

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water rates in
Franklin County by Water Management
Services, Inc.

DOCKET NO. 100104-WU
ORDER NO. PSC-10-0601-PHO-WU
ISSUED: September 30, 2010

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on September 27, 2010, in Tallahassee, Florida, before Commissioner Nathan A. Skop, as Prehearing Officer.

APPEARANCES:

LISA C. SCOLES, ESQUIRE, Radey Thomas Yon Clark, Post Office Box 10967,
Tallahassee, Florida 32302
On behalf of Water Management Services, Inc. (WMSI).

JOSEPH A. MCGLOTHLIN, ESQUIRE, Office of Public Counsel, c/o The
Florida Legislature, 111 W. Madison Street, Room 812, Tallahassee, Florida
32399-1400
On behalf of the Citizens of the State of Florida (OPC).

RALPH R. JAEGER and ERIK L. SAYLER, ESQUIRES, Florida Public Service
Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, Deputy General Counsel, Florida Public Service
Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Advisor to the Florida Public Service Commission.

PREHEARING ORDER

I. CASE BACKGROUND

On May 25, 2010, Water Management Services, Inc. (WMSI or Utility) completed filing its Application for Increased Water Rates (Application). In that Application, the Utility also requested increased miscellaneous service charges and increased service availability charges. The Utility did not request the Application be processed as a proposed agency action. Therefore, this docket was set for Service Hearings and a Technical Hearing to be held in October in the Utility's service areas. The intervention of the Office of Public Counsel (OPC) was acknowledged by Order No. PSC-10-0392-PCO-WU, June 16, 2010.

By Order No. PSC-10-0449-PCO-WU (Order Establishing Procedure), issued July 13, 2010, and Order No. PSC-10-0549-PCO-WU (First Order Revising Order Establishing

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Procedure), issued August 31, 2010, the Application was scheduled for Customer Service Hearings to be held on October 5, 2010, and a Technical Hearing to be held on October 5, 2010 (time permitting) and continuing on October 6 and 7, 2010, if required. This Prehearing Order sets forth the agreements reached by the parties and the decisions reached by the Prehearing Officer for conduction of the formal hearings scheduled for October 5-7, 2010.

II. CONDUCT OF PROCEEDINGS

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

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 367, Florida Statutes (F.S.). This hearing will be governed by said Chapter and Chapters 25-9, 25-10, 25-22, 25-30 and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 367.156, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 367.156, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 367.156, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 367.156, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in

the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.

- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Donna Ramas' summary of her direct testimony and Gene Brown's summary of his rebuttal testimony shall be limited to ten minutes. All other witnesses' summaries shall be limited to five minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

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

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

The testimony of witnesses Seidman and Brown, who have combined direct and rebuttal testimony will not be taken up at the same time, unless otherwise modified by the panel, and the order of witnesses shall be as set out below.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Name		
Frank Seidman	Utility	2, 5-22, 24-27, 29, 31-42, 44-46, 51
Gene D. Brown	Utility	1-11, 13-14, 18-19, 21-24, 26-28, 30, 32, 34-35, 39, 43-44, 48-51
Andrew T. Woodcock	OPC	1-2, 8-9, 21
Donna Ramas	OPC	3-6, 9-15, 17-19, 21-30, 32-34, 36-37, 50
Cliff McKeown	Staff	1, 9
Angela Chelette	Staff	38, 39
Debra M. Dobiac	Staff	6, 7, 11, 12, 20, 26, 27, 28, 31-34

Rebuttal

Name		
Frank Seidman	Utility	2, 5-22, 24-27, 29, 31-42, 44-46, 51
Michael A. Scibelli, P.E.	Utility	9, 21, 34
Barbara S. Withers, CPA	Utility	22, 27, 50
Gene D. Brown	Utility	1-11, 13-14, 18-19, 21-24, 26-28, 30, 32, 34-35, 39, 43-44, 48-51

VII. BASIC POSITIONS

WMSI: WMSI operates a water utility on St. George Island in Franklin County, Florida. The Utility's last full blown rate proceeding was in 1994. In 2000, WMSI filed a petition for a limited proceeding for an increase in water rates to cover the cost of building a new water supply main to connect to its wells on the mainland, which was necessitated by the Department of Transportation's demolition of the existing bridge from the mainland to St. George Island, to which WMSI's water main was attached. The Commission issued an order regarding the final revenue requirement and an inverted block rate structure for WMSI's rates in November 2005.

In recent years, the Utility has faced many challenges. The Utility has experienced decreased consumption and declining revenues, which are due, in large part, to the increase of shallow wells on St. George Island, in combination with the inverted rate structure. The economic downturn's negative impact on tourism in Florida and on visitors to St. George Island has also contributed. In addition, WMSI has had increased Operations and Maintenance expenses due to the aging infrastructure of its system, much of which was constructed over 30 years ago. Capital improvements to WMSI's aging infrastructure are needed. WMSI is requesting that the Commission recognize the need for the improvement projects, in order for the Utility to secure financing, and issue an order to set Phase I rate based on WMSI's cost of service without the improvement projects, leave the docket open to set Phase II rates based on bids and documented estimates for completing the improvement projects, and set Phase III rates based upon a true-up of actual costs. Finally, the Utility has continued to provide limited fire protection on the Island, although it is not compensated for doing so.

The decision to seek additional revenues was not an easy one to make and was not made lightly in the current economic environment, but it was a decision that was required in order for WMSI to be able to continue to provide reasonable, sufficient, adequate and efficient service to its customers. Using the historic year 2009 as the test year, WMSI has determined a need for increased annual water revenues in the amount of \$641,629. The rate relief request provides WMSI with the ability to continue to provide adequate and efficient service and an opportunity to earn a fair rate of return.

In addition, WMSI requests that the Commission approve its request to increase the service availability charge and miscellaneous service charges.

OPC: WMSI is requesting an annual increase of \$641,000. OPC's expert witnesses will identify numerous expenses claimed by the company that should be disallowed for ratemaking purposes. These include adjustments for excessive salary increases and deferred compensation, key man life insurance that does not benefit

the utility, and unwarranted engineering expenses. In addition, WMSI has proposed more than \$2 million in capital projects that the utility has failed to support with adequately detailed engineering specifications and bids. Absent appropriate justification as to costs, the pro forma capital additions should be excluded from rate base in this case. The adjustments sponsored by OPC's expert witnesses would reduce the requested increase from \$641,000 to no more than \$78,419.

Other adjustments that will impact the \$78,419 above, such as an adjustment to ensure customers benefit from a substantial gain on sale of utility-owned property, and other issues from the staff audit will be pursued in cross-examination. Especially troubling to OPC is the fact that over time WMSI's investments in "associated companies" owned and/or controlled by WMSI's president have grown from zero to more than \$1.2 million. WMSI, as of June 30, 2010, had \$1.2 million in investments in non-utility affiliates at a time when it has had difficulty paying its bills and asserts it cannot afford to make needed improvements to its utility system. It appears to OPC that such transactions with associated companies are made for the convenience of WMSI's president, and not to benefit WMSI's customers. Moreover, it appears to OPC that WMSI receives no interest for its investment in the affiliated companies. OPC submits the Commission should bar WMSI from making additional investments in associated companies and, for ratemaking purposes, should impute investment revenue of \$88,368 to compensate WMSI for a return on its investment in affiliated companies during the test year. OPC will pursue this and other issues through cross-examination.

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

VIII. ISSUES AND POSITIONS

QUALITY OF SERVICE

ISSUE 1: Is the quality of service provided by the Utility satisfactory?

POSITIONS

WMSI: Yes, the quality of service provided by the Utility is satisfactory (Brown).

OPC: No, because OPC's position on the quality of service is dependent upon the customers' testimony at the service hearing on October 5, 2010. (Woodcock)

STAFF: Although the Utility appears to be in compliance with all DEP regulations at this time, staff's position on the quality of service provided by the utility will depend

on the testimony presented at the Customer Service Hearings and the Technical Hearing, and further development of the record. (McKeown).

USED AND USEFUL

ISSUE 2: What is the used and useful percentage of the Utility's water distribution system?

POSITIONS

WMSI: The used and useful percentage of the Utility's water distribution system is 100%. (Brown, Seidman)

OPC: Using the lot-to-lot method recommended by OPC witness Woodcock, the WMSI's distribution system is 54.9% used and useful (1,817 divided by 3,311 lots). Non-used and useful plant in service and accumulated depreciation should be removed by \$1,059,878 and \$472,904, respectively, resulting in a net reduction to rate base of \$586,975. Additionally, depreciation expense should be reduced by \$16,912 to remove the non-used and useful portion. (Woodcock)

STAFF: No position pending further development of the record.

RATE BASE

ISSUE 3: Should any adjustments be made to rate base regarding affiliate assets?

POSITIONS

WMSI: No. No adjustment is necessary or appropriate. (Brown)

OPC: Yes. Plant and accumulated depreciation should be reduced by \$16,022 and \$10,682, respectively, for a backhoe trailer that was sold to BMG. Depreciation expense should also be reduced by \$2,670. (Ramas)

STAFF: No position pending further development of the record.

ISSUE 4: Should any adjustments be made to rate base for vehicles?

POSITIONS

WMSI: No. No adjustment is necessary or appropriate. (Brown)

OPC: Yes. The company has not justified its position that 50% of the usage of the 2008 GMC Sierra pickup truck assigned to Mr. Brown and 2007 Chevrolet Tahoe used by Ms. Chase are utilized for WMSI work purposes. Plant and accumulated depreciation should be reduced by \$20,935 and 7,560, for the 2008 GMC Sierra,

and \$15,207 and \$2,112 for the Tahoe, respectively. Test year depreciation expense should be reduced by \$3,489 and \$2,535 for the GMC truck and Tahoe, respectively. Additionally, tires purchased for \$1,265 and maintenance of \$566 on the GMC Sierra should be removed from test year expenses as non-utility costs. Any other identified expenses such as insurance, debt, tag and title, maintenance and fuel associated with these vehicles should be removed as non-utility expenses. (Ramas)

STAFF: Yes. Rate base should be decreased by \$15,207 to remove the vehicle of the vice president. Any additional adjustments are pending further development of the record.

ISSUE 5: *Proposed Stipulation. See Section X.*

ISSUE 6: Should any adjustments be made to test year plant-in-service balances?

POSITIONS

WMSI: No. No further adjustment is necessary or appropriate. (Brown, Seidman)

OPC: Yes. OPC adjustments to plant are reflected in other issues. Plant should be reduced by \$2,138,094 to reflect a test year balance of \$8,366,290. (Ramas)

STAFF: No position pending further development of the record. (Dobiac)

ISSUE 7: *Proposed Stipulation. See Section X.*

ISSUE 8: What improvements, if any, has WMSI made to its water distribution system regarding fire flow that were addressed by the Commission in Orders Nos. PSC-04-0791-AS-WU, issued August 12, 2004, and PSC-05-1156-PAA-WU, issued November 21, 2005, in Docket No. 000694-WU? Do these improvements satisfy the requirements of the orders?

POSITIONS

WMSI: The Utility complied with and reported on all improvements mandated by the Commission. Yes, the improvements satisfy the requirement of the orders. (Brown, Seidman)

OPC: OPC sent out discovery to address the concerns raised by customers regarding the fire flow investments that were to be made pursuant to the above orders. While WMSI has responded to OPC's discovery, we have not yet received a full response to the questions asked. OPC will update our position as soon as the requested information is provided. (Woodcock)

STAFF: No position pending further development of the record.

ISSUE 9: Should the Utility's pro forma plant additions be approved for recovery? If so, in what manner should they be approved for recovery?

POSITIONS

WMSI: Yes. The Commission should make a finding that the improvement projects will replace aging assets, improve the quality of service and improve the health, safety and reliability for the utility system, for customers and employees. The Commission should further make a finding that, when completed, the improvement projects will be 100% used and useful. The Commission should then set Phase I rates based on the Utility's cost of service without the improvement projects and leave the docket open to set Phase II rates based on the documented estimates for completing the improvement projects. Finally, the Commission should set Phase III rates based upon a true-up of actual costs to estimated costs. (Brown, Seidman, Scibelli)

OPC: No. The proposed pro forma additions to rate base are planning level engineering estimates and do not have sufficient detail or accuracy for rate base purposes. These proposed projects should not be included in rate base until they are supported by proper documentation such as invoices. Plant, accumulated depreciation, and depreciation expense should be reduced by \$2,022,072, \$151,325, and \$51,934, respectively. Amortization of prudently retired plant and property taxes should be decreased by \$12,879 and \$5,787. The total revenue requirement impact of removing the proforma plant is a decrease of \$149,033. Regardless, the pro forma new ground storage tank costs are overstated by at least \$191,492 and the utility should reevaluate options to replace its on-site storage tank to determine the most cost effective alternative while providing quality service to the customers. Further, if the Commission considers any amortization of loss on retirement, the calculation should use the approved rate of return, and the utility should be required to provide sufficient justification that the early retirement was prudent given the short time frame of several of the requested plant retirements. (Woodcock, Ramas)

STAFF: No position pending further development of the record. (McKeown)

ISSUE 10: Should any adjustments be made to test year accumulated depreciation?

POSITIONS

WMSI: Yes. The balance of Account 331.4 should be reduced by \$6,977 to reflect forgiveness of cost for the state park mains project. (Brown, Seidman)

OPC: Yes. This is a fall out issue. As addressed in previous issues, accumulated depreciation should be reduced by \$133,666 in total. (Ramas)

STAFF: Yes. Accumulated depreciation should be decreased by \$2,112 to reflect the removal of the vice president's vehicle. Any additional adjustments are pending further development of the record.

ISSUE 11: Should any adjustments be made to test year Advances for Construction? *Proposed Partial Stipulation. See Section X.*

POSITIONS

WMSI: No adjustments should be made to test year Advances for Construction, other than the one that has been stipulated.

OPC: Yes. In addition to the stipulated adjustment, advances should be increased by the Commission ordered adjustment of \$65,000 to reflect funds received from a Homeowner's Association. The Company's argument that the Commission's order was wrong is untimely and inappropriate. (Ramas)

STAFF: Yes. See partial stipulation in Section X. Any additional adjustments are pending further development of the record.

ISSUE 12: What is the appropriate working capital allowance? *Proposed Partial Stipulation. See Section X.*

POSITIONS

WMSI: With the adjustments that have been stipulated, the appropriate working capital is \$51,140. No other adjustments should be made.

OPC: The adjusted working capital allowance (WCA) should be \$47,944. The Company's working capital request should be reduced by \$133,213 for the stipulated adjustments and the following: (Ramas)

- Decrease WCA to remove the \$35,603 average test year balance proposed deferred Wastewater Certificate Application cost should be rejected and these should have been written-off as non-utility costs on the Company's books.
- Decrease WCA to remove deferred current rate case expense of \$1,586. This is 50% of the \$3,172 of proposed rate case expense associated with the preliminary evaluation of non-hired rate case consultants.
- Decrease WCA to remove the \$6,008 estimated prepaid insurance amount from working capital associated with the requested Key Man Life Insurance policy. The estimated prepaid amount is 50% of the requested test year

expense of \$12,016, which OPC believes should be treated as non-utility costs.

- Increase WCA to remove the \$40,000 balance in operating reserves. This liability is the average amount the Company would have recorded on its books for its proposed executive deferred compensation plan costs which OPC recommends should be disallowed.

STAFF: See partial stipulation in Section X. It should be also reduced by \$35,662 to remove a miscellaneous deferred debit pertaining to WMSI's application for a wastewater certificate. (Dobiac) The appropriate working capital allowance is subject to the resolution of other issues.

ISSUE 13: What is the appropriate rate base for the December 31, 2009, test year?

POSITIONS

WMSI: The appropriate base rate is contained in the MFRs. Further, WMSI agrees to the adjustments as outlined in the Rebuttal Testimony of Gene D. Brown and Frank Seidman. (Brown, Seidman)

OPC: The appropriate rate base should be \$3,128,106. This amount will need to be updated to reflect the results of stipulations and other issues addressed on cross examination. (Ramas)

STAFF: The appropriate amount is subject to the resolution of other issues.

COST OF CAPITAL

ISSUE 14: *Proposed Stipulation. See Section X.*

ISSUE 15: What is the appropriate amount and cost rate for long-term debt for the test year?

POSITIONS

WMSI: The appropriate amount and cost rate for long-term debt for the test year is \$9,919,844 at 4.99%, including the proposed capital improvements and refinancing. These numbers may change when actual financing is completed. The appropriate amount, excluding the proposed capital improvements and refinancing, is \$7,768,865 at 3.79%. (Seidman)

OPC: The appropriate amount of long term debt should be \$7,725,661 with a weighted cost of 3.78%. This reflects adjustments to remove the \$15,711 Envision loan for a 2007 Chevrolet Tahoe owned by Ms. Chase, the \$27,492 Capital City Bank loan for the 2009 GMC Sierra that was used by Gene Brown, and the projected \$5

million loan at 6.5% from Citizens State Bank. An additional adjustment should be made to add back the \$2,849,020 test year balance of the loan from Gulf State Bank at a rate of 4.25%. These adjustments are consistent with OPC recommended adjustments to plant. See Exhibit DR-1, Schedule D, page 2 of 2. (Ramas)

STAFF: No position pending further development of the record.

ISSUE 16: What is the appropriate return on equity (ROE) for the test year?

POSITIONS

WMSI: The appropriate ROE for the test year is 11.30%. (Seidman)

OPC: WMSI has no equity investment in the test year. For purposes of establishing a future return on equity if the Company does obtain an equity investment, the current leverage formula at a 40% equity ratio should be used. This results in a prospective mid-point ROE of 10.85%, with a range of 9.85% to 11.85%. See Order No. PSC-10-0401-PAA-WS, issued June 18, 2010, in Docket No. 100006-WS.

STAFF: No position pending further development of the record.

ISSUE 17: What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure for the December 31, 2009, test year?

POSITIONS

WMSI: The appropriate weighted average cost of capital is 5.01%, including the proposed capital improvements and refinancing. These numbers may change when actual financing is completed. The appropriate weighted average cost of capital is 3.85%, excluding the proposed capital improvements and refinancing. (Seidman)

OPC: The appropriate overall rate of return for WMSI is 3.81%. (Ramas)

STAFF: No position pending further development of the record.

NET OPERATING INCOME

ISSUE 18: Should any adjustments be made to the requested level of salaries and wages expense?

POSITIONS

WMSI: No. No adjustment is necessary or appropriate. (Brown, Seidman)

OPC: Yes. The excessive percentage wage increases in salary for two positions granted in the test year should be reduced. First, Ms. Chase's 2009 base salary increased by \$11,000 (18.6% per year). Second, the wages of WMSI's operations and office manager, Ms. Molsbee, received a \$14,019 increase (30% per year). Such significant increases in salaries without adequate support or significant expansion of employee duties and responsibilities are inappropriate in this economic climate, especially given WMSI's apparent financial difficulties. Instead, 3% increases should be allowed, which result in a test year salary reduction of \$21,870. Additionally, salaries should be reduced by 12.5% or \$28,554 to reflect the allocation of Gene Brown, Sandra Chase and Bob Mitchell to affiliated operations. Given the extensive amount of transfers between the various cash accounts of these entities, it is not realistic to assume that only two hours per week are dedicated by the Company's vice president, controller and Mr. Brown associated with the Brown Management Group, or other non-regulated related operations. (Ramas)

STAFF: No position pending further development of the record.

ISSUE 19: Should any adjustments be made to employee pension and benefits?

POSITIONS

WMSI: No. No adjustment is necessary or appropriate. (Brown, Seidman)

OPC: Yes. The requested \$80,000 increase in deferred compensation (\$40,000 each for Mr. Brown and Ms. Chase) should be denied. This compensation plan, begun in 2009, is not nor will it be funded, and represents a significant increase in compensation for Mr. Brown and Ms. Chase. This more than double increase in employee benefit expense should be disallowed. Additionally, consistent with affiliate adjustment to salaries, employee benefits should be reduced by 12.5% or \$3,665 to reflect the allocation of Gene Brown, Sandra Chase and Bob Mitchell to affiliated operations. (Ramas)

STAFF: No position pending further development of the record.

ISSUE 20: Should any adjustments be made to Materials and Supplies expense?

POSITIONS

WMSI: No. No adjustment is necessary or appropriate. (Seidman)

OPC: No. The staff auditor's adjustment to miscellaneous expenses and materials and supplies along with several other accounts only represent a shifting between accounts and no further adjustments are necessary.

STAFF: Yes. Materials and Supplies expense should be reduced by \$8 to remove an out-of-period expense. (Dobiac) Any additional adjustments are pending further development of the record.

ISSUE 21: Should any adjustments be made to the requested level of Engineering Services expense?

POSITIONS

WMSI: No: No adjustment is necessary or appropriate. (Brown, Seidman, Scibelli)

OPC: Yes. WMSI's proposed \$48,000 annual engineering services expense should be reduced. This level has not been incurred historically, and the complete water system evaluation will not recur annually. Further, engineering costs and expenditures incurred by the Company on a regular basis would be capital in nature and capitalized, such as the pro forma projects proposed by the Company in this case. The 2009 test year non-recurring costs should be amortized over a 5-year period and the Company's proposed engineering expenses should be reduced by \$42,500, allowing an annual expense of \$5,500. (Ramas, Woodcock)

STAFF: No position pending further development of the record.

ISSUE 22: Should any adjustments be made to the requested level of Accounting Services expense?

POSITIONS

WMSI: No. No adjustment is necessary or appropriate. (Brown, Seidman, Withers)

OPC: Yes. The company's requested level of accounting fees of \$18,000 is excessive, not representative of historical accounting service fees, not required and duplicates services already provided for by the in-house controller and office administrator. The new contract is based on a retainer basis, is charged whether services are provided or not, and is not paid on a regular basis. The test year accounting expenses should be reduced by \$14,333 to reflect the five year average cost of \$3,667 which is a reasonable level going forward. (Ramas)

STAFF: No position pending further development of the record.

ISSUE 23: Should any adjustments be made to the requested level of DEP refinancing costs?

POSITIONS

WMSI: No. No adjustment is necessary or appropriate. (Brown)

OPC: Yes, \$2,500 should be removed from test year expenses for DEP refinancing consulting costs. These costs are non-recurring and the customers should not be harmed from increased expenses as a result of the Company being unable to adequately manage its cash flow. (Ramas)

STAFF: No position pending further development of the record.

ISSUE 24: *Proposed Stipulation. See Section X.*

ISSUE 25: Should additional adjustments be made to remove out of period costs for annual report preparation fees?

POSITIONS

WMSI: Yes. An adjustment should be made to reduce the out of period costs by \$2,100 to reflect the actual cost incurred in 2009 for preparation of the 2008 Annual Report. (Seidman)

OPC: Yes. Test year expenses should be reduced by \$3,198 to reflect an annual level of costs associated with its annual report preparation. (Ramas)

STAFF: No position pending further development of the record.

ISSUE 26: Should any adjustments be made to rental of building/real property?

POSITIONS

WMSI: No. No adjustment is necessary or appropriate. (Brown, Seidman)

OPC: Consistent with OPC's recommendation that 12.5% of Mr. Brown, Ms. Chase and Mr. Mitchell's salaries being allocated to affiliated operations, 12.5% of the rent expense associated with the Tallahassee office should be allocated to affiliated entities. This results in a \$2,250 reduction to test year rent expense. (Ramas)

STAFF: Yes. Rental of building/real property should be reduced by \$387 to remove an out-of-period expense. (Dobiac) Any additional adjustments are pending further development of the record.

ISSUE 27: Should any adjustment be made to transportation expense?

POSITIONS

WMSI: No. Although the Rebuttal Testimony of Frank Seidman indicated that the Utility would not dispute an adjustment to transportation expense, that response was made prior to having an opportunity to review staff's audit work papers related to Finding No. 6. WMSI's position is that no adjustments should be made to transportation expense. (Brown, Seidman, Withers)

OPC: Yes. As addressed in Issue 4, transportation costs associated with Mr. Brown's and Ms. Chase's vehicles should be removed. (Ramas) Additional costs should also be removed including tires purchased for \$1,265 and maintenance of \$566 on the GMC Sierra. OPC agrees with the staff auditor's adjustments to remove \$9,104 in transportation expenses that were unsupported. Any other identified expenses such as insurance, debt, tag and title, maintenance and fuel associated with these vehicles should be removed as non-utility expenses. Further, the Commission should prescribe specific instructions and a required level of detail that should be maintained in travel logs to document the business and personal use of utility owned vehicles and personal vehicles by employees who request reimbursement from the utility.

STAFF: Yes. Transportation expense should be decreased by \$9,104 to remove unsupported expenses. (Dobiac)

ISSUE 28: Should the requested key man life insurance expense be approved?

POSITIONS

WMSI: Yes. (Brown)

OPC: No. OPC agrees with the staff auditor that the \$12,015 expense for key man life insurance should be excluded from expenses. The policy provides \$800,000 in life insurance on Gene D. Brown, and the WMSI Employee Benefit Trust is the beneficiary, with Ms. Chase as trustee. The trust will be used to fund the 401(k) and deferred compensation plans to protect WMSI's employees, not to fund the ongoing utility operations upon Mr. Brown's death. (Ramas)

STAFF: No position pending further development of the record. (Dobiac)

ISSUE 29: What is the appropriate amount of rate case expense?

POSITIONS

WMSI: The appropriate amount of rate case expense is contained in the MFRs. (Seidman)

OPC: Only prudently incurred rate case expense should be allowed. Several adjustments are appropriate. First, \$12,688 in preliminary legal and consulting rate case costs from firms that were not hired should be disallowed. Second, unsupported, non-rate case costs of \$4,556 from Sigma Project Solutions should be excluded. Third, to the degree that the Company's failure to provide a reasonable level of support for its pro forma plant additions result in higher rate case expenditures being required, ratepayers should not be harmed by this. Fourth, prior rate case expense of \$24,184 associated with the last rate case should be removed. Fifth, OPC reserves the right to review the reasonableness of any additional discovery received or late filed exhibits regarding rate case expense. (Ramas)

STAFF: No position pending further development of the record.

ISSUE 30: Should any adjustments be made to employee training costs?

POSITIONS

WMSI: No. No adjustment is necessary or appropriate. (Brown)

OPC: Yes. The amount of employee training costs recorded by the Company during the 2009 test year was significantly higher than the level of employee training costs incurred in prior years. The test year employee training costs should be normalized to reflect a three-year average of \$1,070, which results in a \$1,752 reduction to test year expenses. (Ramas)

STAFF: No position pending further development of the record.

ISSUE 31: Should any further adjustments be made to miscellaneous expenses?

POSITIONS

WMSI: No. No adjustment is necessary or appropriate. (Seidman)

OPC: Yes. Several adjustments are necessary. First, the staff audit workpapers reflect \$389.44 in non-utility and unsupported expense reductions. Second, consistent with Ms. Ramas adjustment to rate case expense, miscellaneous expenses should be reduced by \$494.06 for travel costs associated with Mr. Brown's trip to meet with Mr. Bob Nixon, the rate case consultant that was not chosen to file this rate case. Third, \$1,960 in condo fees should be removed and not charged to the ratepayers for the Tallahassee office that is owned by and is the responsibility of Brown Management Group.

STAFF: Yes. Miscellaneous expense should be reduced by \$89 for insufficient support documentation. (Dobiac) Any additional adjustments are pending further development of the record.

ISSUE 32: Should any further adjustments be made to the Utility's pro forma expenses?

POSITIONS

WMSI: No. No further adjustment is necessary or appropriate. (Brown, Seidman)

OPC: No position pending evidence adduced at hearing. (Ramas)

STAFF: No position pending further development of the record. (Dobiac)

ISSUE 33: Should any adjustments be made to depreciation expense?

POSITIONS

WMSI: Yes. Depreciation expense should be reduced by \$2,326 associated with the forgiveness of cost for the state park mains project. (Seidman)

OPC: Yes. Depreciation expense as discussed in previous issues should be reduced by \$79,865. This is a fall out issue. (Ramas)

STAFF: Yes. Depreciation expense should be decreased by \$2,535 to reflect the removal of the vice president's vehicle. (Dobiac) Any additional adjustments are pending further development of the record.

ISSUE 34: Should the company's request to recover the costs associated with the withdrawn wastewater certificate application be approved?

POSITIONS

WMSI: Yes. (Brown, Seidman, Scibelli)

OPC: No. These non-utility costs should be removed and not passed on to the Company's water customers. Mr. Brown's attempt to expand his operations to include wastewater service to St. George Island has nothing to do with WMSI's provision of water service to its customers. This risk should be borne by Mr. Brown, the investor, not the water utility. Accordingly, all costs associated with this failed attempt should be disallowed. The 2009 unamortized balance of \$35,603 included in working capital should be removed as well as the requested amortization expense of \$10,570. Any other test year costs that are identified that relate to this action should also be disallowed. (Ramas)

STAFF: O&M expenses should be reduced by \$10,570 to remove a miscellaneous deferred debit pertaining to the WMSI's application for a wastewater certificate. (Dobiac)
Any additional adjustments are pending further development of the record.

ISSUE 35: How should the gain on sale of land and other assets be treated?

POSITIONS

WMSI: Without knowledge of what sale(s) of land or other assets is(are) referenced in this issue, WMSI cannot take a position on this issue at this time. However, WMSI has properly reported all sales of utility property and other assets on its annual reports filed with the Commission. (Brown, Seidman)

OPC: A gain on sale of utility property that has been included in rate base should be amortized over a five year period.

STAFF: No position pending further development of the record.

ISSUE 36: What is the test year pre-repression water operating income or loss before any revenue increase?

POSITIONS

WMSI: There is an operating loss of \$247,662. (Seidman)

OPC: The appropriate annual net operating income before any revenue increase or decrease is at least \$45,528. This amount may increase pending outstanding issues still being investigated by OPC and to be developed through cross examination at the hearing. (Ramas)

STAFF: The appropriate amount is subject to the resolution of other issues.

ISSUE 37: What is the appropriate pre-repression revenue requirement for the December 31, 2009 test year?

POSITIONS

WMSI: The appropriate pre-repression revenue requirement is \$1,943,296. (Seidman)

OPC: The appropriate annual revenue requirement is no more than \$1,380,086. This amount may decline pending stipulated and other outstanding issues that will be developed through cross examination at the hearing. (Ramas)

STAFF: The appropriate amount is subject to the resolution of other issues.

RATES AND CHARGES

ISSUE 38: What are the appropriate test year billing determinants before repression?

POSITIONS

WMSI: The appropriate test year billing determinants before repression are contained in the MFRs, page 67. (Seidman)

OPC: No position.

STAFF: No position pending further development of the record. (Chelette)

ISSUE 39: What are the appropriate rate structures for this utility?

POSITIONS

WMSI: The appropriate rate structures are as follows: (i) for residential service, the rate structure should be the base facility charge plus a two-tier inclining block gallonage charge, and (ii) for non-residential service, the rate structure should be the base facility charge plus a flat gallonage charge. For both types of service, the base facility charge should recover 75% of the authorized revenue requirement. (Brown, Seidman)

OPC: The current rate structure, approved by the Commission in Docket 000694-WU, WMSI's last limited proceeding, is reasonable and appropriately promotes water conservation. The Company's requested change to allocate 75% of revenues to the base facility charge and 25% to the gallonage charge (instead of the current 50%/50% allocation) should be rejected.

STAFF: No position pending further development of the record. (Chelette)

ISSUE 40: Is a repression adjustment appropriate in this case, and, if so, what is the appropriate adjustment to make for this utility?

POSITIONS

WMSI: Yes. The appropriate adjustment is shown in the MFRs, page 68. (Seidman)

OPC: No repression adjustment is necessary in this case.

STAFF: No position pending further development of the record.

ISSUE 41: What are the appropriate rates for this utility?

POSITIONS

- WMSI:** The appropriate rates for this utility are those presented in the MFRs, page 66, with adjustments for the impact of any specific adjustments agreed to by the Utility. (Seidman)
- OPC:** No position.
- STAFF:** No position pending further development of the record.
- ISSUE 42:** Should the Utility be authorized to revise its miscellaneous service charges, and, if so, what are the appropriate charges?

POSITIONS

- WMSI:** Yes. The appropriate charges are shown in the MFRs, page 70. (Seidman)
- OPC:** The miscellaneous service charges should be revised only to the extent that WMSI provides sufficient supporting documentation to support an increase in the current charges.
- STAFF:** No position pending further development of the record.
- ISSUE 43:** Are the procedures and charges imposed by WMSI when an existing customer disconnects and/or a new customer reconnects in an existing service location appropriate? If not, how should the tariff provisions governing these activities be modified?

POSITIONS

- WMSI:** Yes, the procedures and charges imposed by WMSI when an existing customer disconnect and/or a new customer reconnects in an existing service location are appropriate. (Brown)
- OPC:** No. The procedures and charges by WMSI under these circumstances are inappropriate. The utility does not have the authority to require the inspection of the interior of any dwelling, especially refusing to reconnect service until such inspection is granted. According to its tariff, the utility only has access to its property that extends to the meter. Anything beyond the meter belongs to the customer. Further, the utility does not have a tariff to charge \$100 for a temporary connection and has no definitions and policies for temporary service as required by Rule 25-30.315, FAC. If the utility wishes to have temporary service charges, then it should be required to request a tariff revision and submit appropriate supporting documentation.

STAFF: No position pending further development of the record.

ISSUE 44: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

POSITIONS

WMSI: There should be no interim refunds. (Brown, Seidman)

OPC: The interim refund should be calculated by taking out all pro forma plant and expense items. The refund amount is based on the Commission's final decision in this case.

STAFF: No position pending further development of the record.

ISSUE 45: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

POSITIONS

WMSI: This is a fall out calculation based on adjustments to revenue requirements and the appropriate rate case expense. (Seidman)

OPC: No position.

STAFF: The amount of rate reduction is subject to the resolution of other issues.

ISSUE 46: What are the appropriate service availability charges for WMSI?

POSITIONS

WMSI: The appropriate service availability charges are set forth in Frank Seidman's Exhibit FS-3, Schedule SAC-1, page 1, and SAC-8. (Seidman)

OPC: WMSI's current service availability charges should remain in effect. The company's request to increase its service availability charges is based on its pro forma plant estimates which OPC has recommended not be allowed for rate recovery and the requested charges are not reasonable.

STAFF: No position pending further development of the record.

OTHER ISSUES

ISSUE 47: *Proposed Stipulation. See Section X.*

ISSUE 48: Has the Utility failed to return customer deposits in compliance with the refund procedures stated in Rule 25-30.311(5), Florida Administrative Code, and, if so, what amount of customer deposits shall the Utility be required to refund?

POSITIONS

WMSI: No, the Utility has not failed to return customer deposits in compliance with the refund procedures stated in Rule 25-30.311(5), F.A.C. (Brown)

OPC: If the record reflects that the Company has not properly refunded any of the customer deposits, those amounts should be refunded.

STAFF: No position pending further development of the record.

ISSUE 49: Did the Utility fail to maintain field employee travel records pursuant to Order No. PSC-94-1383-FOF-WU? If so, should the Utility be ordered to show cause why it failed to maintain field employee travel records pursuant to Order No. PSC-94-1383-FOF-WU, issued November 14, 1994?

POSITIONS

WMSI: No. The Utility has not failed to maintain field employee travel records pursuant to Order No. PSC-94-1383-FOF-WU and the Utility should not be ordered to show cause why it failed to maintain field employee travel records. (Brown)

OPC: Yes. The Utility failed to maintain field employee travel records pursuant to the Commission's order. The Utility should be ordered to show cause why it should not be fined.

STAFF: No position pending further development of the record.

ISSUE 50(a): Is the Utility's level of investment in associated companies appropriate? If not, what action should the Commission take?

POSITIONS

WMSI: Yes, the Utility's level of investment in associated companies is appropriate. Therefore, no action by the Commission is necessary.

OPC: No, it is not prudent for WMSI to maintain an investment in associated companies, particularly during a time of capital investment needs and during a period in which WMSI is facing cash constraints and unable to pay many of its outstanding obligations. The investment in associated companies recorded on WMSI's books increased from \$0 at January 1, 2005 to \$1,262,402 at June 30, 2010, a period of 5 1/2 years. From January 1, 2008 through June 30, 2010, the amount of investment in associated companies increased by \$337,785. The transactions which increase the investment in associated companies appear to be for the convenience of WMSI's President, Gene Brown, and not designed to benefit WMSI's customers. WMSI's captive customers should not be financing the operations of other entities owned and/or operated by Gene Brown, such as Brown Management Group, Inc. (Ramas) There is no indication that WMSI is receiving any return or interest from its \$1.2 million investment in associated companies in an above the line account. OPC's position is that the Commission should: (1) bar WMSI from any further investments in associated companies; (2) place WMSI on notice that the Commission will begin to assume, for ratemaking purposes, the return of WMSI's investment and its availability for use in funding WMSI operations and strengthening WMSI's financial position beginning in the next rate case; and, (3) for ratemaking purposes in the instant case, impute a return on the outstanding investment in associated companies with the imputed amount being reflected as investment income that is used to offset revenue requirement. An assumed rate of return 7%, as a minimum, for WMSI is appropriate. The appropriate investment revenue to impute is \$88,368 for the test year ($\$1,262,402 \times 7.0\%$).

STAFF: No position pending further development of the record.

ISSUE 50(b): Are there any non-utility expenses that the utility is requesting be recovered through customer rates? If so, what adjustments should be made?

WMSI: The utility is not requesting the recovery of any non-utility expenses through customer rates. If there are any additional adjustments, they should be made based upon all the testimony and evidence presented through the hearing process. (Brown, Withers)

OPC: Yes, this filing contains numerous instances of non-utility expenses that the utility is requesting to have recovered through customer rates. As identified in prior issues, these non-utility investments and expenses should be removed from rate base and operating expenses.

STAFF: No position pending further development of the record.

ISSUE 51: Should this docket be closed?

POSITIONS

WMSI: No. The docket should remain open for Phase II and Phase III, as discussed in WMSI's Position regarding Issue #9 above and in the Rebuttal Testimony of Gene D. Brown and Frank Seidman. (Brown, Seidman)

OPC: This docket should be closed as required in the normal course of a file and suspend rate case after the final order is issued, the revised tariff pages have been approved, the notice has been issued and the appropriate refunds have been credited to customer accounts. The docket should not remain open for any additional phases of rate increases.

STAFF: No position pending further development of the record.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>Exhibit No.</u>	<u>Description</u>
<u>Direct</u>			
Name			
Frank Seidman	Utility	FS-1	Summary of Mr. Seidman's education and experience
Frank Seidman	Utility	FS-2	MFRs, Volumes I-III
Frank Seidman	Utility	FS-3	Schedules Supporting the Request to Revise the Service Availability Charges
Frank Seidman	Utility	FS-4	Comparison of Salary and Wages 2009 to 2008
Andrew T. Woodcock	OPC	ATW-1	Resume of Andrew T. Woodcock
Andrew T. Woodcock	OPC	ATW-2	Excerpt from Executive Summary of PBS&J Engineering Report
Andrew T. Woodcock	OPC	ATW-3	Real Estate Data

<u>Witness</u>	<u>Proffered By</u>	<u>Exhibit No.</u>	<u>Description</u>
Andrew T. Woodcock	OPC	ATW-4	Technical Memorandum 5 Excerpt from PBS&J Engineering Report
Andrew T. Woodcock	OPC	ATW-5	Comparison of Alternatives
Donna Ramas	OPC	APPENDIX I	Qualifications of Donna Ramas
Donna Ramas	OPC	DR-1	Revenue Requirement Calculations – Schedules A, B, B-1 – B8, C, C-1 – C-5, D
Donna Ramas	OPC	DR-2	Listing of 2009 Cash Exchanges between WMSI, Brown Management Group, Inc., and Gene D. Brown from WMSI General Ledger
Donna Ramas	OPC	DR-3	Listing of 2008 Cash Exchanges between WMSI, Brown Management Group, Inc., and Gene D. Brown form WMSI General Ledger
Donna Ramas	OPC	DR-4	WMSI Investment in Associated Companies and Notes Receivable from Associated Companies
Donna Ramas	OPC	DR-5	Asset Sales
Donna Ramas	OPC	DR-6	LFE 21 – Salary Survey
Donna Ramas	OPC	DR-7	Executive Deferred Compensation Plan
Donna Ramas	OPC	DR-8	Backhoe Trailer Sales booked
Donna Ramas	OPC	DR-9	LFE 5 – Backhoe Trailer info
Donna Ramas	OPC	DR-10	POD 21 – Backhoe Sale to BMG
Donna Ramas	OPC	DR-11	POD 27 – 2007 Chevy Tahoe

<u>Witness</u>	<u>Proffered By</u>	<u>Exhibit No.</u>	<u>Description</u>
Donna Ramas	OPC	DR-12	Transfer of Leasehold Interests
Donna Ramas	OPC	DR-13	Debt on 2007 Chevy Tahoe
Donna Ramas	OPC	DR-14	Bank loan commitment
Cliff McKeown	STAFF	CM-1	Cover letter and Compliance Inspection Form for DEP inspection on March 5, 2010
Debra M. Dobiac	STAFF	DMD-1	Audit Report (as amended) for Test Year ended December 31, 2009

Rebuttal

Name

Michael A. Scibelli	Utility	MS-1	Summary of Mr. Scibelli's education and experience
Michael A. Scibelli	Utility	MS-2	PBS&J's evaluation of WMSI's water system
Michael A. Scibelli	Utility	MS-3	An addendum to PBS&J's evaluation of WMSI's water system
Barbara S. Withers	Utility	BSW-1	Summary of Ms. Withers' education and experience
Barbara S. Withers	Utility	BSW-2	WMSI Cash Exchanges for 2008, 2009 and 2010
Barbara S. Withers	Utility	BSW-3	Accounting Policies & Procedures Manual
Barbara S. Withers	Utility	BSW-4	Composite Exhibit of computation of hours spent by Ms. Withers and her staff, resumes of staff, and statement showing the amounts billed WMSI and the amounts paid in 2010

<u>Witness</u>	<u>Proffered By</u>	<u>Exhibit No.</u>	<u>Description</u>
Gene D. Brown	Utility	GB-1	WMSI Cash Exchanges for 2008, 2009 and 2010
Gene D. Brown	Utility	GB-2	WMSI's 2009 Tax Return
Gene D. Brown	Utility	GB-3	WMSI's Comparative Income Statement for the eight months ending August 31, 2010
Gene D. Brown	Utility	GB-4	August 24, 2010 memo from Gene Brown to Mike Scibelli regarding engineering services
Gene D. Brown	Utility	GB-5	Comparison of Salary and Wages 2009 to 2008
Gene D. Brown	Utility	GB-6	Emails between Angela Chelette and Les Thomas regarding wells on St. George Island (July 14-15, 2005)
Gene D. Brown	Utility	GB-7	Emails between Angela Chelette, Les Thomas and others regarding
Gene D. Brown	Utility	GB-8	Emails between Angela Chelette and Gene Brown regarding shallow wells on St. George Island (July-August 2005)
Gene D. Brown	Utility	GB-9	August 13, 2007 letter from Nita Molsbee to Tom Brown regarding shallow wells on St. George Island, including attachments.
Gene D. Brown	Utility	GB-10	Information on wells on St. George Island, located by the Northwest Florida Water Management District (NFWMD) personnel
Gene D. Brown	Utility	GB-11	Petition for administrative hearing filed by Leisure Properties and WMSI against NFWMD

<u>Witness</u>	<u>Proffered By</u>	<u>Exhibit No.</u>	<u>Description</u>
Gene D. Brown	Utility	GB-12	December 30, 2009 letter from Angela Chelette to Vicky Baker, Small business Regulatory Advisory Committee regarding proposed Rule 40A-2.051, F.A.C.
Gene D. Brown	Utility	GB-13	Technical Memorandum to NFWFMD from GeoTrans, Inc. regarding analysis of potential groundwater development on St. George Island
Gene D. Brown	Utility	GB-14	Rule 40A-2.051, F.A.C.
Gene D. Brown	Utility	GB-15	Chart of wells on St. George Island located by WMSI personnel
Gene D. Brown	Utility	GB-16	Newspaper Article entitled "Rules eased for shallow wells along the coast," that appeared in the December 24, 2009 edition of the <u>Apalachicola Times</u>

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

X. PROPOSED STIPULATIONS

1. The parties agree that no used and useful adjustment for water plant facilities and storage is required.
2. The parties agree that the testimony of WMSI witness Withers may be taken up out of sequence, but not before both of OPC's witnesses have testified.
3. The parties and staff are agreed that the testimony and Exhibit DMD-1 of staff witness Dobiac (auditor) may be inserted into the record, and that in lieu of cross, her deposition and six deposition exhibits will be admitted as an exhibit. The parties further agree that the testimony and Exhibit CM-1 of staff witness McKeown, and the testimony of staff witness Chelette may be inserted into the

record. With these stipulations, the parties and staff agree that all staff witnesses may be excused from the hearing.

ISSUE 5: Should any adjustments be made to offset plant improvements related to mains in the State Park as a result of WMSI's transfer of rental rights to the elevated tower?

STIPULATION: As a result of WMSI's transfer of rental rights to the elevated tower, plant in service and accumulated depreciation should be reduced by \$100,000 and \$6,978, respectively. Additionally, test year depreciation expense should be reduced by \$2,326.

ISSUE 7: Should any adjustments be made to test year land?

STIPULATION: Land should be decreased by \$3,400 to reflect the removal of appraisal and surveying costs associated with land that was sold.

ISSUE 11: Should any adjustments be made to test year Advances for Construction?

PARTIAL STIPULATION: Advances for Construction should be decreased by \$9,257 to reflect Commission approved adjustment from the Utility's last rate case.

ISSUE 12: What is the appropriate working capital allowance?

PARTIAL STIPULATION: Working capital should be reduced by \$112,034 unamortized debt discount and issuing expense which is included in the Utility's long-term debt cost rate. Further, working capital should be reduced by \$17,983 to remove fully amortized rate case expense from prior rate case.

ISSUE 14: What is the appropriate amount of customer deposits to include in the capital structure?

STIPULATION: The appropriate amount of customer deposits to include in the capital structure is \$100,499.

ISSUE 24: Should any adjustments be made to the requested level of Contract Labor Costs?

STIPULATION: \$1,250 of additional contractual service costs should be removed for a total of \$7,250 for Hank Garrett charges during 2009 (on general ledger as management fees).

ISSUE 47: Should the Utility be required to provide proof that it has adjusted its books for all Commission approved adjustments?

STIPULATION: To ensure that the Utility adjusts its books in accordance with the Commission's decision, WMSI should 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.

XI. PENDING MOTIONS

The Order disposing of OPC's Motion to Strike Portions of WMSI's Rebuttal Testimony should be issued no later than October 4, 2010. With the issuance of that Order, there will be no pending matters.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 80 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 80 words, it must be reduced to no more than 80 words. Also, for Issue 12, each subpart shall be limited to 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 50 pages and shall be filed at the same time.

XIV. RULINGS

Opening statements, if any, shall not exceed ten minutes per party, and shall be presented at the beginning of the Customer Service Hearing.

It is therefore,

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

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 30th day of September, 2010.



NATHAN A. SKOP
Commissioner and Prehearing Officer

(S E A L)

RRJ

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.

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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.