

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of SUNRAY )	DOCKET NO. 870559-WS
UTILITIES, INC. for water and )	
sewer certificates in St. Johns )	ORDER NO. 25501
County )	
_____ )	ISSUED: 12/17/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
BETTY EASLEY

## APPEARANCES:

KATHRYN G. W. COWDERY, Esquire, Gatlin, Woods, Carlson & Cowdery, 1709-D Mahan Drive, Tallahassee, Florida 32308  
On behalf of Sunray Utilities, Inc.

JAMES L. ADE and SCOTT G. SCHILDBERG, Esquires, Martin, Ade, Birchfield & Mickler, P. A., 3000 Independent Squire, Jacksonville, Florida 32202

And

PATRICK K. WIGGINS, Esquire and ROBERT SCHEFFEL WRIGHT, Class B Practitioner, Wiggins & Villacorta, P. A., 501 East Tennessee Street, Tallahassee, Florida 32302  
On behalf of Cordele Properties, Inc. and Cimarrone Property Owners Association

CATHERINE BEDELL, Esquire, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0863

On behalf of the Commission Staff

PRENTICE PRUITT, Esquire, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0863

Counsel to the Commission

FINAL ORDER SETTING RATES AND CHARGES AND  
REQUIRING REFUND OF TEMPORARY RATES

BY THE COMMISSION:

BACKGROUND

On August 28, 1987, Sunray Utilities, Inc. (Sunray) applied for original water and wastewater certificates in St. Johns County. The notice of application was protested by St. Johns North Utility

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Corporation. After a hearing on the matter, we issued Order No. 19428 on June 6, 1988, granting Sunray Water Certificate No. 504-W and Wastewater Certificate No. 438-S. The docket was left open for the purpose of establishing initial rates and charges.

In April 1990, the utility began providing service to the Cimarrone Property Owners Association (Cimarrone), without compensation, pending approval of initial rates and charges. On August 10, 1990, this Commission issued proposed agency action Order No. 23341 approving rates and charges. On August 30, 1990, Cimarrone, Sunray's sole customer and Cordele Properties, Inc. (Cordele), the developer of the Cimarrone project, filed a joint protest to the Order.

In response to the protest, Sunray requested that it be allowed to implement the rates contained in Order No. 23341 on a temporary basis, subject to refund, pending resolution of the protest. Temporary rates were granted pursuant to Order No. 23714, issued November 2, 1990. On August 28 and 29, 1991 a hearing was conducted to determine initial rates and charges.

In Order No. 22330, issued on December 20, 1989, the Commission acknowledged St. Johns County's ordinance to regain its jurisdiction over privately-owned water and wastewater utilities in that county. Upon the closing of this docket, Sunray's certificate will be canceled administratively and St. Johns County will assume jurisdiction over the rates and charges of Sunray.

A prehearing conference was held on June 12, 1991, in Tallahassee, Florida. A formal hearing was held on August 28 and 29, 1991, in Tallahassee, Florida.

#### FINDINGS OF FACT, LAW & POLICY

Having heard the evidence presented at the formal hearing and having reviewed the recommendation of Staff, as well as the briefs of the parties, we now enter our findings and conclusions.

#### STIPULATIONS

At the prehearing conference, Sunray and Cimarrone/Cordele (C/C) agreed upon a number of stipulations. Subsequently, the utility declined to stipulate to Stipulation No. 5. Upon consideration, we find that the Stipulations 1-4, 6 and 7, are

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reasonable and they are, therefore, approved. We find the issue raised by Stipulation No. 5 is immaterial to this proceeding. The Stipulations are as follows:

1. Revenue from allowance for funds prudently invested (AFPI) charges and guaranteed revenue charges is "below the line" revenue for rate making purposes.
2. Sunray's request that developers be required to take effluent for spray irrigation purposes as a condition to receive service should be approved.
3. Sunray should not charge a rate for effluent delivered to developments.
4. Refunds, if appropriate, will be made in accordance with Commission Rule 25-30.360, Florida Administrative Code.
5. ITT has sold some of its land in Sunray's St. Johns County certificated territory for development.
6. The current leverage formula should be utilized to determine the appropriate return on equity.
7. AFUDC rates should be changed using the most current leverage formula. The recalculated rate is 12.44%.

MOTION TO STRIKE

On October 8, 1991, Sunray filed a Motion to Strike and a Request for Oral Argument on the motion. The basis for the motion to strike is that in their brief C/C relied on material outside the record and that they included argument on an issue not previously identified. On October 16, 1991, C/C responded to the Motion to Strike and argued that the statements objected to by Sunray were based on the record and that Issue 29 should not be struck because it addresses an issue that was raised at hearing.

We deny that the portion of the motion which seeks to strike portions of C/C's brief which may be outside the record for the following reasons: all briefs filed after a hearing have the potential for containing material outside the record; when material which is outside the record is referred to or relied on in the brief, the Commission simply does not rely on such material, which

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has the effect of striking that material; and there is no prejudice to the utility where the Commission does not rely on material outside the record.

We agree with the utility that Issue 29 raised in C/C's brief should be struck because it is totally outside the scope of this proceeding. Issue 29, as stated by C/C, is, "Whether Sunray can resell a customer's reserved capacity without making an appropriate refund to the customers." This issue was not raised prior to or during the hearing. No testimony was heard on it. The utility has no vehicle with which to respond to the arguments made by C/C. The potential harm that C/C raises in this issue is that the utility will be allowed to resell reserved capacity without refunding the funds paid by the developer for the reserved capacity. This issue and any potential harm can be addressed by St. Johns County if the utility charges C/C or resells capacity in violation of approved tariffs.

Pursuant to the Order on Procedure, Order No. 24726, issued July 1, 1991, all issues were to be raised prior to the issuance of the Prehearing Order or were deemed waived. This new issue was not raised at any time during the hearing process. For these reasons, we find it appropriate to grant that portion of the utility's Motion to Strike which seeks to have Issue 29 struck from the brief.

Accordingly, the Motion to Strike is hereby denied in part and granted to the extent that Issue 29 of and the argument following, should be struck from C/C's brief. Specifically, pages 69-72, except for the signature portion on page 72, are hereby struck from the brief of C/C. We also deny the utility's request for oral argument on this motion as it is not necessary for the resolution of this issue.

#### THE GUARANTEE AGREEMENT

C/C raised several issues concerning three agreements which are related to the development served by Sunray. These agreements are: 1) A Guarantee Agreement; 2) A Utility Service Agreement; and 3) A Spray Irrigation Agreement. All agreements were executed on the same day.

C/C's witness Labar testified that the Guarantee Agreement was signed on the same day as the Utility Service Agreement and the

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Spray Irrigation Agreement, and that he relied on all the agreements entered into that day in making his decision not to build and operate his own utility. C/C further argues that to not assert authority over the agreement would give the parties the ability to circumvent both the police power of the State and the jurisdiction of the Commission to set rates.

It is the position of the utility that the Commission has no jurisdiction over the agreement because it is a contract between non-regulated entities, Cordele Properties, Inc. (the developer), Jax Utility Management, and ITT/Rayonier (shareholders of Sunray Utility). Witness Todd testified that the agreement does not set rates and charges and that any amounts agreed to were to be considered an adjustment to the original sales price.

We find that Sunray was not a party to the Guarantee Agreement and that no customers are affected by the terms of the Guarantee Agreement. The signatory page clearly indicates that the agreement was signed by the parties as described above. Although C/C argues that the utility is a subsidiary of ITT/Rayonier and that we have in some circumstances looked at contracts entered into by the parent, this case can be distinguished from Rolling Oaks Utilities, Inc. v. Public Service Commission, 418 So.2d 356 (Fla. 1st DCA 1982) because the subject Guarantee Agreement has nothing whatsoever to do with setting rate base or charges to customers.

It is our interpretation that the Guarantee Agreement is nothing more than an agreement between the developer and the parent of the utility to "hedge their bets" and to protect themselves from excessive payments or losses during the development of the property and the construction of the utility. Although this contract describes the responsibilities of the parties in relation to a minimum and a maximum for "capacity fees," it has no effect on the rates or charges to be paid by the customers.

Further, it is clear that each of these agreements were stand-alone contracts. This may be determined by reading Paragraph 11 of the Guarantee Agreement, which states, "This Agreement contains the entire understanding between the parties hereto...." This paragraph is known as an "entire contract clause" and is included in a contract for the purpose of establishing that the entire agreement between the parties is included in the contract. Thus, Staff does not agree with C/C that the Guarantee Agreement must be considered together with the Utility Service Agreement and the

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Spray Irrigation Agreement. Accordingly, we find it appropriate to consider each of the agreements as stand-alone contracts.

There is no dispute between the parties that the interpretation of the agreement is currently pending in Circuit Court in St. Johns County, and that is where their disagreement should be addressed.

Based on the foregoing, we find that the Commission does not have jurisdiction to construe or approve the Guarantee Agreement because it is not a contract in which the utility is a party, it does not effect any rates and charges to be charged by the utility, and any relief sought by the developer can be determined in the pending Circuit Court docket.

Further, this conclusion renders C/C's argument, that AFPI charges and guaranteed revenue charges should be included in the definition of "capacity fees" as used in the Guarantee Agreement, moot.

#### THE UTILITY SERVICE AGREEMENT

The purpose of the Utility Service Agreement (USA) is to allow the developer to reserve capacity so that when development occurs, there is adequate water and wastewater service for the additional customers. Paragraph 7 and Exhibit "C" of the USA set an amount and a payment schedule for capacity fees. These fees were set by the parties based on anticipated growth, which is also depicted on Exhibit "C" of the USA. The practice in the industry is for the developer to pay capacity fees because growth is the risk of developer; however, in this case the sale of lots and ERCs growth is substantially less than contemplated by the parties at the time the agreement was entered into.

C/C witness Moore testified that after thirty-three months of marketing, Cordele had sold twenty-five homesites; that only eight homesites had been permitted; and that only five homes had been completed. C/C witness Prosser characterized future development in the service area of Sunray to be slow.

Utility witness Todd testified that if a slower growth rate for the development had been represented to the utility before the USA was entered into, the utility could have constructed small interim plants. He further testified that the utility could have

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eliminated approximately \$800,000 of investment in facilities if the growth rate had been accurately represented. Witness Todd also testified that if the terms of the USA were modified to extend the payment of capacity fees, that contributions-in-aid-of-construction (CIAC) would decrease and rate base would increase, thus forcing Sunray to either invest more equity or borrow funds, thereby increasing rates and charges to customers.

We find the planned capacity fee payments to no longer be reasonable in light of the actual and projected slow growth in the development. The growth projections on which we rely are discussed in a later portion of this Order. Accordingly, the USA is not approved. Appropriate service availability charges are discussed in a later portion of this Order.

#### THE SPRAY IRRIGATION AGREEMENT

The Spray Irrigation Agreement provides the utility with a method of disposing of treated effluent and the developer, Cordele Properties, with a source of water with which it can irrigate the golf course. Although Sunray paid for the right to deliver treated effluent, there is no charge for the effluent when it is delivered. In an earlier portion of this Order we approved two Stipulations related to spray irrigation. Stipulation No. 2 states: "Sunray's request that developers be required to take effluent for spray irrigation purposes as a condition to receive service should be approved." Stipulation No. 3 states: "Sunray should not charge a rate for effluent delivered to developments."

We find the terms of the Spray Irrigation Agreement between Cordele and Sunray are reasonable and are supported by the approved stipulations described above. Accordingly, we approve the Spray Irrigation Agreement.

#### WATER AND WASTEWATER TREATMENT PLANTS

##### Growth Projections

In order to determine the appropriate amount of plant on which to base rates, we must first determine the appropriate growth rate of actual connections within Sunray's service territory.

Sunray's growth rate is based upon projected growth of both the Cordele and Southloop developments. The record shows that

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Cordele presently has eight connections and that the Southloop property has yet to proceed with any development. Sunray's growth projections show both developments with a growth of 35 ERCs for 1991. Obviously, with only eight active connections at Cordele and no immediate development plans for Southloop, the utility's growth is overstated. However, not included within the utility's projections is growth from elsewhere within the service territory. For example, Sunray is in the process of providing service to the St. Johns County Fire Station and has received other inquiries regarding the provision of utility service.

As noted by C/C witness Prosser, growth projections are at best difficult to make. C/C witness Moore testified that Cimarrone would be doing extremely well to have 200 active ERCs by 1997. He further testified that Cimarrone will not reach a level of over 250 homes in less than ten years. Sunray had projected 593 active connections in Cimarrone in 1997, an average of 85 ERCs per year.

Based upon Mr. Moore's testimony, we find that Cimarrone's growth rate is approximately 25 ERCs per year. Taking into account growth from other areas such as the fire station, we find the appropriate overall growth rate for the service area to be projected at 35 ERCs per year.

#### Need for Plant Expansion

At issue is whether plant expansion is necessitated by committed ERCs or actual flows to the plants. Sunray witness Forrester testified that as developers apply to the Department of Environmental Regulation (DER) for line permits that DER incrementally reduces its available plant capacity based upon the capacity of the permitted lines. Mr. Forrester further testified that at the point that a major portion of the ERCs are committed, the utility must expand its plants in order to continue making service commitments to future developers. According to Sunray's position plant expansion would occur without consideration of the level of actual utilization of the existing plant.

C/C witness Rodriguez, a DER Administrator for the Drinking Water Section of the Northeast District, testified that it would not be logical or reasonable to ignore reality and require construction of additional water plant capacity based solely on permitted capacity of a plant and its committed capacity. Witness Rodriguez testified that DER uses information concerning actual



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consumption and the anticipated actual consumption in its review of permit applications, and that the DER focus for water plant capacity is on actual flows and consumption. She further testified that when the actual consumption of a treatment plant reaches 80 percent of its capacity, DER will advise the utility in writing to start expansion of its water treatment plant.

According to witness Rodriguez, Sunray can use a standard permit which would allow it to expand its water treatment plant based on increases in actual consumption, subject to its representation that it will have capacity available as it is actually needed. Rodriguez further testified that by using this reasonable approach, DER might issue permits for distribution systems ultimately requiring one thousand connections relating to a treatment plant with a current capacity of two hundred and fifty connections.

Regarding wastewater, C/C witness Watkins, Supervisor of DER Domestic Wastewater Program for the Northeast District, testified that DER also relies on actual flow data as opposed to committed capacity to determine the need for additional capacity and that such reliance on actual consumption has been formalized in revised DER rules.

We reject Sunray's position that plant expansion should occur without consideration of the level of actual utilization of existing plant and rely on the DER Witnesses testimony. Based on our finding above that the projected growth rate is 35 ERCs per year, and based on the DER testimony described above, we find that the permanent water plant will not be needed until 2005 and the permanent wastewater plant will not be needed until 1999.

#### Appropriate Plant

To determine appropriate plant we calculated rates using both interim and permanent plant amounts. This comparison analysis is discussed in the later Rates portion of this Order. Although the growth projections indicate that the existing interim plant will be sufficient to provide adequate service for several years, the resulting high rates based upon the interim facilities are excessively high for original certificate rates. Accordingly, we find that the appropriate plants on which to base rates and charges are the permanent water and wastewater plants operating at 80 percent capacity, adjusted to include organizational costs. The

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amount of the permanent plant balances are the plant balances from PAA Order No. 23341, adjusted to include the additional organizational costs.

Based on the foregoing, we find the appropriate amounts for the permanent water plant and wastewater plant to be \$2,940,527, and \$4,742,747, respectively.

#### Cimarrone's Pro Rata Share of the Appropriate Plant

Initial rates and charges are based upon projected build-out of plant with each ERC, regardless of its source, paying its pro rata share. Utility witness Todd correctly testified that the specific location in which ERCs occur is immaterial to rate setting. Accordingly, we find that Cimarrone's pro rata share will be based upon its actual utilization of plant capacity and that its share of ERCs has no impact on the setting of initial rates and charges.

#### Return on Equity

In an earlier portion of this Order we approved the stipulation of the parties which provided the appropriate return on equity is to be based on the current leverage formula. Accordingly, we find the appropriate return on equity to be 13.11 percent, pursuant to Order No. 24246, issued March 18, 1991.

#### OPERATION AND MAINTENANCE EXPENSES

Based on our finding that rates developed using interim plant would be unreasonable, we find that operation and maintenance (O&M) expenses based on 80 percent of the capacity of the permanent water and wastewater plants, as adjusted, are appropriate.

To arrive at the amount of O&M expenses based on permanent plant we have used the amount of adjusted O&M expenses from the PAA Order No. 23341, with which the utility concurred. C/C presented no evidence in opposition to O&M expenses from the PAA. Accordingly, we find the appropriate amounts of O&M expenses are \$235,525 for the water treatment plant and \$344,890 for the wastewater plant.

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#### REVENUE REQUIREMENT

Based on the utility's application and our adjustments and calculations discussed above, including the adjustment to include organizational costs, we find the appropriate annual revenue requirements to be \$439,539 for the water system and \$684,227 for the wastewater system.

#### RATES

In original certificate applications we authorize reasonable rates and charges based on the projected operation of the utility. Sunray's witness Todd testified that the rates and charges contained within PAA Order No. 23341 were reasonable, if adjusted to include the additional organizational costs associated with this docket. Additionally, in Stipulation Numbers 6 and 7 which we approved in an earlier portion of this Order, Sunray and C/C agreed to the use of the current leverage formula.

In determining the appropriate rates we calculated rates based on both interim and permanent plants. We calculated rates based on permanent plants using the rates in PAA Order No. 23341, as adjusted as discussed in the body of this Order. Interim plant rates were calculated using the utility's late filed exhibit 13 with adjustments for used and useful for plant, O&M expenses, taxes and the revised rate of return. Shown below is a comparison of the temporary rates approved in Order No. 23714, issued November 2, 1990, rates based on interim plant, and Commission approved rates based on permanent plant.

In comparing the rates designed based on interim and permanent plant, we find that the rates based on interim plant are unreasonably high. The high rates are a result of the level of organizational and start up costs, the small customer base and the fact that Cimarrone is not donating lines based upon the master meter. Accordingly, we find the appropriate rates are the rates based on permanent plant as adjusted and shown below.

Based on the analysis above, we find the rates approved to be fair, just and reasonable. Further, we find the rates to be designed to achieve the revenue requirements of \$439,539 and \$684,227 for water and wastewater systems respectively, using the base facility charge rate structure. The base facility charge rate structure gives the utility the ability to track costs and gives

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customers some control over their water and wastewater bills. Each customer pays his pro rata share of the related costs necessary to provide service through the base facility charge and only the actual usage is paid through the gallonage charge. The rates are as follows:

Water

Residential and General Service  
 (Monthly)

<u>Base Facility Charge</u>		Commission Approved Charge	
<u>Meter Size</u>	<u>Temporary</u>	Charge based on Interim Plant	based on Permanent Plant
5/8" x 3/4"	\$ 15.34	\$ 21.57	\$ 15.30
3/4"	23.01	32.36	22.95
1"	38.35	53.93	38.25
1-1/2"	76.70	107.85	76.50
2"	122.73	172.56	122.40
3"	345.44	345.12	244.80
4"	383.50	539.25	382.50
6"	767.00	1,078.50	765.00
8"	1,227.20	1,725.60	1,224.00
Gallonage Charge (per 1,000 gallons)	\$ 1.66	\$ 1.76	\$ 1.65

Wastewater  
Residential Service  
 (Monthly)

<u>Base Facility Charge</u>		Commission Approved Charge	
<u>Meter Size</u>	<u>Temporary</u>	Charge based on Interim Plant	based on Permanent Plant
All Meter Sizes	\$ 17.77	\$ 29.76	\$ 17.81
Gallonage Charge (per 1,000 gallons, maximum 10,000 gallons per month)	\$ 2.20	\$ 2.46	\$ 2.19

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<u>Meter Size</u>	<u>General Service</u> (Monthly)		
	<u>Temporary</u>	<u>Charge based on Interim Plant</u>	<u>Commission Approved Charge based on Permanent Plant</u>
5/8" x 3/4"	\$ 17.77	\$ 29.76	\$ 17.81
3/4"	26.66	44.64	26.72
1"	44.43	74.40	44.53
1-1/2"	88.85	148.80	89.05
2"	142.16	238.08	142.48
3"	284.32	476.16	284.96
4"	444.25	744.00	445.25
6"	888.50	1,488.00	890.50
8"	1,421.60	2,380.80	1,424.80
Gallage Charge (per 1,000 gallons)	\$ 2.64	\$ 2.95	\$ 2.63

The above rates will be effective for bills rendered for meter readings on or after 30 days of the stamped approval date on the tariff sheets.

#### Late Payment Fee

Sunray requested that we approve a late payment fee of 1.5 percent. No evidence in opposition to this charge was presented at the hearing. We find this charge to be reasonable; however, we also find that the applicability of this charge shall be limited to unpaid balances of bills rendered for monthly service. Accordingly, we approve the late payment fee. This charge will be effective for service rendered on or after the stamped approval date of the tariffs.

#### Cimarrone Rate Structure

Cimarrone is served by Sunray through an eight-inch meter. C/C witness Moore testified that based on the master meter connection, C/C is a general service customer and that should Sunray obtain another customer with an eight-inch meter that this customer would be billed based upon the meter size and not the DER permitted ERCs behind the master meter.

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Sunray's witness Todd testified that Cimarrone should not be treated as a master metered general service customer because it would lead to a revenue shortfall at build-out with all of the projected 593 ERCs on line. We disagree, because we find that Sunray will receive a revenue windfall billing Cimarrone at 80 ERCs until that level is reached. Further, based on the growth projections discussed earlier, there is no certainty that Cimarrone will ever reach the 80 ERC level. Therefore, we find Sunray's argument that it will have a revenue shortfall unpersuasive.

We find it appropriate for billing to be based solely upon the master meter, with the utility having no responsibility for monitoring the circumstances behind the master meter. Further, Commission practice has been to treat master metered customers as general service customers with the base facility charge based upon the American Waterworks Association's meter equivalent factors. Using these factors, an eight-inch meter would equate to 80 ERCs. Within PAA Order No. 23341, we decided that the Cimarrone rate should be based upon the DER permitted ERCs behind the master meter as requested by the utility. This rate structure recognizes flows behind the master meter without making the utility dependent upon the customer for such information. As discussed in an earlier portion of this Order, actual flows, not committed capacity, are the main determinant of needed plant expansion. Since plant expansion is not driven by DER permitted ERCs, we find it appropriate to treat Cimarrone as any other eight-inch master metered general service customer. Accordingly, we find that the appropriate billing for Cimarrone is as any other general service customer, without a cap applying to the wastewater rate. While this rate will base the wastewater gallonage rate on total water used, Cimarrone has the option of lessening this bill by donating its lines to the utility and eliminating the master meter.

#### Refund of Temporary Rates

Based on our finding that Cimarrone is to be billed as a general service customer, a refund of temporary rates with interest is required pursuant to Order No. 23714.

Accordingly, Sunray shall recalculate each months bills and make refunds within 90 days in accordance with Rule 25-30.360, Florida Administrative Code.

#### Service Availability Charges

In PAA Order No. 23341 service availability charges were designed based on permanent plants. Sunray witness Todd testified

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that the service availability charges contained in PAA Order No. 23341 were reasonable, if adjusted to include additional organizational expense. As with our rate analysis, we find that setting service availability charges based on interim plant would result in unreasonably high charges. Accordingly, we find the appropriate service availability charges to be those approved in PAA Order No. 23341, adjusted to include the utility's organizational costs.

Service availability charges are designed to recognize the service availability policy of the utility and place the utility at a 75 percent contribution level. Sunray will construct all treatment facilities as well as off-site mains. Developers will construct and donate to Sunray the on-site distribution and collection systems. However, Cimarrone will retain ownership of all distribution and collection facilities behind the master meter.

Our comparison of the service availability charges in effect under the temporary rates, charges based on the interim facilities and the final, approved charges based upon the adjusted permanent plants are as follows:

<u>Plant Capacity Charge</u>	<u>Water</u>		
	<u>Temporary</u>	<u>Based on Interim Plant</u>	<u>Commission Approved Based on Permanent Plant</u>
(1 ERC = 350 GPD)	\$ 390	\$ 580	\$ 410
<u>Meter Installation Charge</u>			
<u>Meter Size</u>			
5/8 x 3/4"	\$ 100	\$ 100	\$ 100
3/4"	115	115	115
1"	145	145	145
1-1/2"	330	380	330
2"	400	400	400
Over 2"	Actual Cost	Actual Cost	Actual Cost

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Service Line and Meter Installation

Meter Size

5/8 x 3/4"	\$ 440	\$ 440	\$ 440
3/4"	450	450	450
1"	470	470	470
1-1/2"	610	610	610
2"	750	750	750
Over 2"	Actual Cost	Actual Cost	Actual Cost
Plan Review Charge	Actual Cost	Actual Cost	Actual Cost
Inspection Charge	Actual Cost	Actual Cost	Actual Cost

Wastewater

	Temporary	Based on Interim Plant	Commission Approved Based on Permanent Plant
<u>Plant Capacity Charge</u>			
(1 ERC = 280 GPD)	\$ 240	\$ 1050	\$ 250

Tap In Charges

All Meter Sizes	Actual Cost	Actual Cost	Actual Cost
Plan Review Charge	Actual Cost	Actual Cost	Actual Cost
Inspection Fee	Actual Cost	Actual Cost	Actual Cost

We find the meter installation charges to be cost based. While it is anticipated that all on-site lines including service lines will be donated by developers, separate meter installation charges including the cost of running the service line are approved to cover any service lines constructed by the utility.

The above charges will be effective for connections made on or after the stamped approval date on the tariff sheets.

Refund of Service Availability Charges

Sunray has collected from Cimarrone \$900 per ERC for 150 ERCs. Their estimated charges were collected pursuant to the USA, to be



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trued up based on final service availability charges. In an earlier portion of this Order we did not approve that agreement. Accordingly, we find it appropriate that Cimarrone pay service availability charges on only the 144 ERCs for which it has permitted lines to date. Since the already collected \$900 for 150 ERCs is more than the combined recommended charges for 144 ERCs, the excess collection shall be refunded with interest pursuant to Order No. 23714 and in accordance with Rule 25-30.360, Florida Administrative Code.

#### CIAC GROSS-UP

The utility has indicated that it has no tax liability and the record shows that the utility is experiencing slow growth. The first generic CIAC Order No. 16971, issued December 18, 1986, requires as a threshold that there be CIAC tax liability that triggers the need for gross-up CIAC. Order No. 23541, issued October 1, 1990, is our most recent statement concerning CIAC gross-up, and it also sets forth the threshold requirement of tax liability. In the absence of any CIAC and any tax liability associated with CIAC, there is no need to approve the utility's request to gross-up CIAC. Accordingly, we deny the utility's request to gross-up CIAC.

#### ALLOWANCE FOR FUNDS PRUDENTLY INVESTED

##### Applicability of AFPI Charges to Cordele or Cimarrone

This issue was raised by C/C based on its position that applicability of AFPI should be controlled by the USA and the Guarantee Agreement. Based on our findings that we have no authority over the Guarantee Agreement and that the USA should not be approved, we find these agreements to be immaterial to the applicability of AFPI charges to Cordele or Cimarrone.

Pursuant to Florida Statutes, the Commission sets rates and charges for all customers on a non-discriminatory basis and allowing any customer to avoid any charges would be inconsistent with the statutes.

AFPI charges are to be collected upon payment of service availability charges. Sunray has previously collected service availability charges from Cimarrone for 144 ERCs. These charges are to be adjusted based upon final service availability charges established in this docket. Since these charges were collected prior to the approval of AFPI charges, assessing AFPI to these 144

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ERCs would be retroactive ratemaking. Accordingly, we find that AFPI charges are not applicable to Cimarrone's initial 144 ERCs.

Amount of AFPI

Sunray's witness, Mr. Todd, relied upon the calculation of the AFPI charges contained in PAA Order No. 23341 and stated that he believed such charges to be reasonable. Cimarrone did not provide any testimony regarding the calculation or level of the charges.

In PAA Order No. 23341, we approved AFPI charges based upon the interim facilities. Based upon the record, we find several revisions are warranted. In staff's initial analysis, which developed the charges contained in the PAA, 286 ERCs were used for the capacity of the water plant and used and useful adjustments were made to match other plant accounts with this capacity. Based upon Exhibit No. 13, Sunray now represents its water plant capacity at 460 ERCs. As discussed in an earlier portion of this Order we adjusted used and useful for each plant account to match the 460 ERCs level. Thus, water plant cost is higher than that used in our initial AFPI analysis due to inclusion of organizational costs and the used and useful adjustment. Also, depreciation expense and property taxes were also adjusted to reflect the adjustment to plant. The updated return on equity and overall rate of return were used in both the water and wastewater analysis.

AFPI is a one time charge designed to provide a return on plant which is prudently constructed but exceeds the needs of current customers. Sunray has constructed interim water and wastewater plants with capacities of 161,000 and 70,000 gpd respectively. Since Sunray is a new utility, we find the investment in small interim plants to be prudent. We find that these AFPI charges will allow Sunray to recover carrying costs associated with the interim plants until such time as customers connect to the system. Accordingly, we find the AFPI charges to be appropriate. Further, the charges will be effective on the stamped approval dates on the tariff sheets.

The level of the AFPI charges is based upon the date future customers connect to the system, which normally coincides with the payment of service availability charges. As discussed in an earlier portion of this Order, there is no certainty of the retirement date of the interim facilities. Therefore, we find that the AFPI charges should not be capped at December, 1992. It is Commission practice to cap the charges at the end of five years or at build-out of the facilities upon which the charges were based, if less than five years. Therefore, we find that the AFPI charges

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are to be capped at the December, 1994, charge or at whatever month retirement or build-out of the initial plants occurs, if prior to that date. The AFPI charges will be applicable to the first 460 ERCs for the water system and the first 250 ERCs for the wastewater system. After these ERC levels have been reached the charges will cease. Our calculation of AFPI charges is shown on Schedule No. 1.

#### GUARANTEE REVENUE CHARGES

##### Applicability of Guaranteed Revenue Charge to Cordele or Cimarrone

This issue was raised by C/C based on its position that applicability of guaranteed revenue charges would alter the Guarantee Agreement and the USA should not be approved, we find these agreements to be immaterial to the applicability of guaranteed revenue charges to Cordele or Cimarrone.

Pursuant to Florida Statutes, the Commission sets rates and charges for all customers on a non-discriminatory basis. Once guaranteed revenue charges or any other charges are approved by the Commission, they are applicable to all customers of the utility. Accordingly, we find it appropriate to apply guaranteed revenue charges to Cimarrone.

Further, we find that Cimarrone has paid service availability charges for 144 ERCs. Since the base facility charge is based upon 80 ERCs, we find Cimarrone's appropriate guaranteed revenue charge to be based upon the 144 reserved ERCs minus the 80 ERCs associated with the master meter.

##### Amount of Guaranteed Revenue Charges

As with AFPI, guaranteed revenues charges are designed to allow for recovery of fixed costs as well as return on investment associated with plant reserved by a customer. These charges commence upon payment of service availability charges and continue until an active customer is connected to the system. Although we are approving both AFPI and guaranteed revenues, there is no double recovery since the cost recovery is for different time periods.

In PAA Order No. 23341, we determined that guaranteed revenue charges be based upon the January, 1990, AFPI charges, adjusted to reflect the payment of service availability charges. Sunray's witness Todd agrees that such charges are appropriate. Cimarrone did not present any testimony regarding the calculation or level of these charges.

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Accordingly, we approve guaranteed revenue charges based upon the January, 1990 AFPI charges as discussed in an earlier portion of this Order, adjusted for payment of service availability charges. Further, we find no basis for capping guaranteed revenue charges. The approved Guaranteed Revenue Charges are:

Guaranteed Revenue Charges  
 (per ERC per month)

	Temporary	Commission Approved
Water	\$19.68	\$14.20
Wastewater	\$17.76	\$18.34

The Guaranteed Revenue Charges will be effective upon the stamped approval date of the tariff sheets.

Refund of Guaranteed Revenue Charges

Because the approved water guaranteed revenue charge is lower than the temporary charge, Sunray shall recalculate each month's bill and make refunds with interest pursuant to Order No. 23714 and in accordance with Rule 25-30.360, Florida Administrative Code.

CAPITAL STRUCTURE

The parties agreed that the capital structure, approved in PAA Order No. 23341, should be revised based on the current leverage graph found in Order No. 24246. Our calculation of the capital structure is shown on Schedule No. 2.

VIOLATION OF SECTION 367.041(2), FLORIDA STATUTES

C/C raised the issue that Sunray violated the provisions of Section 367.041(2), Florida Statutes, by not filing its rates and charges and by not including the Guarantee Agreement, the Utility Service Agreement and the Spray Irrigation Agreement with its initial application.

In this docket, the notice of application was protested before the application was filed. For this reason, the certificate application approval was bifurcated from the rate portion of the application. Pursuant to Order No. 18817, issued February 8, 1988, the setting of rates and charges was postponed and was to be determined in a subsequent PAA Order. For this reason, Sunray's application did not request rates and charges. Also, regarding

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inclusion of contracts in the application, we find there was no violation caused by not including contracts in the initial application because the contracts were executed several months after the application was filed. Further, we find that there is no requirement that the guarantee agreement would have had to have been filed, because it was not a contract to which the utility was a party, and it did not purport to effect or to set rates and charges. Based on the foregoing discussion, we find that there was no violation of Section 367.041 (2), Florida Statutes.

This docket shall remain open pending Staff's verification of refunds, after which this docket may be closed administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the application by Sunray Utilities, Inc. setting of rates and charges for water and wastewater service is hereby approved, to the extent set forth in the body of this Order. It is further

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

ORDERED that all matters contained herein, whether in the form of discourse in the body of this Order or schedules attached hereto are, by reference, expressly incorporated herein. It is further

ORDERED that the rates approved herein shall be effective for meter readings taken 30 days on or after the stamped approval date on the revised tariff sheets. It is further

ORDERED that the service availability charges approved herein shall be effective for connections made on or after the stamped approval date on the revised tariff sheets. It is further

ORDERED that the late payment fee approved herein shall be effective for service rendered on or after the stamped approval date of the tariffs. It is further

ORDERED that the AFPI charges approved herein shall be effective on the stamped approval date in the tariff sheets. It is further

ORDERED that the guaranteed revenue charges approved herein shall be effective upon the stamped approval date of the tariff sheets. It is further

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ORDERED that, prior to its implementation of the rates and charges approved herein, the utility shall submit and have approved revised tariff sheets. The revised tariff sheets will be approved upon Staff's verification that they accurately reflect this Commission's decision. It is further

ORDERED that Sunray Utilities, Inc. shall refund temporary rates, service availability charges, and guaranteed revenue charges as required by Order No. 23714 and as set forth in the body of this Order. It is further

ORDERED that the refunds and refund reports shall be completed in accordance with Rule 25-30.360, Florida Administrative Code. It is further

ORDERED that the docket may be closed upon the utility's filing of revised tariff sheets and Staff's approval of them and verification of refunds.

By ORDER of the Florida Public Service Commission, this 17th day of DECEMBER, 1991.

STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

CB

by: Kay Hegan  
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by

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filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be 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.

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Allowance for Funds Prudently Invested  
Calculation of Carrying Costs for Each ERC: WATER

Cost of Qualifying Assets:	\$ 549,559	Annual Depreciation Expense:	\$ 21,817
Divided By Future ERC:	460	Future ERC's:	460
	-----		-----
Cost/ERC:	\$ 1,194.69	Annual Depr. Cost per ERC:	\$ 47.43
Multiply By Rate of Return:	12.44%		-----
	-----		
Annual Return Per ERC:	\$ 148.62	Annual Property Tax Expense:	\$ 7,063
	-----	Future ERC's:	460
Annual Reduction in Return:	\$ 5.90		-----
(Annual Depreciation Expense	-----	Annual Prop. Tax per ERC:	\$ 15.35
per ERC Times Rate of Return)	-----		-----
Federal Tax Rate:	0.00%	Weighted Cost of Equity:	5.20%
Effective State Tax Rate:	0.00%	Divided by Rate of Return:	12.44%
	-----		-----
Total Tax Rate:	0.00%	% of Equity in Return:	41.80%
	-----		-----
Effective Tax on Return:	0.00%	Other Costs:	\$ 0
(Equity % Times Tax Rate)	-----	Future ERC's:	460
			-----
Provision For Tax:	0.00%	Cost per ERC:	\$ 0.00
(Tax on Return/(1-Total Tax Rate))	-----		-----

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Schedule No. 1  
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Allowance for Funds Prudently Invested  
Calculation of Carrying Cost Per ERC Per Month: WATER

	1990	1991	1992	1993	1994	1995
	----	----	----	----	----	----
January	18.45	241.59	486.32	755.31	1,051.58	1,378.53
February	36.89	261.82	508.54	779.78	1,078.59	1,408.39
March	55.34	282.04	530.77	804.26	1,105.60	1,438.24
April	73.79	302.27	553.00	828.74	1,132.61	1,468.10
May	92.23	322.50	575.23	853.22	1,159.62	1,497.95
June	110.68	342.73	597.46	877.70	1,186.63	1,527.80
July	129.13	362.95	619.69	902.18	1,213.64	1,557.66
August	147.58	383.18	641.91	926.66	1,240.64	1,587.51
September	166.02	403.41	664.14	951.14	1,267.65	1,617.37
October	184.47	423.63	686.37	975.61	1,294.66	1,647.22
November	202.92	443.86	708.60	1,000.09	1,321.67	1,677.08
December	221.36	464.09	730.83	1,024.57	1,348.68	1,706.93

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Allowance for Funds Prudently Invested  
Calculation of Carrying Cost Per ERC Per Year: WATER

	1990	1991	1992	1993	1994	1995
Unfunded Other Costs:	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Unfunded Annual Depreciation:	47.43	47.43	47.43	47.43	47.43	47.43
Unfunded Property Tax:	15.35	15.35	15.35	15.35	15.35	15.35
Subtotal Unfunded Annual Expense:	\$ 62.78	\$ 62.78	\$ 62.78	\$ 62.78	\$ 62.78	\$ 62.78
Unfunded Expenses Prior Year:	0.00	62.78	125.57	188.35	251.13	313.91
Total Unfunded Expenses:	\$ 62.78	\$ 125.57	\$ 188.35	\$ 251.13	\$ 313.91	\$ 376.70
Return on Expenses Current Year:	7.81	7.81	7.81	7.81	7.81	7.81
Return on Expenses Prior Year:	0.00	7.81	15.62	23.43	31.24	39.05
Return on Plant Current Year:	148.62	142.72	136.82	130.92	125.02	119.12
Earnings Prior Year:	0.00	148.62	317.64	509.59	727.34	974.08
Compound Earnings from Prior Year:	0.00	18.49	39.51	63.39	90.48	121.18
Total Compounded Earnings:	\$ 148.62	\$ 317.64	\$ 509.59	\$ 727.34	\$ 974.08	\$ 1,253.42
Earnings Expansion Factor for Tax:	1.00	1.00	1.00	1.00	1.00	1.00
Revenue Required to Fund Earnings:	\$ 148.62	\$ 317.64	\$ 509.59	\$ 727.34	\$ 974.08	\$ 1,253.42
Revenue Required to Fund Expenses:	62.78	125.57	188.35	251.13	313.91	376.70
Subtotal:	\$ 211.40	\$ 443.20	\$ 697.94	\$ 978.47	\$ 1,287.99	\$ 1,630.12
Divided by Factor for Gross Receipts Tax:	0.955	0.955	0.955	0.955	0.955	0.955
ERC Carrying Cost for 1 Year:	\$ 221.36	\$ 464.09	\$ 730.83	\$ 1,024.57	\$ 1,348.68	\$ 1,706.93

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Allowance for Funds Prudently Invested: WATER

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	1990	1991	1992	1993	1994	1995
	----	----	----	----	----	----
January	18.45	241.59	486.32	755.31	1,051.58	1,378.53
February	36.89	261.82	508.54	779.78	1,078.59	1,408.39
March	55.34	282.04	530.77	804.26	1,105.60	1,438.24
April	73.79	302.27	553.00	828.74	1,132.61	1,468.10
May	92.23	322.50	575.23	853.22	1,159.62	1,497.95
June	110.68	342.73	597.46	877.70	1,186.63	1,527.80
July	129.13	362.95	619.69	902.18	1,213.64	1,557.66
August	147.58	383.18	641.91	926.66	1,240.64	1,587.51
September	166.02	403.41	664.14	951.14	1,267.65	1,617.37
October	184.47	423.63	686.37	975.61	1,294.66	1,647.22
November	202.92	443.86	708.60	1,000.09	1,321.67	1,677.08
December	221.36	464.09	730.83	1,024.57	1,348.68	1,706.93

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Sunray Utilities Inc.  
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Schedule No.  
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Allowance for Funds Prudently Invested  
Calculation of Carrying Costs for Each ERC: SEWER

Cost of Qualifying Assets:	\$ 326,328	Annual Depreciation Expense:	\$ 14,166
Divided By Future ERC:	250	Future ERC's:	250
	-----		-----
Cost/ERC:	\$ 1,305.31	Annual Depr. Cost per ERC:	\$ 56.66
Multiply By Rate of Return:	12.44%		-----
	-----		
Annual Return Per ERC:	\$ 162.38	Annual Property Tax Expense:	\$ 5,216
	-----	Future ERC's:	250
Annual Reduction in Return:	\$ 7.05		-----
(Annual Depreciation Expense	-----	Annual Prop. Tax per ERC:	\$ 20.86
per ERC Times Rate of Return)	-----		-----
Federal Tax Rate:	0.00%	Weighted Cost of Equity:	5.20%
Effective State Tax Rate:	0.00%	Divided by Rate of Return:	12.44%
	-----		-----
Total Tax Rate:	0.00%	% of Equity in Return:	41.80%
	-----		-----
Effective Tax on Return:	0.00%	Other Costs:	\$ 0
(Equity % Times Tax Rate)	-----	Future ERC's:	250
			-----
Provision For Tax:	0.00%	Cost per ERC:	\$ 0.00
(Tax on Return/(1-Total Tax Rate))	-----		-----

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Allowance for Funds Prudently Invested  
Calculation of Carrying Cost Per ERC Per Month: SEWER  
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	1990	1991	1992	1993	1994	1995
	----	----	----	----	----	----
January	20.93	274.14	551.46	855.89	1,190.82	1,560.03
February	41.87	297.06	576.62	883.57	1,221.32	1,593.72
March	62.80	319.98	601.78	911.24	1,251.83	1,627.40
April	83.74	342.91	626.94	938.92	1,282.33	1,661.08
May	104.67	365.83	652.10	966.59	1,312.83	1,694.76
June	125.61	388.76	677.26	994.27	1,343.34	1,728.44
July	146.54	411.68	702.42	1,021.94	1,373.84	1,762.13
August	167.48	434.60	727.58	1,049.62	1,404.34	1,795.81
September	188.41	457.53	752.74	1,077.29	1,434.84	1,829.49
October	209.34	480.45	777.90	1,104.97	1,465.35	1,863.17
November	230.28	503.37	803.06	1,132.64	1,495.85	1,896.86
December	251.21	526.30	828.22	1,160.32	1,526.35	1,930.54

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Allowance for Funds Prudently Invested  
Calculation of Carrying Cost Per ERC Per Year: SEWER

	1990	1991	1992	1993	1994	1995
	----	----	----	----	----	----
Unfunded Other Costs:	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Unfunded Annual Depreciation:	56.66	56.66	56.66	56.66	56.66	56.66
Unfunded Property Tax:	20.86	20.86	20.86	20.86	20.86	20.86
Subtotal Unfunded Annual Expense:	\$ 77.53	\$ 77.53	\$ 77.53	\$ 77.53	\$ 77.53	\$ 77.53
Unfunded Expenses Prior Year:	0.00	77.53	155.06	232.58	310.11	387.64
Total Unfunded Expenses:	\$ 77.53	\$ 155.06	\$ 232.58	\$ 310.11	\$ 387.64	\$ 465.17
Return on Expenses Current Year:	9.64	9.64	9.64	9.64	9.64	9.64
Return on Expenses Prior Year:	0.00	9.64	19.29	28.93	38.58	48.22
Return on Plant Current Year:	162.38	155.33	148.28	141.23	134.18	127.14
Earnings Prior Year:	0.00	162.38	347.56	558.37	797.99	1,070.03
Compound Earnings from Prior Year:	0.00	20.20	43.24	69.46	99.27	133.11
Total Compounded Earnings:	\$ 162.38	\$ 347.56	\$ 558.37	\$ 797.99	\$ 1,070.03	\$ 1,378.50
Earnings Expansion Factor for Tax:	1.00	1.00	1.00	1.00	1.00	1.00
Revenue Required to Fund Earnings:	\$ 162.38	\$ 347.56	\$ 558.37	\$ 797.99	\$ 1,070.03	\$ 1,378.50
Revenue Required to Fund Expenses:	77.53	155.06	232.58	310.11	387.64	465.17
Subtotal:	\$ 239.91	\$ 502.61	\$ 790.95	\$ 1,108.11	\$ 1,457.67	\$ 1,843.66
Divided by Factor for Gross Receipts Tax:	0.955	0.955	0.955	0.955	0.955	0.955
ERC Carrying Cost for 1 Year:	\$ 251.21	\$ 526.30	\$ 828.22	\$ 1,160.32	\$ 1,526.35	\$ 1,930.54

Sunray Utilities Inc.  
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Schedule No. 9  
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Allowance for Funds Prudently Invested  
Schedule of Charges: SEWER  
-----

	1990	1991	1992	1993	1994	1995
	----	----	----	----	----	----
January	20.93	274.14	551.46	855.89	1,190.82	1,560.03
February	41.87	297.06	576.62	883.57	1,221.32	1,593.72
March	62.80	319.98	601.78	911.24	1,251.83	1,627.40
April	83.74	342.91	626.94	938.92	1,282.33	1,661.08
May	104.67	365.83	652.10	966.59	1,312.83	1,694.76
June	125.61	388.76	677.26	994.27	1,343.34	1,728.44
July	146.54	411.68	702.42	1,021.94	1,373.84	1,762.13
August	167.48	434.60	727.58	1,049.62	1,404.34	1,795.81
September	188.41	457.53	752.74	1,077.29	1,434.84	1,829.49
October	209.34	480.45	777.90	1,104.97	1,465.35	1,863.17
November	230.28	503.37	803.06	1,132.64	1,495.85	1,896.86
December	251.21	526.30	828.22	1,160.32	1,526.35	1,930.54

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Day Utilities Inc.  
 Schedule of Capital Structure  
 At 80% of Design Capacity

Docket No. 870539-WS  
 Schedule No. 2

Description	Balance	Utility	Balance	Commission	Balance	Commission		Weight	Cost	Weighted
	Per		Per		Per	Adjust.	Approved			
	Filing	Adjust.	Utility	Adjust.	PAA	Adjust.	Balance			
Common Equity	646,210		646,210		646,210	74,926	721,136	39.63%	13.11%	5.20%
Long and Short-Term Debt	984,213		984,213		984,213	114,116	1,098,329	60.37%	12.00%	7.24%
Customer Deposits			0		0	0	0	0.00%	8.00%	0.00%
Advances from Associated Companies			0		0	0	0	0.00%	0.00%	0.00%
Other			0		0	0	0	0.00%	0.00%	0.00%
	1,630,423	0	1,630,423	0	1,630,423	189,041	1,819,464	100.00%		12.44%

Range of Reasonableness:	High	Low
Common Equity	14.11%	12.11%
Overall Rate of Return	12.84%	12.04%

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