

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a Rate) DOCKET NO. 920808-SU
Increase for the South Fort) ORDER NO. PSC-93-0778-PHO-SU
Myers Division of FLORIDA CITIES) ISSUED: May 20, 1993
WATER COMPANY in Lee County)
_____)

Pursuant to Notice, a Prehearing Conference was held on May 17, 1993, in Tallahassee, Florida, before CHAIRMAN J. TERRY DEASON, as Prehearing Officer.

APPEARANCES:

B. Kenneth Gatlin, Esquire, Gatlin, Woods, Carlson & Cowdery, P.A., 1709-D Mahan Drive, Tallahassee, Florida, 32308.

On behalf of Florida Cities Water Company.

Stephen C. Reilly, Esquire, Office of Public Counsel, Claude Pepper Building, Room 812, 111 West Madison Street, Tallahassee, Florida, 32399-1400.

On behalf of the Citizens of the State of Florida.

LeeAnn Knowles, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863.

On behalf of the Commission Staff.

Prentice P. Pruitt, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863.

On behalf of the Commissioners.

PREHEARING ORDER

I. CASE BACKGROUND

Florida Cities Water Company's South Ft. Myers wastewater system (FCWC or utility) is a class A utility which provides wastewater service in two distinct service areas in Ft. Myers, Florida. As of June 30, 1992, the South Ft. Myers wastewater system served 5,009 customers or 7,469 equivalent residential connections (ERCs). The Commission last established rates for this system in Order No. PSC-92-0266-FOF-SU, issued on April 28, 1992.

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FLORIDA PUBLIC SERVICE COMMISSION

On November 5, 1992, the utility filed an application for approval of interim and permanent rate increases pursuant to Sections 367.081 and 367.082, Florida Statutes. The application, however, did not meet the minimum filing requirements (MFRs). On December 3, 1992, the utility filed the information necessary to complete the MFRs, and that date was established as the official filing date. The utility's application for increased rates is based upon the historical test year ended June 30, 1992. In its MFRs, FCWC requested interim and final revenues of \$3,092,782. This amount exceeds test year revenues by \$396,326, an increase of 14.7%. By Order No. PSC-93-0216-FOF-SU, issued February 10, 1993, the Commission suspended FCWC's proposed rates, denied FCWC's request for an interim increase, and ordered 9.72% of all revenues collected on or after January 19, 1993, held subject to refund due to potential overearnings.

Pursuant to FCWC's request, this matter is scheduled for an administrative hearing on May 27 and 28, 1993, in Fort Myers, Florida.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 367.156, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 367.156, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 367.156, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been

admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

III. POST-HEARING PROCEDURE

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. Each party must include in that statement, a summary of each position of no more than 50 words, set off with asterisks. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

IV. PREFILED TESTIMONY AND EXHIBITS

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

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so

answered first, after which the witness may explain his or her answer.

V. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct</u>		
Douglas G. Smith	Utility	3
Keith R. Cardey	Utility	2, 4, 5, 6, 7, 9, 13
Larry E. Griggs	Utility	1, 21, 22
Douglas T. Harrison	Utility	8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 23, 24, 25, 26, 27, 30, 33
Michael P. Murphy	OPC	3, 4, 5, 6, 9
Kimberly H. Dismukes	OPC	2, 8, 14, 15, 16, 18, 22, 23, 24, 26
James Grob (Stipulated)	Staff	1
<u>Rebuttal</u>		
Doug G. Smith	Utility	3
Lee E. Burgess	Utility	26
Douglas T. Harrison	Utility	14, 15, 16, 18, 23
Keith Cardey	Utility	2, 4, 5, 6, 9, 13
Larry E. Griggs	Utility	4

VI. BASIC POSITIONS

UTILITY: Generally, the necessity for a rate increase arises from the fact that, as adjusted for the test year ended June 30, 1992, the current rates will generate a rate of return of only 7.04% on a rate base of \$8,647,308 for providing wastewater service. In order for FCWC to have the opportunity to earn a fair and reasonable rate of return of 9.77%, FCWC will need to increase its annual wastewater revenues by \$396,326, based on the test year ended June 30, 1992.

FCWC also requests that the Commission authorize it to account for postretirement benefits other than pensions in accordance with the Statement of Financial Accounting Standards No. 106, Employers Accounting for Post-retirement Benefits Other than Pensions (SFAS 106), for ratemaking purposes.

FCWC also requests that the Commission allow it to defer depreciation on non-used and useful plant effective June 1, 1991. If FCWC is not allowed to defer such depreciation, the depreciation that accrues between the time that plant is built versus the time that such plant becomes used and useful can never be recovered, which will result in the confiscation of invested capital and jeopardize FCWC's financial position. The status quo also results in a mismatch between accumulated depreciation and accumulated amortization of contributions-in-aid-of-construction (CIAC), since FCWC does not begin to amortize CIAC related to non-used useful plant until such CIAC is received.

OPC: The rates proposed by Florida Cities Water Company's South Fort Myers wastewater division are excessive. In fact, the Citizens believe the Company's rates should be decreased not increased. The Company has understated its revenues, overstated its expenses, overstated its rate base, and overstated its overall cost of capital.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from

the preliminary positions. The information gathered through discovery and prefiled testimony indicates, at this point, that the utility may be entitled to some level of increase. A final determination cannot be made until the evidence presented at hearing is analyzed.

VII. ISSUES AND POSITIONS

QUALITY OF SERVICE

ISSUE 1: Is the utility's quality of service satisfactory?

POSITIONS

UTILITY: Yes. (Griggs)

OPC: No position at this time, pending customer testimony.

STAFF: No position pending testimony at the hearing. (Grob)

RATE BASE

ISSUE 2: Should the costs to complete the wastewater treatment plant be included in rate base, and if so, in what amount?

POSITIONS

UTILITY: No. The activated treatment plant capacity is 2.5 MGD. (Cardey)

OPC: Yes. The cost to complete the wastewater treatment plant should be included in rate base if the Commission considers the capacity of the plant to be 5.0 MGD. The amount to complete the plant that should be added to rate base is \$1,400,500. (Dismukes)

STAFF: No position pending development of the record.

ISSUE 3: What is the appropriate investment required for the 2.5 MGD of activated treatment plant capacity?

POSITIONS

UTILITY: \$9,740,827. (Smith)

OPC: OPC disagrees with the utility's proposed treatment of its advanced wastewater treatment plant. The utility's \$9,740,827 figure for its 2.5 MGD activated advanced wastewater treatment facility is based upon a study which estimates the cost of the plant assuming it was constructed on a stand alone basis and that there are no economies of scale associated with current customers. The utility's approach should be rejected. The utility's economies of scale approach gives all of the benefit of economies of scale to future customers. Both current and future customers contribute to the capacity which gives rise to the economies of scale associated with building a larger plant. (Murphy)

STAFF: Agree with utility.

ISSUE 4: What is the appropriate method for calculating used and useful plant?

POSITIONS

UTILITY: FCWC's position is to include in rate base the property that is used to provide the service for which the rates are being charged. To implement the principle, FCWC apportioned the cost of the AWT Plant between the activated 2.5 MGD plant used in providing service and the inactive portion of the plant not utilized in providing service. FCWC then made a used and useful calculation on the 2.5 MGD activated plant using flows plus a margin reserve.

A used and useful calculation employing a simple flow analysis would deny the utility an opportunity to earn a fair rate of return on its investment in property used and useful in the public service, in violation of Section 367.081(2), Florida Statutes. (Cardey, Griggs)

OPC: Used and useful calculations should be performed by comparing the average daily flow for the maximum month of the test year to the capacity of the utility's wastewater treatment facilities. The utility's request to assess used and useful based upon the alleged stand alone cost of its 2.5 MGD plant should be rejected. Used and useful should be determined based upon the 5.0 MGD capacity of the plant. Consistent with this, \$1,400,500 should be added to the booked cost of the plant for the cost associated with activating the additional 2.5 MGD of capacity. (Murphy)

STAFF: Staff has no position as to whether, or to what degree, the utility's economies of scale approach should be accepted.

ISSUE 5: What is the used and useful percentage of the wastewater treatment plant?

POSITIONS

UTILITY: 100% of activated capacity. (Cardey)

OPC: At 5 MGD, the advanced wastewater treatment plant is 45.8% used-and-useful. (Murphy)

STAFF: No position pending development of the record.

ISSUE 6: Should the wastewater treatment plant used and useful calculation include a margin reserve, and if so, how should the margin reserve be calculated and how much should be allowed?

POSITIONS

UTILITY: Yes. The \$9,740,827 is the investment in the activated 2.5 MGD treatment train of the plant, and is needed to treat flow from existing customers plus its obligation to the certificated area. (Cardey)

OPC: A margin reserve should not be included in the calculations of used and useful plant. The capacity associated with margin reserve should be paid for by

future customers, not present customers. If the Commission allows a margin reserve the utility's 2.3 years of growth should be rejected. Instead the Commission should allow for 18 months of growth, based upon an average of the last 5 years of growth. (Murphy)

STAFF: No position pending development of the record.

ISSUE 7: What is the used and useful percentage of the wastewater collection system?

POSITIONS

UTILITY: 100% used and useful. (Cardey)

OPC: No position.

STAFF: The collection system should be considered 100% used and useful because of the high CIAC level.

ISSUE 8: Should the Commission accept the utility's proposal to discontinue accruing depreciation on non-used and useful utility plant?

POSITIONS

UTILITY: Yes. Accruing depreciation on non-used and useful utility plant is incorrect for several reasons. First, it results in a confiscation of utility investment because the depreciation that accrues between the time that plant is built and the time the plant becomes used and useful can never be recovered. Second, accruals prior to receipt and amortization of associated CIAC will result in a mismatch of accumulated depreciation and accumulated amortization of CIAC in future rate proceedings. Further, the accrual unjustly benefits future ratepayers, who would see a lower rate base, and thus lower rates, without having paid the depreciation expense on plant investment required to serve them. Effective June 1, 1991, the Commission should authorize FCWC to discontinue accruing depreciation on non-used and useful utility plant until such time that future customers connect to the system. (Harrison)

OPC: No. The Commission should reject the utility's request to discontinue accruing depreciation on non-used and useful plant. (Dismukes)

STAFF: No. In accordance with established Commission policy, depreciation should be accrued on non-used and useful utility plant.

ISSUE 9: If a margin reserve is included in the used and useful calculation, should CIAC be imputed as an offsetting measure?

POSITIONS

UTILITY: No. Imputation of CIAC on the margin reserve results in denying a return on capital investment needed for the utility to meet its obligations under Section 367.111(1), Florida Statutes, to provide service within a reasonable time to future customers. (Cardey)

OPC: Yes. If the Commission grants the utility a margin reserve, CIAC should be imputed on this margin reserve. (Murphy)

STAFF: In accordance with Commission policy, CIAC should be imputed if the used and useful determination includes a margin reserve.

ISSUE 10: If the Commission adopts FAS 106 for ratemaking purposes, what is the appropriate treatment of the unfunded liability for post-retirement benefits other than pensions?

POSITIONS

UTILITY: The unfunded liability should be included in cost of capital at zero cost. (Harrison)

OPC: The unfunded liability should be included in cost of capital at zero cost.

STAFF: The unfunded liability should reduce rate base.

ISSUE 11: Should deferred income taxes related to post-retirement benefits be included in rate base?

POSITIONS

UTILITY: No, the deferred taxes related to the post-retirement benefits should reduce the liability included in cost of capital. (Harrison)

OPC: No position pending further development of the record.

STAFF: Yes, but the provision should be adjusted to agree with the allowed expense.

ISSUE 12: What is the appropriate method and amount of working capital?

POSITIONS

UTILITY: The appropriate amount is 1/8 of allowed O & M expenses. Final amount is subject to resolution of other issues. (Harrison)

OPC: The appropriate method for calculating working capital is the balance sheet approach. The appropriate allowance is \$0.

STAFF: Agree with utility.

ISSUE 13: What is the test year rate base?

POSITIONS

UTILITY: The rate base ending June 30, 1992, is \$8,647,308. (Cardey, Harrison)

OPC: Final amount subject to resolution of other issues.

STAFF: Final amount subject to resolution of other issues.

COST OF CAPITAL

ISSUE 14: Should capital attributable to AFPI accruals be included in the capital structure for rate-making purposes?

POSITIONS

UTILITY: No. The common equity attributable to AFPI should be removed from the capital structure just as the AFPI related deferred taxes should be removed. (Harrison)

OPC: The capital structure should include deferred taxes related to AFPI in the amount of \$8,892,865. (Dismukes)

STAFF: No position pending development of the record.

ISSUE 15: What is the appropriate cost rate for Job Development Investment Tax Credits?

POSITIONS

UTILITY: Agree with OPC methodology, but the cost rate should be 10.54%. (Harrison)

OPC: The appropriate cost rate is 10.64%. (Dismukes)

STAFF: Agree with OPC.

ISSUE 16: What is the appropriate overall cost of capital, including the proper components, amounts, and cost rates associated with the capital structure?

POSITIONS

UTILITY: After removal of the common equity attributable to the AFPI and utilization of OPC's ITC costing methodology, the appropriate overall rate of return is 9.65% as stated in Doug Harrison's Rebuttal Testimony. (Harrison)

OPC: The final amount is subject to the resolution of other issues.

STAFF: The resolution of this issue will depend on the outcome of other issues and on the development of the record.

ISSUE 17: What is the appropriate interest rate for the utility's line of credit?

POSITIONS

UTILITY: The appropriate average cost of the credit line for the test year would be 7.5% using a beginning and end of year average. (Harrison)

OPC: Agree with Staff.

STAFF: The appropriate interest rate is the current prime rate which is 6.00% as of May 14, 1993.

NET OPERATING INCOME

ISSUE 18: Is an adjustment necessary to test year rental income?

POSITIONS

UTILITY: No. The office rent in question is directly incurred by the Sarasota Division and is not properly allocated to any other Florida Cities division. (Harrison)

OPC: Yes. Income should be increased by \$2,627. (Dismukes)

STAFF: Yes. Rental income of \$2,627 should be reflected as above-the-line revenue. This income is related to the sublease of office space and land. Unless it is shown that the expenses related to these items were given below-the-line treatment, the income should be included in the revenue requirement.

ISSUE 19: What is the appropriate expense for post-retirement benefits other than pensions for the test year?

POSITIONS

UTILITY: \$43,212. (Harrison)

OPC: A reasonable allowance for OPEB expense should be allowed.

STAFF: A reasonable allowance for OPEB expense should be calculated according to FAS 106.

ISSUE 20: Are the test year expenses for the utility's major maintenance program appropriate?

POSITIONS

UTILITY: Yes. (Harrison)

OPC: It appears that some expenses should more properly be capitalized than expensed.

STAFF: No position pending development of the record.

ISSUE 21: Are adjustments necessary to operating expenses since the utility appears to be treating more wastewater than it is selling?

POSITIONS

UTILITY: No. The difference in wastewater flows and water sales is only 27%; this amount is well within the acceptable guidelines for I/I. (Griggs)

OPC: Chemical and purchased power expenses should be reduced to reflect excessive infiltration.

STAFF: No position pending development of the record.

ISSUE 22: What adjustment should be made to purchased power as a result of the dollar savings from the FP&L load program?

POSITIONS

UTILITY: None. Under the Commercial/Industrial Load Control Program Agreement between FPL and FCWC for the plant, the amount billed each month under the billing tariff reflects the lower demand charge and thereby includes the

savings in the total amount due. The savings began in March of 1991, prior to the test year. (Griggs)

OPC: Purchased power expenses should be reduced by \$12,000 to reflect a full year's worth of savings in the test year. (Dismukes)

STAFF: No position pending development of the record.

ISSUE 23: Should Chamber of Commerce dues be included in test year expenses?

POSITIONS

UTILITY: Yes. The Chamber of Commerce is an important avenue for involvement with its business community. Florida Cities and the ratepayers benefit from the increased management ability resulting from this affiliation. (Harrison)

OPC: No. Test year expenses should be reduced by \$203. (Dismukes)

STAFF: No. Chamber of Commerce dues should be excluded from test year expenses. This will result in a \$203 reduction to miscellaneous expenses.

ISSUE 24: Should test year rental expense be adjusted?

POSITIONS

UTILITY: No, unless all test year operating expenses are normalized, including transportation expense. (Harrison)

OPC: Yes. Test year rental expense should be reduced by \$455. (Dismukes)

STAFF: Agree with OPC.

ISSUE 25: What is the appropriate allowance for officers' salaries?

POSITIONS

UTILITY: As shown in the MFRs. (Harrison)

OPC: Only reasonable and prudent officers' salaries should be allowed.

STAFF: No position pending development of the record.

ISSUE 26: Should test year expenses be adjusted for charges from affiliated companies?

POSITIONS

UTILITY: No. The allocated charges from affiliate companies are reasonable. The corporate structure is allowing Florida Cities to provide the most efficient and effective service to its customers. Support charges are being logically and appropriately assigned to the operating companies that are benefiting from them with no cross-subsidization. (Harrison, Burgess)

OPC: Yes. Test year expenses should be reduced by \$41,560. (Dismukes)

STAFF: No position pending development of the record.

ISSUE 27: What is the appropriate allowance for rate case expense?

POSITIONS

UTILITY: As of May 18, 1993, actual plus estimated to complete rate case expense is \$240,846, which will be reflected in a late-filed exhibit. (Harrison)

OPC: The utility's rate case expense is excessive. It is not fair to ask ratepayers to pay for the rate case expense of this proceeding given that the utility just recently completed a rate case. Rate case expenses for this proceeding should be set at \$0.

STAFF: The Commission should carefully consider the prudence of the utility's decision to file this case since the final order in the last rate case was issued less than one year before the official date of filing for this case. The issues of used and useful, post-retirement benefits, and accumulated depreciation could have been argued in the last rate case or, perhaps, considered in a limited proceeding.

ISSUE 28: What is the appropriate provision for test year income taxes?

POSITIONS

ALL: Final amount subject to resolution of other issues.

ISSUE 29: What is the appropriate level of test year operating income before any revenue increase?

POSITIONS

ALL: Final amount subject to resolution of other issues.

REVENUE REQUIREMENT

ISSUE 30: What is the total revenue requirement?

POSITIONS

UTILITY: The amount of increase in operating revenues that should be allowed is \$396,326. (Harrison)

OPC: Final amount subject to resolution of other issues.

STAFF: Final amount subject to resolution of other issues.

RATES AND CHARGES

ISSUE 31: What are the appropriate rates?

POSITIONS

ALL: Final amount subject to resolution of other issues.

ISSUE 32: What should the rates be after the four-year rate reduction required by Section 367.0816, Florida Statutes?

POSITIONS

UTILITY: No, the rates should not be reduced.

OPC: The statute should be followed and the reduction made. The final amount of the reduction is subject to resolution of other issues.

STAFF: Agree with OPC.

ISSUE 33: In determining whether any portion of revenues held subject to refund should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

POSITIONS

UTILITY: No refund is necessary. (Harrison)

OPC: No position at this time.

STAFF: The final revenue requirement should be adjusted for items not representative of the period revenues were held subject to refund before comparing the final revenue requirement with the interim revenue requirement to determine whether a refund is necessary. The amount is subject to the resolution of other issues.

VIII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Douglas G. Smith	Utility	DGS-1	Report on Investment Allocation Analysis
Keith R. Cardey	Utility	KRC-1	Used and Usefulness of Fiesta Village AWT Plant/ Calculation of Gross Plant
	Utility	KRC-2	Comparison of Depreciation Charge on Used and Useful, Fiesta Village AWT Plant
Douglas T. Harrison	Utility	DTH-1	MFRs
Kimberly Dismukes	OPC	KHD-1	3 Schedules
<u>Witness</u>			
<u>Rebuttal</u>			
Lee E. Burgess	Utility	LEB-1	Resume
	Utility	LEB-2	A f f i l i a t e Relationship and Organization Study
Keith R. Cardey	Utility	KRC-3	Section 367.111, Florida Statutes
Douglas T. Harrison	Utility	DTH-2	Cost of Capital
	Utility	DTH-3	Ad Valorem Taxes

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination. Staff will request that the Commission take judicial notice of Orders Nos. PSC-92-0266-FOF-SU, PSC-92-1197-FOF-EI, PSC-92-0580-FOF-GU, PSC-93-0301-FOF-WS, and PSC-93-0430-FOF-WS.

IX. PROPOSED STIPULATIONS

- 1) The testimony of Staff Witness James Grob should be entered into the record as though read, and his appearance at hearing should be waived.
- 2) The allocation of general plant to the wastewater division should be \$46,660. Therefore, general plant should be reduced by \$38,007, and the correct allocation factor should be 11%.
- 3) The cost of equity should be set by the leverage formula in effect at the time of the Commission's vote on final rates in this case. An allowed range of plus or minus 100 basis points should be recognized for ratemaking purposes.
- 4) Test year service miscellaneous revenue should be increased by \$9,476.
- 5) Test year legal expenses should be reduced by \$999 for the legal expenses charged to the utility from Avatar Utilities, Inc.
- 6) Property taxes should be reduced by \$45,431 to properly reflect the assessment of property taxes to the South Fort Myers wastewater division of Florida Cities Water Company.

X. PENDING MOTIONS

There are no pending motions at this time.

XI. RULINGS

[T.B.A.]

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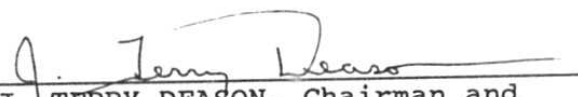
XI. RULINGS

[T.B.A.]

It is therefore,

ORDERED by Chairman J. TERRY DEASON, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Chairman J. Terry Deason, as Prehearing Officer, this 20th day of May, 1993.


J. TERRY DEASON, Chairman and
Prehearing Officer

(S E A L)

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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 this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060,

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Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.