

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for rate
increase in Pinellas County by
Mid-County Services, Inc.

DOCKET NO. 971065-SU
ORDER NO. PSC-99-1203-PHO-SU
ISSUED: June 15, 1999

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on June 7, 1999, in Tallahassee, Florida, before Commissioner Julia L. Johnson, as Prehearing Officer.

APPEARANCES:

Richard D. Melson, Esquire, Hopping, Green, Sams
& Smith, P.A.
Post Office Box 6526, Tallahassee, Florida 32314
On behalf of Mid-County Services, Inc.

Stephen C. Burgess, Esquire, Office of Public Counsel,
c/o The Florida Legislature, 111 West Madison Street,
Suite 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of Florida.

Jennifer S. Brubaker, Esquire, Florida Public Service
Commission, 2540 Shumard Oak Boulevard, Tallahassee,
Florida, 32399-0850
On behalf of the Commission Staff.

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

II. CASE BACKGROUND

Mid-County Services, Inc. (Mid-County or utility), a wholly-owned subsidiary of Utilities, Inc., of Northbrook, Illinois, is a Class B utility, located in Pinellas County, Florida. Mid-County provides wastewater service to customers located in Dunedin, Florida. The utility is located in a region which has been designated by the South Florida Water Management District (SFWMD)

DOCUMENT NUMBER-DATE

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PSC-RECORDS/REPORTING

ORDER NO. PSC-99-1203-PHO-SU
DOCKET NO. 971065-SU
PAGE 2

as a critical use area. As of December 31, 1996, the utility served approximately 1,327 residential customers, 108 general service, 69 multi-family dwellings and 3 flat rate customers. Water service and billing is provided by Pinellas County.

On September 4, 1997, the utility filed the instant application for approval of interim and permanent rate increases pursuant to Sections 367.081 and 367.082, Florida Statutes, and requested that the Commission process this case under the proposed agency action (PAA) procedure. However, the information submitted did not satisfy the minimum filing requirements (MFRs) for a general rate increase. Subsequently, on October 14, 1997, the utility satisfied the MFRs and this date was designated as the official filing date. The test year for interim and final purposes is the historical twelve-month period ended December 31, 1996. The current rate case is driven by increased expenses.

Mid-County requested interim wastewater rates designed to generate annual operating revenues of \$1,219,230. Those revenues exceeded test year revenues by \$305,637 or 33.45 percent. By Order No. PSC-97-1608-PCO-SU, issued December 22, 1997, the Commission approved annual operating revenues of \$1,177,602 on an interim basis, subject to refund. These revenues exceed test year revenues by \$264,009 or 28.90 percent. By PAA Order No. PSC-98-0524-FOF-SU, issued April 16, 1998, the Commission proposed wastewater rates for this utility. Specifically, the Commission proposed a \$989,757 wastewater revenue requirement for Mid-County, which represents an annual increase in revenue of \$76,164 or 8.34 percent.

On May 7, 1998, Mid County timely filed a petition protesting PAA Order No. PSC-98-0524-FOF-SU. On June 12, 1998, the Office of Public Counsel (OPC) filed a notice of intervention in this matter, which was acknowledged by Order No. PSC-98-0834-PCO-SU, issued June 24, 1998. An administrative hearing for this docket has been scheduled for June 21, 1999.

III. 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 Division of Records and Reporting's confidential files.

IV. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. 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. If a party fails to file a post-hearing statement, 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 40 pages, and shall be filed at the same time.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

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.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Carl J. Wenz	Mid-County	1, 1A, 8, 11, 12, 13, 14, 15, 16
Donald Rasmussen	Mid-County	4, 5, 6
Frank Seidman	Mid-County	2, 3, 4, 7
Hugh Larkin, Jr.	OPC	1, 1A, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15
Ted L. Bidy	OPC	1, 2, 3, 4, 5, 6
Charles J. Winston	Staff	1
Hillary Y. Sweeney	Staff	11
Robert J. Crouch	Staff	1, 2, 3, 4, 5, 6
Barry F. Davis	Staff	1, 7, 11, 12
<u>Rebuttal</u>		
Carl J. Wenz	Mid-County	1, 9, 10, 11, 12, 13
Frank Seidman	Mid-County	2, 3, 4, 5, 6, 7

VII. BASIC POSITIONS

UTILITY: Mid-County's current rates are insufficient to allow the utility to recover operating expenses and provide a fair return on investment. The Commission should set rates designed to produce revenues of \$1,224,059 based on the usage of the utility's services during the 1996 test year.

OPC: The Citizens believe that based on the test year chosen by Mid-County, the utility is earning above a reasonable return and its rates should be lowered.

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 is entitled to some level of increase. The specific level cannot be determined until the evidence presented at hearing is analyzed.

VIII. ISSUES AND POSITIONS

ISSUE A: What issues are considered to be "in dispute" for the purpose of Section 120.80(13)(b), Florida Statutes?

POSITIONS

UTILITY: The only issues "in dispute" for purposes of Section 120.80(13)(b) are those issues raised by a timely protest of a PAA Order. All matters in a PAA Order which are not specifically protested are "deemed stipulated" and are not the proper subject of a hearing on the protest.

OPC: This issue will be relevant to virtually all of the many PAA protests that the PSC entertains. The PSC needs to address this issue definitively for consistent future application. The Citizens believe that any issue put into dispute through the prehearing process must be heard by the Commission.

ORDER NO. PSC-99-1203-PHO-SU
DOCKET NO. 971065-SU
PAGE 7

STAFF: Section 120.80(13)(b), Florida Statutes, does not limit the Commission's discretion to address all issues that it determines to be relevant to a full resolution of a case when an initial PAA order is protested. However, Section 120.80(13)(b), Florida Statutes, effectively precludes a party from addressing at hearing any issues in the PAA Order which were not raised in the protest.

ISSUE B: Does the Commission have the legal authority to take evidence on a protested issue, when the PAA granted the utility all the revenue it sought on that issue?

POSITIONS

UTILITY: Yes.

OPC: The Citizens do not understand why this is an issue. In this case, the Citizens are not challenging the Commission's legal authority to take evidence on the issue in question. Neither is any other party. Since it is not a point of contention, the Commission need not reach a resolution on it.

STAFF: Yes.

ISSUE C: Should the Commission take evidence on a protested issue, when the PAA granted the utility all the revenue it sought on that issue?

POSITIONS

UTILITY: Yes, the Commission should allow the utility to correct oversights in its filing so long as the revenues ultimately granted do not exceed those requested.

OPC: No.

STAFF: Agree with the utility.

RATE BASE

ISSUE 1: How should construction work in progress (CWIP) be treated?

POSITIONS

UTILITY: The entire cost of the main relocation project (\$195,891) should be included in rate base, as should the entire cost of the remaining projects (\$96,268) shown as CWIP in the MFRs, after the staff's adjustments of \$4,500. There should not be a negative balance in the CWIP account after the inclusion of these projects in plant in service. (Wenz)

OPC: This should not be a legitimate issue because the PAA gave Mid-County everything it sought in its original filing. Even if the PSC entertains Mid-County's additional request, it should not allow the 1997 year-end (it is a 1996 test year) CWIP for non-Curlew and Belcher projects. (Larkin)

STAFF: CWIP should be reduced by \$4,500 to correct errors and \$195,891 of pro forma plant additions should be reclassified in rate base and shown as utility plant in service. (Crouch, Winston, B. Davis)

ISSUE 1A: Did the PAA grant the entire revenue requirement associated with the CWIP sought by Mid-County in its original filing?

POSITIONS

UTILITY: Yes, but the original filing mistakenly included only an average balance for CWIP instead of the appropriate year-end balance. (Wenz)

OPC: Yes. (Larkin)

STAFF: Agree with the utility.

ISSUE 2: What is the appropriate methodology for calculating used and useful for wastewater treatment plant?

POSITIONS

UTILITY: The appropriate used and useful methodology is to divide the permitted capacity of the wastewater treatment plant by either the maximum month average daily flow or the three maximum month average daily flow. In this case, either methodology results in 100% used and useful, after taking into account an appropriate margin reserve. (Seidman)

OPC: It is axiomatic that, as in any meaningful ratio, the basis used to measure the denominator must also be used to measure the numerator. Since Mid-County chose AADF for its DER permit, the PSC should use AADF as the system demand. (Bidly, Larkin)

STAFF: The appropriate methodology or flow data to use is the flow upon which the FDEP operating permit is based. The newer FDEP operating permits contain the most recent and accurate information describing the flows upon which capacity is based. When such information is not available, the average daily flow in the maximum month should be used. For this case, as indicated by the FDEP permit, annual average daily flow (AADF), should be used for calculating used and useful. (Crouch)

ISSUE 3: Should the utility be granted a margin reserve, and if so, what is the appropriate amount which should be used?

POSITIONS

UTILITY: Yes. The appropriate margin reserve period is that sufficient to install the next economically feasible increment of plant capacity. For Mid-County, that period is five years and represents capacity equal to 13.6% of test year flows. (Seidman)

OPC: Pursuant to Commission rule, eighteen months should be used. (Bidly, Larkin)

STAFF: Yes. The utility should be granted a margin reserve of 26,825 gallons per day (GPD) equaling 3% of its treatment

plant flow capacity, based on the linear regression method of calculating growth and an eighteen-month construction period. (Crouch)

ISSUE 4: What is the appropriate used and useful percentage of the wastewater treatment facility?

POSITIONS

UTILITY: The wastewater treatment plant should be considered 100% used and useful. (Seidman, Rasmussen)

OPC: 65.54% (Bidby, Larkin)

STAFF: The wastewater treatment plant should be considered to be 83.09% used and useful. (Crouch)

ISSUE 5: What is the appropriate used and useful percentage of the effluent disposal system?

POSITIONS

UTILITY: This issue was not protested and the Commission's finding in the PAA Order is therefore deemed to be stipulated and is controlling in this docket. Pursuant to the PAA Order, the effluent disposal system is 100% used and useful. (Seidman, Rasmussen)

OPC: 65.4% (Bidby, Larkin)

STAFF: This issue was not protested. Pursuant to Section 120.80(13)(b), the Commission's finding in the PAA Order that the effluent disposal system is 100% used and useful is deemed to be stipulated and is controlling in this docket. (Crouch)

ISSUE 6: What is the appropriate used and useful percentage of the wastewater collection system?

POSITIONS

UTILITY: This issue was not protested and the Commission's finding in the PAA Order is therefore deemed to be stipulated and is controlling in this docket. Pursuant to the PAA

ORDER NO. PSC-99-1203-PHO-SU
DOCKET NO. 971065-SU
PAGE 11

Order, the wastewater collection system is 100% used and useful. (Seidman, Rasmussen)

OPC: 90.47% (Bidby)

STAFF: This issue was not protested. Pursuant to Section 120.80(13)(b), the Commission's finding in the PAA Order that the wastewater collection system is 100% used and useful is deemed to be stipulated and is controlling in this docket. (Crouch)

ISSUE 7: Should Contributions in Aid of Construction (CIAC) be imputed on the margin reserve, and if so, what amount?

POSITIONS

UTILITY: No. (Seidman)

OPC: Pursuant to proposed rule, 50% of the CIAC should be imputed to the margin reserve. (Larkin)

STAFF: Yes. The Commission should include an imputation of CIAC as a matching provision to the margin reserve calculation. However, as an averaging method, only 50% of the imputed CIAC should be recognized since the imputed amount will be collected over the life of the margin reserve period rather than all at the beginning of the period. In addition, the imputation should be limited to the amount of net plant included in the margin reserve. Accordingly, wastewater CIAC should be increased by \$50,733. Corresponding adjustments should also be made to increase wastewater accumulated amortization of CIAC by \$943 and decrease test year amortization expense by \$1,887. (B. Davis)

ISSUE 8: What is the appropriate rate base for the test year?

POSITIONS

UTILITY: The appropriate rate base for the test year is \$1,802,692. (Wenz)

OPC: The final amount is subject to the resolution of other issues and further development of the record. (Larkin)

ORDER NO. PSC-99-1203-PHO-SU
DOCKET NO. 971065-SU
PAGE 12

STAFF: The final amount is subject to the resolution of other issues and further development of the record.

COST OF CAPITAL

ISSUE 9: What is the proper level of allowed return on equity (ROE) to be applied?

POSITIONS

UTILITY: This issue was not protested and the Commission's finding in the PAA Order is therefore deemed to be stipulated and is controlling in this docket. Pursuant to the PAA Order, the proper level of allowed return on equity is 10.16%, with a range from 9.16% to 11.16%. (Wenz)

OPC: 8.91%. (Larkin)

STAFF: This issue was not protested. Pursuant to Section 120.80(13)(b), the Commission's finding in the PAA Order that the proper level of allowed return on equity is 10.16%, with a range from 9.16% to 11.16%, is deemed to be stipulated and is controlling in this docket.

ISSUE 10: What is the appropriate overall rate of return?

POSITIONS

UTILITY: This issue was not protested and the Commission's finding in the PAA Order is therefore deemed to be stipulated and is controlling in this docket. Pursuant to the PAA Order, the appropriate overall rate of return is 9.34%, with a range of 8.89% to 9.79%. (Wenz)

OPC: The final amount is subject to the resolution of other issues and further development of the record. (Larkin)

STAFF: This issue was not protested. Pursuant to Section 120.80(13)(b), the Commission's finding in the PAA Order that the appropriate overall rate of return is 9.34%, with a range of 8.89% to 9.79%, is deemed to be stipulated and is controlling in this docket.

NET OPERATING INCOME

ISSUE 11: Should operation and maintenance (O&M) expense be reduced for life insurance policies for officers, directors and key employees?

POSITIONS

UTILITY: Yes, however the appropriate adjustment is \$1,876.
(Wenz)

OPC: Yes. The utility has not shown that any of the coverage benefits the ratepayers. Customers should not pay premiums for insurance that does not benefit them.
(Larkin)

STAFF: Yes. O&M expenses should be reduced by \$3,983 because the purpose of the policies is to protect the company and does not demonstrate a clear benefit to the ratepayers. Further, the Uniform System of Accounts states that these expenses should be recorded as non-utility expenses.
(Sweeney, B. Davis)

ISSUE 12: Are the allocations from Utilities, Inc. a reasonable distribution of the cost of the services provided to Mid-County?

POSITIONS

UTILITY: Yes. The appropriate method to allocate common costs is based on customer equivalents as presented in the MFRs and in the company's testimony. This method results in a fair and reasonable allocation of common costs to Mid-County. (Wenz)

OPC: No. Common cost allocation should be based on an ERC basis. (Larkin)

STAFF: No, the allocation methods employed by Utilities, Inc. at the time of this filing overstate costs to Mid-County. Operation and maintenance expenses should be reduced by \$119,685, depreciation expense should be reduced by \$13,747 and taxes other than income should be reduced by \$2,293. (B. Davis)

ORDER NO. PSC-99-1203-PHO-SU
DOCKET NO. 971065-SU
PAGE 14

ISSUE 13: What is the appropriate amount of rate case expense?

POSITIONS

UTILITY: The appropriate rate case expense is \$158,252, consisting of \$113,499 of current rate case expense and \$44,753 from the prior rate case. (Wenz)

OPC: The PAA Order allowed the utility sufficient rate case expense. (Larkin)

STAFF: Only prudently incurred rate case expense should be allowed. The final amount is subject to further development of the record.

ISSUE 14: What is the appropriate net operating income for the test year?

POSITIONS

UTILITY: The appropriate amount is a fall-out of the resolution of the above issues, coupled with the rulings in the PAA Order that were not protested and therefore are deemed to be stipulated. These amounts are shown on the exhibits to Mr. Wenz's testimony. (Wenz)

OPC: The final amount is subject to the resolution of other issues and further development of the record. (Larkin)

STAFF: The final amount is subject to the resolution of other issues and further development of the record.

REVENUE REQUIREMENT

ISSUE 15: What is the appropriate revenue requirement for the test year?

POSITIONS

UTILITY: The appropriate amount is a fall-out of the resolution of the above issues, coupled with the rulings in the PAA Order that were not protested and therefore are deemed to be stipulated. These amounts are shown on the exhibits to Mr. Wenz's testimony. (Wenz)

ORDER NO. PSC-99-1203-PHO-SU
DOCKET NO. 971065-SU
PAGE 15

OPC: The final amount is subject to the resolution of other issues and further development of the record. (Larkin)

STAFF: The final amount is subject to the resolution of other issues and further development of the record.

RATES

ISSUE 16: What are the appropriate wastewater rates for the test year?

POSITIONS

UTILITY: The appropriate amount is a fall-out of the resolution of the above issues, coupled with the rulings in the PAA Order that were not protested and therefore are deemed to be stipulated. These amounts are shown on the exhibits to Mr. Wenz's testimony. (Wenz)

OPC: The final amount is subject to the resolution of other issues and further development of the record.

STAFF: The final amount is subject to the resolution of other issues and further development of the record.

ISSUE 17: What is the appropriate amount of rate reduction in four years as required by Section 367.081(6), Florida Statutes?

POSITIONS

UTILITY: The appropriate amount is a fall-out of the resolution of the above issues, coupled with the rulings in the PAA Order that were not protested and therefore are deemed to be stipulated.

OPC: The final amount is subject to the resolution of other issues and further development of the record.

STAFF: The final amount is subject to the resolution of other issues and further development of the record.

ISSUE 18: What is the appropriate amount of the interim refund, if any?

POSITIONS

UTILITY: The appropriate amount is a fall-out of the resolution of the above issues, coupled with the rulings in the PAA Order that were not protested and therefore are deemed to be stipulated.

OPC: The final amount is subject to the resolution of other issues and further development of the record.

STAFF: The final amount is subject to the resolution of other issues and further development of the record.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
	<u>Direct</u>		
Carl J. Wenz	Mid-County	_____	Accounting MFRs
		_____	Billing Data MFRs
		CJW-1	Rate Base
		CJW-2	Statement of Wastewater Operations
		CJW-3	Wastewater Bi- Monthly Rates
Donald Rasmussen	Mid-County	_____	Engineering MFRs
		_____	System Maps
Frank Seidman	Mid-County	FS-1	Wastewater Treatment Plant Flows, Comparison of 1996 and 1994 Test Years

ORDER NO. PSC-99-1203-PHO-SU
DOCKET NO. 971065-SU
PAGE 17

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		FS-2	Wastewater Treatment Plant Used & Useful Calculation (Average Daily Flow Maximum Month)
Hugh Larkin, Jr.	OPC	_____	(1) Page 3 of MFR schedule A-6 and (2) PSC Audit Exception No. 2
Ted L. Bidy	OPC	_____	(1) Capacity Analysis Report, August 1998; (2) Operation and Maintenance Performance Report, March 1992; (3) Minimal Negative Impact Study of Curlew Creek; (4) Sample Specification TETRA Gravity Deep-Bed Filters; (5) W a s t e w a t e r Engineering: Treatment/Disposal/Reuse; (6) May 25, 1993 Mid-County Services, Inc. Letter to FDEP; (7) April 25, 1993 FDEP letter to Mid-County Services, Inc.; (8) Used and Useful Calculations for WWTP and Effluent Disposal Facilities; (9) Used and Useful Calculation for W a s t e w a t e r Collection System;

ORDER NO. PSC-99-1203-PHO-SU
DOCKET NO. 971065-SU
PAGE 18

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
			(10) 1997 Annual Report, Page S-7
Robert J. Crouch	Staff	RJC-1	Guidelines for Preparation of Capacity Analysis Reports
		RJC-2	Excerpt from physics text
		RJC-3	FDEP Wastewater Application Form 2A
		RJC-4	Letter dated July 30, 1992 from Richard H. Harvey, Director, Division of Water Facilities, Florida Department of Environmental Regulation
		RJC-5	Florida Department of Environmental Regulation wastewater treatment plant permit
Barry F. Davis	Staff	BFD-1	Comparison of the allocation of salaries from the Florida office showing the allocation by customer equivalents and by gallons of wastewater treated
		BFD-2	Contents of pipe, Clow Corporation

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Hillary Y. Sweeney	Staff	HYS-1	Audit exceptions 1 through 5 of the staff audit report
		HYS-2	Staff audit work papers for Insurance/Other Account (Account 759)
Charles J. Winston	Staff	CJW-1	Administrative portion and Audit Exceptions 6 through 14 of the Staff audit report
		CJW-2	Utility cost report

Rebuttal

Carl J. Wenz	Mid-County	CJW-4	CWIP Final Balances
		CJW-5	Rate Case Expense
	Mid-County	CJW-6	Rate Case Expense back-up
Frank Seidman	Mid-County	FS-3	Wastewater Treatment Plant Used & Useful Calculation (Average Daily Flow Three Maximum Months)

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

X. PROPOSED STIPULATIONS

The parties and staff are agreed that the following proposed stipulations as set forth below are reasonable and should be accepted by the Commission:

1. The testimony of staff witness Charleston J. Winston shall be inserted into the record as though read and all parties have waived cross-examination of the witness, with the understanding that staff witness Davis is the appropriate witness to testify about the ratemaking treatment of CWIP.
2. Exhibit BFD-2, Contents of pipe, Clow Corporation, sponsored by staff witness Barry F. Davis, is deemed stipulated into the record without objection.
3. The appropriate meter equivalency factors to be used for determining rates are the hydraulic factors in the Clow pipe economy usage scale, with the understanding that this stipulation is to the rate structure aspect of these meter equivalency factors rather than to the proper allocation methodology for common costs.
4. The testimony of utility witness Donald Rasmussen shall be inserted into the record as though read and all parties have waived cross-examination of the witness.

XI. PENDING MOTIONS

The utility's oral request to strike issues 5, 6, 9 and 10 is scheduled to be ruled upon by the full panel as a preliminary matter at the June 21, 1999 hearing.

XII. RULINGS

By June 16, 1999, the parties shall file with the Commission briefs providing analysis on Issues A, B and C, and what effect, if any, those issues have upon Issues 1A, 5, 6, 9 and 10.

As a preliminary matter at the June 21, 1999 hearing, the parties shall be allowed 10 minutes each to present oral argument regarding the briefs to be filed on June 16, 1999.

It is therefore,

ORDERED by Commissioner Julia L. Johnson, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

ORDER NO. PSC-99-1203-PHO-SU
DOCKET NO. 971065-SU
PAGE 21

By ORDER of Commissioner Julia L. Johnson, as Prehearing Officer, this 15th Day of June, 1999.



JULIA L. JOHNSON
Commissioner and Prehearing Officer

(S E A L)

JSB

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, 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.