

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and  
wastewater rates in Pasco County by Labrador  
Utilities, Inc.

DOCKET NO. 080249-WS  
ORDER NO. PSC-09-0462-PAA-WS  
ISSUED: June 22, 2009

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman  
LISA POLAK EDGAR  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION ORDER APPROVING IN PART  
APPLICATION FOR INCREASED WATER AND WASTEWATER RATES  
AND  
ORDER INITIATING SHOW CAUSE PROCEEDING

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that, except for the statutory four-year rate reduction and the requirement for Labrador Utilities, Inc. (Labrador or Utility) to adjust its books in accordance with our decisions in this Order which are final agency action, the action discussed herein is 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.

I. BACKGROUND

Utilities, Inc. (UI or parent), is an Illinois corporation which owns approximately 80 utility subsidiaries throughout 16 states, including 16 water and wastewater utilities within the State of Florida. Currently, UI has four separate rate case dockets pending before this Commission. These dockets are as follows:

<u>Docket No.</u>	<u>Utility Subsidiary</u>
080247-SU	Utilities Inc. of Eagle Ridge
080248-SU	Tierra Verde Utilities, Inc.
080249-WS	Labrador Utilities, Inc.
080250-SU	Mid-County Services, Inc.

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FPSC-COMMISSION CLERK

Labrador is a Class B utility providing water and wastewater service to approximately 897 water and 892 wastewater customers in Pasco County. Water and wastewater rates were last established for this Utility in 2004.<sup>1</sup>

On August 28, 2008, Labrador filed an Application for Rate Increase at issue in the instant docket. The Utility had a few deficiencies in the Minimum Filing Requirements (MFRs) which were corrected on December 4, 2008, and this date was established as the official date of filing. The Utility requested that the application be processed using the Proposed Agency Action (PAA) procedure and requested interim rates. The test year established for interim and final rates is the historical 12-month period ended December 31, 2007.

By Order No. PSC-08-0751-PCO-WS, issued November 13, 2008, we approved interim rates designed to generate annual revenues of \$253,624 for water and \$392,060 for wastewater. This represented a revenue increase on an annual basis of \$97,862 (62.83 percent) for water and \$29,611 (8.17 percent) for wastewater. The interim rates were approved subject to refund with interest, pending the conclusion of the rate case. The Utility requested final rates designed to generate annual revenues of \$302,283 for water and \$543,677 for wastewater. This represents a revenue increase of \$146,521 (94.07 percent) for water and \$181,228 (50.00 percent) for wastewater.

By letter dated April 21, 2009, the Utility waived the 5-month statutory deadline for this case through June 2, 2009. This Order addresses the revenue requirement and rates that shall be approved on a prospective basis. We have jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes (F.S.).

## II. QUALITY OF SERVICE

Pursuant to Rule 25-30.433(1), Florida Administrative Code (F.A.C), we determine the overall quality of service provided by a utility by evaluating three separate components of water and wastewater operations, including the quality of the utility's product, the operating condition of the utility's plants and facilities, and the utility's attempt to address customer satisfaction. We also review complaints from customers, and consider the utility's current compliance with the regulations of the Department of Environmental Protection (DEP).

### A. Quality of Utility's Product

In Pasco County, the water and wastewater programs are regulated by the DEP Southwest District Office. Labrador is current in all of the required chemical analyses and the Utility has met all required standards for both water and wastewater. The quality of drinking water delivered to the customers and the wastewater effluent quality are both considered to be satisfactory by the DEP.

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<sup>1</sup> See Order No. PSC-04-1281-PAA-WS, issued December 28, 2004, in Docket No. 030443-WS, In re: Application for rate increase in Pasco County by Labrador Utilities, Inc.

## B. Operational Condition of Plants and Facilities

As detailed in a Consent Order agreement between Labrador and DEP, effective on October 29, 2008, the Utility was assessed civil penalties and DEP reimbursement costs totaling \$17,100, to complete the resolution of items identified in an August 17, 2006, DEP warning letter concerning Labrador's wastewater treatment facility. The warning letter alleged violations concerning: (a) raw sewage overflow conditions which occurred five times during November 2004 through June 2006; (b) a four-inch effluent transmission line to the restricted access spray field which had broken six times between October 2004 and March 2005; and (c) in June 2006, DEP personnel had detected a foul odor that permeated beyond the boundaries of the facility, and in July 2006, DEP received 37 signed and notarized affidavits of odor nuisances from residents neighboring the facility. Prior to the effective date of the consent order, Labrador corrected the problems identified in the warning letter to the satisfaction of DEP and paid the penalty on November 5, 2008.

Our staff conducted a field investigation of Labrador on December 2, 2008, and found no apparent problems with the operations of either the water or wastewater treatment facilities. The conditions of these facilities are currently in compliance with DEP rules and regulations. Based on a review of the maintenance records and a physical inspection, the general condition of the facilities appeared to be adequate. Therefore, the operating condition of the Utility's water and wastewater plants appears to be satisfactory.

## C. The Utility's Attempt to Address Customer Satisfaction

1. Test Year Complaints. The Utility received approximately 41 customer complaints during the test year (2007) and approximately the same number in 2008. The majority of the water complaints during this time dealt with laundered clothing being discolored, sediment and discoloration in the water, taste, odor, and low or no water pressure. In all cases, it appears that the Utility responded properly to ascertain the nature of the problems. Although not always successful in resolving all the problems, in some instances they were correctable and the Utility made the appropriate repairs or determined that the customer was responsible for correcting the problem. In other situations, particularly concerning color, taste, and odor, it appeared that a correction could not be made readily. These problems appeared to have occurred sporadically and had sometimes subsided by the time Labrador's staff responded to the call. When discolored laundry was the problem, the Utility provided rust and iron stain remover to the customer to be used to rewash the discolored clothing,

For wastewater, the main complaints received during the 2007 test year were about odor emanating from the wastewater treatment plant which occurred on two separate occasions. The odor resulted from equipment electrical failures which were corrected.

2. Commission Complaints. One customer at the March 5, 2009, customer meeting referred to an unresolved billing problem that another customer was experiencing. A billing complaint against the Utility was lodged with this Commission on February 2, 2009. The Utility's untimely response was provided to us on March 11, 2009. The complaint was

subsequently resolved and closed on March 16, 2009, with an apparent rule violation noted in the file for failure to provide a response to this Commission within 15 days.

Since 2006, there have been eleven complaints filed with us. There are currently no active complaints on file; however, the Utility failed to respond to this Commission within 15 working days as required by Rule 25-22.032(6)(b), F.A.C., in five of the eleven complaints. In the previous rate case,<sup>2</sup> it was noted that during 2004, late responses were a problem in three of six complaints received. Labrador had assured us that on a going-forward basis, the Utility would take steps to timely file any required responses to this Commission for complaints forwarded by this Commission. With the Utility's assurance that future responses would be provided on a timely basis, we found that the Utility's response to customer complaints was satisfactory. When asked about the apparent ongoing problem with late responses, the Utility indicated in an April 22, 2009, letter that, in a few instances in the last three years, the Utility has waited until the complaint was resolved before filing a response to the customer's complaint. The Utility now understands that it must file a response to the customer complaint with this Commission within 15 working days, even if the complaint is not resolved by that time.

3. Customer Correspondences. We received a petition on February 16, 2009, signed by 541 customers protesting the rate increase. By letter dated February 26, 2009, our staff responded to the individual who sent the petition explaining that we are required, pursuant to Chapter 367, F.S., to set rates that are just, reasonable, compensatory, and not unfairly discriminatory. The letter indicated that our staff would examine the financial and engineering information filed by the Utility for its requested rate increase. In addition, we received over fifteen pieces of correspondence that reflected concern over the effect of the proposed rate increases, as well as concerns about the quality of the water and wastewater service provided by Labrador. Copies of several recent letters to the DEP, the Utility, and this Commission have been received citing problems with low water pressure, sewer plant odor, and sewage spills. In its review, DEP states that it has not found any significant problems to warrant additional investigations.

4. Customer Meeting. A customer meeting was held on March 5, 2009, inside Labrador's service territory at the Forest Lake Estates Community Clubhouse near Zephyrhills, Florida. Over 450 customers attended the evening meeting, and twenty customers spoke. Citing affordability concerns, the attendees were generally against the proposed rate increases for water and wastewater. Water quality in particular was cited as a reason for not justifying the rate increases. Although it was acknowledged that the water provided by the Utility met DEP health and safety standards, general consensus among the attendees was that the water was considered unfit to consume and not worth the rate increases because of the frequent taste, odor, and discoloration problems. Several rust colored, used filters from home filtering devices and some water and sediment samples were provided by customers as physical evidence to prove the questionable quality of the water. One customer indicated that quality had not improved since the last rate case, while others made comments about public noticing concerning Boil Water

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<sup>2</sup> See Order No. PSC-04-1281-PAA-WS, pages 4-5, issued December 28, 2004, in Docket No. 030443-WS, In re: Application for rate increase in Pasco County by Labrador Utilities, Inc.

Advisories, customer billing complaint response problems, and lawsuits against the Utility, as well as the recent odor control improvements made at the wastewater treatment plant.

5. Labrador's Response To Quality Of Service Concerns. In light of the customer concerns, Labrador notes that it is in full compliance with all water quality monitoring requirements. It points out that the DEP monitoring rules are very comprehensive and are designed to identify the presence of contaminants that may pose a health risk to the consumer. The Utility does acknowledge that iron in small concentration, as found at Forest Lake Estates, is not considered a contaminant and is not a health issue. However, iron in very minute concentrations, depending on water chemistry, can produce color, taste, and particulates in water supplies. Distribution systems with long detention times will sometimes result in iron precipitating out of solution and can result in clothes becoming discolored. The Utility believes that the sequestering agent that it currently uses is more effective at keeping iron in solution. The Utility notes that the Forest Lake Co-Op's office is aware of its flushing schedule and has communicated the schedule to the residents through the community channel. Fire hydrants located at the farthest points of the distribution system are used to remove iron that has precipitated out of the water due to long detention times. When the Utility receives complaints about iron being evident, it provides Red Out or Red-be-Gone products to assist customers in removing the iron from clothes or fixtures.

In reference to Boil Water Advisories, the Utility's records indicate that the last system-wide water outage occurred on December 16, 2007, and was due to an equipment failure at the water treatment plant. The customers were notified by posting signs at the entrances to Forest Lake Estates as required by rule. Additionally, a Public Notice was mailed to all customers. Labrador, at the request of Forest Lakes Estates, has agreed in the future to notify the general manager of Forest Lakes Estates directly whenever an outage occurs so that a message would be displayed on the community channel. In addition, Labrador will utilize a reverse-911 telephone calling system to deliver a recorded message to customers. Also, in case of repairs to the distribution system, either planned or unplanned, customers are provided with boil water advisories by using door hangers delivered to the affected customers only.

Prior to the summer of 2008, reoccurring wastewater treatment plant odors were a problem and a source of customer complaints. The problem was so prevalent that plant odors were cited in the August 17, 2006, DEP warning letter discussed above, and is the source of an existing lawsuit levied against the Utility by the property owners for failure to maintain the wastewater treatment plant. The Utility responded to the problem by constructing a containment structure with a charcoal filtering device. This odor control system has been functioning since the summer of 2008. The DEP is satisfied with the improvement and the lawsuit was put in abeyance pending the results of the wastewater treatment plant operating throughout the busy winter season when the service area is fully occupied. Labrador has indicated that it believes the odor complaints are a thing of the past, provided the Utility continues to operate the charcoal filter equipment on a continuous basis, which it intends to do.

6. Summary. We find that the Utility's efforts to respond to customer concerns shows its willingness to adequately address customer satisfaction. While many customers either use bottled water or have some form of point-of-use treatment in order to obtain a product that meets

their expectations, it appears that Labrador is making reasonable efforts to maintain a good aesthetic quality of water. Although there have been situations that have inconvenienced customers, treating the water used for all purposes by all customers to the highest customer aesthetic expectation could come at significant cost to customers. For systems with challenging water quality aesthetics, point-of-use treatment systems are often the most cost effective mechanism to achieve customer aesthetic quality objectives. As noted above, on five occasions since 2006, the Utility failed to timely respond to this Commission for complaints forwarded by us. The failures to timely respond within 15 working days on these five occasions are apparent violations of Rule 25-22.032(6)(b), F.A.C, and will be addressed later in this Order.

### 7. Conclusion

Based on the above, we find that Labrador's quality of product, operating condition of its plants and facilities, and its attempt to address customer satisfaction are satisfactory. Therefore, we find the overall quality of service provided by Labrador is satisfactory.

### III. AUDIT ADJUSTMENTS TO RATE BASE AND OPERATING EXPENSES

In its response to our staff's audit report, Labrador agreed to the audit findings and audit adjustment amounts listed below. Therefore, the following adjustments to rate base shall be made.

<b>Audit Finding</b>	<b>Water</b>	<b>Wastewater</b>
No. 1 – Reduce plant	\$2,864	-
No. 1 – Increase plant	-	\$2,864
No. 1 – Reduce Accumulated Depreciation	-	\$13,794
No. 1 – Increase Accumulated Depreciation	\$19,972	-
No. 2 – Reduce plant	\$15,338	-
No. 2 – Reduce Accumulated Depreciation	\$2,324	\$320
No. 3 – Reduce plant and Accumulated Depreciation	\$13,005	\$6,913
No. 4 – Reduce plant	-	\$440
No. 6 – Remove O&M Expenses related to Sandalhaven	-	\$2,910
No. 7 – Reduce Rental Expense	\$12,053	\$11,794
No. 8 – Reduce Prior Rate Case Expense	\$3,016	\$2,952

In addition, our staff auditors performed an affiliate transactions (AT) audit of UI, the parent company of Labrador and its sister companies. Based on Audit Finding No. 5 in the AT audit, transportation expense shall be decreased by \$257 for water and \$247 for wastewater.

### IV. RATE BASE

#### A. Plant-in-Service

Based on Audit Finding No. 4, the Utility included a 2006 invoice for \$8,000 to Account No. 311 – Pumping Equipment, which represents the expense to terminate a repair agreement. After speaking with the Utility, it was explained that the invoice represents \$3,000 of preparation work that was done as well as a \$5,000 fee for lost revenue by the subcontractor. We find that the \$5,000 cost for lost revenue shall be borne by the Utility, as it was a result of the Utility's

decision to terminate the repair agreement and have the repair work done by another subcontractor. Thus, plant shall be reduced by \$5,000. The corresponding adjustments to accumulated depreciation and depreciation expense are addressed below.

#### B. Used and Useful Percentages

In its application, the Utility asserts that the water and wastewater treatment plants, as well as the water distribution and wastewater collection systems, are all 100 percent used and useful. It maintains that the service territory the treatment plants are designed to serve is built out and there is no apparent potential for expansion. The service area consists of the 894-lot Forest Lakes Estates Mobile Home Park (four vacant lots remaining) and the 274-lot Forest Lakes RV Resort (fully occupied while in season). Within the service area of the Utility, there is an 11.6 acre parcel of land which is vacant and is currently zoned as a future commercial site. This area, which is owned by Forest Lakes Estates Cooperative, is in the process of being rezoned as a 90-unit RV park.

In the last rate case, the water treatment plant, distribution and collection systems, and reuse system were found to be 100 percent used and useful. The wastewater treatment plant was found to be 79.94 percent used and useful.<sup>3</sup>

##### 1. Water Treatment Plant and Storage

The water treatment system has two wells, rated at 750 gallons per minute (gpm) and 200 gpm. Before it is pumped into the distribution system, raw water is treated with liquid chlorine for disinfection and a sequestration chemical for iron control. The ground storage tank has usable capacity of 30,600 gallons. The single maximum day in the test year of 217,000 gallons occurred on February 23, 2007. It does not appear that there was a fire, line break, or other unusual occurrence on that day. The Utility's records indicate unaccounted for water of 10.89 percent of the amount produced; therefore, the peak day demand shall be reduced by 666 gallons to reflect the excessive unaccounted for water. Fire hydrants are located throughout the service area; therefore, a fire flow allowance of 500 gpm for two hours shall be included in the used and useful analysis pursuant to Rule 25-30.4325(1)(c), F.A.C. Because the system is built out, the Utility did not request a growth allowance to be included in the used and useful calculation, pursuant to Rule 25-30.431, F.A.C. The firm reliable capacity of the water system is 192,000 gallons per day (gpd), pursuant to Rule 25-30.4325(6)(b), F.A.C. Pursuant to Rule 25-30.4325, F.A.C., the water treatment plant is 100 percent used and useful. In addition, because the usable storage capacity is less than the peak day demand, the storage tank shall be considered 100 percent used and useful, pursuant to Rule 25-30.4325(8), F.A.C.

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<sup>3</sup> See Order No. PSC-04-1281-PAA-WS, issued December 28, 2004, in Docket No. 030443-WS, In re: Application for rate increase in Pasco County by Labrador Utilities, Inc.

## 2. Wastewater Treatment Plant

Pursuant to Rule 25-30.432, F.A.C., the wastewater treatment plant used and useful determination in the prior order was based on the DEP permitted maximum monthly average daily flow. The current DEP permitted capacity for the wastewater treatment plant is based on three-month average daily flows (TMADF). The wastewater treatment plant, which uses extended aeration for treatment, has a rated capacity of 216,000 gpd based on TMADF. The treated effluent is disposed of on a 34.7 acre slow-rate restricted public access sprayfield. The TMADF during the test year was 84,778 gpd. It appears that there is no excessive infiltration and inflow in the collection system. The Utility did not request an allowance for growth pursuant to Rule 25-30.431, F.A.C., because the area served by the existing plant is built out. Based on the TMADF flow during the test year, the wastewater treatment plant would be 39 percent used and useful. However, the Utility believes that this facility should be considered 100 percent used and useful because the plant was designed to serve full occupancy at design flows of 280 gpd/equivalent residential connection (ERC) which would require 250,000 gpd capacity. The actual flows are closer to 80 gpd/ERC in the peak month assuming 95 percent occupancy.

We agree with the Utility that the plant was appropriately sized to meet the projected needs of the community that it was intended to serve, including the 90-unit RV park that is proposed for the vacant property discussed earlier. Based on current average usage of 45 gpd/ERC for the existing RV park, the proposed RV park would generate flows of 4,050 gpd. There appears to be no timetable for the construction of the proposed RV park addition. Owner representatives of the property have indicated that further development is dependant on the economy. Other than the vacant property considered to be developed as an RV park, there are no other vacant properties available to be developed within the Utility's service area. Based on Rule 25-30.432, F.A.C., which allows consideration of whether the service area is built out in determining the used and useful amount, we find that the wastewater treatment plant is 100 percent used and useful.

## 3. Water Distribution and Wastewater Collection Systems

The used and useful calculations for the water distribution and wastewater collection systems are determined by the number of customers connected to the systems divided by the capacity of the systems. Consideration is given for growth; however, in this case, growth is not considered a factor since the systems are built out. The distribution and collection systems were designed to serve the existing customers; therefore, the water distribution and wastewater collection systems shall be considered 100 percent used and useful.

## C. Working Capital Allowance

Rule 25-30.433(2), F.A.C., requires that Class B utilities use the formula method, or one-eighth of operations and maintenance (O&M) expenses, to calculate the working capital allowance. The Utility has properly filed its allowance for working capital using the one-eighth of O&M expenses method. Based on our adjustments to Labrador's O&M expenses, we find the appropriate working capital allowance to be \$17,561 for water and \$29,109 for wastewater. This



reflects a decrease of \$4,429 for water and \$4,991 for wastewater to the Utility's requested working capital allowance of \$21,990 for water and \$34,100 for wastewater.

#### D. Total Rate Base

Based on our adjustments noted above, we find the appropriate rate base is \$525,505 for water and \$1,387,160 for wastewater. The schedules for water and wastewater rate base are attached as Schedules No. 1-A and 1-B, respectively. Our adjustments to water and wastewater rate bases are shown on Schedule No. 1-C.

### V. COST OF CAPITAL

#### A. Return on Equity (ROE)

In its filing, the Utility requested an ROE of 11.70 percent. This requested return was based on the application of our leverage formula approved in Order No. PSC-07-0472-PAA-WS, and an equity ratio of 42.59 percent.<sup>4</sup> We find the Utility's proposed ROE of 11.70 percent shall be updated to reflect measurable changes that have occurred in the equity cost rate for the water and wastewater industry since the original filing.

Based on our 2008 leverage formula<sup>5</sup> and an equity ratio of 42.59 percent, we calculate that the ROE would be 12.34 percent. However, immediately prior to our consideration of Labrador's requested rate increase at our June 2, 2009, Agenda Conference, we approved the 2009 leverage formula by proposed agency action. Although it has been our practice to use the most recent leverage formula in effect at the time of our vote to approve final rates, we find that a departure from this practice is appropriate in this case. Because of the drastic change in economic conditions since the 2008 leverage formula was set and because ratemaking is inherently prospective in nature, we find we should take into account the 2009 leverage formula, which uses the same methodology approved in the 2008 leverage formula. Using the 2009 leverage formula results in a material change in ROE of 121 basis points for an ROE of 11.13 percent. This ROE is within 57 basis points of the Utility's requested ROE of 11.70 percent.

Based on the above, we find that the appropriate ROE is 11.13 percent, with an allowed range of plus or minus 100 basis points.

#### B. Average Cost of Capital

As shown on MFR Schedule D-1, Labrador originally proposed an overall cost of capital of 8.47 percent for the test year ending December 31, 2007. Based on the resolution of the

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<sup>4</sup> See Order No. PSC-07-0472-PAA-WS, issued June 1, 2007, in Docket No. 070006-WS, In re: Water and Wastewater Industry Annual Reestablishment of Authorized Range of Return on Common Equity for Water and Wastewater Utilities Pursuant to Section 367.081 (4)(f), Florida Statutes.

<sup>5</sup> See Order No. PSC-08-0846-FOF-WS, issued December 31, 2008, in Docket No. 080006-WS, In re: Water and Wastewater Industry Annual Reestablishment of Authorized Range of Return on Common Equity for Water and Wastewater Utilities Pursuant to Section 367.081 (4)(f), F.S.

preceding issues, we calculate an overall cost of capital of 8.22 percent as shown on Schedule No. 2.

## VI. NET OPERATING INCOME

### A. Contractual Services - Other

In its filing, the Utility reflected an adjusted test year amount of \$8,595 for water and \$8,410 for wastewater, respectively, for Contractual Services - Other. The amounts represent an increase of \$7,699 or 859.23 percent for water and an increase of \$7,517 or 841.78 percent for wastewater over the prior test year. Labrador noted the reason for this increase as follows: “[t]emporary employment has increased the cost of other contractual services.” In addition, on MFR Schedules B-7 and B-8, Lines 1 through 3, the Utility reflects an increase of \$27,551 for water and \$34,730 for wastewater for Salaries & Wages - Employees. Labrador noted that the reason for these increases are due to the hiring of additional employees.

In its second data request, our staff requested that the Utility provide support for its increase in temporary employment. The Utility was asked to identify each temporary position employed during the test year and provide a detail of the duties performed and the associated cost. In its response, Labrador failed to provide a detail of the duties performed and the associated cost. The Utility stated that only \$1,327 (\$1,502 booked plus the credit adjustment of \$175 from the allocation adjustment) of the \$17,005 is related to temporary employment.

On April 27, 2009, the Utility submitted additional information wherein it provided further explanation of the costs included in the Contractual Services - Other account. Based on subsequent telephone conversations with Labrador, the Utility was able to provide general ledger support that \$15,678 of the \$17,005 was related to expenses included in Contractual Services and not specifically related to temporary employment services. We find that the Utility’s increase of \$1,327 for temporary employment in Contractual Services - Other for the test year, in addition to the substantial increases in salaries and wages, is unsupported because it failed to provide the duties and responsibilities of those temporary employees. Therefore, Contractual Services - Other shall be decreased by \$671 ( $\$1,327 \times 50.54$  percent) for water and \$656 ( $\$1,327 \times 49.46$  percent) for wastewater. These adjustments are consistent with our decisions for two sister companies of Labrador.<sup>6</sup>

### B. Utility's Consumer Price Index (CPI) Adjustments to O&M Expenses

In the Utility’s test year approval letter dated May 30, 2008, Labrador stated that its historic test year ending December 31, 2007, was representative of a normal full-year operation. However, on Schedule B-3, the Utility made adjustments to increase its sludge removal expense, purchased power, chemicals, materials and supplies, contractual services for accounting, contractual services for legal, contractual services for testing, contractual services for other,

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<sup>6</sup> At the May 5, 2009, Agenda Conference, we approved similar adjustments in Docket Nos. 080248-SU, In re: Application for increase in wastewater rates in Pinellas by Tierra Verde Utilities, Inc., and 080250-SU, In re: Application for increase in wastewater rates in Pinellas by Mid-County Services, Inc.

rental expense, transportation, insurance - other, bad debt expense, and miscellaneous expense by applying our current index of 2.39 percent.<sup>7</sup>

Because Labrador stated its test year ending December 31, 2007, was representative of a normal full year of operation, we find the Utility failed to justify or support why any of the O&M expenses should be increased by the index. In addition, we note that the increase in purchased power is a pass-through item pursuant to Section 367.081(4)(b), F.S., and is not subject to our current index.

Based on the above, the Utility's O&M expenses shall be decreased by \$1,943 for water and \$4,249 for wastewater to reflect the removal of Labrador's CPI adjustments. This is consistent with our prior decisions for sister companies of Labrador.<sup>8</sup>

C. Rate Case Expense

The Utility included in its MFRs, an estimate of \$207,715 for current rate case expense. Our staff requested an update of the actual rate case expense incurred, with supporting documentation, as well as the estimated amount to complete the case. On April 2, 2009, the Utility submitted a revised estimated rate case expense through completion of the PAA process of \$212,445 as follows:

	MFR		Additional	
	<u>Estimated</u>	<u>Actual</u>	<u>Estimated</u>	<u>Total</u>
Legal and Filing Fees	\$76,865	\$22,595	\$66,865	\$89,460
Consultant Fees – MS&A	45,000	62,075	2,360	64,435
Consultant Fees – M&R	4,500	2,589	1,863	4,452
WSC <sup>9</sup> Fees – In House	60,700	17,276	20,173	37,449
Filing Fee	4,000	0	0	0
Travel – WSC	3,200	53	3,147	3,200
Miscellaneous	12,000	338	11,662	12,000
Temp. Employee - WSC	0	91	73	164
Notices	<u>1,450</u>	<u>668</u>	<u>617</u>	<u>1,285</u>
Total Rate Case Expense	<u>\$207,715</u>	<u>\$105,685</u>	<u>\$106,760</u>	<u>\$212,445</u>

<sup>7</sup> See Order No. PSC-08-0104-PAA-WS, issued February 18, 2008, in Docket No. 080005-WS, In re: Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.

<sup>8</sup> See Order Nos. PSC-07-0082-PAA-SU, p. 11, issued January 29, 2007, in Docket No. 060255-SU, In re: Application for increase in wastewater rates in Pinellas County by Tierra Verde Utilities, Inc.; and PSC-07-0130-SC-SU, p. 26, issued February 15, 2007, in Docket No. 060256-SU, In re: Application for increase in wastewater rates in Seminole County by Alafaya Utilities, Inc.

<sup>9</sup> Water Service Corp.

Pursuant to Section 367.081(7), F.S., we are required to determine the reasonableness of rate case expenses and disallow all rate case expenses determined to be unreasonable. It is the Utility's burden to justify its requested costs. See Florida Power Corp. v. Cresse, 413 So. 2d 1187, 1191 (Fla. 1982). Further, we have broad discretion with respect to the allowance of rate case expense. It would constitute an abuse of discretion to automatically award rate case expense without reference to the prudence of the costs incurred in the rate case proceedings. Meadowbrook Util. Sys., Inc. v. FPSC, 518 So. 2d 326, 327 (Fla. 1st DCA 1987), rev. den. 529 So. 2d 694 (Fla. 1988). Based on review of the requested actual expenses, supporting documentation, and estimated expenses as listed above for the current rate case, we find several adjustments are necessary to the revised rate case expense estimate.

The first adjustment relates to costs incurred to correct deficiencies in the MFR filing. Based on review of invoices from the Utility's consultants, a combined amount of \$3,733 was billed for correcting the MFR deficiencies and revising the Utility's filing. According to the invoices, Christian Marcelli of Rose, Sundstrom & Bentley, LLP, billed the Utility 3.9 hours related to the correction of MFR deficiencies. Based on Mr. Marcelli's hourly rate of \$275 per hour, the total amount billed to Labrador was \$1,073 (\$275 x 3.9 hours). Additionally, Maria Bravo of Milian, Swain & Associates (MS&A), billed the Utility 19 hours related to the correction of MFR deficiencies. Based on her hourly rate of \$140 per hour, the total amount billed to the Utility came to \$2,660 (\$140 x 19 hours). We have previously disallowed rate case expense associated with correcting MFR deficiencies because of duplicate filing costs.<sup>10</sup> Accordingly, \$3,733 (\$1,073 + \$2,660) shall be removed as duplicative and unreasonable rate case expense.

The second adjustment relates to the Utility's estimated legal fees to complete the rate case. Labrador estimated 215.3 hours or \$66,865 in fees to complete the rate case. However, the list of tasks to complete the case provided by the Utility's legal counsel came to 100.3 hours, at a total cost of \$32,096. The specific amounts of time associated with each item are listed below:

**Estimate To Complete Through PAA Process**

<u>Description</u>	<u>Hours</u>	<u>Fees</u>
Unbilled time through 3/31/09	16.3	\$5,216
Telephone conferences and communications with client regarding rate case issues	15.0	4,800
Respond to staff's data requests; telephone conferences with client, consultants and staff regarding same	8.0	2,560
Review audit report; conference with client regarding response to same; prepare response to same	NA	NA
Review and assist in responding to customer complaints and issues raised at customer meeting	3.5	1,120
Review staff's recommendations; conferences with client and consultants	6.0	1,920

<sup>10</sup> See Order Nos. PSC-05-0624-PAA-WS, issued June 7, 2005, in Docket No. 040450-WS, In re: Application for rate increase in Martin County by Indiantown Company, Inc.; and PSC-01-0326-FOF-SU, issued February 6, 2001, in Docket No. 991643-SU, In re: Application for increase in wastewater rates in Seven Springs System in Pasco County by Aloha Utilities, Inc.

Estimate To Complete Through PAA Process

<u>Description</u>	<u>Hours</u>	<u>Fees</u>
regarding same		
Prepare for and travel to Tallahassee to attend agenda	15.0	4,800
Telephone conferences and communications with client and consultants	10.0	3,200
Review PAA Order; Conference with clients and consultants	7.0	2,240
Telephone conferences and communications with client, consultants and Commission staff	6.0	1,920
Draft revised tariff sheets, notice of new rates and other implementing documentation	3.5	1,120
Letter, telephone conferences and communications with Commission staff	5.0	1,600
Miscellaneous post-PAA noticing and filing matters, COA's Final Rate Case Expense, reports, etc.	<u>5.0</u>	<u>1,600</u>
Total estimated fees	<u>100.3</u>	<u>\$32,096</u>

As discussed above, it is the Utility's burden to justify its requested costs. We find that the estimated 100.3 hours is excessive, when compared to the estimated and actual hours billed to complete the 2007 rate case for Miles Grant Water & Sewer Co. (Miles Grant), a sister company of Labrador.<sup>11</sup> Miles Grant, also a water and wastewater subsidiary of UI with substantial customer concern regarding the water quality, was granted 53.5 hours to perform virtually identical activities through the completion of that rate case and total hours billed of 97.0. We find that 53.5 hours is a reasonable amount of time to respond to data requests, conference with the client and consultants, review our staff's recommendation, travel to the agenda conference, and attend to miscellaneous post-PAA matters. The actual hours billed to Labrador through March 20, 2009, total 55.7. Adding our staff's estimate of 53.5 to complete the case would result in 109.2 hours for this rate case, which we find is reasonable. Therefore, legal fees shall be decreased by \$34,769 (\$66,865 - \$32,096) to remove unsupported estimates, and further reduced by \$14,976 ((100.3 - 53.5) x \$320) to reflect estimates more consistent with the Miles Grant rate case. It should be noted that the \$4,000 filing fee has been subsumed into legal fees.

The third adjustment relates to additional expenses requested for MS&A. Labrador showed an additional 16 hours totaling \$2,360 for MS&A as an estimate to complete this case; however, we find that all of the duties assigned to MS&A have already been performed and no future involvement is needed, and this amount shall be removed. In addition, we find that the remaining amount of \$59,415 for consulting fees from MS&A shall be disallowed.

The fourth adjustment relates to the 418 hours and \$20,173 of estimated costs to complete this case by WSC employees. Labrador asserts that additional hours were required for requests from our auditors, staff analysts' data requests, requests for additional information (RAI), Commission ordered adjustments (COA), and customer notices. However, the Utility

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<sup>11</sup> See Order No. PSC-08-0812-PAA-WS, p. 11-12, issued December 16, 2008, in Docket No. 070695-WS, In re: Application for rate increase in Martin County by Miles Grant Water and Sewer Co.

failed to provide any detailed documentation of what tasks were involved in its estimate to complete the case for each employee. Labrador simply stated that the \$20,173 was for data requests, audit facilitation, RAIs, COAs, and customer notices. The hours needed were not broken down to estimate the hours needed to complete each item. In addition, there were no timesheets provided to show actual hours worked. Therefore, we have no basis to determine whether the individual hours estimated were reasonable. As discussed below, it is the Utility's burden to justify its requested costs, and we find that the requested estimates and expenses reflect an overstatement. We find that 154.1 hours is reasonable to allow Labrador to respond to data requests, facilitate the audit, review the PAA recommendation, and travel to the agenda conference. By applying the individual employee rates and the average number of hours worked by WSC employees, we find that the estimated WSC fees to complete the case shall be \$7,368. Thus, the Utility's requested expense of \$20,173 shall be decreased by \$12,805. In those cases where rate case expense has not been supported by detailed documentation, our practice has been to disallow some portion or remove all unsupported amounts.<sup>12</sup>

The fifth adjustment addresses WSC travel expenses. In its MFRs, Labrador estimated \$3,200 for travel. However, the only supported travel expenses totaled \$53. Based on several previous UI rates cases, it is our experience for PAA rate cases that UI does not send a representative from their Illinois office to attend the agenda conference; therefore, rate case expense shall be decreased by \$3,147.

The sixth adjustment relates to WSC expenses for FedEx Corporation (FedEx), copies and other miscellaneous costs. In its MFRs, the Utility estimated \$12,000 for these items. We are concerned by the amount of requested costs for FedEx expense. UI has received authorization from this Commission to keep its records outside the state in Illinois, pursuant to Rule 25-30.110(2)(b), F.A.C. However, when a Utility receives this authorization, it is required to reimburse us for the reasonable travel expense incurred by each Commission representative during the review and audit of the books and records. Further, these costs are not included in rate case expense or recovered through rates. In the 1992 rate case of the Utility's sister company, Mid-County Services, Inc. (Mid-County), we found that Mid-County also requested recovery of the actual travel costs it paid for the Commission auditors.<sup>13</sup> Because the Utility's books are maintained out-of-state, the auditors had to travel out of state to perform the audit. We have consistently disallowed this cost in rate case expense.<sup>14</sup> The requested amount of shipping costs in this rate case directly relates to the records being retained out of state. Labrador

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<sup>12</sup> See Order Nos. PSC-94-0075-FOF-WS, issued January 21, 1994, in Docket No. 921261-WS, In re: Application for a Rate Increase in Lee County by Harbor Utilities Company, Inc.; PSC-96-0629-FOF-WS, issued May 10, 1996, in Docket No. 950515-WS, In re: Application for staff-assisted rate case in Martin County by Laniger Enterprises of America, Inc.; and PSC-96-0860-FOF-SU, issued July 2, 1996, in Docket No. 950967-SU, In re: Application for staff-assisted rate case in Highlands County by Fairmount Utilities, the 2nd, Inc. We note that, in all of these cases, we removed the entire unsupported amounts.

<sup>13</sup> See Order No. PSC-93-1713-FOF-SU, p. 19, issued November 30, 1993, in Docket No. 921293-SU, In Re: Application for a Rate Increase in Pinellas County by Mid-County Services, Inc.

<sup>14</sup> See Order Nos. 25821, issued February 27, 1991, in Docket No. 910020-WS, In re: Petition for rate increase in Pasco County by UTILITIES, INC. OF FLORIDA, and 20066, issued September 26, 1988, in Docket No. 870981-WS, In re: Application of MILES GRANT WATER AND SEWER COMPANY for an increase in Water and Sewer Rates in Martin County.

typically ships its MFRs, answers to data requests, and other rate case related documents, to its law firm located in central Florida. Then, the documents are submitted to the Commission. We find that the ratepayers shall not bear the related costs of having the records located out of state. This is a decision of the shareholders of the Utility, and they shall bear the related costs. Therefore, miscellaneous rate case expense shall be decreased by \$12,000.

In summary, we find that Labrador's revised rate case expense shall be decreased by \$143,205 for MFR deficiencies, and for unsupported and unreasonable rate case expense. The appropriate total rate case expense is \$69,241. A breakdown of rate case expense is as follows:

<u>Description</u>	<u>MFR Estimated</u>	<u>Utility Revised Actual &amp; Estimated</u>	<u>Commission Adjustments</u>	<u>Total</u>
Legal Fees	\$76,865	\$89,460	(50,818)	\$38,643
Consultant Fees-MS&A	45,000	64,435	(64,435)	0
Consultant Fees-M&R	4,500	4,452	0	4,452
Temp. Employee - WSC	0	164	0	164
WSC In-House Fees	60,700	37,449	(12,805)	24,644
Filing Fee (included in legal fees)	4,000	0	0	0
WSC Travel	3,200	3,200	(3,147)	53
Miscellaneous	12,000	12,000	(12,000)	0
Customer Notices & Postage	<u>1,450</u>	<u>1,285</u>	<u>0</u>	<u>1,285</u>
<b>Total Rate Case Expense</b>	<b><u>\$207,715</u></b>	<b><u>\$212,445</u></b>	<b><u>(143,205)</u></b>	<b><u>\$69,241</u></b>
<b>Annual Amortization</b>	<b><u>\$51,929</u></b>	<b><u>\$53,111</u></b>	<b><u>(35,801)</u></b>	<b><u>\$17,310</u></b>

In its MFRs, Labrador requested total rate case expense of \$207,715, which amortized over four years would be \$51,929. The Utility included in its MFRs \$26,246 ( $\$51,929 \times .5054$ ) and \$25,683 ( $\$51,929 \times .4946$ ) for rate case expense in the test year for water and wastewater, respectively. Thus, rate case expense shall be decreased by \$17,497 and \$17,122 for water and wastewater, respectively.

The approved total rate case expense shall be amortized over four years, pursuant to Section 367.0816, F.S. Based on the data provided by Labrador and the adjustments discussed above, we calculate total annual rate case expense of \$17,310, which shall be allocated \$8,749 for water and \$8,561 for wastewater.

#### D. Net Depreciation Expense

In accordance with the plant and accumulated depreciation adjustments made pursuant to our staff's Audit Finding No. 1, depreciation expense shall be reduced for water by \$45 and increased by \$611 for wastewater. According to our staff's Audit Finding No. 2, the Utility included depreciation expenses of \$198 for wastewater franchise fees for the year 2007, but did not include depreciation expense of the same amount for the water franchise fees. Thus, depreciation expense for water shall be increased by \$198. Also, according to staff's Audit Finding No. 3, to remove the cumulative effect of the audit staffs' retirement entries on the Utility's filing, depreciation expense shall be reduced by \$651 for water and \$344 for

wastewater. In accordance with our adjustments to plant-in-service made earlier in this Order, water accumulated depreciation and depreciation expense shall be decreased by \$375 and \$250, respectively. Finally, according to our staff's Audit Finding No. 4, the Utility had a double entry of \$440 for Treatment & Disposal Equipment that could not be supported and shall be removed from the wastewater plant, along with corresponding reductions to accumulated depreciation of \$12 and depreciation expense of \$12 for wastewater.

In its filing, Labrador reflected net depreciation expense of \$34,311 for water and \$64,020 for wastewater. Based on the adjustments above, depreciation expense shall be decreased by \$748 (\$198 - \$651 - \$250 - \$45) for water and increased by \$255 (\$611 - \$344 - \$12) for wastewater. The corresponding adjustments include a decrease to accumulated depreciation of \$375 for water and \$12 for wastewater. All adjustments related to net depreciation expense are shown on Schedule No. 3-C.

E. Net Operating Income Before Any Revenue Increase

Based on our adjustments to revenues, operating expenses, and rate base noted above, we calculate the Utility to have a net operating loss of \$17,092 for water, and test year operating income of \$33,468 for wastewater. Our calculations are shown on Schedule Nos. 3-A and 3-B, with our adjustments to operating income shown on Schedule No. 3-C.

VII. REVENUE REQUIREMENT

Based on all the above, we calculate the revenue requirement to be as follows:

	<u>Test Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Water	\$155,762	\$101,241	\$257,003	65.00%
Wastewater	\$362,449	\$135,306	\$497,755	37.33%

Our computation of the revenue requirement is shown on Schedules No. 3-A and 3-B, with our adjustments shown on Schedule No. 3-C

VIII. RATE STRUCTURES AND RATES

A. Rate Structure

The current rate structure for the Utility's water system is the base facility charge (BFC)/uniform gallonage charge rate structure, with a monthly BFC of \$6.55. Customers are also charged \$3.27 for each 1,000 gallons (kgal) used. This rate structure is considered usage-sensitive, because customers are charged for all gallons consumed. The residential customer base is seasonal, with an average consumption per customer of 1.9 kgal per month. In designing rates we consider several things, including the current rate structure, characteristics of the Utility's customer base, various conditions of the Utility's Consumptive Use Permit, and current



and anticipated climatic conditions in the Utility's service area. Our approved rate structure is shown on the table below. A complete discussion of our rate structure methodology is contained in Attachment A.

Based on the foregoing, the information contained in the table below, and the discussion contained in Attachment A, we find that the appropriate rate structure for the Utility's water system is the BFC/uniform gallonage charge rate structure. The BFC cost recovery allocation shall be set at 40 percent. The appropriate rate structure for the Utility's wastewater system is the base facility charge (BFC)/gallonage charge rate structure. The BFC cost recovery allocation shall be set at 50 percent. Residential wastewater consumption shall remain capped for billing purposes at six kgal per month. The general service gallonage charge shall be 1.2 times greater than the corresponding residential gallonage charge.

<b>LABRADOR UTILITIES, INC.</b>			
<b>COMMISSION APPROVED RATE STRUCTURE FOR THE WATER SYSTEM</b>			
<u>Current Rate Structure and Rates</u>		<u>Approved Rate Structure and Rates</u>	
BFC/uniform kgal		BFC/uniform kgal BFC = 40%	
BFC	\$6.55	BFC	\$8.87
All kgals	\$3.27	All kgals	\$6.74
<u>Typical Monthly Bills</u>		<u>Typical Monthly Bills</u>	
<u>Cons (kgal)</u>		<u>Cons (kgal)</u>	
0	\$6.55	0	\$8.87
2	\$13.09	2	\$22.35
3	\$16.36	3	\$29.09
5	\$22.90	5	\$42.57
7	\$29.44	7	\$56.05
10	\$39.25	10	\$76.27

**B. Repression Adjustments**

Using our database of utilities that have previously had repression adjustments made, we calculated repression adjustments for this Utility based upon our approved increases in revenue requirements for the test year, and the historically observed response rates of consumption to changes in price. This is the same methodology for calculating repression adjustments that we have approved in prior cases.<sup>15</sup>

<sup>15</sup> See Order Nos. PSC-01-2385-PAA-WU, issued December 10, 2001, in Docket No. 010403-WU, In re: Application for staff-assisted rate case in Highlands County by Holmes Utilities, Inc.; Order No. PSC-02-1168-PAA-WS, issued August 26, 2002, in Docket No. 010869-WS, In re: Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.

Based on this analysis, we find that repression adjustments to the Utility's water and wastewater systems are appropriate. Residential water consumption shall be reduced by 7.5 percent, resulting in a consumption reduction of approximately 1,482 kgal. Total residential water consumption for ratesetting is 18,715 kgals, which represents a 6.1 percent reduction in overall consumption. The resulting water system reductions to revenue requirements are \$270 in purchased power expense, \$176 in chemicals expense, and \$21 in regulatory assessment fees (RAFs). The post-repression revenue requirement for the water system is \$255,514.

Residential wastewater consumption shall be reduced by 6.9 percent, resulting in a consumption reduction of approximately 1,313 kgal. Total residential wastewater consumption for ratesetting is 17,696 kgals, which represents a 6.0 percent reduction in overall consumption. The resulting wastewater system reductions to revenue requirements are \$1,838 in purchased power expense, \$1,409 in chemicals expense, \$2,035 in sludge removal expense, and \$238 in RAFs. The post-repression revenue requirement for the wastewater system is \$493,278.

In order to monitor the effects of both the changes in revenues and rate structure, the Utility shall file reports detailing the number of bills rendered, the consumption billed, and the revenues billed for each system for each month. In addition, the reports shall be prepared, for both the water and wastewater systems, by customer class and meter size. The reports shall be filed with our staff on a semi-annual basis, for a period of two years beginning the first billing period after the approved rates go into effect. The filing requirements for these repression reports have traditionally been on a quarterly basis. In this case, the Utility submitted itemized cost information which suggested that providing the reports on a semi-annual, rather than a quarterly, basis would result in material cost savings. Therefore, the reporting period shall be changed from quarterly to semi-annually. As we design more aggressive conservation-oriented rate structures, we believe it is important to obtain information regarding consumption changes on a frequency basis of no greater than every six months. To the extent the Utility makes adjustments to consumption in any month during the reporting period, the Utility shall file a revised monthly report for that month within 30 days of any revision.

### C. Appropriate Water and Wastewater Rates

Excluding miscellaneous service revenues, the water rates shown on Schedule No. 4-A are designed to produce revenues of \$255,523. Approximately 40 percent (or \$102,209) of the water monthly service revenues is recovered through the base facility charges, while approximately 60 percent (or \$153,313) represents revenue recovery through the consumption charges. Excluding miscellaneous service revenues, the wastewater rates shown on Schedule No. 4-B are designed to produce revenues of \$493,278. Approximately 50 percent (or \$246,639) of the wastewater monthly service revenues is recovered through the base facility charges, while approximately 50 percent (or \$246,639) represents revenue recovery through the consumption charges.

The Utility shall file revised tariff sheets and a proposed customer notice to reflect the approved rates. The approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-40.475(1), F.A.C. The rates shall not be implemented until our staff has approved the proposed customer notice. The

Utility shall provide proof of the date notice was given no less than 10 days after the date of the notice.

D. Miscellaneous Service Charges

We last approved miscellaneous service charges for Labrador on July 15, 2001. Therefore, they have not been updated in almost eight years, and costs for fuel and labor have risen substantially since that time. Further, our price index has increased approximately 65 percent in that period of time. In Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, involving Southern States Utilities Inc., we expressed “concern that the rates [miscellaneous service charges] are eight years old and cannot possibly cover current costs.”<sup>16</sup>

The Utility believes these charges should be updated to reflect current costs, and provided the following cost estimates for the expenses associated with connections, reconnections, and premises visits:

<u>During Business Hours</u>		<u>After Hours</u>	
Item:	Cost:	Item:	Cost:
Labor (\$31.50/hr. X 0.5 hours)	\$15.63	Labor <sup>17</sup>	\$35.16
Transportation	5.00	Transportation	6.00
Total	<u>\$20.63</u>	Total	<u>\$41.16</u>

We note that miscellaneous service charges may be indexed if requested in price index applications pursuant to Rule 25-30.420, F.A.C. If the Utility had applied our approved price indices to its \$15 miscellaneous service charge, the charge would currently be \$23.88. Therefore, we find that a \$21 charge for normal hours is reasonable and is cost based.

We also note that the Utility’s current tariff includes a Premises Visit (in lieu of disconnection) charge. This charge is levied when a service representative visits a premise 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. We find the “Premises Visit In Lieu of Disconnection” charge shall be replaced with what will be called “Premises Visit.” In addition to those situations described in the definition of the current Premises Visit In Lieu of Disconnection, the new Premises Visit charge will also be levied when a service representative visits a premises at a customer’s request for complaint resolution or for other purposes and the problem is found to be the customer’s responsibility. This charge is consistent with Rule 25-30.460(1)(d), F.A.C. In addition, by Order No. PSC-05-0397-TRF-WS, issued April 18, 2005, we approved a Premises Visit Charge to be levied when a service representative visits a premises at the customer’s

<sup>16</sup> See Docket No. 950495-WS, In re: Application for rate increase and increase in service availability charges by Southern States Utilities, Inc. for Orange-Osceola Utilities, Inc. in Osceola County, and in Bradford, Brevard, Charlotte, Citrus, Clay, Collier, Duval, Highlands, Lake, Lee, Marion, Martin, Nassau, Orange, Osceola, Pasco, Putnam, Seminole, St. Johns, St. Lucie, Volusia, and Washington Counties.

<sup>17</sup> Represents time-and-a-half wage and the additional time it takes an employee to get to the customer’s property after hours.

request for a complaint and the problem is found to be the customer's responsibility.<sup>18</sup> Based on the foregoing, the Premises Visit (in lieu of disconnection) shall be eliminated and the Premises Visit charge is approved.

Based on the above, we find that the proposed miscellaneous service charges of \$21 for normal hours and \$42 for after hours shall be approved because the increased charges are cost-based, reasonable, and consistent with fees we have approved for other utilities. Labrador shall be allowed to increase its water and wastewater miscellaneous service charges from \$15 to \$21 for normal hours and from \$15 to \$42 for after hours, and to modify its Premises Visit (in lieu of disconnection) charge. The current and approved water and wastewater charges are shown below.

Water and Wastewater Miscellaneous Service Charges

	<u>Current Charges</u>		<u>Commission Approved</u>	
	<u>Normal Hrs</u>	<u>After Hrs</u>	<u>Normal Hrs</u>	<u>After Hrs</u>
Initial Connection	\$15	N/A	\$21	\$42
Normal Reconnection	\$15	N/A	\$21	\$42
Violation Reconnection	Actual Cost	N/A	Actual Cost	Actual Cost
Premises Visit (in lieu of disconnection)	\$10	N/A	\$21	\$42
Premises Visit	N/A	N/A	\$21	\$42

The Utility shall file a proposed customer notice to reflect the approved charges. The approved charges shall be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), F.A.C., provided the notice has been approved by our staff. Within ten days of the date the order is final, the Utility shall provide notice of the tariff changes to all customers. Labrador shall provide proof the customers have received notice within ten days after the date the notice was sent.

E. Refund of Interim Rates

By Order No. PSC-08-0751-PCO-WS, issued November 13, 2008, we approved an interim revenue requirement of \$253,624 for water and \$392,060 for wastewater. This represented an increase of \$97,862 or 62.83 percent for water and \$29,611 or 8.17 percent for wastewater.

According to Section 367.082, F.S., any refund shall be calculated to reduce the rate of return of the Utility during the pendency of the proceeding to the same level within the range of the newly authorized rate of return. Adjustments made in the rate case test period that do not relate to the period interim rates are in effect shall be removed. Rate case expense is an example of an adjustment which is recovered only after final rates are established.

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<sup>18</sup> See Docket 050096-WS, In re: Request for revision of Tariff Sheets 14.0 and 15.1 to change request for meter test by customer and premise visit charge, by Marion Utilities, Inc.

In this proceeding, the test period for establishment of interim and final rates is the simple average test year ending December 31, 2007. Labrador's approved interim rates did not include any provisions for pro forma or projected operating expenses or plant. The interim increase was designed to allow recovery of actual interest costs and the floor of the last authorized range for equity earnings.

Using the principles discussed above, we calculate a revised interim revenue requirement of \$247,657 for water and \$488,610 for wastewater utilizing the same data used to establish final rates. Rate case expense was excluded because this item is prospective in nature and did not occur during the interim collection period. The wastewater revenue of \$488,610 is greater than the interim revenues of \$392,060 granted in Order No. PSC-08-0751-PCO-WS; as such, no wastewater interim refund shall be made. However, the water revenue of \$247,657 is less (a 2.36 percent or \$5,967 difference) than the interim order revenue requirement of \$253,624. This results in a 2.36 percent refund of interim rates, after miscellaneous revenues have been removed. The Utility shall refund 2.36 percent of water revenues collected under interim rates. The refund shall be with interest in accordance with Rule 25-30.360(4), F.A.C. The Utility shall submit proper refund reports pursuant to Rule 25-30.360(7), F.A.C, and shall treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C.

#### F. Statutory Four-Year Rate Reduction

Section 367.0816, F.S., requires rates to be reduced immediately following the expiration of the four-year amortization period by the amount of the rate case expense previously included in the rates. The reduction will reflect the removal of revenues associated with the amortization of rate case expense, the associated return included in working capital, and the gross-up for RAFs, which is \$9,220 for water and \$9,022 for wastewater. The decreased revenue will result in the rate reduction approved on Schedules Nos. 4-A and 4-B.

The Utility shall file revised tariff sheets and a proposed customer notice to reflect the approved rates. The approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-40.475(1), F.A.C. The rates shall not be implemented until our staff has approved the proposed customer notice. Labrador shall provide proof of the date notice was given no less than ten days after the date of the notice.

If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease, and for the reduction in the rates due to the amortized rate case expense.

### IX. SHOW CAUSE PROCEEDING

In the year 2004, in three of six complaints received, we noted in Order No. PSC-04-1281-PAA-WS, issued December 28, 2004,<sup>19</sup> that the Utility took longer than 15 working days to provide our staff with a written response to the customers' complaints in apparent violation of

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<sup>19</sup> In Docket No. 030443-WS, In re: Application for rate increase in Pasco County by Labrador Utilities, Inc.

Rule 25-22.032(6)(b), F.A.C. On pages 4-5 of that Order, in regards to late-filed responses in 2004, we stated:

By e-mail dated November 18, 2004, the Utility stated that due to administrative oversights, the responses to these complaints were not filed with this Commission by the due date. On a going-forward basis, the Utility has created a filing system to track all Commission complaints received. Further, the Utility stated that two employees will check the log daily to ensure that responses are filed on time. Labrador has assured us that they will take these steps to timely file any required responses to Commission complaints.

Based on this assurance, we found that the Utility's responses to customer complaints was satisfactory and did not initiate a show cause proceeding for these apparent violations.

Now, in processing the current rate application, we note that a billing complaint against the Utility was lodged with this Commission on February 2, 2009. However, the Utility did not submit its response until March 11, 2009, and an apparent rule violation was noted in the file for failure to provide a response to our staff within 15 working days. Further, a review of our complaint file shows of eleven complaints filed since 2006, the Utility has only timely responded to six. While all the complaints have been resolved, the Utility failed to respond to the Commission in five of the complaints within 15 working days as required by Rule 25-22.032(6)(b), F.A.C.

Now, in an April 22, 2009, letter to this Commission, the Utility states that it waited until the complaint was resolved before filing a response to the customers' complaints. Although the Utility states that it now understands that it must respond to the Commission within 15 working days for customer complaints, we find that these violations warrant more than a warning.

Utilities are charged with the knowledge of our rules and statutes. 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). Section 367.161(1), F.S., authorizes this Commission 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 to have willfully violated, any provision of Chapter 367, F.S., or any lawful order of the Commission. By failing to comply with the above-noted requirements of Rule 25-22.032(6)(b), F.A.C., in five of the eleven complaints, the Utility's acts were "willful" in the sense intended by Section 367.161, F.S. By Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., 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 "willful" implies an intent to do an act, and this is distinct from an intent to violate a statute or rule. Id. at 6.

As noted above, we have already warned the Utility about these very same type of violations, and the Utility advised us that it would correct the problems. This has apparently not happened. Based on this continued pattern of disregard for our rules and orders, Labrador shall

show cause, in writing, within 21 days of the date of the show cause order, why it should not be fined \$1,000 for its apparent violations of Rule 25-22.032(6)(b), F.A.C. This show cause proceeding shall incorporate the following conditions:

1. Should Labrador file a timely written response that identifies material facts that are in dispute, if any, and makes a request for a hearing pursuant to Sections 120.569 and 120.57(1), F.S., a further proceeding will be scheduled before a final determination of this matter is made;
2. A failure to file a timely written response to the show cause order shall constitute an admission of the facts herein alleged and a waiver of the right to a hearing on this issue;
3. In the event that Labrador fails to file a timely response to the show cause order, the fine shall be deemed assessed with no further action required by this Commission;
4. If the Utility responds to the show cause order by remitting the fine, this show cause matter shall be considered resolved.

Further, the Utility shall be put on notice that failure to comply with Commission orders, rules, or statutes will again subject the Utility to show cause proceedings and fines of up to \$5,000 per day per violation for each day the violation continues as set forth in Section 367.161, F.S.

X. ADJUSTMENT TO NATIONAL ASSOCIATION OF REGULATORY UTILITY  
COMMISSIONERS (NARUC) UNIFORM SYSTEM OF ACCOUNTS (USOA) PRIMARY  
ACCOUNTS

To ensure that the Utility adjusts its books in accordance with our decisions, Labrador shall provide proof, within 90 days of the final order in this docket, that the adjustments for all the applicable NARUC USOA primary accounts have been made.

In consideration of the above, it is

ORDERED by the Florida Public Service Commission that the application of Labrador Utilities, Inc., for increased water and wastewater rates is granted in part as set out in the body of this Order. It is further

ORDERED that each of the findings made in the body of this Order are hereby approved in every respect. It is further

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

ORDERED that Labrador Utilities, Inc. is authorized to charge the water rates as shown on Schedule 4-A, and the wastewater rates as shown on Schedule 4-B. It is further

ORDERED that Labrador Utilities, Inc. shall file revised water and wastewater tariff sheets and a proposed customer notice to reflect the approved water and wastewater rates. It is further

ORDERED that the approved rates 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), F.A.C. It is further

ORDERED that the approved water and wastewater rates shall not be implemented until our staff has approved the proposed customer notice, and Aqua Utilities Florida, Inc. shall provide proof of the date notice was given no less than ten days after the date of the notice. It is further

ORDERED that the rates shall not be implemented until our staff has approved the proposed customer notice. It is further

ORDERED that the Utility shall provide proof of the date the notice was given no less than 10 days after the date of the notice. It is further

ORDERED that to monitor the effect of both the changes in revenues and rate structure, the Utility shall file reports detailing the number of bills rendered, the consumption billed, and the revenues billed for each system for each month. It is further

ORDERED that the reports shall be prepared by customer class and meter size. It is further

ORDERED that the reports shall be filed with our staff, on a semi-annual basis, for a period of two years beginning the first billing period after the approved rates go into effect. It is further

ORDERED that the Utility shall be authorized to charge the miscellaneous service charges as set forth in the body of this Order. It is further

ORDERED that the Utility shall file a proposed customer notice to reflect the approved miscellaneous service charges. It is further

ORDERED that the approved charges shall be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), F.A.C., provided the notice has been approved by our staff. It is further

ORDERED that within ten days of the date the order is final, the Utility shall provide notice of the tariff changes to all customers. It is further



ORDERED that the Utility shall provide proof the customers have received notice within ten days after the date the notice was sent. It is further

ORDERED that the Utility shall refund 2.36 percent of water revenues collected under interim rates. It is further

ORDERED that the refund shall be with interest in accordance with Rule 25-30.360(4), F.A.C. It is further

ORDERED that the Utility shall submit proper refund reports pursuant to Rule 25-30.360(7), F.A.C, and shall treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C. It is further

ORDERED that the Utility shall file revised tariff sheets and a proposed customer notice to reflect the approved rates for the statutory four-year rate reduction as shown on Schedules 4-A and 4-B. It is further

ORDERED that the decrease in rates shall become effective immediately following the expiration of the four-year rate case expense recovery period in accordance with Section 367.0816, F.S. It is further

ORDERED the approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-40.475(1), F.A.C. It is further

ORDERED the rates shall not be implemented until our staff has approved the proposed customer notice. The Utility shall provide proof of the date notice was given no less than ten days after the date of the notice. It is further

ORDERED that if the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease, and for the reduction in the rates due to the amortized rate case expense.

ORDERED that the provisions of this Order, except for the statutory four-year rate reduction and the requirement to provide proof that the Utility has adjusted its books in accordance with the Commission approved adjustments which are final agency action, 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 Commission Clerk, 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 the Utility shall show cause in writing, within 21 days of this Order, why it should not be fined \$1,000 for its apparent violations of Rule 25-22.032(6)(b), F.A.C. It is further

ORDERED that any response shall comply with the conditions as set forth in the body of this Order and shall be filed with the Commission Clerk within 21 days of the date of issuance of this Order. It is further

ORDERED that the Utility shall be on notice that failure to comply with Commission orders, rules, or statutes will again subject the Utility to show cause proceedings and fines of up to \$5,000 per day per violation for each day the violation continues as set forth in Section 367.161, F.S. It is further

ORDERED that the Utility shall provide proof, within 90 days of the final order issued in this docket, that the adjustments for all the applicable NARUC USOA primary accounts have been made. It is further

ORDERED that if no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of this Order, a Consummating Order will be issued. It is further

ORDERED that this docket shall remain open for our staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, and that the interim refund has been completed and verified by our staff. It is further

ORDERED that once these actions are complete, this docket shall be closed administratively, and the corporate undertaking shall be released.

By ORDER of the Florida Public Service Commission this 22nd day of June, 2009.



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ANN COLE  
Commission Clerk

( S E A L )

RRJ

DISSENT BY: COMMISSIONER ARGENZIANO

COMMISSIONER ARGENZIANO dissents without opinion.

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.

The show cause portion of this Order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by this Show Cause Order may file a response within 21 days of issuance of the Show Cause Order as set forth herein. This response must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 13, 2009.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing and a default pursuant to Rule 28-106.111(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to the show cause portion of this Order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this Order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.

As identified in the body of this Order, except for the statutory four-year rate reduction and the requirement for Labrador Utilities, Inc. (Labrador or Utility) to adjust its books in accordance with our decisions in this Order which are final agency action, our action is 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 Office of Commission Clerk, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 13, 2009. 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 Office of Commission Clerk, 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 Office of Commission Clerk and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

Labrador Utilities, Inc Schedule of Water Rate Base Test Year Ended 12/31/07			Schedule No. 1-A Docket No. 080249-WS		
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Commission Adjust- ments	Commission Adjusted Test Year
1 Plant in Service	\$650,138	\$60,514	\$710,652	(\$36,207)	\$674,445
2 Land and Land Rights	123	198	321	0	321
3 Non-used and Useful Components	0	0	0	0	0
4 Construction Work In Progress	21,496	(21,496)	0	1,267	1,267
5 Accumulated Depreciation	(155,978)	(7,514)	(163,492)	(4,268)	(167,760)
6 CIAC	(342)	0	(342)	0	(342)
7 Amortization of CIAC	13	0	13	0	13
8 Acquisition Adjustment	(312,292)	312,292	0	0	0
9 Working Capital Allowance	<u>0</u>	<u>21,990</u>	<u>21,990</u>	<u>(4,429)</u>	<u>17,561</u>
10 <b>Rate Base</b>	<b><u>\$203,158</u></b>	<b><u>\$365,984</u></b>	<b><u>\$569,142</u></b>	<b><u>(\$43,637)</u></b>	<b><u>\$525,505</u></b>

Labrador Utilities, Inc. Schedule of Wastewater Rate Base Test Year Ended 12/31/07				Schedule No. 1-B Docket No. 080249-WS	
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Commission Adjust- ments	Commission Adjusted Test Year
1 Plant in Service	\$1,769,496	\$59,218	\$1,828,714	(\$4,489)	\$1,824,225
2 Land and Land Rights	120	193	313	0	313
3 Non-used and Useful Components	0	0	0	0	0
4 Construction Work In Progress	20,518	(20,518)	0	0	0
5 Accumulated Depreciation	(480,174)	(7,352)	(487,526)	21,039	(466,487)
6 CIAC	0	0	0	0	0
7 Amortization of CIAC	0	0	0	0	0
8 Acquisition Adjustment	0	0	0	0	0
9 Working Capital Allowance	<u>0</u>	<u>34,100</u>	<u>34,100</u>	<u>(4,991)</u>	<u>29,109</u>
10 <b>Rate Base</b>	<u>\$1,309,960</u>	<u>\$65,641</u>	<u>\$1,375,601</u>	<u>\$11,559</u>	<u>\$1,387,160</u>

<b>Labrador Utilities, Inc.</b> <b>Adjustments to Rate Base</b> <b>Test Year Ended 12/31/07</b>		<b>Schedule No. 1-C</b> <b>Docket No. 080249-WS</b>	
<b>Explanation</b>		<b>Water</b>	<b>Wastewater</b>
<u>Plant In Service</u>			
1	To reflect the appropriate balances per prior order. (issue 3)	(\$2,864)	\$2,864
2	To remove organizational costs. (issue 3)	(15,338)	0
3	To reflect the appropriate retirement of assets. (issue 3)	(13,005)	(6,913)
4	To remove imprudent costs. (issue 3)	(5,000)	(440)
	<b>Total</b>	<u>(\$36,207)</u>	<u>(\$4,489)</u>
<u>Accumulated Depreciation</u>			
1	To reflect the appropriate balances per prior order. (issue 3)	(\$19,972)	\$13,794
2	To remove organizational costs. (issue 3)	2,324	320
3	To reflect the appropriate retirement of assets. (issue 3)	13,005	6,913
4	To remove imprudent costs. (issue 3)	375	12
	<b>Total</b>	<u>(\$4,268)</u>	<u>\$21,039</u>
<u>Working Capital</u>			
	To reflect the appropriate working capital allowance.	<u>(\$4,429)</u>	<u>(\$4,991)</u>

Labrador Utilities, Inc. Capital Structure-Simple Average Test Year Ended 12/31/07						Schedule No. 2 Docket No. 080249-WS			
Description	Total Capital	Specific Adjustments	Subtotal Adjusted Capital	Prorata Adjustments	Capital Reconciled to Rate Base	Ratio	Cost Rate	Weighted Cost	
<b>Per Utility</b>									
1 Long-term Debt	\$180,000,000	\$0	\$180,000,000	(\$178,959,049)	\$1,040,951	53.53%	6.65%	3.56%	
2 Short-term Debt	7,750,000	0	7,750,000	(7,705,182)	44,818	2.30%	2.44%	0.06%	
3 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%	
4 Common Equity	139,282,132	0	139,282,132	(138,476,656)	805,476	41.42%	11.70%	4.85%	
5 Customer Deposits	0	0	0	0	0	0%	6.00%	0.00%	
6 Deferred Income Taxes	<u>53,498</u>	<u>0</u>	<u>53,498</u>	<u>0</u>	<u>53,498</u>	<u>2.75%</u>	0.00%	<u>0.00%</u>	
7 <b>Total Capital</b>	<u>\$327,085,630</u>	<u>\$0</u>	<u>\$327,085,630</u>	<u>(\$325,140,887)</u>	<u>\$1,944,743</u>	<u>100.00%</u>		<u>8.46%</u>	
<b>Per Staff</b>									
8 Long-term Debt	\$180,000,000	\$0	\$180,000,000	(\$178,976,706)	\$1,023,294	53.50%	6.65%	3.56%	
9 Short-term Debt	7,750,000	0	7,750,000	(7,705,942)	44,058	2.30%	2.44%	0.06%	
10 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%	
11 Common Equity	139,282,132	0	139,282,132	(138,490,318)	791,814	41.40%	11.13%	4.61%	
12 Customer Deposits	0	0	0	0	0	0%	6.00%	0.00%	
13 Deferred Income Taxes	<u>53,498</u>	<u>0</u>	<u>53,498</u>	<u>0</u>	<u>53,498</u>	<u>2.79%</u>	0.00%	<u>0.00%</u>	
14 <b>Total Capital</b>	<u>\$327,085,630</u>	<u>\$0</u>	<u>\$327,085,630</u>	<u>(\$325,172,965)</u>	<u>\$1,912,665</u>	<u>100.00%</u>		<u>8.22%</u>	
						<b>LOW</b>	<b>HIGH</b>		
RETURN ON EQUITY						<u>10.13%</u>	<u>12.13%</u>		
OVERALL RATE OF RETURN						<u>7.81%</u>	<u>8.64%</u>		



Labrador Utilities, Inc. Statement of Water Operations Test Year Ended 12/31/07						Schedule No. 3-A Docket No. 080249-WS	
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Commission Adjust- ments	Commission Adjusted Test Year	Revenue Increase	Revenue Requirement
1 <b>Operating Revenues:</b>	<u>\$172,175</u>	<u>\$130,108</u>	<u>\$302,283</u>	<u>(\$146,521)</u>	<u>\$155,762</u>	<u>\$101,241</u> 65.00%	<u>\$257,003</u>
<b>Operating Expenses</b>							
2 Operation & Maintenance	165,660	10,262	175,922	(35,438)	140,484		140,484
3 Depreciation	20,973	13,338	34,311	(748)	33,563		33,563
4 Amortization	0	0	0	0	0		0
5 Taxes Other Than Income	61,555	(34,384)	27,171	(6,593)	20,578	4,556	25,133
6 Income Taxes	<u>(23,472)</u>	<u>40,141</u>	<u>16,669</u>	<u>(38,440)</u>	<u>(21,771)</u>	<u>36,383</u>	<u>14,612</u>
7 <b>Total Operating Expense</b>	<u>\$224,716</u>	<u>\$29,357</u>	<u>\$254,073</u>	<u>(\$81,219)</u>	<u>\$172,854</u>	<u>\$40,938</u>	<u>\$213,793</u>
8 <b>Operating Income</b>	<u>(\$52,541)</u>	<u>\$100,751</u>	<u>\$48,210</u>	<u>(\$65,302)</u>	<u>(\$17,092)</u>	<u>\$60,302</u>	<u>\$43,210</u>
9 <b>Rate Base</b>	<u>203,158</u>		<u>569,142</u>		<u>525,505</u>		<u>525,505</u>
10 <b>Rate of Return</b>	<u>-25.86%</u>		<u>8.47%</u>		<u>-3.25%</u>		<u>8.22%</u>

Labrador Utilities, Inc. Statement of Wastewater Operations Test Year Ended 12/31/07						Schedule No. 3-B Docket No. 080249-WS	
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Commission Adjust- ments	Commission Adjusted Test Year	Revenue Increase	Revenue Requirement
1 <b>Operating Revenues:</b>	<u>\$388,315</u>	<u>\$155,362</u>	<u>\$543,677</u>	<u>(\$181,228)</u>	<u>\$362,449</u>	<u>\$135,306</u> 37.33%	<u>\$497,755</u>
<b>Operating Expenses</b>							
2 Operation & Maintenance	\$222,952	\$49,849	\$272,801	(\$39,930)	\$232,871		\$232,871
3 Depreciation	50,966	13,054	64,020	255	64,275		64,275
4 Amortization	0	0	0	0	0		0
5 Taxes Other Than Income	0	50,045	50,045	(8,155)	41,890	6,089	47,979
6 Income Taxes	0	40,293	40,293	(50,347)	(10,054)	48,625	38,570
7 <b>Total Operating Expense</b>	<u>\$273,918</u>	<u>\$153,241</u>	<u>\$427,159</u>	<u>(\$98,178)</u>	<u>\$328,981</u>	<u>\$54,713</u>	<u>\$383,695</u>
8 <b>Operating Income</b>	<u>\$114,397</u>	<u>\$2,121</u>	<u>\$116,518</u>	<u>(\$83,050)</u>	<u>\$33,468</u>	<u>\$80,593</u>	<u>\$114,061</u>
9 <b>Rate Base</b>	<u>\$1,309,960</u>		<u>\$1,375,601</u>		<u>\$1,387,160</u>		<u>\$1,387,160</u>
10 <b>Rate of Return</b>	<u>8.73%</u>		<u>8.47%</u>		<u>2.41%</u>		<u>8.22%</u>

<b>Labrador Utilities, Inc</b> <b>Adjustment to Operating Income</b> <b>Test Year Ended 12/31/07</b>		<b>Schedule No. 3-C</b> <b>Docket No. 080249-WS</b>	
<b>Explanation</b>	<b>Water</b>	<b>Wastewater</b>	
<u>Operating Revenues</u>			
To remove Utility's requested final revenue increase.	<u>(\$146,521)</u>	<u>(\$181,228)</u>	
<u>Operation and Maintenance Expense</u>			
1 To remove expenses related to the Sandalhaven system. (Issue 3)	\$0	(\$2,910)	
2 To reflect the appropriate rental expense. (Issue 3)	(12,053)	(11,794)	
3 To reflect the appropriate transportation expense. (Issue 3)	(258)	(247)	
4 To reflect the appropriate prior rate case expense. (Issue 3)	(3,016)	(2,952)	
5 Temporary Employees – K Services. (Issue 9)	(671)	(656)	
6 To reflect the appropriate pro forma O&M expenses. (Issue 10)	(1,943)	(4,249)	
7 To reflect the appropriate rate case expense. (Issue 11)	<u>(17,497)</u>	<u>(17,122)</u>	
Total	<u>(\$35,438)</u>	<u>(\$39,930)</u>	
<u>Depreciation Expense - Net</u>			
1 To reflect the appropriate balances per prior order. (issue 3)	(\$45)	\$611	
2 To remove organizational costs. (issue 3)	198	0	
3 To reflect the appropriate retirement of assets. (issue 3)	(651)	(344)	
4 To remove imprudent costs. (issue 3)	<u>(250)</u>	<u>(12)</u>	
Total	<u>(\$748)</u>	<u>\$255</u>	
<u>Taxes Other Than Income</u>			
RAFs on revenue adjustments above.	<u>(\$6,593)</u>	<u>(\$8,155)</u>	

<b>Labrador Utilities, Inc.</b>		<b>Schedule No. 4-A</b>			
<b>Water Monthly Service Rates</b>		<b>Docket No. 080249-WS</b>			
<b>Test Year Ended 12/31/07</b>					
	<b>Rates Prior to Filing</b>	<b>Comm'n. Approved Interim</b>	<b>Utility Requested Final</b>	<b>Comm'n. Approved Final</b>	<b>4-year Rate Reduction</b>
<b><u>Residential and General Service</u></b>					
Base Facility Charge by Meter Size:					
5/8" x 3/4"	\$6.55	\$10.69	\$12.75	\$8.87	\$0.32
3/4"	\$9.82	\$16.03	\$19.11	\$13.31	\$0.48
1"	\$16.37	\$26.72	\$31.86	\$22.18	\$0.80
1-1/2"	\$32.75	\$53.46	\$63.75	\$44.35	\$1.59
2"	\$52.39	\$85.52	\$101.99	\$70.96	\$2.55
3"	\$104.78	\$171.04	\$203.98	\$141.92	\$5.09
4"	\$163.71	\$267.24	\$318.71	\$221.75	\$7.96
6"	\$327.42	\$534.48	\$637.42	\$443.50	\$15.91
Gallage Charge, per 1,000 Gallons	\$3.27	\$5.34	\$6.36	\$6.74	\$0.24
<b><u>Irrigation</u></b>					
Base Facility Charge by Meter Size					
2"	\$52.39	\$85.52	\$101.99	\$70.96	\$2.55
Gallage Charge, per 1,000 Gallons	\$3.27	\$5.34	\$6.36	\$6.74	\$0.24
<b><u>Typical Residential Bills 5/8" x 3/4" Meter</u></b>					
3,000 Gallons	\$16.36	\$26.71	\$31.83	\$29.09	
5,000 Gallons	\$22.90	\$37.39	\$44.55	\$42.57	
10,000 Gallons	\$39.25	\$64.09	\$76.35	\$76.27	

<b>Labrador Utilities, Inc.</b>		<b>SCHEDULE NO. 4-B</b>			
<b>Wastewater Monthly Service Rates</b>		<b>Docket No. 080249-WS</b>			
<b>Test Year Ended 12/31/07</b>					
	<b>Rates</b>	<b>Comm.</b>	<b>Utility</b>	<b>Commission</b>	<b>4-year</b>
	<b>Prior to</b>	<b>Approved</b>	<b>Requested</b>	<b>Approved</b>	<b>Rate</b>
	<b>Filing</b>	<b>Interim</b>	<b>Final</b>	<b>Final</b>	<b>Reduction</b>
<b><u>Residential Service</u></b>					
Base Facility Charge All Meter Sizes:	\$12.56	\$13.59	\$18.85	\$21.91	\$0.40
Gallonge Charge, per 1,000 Gallons (6,000 gallon cap)	\$9.71	\$10.51	\$14.57	\$11.55	\$0.21
<b><u>General Service</u></b>					
Base Facility Charge by Meter Size:					
5/8" x 3/4"	\$12.56	\$13.59	\$18.85	\$21.91	\$0.40
3/4"	\$18.84	\$20.38	\$28.28	\$32.87	\$0.60
1"	\$31.40	\$33.97	\$47.14	\$54.78	\$0.99
1-1/2"	\$62.81	\$67.96	\$94.29	\$109.55	\$1.99
2"	\$100.49	\$108.72	\$150.86	\$175.28	\$3.18
3"	\$200.98	\$217.44	\$301.73	\$350.56	\$6.35
4"	\$314.03	\$339.76	\$471.45	\$547.75	\$9.93
6"	\$628.06	\$679.51	\$942.90	\$1,095.50	\$19.86
Gallonge Charge, per 1,000 Gallons	\$11.64	\$12.59	\$17.47	\$13.86	\$0.25
<b><u>Typical Residential Bills 5/8" x 3/4" Meter</u></b>					
3,000 Gallons	\$41.69	\$45.12	\$62.56	\$56.56	
5,000 Gallons	\$61.11	\$66.14	\$91.70	\$79.66	
6,000 Gallons	\$70.82	\$76.65	\$106.27	\$91.21	
(Wastewater Gallonge Cap 6,000 Gallons)					

LABRADOR UTILITIES, INC.  
HISTORICAL TEST YEAR ENDED  
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## DETERMINATION OF APPROPRIATE RATE STRUCTURES

- |                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>HISTORY OF CURRENT RATES</b>                      | (1) The utility's rates were first established in Docket No. 000545-WS. <sup>20</sup> The approved rates for the water system were monthly flat rates of \$4.50 per mobile home lot and \$3.00 per RV lot. The corresponding wastewater rates were monthly flat rates of \$10.50 and \$7.00, respectively.                                                                                                                                                                                                                                        |
|                                                      | (2) The utility's rate structure was changed to the BFC/gallonage charge rate structure in Docket No. 030443-WS. <sup>21</sup> In that case, pre-repression BFC cost recovery percentages of 43% for the water system and 40% for the wastewater system were approved. The BFC/gallonage charge rate structure is considered a usage-sensitive rate structure.                                                                                                                                                                                    |
|                                                      | (3) The utility's subsequent request for rate relief in Docket No. 060262-WS was denied due to insufficient data provided by the utility to determine revenue requirements and set reasonable rates. <sup>22</sup>                                                                                                                                                                                                                                                                                                                                |
| <b>PRACTICES WITH THE WATER MANAGEMENT DISTRICTS</b> | (4) This Commission has a Memorandum of Understanding (MOU) with the five Water Management Districts (WMDs or Districts). A guideline of the five Districts is to set the base facility charges such that they recover no more than 40% of the revenues to be generated from monthly service. <sup>23</sup> We follow the WMD guideline whenever possible. <sup>24</sup>                                                                                                                                                                          |
|                                                      | (5) The utility is located in the Southwest Florida Water Management District in the Northern Tampa Bay Water Use Caution Area. <sup>25</sup>                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>WATER CONSERVATION INITIATIVE</b>                 | (6) In response to growing water demands and water supply problems, coupled with one of the worst droughts in Florida's history, the Florida Department of Environmental Protection (FDEP) led a statewide Water Conservation Initiative (WCI) to find ways to improve efficiency in all categories of water use. In the WCI's final report, issued in April 2002, a high-priority recommendation was that the base facility charge portion of the bill usually should not represent more than 40% of the utility's total revenues. <sup>26</sup> |

<sup>20</sup> Order No. PSC-01-1483-PAA-WS, issued July 16, 2001 in Docket No. 000545-WS, In re: Application for original certificates to operate a water and wastewater utility in Pasco County by Labrador Services, Inc.

<sup>21</sup> Order No. PSC-04-1281-PAA-WS, issued December 28, 2004 in Docket No. 030443-WS, In re: Application for rate increase in Pasco County by Labrador Utilities, Inc.

<sup>22</sup> Order No. PSC-07-0129-SC-WS, issued February 14, 2007 in Docket No. 060262-WS, In re: Application for increase in water and wastewater rates in Pasco County by Labrador Utilities, Inc.

<sup>23</sup> Order No. PSC-02-0593-FOF-WS, issued April 30, 2002 in Docket No. 010503-WU, In re: Application for increase in water rates for Seven Springs system in Pasco County by Aloha Utilities, Inc.; Order No. PSC-03-1440-FOF-WS, issued December 22, 2003, in Docket No. 020071-WS, In Re: Application for rate increase in Marion, Orange, Pasco, Pinellas and Seminole Counties by Utilities, Inc. of Florida.

<sup>24</sup> Order No. PSC-94-1452-FOF-WU, issued November 28, 1994, in Docket No. 940475-WU, In re: Application for rate increase in Martin County by Hobe Sound Water Company; Order No. PSC-01-0327-PAA-WU, issued January 6, 2001, in Docket No. 000295-WU, In re: Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.; Order No. PSC-00-2500-PAA-WS, issued December 26, 2000, in Docket No. 000327-WS, In re: Application for staff-assisted rate case in Putnam County by Buffalo Bluff Utilities, Inc.; Order No. PSC-02-0593-FOF-WS, issued April 30, 2002, in Docket No. 010503-WU, In re: Application for increase in water rates for Seven Springs system in Pasco County by Aloha Utilities, Inc.

<sup>25</sup> E-mail correspondence from the Southwest Florida Water Management District dated May 7, 2009.

<sup>26</sup> FDEP, Florida Water Conservation Initiative, April 2002.

**DETERMINATION OF APPROPRIATE RATE STRUCTURES (cont.)**

- |                                                            |      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|------------------------------------------------------------|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>WATER<br/>CONSERVATION<br/>INITIATIVE (cont.)</b>       | (7)  | Many participants in the WCI, including the FDEP, the Florida Public Service Commission, the Florida Water Management Districts, the Florida Rural Water Association, the Florida Water Environment Association, and the Florida section of the American Water Works Association are signatories on the <u>Joint Statement of Commitment for the Development and Implementation of a Statewide Comprehensive Water Conservation Program for Public Water Supply (JSOC) and its associated Work Plan.</u> <sup>27</sup>               |
| <b>FLORIDA<br/>STATUTES re:<br/>WATER<br/>CONSERVATION</b> | (8)  | Section 373.227(1), F.S., states in part: "The Legislature recognizes that the proper conservation of water is an important means of achieving the economical and efficient utilization of water necessary, in part, to constitute a reasonable-beneficial use. The overall water conservation goal of the state is to prevent and reduce wasteful, uneconomical, impractical, or unreasonable use of water resources."                                                                                                              |
| <b>CLIMATIC<br/>CONDITIONS</b>                             | (9)  | Our staff evaluates available drought information to better design rates that achieve conservation. Based on information from the U.S. Drought Monitor, the utility's service area is located in an area of severe drought. <sup>28</sup>                                                                                                                                                                                                                                                                                            |
|                                                            | (10) | Based on information from the National Weather Service's Climate Prediction Center, drought conditions are expected to intensify over the next several weeks in the utility's service area. It is expected that reliable improvement is forecast by the end of July based on the expected onset of the annual wet season during the latter half of the forecast period. <sup>29</sup>                                                                                                                                                |
| <b>WATER SYSTEM<br/>USAGE PATTERNS:</b>                    | (11) | The utility has a seasonal customer base. The average monthly consumption per residential customer is approximately 1.9 kgal. A review of the utility service area indicates that most of the customers' lawns are well kept. Many homes are well landscaped and well irrigated.                                                                                                                                                                                                                                                     |
| <b>WATER SYSTEM<br/>BFC COST<br/>RECOVERY:</b>             | (12) | Our staff performed detailed analyses of Labrador's billing data in order to evaluate various BFC cost recovery percentages. The goals of the evaluation were to select the rate design parameters that: 1) allow the utility to recover its revenue requirements; and 2) equitably distribute cost recovery among the utility's customers. Based on a detailed billing analysis of the residential class, approximately two-thirds of the bills and consumption have been accounted for at monthly consumption of two kgal or less. |
|                                                            | (13) | As stated above, the revenue requirement increase is 65.00%. In order to comply with the WMD and WCI guidelines regarding the percentage of BFC cost recovery, our staff evaluated BFC cost recovery percentages at 40%, 35% and 30%.                                                                                                                                                                                                                                                                                                |

<sup>27</sup> Joint Statement of Commitment for the Development and Implementation of a Statewide Comprehensive Water Conservation Program for Public Water Supply, February 2004; Work Plan to Implement Section 373.227, F.S. and the Joint Statement of Commitment for the Development and Implementation of a Statewide Comprehensive Water Conservation Program for Public Water Supply, December 2004.

<sup>28</sup> U.S. Drought Monitor, May 12, 2009.

<sup>29</sup> National Weather Service Climate Prediction Center, Seasonal Drought Outlook, May 7, 2009.

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HISTORICAL TEST YEAR  
ENDED DECEMBER 31, 2007

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**DETERMINATION OF APPROPRIATE RATE STRUCTURES (cont.)**

**WATER SYSTEM BFC COST RECOVERY:** (14) The results of our staff's analysis indicate that customers' bills at monthly consumption of less than 2 kgal will be greater at a cost recovery percentage of 40%, compared to the other two rate structure alternatives considered. We find this greater revenue stream is important to mitigate both the seasonality of the utility's residential customer base, and the low residential average monthly consumption of 1.9 kgal. This rate structure will achieve the guidelines of the WMDs and the WCI. Conversely, the BFC cost recovery at 40% results in lower bills at monthly consumption of 2 kgal or greater, compared to the bills produced by the other two alternative rate structures considered. Although we recognize the importance of sending strong conservation signals to those utilities located in Water Use Caution Areas, we find that, due to the nature of the customers' seasonality and low average monthly usage, the primary goal must be the revenue stability of the utility.

**COMMISSION'S APPROVED RATE STRUCTURE FOR THE WATER SYSTEM:** The appropriate rate structure for the water system is a continuation of the base facility charge (BFC)/uniform gallonage charge rate structure. The BFC cost recovery allocation shall be set at 40%.

**WASTEWATER SYSTEM:** (15) Based on the initial accounting allocation, approximately 34% of the utility's costs were recovered in the BFC. We find no less than 50% of the revenue requirement recovery shall be in the BFC. This is to recognize the capital intensive nature of wastewater treatment facilities.

(16) The current residential wastewater gallonage charge is capped at six kgal of usage per month. Based on the average water consumption of 1.9 kgal per month, we find it is not appropriate to increase the residential gallonage cap.

(17) The general service gallonage charge shall be set at 1.2 times greater than the residential gallonage charge rate, consistent with our practice.

**COMMISSION'S APPROVED RATE STRUCTURE FOR THE WASTEWATER SYSTEM:** The appropriate rate structure for the wastewater system is a continuation of the BFC/gallonage charge rate structure. The BFC cost recovery allocation shall be set at 50%. Residential wastewater consumption shall remain capped for billing purposes at six kgal per month. The general service gallonage charge rate shall be 1.2 times greater than the corresponding residential rate.