	9.19%	\$ (474,557)	\$ 417,247	85.29%	10.78%	9.19%	
2 SHORT-TERM DEBT	25,967	2.48%	12.00%	0.30%	(13,818)	12,149	2.48%	12.00%	0.30%	
3 PREFERRED STOCK	0	0.00%	0.00%	0.00%	0	0	0.00%	0.00%	0.00%	
4 CUSTOMER DEPOSITS	54,495	5.21%	8.00%	0.42%	(28,999)	25,496	5.21%	8.00%	0.42%	
5 COMMON EQUITY	73,343	7.01%	13.11%	0.92%	(39,028)	34,315	7.01%	12.44%	0.87%	
6 ACCUM. DEFERRED INCOME TAX	0	0.00%	0.00%	0.00%	0	0	0.00%	0.00%	0.00%	
7 INVESTMENT TAX CREDITS	0	0.00%	0.00%	0.00%	0	0	0.00%	0.00%	0.00%	
8 TOTAL CAPITAL	\$ 1,045,609	100.00%		10.83%	\$ (556,401)	\$ 489,208	100.00%		10.78%	
RANGE OF REASONABLENESS							LOW	HIGH		
							-----	-----		
RETURN ON EQUITY							11.44%	13.44%		
							-----	-----		
OVERALL RATE OF RETURN							10.71%	10.85%		
							-----	-----		

Stipulation #2: Long term debt has already been removed from the utility's adjusted test year

MAD HATTER UTILITY, INC. - TOTAL COMPANY ADJUSTMENTS TO CAPITAL STRUCTURE TEST YEAR ENDED DECEMBER 31, 1990		SCHEDULE NO. 2-B DOCKET NO. 910637-WS			
DESCRIPTION	SPECIFIC ADJUSTMENT (1)	SPECIFIC ADJUSTMENT (2)	PRO RATA RECONCILE	NET ADJUSTMENT	
1 LONG TERM DEBT	\$ 0	\$ 0	(474,557)	(474,557)	
2 SHORT-TERM DEBT	0	0	(13,818)	(13,818)	
3 PREFERRED STOCK	0	0	0	0	
4 COMMON EQUITY	0	0	(28,999)	(28,999)	
5 CUSTOMER DEPOSITS	0	0	(39,028)	(39,028)	
6 ACCUM. DEFERRED INCOME TAX	0	0	0	0	
7 OTHER (Explain)	0	0	0	0	
8 TOTAL CAPITAL	\$ 0	\$ 0	(556,401)	(556,401)	



MAD HATTER UTILITY, INC. - TOTAL COMPANY  
 STATEMENT OF WATER OPERATIONS  
 TEST YEAR ENDED DECEMBER 31, 1990

SCHEDULE NO. 3-A  
 DOCKET NO. 910637-WS

DESCRIPTION	TEST YEAR PER UTILITY	UTILITY ADJUSTMENTS	UTILITY ADJUSTED TEST YEAR	COMMISSION ADJUSTMENTS	COMMISSION ADJUSTED TEST YEAR	REVENUE INCREASE	REVENUE REQUIREMENT
1 OPERATING REVENUES	\$ 225,449	\$ 186,325	\$ 411,774	\$(178,406)	\$ 233,368	\$ 84,785	\$ 318,153
OPERATING EXPENSES						36.33%	
2 OPERATION AND MAINTENANCE	\$ 252,760	\$ 44,518	\$ 297,278	\$(62,534)	\$ 234,744	\$ 0	\$ 234,744
3 DEPRECIATION	10,338	1,435	11,773	(2,117)	9,656	0	9,656
4 AMORTIZATION	0	0	0	0	0	0	0
5 TAXES OTHER THAN INCOME	58,624	2,680	61,304	(13,831)	47,473	3,815	51,288
6 INCOME TAXES	0	845	845	(16,339)	(15,494)	15,931	437
7 TOTAL OPERATING EXPENSES	\$ 321,722	\$ 49,478	\$ 371,200	\$(94,821)	\$ 276,379	\$ 19,746	\$ 296,125
8 OPERATING INCOME	\$ (96,273)	\$ 136,847	\$ 40,574	\$(83,585)	\$(43,011)	\$ 65,039	\$ 22,028
9 RATE BASE	\$ 172,254		\$ 374,639		\$ 204,307		\$ 204,307
RATE OF RETURN	-55.89%		10.83%		-21.05%		10.78%

ORDER NO. PSC-93-0295-FOF-WS  
 DOCKET NO. 910637-WS  
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MAD HATTER UTILITY, INC.—FOXWOOD & TURTLE LAKES  
 STATEMENT OF WASTEWATER OPERATIONS  
 TEST YEAR ENDED DECEMBER 31, 1990

SCHEDULE NO. 3-B  
 DOCKET NO. 910637-WS

ORDER NO. PSC-93-0295-FOF-WS  
 DOCKET NO. 910637-WS  
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DESCRIPTION	TEST YEAR PER UTILITY	UTILITY ADJUSTMENTS	UTILITY ADJUSTED TEST YEAR	COMMISSION ADJUSTMENTS	COMMISSION ADJUSTED TEST YEAR	REVENUE INCREASE	REVENUE REQUIREMENT
1 OPERATING REVENUES	\$ 257,894	\$ 507,770	\$ 765,664	(\$ 479,243)	\$ 286,421	\$ 299,699	\$ 586,120
OPERATING EXPENSES						104.64%	
2 OPERATION AND MAINTENANCE	\$ 201,213	\$ 395,962	\$ 597,175	(\$ 154,917)	\$ 442,258	\$	\$ 442,258
3 DEPRECIATION	21,791	(2,055)	19,736	(4,869)	14,867		14,867
4 AMORTIZATION	0	0	0	50,067	50,067		50,067
5 TAXES OTHER THAN INCOME	48,550	26,535	75,085	(40,454)	34,631	13,486	48,117
6 INCOME TAXES	0	1,502	1,502	(57,215)	(55,713)	56,312	599
7 TOTAL OPERATING EXPENSES	\$ 271,554	\$ 421,944	\$ 693,498	(\$ 207,388)	\$ 486,110	\$ 69,799	\$ 555,908
8 OPERATING INCOME	\$ (13,660)	\$ 85,826	\$ 72,166	(\$ 271,855)	(\$ 199,683)	\$ 229,900	\$ 30,212
9 RATE BASE	\$ 726,250		\$ 666,352		\$ 280,211		\$ 280,211
RATE OF RETURN	-1.88%		10.83%		-71.26%		10.78%

MAD HATTER UTILITY, INC.-LINDA LAKES  
STATEMENT OF WASTEWATER OPERATIONS  
TEST YEAR ENDED DECEMBER 31, 1990

SCHEDULE NO. 3-C  
DOCKET NO. 910637-WS

ORDER NO. PSC-93-0295-FOF-WS  
DOCKET NO. 910637-WS  
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DESCRIPTION	TEST YEAR PER UTILITY	UTILITY ADJUSTMENTS	UTILITY ADJUSTED TEST YEAR	COMMISSION ADJUSTMENTS	COMMISSION ADJUSTED TEST YEAR	REVENUE INCREASE	REVENUE REQUIREMENT
1 OPERATING REVENUES	\$ 7,657	\$ 10,374	\$ 18,031	(\$ 9,700)	\$ 8,331	\$ 7,593	15,924
OPERATING EXPENSES						91.14%	
2 OPERATION AND MAINTENANCE	\$ 11,777	\$ 3,394	\$ 15,171	(\$ 1,876)	\$ 13,295	\$	13,295
3 DEPRECIATION	310	55	365	73	438		438
4 AMORTIZATION	0	0	0	0	0		0
5 TAXES OTHER THAN INCOME	1,113	872	1,985	(651)	1,334	342	1,676
6 INCOME TAXES	0	10	10	(1,427)	(1,417)	1,427	10
7 TOTAL OPERATING EXPENSES	\$ 13,200	\$ 4,331	\$ 17,531	(\$ 3,881)	\$ 13,650	\$ 1,768	15,419
8 OPERATING INCOME	\$ (5,543)	\$ 6,043	\$ 500	(\$ 5,819)	(\$ 5,319)	\$ 5,825	506
9 RATE BASE	\$ 2,277	\$	\$ 4,618	\$	\$ 4,689	\$	\$ 4,689
RATE OF RETURN	-243.43%		10.83%		-113.45%		10.78%

MAD HATTER UTILITY, INC. - TOTAL COMPANY  
ADJUSTMENTS TO OPERATING STATEMENTS  
TEST YEAR ENDED DECEMBER 31, 1990

SCHEDULE NO. 3-D  
DOCKET NO. 910637-WS  
PAGE 1 OF 2

EXPLANATION	WATER	FOX & TUR. SEWER	LINDA LKS. SEWER
<b>(1) OPERATING REVENUES</b>			
A. Adjustment to reverse Utility's requested revenue increase	\$ (178,406)	\$ (479,243)	\$ (9,700)
<b>(2) OPERATION AND MAINTENANCE EXPENSE</b>			
A. To adjust employees salary expense	\$ (32,734)	\$ (31,397)	\$ (1,206)
B. To adjust worker's comp assoc. with previous adj.	(816)	(795)	(30)
C. Adjustment to reflect purchase sewage treatment cost.		(49,259)	
D. To remove sludge hauling expenses.		(695)	
E. Adjustment to purchase power due to purchase treat. exp.		(30,067)	
F. To adjust chemical expense due to purchase treatment service		(485)	
G. To remove backhoe expenses.		(1,733)	(67)
H. Adjust contractual services to remove excessive acctg fees	(18,555)	(17,797)	(684)
I. Adjustment to reflect allocated share of rent expense	(6,925)	6,200	238
J. Adjustment to rate case expense	11,737	11,258	433
K. To adjust for telephone expense.	(2,151)	(2,064)	(79)
L. Adjustment to remove dues and donations.	(381)	(366)	(14)
M. Adjustment to reduce advertising expense	(376)	(360)	(14)
N. Reduce general liability insurance to reflect pit. abandonment		(734)	
O. Adjust contractual engineering services to reflect abandonment		(23,346)	
P. Vehicle insurance reduced to alloc. to related Company	(63)	(61)	(2)
Q. Health insurance for Utility Pres. reduced to alloc. to related Co.	(95)	(94)	(3)
R. Adjust contractual services to reduce legal fees	(8,026)	(7,698)	(296)
S. Remove materials and supplies related to abandoned pit.		(1,437)	
T. Reduce transportation exp. to remove lease payment	(3,049)	(2,924)	(112)
U. Remove materials & supplies incurred by President	(1,098)	(1,053)	(40)
<b>NET ADJUSTMENT</b>	<b>\$ (62,534)</b>	<b>\$ (154,917)</b>	<b>\$ (1,876)</b>
<b>(3) DEPRECIATION EXPENSE</b>			
A. To remove amort. of CIAC on abandonment		3,936	
B. Adjustment to reflect allocated share of general pit.	(2,117)	1,895	
C. Adjustment related to pro forma pit.		1,504	
D. Adjustment related non-used and useful pit. reverse		3,902	73
E. Adjustment related to the removal of Treat. pit.		(16,106)	
	<b>\$ (2,117)</b>	<b>\$ (4,869)</b>	<b>\$ 73</b>
<b>(4) AMORTIZATION EXPENSE</b>			
A. Amort of the loss on the abandonment	\$	\$ 50,067	\$

MAD HATTER UTILITY, INC. - TOTAL COMPANY ADJUSTMENTS TO OPERATING STATEMENTS DOCKET NO. 910637-WS		SCHEDULE NO. 3-D DOCKET NO. 910637-WS PAGE 2 OF 2		
EXPLANATION	WATER	FOX & TUR. SEWER	LINDA LKS. SEWER	
<b>(4) TAXES OTHER THAN INCOME</b>				
A. Reg. assess. fees on requested revenues	(8,028)	(21,566)	(437)	
B. To remove payroll tax assoc. with salary adjustment	(3,012)	(2,886)	(111)	
C. Adjustment related to abandoned plant.		(13,325)		
D. Adjust property taxes for penalties and interest.	(2,791)	(2,677)	(103)	
	<u>\$ (13,831)</u>	<u>\$ (40,454)</u>	<u>\$ (651)</u>	
<b>(5) PROVISION FOR INCOME TAXES</b>				
To reflect adjusted income tax provision.	\$ (16,339)	\$ (57,215)	(1,427)	
<b>(6) OPERATING REVENUES</b>				
To reflect the increase in the revenues required	\$ 84,785	\$ 299,699	7,593	
<b>(7) TAXES OTHER THAN INCOME</b>				
RAF on revenue increase recommended	\$ 3,815	\$ 13,486	342	
<b>(8) PROVISION FOR INCOME TAXES</b>				
To reflect income tax relating to revenue requirement.	\$ 15,931	\$ 56,312	1,427	

RATE SCHEDULE

WATER

UTILITY: Mad Hatter Utility, Inc.  
 SYSTEM: Linda Lakes  
 TEST YEAR ENDED: December 31, 1990

Monthly Rates

	Current	Commission Approved Interim	Utility Requested Final	Commission Approved Final
Residential, General and Multi-Residential Service				
Base Facility Charge:				
Meter Size:				
5/8"x3/4"	\$6.15	\$8.83	\$10.53	\$7.40
1"	\$15.37	\$22.07	\$26.33	\$18.50
1-1/2"	\$30.75	\$44.14	\$52.65	\$37.00
2"	\$49.20	\$70.63	\$84.24	\$59.20
3"	\$98.40	\$141.26	\$168.46	\$118.40
4"	\$153.75	\$220.72	\$263.25	\$185.00
6"	\$307.50	\$441.45	\$526.50	\$370.00
Gallonge Charge per 1,000 G.	\$1.26	\$1.81	\$1.52	\$1.24

RATE SCHEDULE

WATER  
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UTILITY: Mad Hatter Utility, Inc.  
 SYSTEM: Foxwood  
 TEST YEAR ENDED: December 31, 1990

Monthly Rates  
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	Current	Commission Approved Interim	Utility Requested Final	Commission Approved Final
	-----	-----	-----	-----
Residential, General and Multi-Residential Service -----				
Base Facility Charge:				
Meter Size:				
5/8"x3/4"	\$3.66	\$5.46	\$10.53	\$7.40
1"	\$9.13	\$13.62	\$26.33	\$18.50
1-1/2"	\$18.27	\$27.25	\$52.65	\$37.00
2"	\$29.23	\$43.60	\$84.24	\$59.20
3"	\$58.53	\$87.31	\$168.48	\$118.40
4"	\$91.45	\$136.42	\$263.25	\$185.00
6"	\$182.89	\$272.82	\$526.50	\$370.00
Gallage Charge per 1,000 G.	\$1.30	\$1.94	\$1.52	\$1.24

RATE SCHEDULE

WATER

UTILITY: Mad Hatter Utility, Inc.  
 SYSTEM: Turtle Lakes  
 TEST YEAR ENDED: December 31, 1990

Monthly Rates

	Current	Commission Approved Interim	Utility Requested Final	Commission Approved Final
<b>Residential and General Service</b>				
Base Facility Charge:				
Meter Size:				
5/8"x3/4" ( 3,000 Minimum)	\$5.86	\$8.90	\$10.53	\$7.40
1" ( 6,000 Minimum)	\$11.15	\$16.93	\$26.33	\$18.50
1-1/2" ( 9,000 Minimum)	\$16.73	\$25.41	\$52.65	\$37.00
2" (12,000 Minimum)	\$22.31	\$33.88	\$84.24	\$59.20
3" (15,000 Minimum)	\$28.02	\$42.55	\$168.48	\$118.40
4" (18,000 Minimum)	\$33.63	\$51.07	\$263.25	\$185.00
6" (21,000 Minimum)	\$39.23	\$59.58	\$526.50	\$370.00
Gallage Charge per 1,000 Gallons in Excess of the Minimum	\$0.78	\$1.18	\$1.52	\$1.24
<b>Multi-Residential Service</b>				
Base Facility Charge:				
All Meter Sizes:				
Per Unit ( 3,000 Minimum)	\$3.90	\$5.92	Same as Residential and General Service	Same as Residential and General Service
Gallage Charge per 1,000 Gallons in Excess of the Minimum	\$0.78	\$1.18		



RATE SCHEDULE

WASTEWATER

UTILITY: Mad Hatter Utility, Inc.  
 SYSTEM: Linda Lakes  
 TEST YEAR ENDED: December 31, 1990

Monthly Rates

	Current	Commission Approved Interim	Utility Requested Final	Commission Approved Final
<b>Residential Service</b>				
-----				
Base Facility Charge:				
Meter Size:				
All Meter Sizes	\$5.24	\$9.36	\$16.47	\$11.89
Gallage Charge per 1,000 G. (Maximum 10,000 G.)	\$1.47	\$2.62	\$2.47	---
(Maximum 8,000 G.)	---	---	---	\$2.85
<b>General and Multi-Residential Service</b>				
-----				
Base Facility Charge:				
Meter Size:				
5/8"x3/4"	\$5.55	\$9.91	\$16.47	\$11.89
1"	\$13.89	\$24.80	\$41.18	\$29.73
1-1/2"	\$27.75	\$49.55	\$82.35	\$59.45
2"	\$44.40	\$79.29	\$131.76	\$95.12
3"	\$88.80	\$158.57	\$263.52	\$190.24
4"	\$138.75	\$247.77	\$411.75	\$297.25
6"	\$277.50	\$495.53	\$823.50	\$594.50
Gallage Charge per 1,000 G.	\$1.47	\$2.62	\$2.47	\$3.42

RATE SCHEDULE

WASTEWATER

UTILITY: Mad Hatter Utility, Inc.  
 SYSTEM: Foxwood  
 TEST YEAR ENDED: December 31, 1990

Monthly Rates

	Current	Commission Approved Interim	Commission Approved Limited Filing	Utility Requested Final	Commission Approved Final
<b>Residential Service</b>					
Base Facility Charge:					
Meter Size:					
All Meter Sizes	\$5.26	\$5.80	\$11.74	\$14.64	\$11.50
Gallage Charge per 1,000 G.					
(Maximum 10,000 G.)	\$2.40	\$2.64	\$5.34	\$5.23	---
(Maximum 8,000 G.)	---	---	---	---	\$4.34
<b>General and Multi-Residential Service</b>					
Base Facility Charge:					
Meter Size:					
5/8"x3/4"	\$5.26	\$5.80	\$11.74	\$14.64	\$11.50
1"	\$13.16	\$14.50	\$29.35	\$36.60	\$28.75
1-1/2"	\$26.30	\$28.98	\$58.66	\$73.20	\$57.50
2"	\$42.09	\$46.38	\$93.88	\$117.12	\$92.00
3"	\$84.20	\$92.79	\$187.82	\$234.24	\$184.00
4"	\$131.56	\$144.98	\$283.45	\$366.00	\$287.50
6"	\$263.13	\$289.97	\$586.93	\$732.00	\$575.00
Gallage Charge per 1,000 G.	\$2.40	\$2.64	\$5.34	\$5.23	\$5.21

RATE SCHEDULE

WASTEWATER

UTILITY: Mad Hatter Utility, Inc.  
 SYSTEM: Turtle Lakes  
 TEST YEAR ENDED: December 31, 1990

Monthly Rates

	Current	Commission Approved Interim	Commission Approved Limited Filing	Utility Requested Final	Commission Approved Final
<b>Residential Service</b>					
-----					
Base Facility Charge:					
Meter Size:					
All Meter Sizes	\$15.03	\$21.03	\$40.16	\$14.64	\$11.50
Gallonge Charge per 1,000 G.					
(Maximum 10,000 G.)	---	---	---	\$5.23	---
(Maximum 8,000 G.)	---	---	---	---	\$4.34
<b>General Service</b>					
-----					
Base Facility Charge:					
Meter Size:					
5/8"x3/4"	\$11.72	\$16.40	\$31.32	\$14.64	\$11.50
1"	\$22.30	\$31.20	\$59.59	\$36.60	\$28.75
1-1/2"	\$33.46	\$46.81	\$89.40	\$73.20	\$57.50
2"	\$44.62	\$62.42	\$119.21	\$117.12	\$92.00
3"	\$56.04	\$78.40	\$149.73	\$234.24	\$184.00
4"	\$67.26	\$94.10	\$179.71	\$366.00	\$287.50
6"	\$78.46	\$109.77	\$209.64	\$732.00	\$575.00
Gallonge Charge per 1,000 G.	\$1.56	\$2.18	\$4.16	\$5.23	\$5.21
<b>Multi-Residential Service</b>					
-----					
Base Facility Charge:					
Meter Size:	\$10.02	\$14.02	\$26.78	See General Service	See General Service
Gallonge Charge per 1,000 G.	\$0.00	\$0.00	\$0.00		

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SCHEDULE NO. 6  
Page 1 of 1

UTILITY: Mad Hatter Utilities, Inc.  
SYSTEM: All systems

RATE SCHEDULE

SCHEDULE OF COMMISSION APPROVED  
RATES AND RATE DECREASE IN  
FOUR YEARS

WATER

Monthly Rates

	Commission Approved Rates	Rate Decrease
Residential, General Service, and Multi-Residential Service		
Base Facility Charge:		
Meter Size:		
5/8"x3/4"	\$7.40	\$0.47
1"	\$18.50	\$1.19
1-1/2"	\$37.00	\$2.37
2"	\$59.20	\$3.80
3"	\$118.40	\$7.60
4"	\$185.00	\$11.87
6"	\$370.00	\$23.74
Gallage Charge per 1,000 G.	\$1.24	\$0.03

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SCHEDULE NO. 7  
Page 1 of 2

UTILITY: Mad Hatter Utilities, Inc.  
SYSTEM: Linda Lakes

RATE SCHEDULE  
-----

SCHEDULE OF COMMISSION APPROVED  
RATES AND RATE DECREASE IN  
FOUR YEARS  
-----

WASTEWATER  
-----

Monthly Rates  
-----

	Commission Approved Rates -----	Rate Decrease -----
Residential -----		
Base Facility Charge:		
Meter Size:		
All Meter Sizes	\$11.89	\$0.56
Gallage Charge per 1,000 G. (Maximum 10,000 G.)	\$2.85	\$0.13
General and Multi-Residential Service -----		
Base Facility Charge:		
Meter Size:		
5/8"x3/4"	\$11.89	\$0.56
1"	\$29.73	\$1.41
1-1/2"	\$59.45	\$2.81
2"	\$95.12	\$4.50
3"	\$130.24	\$9.00
4"	\$297.25	\$14.05
6"	\$594.50	\$28.11
Gallage Charge per 1,000 G.	\$3.42	\$0.16

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SCHEDULE NO. 7  
 Page 2 of 2

UTILITY: Mad Hatter Utilities, Inc.  
 SYSTEM: Foxwood and Turtle Lakes

RATE SCHEDULE  
 -----

SCHEDULE OF COMMISSION APPROVED  
 RATES AND RATE DECREASE IN  
 FOUR YEARS  
 -----

WASTEWATER  
 -----

Monthly Rates  
 -----

	Commission Approved Rates -----	Rate Decrease -----
Residential -----		
Base Facility Charge:		
Meter Size:		
All Meter Sizes	\$11.50	\$0.38
Gallonage Charge per 1,000 G. (Maximum 10,000 G.)	\$4.34	\$0.15
General and Multi-Residential Service -----		
Base Facility Charge:		
Meter Size:		
5/8"x3/4"	\$11.50	\$0.38
1"	\$28.75	\$0.56
1-1/2"	\$57.50	\$1.92
2"	\$92.00	\$3.08
3"	\$184.00	\$6.16
4"	\$287.50	\$9.62
6"	\$575.00	\$19.24
Gallonage Charge per 1,000 G.	\$5.21	\$0.17