

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-
assisted rate case in Lake
County by Brendenwood Water
System.

DOCKET NO. 991290-WU
ORDER NO. PSC-00-0807-PAA-WU
ISSUED: April 25, 2000

The following Commissioners participated in the disposition of
this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.
LILA A. JABER

ORDER GRANTING TEMPORARY RATES IN THE EVENT OF PROTEST
AND NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING INCREASED WATER RATES AND CHARGES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the actions discussed herein, except for the granting of temporary rates in the event of protest, are preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Brendenwood Water System (Brendenwood or utility) is a Class C utility located in Lake County. Lake County became jurisdictional on June 13, 1972. Brendenwood was built in 1981 and its operating Certificate No. 339-W was granted by Order No. 10184, issued August 5, 1981, in Docket No. 810079-W.

Originally, Brendenwood was a division of Brentwood Development, a partnership composed of Paul Day, Bob Hanks, Jerry Rogers and Daniel Judy. By Order No. 16134, issued May 21, 1986, in Docket No. 830584-WU, this Commission approved a rate increase for the utility. By Order No. 22425, issued January 7, 1990, we

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approved a transfer of majority organization control to Paul Day, the current owner of the utility.

On September 2, 1999, the utility applied for a staff assisted rate case and paid the appropriate filing fee. We selected a historical test year ended June 30, 1999. We have audited the utility's records for compliance with our rules and orders and determined all components necessary for rate setting. Our staff engineer has also conducted a field investigation of the utility's plant and service area. A review of the utility's operation expenses, maps, files and rate application was also performed to obtain information about the physical plant operating costs.

Brendenwood's customer base includes 54 residential customers and one general service customer. The utility's test year revenue and operating expenses are understated. Therefore, the adjusted revenues and expenses have been used to determine the utility's financial position for the test year. The utility's adjusted revenue is \$24,259, and its adjusted operating expenses are \$28,654, which results in an adjusted operating loss of \$4,395.

In this case, we find it appropriate to use the operating ratio methodology for calculating the revenue requirement. We have approved this methodology in two prior rate cases, by Orders Nos. PSC-96-0357-FOF-WU and PSC-97-0130-FOF-SU, issued in Dockets Nos. 950641-WU and 960561-WU, respectively.

We have a memorandum of understanding with the Florida Water Management Districts. This memorandum recognizes that a joint cooperative effort is necessary to implement an effective, state-wide water conservation policy. Water use in the utility's service area is under the jurisdiction of the St. Johns River Water Management District (SJRWMD or District). The SJRWMD recently renewed the utility's consumptive use permit (CUP). We have been informed by a representative of the SJRWMD that the District is requiring implementation of a conservation rate structure as a condition of the utility's new CUP. Further, the SJRWMD has instructed the utility to seek approval of a conservation rate structure within this rate proceeding.

On February 23, 2000, a customer meeting was held at the City of Eustis Recreation Complex's Garden Room, 2214 East Bates Avenue,

Eustis, Florida. The purpose of this meeting was to allow customers to address the quality of service being provided by the utility and the current rate case proceeding. Twenty-eight customers attended the meeting and several customers addressed concerns about the quality of service and the proposed rate increase.

The major concerns addressed by customers include low water pressure, sediment in the water, excessive chlorine and high bills based on faulty meter readings. In addition, customers stated that the proposed rates were too high.

QUALITY OF SERVICE

Quality of service is determined by evaluating the quality of utility product, the operational condition of the treatment facility and distribution system, and customer satisfaction. A compliance review of the Department of Environmental Protection (DEP) and SJRWMD records show no water quality compliance problems. Also, our staff's on-site investigation found the operational condition of the treatment facility and distribution system to be functioning properly. In reference to customer satisfaction, there are no recent or active complaints on file with the Commission.

As stated previously, approximately 28 customers attended the customer meeting held at the Eustis Recreation Complex Center. Of that number, eight addressed our staff mainly about the impact of the proposed rate increase. The majority of the comments concerned water used for irrigation purposes and the effect of the proposed "tiered" rate structure designed to promote water conservation. The customers believe that the water they use for irrigation is necessary for them to maintain their yards. In general, they believe the tiered rate structure is punitive in nature and should not be applied to them. It was explained at the meeting that as a requirement of the recently renewed District CUP, the utility must develop and adopt a water conserving rate structure. Believing that they were already conserving as much as possible, the customers appeared concerned about this and expressed frustration towards this requirement. If the customers are supplied with the appropriate information, we believe that additional water conservation can be achieved without detrimental effect to the lawns and landscape. We have contacted SJRWMD and brochures

concerning water conservation have been sent to the utility for distribution. If requested, the SJRWMD is also available to conduct conservation education workshops. The customers may pursue additional education if they desire.

In addition to the irrigation concerns, other quality of service problems raised at the customer meeting generally concerned water quality, water pressure, and meter accuracy. As previously noted, a compliance review of the DEP and SJRWMD records show no water quality compliance problems. However, two customers voiced concerns over water quality in the form of excessive chlorine taste and floating debris in the water. These two employ the use of water filters at their homes. Our review has found that the utility is doing what is necessary to provide a reliable water source. Chlorination is necessary for disinfection purposes, and although some taste may be noticed, we do not consider it excessive. The floating debris problem is not readily identifiable. It does not appear to be widespread or consistent. We have been unable to identify the source. We find that additional improvements to further enhance the quality of the water leaving the treatment facility would in this case be expensive and unnecessary.

Water pressure provided by the utility appears to be adequate. The minimum pressure necessary to protect the health and safety of the consumers is maintained by the utility. However, there were customer concerns over the reduction of pressure inside the home during times when outside irrigation is in progress. Increasing the pressure appears unlikely given the limited pumping capability of the existing treatment facility. Costly plant improvements would be necessary to further improve the situation. We believe that this is more of an inconvenience rather than a health and safety concern. Since the minimum pressure needs are being met by the utility, further review is not required.

Finally, one customer expressed concern about the accuracy of her meter. The utility has recently field tested the meter and found it to be within tolerable limits. However, having knowledge in meters and meter testing, the customer performed a similar test and found indications that the meter was registering high. Believing that she is being over billed, the customer, as provided in the Meter Test By Request Rule 25-30.266 Florida Administrative

Code, requested that a more reliable "bench test" be performed. We are presently working with the utility and the customer to arrange for this test. The outcome of this complaint will not have any bearing on the present rate case, and the complaint can be resolved independently of this case. This situation will be pursued to its resolution. Since this investigation is ongoing, no adjustment is required at this time.

Given the results of the above service review, we find that the quality of service provided by the utility is satisfactory. Therefore, no adjustments shall be made.

RATE BASE

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.

This Commission has not previously determined used and useful for this utility.

Water Treatment Plant

The water treatment plant has a pumping capacity of 160 gallons per minute from a single well. There is no onsite storage capacity or high service pumping capabilities. The plant itself is considered to be at the minimum size necessary to supply the existing needs of the customers. With the utility's service area basically at build out, the water treatment plant is fully utilized. Therefore, the water treatment plant is 100% used and useful. Review of the amount of water produced versus water consumed by the utility's customers during the test year, shows the unaccounted for water to be at 8%. Anything below 10% is considered reasonable. Therefore, we find that no adjustment is necessary.

Water Distribution System

The water distribution system is at capacity, and is therefore 100% used and useful.

Land

Based on a warranty deed provided in the audit, the utility's owner, Mr. Day, owns the land on which the utility's water facilities are located.

By letter dated December 13, 1999, we informed Mr. Day that Section 367.1213, Florida Statutes, and Rule 25-30.035(6), Florida Administrative Code, require a utility to own the land upon which its treatment facilities are located, or submit an agreement which provides for the continued use of the land, such as a 99-year lease.

On December 21, 1999, we received a land lease from the utility's owner dated December 15, 1999, leasing the land on which the water facilities are located to the utility for 99 years.

The National Association of Regulatory Utility Commissioners (NARUC) instructions states that leases shall be accounted for by the utility as described in Statement of Financial Accounting Standards (FAS).

FAS 13 lists the criteria for classifying leases. Paragraph 25 of this document states that when land is the sole item of property leased, the following criteria must be met to qualify for a capital lease:

- a. The lease transfers ownership of the property to the lessee by the end of the lease term; and
- b. The lease contains a bargain purchase option.

If the listed criteria are not met, then the lease is an operating lease. The lease submitted by the utility does not meet the criteria for a capital lease. It is an operating lease and is included in operation and maintenance expense (O&M). Therefore, the appropriate land value to be included in rate base is zero.

Test Year Rate Base

Brendenwood began operations in August, 1981. The utility was a division of Brentwood Development, a partnership. There were

four partners, one being Mr. Day, the current owner of the utility. Based on the audit for Docket No. 830584-WU, the primary activity of the partnership was construction and sales of homes on the land the partnership purchased and developed.

By Order No. 14787, issued August 28, 1985, in Docket No. 830584-WU, a staff assisted rate case, this Commission approved a rate increase for Brendenwood for the test period ended December 31, 1984. In that rate case, it was determined that the utility's plant costs were allocated to the cost of each lot and home sold and were written off to cost of goods sold. Therefore, rate base was set at zero at December 31, 1984.

On July 6, 1988, Mr. Day acquired the other partners' interest in the utility. By Order No. 22425, issued January 17, 1990, in Docket No. 891121-WU, we approved transfer of majority organizational control to Mr. Day, the utility's current owner.

On September 2, 1999, the utility applied for this staff assisted rate case. We selected a test year ended June 30, 1999, for this rate case. Based on the audit, we used the utility owner's income tax records, invoices and canceled checks to determine plant values for the period July 6, 1988 through June 30, 1999.

Utility Plant in Service (UPIS): The utility recorded \$5,291 in UPIS. Audit Exception No. 2 states that year-end plant on June 30, 1999 is \$8,615. This amount is net of a retirement of a pump valued at \$2,488. Therefore plant investment before the retirement is \$11,103.

UPIS has been increased by \$5,812 to reflect plant investment on June 30, 1999, prior to the adjustment for the pump retirement. It has been decreased by \$2,488 to reflect the retirement of a pump and it has been decreased by \$1,139 to reflect the averaging adjustment. Average UPIS is \$7,476.

Land: The utility does not own the land on which its water facilities are located. The land has been leased to the utility for 99 years and the cost is included in O&M expense. Therefore, the value for land to be included in rate base is zero.

Contributions-In-Aid-Of-Construction (CIAC): Audit Exception No. 3 states that the utility collected its authorized base facility charge (BFC) from a developer for lots under construction for the period 1990 through June 30, 1999. The BFC collected was recorded as revenue. The utility initially billed the developer at the start of construction on a lot although water service was not available. Upon installation of the meter, and when water service was available, the utility began to bill its new customer, the home owner.

The utility's existing tariff does not authorize the utility to collect any charges except from customers of record. Therefore, the BFC collected from the developer was unauthorized. The utility paid regulatory assessment fees on charges collected and recorded the charges as revenue. We find that the utility did not knowingly charge unauthorized charges. Therefore, the charges collected from the developer for the period 1990 through June 30, 1999 shall be recognized as CIAC. This is consistent with Order No. PSC-92-0123-FOF-WS, issued March 31, 1992, in Docket No. 910637-WS.

Based on the audit, the utility collected \$1,577 from the developer for the period 1990 through June 30, 1999. The utility did not record any CIAC. This account has been increased by \$1,577 to reflect the CIAC balance on June 30, 1999. It has been decreased by \$82 to reflect the averaging adjustment. Average CIAC is \$1,495.

Accumulated Depreciation: The utility did not record accumulated depreciation on its books during the test year. Consistent with past practice, we calculated accumulated depreciation using the prescribed rates in Rule 25-30.140, Florida Administrative Code. Our calculated accumulated depreciation on June 30, 1999, is \$2,722. This account has been increased by \$2,722 to reflect year-end accumulated depreciation. It has been decreased by \$879 to remove accumulated depreciation on the retired pump. It has also been increased by \$248 to reflect the averaging adjustment. Average accumulated depreciation is \$2,091.

Amortization of CIAC: Amortization of CIAC has been calculated using composite depreciation rates. We calculated year-end amortization of CIAC at \$380. The utility did not record any amortization of CIAC. This account has been increased by \$380 to

reflect year-end amortization. It has also been decreased by \$46 to reflect the averaging adjustment. Average amortization of CIAC is \$334.

Working Capital Allowance: Consistent with Rule 25-30.443, Florida Administrative Code, the one-eighth of operation and maintenance expense formula approach shall be used for calculating working capital allowance. Applying that formula, the working capital allowance is \$3,206 (based on O&M of \$25,649). The utility did not record a working capital allowance. Therefore, working capital has been increased by \$3,206 to reflect one-eighth of O&M expenses.

Rate Base Summary: Based on the foregoing, we find that the appropriate balance for average test year rate base is \$7,430.

Rate base is shown on Schedule No. 1. Related adjustments are shown on Schedule No. 1-A.

CAPITAL STRUCTURE

Audit Exception No. 1 states that the utility's general ledger and annual reports show no amount for proprietary capital. However, plant improvements have been traced to invoices and the utility owner's income tax returns verifying that plant has been funded by the owner. There is no record of debt. Therefore, the utility's capital structure is 100% equity.

Using the current leverage formula approved by Order No. PSC-99-1224-PAA-WS, issued June 21, 1999, in Docket No. 990006-WS, the appropriate rate of return on equity is 8.93%. Since the utility's capital structure is 100% equity, the overall rate of return is 8.93%. The range is 7.93% - 9.93%.

The utility's capital structure has been reconciled with our calculated rate base. Even though we are not using the rate base methodology for calculating rates, we find that the rate of return on equity shall be determined in this proceeding to be used in future cases. We find that the return on equity and the overall rate of return is 8.93% with a range of 7.93% - 9.93%.

The return on equity and overall rate of return are shown on Schedule No. 2.

NET OPERATING INCOME

Test year revenue is shown on Schedule No. 3. The related adjustments are shown on Schedule No. 3-A. The major items and adjustments are discussed below.

Test Year Operating Revenue

The utility recorded test year revenue of \$23,553. As stated earlier, the utility collected its BFC from a developer for the period 1990 through June 30, 1999, and recorded the monies collected as revenue. The developer was not a customer of record and the funds collected have been recognized as CIAC. Audit Exception No. 4 states that the utility's recorded revenue should be decreased by \$164 to remove that portion of the BFC collected from the developer, which has been recognized as CIAC.

Audit Exception No. 4 also states that the utility's owner is a customer of the utility. The utility's billing register reflected the owner's monthly consumption, but did not reflect a charge for usage. We find it appropriate to increase the revenue by \$580 to reflect revenue that should have been charged to the utility owner.

The utility's existing rates became effective August 9, 1998. The utility's test year includes the period July 1, 1998 through June 30, 1999. We calculated annualized revenue using existing rates times the number of bills and consumption provided in the billing analysis. Test year revenue has been increased by \$290 to reflect annualized revenue based on existing rates. The total adjustment for test year revenue is an increase of \$706.

Operating Expense

The utility recorded operating expenses of \$17,589. This amount includes \$16,037 for operation and maintenance expense and taxes other than income of \$1,552. Based on the audit, the utility's recorded operating expenses are understated. We made adjustments to reflect the appropriate annual operating expenses that are required for the utility operations on a going forward basis.

Operation and Maintenance Expenses (O&M)

Salaries and Wages - Employees (601): Audit Disclosure No. 1 states that the utility's bookkeeper did not receive payment for services provided to the utility. Based on a schedule provided in the audit workpapers and prepared by the utility, the bookkeeper handles meter reading, billing, assists with the preparation of the annual report, filing price indexes and permit renewals and correspondence for all regulatory matters. In addition, the bookkeeper assists with the maintenance of the utility's books and records and customer service.

The schedule provided in the audit workpapers listed the requested cost for each service provided. The bookkeeper also informed us that she spends approximately 4 hours per week or 208 hours annually conducting utility business. We reviewed the duties and the requested cost for each service, determined the costs reasonable, and included an annual salary of \$3,310 for the bookkeeper in the calculation of preliminary rates.

At the customer meeting held on February 23, 2000, of the customers addressed dissatisfaction with the proposed rate increase, the bookkeeper stated that she did not want a salary and indicated that she was told to request a salary. As stated earlier, the salary was requested by the utility. When processing a staff assisted rate case, it is our responsibility to make utilities aware of allowable expenses that are necessary for day to day operations. It was not our intent to require the utility to request a bookkeeper's salary. However, since the bookkeeper's duties are an integral part of required services for day to day operations, we find it appropriate to include an allowance for bookkeeping in the calculation of rates.

After the customer meeting, we requested that the utility submit its decision in writing as to whether it wanted a salary for the bookkeeper included in the calculation of rates for this rate case. By letter dated March 1, 2000, the utility requested a \$100 per month (or \$1,200 annual) reduction in the original requested salary of \$3,310. The utility stated that the requested reduction is an effort to show the utility's sensitivity to the customers' personal financial concerns. As requested by the utility, the bookkeeper's originally requested salary has been reduced by \$1,200

allowing \$2,110 annually. Therefore, this expense has been increased by \$2,110 to reflect the requested bookkeeper's salary.

Contractual Services - Professional (631): The utility recorded \$230 in this expense. This amount covers the cost for income tax preparation by a certified public accountant. Per the audit, the utility's books are not in conformance with the National Association of Regulatory Commission (NARUC) Uniform System of Accounts (USOA). The recorded contractual accounting expense will not provide the services needed to set up and maintain the books to conform with the NARUC USOA.

Using costs approved by this Commission for a similarly sized utility, we have estimated a one-time cost of \$2,800 for converting the utility's books and records to conform with the NARUC USOA and for reconciling the utility's books with this Order. This amount has been amortized over five years allowing the recovery of \$560 annually. Further, we have estimated an annual allowance of \$504 for the preparation of annual reports, regulatory assessment fee forms, preparation of payroll returns and monthly accounting duties. The total adjustment for this expense is an increase of \$1,064.

Contractual Services - Testing (635): Each utility must adhere to specific testing conditions prescribed within its operating permit. These testing requirements are tailored to each utility as required by the Florida Administrative Code and enforced by DEP. The tests and the frequency at which those tests must be repeated for this utility are:

| <u>Description</u> | <u>Frequency</u> | <u>Annual Cost</u> |
|--------------------------------|------------------|--------------------|
| Microbiological | monthly | \$ 360 |
| Primary Inorganics | 3 years | \$ 49 |
| Secondary Inorganics | 3 years | \$ 29 |
| Asbestos | 9 years | \$ 35 |
| Nitrate & Nitrite | annual | \$ 40 |
| VOC's | 3 years | \$ 110 |
| Pesticides & PCB's w/Dioxin | 3 years | \$ 146 |
| Radionuclides | 3 years | \$ 292 |
| UOC's | 3 years | \$ 213 |
| Lead & Copper | biannual | <u>\$ 300</u> |

Total \$1,574

The utility recorded \$695 in contractual testing expense. This expense has been increased by \$879 to reflect the annual DEP required testing expense.

Contractual Services - Other (636): The utility recorded \$5,362 in this expense. Audit Exception No. 5 addresses adjustments for this expense. Per the audit, this expense has been increased by \$274 to reflect unrecorded telephone expense; it has been decreased by \$100 to remove a non-utility expense and decreased by \$106 to reflect 50% of lawn mower repair expense that is shared by the owner.

The utility's owner has requested a management fee of \$475 per month or \$5,700 annually. The management duties include coordinating and planning all activities associated with operating the utility. In addition, he is on-call 24 hours a day to provide customer assistance when needed. The utility's recorded expense included \$2,850 for contractual management service. This expense has been increased by \$2,850 to reflect an annual management allowance of \$5,700.

The utility's recorded expense included an operator allowance of \$540. We determined the appropriate annual allowance for operator service to be \$2,580 for a utility this size. This expense has been increased by \$2,040 to reflect the appropriate annual allowance for an operator. The total adjustment for contractual services - other is an increase of \$4,958.

Rents (640): The utility recorded \$1,632 in this expense. The utility's office is located in the utility owner's home. The monthly rental expense including overhead is \$181 per month, or \$2,172 annually. We find that an annual rent allowance of \$2,172 is reasonable and have increased this expense by \$540.

The utility's owner owns the land on which the utility's facilities are located and the land has been leased to the utility for 99 years. We find that the lease is an operating lease and that the annual lease expense shall be included in O&M expenses. The utility requested our assistance in determining the appropriate annual lease cost.

In Docket No. 830584-WU, a staff assisted rate case for this utility, an audit was done. From the audit work papers, we determined that the original cost of 47 lots that was purchased when the utility was first organized was \$149,232 which equates to \$3,175 per lot. The utility's water facility is situated on one lot. We determine the maximum lease amount to be the annual return, based on the utility's current capital structure, times \$3,175. This equates to \$284 annually. This expense has been increased by \$284 to reflect the land lease cost. The total adjustment for rent is \$824.

Transportation Expense (650): Audit Exception No. 5 states that the utility claimed 100% of transportation expenses on a truck and van. Per a discussion with the utility owner, the utility's usage is 80% for the truck and 30% for the van. The utility recorded \$3,187 in this expense. This expense has been decreased by \$479 to reflect 80% and 30% utility use of the truck and van, respectively.

Insurance Expense (655): The utility recorded \$1,244 in this expense. This expense has been decreased by \$512 to reflect 80% and 30% of the utility's use of the truck and van, respectively.

The utility submitted a copy of the liability insurance policy for protection of the utility assets and requested that the cost be included in this rate case. The cost of the insurance is \$698 annually. This expense has been increased by \$698 to reflect the annual expense for liability insurance. The total adjustment for this expense is an increase of \$186.

Regulatory Commission Expense (665): The utility paid a filing fee of \$200 for this rate case. This amount has been amortized over 4 years allowing the recovery of \$50 annually. This expense has been increased by \$50.

Miscellaneous Expense (675): The utility recorded \$83 in this expense. This expense has been increased by \$100 to reflect a reclassification of a consumptive permit cost from taxes other than income. This permit is due for renewal in five years. Therefore, this cost has been amortized over five years. This expense has been decreased by \$80 to reflect the appropriate allowance. The total adjustment for this expense is an increase of \$20.

Operation and Maintenance Expenses (O&M) Summary: Total O&M adjustments are an increase of \$9,612 for a total O&M expense of \$25,649. O&M expense is shown on Schedule No. 3-B.

Depreciation Expense (Net of Related Amortization of CIAC): The utility did not record a depreciation expense. Depreciation expense has been calculated using the prescribed rates in Rule 25-30.140, Florida Administrative Code. We calculated depreciation of \$519. We calculated amortization of CIAC of \$95. This expense has been increased by \$519 and it has been decreased by \$95 to reflect the net depreciation expense of \$424.

Amortization: In August, 1998, the utility had to replace a pump. The retired pump was installed in 1992 and had a service life of 17 years. Therefore, the pump was retired prior to the end of its depreciable life. The original cost of the pump was \$2,488, and accumulated depreciation at August, 1998 was \$879. Therefore, the net loss is \$1,609. Following the guidelines of Rule 25-30.433(9), Florida Administrative Code, the net loss shall be amortized over 5.53 years allowing the recovery of \$291 annually. This expense has been increased by \$291.

Taxes Other Than Income: The utility recorded \$1,552 in this expense. This expense has been increased by \$62 to reflect the appropriate amount of regulatory assessment fees on test year annualized revenue. It has been decreased by \$272 to remove real estate taxes since the utility does not own the land on which its facilities are located. It has also been increased by \$288 to reflect payroll taxes on the salary for the bookkeeper.

In addition, decreases have been made of \$150 to remove a non-utility expense and of \$100 to reflect a reclassification to miscellaneous expense. The total adjustment for this expense is \$172.

Operating Revenues: Revenues have been increased by \$6,335 to reflect the increase in revenue required to cover expenses and allow a 10% operation margin on O&M expenses.

Taxes Other Than Income: This expense has been increased by \$285 to reflect the regulatory assessment fee of 4.5% on the increase in revenue.

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Operating Expenses Summary: The application of our adjustments to the utility's recorded test year operating expenses results in operating expenses of \$28,029.

Operating expenses are shown on Schedule No. 3 and adjustments are shown on Schedule No. 3-A.

METHODOLOGY FOR CALCULATING REVENUE REQUIREMENT

Section 367.0814(9), Florida Statutes, provides that we may, by rule, establish standards and procedures for setting rates and charges of small utilities using criteria other than those set forth in Sections 367.081(1), (2)(a) and (3), Florida Statutes. Rule 25-30.456, Florida Administrative Code, provides, in part, as an alternative to a staff assisted rate case as described in Rule 25-30.455, Florida Administrative Code, that utilities whose total gross annual operating revenues are \$150,000 or less per system, may petition this Commission for assistance in alternative rate setting.

Although, the utility did not petition us for alternative rate setting under the aforementioned rule, it is within our discretion to employ the operating ratio methodology as an alternative means to set rates in this case.

By Order No. PSC-96-0357-FOF-WU, issued March 13, 1996, in Docket No. 950641-WU, this Commission utilized, for the first time, the operating ratio methodology as an alternative means for setting rates. That order also established criteria to determine the use of the operating ratio methodology and a guideline margin of 10% of operation and maintenance expense.

In addition, by Order No. PSC-97-0130-FOF-SU, issued February 10, 1997, in Docket No. 960561-WU, we utilized the operating ratio methodology for setting rates. The same criteria and 10% margin of operation and maintenance expense was approved as in Order No. PSC-96-0357-FOF-WU.

In Order No. PSC-96-0357-FOF-WU, we established criteria to determine whether to utilize the operating ratio methodology for those utilities with low or nonexistent rate base. The following

is a discussion of the qualifying criteria established by Order No. PSC-96-0357-FOF-WU, and how they apply to Brendenwood.

1) Whether utility's operation and maintenance expense exceed rate base. In the instant case, the rate base is substantially lower than the level of O&M expense. Based on the audit, the adjusted rate base for the test year is \$7,430, while adjusted operation and maintenance expenses are \$25,649.

2) Whether the utility is expected to become a Class B in the foreseeable future. According to Chapter 367.0814(9), Florida Statutes, the alternative forms of regulation being considered in this case only apply to small utilities whose gross annual revenues are \$150,000 or less. Brendenwood is a Class C utility and the approved revenue requirement of \$30,594 is substantially below the threshold level for Class B status (\$200,000 per system). The utility's service area has two lots left for development and is essentially built out. The utility does not have additional capacity for expansion and the surrounding areas are being served by the City of Eustis. Therefore, the utility will not become a Class B utility in the foreseeable future.

3) Quality of service and condition of plant. A review of the DEP records shows no compliance problems. The quality of service appears satisfactory.

4) Whether the utility is developer owned. The current utility owner is not a developer, the service territory is not in the early stages of growth and the customer growth rate is very slow.

5) Whether the utility operates treatment facilities or is simply a distribution and/or collection system. Brendenwood operates a water treatment plant and a water distribution system.

MARGIN PERCENTAGE

By Orders Nos. PSC-96-0357-FOF-WS and PSC-97-0130-FOF-WU, we determined that a margin of 10% shall be used unless unique circumstances justify the use of a greater or lesser margin. We settled on the 10% margin due to lack of economic guidance on developing an operating ratio method rate of return. We believed that it would be a futile and unwarranted exercise to try to

establish a precise return applicable to all small utilities. The important question was not what the return percentage should be, but what level of operating margin will allow the utility to provide safe and reliable service and remain a viable entity. The answer to this question requires a great deal of judgement based upon the particular circumstances of the utility.

Several factors must be considered in determining the reasonableness of a margin. First, the margin must provide sufficient revenues for the utility to cover its interest expense. Brendenwood's capital structure is 100% equity and has no interest expense.

Second, use of the operating ratio methodology rests on the contention that the principal risk to the utility resides in operating cost rather than in capital cost of the plant. The fair return on a small rate base may not adequately compensate the utility owner for incurring the risk associated with covering the much larger operating cost. Therefore, the margin should adequately compensate the utility owner for that risk. Under the rate base method, the return to Brendenwood's owner amounts to only \$664, which is enough to cover only a 2.59% variance in O&M expenses. Given this utility's circumstances, we find that \$664 is too little of a cushion.

Third, if the return on rate base method were applied, a normal return would generate such a small level of revenues that in the event we estimate revenues or expenses incorrectly, the utility could be left with insufficient funds to cover operating expenses. Therefore, the margin should provide adequate revenues to protect against potential variability in revenues and expenses. Since the utility's capital structure is 100% equity, the return on rate base method would provide Brendenwood only \$664 in operating income to cover revenue and expense variances. If the utility's operating expenses increase, the utility would not have the funds required for day to day operations.

In conclusion, we find that the above factors show that the utility needs a higher margin of revenues over operating expenses than the traditional return on rate base method would allow. Therefore, to provide the utility adequate cash flow to satisfy environmental requirements and to provide some assurance of safe

and reliable service, we shall use the operating ratio methodology at a margin of 10% of operation and maintenance expenses.

REVENUE REQUIREMENT

Using the operating ratio methodology for calculating the revenue requirement, the utility shall be allowed an annual increase in revenue of \$6,335 (26.11%). This will allow the utility the opportunity to recover its expenses and earn a 10% operating margin on its adjusted operation and maintenance expense. The calculations are as follows:

| | |
|--|--------------------------|
| | <u>Water</u> |
| Adjusted Operation & Maintenance Expense | \$25,649 |
| Rate of Return (ORM) | <u>x .10</u> |
| Operating Margin | \$ 2,565 |
| Adjusted Operation and Maintenance Expense | \$25,649 |
| Depreciation Expense (Net) | 424 |
| Amortization | 291 |
| Taxes Other Than Income | <u>288</u> |
| | \$29,217 |
| Gross up for RAFs | (divided by) <u>.955</u> |
| Revenue Requirement | \$30,594 |
| Adjusted Test Year Revenue | <u>(24,259)</u> |
| Revenue Increase | <u>\$ 6,335</u> |
| Percentage Increase in Revenue | <u>26.11%</u> |

RATES AND RATE STRUCTURE

During the test year the utility provided water service to approximately 54 residential customers and one general service customer (a post office). Five of the residential customers are served through a 1" meter and the remaining customers, including the post office, are served through a 5/8" x 3/4" meter. In the utility's prior rate case in Docket No. 830584-WU, by Order No. 16134, issued May 21, 1986, we authorized the utility to charge all residential customers the same base facility and gallonage charge irrespective of the meter size. The base facility charge for residential customers shall be calculated consistent with Order No. 16134 in this case. However, future meter change outs for

residential 1" meters shall be replaced with a 5/8" x 3/4" meter or shall be charged the appropriate base facility and gallonage charge rate for a 1" meter.

Conservation rate structure

Brendenwood is located in a Priority Water Resource Caution Area within the SJRWMD. The SJRWMD recently renewed the utility's consumption use permit (CUP). We have been informed by a representative of the SJRWMD that the District is requiring implementation of a conservation rate structure as a condition of the utility's new CUP. Further, the SJRWMD has instructed the utility to seek approval of a conservation rate structure within this rate proceeding.

Brendenwood provides water service to 54 residential customers and one general service customer. The utility's current rate structure consists of a base facility charge and uniform gallonage charge. The average residential consumption is 22,418 gallons per month (gpm). This usage level exceeds the 10,000 gpm threshold that is used by us to determine if a more aggressive conservation-oriented rate structure should be considered. Also, a review of the test year consumption data revealed that over 60% of the total residential consumption was in excess of 10,000 gpm. Further, over 75% of the total bills issued during the test year were for consumption in excess of 10,000 gpm.

In consideration of the SJRWMD directives, the high average residential consumption, and significant number of customers using in excess of 10,000 gpm, a more aggressive conservation rate structure shall be implemented for this utility to discourage high water usage and to promote conservation. Therefore, the inclining-block rate structure shall be implemented for this utility. An inclining-block rate structure is comprised of two or more usage blocks, with the price per unit increasing in each block. Under this rate structure, water users with low monthly usage would benefit, while water users with high monthly usage would pay increasingly higher rates. Thus, the high water users have a greater incentive to conserve.

We believe that a two-tiered inclining block rate structure is appropriate as a first step towards promoting water conservation in this case. During our analysis of this case, we considered the use of both two-tiered and three-tiered inclining block rate structures. Based upon the usage characteristics of Brendenwood's customers, an argument could be made in favor of a three-tiered inclining-block rate structure. However, in general, it has been our practice to implement conservation incentives a step at a time. For example, utilities with flat rates are first converted to the traditional base facility and gallonage charge rate structure. If additional conservation incentives are needed in future cases, we would consider the use of a conservation adjustment, in which a portion of the revenue typically recovered from the base facility charge would be shifted to the gallonage charge, or the implementation of inclining-block rates. Following that same philosophy, it may be more appropriate in this case to implement a two-tiered inclining block rate structure as the next step in promoting water conservation. In the event that this rate structure does not produce sufficient water conservation, we shall consider implementing additional tiers in the utility's next rate proceeding.

Further, at the February 23, 2000, customer meeting, a number of customers expressed concern about the level of our preliminary rates. Many of Brendenwood's customers have in-ground irrigation systems. Several customers discussed actions that they were currently taking to reduce their water consumption, such as reducing the number of days and/or length of time they water their lawns. Some customers questioned why we could not promote water conservation through consumer education first, before implementing the inclining-block rate structure. Based upon conversations with customers and a visit to the service area, conservation education would be helpful in promoting water conservation in this area. The SJRWMD has a number of brochures covering various water conservation topics. A SJRWMD representative had planned to attend the February 23, 2000, customer meeting, but was not able to attend due to illness. Consequently, a SJRWMD representative has agreed to send water conservation information to the utility to be distributed to the customers. Although some water conservation may result from consumer education, implementation of the inclining-block rate structure is still appropriate in keeping with the requirements of the SJRWMD.

After determining the number of tiers to be used, the next step is determining the appropriate breakpoint for the tiers. According to Rule 25-30.515(8)(a), Florida Administrative Code, an equivalent residential connection (ERC) equals 350 gallons per day. This is based upon the DEP's standard of normal usage at a level of 100 gallons per person per day for an average of 3.5 people per household. This equates to approximately 10,500 gallons of total usage per month per ERC. In retirement communities in which only one or two people reside in each household, applying this same 100 gallon per person per day standard equates to an expected usage level of 6,000 gpm.

Brendenwood serves a mix of retirement and family residents. Consequently, applying the DEP standard, normal usage for this community could range between 6,000 to 10,000 gpm. Usage below 100 gallons per person per day is generally viewed as non-discretionary. Therefore, conservation incentives should be aimed at usage above the 100 gallon per person per day level. Because Brendenwood serves both retirement and family residences, it is more appropriate to set the inclining-block rate structure breakpoint at the 10,000 gpm level. While it is true that this breakpoint allows residences with only one or two occupants to use more water before incurring the higher block rate, this is preferable to the alternative. Establishing a breakpoint below 10,000 gpm would result in larger households being assessed the higher block rate on non-discretionary usage. Therefore, the appropriate breakpoint is 10,000 gpm.

Since usage below 10,000 gpm is relatively nondiscretionary, the rate in this usage block should be kept as low as possible. However, to promote water conservation at the higher usage levels and send the proper conservation signal, the rate for the second tier must be sufficiently higher than the rate for the first tier. In our preliminary rates presented at the customer meeting, we used a rate tier factor of 2.0. In other words, the rate for the second tier was two times the rate in the first tier. However, upon further review, we do not believe a rate tier factor of 2.0 is practical in this case.

For the purpose of calculating conservation rates, any gallonage over the 10,000 gpm breakpoint should be adjusted to reflect the reduced consumption level which is expected to occur

following the implementation of conservation rates. This is necessary in order to calculate rates which will achieve the revenue requirement. As will be discussed later, the reduction in consumption that can be expected in this case is relatively low. This factor combined with the monetary level of the revenue requirement increase makes it impractical to establish a rate tier factor as high as 2.0 in this case. Given these constraints, we find that a rate factor of 1.43 is appropriate in this case.

As mentioned above, another tool that is available to us in promoting water conservation is the conservation adjustment. By reallocating a portion of the revenue requirement that is typically recovered through the base facility charge to the gallonage charge, we can increase the level of the gallonage charge thereby providing additional incentives to conserve water. We considered that option in this case to help increase the rate tier factor; however, a conservation adjustment is not appropriate in this case. Our initial rate calculation results in approximately 21% of the total revenue requirement being recovered through the base facility charge, with the remaining 79% recovered through the gallonage charge. In consideration of the relative low level of revenue that is currently being recovered through the base facility charge, shifting any additional revenue from the base facility charge could have a negative impact on the revenue stability of this utility. Additionally, even if a portion of the revenue recovery is shifted from the base facility charge to the gallonage charge, the increase to the gallonage charge is minimal. Therefore, we find that a conservation adjustment is not appropriate in this case.

The following is a comparison of the utility's existing rates and our inclining-block rates for residential customers:

| <u>Residential Service:</u> <u>Base Facility Charge</u> <u>Meter Size</u> | <u>Existing</u> <u>Monthly</u> <u>Rate</u> | <u>Preliminary</u> <u>Monthly</u> <u>Rate</u> |
|---|--|---|
| 5/8" x 3/4" | \$6.89 | \$ 9.89 |
| 1" | \$6.89 | \$ 9.89 |
| Gallonage Charge per 1,000 Gallons | | |
| 0 - 10,000 Gallons | \$1.36 | \$ 1.40 |

Over 10,000 Gallons \$1.36 \$ 2.00

As discussed above, we previously authorized the utility to charge the same base facility charge to the customers with 5/8" x 3/4" meters and with 1" meters.

A comparison of average residential bills under the utility's existing rates and our inclining-block rates follows:

| Consumption Level | Existing Monthly Rates | Commission Approved Monthly Rates | Increase in Average Monthly Bill | Percentage Increase Experienced at Each Consumption Level |
|-------------------|------------------------|-----------------------------------|----------------------------------|---|
| 10,000 gpm | \$ 20.49 | \$ 23.89 | \$ 3.40 | 16.59% |
| 20,000 gpm | \$ 34.09 | \$ 43.89 | \$ 9.80 | 28.75% |
| 30,000 gpm | \$ 47.69 | \$ 63.89 | \$ 16.20 | 33.97% |

It is difficult to establish conservation rates for general service customers because these customers are not a homogeneous group. Further, in this case, the one general service customer is a post office which typically uses only 1,000 gallons per month, and thus, does not pose a conservation concern. Therefore, in keeping with past practice, we find that the inclining-block rates shall only be applied to the residential customers. The appropriate gallonage charge for the general service customer is the traditional single gallonage charge that would be applied to all customers if the conservation rate structure were not implemented. In this manner, the general service customer is still paying their fair pro rata share of the cost of service.

In consideration of the above, we find that the appropriate conservation rate structure for this utility is the inclining-block rate structure.

Repression adjustment

In an attempt to quantify the relationship between revenue increases and consumption impacts, we have created a database of all water utilities that were granted rate increases or decreases (excluding indexes and pass-throughs) between January 1, 1990 and December 31, 1995. This database contains utility-specific information from the applicable orders, tariff pages and the utilities' annual reports for the years 1989 - 1995. We have reviewed the database and determined that there are no utilities in the database that closely match Brendenwood's price increase and rate structure change. However, based upon our analysis of utilities in the database, we do know that for utilities that did not experience a change in rate structure, an average price increase of approximately 30% resulted in an approximate 6.5% reduction in consumption. In addition, when a price change is coupled with a change in rate structure, the repression tends to be greater than when considering price changes with no rate structure changes.

As discussed above, the revenue requirement increase is \$6,335 (26.11%) for the water system, which represents a monthly increase of \$9.63 per ERC. Under the inclining-block rate structure, customers will experience price increases ranging from 16% to over 40% depending on their level of usage, with the average being 30.36% based upon the average residential consumption of 22,418 gpm. Applying our ratio of a 30% increase leading to 6.5% reduction, we could expect to see an average reduction between approximately 3.5% to 8.5%, without a change in rate structure. The percentage reductions could likely be even greater considering the conversion to the inclining-block rate structure.

In consideration of our limited data regarding this level of price increase and rate structure change, we believe it is appropriate to err on the side of caution when considering the magnitude of our adjustments. A conservative prediction of the utility's anticipated consumption reduction is 8%. Further, this adjustment shall only be applied to consumption over the 10,000 gallon breakpoint, as this is the segment of consumption that will be most greatly impacted by the implementation of the inclining-block rate structure.

Therefore, a repression adjustment of 693,680 gallons to water consumption is appropriate. Further, it will be beneficial in future cases to monitor the effects of this rate increase on consumption. Therefore, the utility shall file, on a quarterly basis, reports detailing the number of bills rendered, the number of gallons billed and the total revenues billed for each month during the quarter. This information shall be provided for each customer class, meter size and usage block. These reports are required for a period of two years, beginning the first quarter after the revised rates go into effect.

Rates

During the test year the utility's customer base included 54 residential customers and one general service customer. Five of the residential customers are served through a 1" meter and the remaining customers including the general service customer are served through a 5/8" x 3/4" meter. Consistent with Order No. 16134, rates for residential customers having a 1" meter have been calculated to be the same rate for a 5/8" x 3/4" meter.

Rates have been calculated using the number of bills and consumption provided by the audit minus water usage for flushing. An inclining-block rate structure was used, and a repression adjustment has been made. A schedule of the utility's existing rates and our approved rates are as follows:

MONTHLY WATER RATES
RESIDENTIAL

| <u>Base Facility Charge</u> <u>Meter Size</u> | <u>Existing</u> <u>Rates</u> | <u>Commission</u> <u>Approved Rates</u> |
|--|---------------------------------|--|
| 5/8" x 3/4" | \$ 6.89 | \$ 9.89 |
| 3/4" | N/A | 14.84 |
| 1" | 6.89 | 9.89* |
| 1" | N/A | 24.73 |
| 1 1/2" | N/A | 49.45 |
| 2" | N/A | 79.13 |
| 3" | N/A | 158.25 |
| 4" | N/A | 247.27 |
| 6" | N/A | 494.54 |

| <u>Gallonge Charge</u> | | | |
|------------------------|---------|----|------|
| Per 1,000 gallons | \$ 1.36 | | N/A |
| 0 - 10,000 gallons | N/A | \$ | 1.40 |
| over 10,000 gallons | N/A | | 2.00 |

*This rate shall be charged to existing residential customers having a 1" meter until the 1" meter is replaced, then the appropriate rate should be charged based on meter size. The utility shall notify the customer of the change in the rate in writing prior to the meter replacement.

GENERAL SERVICE

| <u>Base Facility Charge</u> | | <u>Commission</u> |
|-----------------------------|-----------------------|-----------------------|
| <u>Meter Size</u> | <u>Existing Rates</u> | <u>Approved Rates</u> |
| 5/8" x 3/4" | \$6.89 | \$ 9.89 |
| 3/4" | N/A | 14.84 |
| 1" | N/A | 24.73 |
| 1 1/2" | N/A | 49.45 |
| 2" | N/A | 79.13 |
| 3" | N/A | 158.25 |
| 4" | N/A | 247.27 |
| 6" | N/A | 494.54 |

| <u>Gallonge Charge</u> | | |
|------------------------|--------|---------|
| Per 1,000 gallons | \$1.36 | \$ 1.66 |

The rates are designed to produce revenue of \$30,594 using the inclining-block rate structure. The approved rates shall be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. The rates shall not be implemented until proper notice has been received by the customers. The utility shall provide proof of the date notice was given within 10 days after the date of the notice.

MISCELLANEOUS SERVICE CHARGES

The utility's existing tariff contains no provision for miscellaneous service charges. However, we find the following charges to be appropriate.

Water

| <u>Description</u> | <u>Commission Approved Charges</u> |
|--|------------------------------------|
| Initial Connection | \$ 15.00 |
| Normal Reconnection | \$ 15.00 |
| Violation Reconnection | \$ 15.00 |
| Premises Visit (in lieu of disconnection) | \$ 10.00 |

Definition of each charge is provided for clarification:

Initial Connection: This charge will be levied for service initiation at a location where service did not exist previously.

Normal Reconnection: This charge will be levied for transfer of service to a new customer account, a previously served location or reconnection of service subsequent to a customer requested disconnection.

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

Premises Visit Charge (in lieu of disconnection): This charge will be levied when a service representative visits a premises for the purpose of discontinuing service for non-payment of a due and collectible bill and does not discontinue service, because the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill.

These charges are designed to defray the costs associated with each service and place the responsibility of the cost on the person creating it rather than on the rate paying body as a whole. Therefore, the utility shall file revised tariff pages to incorporate the above charges. Our staff shall approve the revised

tariff sheets administratively upon verification that the tariffs are consistent with our decision.

If the revised tariff sheets are filed and approved, the revised miscellaneous service charges shall become effective for connections made on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(2), Florida Administrative Code, provided customers have received notice. The utility shall provide proof that the customers have received notice within ten days after the date of the notice.

TEMPORARY RATES IN EVENT OF PROTEST

This Order proposes an increase in water rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the utility. Therefore, pursuant to Section 367.0814(7), Florida Statutes, in the event of a protest filed by a party other than the utility, we order that the approved rates be issued as temporary rates. The approved temporary rates collected by the utility shall be subject to the refund provisions discussed below.

The utility shall be authorized to collect the temporary rates upon our staff's approval of an appropriate security for both the potential refund and a copy of the proposed customer notice. The security shall be in the form of a bond or letter of credit in the amount of \$4,384. Alternatively, the utility could establish an escrow agreement with an independent financial institution.

If the utility chooses a bond as security, the bond shall contain wording to the effect that it will be terminated only under the following conditions:'

- 1) The Commission approves the rate increase; or
- 2) If the Commission denies the increase, the utility shall refund the amount collected that is attributable to the increase.

If the utility chooses a letter of credit as a security, it shall contain the following conditions:

- 1) The letter of credit is irrevocable for the period it is in effect.
- 2) The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

If security is provided through an escrow agreement, the following conditions shall be part of the agreement:

- 1) No refunds in the escrow account may be withdrawn by the utility without express approval of the Commission.
- 2) The escrow account shall be an interest bearing account.
- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers.
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility.
- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt.
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth

in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.

- 8) The Director of Records and Reporting must be a signatory to the escrow agreement.

In no instance shall the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and shall be borne by, the utility. Irrespective of the form of security chosen by the utility, an account of all monies received as result of the rate increase shall be maintained by the utility. This account must specify by whom and on whose behalf such monies were paid. If a refund is ultimately required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code. The utility shall maintain a record of the amount of the bond, and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(7), Florida Administrative Code, the utility shall file reports with the Division of Water and Wastewater no later than 20 days after each monthly billing. These reports shall indicate the amount of revenue collected under the increased rates subject to refund.

Conformance with 1996 NARUC Uniform System of Accounts

During the audit, our auditors discovered that although the utility's books are well kept and thorough, the utility did not maintain its accounts and records in conformance with the NARUC USOA. Despite the state of the utility's books and records, our staff was able to perform the audit. The errors determined by our auditors constitute apparent violations of Rule 25-30.115, Florida Administrative Code, "Uniform System of Accounts for Water and Wastewater Utilities," which provides:

Water and wastewater utilities shall, effective January 1, 1998, maintain their accounts and records in conformity with the 1996 NARUC Uniform System of Accounts adopted by the National Association of Regulatory Utility Commissioners.

Section 367.161, Florida Statutes, authorizes us to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or have willfully violated any Commission rule, order, or provision of Chapter 367, Florida Statutes. In failing to maintain its books and records in conformance with the USOA, the utility's act was "willful" in the sense intended by Section 367.161, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, titled In Re: Investigation Into The Proper Application of Rule 25-14.003, Florida Administrative Code, Relating To Tax Savings Refund For 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, we nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "[i]n our view, 'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

Although the utility's failure to keep its books and records in conformance with the NARUC USOA is an apparent violation of Rule 25-30.115, Florida Administrative Code, a show cause proceeding is not warranted and shall not be initiated at this time. The utility has been operating at a loss and the existing rates do not provide an allowance for accounting services. Therefore, the utility shall be given time and an accounting allowance for setting up the utility's books to conform with the NARUC USOA and to reconcile the utility's books with this Order.

We have approved an annual accounting allowance of \$1,064. This will provide funds to set up the utility's books in compliance with our Order, and will provide for all other accounting services.

Based on the foregoing, we find that the apparent violation of Rule 25-30.115, Florida Administrative Code, does not rise, in these circumstances, to the level that warrants the initiation of a show cause proceeding. Therefore, the utility shall not be ordered to show cause for failing to keep its books and records in conformance with the NARUC USOA. However, the utility shall maintain its books and records in conformance with the 1996 NARUC

USOA and submit a statement from its accountant by March 31, 2001, along with its 2000 annual report, stating that its books are in conformance with the NARUC USOA and have been reconciled with this Order. If the utility does not comply with this Order by March 31, 2001, a show cause proceeding may be initiated.

Unauthorized Charges

As stated above, the utility collected charges from the developer in apparent violation of Section 367.091(4), Florida Statutes, which states that "[a] utility may only impose and collect those rates and charges approved by the commission for the particular class of service involved."

However, in this case, the charges collected by the utility have been recognized as CIAC, which reduces the utility's investment and benefits the customers. Accordingly, we find that the apparent violation of Section 367.091(4), Florida Statutes, does not rise, in these circumstances, to the level which warrants the initiation of a show cause proceeding. Therefore, Brendenwood shall not be ordered to show cause for collecting charges from a class of service not approved by us.

DOCKET CLOSURE

If no timely protest is received upon the expiration of the protest period, this Order shall become final and effective upon the issuance of a Consummating Order and this docket shall be closed administratively. If a protest is filed within 21 days of the issuance of this Order, the approved temporary rates shall become effective pending resolution of the protest.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Brendenwood Water System's application for increased water rates and charges 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 is hereby approved in every respect. It is further

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

ORDERED that Brendenwood Water System is authorized to charge the new rates and charges as set forth in the body of this order. It is further

ORDERED that, the rates and charges approved herein shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(1), Florida Administrative Code, provided customers have received notice. It is further

ORDERED that Brendenwood Water System shall provide proof of the date notice was given within 10 days after the date of the notice. It is further

ORDERED that in the event of a protest by any substantially affected person other than the utility, Brendenwood Water System is authorized to collect the rates approved on a temporary basis, subject to refund in accordance with Rule 25-30.360, Florida Administrative Code, provided that Brendenwood Water System first furnishes and has approved by Commission staff, adequate security for any potential refund and a proposed customer notice. It is further

ORDERED that in the event of a protest prior to its implementation of the rates and charges on a temporary basis approved herein, Brendenwood Water System shall submit and have approved a bond or letter of credit in the amount of \$4,384 as a guarantee of any potential refund of revenues collected on a temporary basis. Alternatively, the utility may establish an escrow account with an independent financial institution. It is further

ORDERED that in the event of a protest, Brendenwood Water System shall submit monthly reports no later than 20 days after each monthly billing which shall indicate the amount of revenue collected on a temporary basis subject to refund. It is further

ORDERED that Brendenwood Water System shall not be ordered to show cause in writing for violation of Rule 25-30.115, Florida

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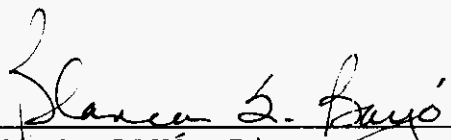
Administrative Code and Section 367.091(4), Florida Statutes. It is further

ORDERED that Brendenwood Water System shall maintain its books and records in conformity with the 1996 NARUC Uniform System of Accounts and submit a statement from its accountant by March 31, 2001, along with its 2000 annual report, stating that its books are in conformance with the NARUC Uniform System of Accounts and have been reconciled with this Order. It is further

ORDERED that the provisions of this Order, except for the granting of temporary rates in the event of protest, are issued as proposed agency action and shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if no timely protest is received to the proposed agency action, no further action will be necessary and, upon the expiration of the protest period, this Order shall become final and effective upon the issuance of a Consummating Order and the docket shall be closed.

By ORDER of the Florida Public Service Commission this 25th day of April, 2000.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

JKF

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

As identified in the body of this order, our actions, except for the granting of temporary rates in the event of protest, are preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 16, 2000. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

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 wastewater 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

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completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

| BRENDENWOOD WATER SYSTEM TEST YEAR ENDING JUNE 30, 1999 SCHEDULE OF WATER RATE BASE | | SCHEDULE NO. 1 DOCKET NO. 991290-WU | | |
|---|---------------------------|--|-----------------------------------|-------------------------|
| DESCRIPTION | BALANCE PER UTILITY | | COMM. ADJUST. TO UTIL. BAL. | BALANCE PER COMM. |
| 1. UTILITY PLANT IN SERVICE | \$5,291 | A | \$2,185 | \$7,476 |
| 2. LAND & LAND RIGHTS | 0 | | 0 | 0 |
| 3. NON-USED AND USEFUL COMPONENTS | 0 | | 0 | 0 |
| 4. CIAC | 0 | B | (1,495) | (1,495) |
| 5. ACCUMULATED DEPRECIATION | 0 | C | (2,091) | (2,091) |
| 6. AMORTIZATION OF CIAC | 0 | D | 334 | 334 |
| 7. WORKING CAPITAL ALLOWANCE | 0 | E | <u>3,206</u> | <u>3,206</u> |
| 8. WATER RATE BASE | <u>\$5,291</u> | | <u>\$2,139</u> | <u>\$7,430</u> |

**BRENDENWOOD WATER SYSTEM
TEST YEAR ENDING JUNE 30, 1999
ADJUSTMENTS TO RATE BASE**

**SCHEDULE NO. 1-A
DOCKET NO. 991290-WU**

WATER

UTILITY PLANT IN SERVICE

| | |
|--------------------------------------|----------------|
| 1. To reflect year plant at 6/30/99. | \$5,812 |
| 2. To reflect retirement of tank. | (2,488) |
| 3. To reflect averaging adjustment. | <u>(1,139)</u> |
| Total | <u>\$2,185</u> |

CIAC

| | |
|---------------------------------------|------------------|
| 1 To reflect year end CIAC of 6/30/99 | (\$1,577) |
| 2 To reflect averaging adjustment | <u>\$82</u> |
| Total | <u>(\$1,495)</u> |

ACCUMULATED DEPRECIATION

| | |
|--|------------------|
| 1 To reflect year end Accumulated Depreciation | (\$2,722) |
| 2 To reflect depreciation on retirement of plant | \$879 |
| 3 To reflect averaging adjustment | <u>(\$248)</u> |
| Total | <u>(\$2,091)</u> |

AMORTIZATION OF CIAC

| | |
|---|--------------|
| 1. To reflect year end Amortization of CIAC | \$380 |
| 2. To reflect averaging adjustment | <u>(46)</u> |
| Total | <u>\$334</u> |

WORKING CAPITAL ALLOWANCE

| | |
|---|----------------|
| 1 To reflect 1/8 of operation and maintenance expense | <u>\$3,206</u> |
|---|----------------|

| BRENDENWOOD WATER SYSTEM TEST YEAR ENDING JUNE 30, 1999 SCHEDULE OF CAPITAL STRUCTURE | | | SCHEDULE NO. 2 DOCKET NO. 991290-WU | | | | | | |
|---|------------|------------------------------|--|------------------------------|-------------------------|------------------------|--------------|------------------|--|
| CAPITAL COMPONENT | PER AUDIT | SPECIFIC ADJUST- MENTS | BALANCE | | BALANCE PER COMM. | PERCENT OF TOTAL | COST | WEIGHTED COST | |
| | | | BEFORE PRO RATA ADJUSTMENTS | PRO RATA ADJUST- MENTS | | | | | |
| 1. COMMON STOCK | \$0 | \$0 | \$0 | | | | | | |
| 2. RETAINED EARNINGS | 0 | 0 | 0 | | | | | | |
| 3. PAID IN CAPITAL | 0 | 7,430 | 7,430 | 0 | 7,430 | 100.00% | 8.93% | 8.93% | |
| 4. OTHER COMMON EQUITY | 0 | 0 | 0 | 0 | | 0.00% | 0.00% | 0.00% | |
| 5. TOTAL COMMON EQUITY | \$0 | <u>\$7,430</u> | <u>7,430</u> | 0 | 7,430 | 100.00% | 8.93% | 8.93% | |
| 6. LONG TERM DEBT | 0 | 0 | 0 | 0 | 0 | 0.00% | 0.00% | 0.00% | |
| 7. LONG TERM DEBT (Pro Forma) | 0 | 0 | 0 | 0 | 0 | 0.00% | 0.00% | 0.00% | |
| 8. CUSTOMER DEPOSITS | 0 | 0 | 0 | 0 | 0 | 0.00% | 0.00% | 0.00% | |
| 9. TOTAL | <u>\$0</u> | <u>\$7,430</u> | <u>7,430</u> | <u>\$0</u> | <u>7,430</u> | <u>100.00%</u> | | <u>8.93%</u> | |
| RANGE OF REASONABLENESS | | | | | | LOW | HIGH | | |
| RETURN ON EQUITY | | | | | | <u>7.93%</u> | <u>9.93%</u> | | |
| OVERALL RATE OF RETURN | | | | | | <u>7.93%</u> | <u>9.93%</u> | | |

| BRENDENWOOD WATER SYSTEM TEST YEAR ENDING JUNE 30, 1999 SCHEDULE OF WATER OPERATING INCOME | | | SCHEDULE NO. 3 DOCKET NO. 991290-WU | | |
|--|------------------------|------------------------|--|----------------------------|------------------------|
| Operating Ratio Method | TEST YEAR PER AUDIT | COMM. ADJ. TO AUDIT | COMM. ADJUSTED TEST YEAR | ADJUST. FOR INCREASE | REVENUE REQUIREMENT |
| 1. OPERATING REVENUES | <u>\$23,553</u> | <u>\$706</u> | <u>\$24,259</u> | <u>\$6,335</u> 26.11% | <u>\$30,594</u> |
| OPERATING EXPENSES: | | | | | |
| 2. OPERATION & MAINTENANCE | 16,037 | 9,612 | 25,649 | 0 | 25,649 |
| 3. DEPRECIATION (NET) | 0 | 519 | 424 | 0 | 424 |
| 4. AMORTIZATION | 0 | 291 | 291 | 0 | 291 |
| 5. TAXES OTHER THAN INCOME | 1,552 | (172) | 1,380 | 285 | 1,665 |
| 6. INCOME TAXES | 0 | 0 | 0 | 0 | 0 |
| 7. TOTAL OPERATING EXPENSES | <u>\$17,589</u> | <u>\$10,155</u> | <u>\$27,744</u> | <u>\$285</u> | <u>\$28,029</u> |
| 8. OPERATING MARGIN | <u>\$5,964</u> | | <u>(\$3,485)</u> | | <u>\$2,565</u> |
| 9. WATER RATE BASE | <u>\$5,291</u> | | <u>\$7,430</u> | | <u>\$7,430</u> |
| 10. OPERATING RATIO | <u>37.19%</u> | | <u>-13.59%</u> | | <u>10.00%</u> |

**BRENDENWOOD WATER SYSTEM
TEST YEAR ENDING JUNE 30, 1999
ADJUSTMENTS TO OPERATING INCOME**

**SCHEDULE NO. 3-A
DOCKET NO. 991290-WU
PAGE 1 OF 2**

WATER

OPERATING REVENUES

| | |
|---|--------------|
| 1. To remove BFC collected from developer and recognized as CIAC. | (\$164) |
| 2. To reflect water service charges to the owner. | 580 |
| 3. To reflect annualized revenue. | <u>290</u> |
| | <u>\$706</u> |

OPERATION AND MAINTENANCE EXPENSES

| | |
|---|----------------|
| 1. Salaries and Wages - Employees | |
| a. To reflect staff's recommended salary for bookkeeper. | <u>\$2,110</u> |
| 2. Contractual Services-Professional | |
| a. To reflect one-time accounting expense amort. over 5 yrs. | \$560 |
| b. To reflect annual accounting allowance | <u>504</u> |
| | <u>\$1,064</u> |
| 3. Contractual Services - Testing | |
| a. To reflect annual DEP required testing expense. | <u>\$879</u> |
| 4. Contractual Services - Other | |
| a. To reflect unrecorded telephone expense. | 274 |
| b. To remove non-utility expense. | (\$100) |
| c. To reflect 50% of lawn mower repair expense. | (\$106) |
| d. To reflect annual management fee. | \$2,850 |
| e. To reflect annual operator allowance. | <u>\$2,040</u> |
| | <u>\$4,958</u> |
| 5. Rents | |
| a. To reflect annual rent for office space and utilities. | \$540 |
| b. To reflect annual land lease cost. | <u>284</u> |
| | <u>\$824</u> |
| 6. Transportation Expense | |
| a. To reflect 80% and 30% allocation for transportation expenses for the truck & van respectively. | <u>(\$479)</u> |
| 7. Insurance Expense | |
| a. To reflect 80% and 30% allocation for insurance expenses for the truck & van respectively. | (\$512) |
| b. To reflect annual liability insurance | <u>\$698</u> |
| | <u>\$186</u> |
| 8. Regulatory Commission Expense | |
| To reflect rate case filing fee amortized over four years. | <u>\$50</u> |

BRENDENWOOD WATER SYSTEM
TEST YEAR ENDING JUNE 30, 1999

SCHEDULE NO. 3-A
DOCKET NO. 991290-WU
PAGE 2 OF 2

WATER

OPERATION AND MAINTENANCE EXPENSES (Cont'd)

| | |
|---|-----------------------|
| 9. Miscellaneous Expenses | |
| a. To reflect reclassification of consumptive permit cost from taxes other than income. | \$100 |
| b. To reflect permit cost amortized over five years. | <u>(\$80)</u> |
| | <u>\$20</u> |
| TOTAL OPERATION & MAINTENANCE ADJUSTMENTS | <u>\$9,612</u> |

DEPRECIATION EXPENSE

| | |
|---|--------------|
| 1. To reflect test year depreciation calculated per 25-30.140, F.A.C. | \$519 |
| 2. To reflect test year CIAC amortization expense. | <u>(95)</u> |
| Total | <u>\$424</u> |

AMORTIZATION

| | |
|---------------------------------------|--------------|
| To reflect loss on retirement of pump | <u>\$291</u> |
|---------------------------------------|--------------|

TAXES OTHER THAN INCOME

| | |
|---|----------------|
| 1. To include regulatory assessment fees on test year revenue. | \$62 |
| 2. To remove real estate taxes | <u>(272)</u> |
| 3. To adjust payroll tax for recommended salaries. | 288 |
| 4. To remove non-utility expense | <u>(150)</u> |
| 5. To reflect reclassification of consumptive use permit cost to miscellaneous expense. | <u>(100)</u> |
| Total | <u>(\$172)</u> |

OPERATING REVENUES

| | |
|---|----------------|
| To reflect recommended revenue increase | <u>\$6,335</u> |
|---|----------------|

TAXES OTHER THAN INCOME

| | |
|--|--------------|
| To reflect regulatory assessment fees on increase in revenue | <u>\$285</u> |
|--|--------------|

| BRENDENWOOD WATER SYSTEM TEST YEAR ENDING JUNE 30, 1999 ANALYSIS OF WATER OPERATION AND MAINTENANCE EXPENSE | | SCHEDULE NO. 3-B DOCKET NO. 991290-WU | | |
|--|---------------------------|--|--|---------------------------|
| | TOTAL PER PER AUDIT | COMM. PER ADJUST. | | TOTAL PER PER COMM. |
| (601) SALARIES AND WAGES - EMPLOYEES | 0 | 2,110 [1] | | 2,110 |
| (603) SALARIES AND WAGES - OFFICERS | 0 | 0 | | 0 |
| (604) EMPLOYEE PENSIONS AND BENEFITS | 0 | 0 | | 0 |
| (610) PURCHASED WATER | 0 | 0 | | 0 |
| (615) PURCHASED POWER | 2,035 | 0 | | 2,035 |
| (616) FUEL FOR POWER PRODUCTION | 0 | 0 | | 0 |
| (618) CHEMICALS | 74 | 0 | | 74 |
| (620) MATERIALS AND SUPPLIES | 1,495 | 0 | | 1,495 |
| (630) CONTRACTUAL SERVICES - BILLING | 0 | | | 0 |
| (631) CONTRACTUAL SERVICES - PROFESSIONAL | 230 | 1,064 [2] | | 1,294 |
| (635) CONTRACTUAL SERVICES - TESTING | 695 | 879 [3] | | 1,574 |
| (636) CONTRACTUAL SERVICES - OTHER | 5,362 | 4,958 [4] | | 10,320 |
| (640) RENTS | 1,632 | 824 [5] | | 2,456 |
| (650) TRANSPORTATION EXPENSE | 3,187 | (479) [6] | | 2,708 |
| (655) INSURANCE EXPENSE | 1,244 | 186 [7] | | 1,430 |
| (655) REGULATORY COMMISSION EXPENSE | 0 | 50 [8] | | 50 |
| (670) BAD DEBT EXPENSE | 0 | 0 | | 0 |
| (675) MISCELLANEOUS EXPENSES | 83 | 20 [9] | | 103 |
| | 16,037 | 9,612 | | 25,649 |