

DOCKET 900025-WS

CASE # 93-03339

VOLUME II

FILED  
JAN 15 1993  
TALLAHASSEE

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In The Matter of :  
Application for Staff- : DOCKET NO. 900025-WS  
Assisted Rate Case in Pasco :  
County by SHADY OAKS MOBILE- :  
MODULAR ESTATES, INC. :  
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PROCEEDING: HEARING

BEFORE: COMMISSIONER THOMAS M. BEARD  
HEARING OFFICER

DATE: Thursday, January 7, 1993  
JAN 15 1993

TIME: Commenced at 10:00 a.m.  
Concluded at 11:40 a.m.

LOCATION: Recreation Center  
Shady Oaks Mobile-Modular  
Estates, Inc.  
1702 Highway 39 South  
Zephyrhills, Florida

REPORTED BY: SYDNEY C. SILVA, CSR, RPR  
Official Commission Reporter

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

## 1 APPEARANCES:

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3 Services, 101 East Gaines Street, Tallahassee, Florida  
4 32399-0863, Telephone (904) 487-2740, on behalf of the  
5 Commission Staff.

6 RICHARD BELLAK, FPSC Office of General  
7 Counsel, Division of Appeals, 101 East Gaines Street,  
8 Tallahassee, Florida 32399-0863, Telephone No. (904)  
9 488-7464, Counsel to the Commissioners.

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## 12 ALSO PRESENT:

13 BRENDA MONROE, FPSC Information Services.

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I N D E XMISCELLANEOUS

STAFF'S MOTION TO COMPEL, REQUEST FOR  
SANCTIONS, AND MOTION TO DISMISS  
SHADY OAKS AS A PARTY

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EXHIBITS

2	<u>Number:</u>	<u>Identified</u>	<u>Admitted</u>
3	1 (Bremer) Letter January 6, 1993, to FPSC, with attachments	22	86
5	2 (Kellnhofer) Letter to Mr. Sims	35	86
6	3 (Bird) Letter from Elmer Dean	44	86
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P R O C E E D I N G S

(Hearing convened at 10:00 a.m.)

COMMISSIONER BEARD: If I could get everyone's attention, please?

Good morning. My name is Tom Beard and I am one of the Commissioners with the Florida Public Service Commission. And we're here today to take up an issue of a show cause against the Utility, I guess it's Shady Oaks Mobile Home Utility. And one of the primary purposes today in doing that will also be to hear from customers on any of the issues related to that.

I think there had been some question about how I as a Hearing Officer as opposed to having five Commissioners would work, and I will explain that to you. If you will bear with me just a minute, we need to do a few things, a few minor formalities, and get those out of the way; and that way, my lawyers can keep me out of trouble. So if you will bear with me for just a minute, we'll do that and then proceed from there.

Do you want to read the notice?

MR. FEIL: Yes, sir. Pursuant to notice, this time and place has been designated for the hearing in Docket No. 900025-WS, Application for a Staff-assisted rate case in Pasco County by Shady Oaks

1 Mobile-Modular Estates, Inc.

2 COMMISSIONER BEARD: Take appearances.

3 MR. FEIL: Matthew Feil representing the  
4 Commission Staff.

5 MR. BELLAK: Richard Bellak representing the  
6 Commissioners.

7 COMMISSIONER BEARD: I guess the record  
8 should show there is no legal counsel present for the  
9 Utility?

10 MR. FEIL: It would appear so, sir.

11 COMMISSIONER BEARD: Okay. Now, let me just  
12 briefly tell you a little bit how this works.

13 At the Commission we hear cases a variety of  
14 ways. Sometimes all five Commissioners will sit on a  
15 case; sometimes you will have three Commissioners that  
16 will sit as a panel and they will actually have the  
17 hearing; sometimes it's two Commissioners. And quite  
18 often in water and wastewater cases that is the  
19 situation because we're traveling typically to the  
20 area, just like we are today. Given the work load and  
21 the number of hearings we do, we have to split up.

22 In addition to that, sometimes we will do  
23 what is known as a Hearing Officer. And that will be  
24 the situation that we have today where I as the  
25 Commissioner will come and I will formally hold the

1 hearing; hear all the evidence; and the Staff will make  
2 a recommendation that I will approve or modify or deal  
3 with; and then I will recommend that to the full  
4 Commission. And they will have the ability to not only  
5 to read the transcripts from this hearing and look at  
6 all the information from the hearing, they will then  
7 look at the Staff's recommendation and any comments  
8 that I have. And then we will actually have a ruling  
9 on that from all five Commissioners. So they will be  
10 involved.

11 And as a part of that, the Staff and myself  
12 will be available for questions as to what occurred  
13 here today so we can try to make sure that they have a  
14 full and accurate picture. And it is very much the way  
15 we do business based on the work load.

16 Also, it sometimes helps to save a few  
17 taxpayer dollars if there's one of us that can come on  
18 a situation like this that is pretty factual and  
19 specific and not as much of a policy type decision, we  
20 can hopefully spend a few less taxpayer dollars in  
21 trying to do the same job.

22 So that's what we're doing today. At this  
23 point, I guess I had better stop and let Staff, how do  
24 you want to proceed on this this morning?

25 MR. FEIL: Mr. Commissioner, we do have one

1 preliminary matter, one outstanding motion. That was  
2 Staff's Motion to Compel, Request for Sanctions, and a  
3 Motion to Dismiss Shady Oaks as a Party.

4 Basically, what we asked for here was to  
5 compel the Utility to respond to some interrogatories.  
6 This motion was filed after the Prehearing Order was  
7 issued, by the way. I have a copy of it if you don't,  
8 sir.

9 COMMISSIONER BEARD: Let me dig out the file  
10 and see.

11 MR. FEIL: In summary, what this asked for  
12 was to compel responses to some of Staff's discovery,  
13 to ask for sanctions against the Utility, and to  
14 dismiss the Utility as a party to the proceeding.

15 Since it appears that the Utility is not  
16 going to be here today, the Request for Sanctions and  
17 the Motion to Dismiss Shady Oaks as a Party doesn't  
18 seem to be all that great of use, so I would ask at  
19 this time that you reserve ruling on those two items.

20 But with regards to the Motion to Compel, I  
21 would ask that you find that the Utility did not comply  
22 or did not respond fully to the discovery as set forth  
23 in the motion and that you order the Utility to produce  
24 the requested information by the end of this  
25 proceeding. And that, in conjunction with that, if the

1 Utility does show up and does produce the information,  
2 we'd like to reserve the right to recall our witnesses.

3 COMMISSIONER BEARD: Well, the Motion to  
4 Compel is granted. I'm a little concerned in not  
5 taking up the other two. The sanctions would be in the  
6 form of what?

7 MR. FEIL: You have the option laid out there  
8 in Paragraph 8.

9 COMMISSIONER BEARD: Okay.

10 MR. FEIL: They're listed there. You can  
11 order that the matters regarding the questions asked be  
12 deemed established. You can prohibit the party from  
13 supporting claims, strike pleadings, or dismiss the  
14 action or render a default judgment.

15 One of the reasons that we're here today or  
16 the primary reason that we're here today, even though  
17 the Utility hasn't played its role in this proceeding,  
18 is because there is a case which suggests that when  
19 you're taking punitive action against a regulated  
20 entity, you need to have evidence on the record showing  
21 why that action should be taken. That's why we're  
22 having the hearing, even though the Utility has not  
23 participated.

24 COMMISSIONER BEARD: Okay. I will reserve  
25 ruling on these sanctions. What are the implications

1 if I were to go ahead and dismiss the Utility as a  
2 party to this proceeding? I know that it is somewhat  
3 moot since they're not here, but I also don't want to  
4 be in a position of getting through most of the  
5 testimony this morning and turn around and have  
6 somebody show up at the last second.

7 MR. FEIL: I would suggest that if the  
8 Utility did show up then we could take up that motion  
9 when the Utility shows up; and if he wants to argue his  
10 side of the matter, then we can take it up then.

11 COMMISSIONER BEARD: Okay. The Motion to  
12 Compel is granted and we'll need to move forward on  
13 whatever actions we need to take pursuant to those  
14 records.

15 MR. FEIL: Yes, sir.

16 COMMISSIONER BEARD: Okay, now where are we?

17 MR. FEIL: Although the Prehearing Order  
18 doesn't make it clear, there is an issue with regards  
19 to quality of service. And there are customers here  
20 today, as you can see, and they wish to express to you  
21 their opinions on that issue.

22 COMMISSIONER BEARD: Okay.

23 MR. FEIL: I have a list of persons who have  
24 given me their names.

25 COMMISSIONER BEARD: Let me do this for you

1 all's benefit as well. Some of you may have attended  
2 the rate case type hearings in the past for whatever  
3 reason, but let me tell you what we'd like to do at  
4 this point.

5 We will take testimony -- and I call it that  
6 because we will ask those that come forward to speak to  
7 be sworn in. We do that so that we can incorporate  
8 that as an official part of the record. And we say up  
9 front that we try to keep this just as relaxed and calm  
10 as possible because some people are less comfortable  
11 talking in front of a crowd in front of a microphone.  
12 We want you to be comfortable because we want to hear  
13 what you have to say.

14 There's a couple of ways to do that. Anybody  
15 who wishes to, we'll get your name if we don't already  
16 have it, you can come forward and speak. If there are  
17 those of you out there that are not real comfortable  
18 with the microphone and somebody says what they have to  
19 say and you agree with it and that's what you would  
20 have said, you can come forward and you can say, "I  
21 agree with so-and-so and I would adopt their  
22 testimony." Maybe that's a little more comfortable  
23 for some people.

24 In addition to that, Brenda, do we have the  
25 forms they can fill out?

1 MS. MONROE: Yes. They're attached to the form.

2 COMMISSIONER BEARD: Okay. Attached is a  
3 piece of paper; and if you are even less comfortable  
4 talking in front of the microphone and you wanted to  
5 write out what your thoughts were and sign that, that  
6 will work equally well and become a part of the record.

7 The bottom line is that we want you to be  
8 comfortable, I want to hear what you have to say. We  
9 would ask, especially when you see a crowd of this  
10 size, that you be as concise as you can, and brief.  
11 And if you have written materials, we will be glad to  
12 accept those as well and make those a part of the  
13 record.

14 So the main thing is we want you to be  
15 comfortable and we want to get the information from you.

16 With that, what we'll do is ask each person  
17 to come forward as we call your name. Whoever the  
18 first person is, when they do that, what I'll do for  
19 ease and also to keep things a little bit smoother, I  
20 will ask anybody that has signed up to testify or  
21 wishes to testify, if you will all stand and I'll swear  
22 you all in at one time. It's a little less  
23 confrontational and smoother for everybody.

24 If you will go ahead and call the first person.

25 MR. FEIL: The first person I have on the



1 list is Virginia Bremer. I apologize if I mispronounce  
2 your name.

3 COMMISSIONER BEARD: Come on over here, if  
4 you would. If the rest of you who signed up who wish  
5 to testify, if you will stand now and allow me to swear  
6 everybody in at one time, I would appreciate it.

7 (Witnesses sworn collectively.)

8 COMMISSIONER BEARD: If you will also one  
9 last thing to help us and the court reporter. When you  
10 come up, if you will give us your name, please spell  
11 your last name, and address and we can go from there.

12 VIRGINIA BREMER

13 was called as a witness and, having been duly sworn,  
14 testified as follows:

15 WITNESS BREMER: Virginia Bremer, B as in  
16 Boy, B-R-E-M-E-R. 3655 Muller Drive.

17 COMMISSIONER BEARD: Thank you. Okay.

18 WITNESS BREMER: I'm here today to make a  
19 statement of my dissatisfaction with S&D Utility. My  
20 dissatisfaction actually is threefold. It began prior  
21 to a correspondence dated 10-6-92. It continued  
22 through the replacement of my meter and subsequent to  
23 the replacement of my meter. You gathered probably  
24 that I have a problem with my meter.

25 Okay. Preceding the correspondence of

1 10-6-92, S&D Utility was aware that my consumption was  
2 excessive of norms by any standard. However, they did  
3 not choose to advise me of this until 10-6-92. At that  
4 point in time, I got a correspondence in the form of a  
5 memo from S&D Utility stating my usage for the past  
6 three months. The lowest month was 24,000 and the  
7 total was something like 87,000.

8 The memo indicated that, for usage of this  
9 nature, there probably was a leak. I was a full-time  
10 resident, I was at no time away, so one would have  
11 thought I would have noticed a leak of that magnitude.

12 Nonetheless, I did immediately on 10-7 call a  
13 plumber, Bruce Carrigan Plumbing -- a reputable firm,  
14 I've used them before -- and they sent a repairman and  
15 he checked the house very thoroughly. Inside the  
16 house, the toilets, tub, sinks, whatever; outside the  
17 house, the hose locations. He crawled underneath the  
18 trailer and checked all the connections underneath the  
19 trailer and he concluded that there were no leaks at  
20 that time.

21 He suggested to me that it had to be a  
22 problem with the meter.

23 He did a quickie field test; you know, he had  
24 a five-gallon pail and he filled the pail and it  
25 appeared to be correct. And he said, "Unless you had

1 this hose running nonstop for days, there's no  
2 indication, that it must be in the internal workings of  
3 the meter."

4                   Therefore, I called back Mr. Sims and told  
5 him that I had a repair person there and he certified  
6 the fact there were no leaks at my mobile and therefore  
7 it must be a problem with the meter.

8                   Mr. Sims said that he would be out the next  
9 day. And he did advise me that if by chance the  
10 problem was not with the meter that I would be  
11 responsible for the cost of the switchover.

12                   I, in good faith, had him come out thinking  
13 that there's no possible way by the consensus of Mr.  
14 Sims himself saying that there must be a leak, the  
15 consensus of the plumber saying there were in fact no  
16 leaks, and the consensus of myself figuring it was  
17 impossible to use close to 92,000 gallons of water in  
18 three months unless I was doing swimming pools or  
19 something.

20                   Anyway, the following day, 10-8, prompt and  
21 courteous service, Mr. Sims came to my house with a  
22 person under his employ, Mr. Daley. They arrived at  
23 10:30 a.m. They were to replace the meter. They did  
24 no field test, they gave me no estimate of repair  
25 costs, they just simply proceeded; and I found no

1 objection with that at that time.

2           However, as the day progressed, I found quite  
3 a few objections. The first was that Mr. Daley did not  
4 seem to be able to remove the meter. He could not undo  
5 the joints -- I'm not a plumber, so I'll not sure, but  
6 it appeared to me he was having trouble. He gave up on  
7 that and cut the pipe so he could get the meter out.

8           Following that, he realized he could not put  
9 the new meter in because the pipe was too short.

10           Then he tried several times to repair that  
11 pipe, to extend that pipe with different types of glue  
12 and whatever kind, little blue liquid, I don't know,  
13 several different kinds of things. He tried to repair  
14 that pipe.

15           COMMISSIONER BEARD: This is PVC pipe?

16           WITNESS BREMER: Yeah. He did think he had  
17 it fixed and then he put in the new meter. He did not  
18 have it fixed, there were major leaks on both sides.

19           I might also add that he did not have a  
20 truck, he did not have a tool box, he did not have the  
21 supplies needed, the pipes or whatever that were  
22 needed. In fact, I loaned him a screwdriver and a saw,  
23 he did not even have those basic pieces of equipment.

24           Eventually, he tried some kind of putty stuff  
25 he put around the pipe, that failed. Then he tried

1 some kind of gauze type stuff that he put around the  
2 pipe, that failed. He tried some different kind of  
3 fluid, that failed.

4 Finally, he sent Mr. Sims out -- I might add  
5 that he didn't have these; periodically, Mr. Sims had  
6 to run out to get these different supplies to fix the  
7 meter, which, of course, took time, which was going on  
8 the meter they were charging me.

9 Finally he did go out and get some different  
10 type of PVC connection and that worked on my side of  
11 the meter. I might add to date, it still dribbles on  
12 the Utility side of the meter.

13 Mr. Daley by any standards in my estimation  
14 was professionally incompetent and not knowledgeable at  
15 all about the plumbing system that he was repairing.  
16 And probably a competent plumber could have done that  
17 same job I would suggest in about an hour. Because I  
18 had asked Mr. Carrigan when he was there what would be  
19 entailed in changing the meter, and he said it was not  
20 a big job, he said about an hour. That was the first  
21 two phases of my complaint.

22 The third phase of my complaint began when I  
23 got notice from both Mr. Daley and Mr. Sims via the  
24 Utility that I owed \$125 to Mr. Daley and \$40-some to  
25 the meter tester and \$18 and change to Mr. Sims for the

1 water usage that was on the old meter because they  
2 found the meter valid.

3 Now, prior to taking the meter away, I  
4 mentioned to Mr. Sims that when the meter was  
5 stationary -- you know, no water was being used, the  
6 little teeny triangle in the middle wasn't going around  
7 -- that the hand, the sweep hand that measured the  
8 gallons, did move very slowly. If you looked at it  
9 over time with no usage that it did seem to go around.

10 COMMISSIONER BEARD: What they call creep, I  
11 think.

12 WITNESS BREMER: Is that what they call it?  
13 Okay.

14 So I told him when he checked the meter to  
15 make sure he checked the mechanical parts of it as well  
16 as the flow rate, because the flow rate did appear to  
17 be accurate when you were using the water. It was when  
18 you weren't using water that it appeared to be  
19 registering gallons that weren't happening.  
20 Nonetheless, in spite of my suggestion, Mr. Sims via  
21 the Utility chose only to have the meter tested for  
22 flow.

23 And I have a list written down that I will  
24 submit to you in addition to which I have the flow  
25 correspondence which, I might add, has two meters on

1 it. I don't know why I was charged for both of them;  
2 but I got a bill for \$40 of this, but it indicates that  
3 two meters, only one of which was mine, that they just  
4 tested it for flow. For 100 gallons, I assume, I can't  
5 really tell this; but it's 98.8, 100.8, 99.9, so I  
6 assume that means gallons. It says what the GPM --  
7 gallons per minute, I guess -- at the different rates.

8           Therefore, I'm still contesting the fact that  
9 I actually used this water. Not to mention that prior  
10 to the change of the meter I was living alone, I live  
11 alone normally as a course of existence.

12           Since the change of the meter, which was  
13 October 8th, on October 22nd, my daughter came to stay.  
14 She's relocating to Florida and she's living with me on  
15 a day-to-day basis; in other words, that's her  
16 residence, has been since October 22nd. Also, her  
17 husband has visited for like two weeks at Thanksgiving  
18 and two weeks at Christmas; and he will be coming down  
19 also.

20           The usage that we have experienced since the  
21 meter changed has been 3,300 gallons for the first 20  
22 days, 6,820 for the month of December and 5,280 for the  
23 month of November. Three-month gallonage total of  
24 15,400 gallons since the meter has changed. And, if  
25 anything, my usage has increased due to additional

1 people in the household.

2 This compares with 92,270 gallons which was  
3 given on the meter for the first three months. Might  
4 have been a little more, maybe three-and-a-half months,  
5 however long the meter was in.

6 Considering these discrepancies and the fact  
7 that a competent plumber established that there were no  
8 leaks at my house and I will swear under oath that I  
9 did not water my lawn 24 hours a day for 14 days, I  
10 really feel that there was a problem with the meter  
11 that went undetected due to improper screening or  
12 whatever they do, testing.

13 COMMISSIONER BEARD: Okay.

14 WITNESS BREMER: So that's my problem. To  
15 date, I have not paid either one of the bills in saying  
16 I am protesting.

17 COMMISSIONER BEARD: A couple of quick  
18 questions. One, at my house, if I was concerned about  
19 a leak the first thing I would do is turn all the water  
20 off and go look at the meter and watch that little  
21 thing and see if it was turning.

22 WITNESS BREMER: I did that; it was not  
23 turning.

24 COMMISSIONER BEARD: It was not turning.  
25 That's what I call a clue where I come from, to find



1 out if there was a leak before you even have a plumber  
2 crawl underneath.

3 The Utility is aware you are protesting this;  
4 is that correct?

5 WITNESS BREMER: Yes.

6 COMMISSIONER BEARD: Okay. I had assumed --

7 WITNESS BREMER: In fact, Mr. Sims told me to  
8 contact you people. And Christmas was there and I just  
9 didn't do anything; and then this hearing came up and I  
10 just took advantage of the hearing.

11 COMMISSIONER BEARD: Staff, what I would like  
12 to do is, obviously, follow up on this. And one of the  
13 first questions that would come to mind, I would like  
14 to know if the old meter is still there and available  
15 for inspection. And I'm thinking about the potential  
16 situation there where under flow it tests correctly but  
17 not when it's flowing that you have some kind of meter  
18 creep that can continue to happen.

19 MR. FEIL: Yes, sir.

20 COMMISSIONER BEARD: We will do that. For  
21 everybody's information, typically if the Utility were  
22 here, we would have the Utility follow up and give us  
23 the details and we would follow behind that. In their  
24 absence, we'll make sure we get the information that we  
25 need.

1 WITNESS BREMER: I have the meter number  
2 here, at least the meter --

3 COMMISSIONER BEARD: Great. If you will give  
4 that information to the court reporter for the record,  
5 and then Staff also as a result will have that. And we  
6 can pursue that meter in particular and see if -- I  
7 don't know what our rules are on maintaining the meters  
8 in the water industry when there's a protest.

9 MR. FEIL: I couldn't give you a detailed  
10 breakdown right now.

11 COMMISSIONER BEARD: Okay. But we will  
12 pursue this.

13 WITNESS BREMER: Okay. There is a copy of  
14 the bills and the plumber's statement. Thank you very  
15 much.

16 COMMISSIONER BEARD: Thank you very much.

17 MR. FEIL: Did you want to assign an exhibit  
18 number to those bills?

19 COMMISSIONER BEARD: Yeah. I think so. It  
20 would be Exhibit No. 1?

21 MR. FEIL: Exhibit 1, yes, sir.

22 (Exhibit No. 1 marked for identification.)

23 (Witness Bremer excused.)

24

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25 COMMISSIONER BEARD: Okay. And for those of

1 you who are not aware, these are members of the Florida  
2 Public Service Commission Staff that will be helping me  
3 as we further investigate these kind of things.

4 Go ahead.

5 MR. FEIL: I have Barbara Arnold, the next  
6 name on the list.

7 BARBARA ARNOLD

8 was called as a witness and, having been duly sworn,  
9 testified as follows:

10 COMMISSIONER BEARD: Good morning.

11 WITNESS ARNOLD: Good morning. I live at  
12 38441 Willoughby Drive.

13 COMMISSIONER BEARD: And it's Barbara Arnold?

14 WITNESS ARNOLD: Barbara Arnold, A-R-N-O-L-D.

15 My toilet bowl overflowed on Saturday afternoon,  
16 December 12, of 92. The plumber came the following  
17 Monday afternoon. After using a snake in my line, he  
18 found nothing. It was 5:00 p.m., so he said he would  
19 return at 10:00 the next morning to probe and dig to  
20 find the obstruction. He suggested it could be roots  
21 where my line connected to the main line.

22 After thinking this over, I decided that  
23 evening to call S&D Utility to explain the situation.  
24 Mr. Sims answered and said he would be in the park the  
25 next morning. The next morning, the plumber and

1 assistants probed and dug to locate where my line  
2 entered the main. He found a tee connected to a larger  
3 clay pipe, which he cut off and the clay pipe sagged.  
4 He also cut my pipe entering the tee and on the other  
5 side Mr. Knapp, who owned the other pipe. This tee  
6 serviced two mobile homes.

7           The plumber showed us that the larger clay  
8 pipe was closed with roots. At that time, or soon  
9 after, Mr. and Mrs. Bird came and I believe Mr. Bird  
10 took some pictures of this closed pipe closed with  
11 roots.

12           Meanwhile, a neighbor had summoned Mr. Knapp,  
13 who owned the other property. I believe he rents. And  
14 there was no one at that time using his mobile.

15           Mr. Knapp and I felt that the clay pipe was  
16 part of the main, so it should not be our  
17 responsibility. Mr. Sims claimed he was only  
18 responsible for the main line. The plumber did not  
19 want to commit himself, but he did tell me later that  
20 on the tee going into a main line, if it was not in  
21 your line, it was considered part of the main line.  
22 That's all he would say.

23           The plumber cleaned the clay pipe -- he had  
24 to or I could not use my bathroom -- leading into the  
25 main and removed a mess of roots. He told Mr. Sims

1 that this main, his main, was filled with roots so this  
2 was only a temporary job, we would have more trouble.

3 Mr. Sims still said that he was not  
4 responsible.

5 Mr. Knapp and I each paid half of a \$250  
6 bill. On December 16, I mailed my bill, \$125, to S&D,  
7 asking the Utility to reimburse me. I have received no  
8 apply.

9 COMMISSIONER BEARD: Okay. I would like to  
10 do some work on this one as well. Number one, I would  
11 like to know who installed the pipe up to the tee, if  
12 we have records on that. It sounds as though it was  
13 installed by the Utility but we need to find that out.  
14 We'll pursue this as well.

15 Yes, ma'am.

16 WITNESS D. BIRD: I'm Dorothy Bird and my  
17 husband and I were both present at that. There is a  
18 part of that clay pipe available for inspection if your  
19 Staff needs to look at it.

20 COMMISSIONER BEARD: Okay.

21 (Witness Arnold excused.)

22

23 MR. FEIL: The next name I have is William  
24 Knapp.

25 WITNESS D. BIRD: I don't believe he's here.

1 MR. FEIL: There was a question mark listed  
2 by his name.

3 COMMISSIONER BEARD: Okay. Well, we'll go  
4 ahead.

5 MR. FEIL: The next name I have is Lamont Wilch.

6 LAMONT WILCH

7 was called as a witness and, having been duly sworn,  
8 testified as follows:

9 WITNESS WILCH: I'm Monty Wilch or Mont  
10 Wilch, W-I-L-C-H. I reside at 38525 Cone Drive.

11 Last winter, I think it was in February,  
12 there was a leak on my property and it was starting to  
13 undermine the slab on my storage unit. And I contacted  
14 Sims several times and he wasn't really concerned about  
15 it. Well, I did find him over at his office one day  
16 and I told him that, "I think this is an emergency;"  
17 because I was estimating maybe 60 gallons an hour it  
18 was leaking, and this had been running for three or  
19 four days.

20 And he did finally come out the next day and  
21 he brought a helper along. And they dug it up, the  
22 line, they found the leak. It was right by the meter  
23 that belongs to my neighbor. I have two meters on my  
24 property; and the way I understand it, I should have  
25 one meter on my property, my own meter. Mr. Garrett's

1 meter is also located on my property and that's the issue.

2 When they had this dug out or dug up, I  
3 suggested to Sims that while he has this dug up here  
4 let's just move the meter over to my neighbor's  
5 property where it belongs. And he says, "No, I'm not  
6 going to do that."

7 And then I can't remember whether it was  
8 his helper or whether it was Sims that said they put  
9 this meter where public service told them to put it.  
10 (Laughter)

11 Well, I had no argument there I -- maybe you  
12 people did tell him where to put it but --

13 COMMISSIONER BEARD: Yes, sir. We go out  
14 when every meter is installed in the state of Florida  
15 and have them -- (Laughter)

16 WITNESS WILCH: I knew that.

17 COMMISSIONER BEARD: As a matter of fact, I  
18 go on most of them myself, just to make sure they're  
19 right. (Laughter)

20 WITNESS WILCH: Good. Good. So,  
21 consequently, I still have two meters on my property and I  
22 still say that they should move that over to Mr. Garrett's  
23 property and everybody would be happy. That's all have I  
24 to say.

25 COMMISSIONER BEARD: Okay.

1 WITNESS WILCH: Thank you.

2 MR. FEIL: Mr. Commissioner, I would like to  
3 ask the witness one question.

4 COMMISSIONER BEARD: Yeah.

5 MR. FEIL: Mr. Wilch, can you give me an  
6 opinion as to whether or not your quality of service  
7 has improved since the rates went up?

8 WITNESS WILCH: I just arrived two days ago  
9 from Colorado. I'm down here three months out of the  
10 year. I don't know, I haven't used any water.

11 MR. FEIL: Thank you.

12 WITNESS WILCH: You're welcome.

13 COMMISSIONER BEARD: Thank you very much.

14 (Witness Wilch excused.)

15

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16 MR. FEIL: Commissioner, Mr. Rieger, I believe  
17 has some knowledge regarding the meter installations and  
18 the piping around here, so --

19 MR. RIEGER: We'll address that.

20 COMMISSIONER BEARD: Okay.

21 MR. FEIL: The next name I have is Alvin  
22 Lachapelle. I hope I pronounced your name correctly, sir.

23 ALVIN LACHAPELLE

24 was called as a witness and, having been duly sworn,  
25 testified as follows:



1                   WITNESS LACHAPELLE: My name is Alvin  
2 Lachapelle, L-A-C-H-A-P-E-L-L-E. And my complaint is  
3 about office hours. I mean, Mr. Sims has posted in his  
4 office door a sign that keeps changing monthly. One month  
5 it might be Wednesday, 10:00 to 12:00; another month it's  
6 Thursday, 9:00 to 11:00; we never know when the office  
7 hours are going to be, so we have to keep checking the  
8 office hours. And on two occasions, I have offered him my  
9 check for my water and sewer bill and it wasn't on an  
10 office day so he refused to accept my checks. I can only  
11 deliver my check on an office hour day and that's my  
12 complaint.

13                   COMMISSIONER BEARD: You haven't seen any  
14 office hours in the middle of night, have you?

15                   WITNESS LACHAPELLE: Well, yesterday was an  
16 office hour day and he didn't show up at all. So that  
17 happens frequently also.

18                   COMMISSIONER BEARD: Okay.

19                   WITNESS LACHAPELLE: Thank you.

20                   COMMISSIONER BEARD: Thank you very much.

21                   (Witness Lachapelle excused.)

22

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23                   MR. FEIL: Mr. Commissioner, the next name I  
24 have is Marie Kellnhofer.

25

MARIE KELLNHOFER

was called as a witness and, having been duly sworn,  
testified as follows:

WITNESS KELLNHOFER: My name is Marie  
Kellnhofer. I live at 3652 Muller Drive. Kellnhofer  
is spelled K-E-L-L-N-H-O-F-E-R.

COMMISSIONER BEARD: Thank you.

MS. KELLNHOFER: I have two complaints but  
the first one which happened last year has been  
resolved. But do you want this for the record anyway?

COMMISSIONER BEARD: Sure.

MS. KELLNHOFER: Okay. Last year, my husband  
went out in the back yard and he noticed a big pool of  
water. It was not on our property, it's right behind  
our property.

So we knew there was a leak there and so we  
notified Mr. Sims. And he came -- well, all right,  
this is the letter I have, I think it's better if I  
read it.

The water was bubbling up out of a PCV  
two-inch pipe and spreading around the area.  
Suspecting that this must be the location of the water  
main, we called Mr. Sims at his home in Tampa. This  
was about 4:00 p.m. on a Thursday. Mr. Sims seemed  
polite and said, "I'll take care of it tonight or

1 tomorrow morning." We reminded him that a lot of  
2 water was going to waste and we had a mere trickle of  
3 water from our faucets.

4 He didn't show up that evening or on Friday  
5 morning by 9:00 a.m. So my husband got on his bicycle  
6 and rode up to the office. Mr. Sims was there. And  
7 when asked why he didn't show up, he said we should  
8 call a plumber and it wasn't his problem. That seems  
9 to be his favorite by-word.

10 A plumber was working in the neighborhood, so  
11 we asked him to walk over and take a look. He did so  
12 and said he would fix it, but who will pay for it? He  
13 won't work for Mr. Sims because he doesn't pay his  
14 bills. We said we'd pay.

15 He said he had another job to go to but would  
16 come as soon as Mr. Sims would shut off the water.  
17 We'd only have to call the plumber's office and he'd  
18 get the word and he'd come right over.

19 Well, my husband went back to Mr. Sims to ask  
20 him to shut off the water. Mr. Sims reply was, "You  
21 see this stack of papers? They're all from the  
22 Commission and I have to abide by their rules. I can't  
23 shut the water off until they tell me I can. Before I  
24 can, you will have to notify everyone in the park of  
25 the time it will be shut off."

1 Well, the water didn't get shut off. He  
2 said we could call the Commission if we wanted to, he  
3 wasn't going to call them.

4 On the third trip to the office to urge him  
5 to shut the water off so we could get it fixed, he  
6 handed Clarence a message memo of which I'm sending you  
7 a copy -- of which I did. And on that memo he said  
8 that they had had trouble with that when Mr. Peare  
9 owned the place that we live in. And he came, and he  
10 said he only put in a temporary repair and Mr. Peare  
11 was supposed to have it fixed. It is not on our  
12 property, it is where it hooks onto the main.

13 I called Mr. Peare, the former owner of our  
14 home, and he denied that Mr. Sims said he had only made  
15 a temporary repair, and said Mr. Sims was a liar and  
16 always has been. Now, those are aren't my words, those  
17 are Mr. Peare's words.

18 By this time, Clarence gave up trying to  
19 reason with Mr. Sims and was very emotionally upset, as  
20 he has medical problems. Then Mr. Bob Lindahl, our  
21 Association President whom you've met when you were  
22 here at our clubhouse, offered to talk to Mr. Sims. By  
23 that time, the plumbers were finished for the day; and  
24 it being Friday, they were finished for the week. The  
25 plumber had told us they get time-and-a-half on

1 evenings and Saturdays, \$60 per hour.

2 Well, Mr. Sims came to the park on Saturday  
3 morning, called Mr. Lindahl and asked what time we  
4 wanted the water off. Mr. Lindahl called us and we  
5 said we weren't paying \$60 an hour for a plumber on  
6 Saturday when we could have had one for \$40 on Friday.

7 By now we didn't even have a trickle of water  
8 in our house, but the lake in the back was getting  
9 bigger. We said we would schedule a plumber for 9:00  
10 a.m. on Monday. Mr. Sims returned to his home in Tampa  
11 without even coming to have a look at the lake.

12 By Monday a.m. the water had spread into two  
13 more neighbors' yards. When Mr. Sims arrived Monday  
14 morning, he again called Mr. Lindahl, not us, and asked  
15 what time to shut off the water. When told again 9:00  
16 a.m., he said, "I'll shut it off right now." Which was  
17 8:45 a.m.

18 The plumber arrived about the same time, put  
19 a pump in the washed out hole, and began pumping out  
20 water as they dug. After about an hour of pumping,  
21 they were able to get to the problem.

22 As they dug, pieces of rags and plastic came  
23 out on their shovels. These must be evidences of the  
24 temporary repairs Mr. Sims made when Mr. Peare owned  
25 the home.

1           The two leaks were still gushing water when  
2 they uncovered them, even though the system was shut  
3 off. The leaks were at each end of a nipple between  
4 the shutoff and the main. Tree roots had found this  
5 leak and had to be cut away with a jackknife to expose  
6 the problem.

7           His temporary repair must have been to tie a  
8 rag from our shutoff valve to his line to hold the leak  
9 shut.

10           This repair cost us \$99.43 for 2.5 hours  
11 labor and \$8.40 for the parts. We were without water  
12 for three days. We have better pressure now than we've  
13 ever had since we lived there, which is evidence that's  
14 been leaking a long time.

15           And the rest of the letter I just said that  
16 we don't think Mr. Sims is the right person to be  
17 running a utility, we can't count on him for any  
18 service or cooperation in the event of problems.

19           COMMISSIONER BEARD: Let me ask you a  
20 question just so I can get clear in my mind. Where  
21 this leak is occurring, where is your meter in  
22 relationship to that?

23           WITNESS KELLNHOFER: Now, our meter, I  
24 thought that's where he'd put the meter in. But he did  
25 not, he put it right up by the back of our house and I

1 have another complaint about that.

2 COMMISSIONER BEARD: So in other words, if I  
3 was to trace a line from your house, it would go to the  
4 meter and then it would keep coming out to where this  
5 leak was?

6 WITNESS KELLNHOFER: We didn't have meters at  
7 that time. The meter was put in while we were gone  
8 this summer.

9 COMMISSIONER BEARD: Okay. But where the  
10 meter is now and where the leak is, it's on his side of  
11 the meter?

12 WITNESS KELLNHOFER: Yes. Uh-huh. Right.

13 COMMISSIONER BEARD: Okay.

14 WITNESS KELLNHOFER: Well, that was -- anyway --

15 COMMISSIONER BEARD: Can we have a copy of  
16 that for the record?

17 WITNESS KELLNHOFER: Yes, you had a copy. Do  
18 you want another copy?

19 COMMISSIONER BEARD: Yeah.

20 WITNESS KELLNHOFER: What shall I do with  
21 this?

22 COMMISSIONER BEARD: Just give it to the  
23 court reporter there when you get done. That's fine.  
24 That will be Exhibit No. 2.

25 (Exhibit No. 2 marked for identification.)

1                   WITNESS KELLNHOFER: Well, anyway, the  
2 Commission helped resolve that. You got ahold of Mr.  
3 Sims; and Mr. Sims wrote, "Concerning your letter dated  
4 March 13, 1991, and postmarked March 18, we would  
5 appreciate your sending us copies of the cost incurred  
6 for proper reimbursement." Then I got another one,  
7 "We are enclosing a check in the amount of \$99.43 as  
8 per your letter of March 28," which we received on  
9 April 2. So that problem was resolved by Mr. Sims, he  
10 did pay for it. That was the first one.

11                   Okay. Now, we have another one. On Friday,  
12 September 18, we returned to our home at 3652 Muller  
13 Drive, Shady Oaks, from up north. We had notified Mr.  
14 Sims that we were returning on that date and wanted the  
15 water turned on. We had no water, so we called Mr.  
16 Sims at his Tampa home at 5:30 p.m., this was also on a  
17 Friday night. He said he wouldn't come out any more  
18 that night and didn't know if he could come on Saturday  
19 either. Well, I said, "Then you mean we have to be  
20 without water all weekend?" And he didn't answer that.

21                   So we went to a restaurant because we didn't  
22 have any water to cook any food. And after we  
23 returned, the telephone rang and it was Mr. Sims and he  
24 said he was trying to get ahold of us. And I said,  
25 "Well, we had to go out eat because we didn't have any



1 water to cook with."

2           So on Saturday a.m. he did come. He brought  
3 his son with him. The son dug down beside the meter  
4 box which had been installed while we were gone. And  
5 it's just a couple feet away from the back of our  
6 house. At the back of our house we had a shutoff valve  
7 where we could shut our water off when we go away. And  
8 we have a white PVC sleeve over our shutoff valve with  
9 a cap over it.

10           Well, my husband picked up the cap and there  
11 was nothing under it but dirt. The pipe was gone. So  
12 the son dug down beside the meter box which had been  
13 installed while we were gone. It was installed near  
14 our own private shutoff, which is two feet from the  
15 house.

16           He said, "The water has been on all the  
17 time." We asked, "Where is our shutoff valve and  
18 sleeve that we had to shut off our house water?"

19           The son dug some more and he found the sleeve  
20 that was buried in the hole along with our shutoff  
21 valve. He turned on our shutoff valve and the water  
22 went on in the house, but there was a bad leak at the  
23 adaptor to the valve.

24           He said, "That's your problem." You see,  
25 there he went again, "It's beyond my meter."

1           We said, "Whoever did the plumbing cracked  
2 that adaptor when they disturbed it to join the pipe to  
3 your meter."

4           He said, "That's the contractor's problem,  
5 not mine." With that, he left.

6           We asked him to leave the hole open so we  
7 could keep our eye on the leak. On Monday morning, we  
8 reached our plumber, Mr. Carrigan, and he came right  
9 over and made the repair. He, too, said that the  
10 fitting was definitely cracked by being disturbed by  
11 the plumber or the persons installing the meters.

12           We feel that Mr. Sims should pay for this  
13 repair bill, as it was his crew's carelessness that  
14 caused it. And then I mentioned in my letter that  
15 there were other bad leaks throughout the park, and  
16 that he knew about them; and since that he has fixed  
17 some of those leaks.

18           Well, anyway, we got the reply from your  
19 Commission. You acknowledged my letter and said you'd  
20 look into the matter and get back in touch with you at  
21 the conclusion of the investigation. I got another  
22 note from you that said, "This is a follow-up to your  
23 complaint concerning the leak discovered in your pipe.  
24 You contacted Mr. Sims, and Mr. Sims did report that it  
25 appears that our shutoff valve to our house from the

1 meter was possibly dislocated by the contractor. Mr. Sims  
2 also stated that he did not intend to reimburse you.

3 "Since it appears you have a damage claim,  
4 the Commission does not have the authority to  
5 adjudicate claims for loss or damage. Your recourse  
6 would be to go through the courts."

7 So that's our complaint. And our bill is  
8 what, \$48.87. I don't think it would pay to go to  
9 court over that.

10 COMMISSIONER BEARD: And I understand that.  
11 But I also am not in a position to break the law by  
12 trying to do something that I don't have the authority  
13 to do.

14 However, as a result of this hearing and the  
15 things that we find out, sometimes those get resolved  
16 just as your first complaint did. And we'll see what  
17 we can do to assist; but I am not in a position to, as  
18 I say, adjudicate damage claims. Because per the  
19 statutes, whenever the circuit courts or the courts try  
20 to stick their nose into my business, I get pretty  
21 angry; and the opposite of that is when I start  
22 sticking my nose into their business, they like to slap  
23 me around, too.

24 But we'll see if we can help with some  
25 pressure if that's the appropriate thing to do. The

1 problem is in a contested claim like that, I don't have  
2 the authority to make that decision and say "Pay her,"  
3 or, "Don't pay her." Okay.

4 WITNESS KELLNHOFER: The first time he  
5 listened to you.

6 COMMISSIONER BEARD: Right. But had he  
7 chosen not to listen to us, that would have been in the  
8 same position.

9 WITNESS KELLNHOFER: Right. And the way he  
10 installed the housings around the meters, a lot of them  
11 were are sticking up that far, you know, you couldn't  
12 mow your lawn. So you have to dig it up and put it down  
13 properly. And, there were a lot of them like that.

14 COMMISSIONER BEARD: It's difficult sometimes  
15 for a Utility to listen when they're not even here.

16 WITNESS KELLNHOFER: That right. That's right.

17 COMMISSIONER BEARD: Okay. Thank you.

18 (Witness Kellnhofer excused.)

19

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20 MR. FEIL: The next name I have, Mr.

21 Commissioner, is John Clopton.

22 JOHN CLOPTON

23 was called as a witness and, having been duly sworn,  
24 testified as follows:

25 WITNESS CLOPTON: My name is John Clopton,

1 that's C-L-O-P-T-O-N. And I live at -- just a second,  
2 (Laughter) 38504 Montigo Drive.

3 When I bought my trailer, there was a meter  
4 in it.

5 COMMISSIONER BEARD: Please, if you all would  
6 hold it down, I can't hear.

7 WITNESS CLOPTON: When I bought my trailer,  
8 there was a meter in it. Then I was working on my  
9 trailer, then I come back and he took the meter away  
10 from me. And he told the little lady that I bought the  
11 trailer off that there was \$400 assessments on the  
12 meter, so she had to pay that to the title company for  
13 him to bring the meter back. Then he brought the meter  
14 back the next day, so the title company had to pay him  
15 \$400 out of her escrow money.

16 Then, on top of that, I have been complaining  
17 about my black water. My toilet, well, a couple of  
18 people have even noticed it, I have to clean it every  
19 day, it was just black where the black water is coming  
20 in. And then for about four or five days it was  
21 nothing but black, you couldn't even drink it, not  
22 alone take a bath with it or anything.

23 COMMISSIONER BEARD: Is that something that  
24 comes and goes?

25 WITNESS CLOPTON: It's been like that for the

1 last two or three months now.

2 COMMISSIONER BEARD: Is there any odor?

3 WITNESS CLOPTON: Sometimes a little bit of  
4 odor with it.

5 COMMISSIONER BEARD: Okay.

6 WITNESS CLOPTON: And here lately I've been  
7 buying bottled water.

8 COMMISSIONER BEARD: Okay. We want to check  
9 on that as well. Thank you.

10 (Witness Clopton excused.)

11

12 MR. FEIL: The next name I have is H. B.

13 Reedy.

14 WITNESS D. BIRD: I don't believe Mr. Reedy  
15 is here.

16 MR. FEIL: All right. I had a question mark  
17 by his name.

18 WITNESS D. BIRD: And Ms. Spalo is not here.

19 MR. FEIL: All right.

20 WITNESS D. BIRD: Well, I know he's here. Jo  
21 e, do you want to testify to your problem?

22 COMMISSIONER BEARD: I apologize, but let us  
23 go through our process. If they don't want to talk,  
24 they don't have to come forward if they'd rather write  
25 or whatever. And then in a minute, once we go through

1 these names, if anybody has changed their mind and wishes  
2 to speak, I will give them an opportunity as well.

3 MR. FEIL: Ms. Spalo? Mr. Chaney, do you  
4 wish to speak? The next name I have is Dorothy Bird.

5 WITNESS D. BIRD: Could I defer to Robert  
6 first?

7 MR. FEIL: Certainly. Robert Bird?

8 ROBERT BIRD

9 was called as a witness and, having been duly sworn,  
10 testified as follows:

11 WITNESS R. BIRD: Thank you. My name is  
12 Robert Bird. I live at 38553 Monet Drive. I'm placing  
13 in the record a letter from a customer who did not wish  
14 to speak at this time.

15 COMMISSIONER BEARD: Okay.

16 WITNESS R. BIRD: The customer is Elmer Dean,  
17 38536 Cone Drive. This is dated January 6, 1993. And  
18 he states: "I have been turning the water on and off  
19 for a relative next door to us for the past five years  
20 and have never had a problem. On January the 5th, I  
21 was asked to turn the water on again. I proceeded to  
22 do so and there was a trickle of water. This has  
23 happened since the meter was installed. I've never  
24 been comfortable talking to the owner of the facility  
25 but did so on January the 5th. I told him the problem.

1 He asked if I got water through the meter? And I said,  
2 'Yes, a trickle.' He said, 'It must be a valve. I'll  
3 be in the park tomorrow.' And that's January the 6th.

4 "Dick showed up at about 12:00 noon January  
5 the 6th. He proceeded to check out the situation and  
6 removed the meter. The trickle was still coming  
7 through the pipe. Dick informed me he's going to shut  
8 the water off on Wednesday, January the 13th, as he  
9 would have to get a digger in to dig up his line. He  
10 said our relatives could use our facilities and he  
11 would reimburse us for the use of the water." And  
12 that's signed Elmer Dean.

13 There is an addendum: "Our relatives are Mr.  
14 and Mrs. James Christensen. Mr. Christensen is the  
15 owner of record of the house located at 38530 Cone  
16 Drive, next door to mine, and pays a water bill to the  
17 Utility each month. I believe he is entitled to his  
18 own service and should not have to wait a week or so to  
19 have water at his house." And that's signed Elmer  
20 Dean also.

21 COMMISSIONER BEARD: Okay. Thank you.

22 MR. FEIL: Mr. Commissioner, if we could have  
23 that letter identified as Exhibit 3?

24 COMMISSIONER BEARD: Okay.

25 (Exhibit No. 3 marked for identification.)



1 (Witness R. Bird excused.)

2

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3 MR. FEIL: Dorothy Bird?

4

DOROTHY BIRD

5 was called as a witness and, having been duly sworn,  
6 testified as follows:

7

WITNESS D. BIRD: My name is Dorothy Bird,  
8 B-I-R-D. I live at 38553 Monet Drive. And I am  
9 speaking on behalf of Shady Oaks Owners Association. I  
10 would like to read into the record a summary of our  
11 review of the quality of service to the Utility  
12 customers.

13 We wish to address the following areas of  
14 concern with regards to performance of the above-named  
15 Utility, Shady Oaks Mobile-Modular Estates,  
16 Incorporated, for the period April 1, 1992. through  
17 January 6, 1993. One, communications and customer  
18 relations; two, customer billing; three, maintenance  
19 and operation of plant; four, installation of meters;  
20 and five, utility response to customer service  
21 problems.

22 In the area of communications and customer  
23 relations: There is no secure drop box or letter slot  
24 provided at the office for deposit of payments. An  
25 unattended cardboard box unsecured and with no

1 provision for being locked is provided in the office  
2 area for this purpose. The box carries a hand-lettered  
3 disclaimer that says "Not responsible."

4           There has been no attempt on the part of the  
5 Utility to educate customers about tariff provisions,  
6 possible violations and probable consequences of them.  
7 Although the tariffs are available in the office of the  
8 Utility for any customer to inspect, the Utility office  
9 is open only two hours per week on a constantly  
10 changing schedule. And this makes any kind of business  
11 transaction with the Utility exceedingly difficult.  
12 Many customers are reluctant to call the Utility when  
13 they have service problems, because of fear of verbal  
14 abuse or intimidation by the owner.

15           Another concern is our ability to reach the  
16 Utility by telephone. The telephone in the office  
17 during the periods it is not open directs the caller  
18 via a recorded message to a Tampa long distance number.  
19 It does not say that one may call collect. The monthly  
20 bill also lists the same Tampa long distance number for  
21 emergencies, it does not specify to call collect.  
22 Because the office is so seldom open, this number  
23 becomes in effect the only number at which one can  
24 expect to reach the Utility, whether emergency or  
25 routine call. The customer thus must pay long distance

1 charges for most calls to the Utility. Further, there  
2 is no local agent that can be called in case of  
3 receiving no answer or a recorded message at the Tampa  
4 number.

5           The service personnel located in Tampa also  
6 have a 45- to 60-minute drive time to the plant located  
7 in Zephyrhills depending on the traffic situation at  
8 the time of the problem. We have already experienced a  
9 one-day water outages due to this system of response.  
10 At one time the Utility was advised that hiring a local  
11 agent or using a personal beeper might be a prudent  
12 solution. This improvement has not been activated.

13           Customer billing: The bookkeeper has been  
14 very cooperative about answering billing questions,  
15 providing itemized statements, and making required  
16 adjustments.

17           Maintenance and operation of the plant:  
18 Leaks on the Utility side of the meters are still being  
19 left unrepaired for unnecessarily long periods of time.  
20 Water is still shut off to the entire park when repairs  
21 are necessary to any part of the system, although we  
22 have been advised this is scheduled for change on  
23 January 13, 1993. The hook up to the County sewer  
24 lines which was to be completed by January 1, 1992, has  
25 yet to be started. We have a concern about the life

1 expectancy of the sewage treatment system. We have  
2 been told that the system has very serious problems.  
3 What happens when it fails?

4           Installation of the meters: The meters were  
5 not installed by a licensed plumber, and the  
6 installation made in a most unprofessional manner, with  
7 many instances of holes left uncovered, boxes set too  
8 high, meters being placed too deep, and many of these  
9 situations have yet to be corrected.

10           While all the customer meters have now been  
11 installed, in the process of installation a number of  
12 previously working systems were disrupted. In the  
13 instances where customers have returned from vacation  
14 to find water service problems where there were none  
15 before, we believe the Utility should assume the  
16 responsibility of determining and correcting these  
17 problems.

18           The Utility response to customer service  
19 problems: The Utility's customers have been made aware  
20 and do understand that service complaints should  
21 initially be brought to the attention of the Utility.  
22 Recent service complaints have concerned meter accuracy  
23 -- for example, excessively high gallonage readings --  
24 disruption of water flow apparently caused by faulty  
25 meter installation, and sewer blockage. When these

1 were brought to the Utility's attention, the response  
2 has been to instruct the customer to hire a plumber to  
3 investigate the problem, prior to a thorough field  
4 investigation by the Utility. It seems that the burden  
5 of proof is being placed upon the customer. We believe  
6 it belongs to the Utility.

7 Conclusion: In recent weeks, we have seen  
8 some efforts by the Utility to improve customer  
9 relations. Often in the past, to avoid humiliation  
10 and/or hostility, customers have buffered their  
11 communications with the Utility through an Association  
12 Board member. We are therefore reluctant to recognize  
13 these efforts as a permanent change until enough time  
14 has lapsed to observe the Utility's interaction with  
15 the larger share of the customers.

16 And I will give you a copy of that for the  
17 record. May I enter into the record some previous  
18 correspondence and documents that were on file with the  
19 Staff but are not a part of this hearing?

20 COMMISSIONER BEARD: Sure.

21 WITNESS D. BIRD: All right. Then we have  
22 some documents that we filed with Denise Vandiver dated  
23 March 25, 1992, and also another one dated September 11,  
24 1991, as well as this one that I'm going to give you.

25 We also would like to enter into the record

1 at this time signed statements regarding unsatisfactory  
2 quality of service from the following customers of the  
3 Utility: John Boyce, Helen Wolters -- and would you  
4 like these names spelled? I'll give you a list.

5 COMMISSIONER BEARD: If you'll just give the  
6 list to --

7 WITNESS D. BIRD: All right. Elizabeth  
8 Jacob, Alvin Lachapelle, Carrol Meeusen, Ruth Tutt,  
9 Carolyn West, William Knapp, and Elinor Spalo.

10 And we would also like entered into the  
11 record as exhibits of unsatisfactory quality of service  
12 during the period March 1, 1991, through January 6,  
13 1993, the following documents: A letter from Shady  
14 Oaks Owners Association to the Public Service  
15 Commission, Charles Hill, dated May 15, 1991. Do you  
16 need a list of these that I want to enter?

17 COMMISSIONER BEARD: If you will simply give  
18 those to her.

19 WITNESS D. BIRD: I can give the list to her  
20 and then she can put it in, and that will save you time.

21 COMMISSIONER BEARD: We'll do that and we'll  
22 have this as a Composite Exhibit No. 4.

23 MR. FEIL: Yes, sir.

24 (Composite Exhibit No. 4 marked for  
25 identification.)

1 WITNESS D. BIRD: Okay, fine. Thank you very  
2 much.

3 COMMISSIONER BEARD: Okay. Thank you.

4 MR. FEIL: Mrs. Bird, if you don't mind I do  
5 have one question. In your opinion as representative  
6 of the Homeowners Association, has the quality of the  
7 Utility's service improved since the rates increased?

8 WITNESS D. BIRD: Overall, no. There has been,  
9 as I stated, some signs of improvement, but only in  
10 isolated areas; and we are still having problems having  
11 the Utility assume what we feel to be their duties.

12 MR. FEIL: All right, thank you.

13 (Witness Ms. Byrd excused.)

14 - - - - -

15 MR. FEIL: The next name I have is Robert  
16 Lindahl.

17 MR. LINDAHL: I'm going to decline. I think  
18 Dottie has summarized my feelings.

19 COMMISSIONER BEARD: Okay.

20 MR. FEIL: Are there any other customers that  
21 wish to speak? Sir, have you been sworn in?

22 UNIDENTIFIED SPEAKER: No, I haven't. I'm  
23 sorry, I just decided I wanted to speak.

24 COMMISSIONER BEARD: Why don't you do this if  
25 would, come on over to the mike so the court reporter

1 can take it down and I'll swear you in just briefly.

2 EDMUND POIRIER

3 was called as a witness and, having been duly sworn,  
4 testified as follows:

5 COMMISSIONER BEARD: Your name and address?

6 WITNESS POIRIER: My name is Edmund Poirier,  
7 that's P-O-I-R-I-E-R. I live at 38517 Willoughby  
8 Drive.

9 Now, it is only by listening to the comments  
10 that have been made that I realized that I had a  
11 problem; that, therefore, I did not yet contact Mr.  
12 Sims on it, but I do wish to bring it up here. It  
13 deals with the elevation of the water meter cover.

14 Now, early in December, I was doing some  
15 repair work to the house and I fell from a ladder.  
16 That has nothing to do with the Utility, but I did fall  
17 across this meter box. And I feel -- well, I know that  
18 I must have cracked several ribs because I'm still in  
19 pain as of today. I did not go see a doctor because  
20 I'm sure that I would have been told to just rest and  
21 not exert myself, and that's what I'm doing.

22 But, nevertheless, this box, cover box, sticks  
23 out of the ground some four inches above the grass level,  
24 and I fell immediately right across the cover. So I do  
25 realize that by hearing the other people speaking that I



1 have a problem and I will contact Mr. Sims about it to see  
2 if I can get it corrected.

3 (Witness Poirier excused.)

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5 COMMISSIONER BEARD: Okay. Thank you.

6 MR. FEIL: Is there anybody else here who  
7 would wish to speak?

8 COMMISSIONER BEARD: Okay. Next would be  
9 Staff. All right, moving along?

10 MR. FEIL: Staff would call Stanley Rieger to  
11 the stand.

12 COMMISSIONER BEARD: For you all's  
13 information, as he's coming, let me briefly tell you  
14 what typically happens in a case here.

15 The Staff witnesses, as anybody else, has  
16 prepared testimony, written testimony, that they have  
17 filed in the case in advance. And we typically will take  
18 that testimony and do what we call entering it into the  
19 record as though it had been read into the record. That  
20 way it becomes an official part; it helps us to save a  
21 little bit of time. It also helps people to know what the  
22 testimony is in advance so that people have some idea of  
23 what the witness is going to say and they can prepare any  
24 questions they might have.

25 Go ahead.

1 STANLEY D. RIEGER

2 was called as a witness on behalf of the Staff of the  
3 Florida Public Service Commission and, having been duly  
4 sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. FEIL:

7 Q Sir, would you state your name and address  
8 for the record, please?

9 A My name is Stanley Rieger. I am an engineer  
10 with the Florida Public Service Commission. My address  
11 is 101 East Gaines Street, Tallahassee, Florida.

12 Q Mr. Rieger, did you file prefiled testimony  
13 in this case consisting of five pages?

14 A Yes, I did.

15 Q Do you have any corrections to that  
16 testimony?

17 A I do have a correction. Some words were  
18 omitted on Page 3 of my testimony, Line 25, the words  
19 "did not" were omitted. The beginning of the sentence  
20 should read, "The Utility did not install the meters in  
21 a timely manner."

22 Q Other than that correction, if I asked you  
23 the questions in your testimony again here today, your  
24 answers would be the same; is that correct?

25 A Yes.

1 MR. FEIL: Mr. Commissioner, at this time I  
2 ask that Mr. Rieger's testimony be inserted into the  
3 record as though read.

4 COMMISSIONER BEARD: His written testimony  
5 will be inserted into the record as though it had been  
6 read.

7 Q (By Mr. Feil) And Mr. Rieger, did you have  
8 any exhibits attached to your testimony?

9 A I have adopted the exhibits from Ms. Jenny  
10 Lingo's.

11 Q All right, thank you.

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## 1 DIRECT TESTIMONY OF STANLEY D. RIEGER

2 Q. Would you please state your name and business address?

3 A. Stanley D. Rieger, 101 East Gaines Street, Fletcher Building, Tallahassee,  
4 Florida 32399-0873

5 Q. By whom are you employed?

6 A. I am employed by the Florida Public Service Commission.

7 Q. In what capacity?

8 A. I am employed as an Engineer in the Division of Water and Wastewater.

9 Q. How long have you been employed in that capacity?

10 A. I have been employed in this capacity since April, 1981.

11 Q. Briefly describe your duties?

12 A. My general responsibilities normally include, but are not limited to the  
13 following:14 (a) Participation in formal and informal rate proceedings involving  
15 water and sewer utilities under the jurisdiction of the Public Service  
16 Commission;17 (b) Review and evaluation of rate applications; preparation and  
18 analysis for special projects; preparation of testimony, giving  
19 testimony and preparation of cross-examination questions for rate cases  
20 in which I am involved;

21 (c) Performance of detailed inspection of utility plants;

22 (d) Inspection of utility condition and appearances of plant;

23 (e) Review of capacity of treatment plants;

24 (f) Review of operational data relating to test years;

25 (g) Review of treatment costs;

- 1 (h) Review of operating personnel and their duties and salaries;
- 2 (i) Inspection of water meters and meter programs;
- 3 (j) Determination of what equipment is on hand to service systems;
- 4 (k) Review of booked plant value;
- 5 (l) Analysis of utilization of plant items;
- 6 (m) Review of upgrading requirements
- 7 (n) Review of operating and construction permits;
- 8 (o) Check for citations currently outstanding;
- 9 (p) Obtain permit and approval numbers from regulatory agencies.
- 10 (q) Preparation of original cost studies on utility plant.

11 Q. Please describe your educational qualifications and experience?

12 A. I received a Bachelor of Arts Degree from Washburn University of Topeka,  
13 Kansas, in 1974, with a major in Mass Communications. From 1974 to 1981, I  
14 was employed by the City of Tallahassee, Florida, as a wastewater treatment  
15 plant operator. I am currently certificated by the Florida Department of  
16 Environmental Regulation as a Class "A" Wastewater Treatment Plant Operator  
17 and as a Class "C" Water Treatment Plant Operator. Also, I am certified by  
18 the Florida Water and Pollution Control Operators Association as a Class "C"  
19 Wastewater Collection Technician and a Class "C" Water Distribution  
20 Technician.

21 Q. Have you participated in rate cases in your capacity as an Engineer with  
22 the Public Service Commission?

23 A. Yes I have.

24 Q. As part of your duties as an Engineer, are you occasionally assigned  
25 duties in relation to rate cases?

1 A. Yes I am.

2 Q. Were you given such duties in relation to the Shady Oaks staff assisted  
3 rate case Docket No. 900025-WS?

4 A. Yes I was.

5 Q. What is the present status of the Commission- ordered installation of  
6 meters at the Shady Oaks Subdivision?

7 A. Meters to all of the utility's customers have been installed.

8 Q. When were they installed?

9 A. On June 5, 1992, the Commission received a letter from the utility stating  
10 that meters were installed for all of its residential customers. On June 17,  
11 1992, I conducted an on-site inspection and verified that the residential  
12 customers were metered and that the utility was nearing completion of the  
13 installation of meters for its general service customers.

14 Q. Has the Commission formally recognized the installation of the meters?

15 A. Yes. As shown in Exhibit FJL-2, by Order No. 24084 issued February 8,  
16 1991, the Commission recognized the installation of the meters and approved  
17 the implementation of base facility and gallonage charges.

18 Q. You stated that when you conducted the on-site inspection on June 17,  
19 1992, the utility was completing the installation of meters for its general  
20 service customers. Would you say that June 17, 1992, was the day of  
21 completion of that project?

22 A. June 17, 1992 was the day of completion of the meter installation project.

23 Q. Did the utility comply with the Commission orders to install water meters  
24 in a timely fashion?

25 A. No. The utility <sup>did not</sup> install ~~the~~ the meters in a timely manner in accordance

1 | with Commission Order No. 24084. PAA Order No. 24084 required the utility to  
2 | install water meters for all its customers within six months. As shown in  
3 | Exhibit FJL-3, Order No. 25296, issued on November 4, 1991, found that the  
4 | utility had failed to comply with Order No. 24084. One part of the utility's  
5 | noncompliance was its failure to complete the installation of meters. Citing  
6 | problems with customers not paying their bills because of a court dispute over  
7 | the utility's rates, the utility was allowed in Order No. 25296 an additional  
8 | five months to install the meters. Noting that the utility was not in  
9 | complete compliance with the order to install the meters, Order No. PSC-92-  
10 | 0367-FOF-WS, issued on May 14, 1992, show caused the utility as to why it  
11 | should not be fined for noncompliance with the previous orders. This order  
12 | is attached to Ms. Lingo's testimony as Exhibit FJL-4. Finally, on June 17,  
13 | 1992, 74 days past the deadline stated in Order No. 25296, the last meters  
14 | were installed. Thus, I believe that the utility was in violation of a  
15 | Commission order for 74 days.

16 | Q. Order No. PSC-92-0367-FOF-WS ordered the utility to show cause why it  
17 | should not be fined for continuing to provide unsatisfactory quality of  
18 | service. Has the quality of service provided by the utility improved since  
19 | that order was issued?

20 | A. No. Because of the utility's failure to interconnect its wastewater  
21 | system with Pasco County, quality of service should still be considered  
22 | unsatisfactory. Also, staff has seen no indication that customer relations  
23 | have improved. Staff has received several customer complaints concerning  
24 | problems with the installation of the meters, limited office hours of the  
25 | utility, and water outages.

1 | Q. Does this complete your testimony?

2 | A. Yes.

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1 Q (By Mr. Feil) Mr. Rieger, you were here  
2 present when some of the customers discussed the  
3 situation with their lines and the meter installations.  
4 Could you give the Commissioner some idea as to your  
5 view of the lines and the meter installations?

6 A Sure. I would like to summarize, however, my  
7 testimony if I could.

8 Q Why don't you go ahead and do that.

9 COMMISSIONER BEARD: Briefly, please.

10 A Because it might shed some light on it.

11 Basically my testimony deals with the  
12 Utility's compliance or noncompliance with previous  
13 Commission orders. This is in regards to the  
14 installation of customer meters and quality of service.

15 Regarding the meters, the Utility has  
16 installed the meters. However, I do believe that it  
17 was not installed in a timely fashion.

18 The quality of service was also part of my  
19 testimony. That is broken down in two parts: The  
20 first part deals with the Commission-ordered  
21 interconnection of its wastewater system to the Pasco  
22 County system. That has not been done. The Utility  
23 has failed to do so at the current date.

24 Also the Commission has previously ordered  
25 the Utility to improve customer relations. I have not

1 seen any improvement to that effect, as well. Put  
2 those together, the quality of service should still be  
3 considered unsatisfactory.

4           Regarding the comments brought out by the  
5 customers, I do have some comments. The problem Ms.  
6 Bremer brought out concerning problems with the meter  
7 and the installation as such, unfortunately, typically  
8 as the Commission receives complaints, they will work  
9 with the Utility to try to address problems with  
10 excessive gallonage or whatever; and ultimately a meter  
11 test will be performed by the appropriate parties.  
12 Since the Commission in this case was not a party of  
13 it, it is hard to pinpoint at this time what actually  
14 did happen, although I do believe what Ms. Bremer did  
15 say was correct.

16           The process that the Utility did take in this  
17 account was not proper, I don't believe. We will try  
18 to track down what we can as far as what the Utility  
19 said they did and find the meter and do what is  
20 possible to correct the situation. However, it does  
21 appear unlikely that she would have used that much  
22 water during that time frame. We will try to address  
23 that.

24           COMMISSIONER BEARD: Do we typically require  
25 or at the minimum suggest that where there is a protest

1 on a meter that they maintain that meter for inspection  
2 to resolve the conflict?

3 WITNESS RIEGER: Yes, sir. If we're aware of  
4 it and if the problem does not seem to be unresolved,  
5 we will try to be at the site during the meter test or  
6 accompany the meter to the testing site facility to see  
7 if everything has been done properly. I have not had  
8 the opportunity to see the results yet.

9 COMMISSIONER BEARD: Well, that's something  
10 we'll have to work on in the future?

11 WITNESS RIEGER: We will have to work on  
12 that, yes.

13 COMMISSIONER BEARD: Okay. That's good.

14 WITNESS RIEGER: The problem concerning the  
15 sewer backup, Ms. Bird did call the Commission  
16 approximately a week ago concerning the "Arnold backup  
17 sewer situation" where the plumbers determined that the  
18 problem is in the "T," or we refer to it as the "Y."  
19 If that is the situation, we consider that part of the  
20 Utility's responsibility and part of the property.

21 The rules are clear in that case. In  
22 Commission Rules 25-30.230(2), it states that "Each  
23 sewer utility shall provide the service pipe to the  
24 sewer connection and may locate that connection at the  
25 customer curb."

1           The Utility also is required to maintain that  
2 service pipe up to the interconnect; and I believe that  
3 falls on the Utility's side if, in fact, the roots and  
4 whatever were found in the "Y." So it is believed, and  
5 I believe once we discover more information about it,  
6 it would be determined that it was the Utility's  
7 responsibility. And it is my opinion that the costs  
8 related to that should be the Utility's responsibility  
9 to pay.

10           Q       (By Mr. Feil) Well, Mr. Rieger, if I may,  
11 let me ask you an overview question regarding the lines  
12 in the park and the meter installations.

13           You, if I understood it correctly, did an  
14 inspection to verify that the meters were installed  
15 sometime last year; is that correct?

16           A       Yes, we did.

17           Q       And you visually inspected the meters?

18           A       We inspected the meters. I personally  
19 inspected the meters. In fact, the final day of the  
20 meter installation when the Utility was installing its  
21 last meter here that connects the rec center, I was  
22 here at that time. The meters that were inspected were  
23 at that time looked properly installed. However, I did  
24 not go to each one of the meters.

25           We are aware since then that there are leaks

1 as was testified for today. It appears that the  
2 Utility's installations may have been, at best, in a  
3 temporary nature, although it should be more permanent.  
4 That in any leaks resulting that or damage to the  
5 facilities, either the customer's or the Utility's,  
6 should be the responsibility of the Utility since they,  
7 in fact, did the damage and any leaks related to that  
8 should be the responsibility for repairs by the  
9 Utility.

10 Back in October, the 3rd of October, I was  
11 notified the situation of the ground not settling  
12 around the meters. I was in the area anyway. I came  
13 by and inspected, and I did see several meters to that  
14 effect that the ground was eroding around it, that the  
15 installation may not have been properly put in at that  
16 time.

17 I did send a letter to the Utility dated  
18 October 14th concerning about the installation of the  
19 meter boxes, of course, in the ground and reaffirmed  
20 with the Utility that it was indeed its responsibility  
21 to make sure that the installation was proper and  
22 should be maintained because it is the Utility's  
23 responsibility.

24 Unfortunately, I have not been back to the  
25 facility to verify to see if any improvements have been

1 made; but it sounds today that there are still existing  
2 problems to that effect.

3 All the things that Ms. Bird had listed we've  
4 heard before, and it seems to be a problem with the  
5 Utility as far as working with the Utility to maintain  
6 a level of satisfactory workmanship of what bonfire we  
7 may put out as far as Staff working with utility one  
8 day may come up again as another situation at a later  
9 date. We seem to be constantly having new situations  
10 coming up. We deal with the Utility quite often to  
11 correct these things. They may be corrected, they may  
12 not be. It's hard, as a matter of fact.

13 COMMISSIONER BEARD: Let me ask you a quick  
14 question if I can. I want to go back to one in  
15 particular. I believe it was Ms. Kellnhofer who was  
16 talking about the formation of Lake Shady Oaks in her  
17 backyard and neighbors' yards at one point in time  
18 there with a pipe prior to the meters being installed.

19 WITNESS RIEGER: Yes.

20 COMMISSIONER BEARD: What do we typically use  
21 as a demarcation point when there is no meter as to  
22 what belongs to the customer and what belongs to the  
23 Utility?

24 WITNESS RIEGER: Well, typically, there would  
25 be a main and then a service line coming off of that

1 main to the customer's connection. If it is on the  
2 customer's property and it is -- if it does appear to  
3 be a service line, it more than likely would be the  
4 responsibility of the customer. Fortunately, we don't  
5 have that problem very often because most of our  
6 utilities are metered, as is this one in this case now.

7 COMMISSIONER BEARD: And in this instance  
8 that particular line happened to not be on their  
9 property?

10 WITNESS RIEGER: Not on their property, and  
11 as I understand it, it is before it gets to the  
12 customer's meter to date.

13 COMMISSIONER BEARD: Yes.

14 WITNESS RIEGER: So, yes, here again it  
15 appears that it was the Utility's responsibility. And  
16 the response time for repairs has a lot to be desired  
17 to that effect, as well.

18 Also, it is unfortunate that it appears to be  
19 an immediate response of the Utility to tell the  
20 customer to call a plumber as opposed to coming out  
21 here and at least identifying the problem to establish  
22 whose responsibility it is. I think that is an  
23 unfortunate part of the Utility's main office being  
24 located so far away from the service area.

25 In reference to office hours, we have allowed

1 money -- in fact, \$6,000 a year, I do believe -- to  
2 keep the office open approximately ten hours a week.  
3 It doesn't appear that that is being done, as well.

4 COMMISSIONER BEARD: Okay.

5 WITNESS RIEGER: This situation, I'm  
6 concerned about the current situation about Mr. Sims  
7 informing those customers that do not have water  
8 service, currently do not have water service. It is  
9 unfortunate that this happened. Of course, they're  
10 entitled to water service, especially since they  
11 apparently have notified the Utility that they wanted  
12 to service to be put on. And it's not their mistake or  
13 whatever that that service is not on to date, it  
14 appears.

15 As a further note to update, I was showing  
16 some of my co-workers where the last meter was  
17 installed, which was here at the rec center. And we  
18 went and opened the valve box, and we did not see the  
19 meter but we did see leaking water. We don't know what  
20 side of the meter it is, but it's just as a  
21 for-instance that the situation does exist and we have  
22 an example right outside our door.

23 COMMISSIONER BEARD: Okay.

24 Q (By Mr. Feil) Let me ask you, if I may, one  
25 last question with regard to meter location.



1           Is part of the problem with the installation  
2 and location of the meters the design and location of  
3 the service pipes?

4           A     Yes. I'm sorry I did not bring that up, I  
5 wanted to.

6           The installation of the lines, when the  
7 facility was first installed, I believe Mr. Sims had  
8 something to do with that from the very beginning. The  
9 lines typically, as we're used to, follow either roads  
10 or direct property boundaries. They do not in this  
11 case in some instances.

12           Meters may be located on other people's  
13 property, and those meters may be serving their  
14 neighbors or whatever.

15           The opinion that Staff has taken to this  
16 point is that we were lucky to get the meters installed  
17 and installed properly -- which may or may not have  
18 been done -- the location of which falls where the  
19 lines may be. And it's unfortunate that there could be  
20 several meters on one person's property serving his  
21 neighbors.

22           I think the main goal that we're trying to  
23 achieve is the proper installation of these meters.  
24 The boxes are included in this; and if boxes are  
25 extended beyond the ground level, they should be

1 lowered. If ground is being eroded around these  
2 meters, they should be filled back in.

3 COMMISSIONER BEARD: Let me ask you a  
4 question because I'm curious.

5 In one instance where we had where the meter  
6 was installed on another person's property, I have to  
7 assume that at some point in time that line arrives on  
8 the property of the person being served?

9 WITNESS RIEGER: Yes.

10 COMMISSIONER BEARD: Okay. And then I follow  
11 that with in one instance where the meter is installed  
12 literally three or four feet from the home, and I guess  
13 I'm trying to marry those two up. You install one  
14 meter on somebody else's property, but there seems to  
15 be no problem with installing the meter within feet of  
16 the home.

17 WITNESS RIEGER: Well, that is the problem of  
18 coming back after-the-fact, after the installation of  
19 the lines were made. We have problems out there. We  
20 have fence lines, we have shrubbery, we have patio  
21 decks; we have just problems of locating the line, and  
22 that may be the case in a lot of instances.

23 There are physical problems that may prevent  
24 the installation, proper installation. Of course, we  
25 would all like to see meters placed on the same

1 property that serves the customer as well. But I do  
2 believe there were physical problems in this case.

3 COMMISSIONER BEARD: Okay.

4 MR. FEIL: I have nothing further.

5 COMMISSIONER BEARD: Okay. Thank you.

6 Witness is excused.

7 We'll wait to move exhibits in, I guess,  
8 since they're part of the second part.

9 Let's do this, for the benefit of the court  
10 reporter and me, if we could take about a ten-minute  
11 break and we'll be right back.

12 (Witness Rieger excused.)

13 (Brief recess.)

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15 COMMISSIONER BEARD: Okay, Counsel.

16

FRANCES J. LINGO

17 was called as a witness on behalf of the Staff of the  
18 Florida Public Service Commission and, having been duly  
19 sworn, testified as follows:

20

DIRECT EXAMINATION

21 BY MR. FEIL:

22 Q Please state your name and business address  
23 for the record.

24 A My name is Jenny Lingo; I'm a Regulatory  
25 Analyst for the Public Service Commission. My address

FLORIDA PUBLIC SERVICE COMMISSION

1 is 101 East Gaines Street, Tallahassee.

2 Q And you are the Frances J. Lingo who prefiled  
3 testimony in this docket consisting of nine written  
4 pages?

5 A Yes, I am.

6 Q Do you have any corrections to that  
7 testimony?

8 A Yes, I have revised Exhibit FJL-8 to  
9 incorporate a response --

10 COMMISSIONER BEARD: Can you pull the  
11 microphone a bit closer? They're having some trouble  
12 in the back hearing, I think.

13 A Yes. I have revised Exhibit FJL-8 to  
14 incorporate information contained in the Utility's  
15 response to one of our interrogatories.

16 Q How does that change the testimony, please?

17 A On Page 8, Line 19, the dollar amount \$22,609  
18 should read \$20,109. And on Line 21, 59% should read  
19 54%.

20 Q Other than those corrections, if I asked you  
21 the questions in this testimony today, would your  
22 answers to them be the same?

23 A Yes, they would.

24 MR. FEIL: Mr. Commissioner, I ask that her  
25 testimony be inserted into the record as though read.

1 COMMISSIONER BEARD: It will be so inserted.

2 Q (By Mr. Feil) And, Ms. Lingo, you also had  
3 attached to your testimony and filed with it Exhibits  
4 FJL-1 through 8, is that correct?

5 A Yes, that's correct.

6 Q And you mentioned that you had corrections to  
7 that testimony. Let me show you those corrections and  
8 then you can verify whether or not those are they.

9 (Pause)

10 And those are the corrections to FJL-8; is  
11 that correct?

12 A Yes, that's correct.

13 MR. FEIL: Commissioner, if you would  
14 identify as a composite those prefiled exhibits?

15 COMMISSIONER BEARD: It will be Composite  
16 Exhibit, I believe, No. 5; is that correct?

17 MR. FEIL: Yes, sir.

18 (Composite Exhibit No. 5 marked for  
19 identification.)

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## DIRECT TESTIMONY OF FRANCES J. LINGO

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Q. Would you please state your name and business address?

A. Frances J. Lingo, 101 East Gaines Street, Tallahassee, Florida 32399-0850.

Q. By whom are you employed, and in what capacity?

A. I am employed by the Florida Public Service Commission as a Regulatory Analyst IV.

Q. How long have you been employed by the Florida Public Service Commission?

A. I have been employed by the Commission since June 12, 1989.

Q. Would you please state your educational background and experience?

A. I received a Bachelor of Science Degree with a major in Accounting and a Bachelor of Science Degree with a major in Economics, both from The Florida State University, in August 1983.

From October 1983 to May 1989, I was employed by Ben Johnson Associates, Inc. (BJA), an economic and analytic consulting firm specializing in the area of public utility regulation. During my employment at BJA, I performed research and analysis in more than 75 utility rate proceedings, assisting with the coordination and preparation of exhibits. I also assisted with the preparation of testimony, discovery and cross-examination regarding rate design issues.

In particular, I prepared embedded cost-of-service studies, made typical bill comparisons and examined local service rate and cost relationships. I studied residential and general service rates, customer charges, management decision-making processes, slippage in the engineering and construction of

1 | nuclear power plants, nuclear versus coal plant costs and seasonal load and  
2 | usage patterns.

3 |       In June 1989, I joined the Commission as a Regulatory Analyst II. In June  
4 | 1990, I was promoted to Regulatory Analyst III, and in October 1991, I was  
5 | promoted to my current position of Regulatory Analyst IV.

6 | Q. Would you describe your experience and duties at the Commission?

7 | A. Yes. My experience at the Commission includes but is not limited to:

- 8 |       (a) reviewing and evaluating staff-assisted rate case filings, including  
9 |       auditing utilities' books and records, developing rate base, rate of  
10 |       return and revenue requirements, and preparing and presenting  
11 |       recommendations in cases in which I am involved;
- 12 |       (b) reviewing and evaluating price index and pass-through rate  
13 |       adjustment applications;
- 14 |       (c) desk audits of annual reports and determining the respective  
15 |       utility's rate of return;
- 16 |       (d) overearning investigations; and
- 17 |       (e) research and other related duties on accounting and financial  
18 |       matters relating to water and wastewater utilities subject to the  
19 |       jurisdiction of the Commission.

20 |       In addition, I have attended the Eastern Utility Rate Seminar, a  
21 | comprehensive seminar on utility ratemaking, including topics on rate base,  
22 | income statement considerations, problems of small water utilities, return on  
23 | investment and rate design. I have also received in-house training regarding  
24 | utility regulation, rate base, rate of return, revenue requirements and rate  
25 | design issues.

1 Q. What is the purpose of your testimony in this proceeding?

2 A. I will present testimony regarding Shady Oaks Mobile-Modular Estates,  
3 Inc.'s compliance with Commission Orders Nos. 24084 and 25296. My testimony  
4 will focus on whether the utility has complied with Commission orders to:

5 (a) request a name change and restructure;

6 (b) spend at least \$1,445 per month for preventative maintenance; and

7 (c) maintain its escrow account at the appropriate balance.

8 Q. Have you prepared exhibits which support Staff's position in this case?

9 A. Yes. Attached as Exhibit FJL-1 is Staff's recommendation prepared for the  
10 April 21, 1992 Agenda Conference. As a matter of convenience, Commission  
11 Orders Nos. 24084, 25296 and PSC-92-0367-FOF-WS are attached as Exhibits FJL-  
12 2, FJL-3 and FJL-4, respectively. Exhibit FJL-5 is correspondence from the  
13 Division of Water and Wastewater to Mr. Richard D. Sims, the owner of Shady  
14 Oaks. Exhibit FJL-6 contains copies of recent correspondence received by  
15 Staff from the utility. Exhibit FJL-7 is an analysis of the utility's  
16 preventative maintenance expenditures, and Exhibit FJL-8 is an analysis of the  
17 deficiency in the utility's escrow account.

18 Q. By Orders Nos. 24084 and 25296, did the Commission order Shady Oaks  
19 Mobile-Modular Estates, Inc. to submit a request for acknowledgement of a name  
20 change and restructure?

21 A. Yes, it did.

22 Q. Would you please summarize the events associated with the orders in this  
23 regard?

24 A. Yes. As discussed in detail on pages four through six of Exhibit FJL-1,  
25 in August 1990, Mr. Sims transferred the title of the utility land from Shady



1 Oaks Mobile-Modular Estates, Inc. to Richard D. and Caroline Sue Sims.  
2 However, this transfer was not approved by the Commission. Therefore, in  
3 Order No. 24084, issued February 8, 1991, the Commission ordered Shady Oaks  
4 to file within 60 days a request for acknowledgement of a name change and  
5 restructure.

6 By Order No. 25296, issued November 4, 1991, the Commission allowed the  
7 utility additional time to complete the name change and restructure  
8 requirements. Specifically, the utility was ordered to submit within 60 days  
9 all necessary information for changing its certificated name, including  
10 evidence that the title to all the utility land and personal property has been  
11 properly transferred to S & D Utility, or revert to operating under its  
12 currently certificated name of Shady Oaks Mobile-Modular Estates, Inc.

13 Q. In addition to the Commission orders requiring that the utility submit a  
14 request for acknowledgement of a name change and restructure, has staff made  
15 other attempts to obtain the information from the utility?

16 A. Yes. By letter dated January 22, 1992, Staff restated to Mr. Sims what  
17 information was necessary to complete the name change. This letter is  
18 included in Exhibit FJL-1. In addition, by letter dated July 21, 1992, Staff  
19 again notified Mr. Sims regarding the appropriate filing requirements. This  
20 letter is attached as Exhibit FJL-5.

21 Q. Have you reviewed all the documents filed by the utility in this  
22 proceeding?

23 A. Yes, I have.

24 Q. Based on your review of these documents, has the utility filed the  
25 required documents for the name change and restructure?

1 A. No, the utility has not filed the documents for a name change and  
2 restructure.

3 Q. Although the utility has failed to file the required documents for the  
4 name change and restructure, has the utility complied with the Commission's  
5 order to revert to operating under its certificated name of Shady Oaks Mobile-  
6 Modular Estates, Inc.?

7 A. No. The utility continues to operate as S & D Utility. Attached as  
8 Exhibit FJL-6 are copies of recent correspondence received by Staff from the  
9 utility. The letterhead on all correspondence indicates the utility is  
10 operating as S & D Utility.

11 Q. Therefore, based on your review of the documents filed in this proceeding,  
12 has the utility complied with Orders Nos. 24084 and 25296 with respect to the  
13 name change and restructure requirements?

14 A. No, it has not.

15 Q. By Orders Nos. 24084 and 25296, Did the Commission order Shady Oaks  
16 Mobile-Modular Estates, Inc. to spend funds on preventative maintenance?

17 A. Yes, it did.

18 Q. Would you please summarize the events associated with the orders in this  
19 regard?

20 A. Yes. As discussed on pages seven through eight of Exhibit FJL-1, the  
21 rates approved in Order No. 24084 include a monthly allowance of \$1,700 for  
22 preventative maintenance. Order No. 24084 further states that if at six  
23 months from the effective date of the order the utility has not expended at  
24 least 85% of the amount allowed (at least \$1,445 per month), the utility shall  
25 submit a written schedule to show what monthly maintenance will be adopted

1 | along with a statement of the reason such funds were not expended and a  
2 | detailed statement of its future plans to maintain the system.

3 |       The utility did not spend the required maintenance allowance during the  
4 | months of March through August 1991. However, in Order No. 25296, issued  
5 | November 4, 1991, the Commission found that the utility's failure to spend the  
6 | maintenance allowance was likely due to decreased revenues collected during  
7 | the period. Therefore, the utility was ordered to comply with the  
8 | requirements of Order No. 24084 on a prospective basis. The Commission was  
9 | to review the issue in five months' time.

10 | Q. Have you performed an analysis of the utility's preventative maintenance  
11 | expenditures?

12 | A. Yes. I have analyzed the utility's expenditures for the months of  
13 | September 1991 through February 1992.

14 | Q. What are the results of your analysis of these expenditures?

15 | A. As shown on Exhibit FJL-7, my analysis indicates that during the six  
16 | months under review, the utility's total expenditures on preventative  
17 | maintenance were approximately \$3,300. However, over a six month period, the  
18 | utility would be expected to spend at least \$8,670. This figure is based on  
19 | the requirement that the utility spend at least 85% of the \$1,700 allowance  
20 | for each of the six months. Therefore, the utility's actual expenditures  
21 | represent less than 40% of what the utility was ordered to spend.

22 | Q. Although the utility did not spend the allowance for preventative  
23 | maintenance, has the utility submitted to staff the required statement of the  
24 | reasons the funds were not expended and a detailed statement of its future  
25 | plans to maintain the system?

1 A. No. The utility has not submitted either of these statements to Staff.

2 Q. Therefore, based on your review of the utility's expenditures and the  
3 documents filed in this proceeding, has the utility complied with Order No.  
4 25296 regarding the preventative maintenance requirement?

5 A. No, it has not.

6 Q. By Orders Nos. 24084 and 25296, Did the Commission order Shady Oaks  
7 Mobile-Modular Estates, Inc. to escrow a portion of its rate increase?

8 A. Yes, it did.

9 Q. Would you please summarize the events associated with the orders in this  
10 regard?

11 A. Yes. As discussed on pages ten through eleven of Exhibit FJL-1, the  
12 utility received a rate increase effective March 2, 1991, as a result of its  
13 staff-assisted rate case. By Order No. 24084, the utility was required to  
14 place in escrow the portion of the rate increase related to proforma plant and  
15 a \$2,000 penalty related to unsatisfactory quality of service. Specifically,  
16 the utility was ordered to escrow a total of \$0.32 of the water gallonage  
17 charge, or \$1.89 of the water flat rate, and a total of \$1.80 of the  
18 wastewater gallonage charge, or \$10.80 of the wastewater flat rate be escrowed  
19 to accumulate the proper sums as required.

20 As discussed in Order No. 25296, the utility did not comply with Order No.  
21 24084 regarding the escrow requirements, in large part due to the failure of  
22 many of the utility's customers to pay their water and wastewater bills. As  
23 a result, the utility unilaterally decided to discontinue placing money in  
24 escrow in order for it to pay its bills. As further discussed in Order No.  
25 25296, the utility was admonished for ceasing to escrow without the

1 | Commission's approval. The utility was ordered to immediately correct the  
2 | deficiency in the account, and to continue placing the appropriate portion of  
3 | revenues in the escrow account.

4 | Q. Have you performed an analysis of the utility's escrow account balance?  
5 | A. Yes. Attached as Exhibit FJL-8 is my analysis of the utility's escrow  
6 | account balance.

7 | Q. Please explain Exhibit FJL-8.

8 | A. I have reviewed the utility's billing and collection records. Based on  
9 | the revenues collected each month, I calculated the appropriate amount of  
10 | revenues that should have been placed into the escrow account each month.  
11 | These amounts were then compared to the amounts actually escrowed by the  
12 | utility.

13 | Q. What are your findings based on this analysis?

14 | A. As shown on Exhibit FJL-8, as of November 30, 1991, the utility had placed  
15 | \$1,201 into escrow, or approximately \$3,417 less than the appropriate escrow  
16 | amount of \$4,618. This violates the Commission's order to immediately place  
17 | into the escrow account the funds necessary to bring the account up to the  
18 | appropriate balance. As also shown on Exhibit FJL-8, at September 30, 1992,  
19 | the utility should have placed a total of approximately <sup>\$20,109</sup>~~\$22,609~~ into the  
20 | escrow account. However, the utility has placed only \$9,251 into the account,  
21 | or <sup>54%</sup>~~59%~~ less than the appropriate amount.

22 | Q. Therefore, based on your analysis of the balance in the utility's escrow  
23 | account, has the utility complied with Orders Nos. 24084 and 25296 regarding  
24 | the escrow requirement?

25 | A. No, it has not.

1 | Q. Does this conclude your testimony?

2 | A. Yes, it does.

1           COMMISSIONER BEARD: While we're doing this,  
2 let me ask one question. And perhaps this witness  
3 would be the one to answer.

4           I had a question on break about when you pay  
5 your bill, the appropriate way -- I think there's a  
6 concern that the check be made out appropriately so  
7 that there's some kind of an audit trail to make sure  
8 that they paid their bill? The proper name by our  
9 records that they should be making the check out to pay  
10 the utility bill is what?

11           WITNESS LINGO: The certificated name of the  
12 Utility is Shady Oaks Mobile-Modular Estates,  
13 Incorporated. However, the Utility has been operating  
14 as S&D Utility for a period of months in violation of a  
15 Commission order.

16           COMMISSIONER BEARD: Okay. So if they want  
17 to be safe they should make it out to Shady Oaks  
18 Mobile-Modular Estates?

19           WITNESS LINGO: Commissioner, the Utility's  
20 bank account is in the name of S&D Utility, which  
21 causes another problem. I would recommend that the  
22 check be made out for trail purposes for S&D Utility,  
23 although it is not the certificated name, because the  
24 escrow account is in S&D Utility as well.

25           COMMISSIONER BEARD: Okay. For you all's

1 information at this point and for our records to track,  
2 probably the safest approach is to make it out to S&D  
3 Utilities. Okay?

4 Okay, I'm sorry, go ahead.

5 MR. FEIL: I have one other exhibit to pass out.  
6 If we could identify this as a Composite Exhibit 6.

7 COMMISSIONER BEARD: Okay.

8 MR. FEIL: The description would be  
9 "Discovery and Responses to Discovery."

10 COMMISSIONER BEARD: Okay.

11 (Composite Exhibit No. 6 marked for  
12 identification.)

13 Q (By Mr. Feil) Ms. Lingo, do you recognize  
14 that document?

15 A Yes. The first portion of this document  
16 represents interrogatories that I prepared and  
17 submitted to the Utility for their response. And the  
18 second part of this document are the Utility's  
19 responses to a portion of the interrogatories that I  
20 submitted.

21 Q In your view, does anything that the Utility  
22 say in those responses contradict or gainsay any of the  
23 allegations which the Staff has made against the  
24 Utility?

25 A No, they do not.

1           Q     What action do you think the Commission  
2 should consider taking against Shady Oaks?

3           A     I believe that the Utility should be fined in  
4 the amount of rate base; that we initiate a separate  
5 proceeding to reduce the Utility's rates by the amount  
6 of pro forma plant and preventative maintenance expense  
7 that has not been spent by the Utility; and that the  
8 Utility's certificate be revoked.

9           Q     If the customers are willing to work out a  
10 deal with the Utility and purchase the Utility from Mr.  
11 Sims, do you think that the Commission could structure  
12 its action against the Utility so as to encourage him  
13 to do that?

14          A     Yes. If we would agree to perhaps suspend  
15 the implementation of the fines until a date certain  
16 contingent upon a sale being consummated of the  
17 Utility, Staff would certainly be willing, you know, we  
18 would be willing to consider that.

19                   MR. FEIL: I don't have any more questions.

20                   COMMISSIONER BEARD: Let me ask you a quick  
21 question. In developing the record along those thought  
22 lines, just in rough numbers, there is in excess of  
23 \$10,000 that should have been escrowed that was not?

24                   WITNESS LINGO: Yes, sir, that's correct.

25                   COMMISSIONER BEARD: Where that comes from to



1 me is that there is \$10,000 that, instead of being put  
2 in an escrow account, was put in somebody's pocket?

3 WITNESS LINGO: Yes, sir.

4 COMMISSIONER BEARD: Would it be your  
5 position that as a part of structuring some form of  
6 sale or transfer those dollars would be associated with  
7 monies already collected a quote/unquote "profit"?

8 WITNESS LINGO: That is something that should  
9 be considered when structuring the sale, yes.

10 COMMISSIONER BEARD: Okay. Because I have a  
11 great deal of concern that that money was to have been  
12 put someplace to take care of some things that it was  
13 not. I guess from the standpoint of trying to work out  
14 whatever reasonable solution that is there that that  
15 needs to be a factor, among other things.

16 Okay, that's all I have. Anything else?

17 MR. FEIL: No, sir. I move the exhibits into  
18 the record.

19 COMMISSIONER BEARD: We will move Composite  
20 Exhibit No. 4 -- excuse me, No. 5 and No. 6 into the  
21 record.

22 MR. FEIL: Yes, sir.

23 COMMISSIONER BEARD: Thank you.

24 (Witness Lingo excused.)

25 COMMISSIONER BEARD: Now, did I get all the

1 exhibits move in at this stage?

2 MR. FEIL: With regards to the things that  
3 the customers brought up, I just assumed that you had.

4 COMMISSIONER BEARD: For the record, I'm  
5 moving Exhibits Nos. 1, 2, 3 and 4 into the record as  
6 well, just to make sure the record is clear; so we have  
7 all of those. And I think you will get with Ms. Bird  
8 after we finish to make sure we have all the  
9 information about those exhibits and follow up on that.

10 (Exhibits Nos. 1 through 6 received into  
11 evidence.)

12 THE REPORTER: Yes, sir.

13 COMMISSIONER BEARD: Okay.

14 MR. FEIL: I think that there's only one  
15 matter that needs to be mentioned; and that is, because  
16 you are a Hearing Officer, I will have prepared for  
17 your signature early next week an order establishing  
18 post-hearing procedure.

19 COMMISSIONER BEARD: Okay.

20 MR. FEIL: The present CASR is scheduled for  
21 a decision, I believe, sometime in March. So we'll see  
22 if the new Hearing Officer filing scheme fits into that  
23 schedule.

24 COMMISSIONER BEARD: Okay. We'll try to  
25 expedite that as much as we reasonably can to try to

1 get some results and relief for the people. Okay.

2 We appreciate your coming. I only wish that  
3 we could have gotten more answers for you today; but in  
4 the absence of the Utility's presence, that becomes  
5 difficult.

6 I can promise you that we will pursue the  
7 complaints; that we will pursue the matters brought to  
8 us in this hearing; and whatever it takes to get you  
9 the proper quality of service in a proper manner, we  
10 will do. I thank you very much for coming here today  
11 and appreciate -- yes, sir?

12 FROM THE AUDIENCE: Mr. Chairman? There is  
13 no intention of closing this docket yet, is there?

14 COMMISSIONER BEARD: No, sir, the docket will  
15 not close. At the very earliest, the docket will close  
16 once we have been through all this process and  
17 proceeding and all the Commissioners have made a  
18 decision. I would suggest to you that, what I see of  
19 this now, that even then it will not close until an  
20 ultimate solution to the problems associated with this  
21 utility are found.

22 UNIDENTIFIED SPEAKER: Thank you.

23 COMMISSIONER BEARD: We typically leave our  
24 dockets open until we are satisfied that everything has  
25 been taken care of. Okay?

1 UNIDENTIFIED SPEAKER: Okay.

2 COMMISSIONER BEARD: Okay. Again, thank you  
3 so much for your time and presence.

4 (Hearing concluded at 11:40 a.m.)

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1 F L O R I D A )

2 :  
3 COUNTY OF LEON)

CERTIFICATE OF REPORTER

4 I, SYDNEY C. SILVA, CSR, RPR, Official  
5 Commission Reporter,


6 DO HEREBY CERTIFY that the hearing in the  
7 captioned matter, Docket No. 900025-WS, was heard by the  
8 Florida Public Service Commission at the time and place  
9 herein stated; it is further

10 CERTIFIED that I reported in shorthand the said  
11 proceedings; that the same has been transcribed under my  
12 direct supervision, and that this transcript, consisting  
13 of 88 pages, inclusive, constitutes a true and accurate  
14 transcription of my notes of said proceedings; it is  
15 further

16 CERTIFIED that I am neither of counsel nor  
17 related to the parties in said cause and have no interest,  
18 financial or otherwise, in the outcome of this docket.

19 IN WITNESS WHEREOF, I have hereunto set my hand  
20 at Tallahassee, Leon County, Florida, this 15th day of  
21 January, A.D., 1993.

22  
23  
24  
25

  
SYDNEY C. SILVA, CSR, RPR  
Official Commission Reporter  
FPSC Bureau of Reporting  
Telephone No. (904) 488-5981

DOCKET 90025-WS

CASE NO. 93-03339

VOLUME III

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET NO. 90025-WS EXHIBIT NO. 1  
COMPANY: Breast  
WITNESS: F-1-73  
DATE: \_\_\_\_\_

2X10

3655 Muller Drive  
Zephyrhills, FL 33540  
January 6, 1993

Public Service Commission Hearing  
Shady Oaks Estates  
January 7, 1993

STATEMENT:

S&D Utility has performed service in an unsatisfactory manner during the period preceding its correspondence of 10-6-92, during the replacement of meter 92410506, and subsequent to the replacement of the meter.

Preceding the correspondence of 10-6-92 S&D Utility was aware of excessive meter readings. It sent me a memo dated 10-6-92 stating usage for the past three months; each month showed usage over 24,000 gallons, with a total of almost 92,000 gallons since the meter was installed. The memo suggested there must be a leak somewhere to explain the excessive usage. I was dissatisfied at this point as it took the utility more than three months to bring this matter to my attention.

After receiving the memo, I immediately called a plumber to repair whatever was necessary to prevent further water loss. Bruce Carrigan Plumbing, a reputable firm, sent a repair person to my home on 10-7-92. After a thorough search inside, outside, and underneath the mobile, no leaks were found. The repair person suggested that the meter was in some way faulty. I personally paid that charge of \$38.00.

I then called S&D Utility to request a meter change as the consensus among the plumber, myself, and S&D Utility was that unless leaks were present the 92,000 gallon reading was erroneous. I was advised that I would be responsible for the cost of replacement should the meter not be defective. No field test was made, nor was I given an estimate of the replacement cost.

On 10-8-92, at 10:30 AM, Mr. Simms arrived with repair person, Mr. Daley, to replace the meter. I was extremely dissatisfied with the professional knowledge and the quality of workmanship demonstrated by Mr. Daley. He did not appear to know how to remove the old meter. He tried several methods unsuccessfully and finally cut the pipe. He then attempted to install the new meter. As he had cut the pipe, it was now too short to fit into the meter, so he tried to add another length of PVC pipe. After several failed attempts with glues of various sorts, it appeared to be holding. Then he attempted to install the new meter. The attempt failed as major leaks were evident. He then tried several other means, including: putty, gauze, glue, and finally the correct PVC connection. Mr. Daley had no truck, supplies, tool kit, (I had to provide a screwdriver and saw) or cleaning and connection fluid. This lack of preparedness necessitated work to stop periodically so that Mr. Simms could run to the store to get what was needed. When finally the job was completed at 4:30 PM, there was, and continues to be, a leak on the utility side of the meter. I find it most unsatisfactory to be obligated to reimburse such an incompetent individual. I feel that a competent plumber

~~CONFIDENTIAL~~  
RECEIVED  
JAN 10 1993  
PUBLIC SERVICE COMMISSION  
TALLAHASSEE, FLORIDA

could have done a meter replacement in about one hour.

Subsequent to the meter replacement, I have been dissatisfied with the testing S&D Utility ordered on the meter. I told Mr. Simms that the gallonage appeared to be accurate when you were drawing water in modest amounts, but that the large needle moved slowly when no water was being drawn. In addition, I suggested that perhaps there was a mechanical problem when the meter rolled at the 100's or 1000's of gallons. I requested that he check out these possibilities. In spite of my requests S&D Utility had the meter checked only for minimal gallonage.

I have been billed by both Mr. Daley for five hours labor, and by Mr. Simms for the gallonage in dispute. I have paid neither bill as I continue to believe that the gallonage metered was incorrect.

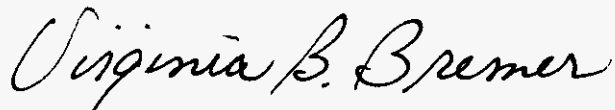
Considering there were and still are no leaks at my residence, and my usage since the meter replacement is significantly less, I feel there must have been a problem in the original installation or in the mechanical gallonage device. Since the replacement meter has been installed my usage has been: 3300 gallons for the first 20 days, 6820 gallons for the month of November, and 5280 gallons for the month of December. This three month period showed a total usage of 15,400 gallons, as compared to the first three months showing 92,270 gallons. In addition to this significant difference, (which alone would indicate that the original meter was defective) the past two months my usage has reflected a family with two or three members rather than a single person. Since October 22, 1992 my daughter has been living at this residence full time, and her husband has vacationed here for two weeks at Thanksgiving and two weeks at Christmas.

I would appreciate whatever help you can offer in bringing to the attention of S&D Utility that these discrepancies indicate some problem other than my usage,

Enclosed please find copies of correspondences from all parties concerned.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Virginia B. Bremer". The signature is written in dark ink and is positioned above the typed name.

Virginia B. Bremer



**BRUCE CARRIGAN PLUMBING**

5719 13th Street  
 Zephyrhills, Florida 33540  
 (813) 782-8482

Date of Order 10-7-92	
Customer's Order No.	Phone
Mechanic Frank	Helper
Starting Date 10/7/92	
Order Taken By Mickey	
<input checked="" type="checkbox"/> DAY WORK <input type="checkbox"/> CONTRACT <input type="checkbox"/> EXTRA	

Bill To Virginia Bremer	Address 3655 Muller Dr.	City Shady Oaks
Job Name and Location Check for leaks in home		
Job Phone		

Description of Work:

Checked complete water system  
 to the entire coach and  
 found no leaks at this  
 time.

CK# ~~0639~~  
 0639 Paid Frank  
 Service Call

A \$5.00 charge will be added to any balance remaining after 30 days. A \$15.00 charge on all returned checks.	Total Materials	
	Total Labor	38.00
	TAX	
Date Completed 10/7/92	Work Ordered By	TOTAL AMOUNT \$38.00

Signature X Virginia Bremer  No one home  Total amount due for above work: or  Total billing to be mailed after completion of work

I hereby acknowledge the satisfactory completion of the above described work.

DATE 12-16-92

SUBJECT

MESSAGE

Dear Mrs. Bremer:

Concerning your correspondence with the Utility, Mr. Daley and I visited your house on 10-8-92,. I had advised you that Mr. Daley was an independant contractor, and because at this particular time the Utility was not qualified to represent itself. Therefore, we asked Mr. Daley to participate in the complaints that you had, as to the over-usage of water. I am hereby submitting this bill to you from Mr. Daley, requesting you to pay him this amount. Now, the Utility has not charged you any amount at all. It appears that Mr. Daley's charges are in the area with the P.S.C., and that you undoubtedly did use the water that you questioned. The Utility is sending you an additional bill in the amount of \$18.74 for the days of 10-1-92 to 10-8-92.

We would appreciate your submitting the funds to Mr. Daley and bringing your account up to date with us.

Very truly yours,

*R. D. Sims*  
R. D. Sims

Encl. 6

PLEASE REPLY BY  
Adams 9042

CONSUMPTION PERIOD		WATER B.F.C.\$6.34	ACCOUNT #	
10-1-92 TO 10-8-92		SEWER B.F.C.\$12.50	92410506	
CURRENT	PREVIOUS	CONSUMPTION	SERVICE	CHARGES
0092270	0087610	4.660	WATER	6.48
			SEWER	12.26
			PREV. BALANCE	
			TOTAL AMT. DUE	18.74

PLEASE MAKE CHECKS PAYABLE TO: S&D UTILITY

P.O. BOX 280012  
TAMPA,FLA. 33682 -  
0012





DOCKET 90025-WS

CASE # 93-03339

VOLUME III

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET NO. 90025-WS EXHIBIT NO. 2  
COMPANY: Bell  
WITNESS: Robb  
DATE: 1-7-93

(2)  
3652 Muller Drive  
Zephyrhills, Fla.  
33540

March 13, 1991

Mr. Richard Sims  
38616 Shady Oaks Drive  
Zephyrhills, Florida 33540

Dear Mr. Sims,

Because it is hard to communicate with you face-to-face, we are writing this letter to you. We're also writing to the P. S. C.

Had you cooperated with us when you were first notified of our water-service leak, it would have been a simple matter to have it repaired. As it was, thousands of gallons of water were wasted as it spread into the neighbors' yards.

We called Mr. Piare regarding the memo you gave us about a 'temporary' repair. He denies that he was told it was a temporary repair, and said this was typical of your work.

We found evidence of those temporary repairs. Rags and pieces of plastic came up with the shovelfuls of mud. After pumping for over an hour as the flood water kept pouring back in the hole, the plumbers reached the leaks. It was at both ends of the nipple that joined your water line with our shutoff valve. This leak had been there for a long time as tree roots had found the water source, and had to be cut away with a jackknife to expose the source of the leaks.

If the water could have been shut off when we first reported it to you at 4 P.M. on Thursday, March 7, it could have been fixed in less than an hour. It only took \$8.90 worth of parts, but the labor brought the bill to \$99.16. That's 2 1/2 hours of labor at \$40.00 per hour.

We feel strongly that this should not be our bill to pay, and that we should be repaid by the utility, as long as you knew of this leak and temporary repair.

As it was, we spent the entire 3 days without water. I will say we

have better water pressure than we've had in the two years we've lived here, which is more evidence that the leak was there for a long time.

If you are to head a utility that serves the people here in Shady Oak - your customers - we believe it is your duty to show some cooperation when we have service problems.

We would appreciate a reply to this letter, and would be pleased to hear you say, "We'll each pay half."

Sincerely yours,  
Clarence and Marie  
Kellnhofer



3652 Muller Drive  
Zephyrus Hills, Florida  
33546

March 14, 1991

Mr. Greg Shafer, Chief of Special Assistance  
Florida Public Service Commission  
Fletcher Building  
101 East Gaines St.  
Tallahassee, Florida  
323 99-0850

Dear Mr. Shafer:

My husband and I, Mr. Clarence Kellschofer and Marie, of Shady Oaks Estates, are very unhappy with our newly formed utility.

On Thursday afternoon, March 7, Clarence went into the back yard of our residence and noticed a large amount of water just beyond our lot line. Upon inspection, he found water bubbling out of a PVC 2" pipe and spreading around the area. Suspecting this must be the location of the water main, we called Mr. Richard Sims at his home in Tampa. This was about 4 P.M. on Thursday. Mr. Sims seemed polite and said, "I'll take care of it tonight or tomorrow morning."

He reminded him that a lot of water was going to waste and we had a mere trickle of water from our faucet.

He didn't show up that evening or on Friday morning by 9 A.M., so Clarence got on his bicycle and rode up to the office. Mr. Sims was there and when asked why he didn't show up, he said we should call a plumber and it wasn't his problem.

A plumber was working in the neighborhood, so we asked him to walk over and take a look at our problem. He did so, and said he could fix it but who will pay for it? He won't work for Mr. Sims because he doesn't pay his bills. He said we'd pay. He said he had another job to go to, but would come as soon as Mr. Sims would shut off the water. We'd only have to call the plumber's office and they'd get the word and come right over.

Clarence went back to Mr. Sims to ask him to shut the water off. Mr. Sims' reply was, "You see this stack of papers? They're all from the commission and I have to abide by their rules. I can't shut the water off until they tell me I can. Before I can, you will have to notify everyone in the park of the time it will be shut off. (I really don't think this is our duty).

Well, the water didn't get shut off.

He said we could call the commission if we wanted to. He wasn't going to call them.

On the third trip to the office to urge him to shut the water off so we could get it fixed, he handed Clarence a message memo, of which I'm sending you a copy.

I called Mr. Peare, the former owner of our home, and he denied that Mr. Sims said he had only made a 'temporary' repair, and said Mr. Sims was a liar and always has been.

By this time, Clarence gave up trying to reason with Mr. Sims and was very emotionally upset, as he has medical problems. Then Mr. Bob Lindahl, our association president, whom you met when you were here at our club-house, offered to talk to Mr. Sims.

By that time, the plumbers were finished for the day, and, it being Friday, finished for the week. The plumber had told us they get time and a half on evenings and Saturdays (\$60 per hour).

Well, Mr. Sims came to the park on Saturday AM, called Mr Lindahl and asked what time we wanted the water off. Mr. Lindahl called us and we said we weren't paying \$60 an hour for a plumber on Saturday when we could

have had one for \$40 on Friday. By now we didn't even have a trickle of water in our house, but the leak in the back was getting bigger. He said we'd schedule a plumber for 9 A.M. on Monday. Mr. Sims returned to his home in Tampa, without even coming to 'have a look at the leak'.

By Monday A.M. the water had spread into two more neighbor's yards.

When Mr. Sims arrived Monday morning, he again called Mr. Lindahl (not us) and asked what time to shut off the water. When told again - 9 A.M. - he said, "I'll shut it off right now." (8:45 A.M.).

The plumber arrived about the same time, put a pump in the washed out hole, and began pumping out water as they dug. After about an hour of pumping, they were able to get to the problem. As they dug, pieces of rag and plastic came up on their shovels. These must be evidence of the 'temporary' repairs that Mr. Sims made when Mr. Peare owned the home.

The two leaks were still gushing water when they uncovered them, even though the system was shut off. The leaks were at each end of a nipple between our

shut-off and his main. Tree roots had found this leak and had to be cut away with a jackknife to expose the problem. His temporary repair must have been to tie a rag from our shut-off valve to his line to hold the leak shut.

This repair cost \$99.43 for 2 1/4 hours labor and \$8.40 worth of parts. We were without water for over three days. We have better pressure now than we've had since we lived here. (2 years)

We don't think Mr. Sims is the right person to be running a utility. We cannot count on him for any service or cooperation in the event of any problems.

We hope our complaint will go on record with the other complaints you have listed against Mr. Sims.

Sincerely yours,

Clarence and Marie Killenhofer

P.S. We posted signs at the clubhouse and on a new NOTICE board for all to see as they came in or left the park over the weekend, that the water would be off on Monday A.M.

MESSAGE/REPLY

TO:

Mr. Clarence Kellnhofer  
3652 Muller Dr.  
Zephyrhills, Fla.

3-7-91

FROM:

**SHADY OAKS**  
38616 Shady Oaks Dr.  
Zephyrhills, Fl. 33540-6526

We had advised Mr. Peare that the main trunk line was not at all damaged and that we would send him a bill, he stated that he would refuse to pay it. We advised him that it would be necessary for him to make a record of this in the event he sold his home, as this was only a temporary repair, and that he was totally responsible for it.

Very truly yours-,



R. D. Sims

MESSAGE/REPLY

Mrs. Clarence Kellnhofer

March 26, 1991

FROM:

S. & D. Utility

Concerning your letter dated March 13th., 1991 and postmarked March 18th., 1991 would appreciate your sending us copies of cost incurred for proper disbursement.

*R. D. Smith*

S & D UTILITY  
P.O. BOX 280012  
TAMPA, FLA 33682-0012



State of Florida

Commissioners:  
MICHAEL McK. WILSON, CHAIRMAN  
THOMAS M. BEARD  
BETTY EASLEY  
GERALD L. (JERRY) GUNTER  
FRANK S. MESSERSMITH



DIVISION OF WATER & SEWER  
CHARLES H. HILL,  
DIRECTOR  
(904) 488-8482

## Public Service Commission

April 4, 1991

Mr. & Mrs. Clarence Kellnhofer  
3652 Muller Drive  
Zephyrhills, Florida 33540

Dear Mr. & Mrs. Kellnhofer,

This letter is in response to your correspondence of March 14, 1991 regarding the leaking water main and subsequent repair. I am very sorry for the inconvenience you experienced over this matter. Clearly, the responsibility for the repair rests with the utility in this case. Mr. Hank Landis of our staff has contacted Mr. Sims regarding reimbursement in full for the repair bill and in addition has indicated to Mr. Sims that his conduct in this matter was inappropriate. Mr. Sims has stated that he will reimburse you for the full amount of the repair as soon as utility funds are available to do so. If you have not received reimbursement from Mr. Sims by April 30, 1991 please contact Hank Landis or me at (904) 488-8482.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gregory L. Shafer".

Gregory L. Shafer  
Bureau Chief, Special Assistance

*P.S. Reid check for  
\$99,43 on April 6, 1991*

cc: Charles H. Hill  
Richard Sims



DOCKET 900025-WS

CASE # 93-03339

VOLUME III

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 900025-WS EXHIBIT NO. 3

COMPANY/ WITNESS: Bird

DATE: 1-7-93

JAN 6, 1993

38536 Cone Ave.

Elmer Dean

(3)

I have been turning the water on and off for a relative next door to us for the past five years and have never had a problem - On Jan. 5<sup>th</sup> I was asked to turn the water on again - I proceeded to do so and there was a trickle of water - This has happened since the meter was installed.

I've never been comfortable talking to the owners of the facility but did so on Jan 5<sup>th</sup> - I told him the problem - He asked if I got water through the meter and I said "Yes, a trickle" - He said "It must be a valve" - I'll be in the park tomorrow - (Jan. 6<sup>th</sup>)

Dick showed up @ 12 noon Jan 6<sup>th</sup> He proceeded to check out the situation and remove the meter - The trickle was still coming through the pipe. Dick informed me he's going to shut the water off on Wed. Jan 13<sup>th</sup> as he would have to get a digger in to dig up his line - He said ~~our~~ relatives could use our facilities and he would reimburse ~~us~~ for the use of the water - over

Addendum:

Our relatives are Mr. and Mrs. James Christensen. Mr. Christensen is the owner of record of the house located at 38530 Cone Drive, next door to mine, and pays a water bill to the utility each month. I believe he is entitled to his own service and should not have to wait a week or so to have water at his house.

Samuel Dean

Comp  
Ex 4

We would like to enter into the record these copies of documents regarding quality of service previously filed with the staff of the Florida Public Service Commission between March of 1991 and the present:

- To: Denise Vandiver from SOOA dated March 25, 1992
- To: Denise Vandiver from SOOA dated September 11, 1991
- To: Florida Public Service Commission from SOOA dated January 7, 1993

We would also like to enter into the record signed statements regarding unsatisfactory quality of service from the following customers of the utility:

- John Boyce
- Helen Wolters
- Elizabeth Jacob
- Alvin Lachapelle
- Carrol Meeusen
- Ruth Tutt
- Carolyn West

WILLIAM KNAPP  
ELINOR SPALO

We would like to read into the record signed statements from the following customers of the utility:

- Elmer Dean
- ~~Alvin Lachapelle~~

We would like entered into the record as exhibits of unsatisfactory quality of service during the period March 1, 1991 through January 6, 1993 the following documents:

Correspondence from:

- Clarence and Marie Kellnhofer to Richard Sims; Florida Public Service Commission dated March 13, 1991 thru April 4, 1991
- SOOA to FPSC (Charles Hill) dated May 15, 1991
- Newspaper accounts re: 7/25/91 dated 7/27/91; 8/2/91; 8/4/91
- SOOA to Richard Sims dated August 13, 1991
- SOOA to FPSC (Hanna) dated August 22, 1991
- SOOA to FPSC (Customer Relations) dated September 10, 1991
- SOOA to FPSC dated March 25, 1992
- Lamont Wilch to FPSC (Shafer) dated April 1, 1992
- SOOA to FPSC (Shafer) dated April 6, 1992
- Robert Lindahl to R.D. Sims dated Oct. 21, 1992
- Carolyn West to S+D utility dated Dec. 11, 1992

DOCKET 900025-WS  
CASE # 93-03339

FLORIDA PUBLIC SERVICE COMMISSION VOLUME III

DOCKET NO. 900025-WS EXHIBIT NO. 4

COMPANY/ WITNESS: Bird

DATE: 1-7-93

4/8

4/8

4/8

TO: Florida Public Service Commission  
FROM: Shady Oaks Owners Association  
RE: Docket Number 900025WS, staff-assisted rate-case for  
Shady Oaks Mobile-Modular Estates, Inc.  
Review of quality of service to utility customers  
through January 6, 1993  
DATE: January 7, 1993

We wish to address the following areas of concern with regard to performance of the above-named utility for the period April 1, 1992 through January 6, 1993:

1. Communications/Customer Relations
2. Customer Billing
3. Maintenance and Operation of Plant
4. Installation of Meters
5. Utility Response to Customer Service Problems

#### COMMUNICATIONS/CUSTOMER RELATIONS

There is no secure drop box or letter slot provided at the office for deposit of payments. An unattended cardboard box, unsecured and with no provision for being locked is provided in the office area for this purpose; the box carries a hand-lettered disclaimer that says "NOT RESPONSIBLE".

There has been no attempt on the part of the utility to educate customers about tariff provisions, possible violations and probable consequences of them. Although the tariffs are available in the office of the utility for any customer to inspect, the utility office is open only two (2) hours per week on a constantly changing schedule. This makes any kind of business transaction with the utility exceedingly difficult.

Many customers are reluctant to call the utility when they have service problems, because of fear of verbal abuse or intimidation by the owner.

Another concern is our ability to reach the utility by telephone. The telephone in the office, during the periods it is not open, directs the caller via a recorded message to a Tampa (long-distance) number. It does not say that one may call collect. The monthly bill also lists the same Tampa long-distance number for emergencies; it does not specify to call collect. Because the office is so seldom open, this number becomes, in effect, the only number at which one can expect to reach the utility, whether emergency or routine call. The customer thus must pay long-distance charges for most calls to the utility.

Further, there is no local agent that can be called in case of receiving no answer or a recorded message at the Tampa number. The service personnel located in Tampa also have a 45-60 minute drive time to the plant location in Zephyrhills, depending on the traffic

situation at the time of the problem. We have already experienced a one day water outage due to this system of response. At one time, the utility was advised that hiring a local agent or using a personal beeper might be a prudent solution; this improvement has not been actuated.

#### CUSTOMER BILLING

The bookkeeper has been very cooperative about answering billing questions, providing itemized statements, and making required adjustments.

#### MAINTENANCE AND OPERATION OF THE PLANT

Leaks on the utility side of the meters are still being left unrepaired for unnecessarily long periods of time.

Water is still shut off to the entire park when repairs are necessary to any part of the system, although this is scheduled for change on January 13, 1993.

The hookup to the county sewer lines, which was to have been completed by January 1, 1992, has yet to be started. We have a concern about the life expectancy of the sewage treatment system; we have been told that the system has very serious problems. What happens when it fails?

#### INSTALLATION OF METERS

The meters were not installed by a licensed plumber. The installation made in a most unprofessional manner, with many instances of holes left uncovered, boxes set too high, meters being placed too deep. Many of these situations have yet to be corrected.

While all of the customer meters have now been installed, in the process of installation a number of previously working systems were disrupted. In the instances where customers have returned from vacation to find water service problems where there were none before, we believe the utility should assume the responsibility of determining and correcting these problems.

#### UTILITY RESPONSE TO CUSTOMER SERVICE PROBLEMS

The utility's customers have been made aware and do understand that service complaints should initially be brought to the attention of the utility. Recent service complaints have concerned meter accuracy (e.g. excessively high gallonage readings), disruption of water flow apparently caused by faulty meter installation, and sewer blockage. When these were brought to the utility's attention, the response has been to instruct the customer to hire a plumber to investigate the problem, prior to a thorough field investigation by the utility. It seems that the burden of proof is being placed upon the customer; we believe it belongs to the utility.

#### CONCLUSION

In recent weeks we have seen some efforts by the utility to improve

customer relations. Often in the past, to avoid humiliation and/or hostility, customers have buffered their communications with the utility through an Association board member. We are therefore reluctant to recognize these efforts as a permanent change until enough time has elapsed to observe the utility's interaction with a larger share of the customers.

TO: Denise Vandiver, Regulatory Analyst  
Florida Public Service Commission  
Division of Water and Wastewater

FROM: Shady Oaks Owners Association *RVH*

RE: Docket No. 900025-WS, staff-assisted rate case  
Shady Oaks Mobile-Modular Estates, Inc. (aka S&D Utility)

STATEMENT OF CONCERN REGARDING QUALITY OF SERVICE  
September, 1991 through March 25, 1992

DATE: March 25, 1992

We wish to address the following areas of concern with regard to the performance of the above-named utility in the five month period following Commission Order #25296 on November 4, 1991.

MAINTENANCE

The condition of the existing percolation pond and surrounding area gives no evidence that any maintenance has been performed in this period, nor have we observed any being done. The grass is very high and tree roots and grass grow into the water from the edges. The color of the water is a very bright green. Effluent overflow onto the surrounding areas is also evident.

We are concerned that construction of the interconnect to the county sewer line has not even been started. Commission ordered rates have been consistently paid by all of the residents of Shady Oaks since August 1, 1991 following court orders to do so.

Chlorination of the water system has been noticeably heavy on several occasions, the most recent being the past several days. It is almost undrinkable.

OPERATIONS

As we mentioned in our last report, we are concerned that the entire park is being shut down unnecessarily for work on one segment of the system. There are separate shut-off valves to various service loops in the system, and it is our feeling that installation of meters or repairs on any given section should only necessitate the shutdown of that section.

Meter installation seems to follow a very random pattern. While Block H's installation has now been completed, there have been some random meters installed for no apparent reason in other areas, one of which is on one of the vacant lots in an undeveloped area of the subdivision. Digging to find the lines has resulted in landscape being disturbed in several instances.



Statement of Concern  
Shady Oaks  
March 25, 1992  
Page 2

CUSTOMER RELATIONS

We are still concerned about hours of access to the utility's office, whether for bill paying or other inquiries. Currently the office is scheduled to be open only two (2) hours per week, and these are not consistent - they change from month to month, and sometimes during the month. This inconsistency creates a difficulty in knowing when the office will be open, which we feel creates a hardship especially for the older residents of Shady Oaks.

Our greatest concern at this time is access to the utility in the event of an emergency situation. At present the only telephone number being provided is that of Mr. Sims' home in Tampa, which can be called collect, but not if being answered by machine. If a customer wishes to leave a message on the machine he must pay a toll charge. But even this is not of prime concern; in the event of emergency we need to talk to a human being. Can the utility not provide a 24 hour service for the customers immediate needs, whether it be by hired service or by personal beeper carried by the owner or his representative?

We would appreciate your attention to our concerns. We cannot apply elsewhere for service; we would like this utility to pay attention to our concerns.

TO: Denise Vandiver, Economic Analyst  
Florida Public Service Commission

FROM: Shady Oaks Owners Association

RE: Docket No. 900025-WS, staff-assisted rate case  
Shady Oaks Mobile-Modular Estates, Inc.(S & D Utility)

STATEMENT OF CONCERN REGARDING QUALITY OF SERVICE  
February through September 10, 1991

DATE: September 11, 1991

We wish to address the following areas of concern with regard to the performance of the above-named utility in the six month period following the Commission's action in granting a rate increase:

1. Communications
2. Customer Billing
3. Maintenance and Operation of Plant
4. Installation of Meters
5. Construction
6. Income of Utility

We are enclosing copies of letters and documents to support our concerns.

#### COMMUNICATIONS

Because this utility provides the only water/sewer service available to us, we believe it is important to be able to communicate with the owner - to have questions answered and to obtain reasonable explanations of things we don't understand. On several occasions during the past six months, letters have been sent to Mr. Sims and/or Shady Oaks Mobile-Modular Estates requesting information. On one occasion Mr. Sims was invited by the Association to speak at a meeting to explain his system of billing. He did not respond to the letter, nor did he attend the meeting. Often we do not receive replies to our letters; the replies we do get usually direct us to "ask the PSC." Whatever question is asked, Mr. Sims' stock answer is "Ask the PSC." If we thought the PSC was running the utility we would direct our questions to it in the first place and save the hassle, but it is our understanding that Mr. Sims is operating this utility and we believe he should answer customer inquiries.

A similar situation exists when attempting to speak to Mr. Sims personally. He is either uncommunicative, abusive, insulting, humiliating, frustrating or evasive - and on occasion he has been profane. Mr. Sims frequently fails to return telephone call

messages left on his answering machine by residents or officers of the Association. On the occasions that he has taken calls, the usual response is "Ask the PSC."

It would be a great help to the residents of Shady Oaks if Mr. Sims' office hours were regular and consistent. It is a great inconvenience to have them change weekly, and when one of us calls the office to ask what this week's hours are, the reply is either "They're posted on the door" or "I'm here now." Neither of those answers is satisfactory or proper.

Mr. Sims does not come out to the front room of his office to accept payments from the customers and we are forbidden from entering the back room. There is a box on the desk in the front office; the box has a slot in it, presumably for deposit of payments, with a prominent notice attached that says "NOT RESPONSIBLE." At times Mr. Sims has refused to accept hand-delivered payments from customers.

#### CUSTOMER BILLINGS

Bills received from the utility are often confusing. Since they are prepared on a form that is then pasted to a postcard, it would be helpful if the utility could use a more detailed form, such as the example shown below.

Previous Balance	_____
Payment Received	_____
New Charges	_____
Total Due	_____

This type of billing would eliminate much of the misunderstanding and chance for error, since the customer could see where the total due was derived and ask intelligent questions if there appears to be a discrepancy.

A letter was sent to the utility on May 6 requesting clarification of how the initial pro-rated credit was arrived at; on May 30 a reply memo was received directing the customer to "ask the PSC." Although we are still not exactly sure how the credit was figured, we think we know what figures were used.

#### MAINTENANCE AND OPERATION OF PLANT

Maintenance of the grounds has been somewhat sketchy. We do not know how much has been allowed to cover the costs of this, or how much the invoices claim, but very little has been done. The office lawn was mowed two or three times.

During the months of June, July and August the chlorination of

the drinking water was noticeably heavy. Some of us were concerned that the substantial leaking of the pool water might be getting into the water table. There was no test made to determine whether this could be a factor in the taste of the water.

On July 12, 1991 the certified operator of the Shady Oaks water and sewer facility, Mathis Water Treatment Company of Winter Haven, discontinued service to Shady Oaks because of a two-month overdue bill for services amounting to \$922.50 through June. Shady Oaks was without a certified operator from July 12 until the first of September.

Several times water was shut off with no notice to customers, sometimes for a period of several hours. The first part of May we asked PSC staff for a definition of "emergency" and were told it was an unplanned shutoff. It is also our understanding that a utility must notify all of its customers of a pending water shut-off unless it has made other arrangements with them; Shady Oaks has not. Our records show that water was off on April 16 without notice, and twice in August for non-emergency repairs that were called emergencies by Mr. Sims when he called in to the PSC in anticipation of complaints.

We are also concerned about having the entire park shut down when one area needs work. This is not necessary, as there are separate shut-off valves to various service loops in the system. Mr. Sims does not seem inclined to separate the service areas when working on the lines, and up till now the whole park has been shut down almost every time.

On several occasions, when leaks of major import have been reported to Mr. Sims, he has chosen to ignore the reports and not check out the situation. On or about January 1, Reed Clark reported a major leak on a vacant lot on Monet Drive that exists still; the pipe is wrapped with tape to keep it from gushing. On March 7 and 9, as documented in letters to the PSC, there were leaks on property belonging to Kellnhofers and Lancasters that Mr. Sims refused to inspect. In July it took over two weeks to have a major leak on Muller Drive taken care of, even though a steady stream was running in the street.

When a leak was reported at the clubhouse, the method of repair was to shut the water off to the drinking fountain. On July 26 a steady leak was spotted at the utility office; it is still there. After a meter was installed at Helen Clements' home, a leak occurred in her line; it is still not repaired. On August 12, a leak at Mrs. Ruth Tutt's was ignored for four days after she reported it. Mr. Sims inspected it only after several calls from Mrs. Tutt's

daughter and son-in-law three days later.

The residents don't report leaks to harass Mr. Sims. We report them because they waste water and they often affect the water pressure in our homes. It seems to us that if Mr. Sims feels one of the ASSociation officers is connected with a report of a leak (and we usually are in some way because the residents will call one of us first when a problem arises) he will choose to ignore it.

#### INSTALLATION OF METERS

It was our understanding, from a letter written to Mr. Sims by the PSC, that the meter installation was to follow a predetermined plan approved by the PSC. Digging began June 4 on Block A and two meters were installed. On June 24, Mr. Sims filed an amended plan to install 35 additional meters on Block A. However, other digging has proceeded in a haphazard fashion on Blocks H, G and D. On July 3 there was more digging on Castle and Monet (Block A). A lull in the activity occurred until July 18, when there was random digging on Block H, and July 19, digging on Block G. Both of these days digging was conducted close to the residences and the properties were left in an unsightly condition. On July 24 digging was resumed on Block H and meters were installed on Monet and Castle (Block A) and two on Willoughby (Block B). On August 8 there was random digging on Block D, with holes left uncovered. On September 5 Mr. Sims installed 5 additional meters on Castle Drive (Block A), bringing the total installed to 30.

In our view, these meters were installed in a most haphazard manner. The person hired to do the digging had no map of the subdivision and no supervision from Mr. Sims. Many of the pipe lines are not contained within the property easements and wander around at random. A lot of lawns were dug up unnecessarily because the digger hadn't the foggiest notion where to begin, and a lot of holes were left uncovered, creating a safety hazard. Some of the meter covers were installed 12"-16" below grade level. The method of installation has been somewhat unprofessional; we have seen instances where pipes were cut too short and lines have been pulled together from both directions, with resultant leaks. As previously mentioned, there is still a leak in front of Mrs. Clements' home that was caused during installation of the meter in July and no one from the utility has attempted to repair it yet.

#### CONSTRUCTION

On July 1, 1991 a Show Cause hearing was held in the 6th District Circuit Court, initiated by the DER against Shady Oaks Mobile-Modular Estates for failure to complete construction of the proposed percolation by December 31, 1990. At the hearing Mr. Sims did an about-face and agreed to purchase bulk wastewater services from Pasco County, a move which Mr. Sims would not even discuss in February when he was first presented with the proposal. We presume this move had the approval of the PSC. In any event, it will probably affect the rate structure of the utility as the

pond will not now be built and the construction costs and land costs that were built into the rate base are no longer valid. The utility was mandated by the court to have the changeover completed by January 1, 1992. This will involve construction of connector lines to the county and decommissioning of the existing plant. WE have not seen any evidence of efforts toward these goals by the utility.

#### INCOME OF UTILITY

On July 25 electricity was cut off to the water pumps and the sewer treatment plant for non-payment of two months arrears to Withlacoochee River Electric Cooperative. The bills were for May and June of 1991. At that time the residents of Shady Oaks were left with no water and no apparent way to be rescued by any government agency. We think it is a shame that the laws of the state of Florida are written in such a way that no agency can or will assume the responsibility of taking control, even temporarily, of a utility that is controlled by the Public Service Commission for the good of the public, even when that utility shows such a degree of irresponsibility.

We believe that the utility had as much, if not more, money than it would have if payments had been made by the customers exactly the way that had been originally planned, and that non-payment of bills, as in the case of Withlacoochee and of Mathis, was an act of extreme irresponsibility and disregard for the welfare of the utility's captive customers.

The rates were set by PSC order to provide money for construction of the pond and installation of the meters. The pond construction has been eliminated; only 30 meters of a potential 185 have been installed. However, the entire maintenance fee (with the exception of approximately \$60 monthly for electricity to the recreation center, the only service being provided) was available to the utility. This was paid monthly by 185 lot owners, except for July when 114 of those payments went into the court registry and were subsequently returned to the payees by court order. But in July over 60 people did pay the \$25 to the Corporation, in addition to those who paid the \$42.98 every month (approximately 20). In August and September the utility is receiving the \$42.98 from everybody except those still on vacation. Since the PSC is unwilling to pro-rate the end of the six-month period the same way it did for the beginning (March), Mr. Sims will gain extra income from those 20 days that he really should not be entitled to. The enclosed chart should show clearly that the utility is not as bad off financially as it claims to be, and may help staff in making comparisons with the figures the utility is providing as to its income from the residents. We believe that the PSC staff has the idea that some of Shady Oaks' residents have not been paying anything at all to the utility and that is simply not true. We believe Mr. Sims may be using revenues for legal fees and personal support. Mr. and Mrs. Sims are allowed to take a combined salary of \$1700 per month from utility revenues, but Mr. Sims has stated under oath that if he needs more, he takes more.

Since there are only 30 meters installed at this time, a grossly disproportionate number of the eventual total, we would like to see ALL of the customers of Shady Oaks pay only the base rate until ALL of the meters are installed, thus eliminating discriminatory collection of higher rates from a very small minority of the utility's customers.

CONCLUSION

As a publicly sanctioned monopoly, Shady Oaks Mobile-Modular Estates, Inc. needs to meet certain standards of performance. Lack of funds, for whatever reason, does not abrogate the utility's responsibilities. If the utility owner cannot meet his obligations, he should have to face the same consequences as any other business owner in the same position. The Public Service Commission should place less emphasis on helping the utility and more on helping the consumer.

We strongly believe that a utility operator who shows such total disregard for his customers should have his operating sanction withdrawn by the state of Florida.

/dkb

Enclosures

Copies to: Gregory Shafer  
              Gerald Figurski

ESTIMATE OF INCOME - 1991

SHADY OAKS MOBILE-MODULAR ESTATES, INC.

[S & D Utility]

MONTH	PAID \$25 TO SOMME	PAID \$42.98 TO S & D	PAID \$25 TO R. SIMS	PAID \$25 TO REGISTRY	TOTAL REC'D by SOMME/S&D
March	25x185=4625	42.98x 50=2199			5298
April	25x 35= 875	35.28x 20= 700	25x150=3750		5325
May	25x185=4625	35.28x 20= 700			5325
June	25x185=4625	35.28x 20= 700			5325
July	25x 64=1600	35.28x 20= 700		(25x114=2850)	2300
Aug	25x 20= 500	42.98x100=4298 -0- x 65= -0-			4798
Sept	25x 20= 500	42.98x100=4298 -0- x 65= -0-			4798
Oct	25x 15= 375	35.00x 25= 875 18.84x100=1884 -0- x 40= -0-	(reconnect) 15 x 25= 375		3509
Nov	25x 15= 375	35.00x 25= 875 18.84x140=2638	15 x 40= 600		4488
Dec		35.00x165=5775	(assuming all meters installed)		5775
			--Credit for resident pay- ment of utility's elec- tric bill.....		(1093.71)

\*All figures are approximate, based on 185 owned lots in subdivision, 165 occupied residences, and approximately 65 residents who opted for "vacation rate" while they were away for the summer - no charges for utility service and a \$15 reconnect charge upon return.

This estimate was prepared in August, 1991 by Shady Oaks Owners Association.





JOHN P BOYCE  
38523 BENIGER DR  
ZEPHYRHILLS FL 33540

STATE OF FLORIDA PUBLIC SERVICE COMMISSION  
c/o SHADY OAKS MODULAR \* MOBILE HOME PARK  
ZEPHYRHILLS, FLORIDA

January 5, 1993

TO State of Florida Public Service Commission  
c/o Shady Oaks Modular-Mobile Home Park  
1702 Highway 39 south  
Zephyrhills, Florida

Subject ---Leaking Water Meter

Since the meter was installed on my property this past summer, it has leaked, not on my side of the meter but on the side coming into the meter. This leak has not cost me any extra usage of water.

I have notified the owner of the Water Co., Mr. Sims at least 6 or 7 times of this leak and I know on one occasion Mr. Sims looked and said it would be fixed. He has done nothing.

If these pipes should come apart the water damage could be astronomical to my property.

On December 28th I told Mr. Sims that this leak has caused the sand to nearly cover his water meter. I got the same answer, we will fix it.

I have tried to call the Public Service Commission at least 3 times this month only to receive the voice of a man telling me all the lines are busy.



John P. Boyce

38523 Beniger Dr.

Zephyrhills, Fl. 33540

(813) 788-6700

cc:File

I had two sink holes in my back yard. They were at each end of the water meter. I told Dick, he said a lot of people have that problem. as soon as the heavy rain stops we are going to check and fix them. But the holes were pretty deep, so I took my foot and kept pushing it in. When my son came he took a shovel and filled it in. A man in the park took the cover off, he dug down a long way, and shoveled it out. He said the only way I was going to stop it, was to put stone blocks in for a wall. I said I'm not buying blocks to put in and hire a man to put them in. But as of now it is o.k. The lady can read it fine.

Elizabeth M. Jacob Jan 6, 1993

3729 MULLER DR



December 16, 1992

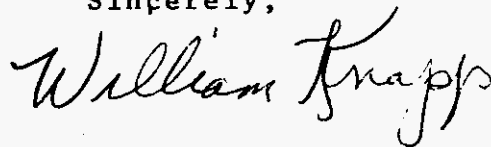
Mr. Richard Sims  
S & D Utility  
P.O. Box 280012  
Tampa, Florida 33682-0012

Dear Mr. Sims:

On Tuesday, December 15, 1992, I paid Environmental Contractors of Dade City \$125.00 (as shared costs with Mrs. Barbara Arnold) to have roots and debris removed from the main stem connection going into the sewer lines behind our respective properties. It is my opinion, and that of the plumber, that since there are two customers feeding into the main at this point, the repairs that were necessary should be the responsibility of the utility. The blockage was on the main side of the connection.

Since it was necessary to pay this bill at the time of service, I am enclosing a copy for your records and am asking for reimbursement in full.

Sincerely,



William Knapp  
3667 Muller Drive  
Zephyrhills, Florida 33540

# ENVIRONMENTAL CONTRACTORS

AIR CONDITIONING • PLUMBING • ELECTRICAL

ST. CERTIFIED

#CAC02382

#CFC037171

FACTORS

25

Residential  
Dade City  
904-567-5515



Commercial  
Brooksville  
904-792-0857

ADDRESS <i>11th Street</i>		DATE <i>12/15/92</i>
APARTMENT <i>2 Hills</i>		PHONE
MAKE	MODEL NO.	DATE PROMISED
SERIAL NO.		DATE OF ORIGINAL INSTALLATION
NATURE OF SERVICE		<input type="checkbox"/> ESTIMATE <input type="checkbox"/> CASH <input type="checkbox"/> WARRANTY <input type="checkbox"/> CHARGE <input type="checkbox"/> CONTRACT <input checked="" type="checkbox"/> C.O.D.
QTY.	DESCRIPTION	PRICE    AMOUNT
	<i>Clean roots from sewer main &amp; replace fitting</i>	<i>370<sup>v</sup></i>
		<i>159<sup>m</sup></i>
COMMENTS <i>Still has roots in main line. owner aware.</i>	TECHNICAL SERVICE TIME	TOTAL MATERIALS
TECHNICIAN <i>Lynn</i>	<input type="checkbox"/> SHOP <input type="checkbox"/> HOME <input type="checkbox"/> PICK UP OR DELIVERY <input type="checkbox"/> SERVICE CALL CHARGE	
Signature below constitutes acceptance of above service performed as being satisfactory -- and that the equipment has been left in good condition.	DATE COMPLETED	TAX
		TOTAL <i>125.00</i>

18110

**INVOICE**  
SEE REVERSE SIDE FOR GUARANTY

*Thank You*

PRODUCT 631



MATERIAL

ARTICLES	AMOUNT	ARTICLES	AMOUNT
Jan 5, 1993		7:45 PM	
Called Tampa 932-3177 &			
Mr Sims came to my address & checked water meter & said it was OK.			
It reads 00000000			
I have no water thru the meter. <del>Plumber</del> had to get water from neighbor			

came @ 10:10 AM

TIME REPORT

DESCRIPTION OF WORK	CLOCK TIME	Hours
(Mr Sims) He told me to call plumber - The problem is not his <del>meter</del>	Start 1	a
	Stop	
Plumber Spoke	Start 4	
	Stop	
	Start 5	
	Stop	
	Start 6	
	Stop	

TOTAL COST OF REPAIRS

Total Hours \_\_\_\_\_ @ \_\_\_\_\_ \$ \_\_\_\_\_  
 Material Used \$ \_\_\_\_\_  
 Plus Tax \$ \_\_\_\_\_  
 TOTAL \$ \_\_\_\_\_



May 10 - 91

I Mr Carrol Meussen went in  
to pay Mr Sims his check for  
May water sewer, on May 8 at  
10:00 AM.

I didnt see Mr Sims right way  
so I yell is anybody here and Mr  
Sims yell in here.

So I said here is check, Mrs Sims  
said put it on the desk and I said  
the wind will blow it off and  
Mr Sims yell back, shut the F--- King  
door then.

I feel nobody should use anybody  
that way.

Mr Carrol Meussen

3534 Castle Dr

Zephyrus Fla

Phone 788-3207

33540-6570

Reviewed - January 6, 1993 -

Carrol Meussen

SHADY OAKS OWNERS ASSOCIATION, INC.

P.O. BOX 1030

CRYSTAL SPRINGS, FLORIDA 33524

May 14, 1991

Mr. Charles Hill  
Director, Division of Water and Sewer  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32399

Re: Shady Oaks Mobile-Modular Estates, Inc. - Utility

Dear Mr. Hill:

On Monday, May 6, 1991, during the hour the utility scheduled to keep the office open, one of our residents, Mr. Carrol Meeusen, went to Mr. Sims' office to present his check. Mr. Sims was in the back room, which is marked "private", so Mr. Meeusen called to him that he had a check for him. Mr. Sims indicated that it should be placed on the desk. It was windy and the door was open. Mr. Meeusen expressed his concern that the check might blow away. Mr. Sims' reply was "Shut the f---ing door!"

We do not believe any customer should be treated this way by anybody doing business. We believe we are entitled to courtesy and respect from Mr. Sims when presenting payments. We also believe Mr. Sims should present himself in the office when a customer comes in, and should write a receipt for payment to be given to that customer.

This incident reflects a typical attitude taken by Mr. Sims and is one of the many reasons that the people of Shady Oaks do not wish to do business with him. If we were not a captive group, we would take our business elsewhere.

Respectfully,



Robert W. Lindahl  
President

RWL/deb  
enclosure

cc: Jack Shreve  
Richard Sims

SHADY OAKS OWNERS ASSOCIATION, INC.  
P.O. BOX 1006  
CRYSTAL SPRINGS, FLORIDA 33524

January 3, 1992

Florida Public Service Commission  
Division of Consumer Affairs  
101 East Gaines Street  
Tallahassee, Florida 32399-0867  
Attention: George Hanna

Dear Sir:

We are writing to report the behavior of the owner of the utility serving Shady Oaks Mobile-Modular Estates, Mr. Richard Sims, towards Mr. Alvin Lachapelle, a Shady Oaks resident and customer of said utility.

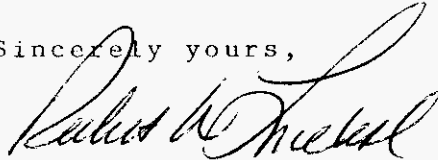
As stated on the utility bill for December 1991, the last day to pay this bill without being delinquent was December 20. On Thursday, December 19, Mr. Lachapelle noticed Mr. Sims was in the subdivision and went to the office to pay his bill. Although the door was open, the payment drop box was not in evidence, and the hours posted on the door for December read: "Monday, 10 to 11 and Friday, 10 to 11". Mr. Lachapelle returned to the utility office on Friday at the posted time to find it closed. He then mailed his check, although he was somewhat upset about it now being delinquent.

Therefore, on Thursday morning, January 2, when Mr. Sims was again in the office, Mr. Lachapelle approached him to request a statement from the utility crediting the payment as having been made timely. After listening to Mr. Lachapelle, Mr. Sims proceeded to harangue him, using extremely profane and vulgar language. We are enclosing a copy of Mr. Lachapelle's account of the incident.

We have protested this type of behavior by Mr. Sims before. We believe that no one should be subjected to this kind of verbal assault from anyone, and certainly not from an individual who is providing a public utility service sanctioned by the state of Florida that we are required to patronize, having no other choice.

We thank you for your attention to this matter.

Sincerely yours,



Robert W. Lindahl  
President

RWL/dkb

cc: Gregory Shafer, Chief/Special Assistance  
Denise Vandiver, Staff Analyst  
Gerald A. Figurski, Esquire  
Alvin J. Lachapelle

JAN. 2, 1992

This morning I saw Mr. Sims and asked for an amended  
copy of my delinquency account (his estimate). My  
check for the current payment was in transit (42.98)  
and that amount was added to the amount he claims  
I am in arrears. His answer to my request was "Alvin  
FUCK YOU". His parting shot as he walked away was  
Alvin I don't talk to white niggers.

Alvin J. Lachapelle

Alvin J. Lachapelle  
Jan 6, 1993



# Speed Letter®

To S & D UTILITY (R. Sims) Date 12-11-92  
P.O. Box 280012  
Tampa, Florida 33682-0012

From \_\_\_\_\_ Date \_\_\_\_\_

Subject Water Leak! 38609 Monet Dr.

-No. 9 & 10 FOLD

Message As per your request, in our  
telephone conversation on 12-11-92,

we are reporting this water leak in

writing. The leak, we believe, was caused

from the installation of the water meter.

// Carolyn West (C.W.Mc.)  
38609 Monet Drive  
Zephyrhills, Florida 33540

cc Shady Oaks Owner's Assoc.

-No. 9 FOLD

-No. 10 FOLD

Signed \_\_\_\_\_

Reply \_\_\_\_\_

Signed \_\_\_\_\_

**Wilson Jones Company**  
GRAYLINE FORM 44-503 3-PART  
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1181

SENDER—DETACH AND RETAIN YELLOW COPY. SEND WHITE AND PINK COPIES WITH CARBON INTACT.

4C  
May 15, 1991

Mr. Charles Hill  
Director, Division of Water and Sewer  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32399

Re: Shady Oaks Mobile-Modular Estates, Inc. - Utility  
Regular Office Hours

Dear Mr. Hill:

This letter addresses the hours the utility office is open to serve its customers. In a memo dated April 8, 1991 to Mr. Richard Sims (utility owner/operator) we requested more hours and on a regularly scheduled consistent basis. A copy of this memo was sent to Greg Shafer, Chief of Special Assistance. We received a response by telephone on April 26, 1991 from John Plesko, consumer affairs analyst; his reply was that since this was a small utility it had only been allotted two hours of time each week in the rate structure. If the customers wanted more hours, it would cost us more money.


Our concern at this time is that, with only two (2) hours per week to conduct business at the Shady Oaks utility office, we would like the hours to remain consistent from week to week and month to month.

The last two weeks of March, following the approval of the utility's tariff, were different from each other. The month of April, while remaining the same the entire month, had different days than March. Hours for the month of May were scheduled for different days than in April as posted on May 1. However, this week a new sign appeared with hours for the week of May 13-17, and the times were changed.

Our vice-president, Dorothy Bird, paid a visit to the office on May 6 and asked why the scheduled hours could not remain the same. Mr. Sims answered that "he had to go to court sometimes." When questioned as to how unknown court dates could relate to scheduling of hours, Mrs. Bird was told that if she had any questions she could call the PSC.

The residents in Shady Oaks range in age from 50 to 95, with the majority over 70. For the sake of those customers with limited mobility, we would like the hours to remain consistent, on the same days of each week and at the same hour. We hope you will be able to help us; Mr. Sims does not appear to be willing to do so.

Sincerely,

  
Robert W. Lindahl  
President

cc: Jack Shreve  
Richard Sims

# Shady Oaks owners find no agency help

By KEVIN METZ  
Tribune Staff Writer

ZEPHYRHILLS — A group of mobile home owners who found themselves without water service last week when their community's developer failed to pay the utility bill said they are concerned that other homeowners may be in the same danger.

Water and sewage-treatment service was cut off July 25 to more than 100 residents of Shady Oaks Mobile-Modular Estates, even though they had paid their bills.

But what bothers them now is that they knew their water and sewage-treatment service was go-

ing to be cut off and they couldn't do anything about it.

Dorothy Bird, vice president of the Shady Oaks Homeowners Association, and several of her neighbors looked for two days to find someone to help because they knew the developer responsible for paying the bills was having difficulty.

"We had hoped that there would be an agency to help in the situation," Bird said Friday. "We spent two days trying to find one, but that didn't work."

Richard Sims, the community's developer who collects utility fees for the community's private water

See OWNERS, Page 1

The Tampa Tribune-Times, Sunday, August 4, 1991

## Owners have no recourse when developer ignores bills

From Page 1

and sewage system, told the Withlacoochee River Electric Cooperative that he did not have the money for electric bills, Bird said.

The electric bills were two months in arrears.

Sims could not be reached for comment Friday.

At Shady Oaks, residents pay their own electricity bill to Withlacoochee, so the power interruption did not affect electricity in their homes.

After the power was cut off, Bird and her neighbors scavenged up the money for the past-due bill, and service was restored the next day.

The homeowners group, which has other court cases pending against Sims, received an order last week from Circuit Court Judge Lynn

Tepper allowing them to apply their payment against money owed to Sims. But, several things remain that bother Shady Oaks residents.

"Our concern is that it could happen anywhere in the state to anyone," said Bird.

Tuesday night, Bird went to a county commission meeting and asked for help.

Her answer from the county board was simple: They sympathized, but there's really nothing they could do.

"There is no agency that has the authority and responsibility who could step in temporarily if there were this kind of emergency again," Bird said.

Withlacoochee's spokesman Ernie Holzhauser said he has spoken to nine different governmental agencies in the last week, but has found no one who could help.

"Unfortunately, no government body wants to step forward to accept responsibility for this situation," Holzhauser said, adding that he called the state departments of Environmental Regulation, Health and Rehabilitative Services, Natural Resources and the governor's office.

Acting County Attorney Karla Stetter said she looked into the situation, but the county has no way to intervene unless Sims formally abandons the property.

"At this point, they paid the bills, but who knows what's going to happen next time?" Stetter said. "[Sims] might pay or make them pay just to give them a hard time."

Holzhauser agreed that the power to the water system could be cutoff again if the payments are not made.

"We will do our very best to be as flexible as possible," he said, but "the management of this cooperative has a responsibility to use prudent business practices."

By paying the owner's past-due bill, the Shady Oaks residents feel they've given Sims a loan.

"If there were a county agency," Bird said, "we would not have had to petition the court to step in. In effect that was loaning the owner money."



# Mobile home park loses water service

■ Shady Oaks homeowners pay the developer's delinquent electric bill, restarting water and sewage service after a dry day.

By RICHARD DANIELSON  
Times Staff Writer

ZEPHYRHILLS — About 120 mobile home owners — most of them elderly — lost water and sewer service for almost a full day after power was shut off to the private utility that serves Shady Oaks Mobile-Modular Estates.

Electricity was turned back on at 11:27 a.m. Friday — but only after the homeowners association came up with about \$1,100 for the power bill.

"It's a tremendous inconvenience," said Dorothy Bird, vice president of the Shady Oaks Owners' Association. "We have many residents who are over 80."

The subdivision, which is about a quarter-mile south of U.S. 301 on State Road 39, contains 185 lots. Only about 80 of the homes in the park are occupied in the summer.

Mrs. Bird said some of the subdivision's residents had been released from hospitals recently and needed water for various medical treatments.

"It was very definitely a hardship for them to be without water," she said.

The Withlacoochee River Electric Cooperative shut off power to Shady Oaks' clubhouse, water pump and sewage lift station around midday Thursday. There was no interruption of power to the subdivision's mobile homes, which are individually metered.

New Port Richey lawyer Gerald A. Figurski, who represents the Shady Oaks Owners' Association, said his office took a call from a panicked New Jersey woman whose parents, both in their 70s, had been left without water as a result of the cutoff.

Figurski said the interruption came after Shady Oaks developer Richard D. Sims told a co-op representative that he did not have the money for his electric bill following a court hearing on Wednesday.

A co-op spokesman said "the wheels were already turning" to collect the money due on Shady Oaks' accounts

Please see **WATER** Page 3



Lawyer Gerald Figurski tried to get help from public agencies.

## Water from Page 1

when Sims made his comment at the courthouse.

"We were extremely flexible with this account," co-op spokesman Ernie Holzhauer said. "We stretched as tight as we could stretch."

Contacted Friday afternoon, Sims declined comment.

"I really don't think that it would be advantageous for me to say anything about it," Sims said. He added that he gave permission for electricity to be turned back on and said, "I'm glad that the people came up with the money."

The association agreed to put up the money for the power bill after Figurski tried without success to get the county and other public agencies to act on the homeowners' behalf.

In response to a motion filed by Figurski, Circuit Judge Lynn Tepper signed an order Friday morning stating that whatever money the owners association puts up for the bill will be credited to the money that residents owe Sims or the utility.

Tepper's order is the latest in a long series of court actions arising out of a variety of cases involving Shady Oaks. In the past, Sims has been jailed for contempt of court for ignoring a court order to make repairs at the park and has been fined as the result of a state Department of Environmental Regulation complaint that the sewer system leaked.

Residents also have filed two class action lawsuits over the monthly fees they pay Sims for utility service. The first, in 1983, was resolved in favor of the residents. The latest was filed in June and is pending.

Mrs. Bird said the association does not think it is responsible for the power bill since residents are billed separately for utility service, but she said the association's officers "could not in good conscience let them go longer than they did without water."

June 13

June 14

June 15

June 16

PHOTO BY JONES

Friday, August 2, 1991

**EAST PASCO COUNTY** -- Potential reduction of indigent health care, solid waste assessments, and an unexpected shutdown of utilities in Shady Oaks, a Zephyrhills mobile home park, were addressed at Tuesday's Pasco County Commission meeting.

In the Shady Oaks utility shutdown, Dorothy Bird, vice-president of the Shady Oaks Owners Association, told the commission, "There is no agency in Florida to step in and rescue residents whose utilities are shut off through no fault of their own."

Bird said the park residents had been paying utility bills to owner Richard Sims, but he evidently did not have sufficient funds to pass on the payments to the utility.

"Last week, the electric company decided it could not stretch the issue of non-payment any longer and shut off service to the water pumps and sewage treatment plant July 25.

"Our attorney spoke to other agencies, attorneys, and the state. It seems there is no agency in the state that can address this situation. I am concerned that there is no provision in the laws when an emergency such as this occurs.

"The only way was for the owners association to agree, by way of court order, to pay the arrears, and the service was turned on the morning of July 26, with the provision that the money would offset the utility bills Sims gave to each homeowner."

"It can happen again. If we already paid the bill, and the owner decides on another place to put the money, and the utilities are shut down, who is going to protect the residents that are without service.

"We have residents who are recovering from surgery, elderly, and/or arthritic. They can't lift a bucket from the bathtub over to flush the toilet. Drinking water must be purchased," Bird said.

Wells asked Bird, "Can you get a permanent court order from the judge that would allow you as a community to gather together and answer the problem until the owner figures out what he's going to do."

Bird said that the owners association was out of funds. Many of the residents are on fixed incomes, and a hardship could be created.

Wells told acting County Attorney Karla Stetter, "If this person continues to treat these people this way, there has to be a legal way that we can go in and take that system over."

Stetter answered that the only way the county could do that would be if

there is a formal abandonment of the system, then, under state statute, the county could step in. She added that there is a question whether Sims had a formal abandonment.

Commissioner Young told Bird, "The Board of County Commissioners can't go to the residents and say the county will take over the system because if the county does then we take on all the responsibility of any citations and violations against that utility system."

JUNE 6

thursday, June 10

friday, June 1

saturday

MAY

JULY

memo:

SHADY OAKS OWNERS ASSOCIATION, INC.

P.O. BOX 1030

CRYSTAL SPRINGS, FLORIDA 33524

August 13, 1991

Shady Oaks Mobile-Modular Estates, Inc.  
38616 Shady Oaks Drive  
Zephyrhills, Florida 33540

Attention: Mr. Richard Sims

Dear Mr. Sims:

Pursuant to Judge Tepper's order, signed July 26, 1991 and a copy enclosed herewith, we are presenting this list of utility accounts to be credited and the amount of each, for an aggregate total of \$1,093.71. This reflects the amount paid to Withlacoochee River Electric Cooperative for electric service in the name of Shady Oaks Mobile-Modular Estates/Shady Oaks Mobile Home Park for the months of May and June, 1991.

Angley, John/Norma	\$ 9.59	Arnold, Barbara	\$ 9.59
Armour, Margaret	9.59	Ashley, Harold/Doris	9.59
Ashwell, Theodora	9.59	Baron, Tulio/Viola	9.59
Beck, Charles/Norma	9.59	Beman, John/Joanne	9.59
Bennett, Harold/Ruth	9.59	Berkey, Elmer/Rosemary	9.59
Bird, Robert/Dorothy	10.04	Bispo, George/Frances	9.59
Blaney, Esther	9.59	Boberick, Edmund/Andrea	9.59
Borge, John/Margaret	9.59	Borte, Leo/Ruth	9.59
Boyce, John/Marie	9.59	Braidwood, Ronald/Pauline	9.59
Broberg, Carl/Betty	9.59	Bromley, Joseph/Fidelia	9.59
Brown, Lawrence/Mildred	9.59	Buturlia, Helen	9.59
Carlson, David/Florence	9.59	Carlson, Merle/Eveleth	9.59
Cayo, Stella	9.59	Chapman, Ida	9.59
Clampitt, Milton	9.59	Clark, Estill	9.59
Clark, Reed/Mildred	9.59	Clements, Helen	9.59
Coates, Valjean	9.59	Coburn, Vercia	9.59
Cody, Doris	9.59	Cole, Ralph/Ruth	9.59
Courtright, Geneva	9.59	Cullimore, Gerald/Prisc.	9.59
Drews, Earl/Helen	9.59	Ellis, Jessie	9.59
Feenstra, Barney/Hilda	9.59	Funk, Eugene/Grace	9.59
Garrett, Walter/Montie	9.59	Haken, Esther	9.59

Shady Oaks Mobile-Modular Estates, Inc. -  
Utility Accounts to be Credited (continued)

Hein, Robert/Dorothy	\$ 9.59	Houston, Idell	\$ 9.59
Hulber, Oscar/Barbara	9.59	Jacob, Julius/Elizabeth	9.59
Johnston, Mildred	9.59	Kelly, James/Blanche	9.59
Kent, Charles/Nancy	9.59	Knapp, William/Catherine	9.59
Lachapelle, Alvin/Marcia	9.59	Lanham, Curtis/Virginia	9.59
LeRoy, Joseph/Edna	9.59	Lewis, Della	9.59
Libby, Kenneth/Virginia	9.59	Lindahl, Robert/Gloria	9.59
Lindsay, June	9.59	Lilley, Jack/Barbara	9.59
Louder, Irene	9.59	Lyon, Verna	9.59
Mallon, Frank/Stella	9.59	Malott, Edith	9.59
Marz, Edna	9.59	Maxon, Reba	9.59
McBride, Wayne/Barbara	9.59	McCann, Robert	9.59
McClain, Herbert/Muriel	9.59	McClelland, Charles/Agnes	9.59
McGreevy, Mildred	9.59	Meeusen, Carrol/Cora	9.59
Miller, Leonard/Frances	9.59	Mitchell, Ollie/Jean	9.59
Murray, Austin/Virginia	9.59	Paaso, Marjory	9.59
Padgett, Lillie	9.59	Parsons, Roy/Mabel	9.59
Peneton, Earl/Margaret	9.59	Peneton, James/Margaret	9.59
Peterson, Les/Vera	9.59	Pierotti, Leo/Janice	9.59
Preble, Alta	9.59	Reedy, H.B./Sylvia	9.59
Reilich, William/Margaret	9.59	Ricketts, Dan/Helen	9.59
Rines, Basil/Maxine	9.59	Roberts, L./Webster, I.	9.59
Roepcke, Maxine	9.59	Roix, Elwood/Ann	9.59
Roof, Charles/Lilah	9.59	Rutherford, Bob/Lois	9.59
Rutledge, Lon/Audrey	9.59	Sadler, Bob/Hazel	9.59
Samuelson, Ernest	9.59	Schneider, William/Jane	9.59
Sinclair, Margery	9.59	Slosser, Ronald/Grace	9.59
Sorensen, Albert/Phyllis	9.59	Sorensen, Clara Jean	9.59
Spence, James/Mabel	9.59	Spinney, Laura	9.59
Standford, Mary	9.59	Stockwell, Josephine	9.59
Storr, Donald/Patricia	9.59	Stute, Elmer/Gertrude	9.59
Surdell, Stephen/Katherine	9.59	Tewksbury, Lee/Marie	9.59
Tutt, Ruth	9.59	VanGeison, Lawrence/S.	9.59
Vogelsong, Glenn/Verlia	9.59	Wentz, Eunice	9.59
West, Carolyn	9.59	Williams, Wesley R/Jac.	9.59
Wolters, Floyd/Helen	9.59	Porter, Albert	9.59

113 accounts x \$ 9.59 = \$1,083.67  
1 account x 10.04 = 10.04  
Total to be credited = \$1,093.71

We trust you will see that each account receives the proper credit immediately.

Very truly yours,

*Dorothy K. Bird*

Dorothy K. Bird  
Vice-president  
Shady Oaks Owners Association, Inc.

Enclosures

cc: Gerald A. Figurski, Esq.  
Individuals listed

SHADY OAKS OWNERS ASSOCIATION, INC.

P.O. BOX 1030

CRYSTAL SPRINGS, FLORIDA 33524

August 22, 1991

Florida Public Service Commission  
Division of Consumer Affairs  
Attention: George Hanna  
101 East Gaines Street  
Tallahassee, Florida 32399-0867

Dear Mr. Hanna:

On Monday, August 12, 1991, Mrs. Ruth Tutt, a resident of Shady Oaks Mobile-Modular Estates, south of Zephyrhills, discovered a leak in the main water line in her front yard that was saturating the ground and beginning to run under her house. The leak was noticed by workmen doing yard work and verified by a neighbor of Mrs. Tutt's, Robert Bird, who is also the Utility Committee chairman for Shady Oaks Owners Association. Mrs. Tutt reported the leak that day to Mr. Richard Sims, owner of Shady Oaks Mobile-Modular Estates/S&D Utility. Mr. Sims wanted to know who said the leak was in the main, and made no other comment.

Mr. Sims was in the subdivision on Tuesday but did not look at the leak. On Thursday, August 15, Mrs. Tutt's daughter and son-in-law, Mr. and Mrs. James Allen, inspected the damage caused by the leak, which by this time was a very large area of saturated ground. Water was running under the house and they were fearful that it could undermine the underpinnings of the home. Mr. Allen ditched the flow to run into the street. Mrs. Allen called Mr. Sims home in Tampa on Thursday morning and was told Mr. Sims would be away until late in the day. Mrs. Allen finally reached Mr. Sims on Thursday evening and he agreed to stop by on Friday to look at the situation.

On Friday, August 16, Mr. Sims stopped at Mrs. Tutt's and explained that he could not do anything about the leak because his helpers had not shown up. He asked for her utility payment at that visit, and said he would probably be back on Saturday to fix the leak. On Saturday morning Mr. Sims came to Shady Oaks, stopped to pick up Mrs. Tutt's check and said he would be back. About an hour later He returned with his son and they worked on the leak, but did not stop.

On Tuesday, August 20, the water was shut off to all the homes in the subdivision, without notice to all of the residents, in order to complete the repairs. When the PSC Consumer Affairs number was called about water being off without notice, they responded that the utility had notified them water service would be shut down on Tuesday for "emergency repairs".



We contend that the utility knew on Saturday that it would have to return and fix the leak; that since the leak had been running steadily for eight days prior to shutdown it could hardly be called an emergency. (As of the date of this letter, a small leak is still there.)

We think that adequate notice could have been given on Saturday or Sunday, and that the notice could have been posted more conspicuously. The handwritten notice (copy enclosed) was in fine handwriting and tacked at the extreme top of a 6-foot high bulletin board in a dark corridor inside the clubhouse. A notice taped to the door is always seen by more people.

We believe the utility was remiss in its handling of this situation.

Very truly yours,

The Board of Directors  
Shady Oaks Owners Association, Inc.

*Dorothy Bird*

Dorothy Bird, vice-president

/dkb

cc: Gerald A. Figurski  
Richard D. Sims  
Gregory Shafer

I believe this to be a true and accurate account of what happened.

*Ruth C. Tutt*  
\_\_\_\_\_  
(signature) Ruth C. Tutt

*Aug 23rd 1991*  
\_\_\_\_\_  
(date)

# Shady Oaks Mobile-Modular Estates, Inc.

1702 Highway 39 South  
ZEPHYRHILLS, FLORIDA 33599

Telephone (813) 782-2686

8-19-91

It will be necessary to shut off the  
water the morning of 8-20-91 for emergency  
repair

R. D. Linn



TO: CUSTOMER RELATIONS  
FLORIDA PUBLIC SERVICE COMMISSION

FROM: SHADY OAKS OWNERS ASSOCIATION, INC. *dkb*

RE: DOCKET NO. 900025-WS  
ATTEMPT AT COMMUNICATION WITH UTILITY OWNER

DATE: SEPTEMBER 10, 1991

This is a report of an incident that took place on August 27, 1991 while the water was shut off to the entire park with no previous notice. Mr. Sims was standing in front of Mrs. Ruth Tutt's home at 38534 Monet Drive in Shady Oaks while a representative of the Bruce Carrigan Plumbing Company was repairing a leak at the site of a recent water meter installation. Dorothy Bird, vice-president of the Shady Oaks Owners Association and a neighbor of Mrs. Tutt's, approached Mr. Sims and waited until he stopped speaking to the plumber. The following dialogue of sorts took place:

Mrs. Bird: Excuse me, sir... is it necessary to shut off water to the entire park to repair this leak?

Sims deliberately turned his back on Mrs. Bird (observed also by Mr. Bird.) He did not respond in any other way.

Mrs. Bird: Sir, is it necessary to shut down water to the whole park to make this repair?

Mr. Sims: (Still-NO RESPONSE.)

Mrs. Bird: SIR...

Mr. Sims: (not turning) Are you talking to me, ma'am?

Mrs. Bird: Yes I am, sir. Is it necessary to shut down the whole park while you are fixing this leak?

Mr. Sims: Put it in writing.

Mrs. Bird: (to plumber) What about you, sir? Do you think the whole park has to be shut down in order to do this work?

Plumber: Ma'am, I'm only here to do a job...

Mrs. Bird: (to Mr. Sims; whose back was still to her) Mr. Sims, I want to know if it is necessary to shut water off to the entire park to work on this leak.

Mr. Sims: Put it in writing.

Mrs. Bird: Mr. Sims, you don't answer my letters. I'm asking you to tell me if it's necessary to shut off water to everyone in the park while you fix this leak.

Mr. Sims: Put it in writing.

Mrs. Bird: Most of the residents didn't see your notice. Could you tape them on the door to the clubhouse?

Mr. Sims: It's on the Bulletin Board, ma'am.

Mrs. Bird: People will see it on the door. Most of them don't go into the clubhouse.

Mr. Sims: I'm following the PSC rules.

Mrs. Bird: I'm asking you to post the notice on the door so the people will see it.

Mr. Sims: I'm doing what the PSC told me to...

Mrs. Bird turned and went home.

This incident is a good illustration why the residents of Shady Oaks are reluctant to even attempt communication with Mr. Sims. Most of them get the same sort of response or worse. Some of us have made several polite tries at resolving questions that we have regarding the utility and its services, with no better success than this encounter shows.

We believe that it is not necessary for the utility to shut down the entire park when working on an individual section, as there are separate shut off valves for the various system loops located around the park. When specific leaks occur, or water meters are being installed in a specific area, we think it is an unnecessary inconvenience for everyone in the community to be deprived of the use of water.

Regarding the notice in question, (intent to shut off water to residents), it was a small typed notice on a large sheet of white stationery that looked like a lot of the everyday notices that remain on the board, and was posted at 9 am the day of the water shutdown (at 9 am). Most residents did not know about it until the shutdown occurred, and were without water -- unnecessarily, we believe. It was not an emergency; the leak was first reported on August 12 and had been worked on twice since. IF MR. SIMS WOULD POST NOTICES OF WATER SHUTDOWNS ON THE DOOR OF THE CLUBHOUSE, MANY MORE RESIDENTS WOULD SEE THEM. Most of the residents have little occasion to go into the clubhouse and do not check the board daily just to see if the water will be on or off.

TO: Florida Public Service Commission  
Division of Water and Wastewater

FROM: Shady Oaks Owners Association *RB*

RE: Water Outage at Shady Oaks, Zephyrhills  
January 22, 1992

DATE: March 25, 1992

We would like to submit the following account of what occurred in Shady Oaks on January 22, 1992 (based on notes made by Dorothy Bird, community representative.)

At approximately 9:30 a.m. there was a water outage to the entire subdivision that lasted for the entire day. Mr. Sims had been seen in the park and on the utility premises shortly before the water outage occurred, but calls to his office in the park were not answered, except by answering machine. These were the first calls made, by several of the residents. When there was no response to the Shady Oaks office number (782-2686), customers then called the utility's Tampa number. (This incurs a long distance charge to the calling party, unless the call is made collect.) The collect calls were unable to be completed as the utility's phone, which is also the owner's home phone, was being answered by an automatic answering device. Several customers placed direct calls and left a message on the machine along with their name, and in most cases their telephone number. Among these were Association president Robert Lindahl, whose wife Gloria left a message with her name and number at approximately 10:20 a.m., and Dorothy Bird, who left word at the Zephyrhills number about 10 a.m. and a message at the Tampa number at 11:40. Calls were made by various customers throughout the day. A number of calls were also made to the PSC Consumer Affairs 800 number during the course of the day.

In the meantime, the clubhouse bulletin board had been checked thoroughly for notice of a shutdown; there was no notice posted. Presuming that electric service may have been cut off for some reason, a call was made to Withlacoochee River Electric Company. Their representative checked and found no problem with the electric service.

At noon, Mrs. Bird explained the situation to Neil Bethea, assistant to Greg Shafer, at the Water and Wastewater Division in Tallahassee. Mr. Bethea said he would look into it and call back. At 1:05 p.m. Mrs. Bird received a call from Hank Landis, the engineer handling Shady Oaks. Mr. Landis said he would try to locate either Mr. Sims or his certified operator to have the water restored. It was recommended that we contact the DER and the Health Department to see if any type of assistance was available.

The residents were of the opinion that the outage was probably caused by a tripped breaker and that if we could gain access to the pumphouse it would be easy to alleviate the situation. Since the pumphouse was locked, and due to the volatile nature of the situation at Shady Oaks, no one was willing to commit trespass.

Maarch 25, 1992 (2)

At 3:53 p.m. Mr. Landis again contacted Mrs. Bird, after several unsuccessful attempts at reaching either Mr. Sims or Mike Dailey, the certified operator for Shady Oaks. Mr. Landis suggested we call the Sheriff's Department to request assistance in gaining access to the pump house. We did; Deputy Sanderson of the Sheriff's office told us they are not allowed to give authority to trespass and cannot assist or accompany anyone for that purpose.

Water was restored to Shady Oaks about 4:23 p.m. on January 22, but not by Mr. Sims or any employee or representative of the utility. A visitor to the park, who felt he was helping us out of a very inconvenient and unnecessary situation, somehow gained access to the premises and flipped a switch that restored power.

Mr. Sims did not return calls to anyone who had left their names and/or numbers on his answering machine. At approximately 7:30 p.m. a call was received by Mr. and Mrs. Clarence Kellnhofer (neither of whom had left their names) from Mr. Sims, who explained that he and his wife had been away for the day, his car broke down and he had just arrived home, and he would be out to fix the water. Mr. Kellnhofer told him the water was on. Mr. Sims did not come out to Shady Oaks.

At least one of our residents received a letter in late February from John Plescow, PSC Consumer Affairs representative, in which he stated that the PSC investigation showed that water was restored the same day, which was true although not by any efforts of the utility; and that the cause of the interruption in service was a burned out transformer and capacitor, according to information obtained from the utility. We dispute this finding, since service was able to be restored by a flip of a switch.

This water outage was a great inconvenience to all of the customers of this utility, but especially hazardous to those who have special needs due to advanced age or medical disabilities. There are several residents of Shady Oaks in their 90's and many in their 80's, and there are some who require special care for strokes and heart conditions. This situation would not have happened if proper provisions had been made by the utility to handle emergencies.

Note to Hank Landis: Re: telephone number to reach Mike Dailey - his car telephone number is 813-480-5435.

April 1, 1992

Greg Skyer, Chief of Special Assistance  
Florida Public Service Comm.  
Div. Water & Wastewater  
101 E. Lewis St  
Tallahassee, FL 32399

File COPY

Dear Sir:

S & D Utility Co., serving the Shady Oaks Park in Zephyrhills, has installed two water meters on the property located at 38525 Cove Dr.

We have recently purchased this property and understand that each home should have its own meter. Our neighbor's meter is also installed on this property, and it appears that this should be moved to meet policy set forth by the Florida Public Service Commission.

During a recent leak repair I suggested to Dick Simms of S & D Utilities that this would be a good

time to make the necessary move  
to the correct location. This suggest-  
ion was refused by Mr. Simms.

This letter is to notify you of  
this problem and of the fact that  
it has been called to Mr. Simms'  
attention.

Lamont O. Wiley

Lamont O. Wiley

41 Wright Ct.

Lakewood, Colorado 80228

Ph 1-303-988-9303

38525 Conde

Zephyrhills, FL 33540

SHADY OAKS OWNERS ASSOCIATION, INC.

P.O. BOX 1006

CRYSTAL SPRINGS, FLORIDA 33524

April 6, 1992

Greg Shafer, Chief/Special Assistance  
Florida Public Service Commission  
Division of Water/Wastewater  
101 East Gaines Street  
Tallahassee, Florida 32399

Dear Mr. Shafer:

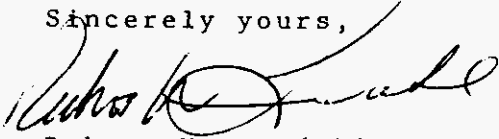
On Thursday, March 26, a major leak developed in the line between the meter and the main water line behind property located at 38525 Cone Drive in Shady Oaks. On Friday the property owner notified the utility and was told by the owner that the leak could not be fixed until Tuesday because a three-day notice had to be given to the customers or a \$2500 fine would be levied against the utility by the PSC.

On Monday morning, March 30, the owner of the property again contacted the utility owner, Mr. Sims, and told him he thought the situation could qualify as an emergency as the rate of leakage was 20-25 gallons per hour and there was a likelihood that the ground saturation would undermine the foundation of his home. Mr. Sims agreed and said he would fix it the next morning (Tuesday).

Mrs. Sims notified PSC Consumer Affairs on Monday; Mr. Sims made a follow-up call on Tuesday morning. NO NOTICE AT ALL WAS GIVEN TO THE CUSTOMERS. On Tuesday morning when the water was shut off, no one other than the affected property owner had had any previous notice; further, the entire system was shut down instead of the affected loop.

We think a 24-hour notice could and should have been posted on the clubhouse door on Monday morning, and we also believe that the repairs could have been made by shutting down only the service loop connected to the properties in the immediate area of the leak. Can the utility be required to put these measures into effect? We would appreciate your help.

Sincerely yours,

  
Robert W. Lindahl  
President

DOCKET 90025-W

CASE # 93-03339

VOLUME III

FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET 90025-145 EXHIBIT NO. 5  
COMPANY: Linco  
WITNESS: Comp  
DATE: 1-7-73



5

## EXHIBITS

~~PREFILED TESTIMONY~~ OF FRANCES J. LINGO, PSC BUREAU OF SPECIAL ASSISTANCE

DIVISION OF WATER AND WASTEWATER

FILED ON BEHALF OF

THE STAFF OF THE FLORIDA PUBLIC SERVICE COMMISSION

SHADY OAKS MOBILE-MODULAR ESTATES, INC.

DOCKET NO. 900025-WS

FILED: OCTOBER 12, 1992

DOCUMENT NUMBER-DATE

11990 OCT 12 1992

FPC-RECORDS/REPORTING

5

SWAFFORD

R. VANDIVER

*DLS*  
*WR*  
*[Signature]*

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building  
101 East Gaines Street  
Tallahassee, Florida 32399-0850

MEMORANDUM

April 9, 1992

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF WATER AND WASTEWATER (LINGO, RIEGER) *MS*  
 DIVISION OF RESEARCH AND REGULATORY REVIEW (D. VANDIVER) *OV*  
 DIVISION OF LEGAL SERVICES (FEIL) *FEIL*

RE : UTILITY: SHADY OAKS MOBILE-MODULAR ESTATES, INC.

DOCKET NO. 900025-WS  
 COUNTY: PASCO  
 CASE: STAFF-ASSISTED RATE CASE

AGENDA: APRIL 21, 1992 - CONTROVERSIAL - PROPOSED AGENCY ACTION  
 FOR ISSUES 4 AND 5 - PARTIES MAY PARTICIPATE ON ISSUES 1,  
 4 AND 5

PANEL: FULL COMMISSION

CRITICAL DATES: NONE

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TABLE OF CONTENTS

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1	Show Cause for Noncompliance	4
2	Levy of \$2,000 Fine	12
3	Collection of Fine	14
4	Change in Rate Structure	15
5	Customer Credits	18
6	Close Docket	19

<u>ATTACHMENT</u>	<u>DESCRIPTION</u>
A	Staff's Letter to Sims (01/22/92)
B	Sims' Response to Staff's Letter (02/16/92)
C	Sample of Utility's Bill to its Customers
D	Shady Oaks Owners Association Letter to D. Vandiver re: Quality of Service (03/25/92)
E	Copy of a Customer Complaint Taken by Division of Consumer Affairs (01/14/92)
F	Shady Oaks Owners Association Letter to Commission re: Water Outage (03/25/92)
G	Copy of a Customer Complaint Taken by Division of Consumer Affairs (02/24/92)

DOCKET NO. 900025-WS  
APRIL 9, 1991

CASE BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) is a Class C water and wastewater utility located in Pasco County. It is a 242 lot mobile-modular home park developed in 1971. Its service area is approximately 1 1/2 miles south of the City of Zephyrhills.

On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. On February 8, 1991, the Commission issued PAA Order No. 24084, which approved a rate increase and required the utility to file or perform the following items:

- 1) File a request for acknowledgement of a restructure and a name change.
- 2) Bring the quality of service to a satisfactory level.
- 3) Spend at least 85% of the allowance for preventative maintenance, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance.
- 4) Install meters for all its customers.
- 5) Escrow a certain portion of the monthly rates.

In March 1991, the owners of the utility, Mr. and Mrs. Richard D. Sims, filed bankruptcy under Chapter 13 with the United States Bankruptcy Court for the Middle District of Florida - Tampa Division. On June 24, 1991, in response to a suit filed by the homeowners, Judge Lynn Tepper with the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida granted an emergency temporary injunction enjoining and restraining the utility from charging or attempting to collect the new utility rates.

On July 5, 1991, Judge Wayne L. Cobb with the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida issued an Order to Show Cause why Shady Oaks should not be punished for contempt of Court for willfully and deliberately violating a 1983 order of the Court. The July 5, 1991 order further enjoined the utility from collecting the utility rates established by this Commission and ordered that the \$25.00 per month service maintenance fee be tendered to the Clerk of the Circuit Court. In August, both injunctions were lifted and the utility was able to begin collecting revenues. However, the homeowners' lawsuit is still pending.

On July 8, 1991, in a case entitled State of Florida Department of Environmental Regulation v. Shady Oaks Mobile-Modular Estates, Inc., Judge Tepper signed a stipulation reached between

the parties, whereby the utility agreed to remove its sewage treatment plant and divert all flows to Pasco County's sewage collection system within six months.

On November 4, 1991, the Commission issued Order No. 25296 which determined the utility's noncompliance with Order No. 24084. Order No. 25296 reiterated Order No. 24084 by requiring the utility to:

- 1) Submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name.
- 2) Immediately place in the escrow account all funds necessary to bring said account to its proper balance.
- 3) Install water meters for all its customers.
- 4) Improve the quality of service and interconnect with the Pasco County wastewater treatment system.

At this time, Staff believes the utility remains in substantial noncompliance with Orders Nos. 25296 and 24084. Therefore, Staff performed a review of the utility's revenues and expenses from March 1991 to February 1992. As a result, this recommendation discusses the items of noncompliance, as well as other matters that require the Commission's attention.

DOCKET NO. 900025-WS  
APRIL 9, 1991

**SHOW CAUSE FOR NONCOMPLIANCE**

**ISSUE 1:** Should the Commission order the utility to show cause in writing why it should not be fined up to \$5,000 per day per violation for each item of noncompliance with Orders Nos. 25296 and 24084, and if so, what are the specific items of noncompliance?

**RECOMMENDATION:** Yes, the Commission should order the utility to show cause in writing within 20 days of the date of the order why it should not be fined up to \$5,000 per day per violation for each item of noncompliance with Orders Nos. 25296 and 24084. Specific items of noncompliance are the utility's failure to: 1) submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name; 2) install water meters for all its customers; 3) spend at least 85% of its \$1,700 monthly allowance for preventative maintenance for that specified purpose, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance; 4) improve the quality of service and interconnect with the Pasco County wastewater treatment system; and 5) immediately place in the escrow account all funds necessary to bring said account to its proper balance. (D. VANDIVER, LINGO, RIEGER)

**STAFF ANALYSIS:** As discussed in the case background, Order No. 25296 determined the utility to be in noncompliance with Order No. 24084. However, due to the unusual circumstances in the case, the Commission allowed the utility additional time to complete the required items. A discussion of the specific items of noncompliance follows.

**Name Change and Restructure**

In August 1990, Mr. Sims transferred the title of the utility land from Shady Oaks Mobile-Modular Estates, Inc. to Richard D. and Caroline Sue Sims. Mr. Sims stated that the purpose of the transfer was to spin-off the utility from the mobile home park. However, this transfer was not approved by the Commission. Therefore, in Order No. 24084 the Commission ordered Shady Oaks to file within 60 days a request for acknowledgement of a name change and restructure.

On March 17, 1991, the Commission received a letter from Mr. Sims requesting that the Commission recognize the change in name from Shady Oaks Mobile-Modular Estates, Inc. to S & D Utility. The utility had begun billing the customers and operating under the name of S & D Utility. On April 1, 1991, Staff responded that certain information was needed before the name change could be recognized. This information included evidence that the utility

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and its assets were properly transferred and that the new utility name had been properly registered as a fictitious name. Specifically, Staff wanted the title to reflect that the land was owned by Mr. and Mrs. Sims d/b/a the utility.

Mr. Sims subsequently provided the evidence that the fictitious name had been registered. However, because Mr. and Mrs. Sims were in the midst of a bankruptcy filing, the title to the land could not be corrected to reflect the name of the utility. At the time of the last staff recommendation, Mr. Sims had entered into a payment plan under the bankruptcy proceeding and believed that he would be able to correct the name on the title.

By Order No. 25296, issued on November 4, 1991, the Commission allowed the utility additional time to complete the name change and restructure requirements. Specifically, the utility was ordered to submit within 60 days all necessary information for changing its certificated name, including evidence that the title to all the utility land and personal property has been properly transferred to S & D Utility, or revert to operating under its currently certificated name of Shady Oaks Mobile-Modular Estates, Inc.

By letter dated January 22, 1992, Staff restated to Mr. Sims what information was necessary to complete the name change. In the letter, questions asked of Mr. Sims were for specific information, such as whether a contract was drawn up transferring both the land and all other utility assets to the new entity called S & D Utility. Staff's letter is included in this recommendation as Attachment A, and Mr. Sims' response is included as Attachment B.

Not all of Staff's questions were answered by Mr. Sims, and Staff believes the answers provided by Mr. Sims were nonresponsive. For example, Mr. Sims' response to the name change question was that the original name change request had been made with the Commission, but the bankruptcy proceeding was the reason why the name change and restructure has not been completed. However, on November 14, 1991, (two months before Staff's January 22, 1992 letter to the utility), the Bankruptcy Judge issued an order dismissing the case. The Sims' filed a motion for reconsideration, and on December 17, 1991, the Bankruptcy Judge issued an order denying the motion for reconsideration or, in the alternative, conversion to Chapter 11. Based on the foregoing, the bankruptcy proceeding would not have prevented the utility from completing the restructure requirements once the related bankruptcy orders had been issued.

It is apparent that the utility is not in compliance with Orders Nos. 24084 and 25296 with regard to the name change and restructure requirements. Therefore, Staff recommends that the

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utility be ordered to show cause why it should not be fined up to \$5,000 per day for failing to complete the name change and restructure request.

Not only has the utility refused to complete the requirements for the name change, it has disregarded the Commission's order to revert to operating under its certificated name. Attachment C to this recommendation is a copy of a February customer bill under the heading of S & D Utility. In addition, Staff has verified that the utility makes deposits into and writes checks from a bank account in the name of S & D Utility. The Commission's Division of Consumer Affairs has also repeatedly called the utility's business phone and reports that the recorded message left on the answering machine is in the name S & D Utility.

Order No. 25296 allowed the utility 60 days to complete the name change and restructure requirements, or else revert to operating under the currently certificated name of Shady Oaks Mobile-Modular Estates, Inc. The 60 day period expired January 3, 1992. Since Staff has confirmed that the utility is operating under the name of S & D Utility, Staff recommends that the utility is in violation of Commission Order No. 25296 in this regard. Therefore, the utility should be ordered to show cause why it should not be fined up to \$5,000 per day for continuing to operate under a name other than its certificated name.

#### Installation of Water Meters

In Order No. 24084, the Commission determined that six months was sufficient time to install meters for the utility's 185 customers. During the six month installation period, the utility was authorized to charge a flat rate of \$14.70 for water service and \$28.28 for wastewater service, for a total of \$42.98 per month.

As stated in that order, if all water meters were installed within six months, the utility would then be allowed to charge all customers the base facility and gallonage charges approved in the order. As incentive for the utility to complete the installations within the prescribed time, the order further stated that if all of the water meters were not installed within six months, the utility would be required to bill the appropriate water and wastewater base facility charges of \$6.34 and \$12.50, respectively, (for a total of \$18.84) to all customers. However, the utility could bill the gallonage charges only to those customers who had a functioning water meter installed at the respective customer's service site. In this case, the base facility charges automatically went into effect on October 1, 1991.



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Pursuant to Commission Order No. 24084, the utility had begun the process of installing water meters for its customers. However, as a result of a dispute and ongoing litigation during most of 1991, the utility collected less than half of the revenues allowed in the rate case. The majority of customers withheld payment to the utility during a substantial portion of the year. Staff believes the arrearages resulting from the customers' nonpayment of utility services are in fact due and payable to the utility. Staff has conservatively calculated the arrearages to be over \$15,000. As of mid-September 1991, seven months after Order No. 24084 was issued, the utility had installed meters for only 31 out of 185 customers.

Staff's review of the utility's billing records indicated that by the end of 1991, the vast majority of the customers were paying the Commission-approved rates. In addition, in Order No. 25296 the Commission recognized that the likely cause of the utility's failure to install meters was its reduced revenues. Consequently, by Order No. 25296, the utility was given an additional five months in which to complete the meter installations. In addition, the utility was allowed to revert to the flat rates set forth in Order No. 24084 until the Commission reevaluated the case in five months. It was contemplated that the resulting increase in revenues associated with the flat rates (\$42.98 v. \$18.84) would further assist the utility in its efforts to comply with the meter installations requirement.

Staff's January 1992 letter requested the utility's plans for installing the water meters and a time schedule indicating the proposed dates and the number of meters for future installation. The utility's response simply stated it intended to install additional meters in February. As of the end of March 1992, the utility has only installed an additional 16 meters, which brings the total number of meter installations to 47. Because the utility has not completed the installation of the meters within the prescribed time frame and was not responsive to Staff's request for a time schedule, Staff recommends that the utility be ordered to show cause why it should not be fined up to \$5,000 per day for failing to install the water meters.

#### Preventative Maintenance

The rates approved in Order No. 24084 include a monthly allowance of \$1,700 for preventative maintenance. Commission Order No. 24084 further states that if at six months from the effective date of the order the utility has not expended at least 85% of the amount allowed (at least \$1,445 per month), the utility shall submit a written schedule to show what monthly maintenance will be adopted along with a statement of the reason such funds were not

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expended and a detailed statement of its future plans to maintain the system. The order continued that if the maintenance was not performed, the Commission would consider initiating a show cause proceeding to fine the utility for not performing the maintenance as ordered.

The utility did not spend the required maintenance allowance during the months of March through August of 1991. In Order No. 25296, the Commission determined that the utility's failure to spend the maintenance allowance was likely caused by decreased revenues. The utility was ordered to henceforth comply with the preventative maintenance aspect of Order No. 24084. This issue would be reviewed in five months' time.

Staff has reviewed the utility's expenditures for the months of September 1991 through February 1992. Staff's analysis indicates that the utility spent approximately \$3,300 during that period, compared to the ordered minimum expenditure of \$8,670 (\$1,700 x 85% x 6 months). The \$3,300 figure represents less than 40% of what the utility was ordered to spend. In addition, the utility has failed to submit to Staff the required statement of the reason such funds were not expended and a detailed statement of its future plans to maintain the system.

Based on Staff's review of the utility's expenditures, the utility has not complied with Order No. 25296 regarding the maintenance requirement. Therefore, the utility should be ordered to show cause why it should not be fined up to \$5,000 per day for failing to spend at least 85% of its \$1,700 monthly allowance for preventative maintenance on that specified purpose.

#### Quality of Service

Commission Order No. 24084 imposed a \$2,000 penalty on the utility for its unsatisfactory quality of service. However, the order stated that after six months, the Commission would reinspect the plant and assess the performance of the utility to determine the quality of service. If satisfactory, the Commission stated that it may suspend the fine permanently. The order further stated that to improve the quality of service, the utility should construct a new effluent disposal system, obtain the necessary permits, and operate the wastewater facilities within DER standards. The DER-required plant improvements were included in rate base as pro forma plant.

Staff visited the utility in September 1991 and found that the quality of service had not improved. In fact, the quality of service had deteriorated. The Commission recognized that the

deficiencies were at least partially attributable to the low level of revenues collected by the utility.

Because the utility had entered into a settlement agreement with the DER, the requirement for the effluent disposal system was modified to require an interconnect of the utility's wastewater system with Pasco County within six months of the signed settlement with DER. Therefore, Order No. 25296 allowed the utility additional time to make quality of service improvements. The order restated the requirements for improving the quality of service, and modified Order No. 24084 to require the utility to interconnect with Pasco County within the prescribed time frame of January 8, 1992. To date, the utility has neither interconnected with the county, nor begun construction or design of the required interconnect facilities.

In addition, the Commission found that the quality of service regarding customer relations had reached an all-time low, and that in order to improve the quality of service the utility must improve customer relations.

Staff does not believe that the utility has improved customer relations. There are several attachments that relate to this issue. Attachment D is a statement from the Shady Oaks Owners Association regarding the quality of service provided by the utility. Attachment E is a copy of a customer complaint filed with the Commission's Division of Consumer Affairs. With regard to the customer complaint, while Mr. Sims denies that he used the profane language quoted in the letter, Staff believes that while the words may be in dispute, it is evident that the customer was insulted.

In addition, we received numerous complaints on January 22, 1992 regarding a service outage. The customers also claimed that the utility did not respond to their calls on the day the outage occurred. The customers' account of what happened is included with this recommendation as Attachment F. Service apparently was restored only when the guest of one of the customers climbed the fence at the plant and switched the breaker on. The customers are concerned that Mr. Sims did not respond timely to their calls. In addition, it is a long-distance call for customers to report any service outages or other trouble. In response to Staff's inquiry, Mr. Sims responded that he could not have responded any sooner, as he had been out of town on the day the outage occurred.

Also, on February 24, 1992, Staff received a complaint that Mr. Sims was installing several meters on one person's property. A copy of the complaint is included in this recommendation as Attachment G. Staff visited the utility and found that the utility was placing the individual meters as close to the water main as

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possible, even when that meant that the meter was on someone else's property. Staff directed the utility to place the water meters on the individual properties associated with the consumption. Rule 25-30.260 of the Florida Administrative code requires the "utility to locate meters at or near the customer's curb or property line (except) when it is impractical." In this instance, Staff believes that it is practical for the utility to place each meter on the respective property it serves.

It is evident to Staff that the utility has made no substantial improvement in the total quality of service. Therefore, as the utility is in violation of Commission Orders Nos. 24084 and 25296 in that regard, it should be ordered to show cause why it should not be fined up to \$5,000 per day for continuing to provide unsatisfactory quality of service.

#### Escrow Requirement

The utility's rate increase became effective on March 2, 1991. By Order No. 24084, the utility was required to place in escrow the portion of the rate increase related to the pro forma plant and the \$2,000 penalty. Specifically, the utility was required to escrow \$333.34 per month. However, as previously discussed, the utility collected substantially less revenues during 1991 than was allowed in Order No. 24084. By July 1991, the utility was receiving so few utility payments from customers that it unilaterally decided to discontinue placing money in escrow.

Although the Commission understood the utility's difficulty in escrowing the required amount, Order No. 25296 admonished the utility for ceasing to escrow without the Commission's approval. The utility was then ordered to immediately place enough money in the escrow account to bring the balance up to the proper level. The utility was warned that if it did not immediately correct the escrow deficiency or did not continue placing the appropriate portion of revenues in the escrow account, the Commission would take appropriate action.

The vast majority of the utility's customers are now paying their utility bills. Based on a review of the utility's cash collections from customers since the issuance of Order No. 25296 (December 1991 to February 1992), Staff has conservatively calculated an amount of \$5,600 as what the utility should have placed in escrow during that three month period. However, a review of the bank statements indicates only \$3,500 was deposited into the escrow account during the same period. In addition, the utility has failed to place enough money in the escrow account to correct the escrow deficiency that resulted from the utility's ceasing to place funds into the account.

The utility has failed to comply with Orders Nos. 24084 and 25296 regarding the escrow requirements. Therefore, the utility should be ordered to show cause why it should not be fined up to \$5,000 per day for not maintaining the appropriate balance in the escrow account.

Summary of Noncompliance/Recommendation to Show Cause

Based on the foregoing discussion, the utility is in substantial noncompliance with Orders Nos. 25296 and 24084. Specifically, the utility has failed to: 1) submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name; 2) install water meters for all its customers; 3) spend at least 85% of its \$1,700 monthly allowance for preventative maintenance on that specified purpose, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance; 4) improve the quality of service and interconnect with the Pasco County wastewater treatment system; and 5) immediately place in the escrow account all funds necessary to bring said account to its proper balance. Therefore, the Commission should order the utility to show cause in writing within 20 days of the date of the order why it should not be fined up to \$5,000 per day per violation for each item of noncompliance with Orders Nos. 25296 and 24084.



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OTHER ISSUES

ISSUE 2: Should the Commission levy the \$2,000 fine that was imposed and suspended by Order No. 24084 for unsatisfactory quality of service?

RECOMMENDATION: Yes, the Commission should levy the \$2,000 fine that was imposed and suspended by Order No. 24084 for unsatisfactory quality of service. However, the utility should be ordered not to pay the fine from the escrow account, as the utility has failed to escrow sufficient monies to cover both a potential refund and the fine. (LINGO, D. VANDIVER, FEIL)

STAFF ANALYSIS: Commission Order No. 24084 imposed a \$2,000 fine for unsatisfactory quality of service, but suspended the fine for a nine-month period. By the end of this period the utility was expected to improve its quality of service, and the Commission would then dispose of the fine.

In Order No. 25296, the Commission found that the utility's quality of service remained unsatisfactory. Order No. 25296 required the utility to improve its quality of service within five months. Stated conditions for improving the quality of service were that the utility must both complete the interconnect with the Pasco County wastewater treatment system within the designated time and improve customer relations.

As further discussed in Order No. 25296, the Commission stated that it did not take lightly either the utility's continued unsatisfactory quality of service or its continued failure to comply with the other requirements of Order No. 24084. However, the decreased revenue situation made this a somewhat exceptional case. Therefore, Order No. 25296 extended the suspension of the fine for 45 days beyond the Pasco County interconnection date (February 21, 1992). A final review of the quality of service would begin at that time. In addition, Order No. 25296 reminded the utility that it was not relieved of its obligation to accumulate the fine in escrow as required in Order No. 24084.

As discussed in detail in Issue 1, the utility is in substantial noncompliance with Orders Nos. 24084 and 25296 regarding the areas of quality of service and the escrow account. Therefore, Staff recommends that the \$2,000 fine be levied.

Although the utility was ordered to place money in the escrow account in part to accumulate the fine, the appropriate balance of the escrow account is much greater than the actual balance in the account. In fact, in response to Staff's January 22, 1992 letter, Mr. Sims stated that, "... it is obvious that the fine certainly

*Handwritten note:*  
Have we...  
to ask... Staff?

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EXHIBIT FJL-1  
[Staff Rec ]

could not be placed in any type of an escrow account since the Utility is operating at a deficit monthly." (Please refer to Attachment B, page 1.) It is evident that should the Commission require a refund to the utility's customers, most if not all the money in the escrow account would be needed to satisfy the refund requirement. Therefore, since the utility has failed to escrow sufficient monies to cover both a potential refund and the fine, the utility should be ordered not to pay the fine from the escrow account.

**ISSUE 3:** If the Commission assents to Staff's recommendation in Issue 2, should this Commission forward collection of the fine to the Comptroller's Office in the event the utility fails to respond to reasonable collection efforts by Commission Staff?

**RECOMMENDATION:** Yes, in the event that reasonable collection efforts are unsuccessful, the collection of the fine should be forwarded to the Comptroller's Office. (LINGO)

**STAFF ANALYSIS:** In 1988, Shady Oaks Mobile-Modular Estates, Inc. went through a reorganization under Chapter 11 of the Bankruptcy Code and a final judgement was issued on August 2, 1988. In addition, in March 1991, the utility owners filed for personal bankruptcy under Chapter 13. Although the Bankruptcy Judge issued orders both dismissing the case and denying the Sims' motion for reconsideration in the Chapter 13 filing, the fact that the utility owners felt the need to file for bankruptcy is of concern to Staff.

In view of the utility owners' history of bankruptcy filings and failing to comply with Commission Orders, Staff recommends that collection of the \$2,000 fine be referred to the Comptroller's Office for further collection efforts should the utility fail to respond to reasonable collection efforts by Commission Staff. Reasonable collection efforts shall constitute two certified letters requesting payment. The referral to the Comptroller's Office would be based on the conclusion that further collection efforts by the Commission would not be cost-effective.



**ISSUE 4:** Should the rate structure be changed at this time?

**RECOMMENDATION:** Yes, the rate structure should revert back to the base facility and gallonage charge rate structure. The utility should submit revised tariff pages within seven days of the date of the order. The revised rates shall be effective for meter readings on or after thirty days from the stamped approval date on the revised tariff sheets. The tariff sheets will not be approved until Staff verifies that the tariffs are consistent with the Commission's decision, and that the customer notice is adequate. (D. VANDIVER, LINGO)

**STAFF ANALYSIS:** By Order No. 24084, the utility was authorized to charge flat rates for water and wastewater service of \$14.70 and \$28.28, respectively. The utility was authorized to charge the flat rates for six months, at the end of which time the base facility charge (BFC) rate structure became effective. In this case, the BFC rates automatically became effective on October 1, 1991.

However, because numerous customers did not pay the utility bills during the court dispute over jurisdiction to set the utility's rates, Order No. 25296 allowed the utility to charge the flat rates for an additional five months. The Commission believed that the revenue deficiency was a significant factor that contributed to the meters not being installed on a timely basis.

Beginning in December 1991, the utility once again began charging the combined flat rate of \$42.98. Staff has reviewed the utility's records and found that the majority of customers have been paying the current portion of their bills on a timely basis. However, as discussed in Issue 1, the utility has not completed the installation of the water meters. Therefore, Staff believes now is an appropriate time to reconsider which rates the utility should be charging.

Staff recognizes that the utility must be allowed sufficient funds to operate. Staff believes the utility has in fact been allowed sufficient funds, but these funds have not been used to install the water meters. It appears that the customers were correct in their concern that the utility owner would need a strong incentive in order to install the water meters in a timely fashion. Therefore, Staff now believes that the utility should be ordered to revert to the base facility charge rate structure.

In addition, beginning in May of each year, a significant number of the utility's customers go on an extended vacation and request a disconnection or vacation rate. In fact, approximately 65 customers (or 35% of the customer base) are disconnected for

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each of the months of May through September. If the utility is on a flat rate, the tariff does not allow for a vacation rate, and the customers are not charged a minimum charge.

Based on the number of customers on vacation last year, Staff compared the monthly summer revenues using flat rates to revenues that would have been generated from the base facility charge rate structure. Assuming 65 customers are out of town, the utility would collect approximately \$5,000 from the remaining customers if the flat rate structure is utilized. Using the base facility charge rate structure, and assuming estimated average usage of 6,000 gallons per customer, the utility will collect approximately the same amount of revenues if 66 customers have meters installed so that the utility may also bill for the usage. The comparison is shown below:

	<u>Revenues Generated From Flat Rates</u>
Current customers	181
- Vacationing customers	<u>65</u>
= Customers subject to bill	116
x Combined flat rate	<u>\$ 42.98</u>
= Total monthly revenues	<u>\$ 4,986</u>

	<u>Revenues Generated From Base/Gallonage Rates</u>
Current customers	181
x Combined BFC	<u>\$ 18.84</u>
= Revenues derived from BFC	\$ 3,410
Customers with meters	66
x Combined gallonage charge	\$ 4.02
x Estimated usage (gals/customer)	6,000
/ 1,000 gallons	<u>1,000</u>
= Revenues derived from gallonage	\$ 1,592
+ Revenues derived from BFC	<u>3,410</u>
= Total monthly revenues	<u>\$ 5,002</u>

The utility has installed 47 meters, and has recently indicated that another 40 will be installed in April. Assuming most of the meters installed in April are for nonvacation residences, the

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utility should collect approximately the same amount of revenues using the base facility charge rate structure as would be collected using flat rates.

Therefore, Staff recommends that the utility revert to the base facility/gallongage charge rate structure. This means that the utility is required to bill all customers without water meters the water base charge of \$6.34 and the wastewater base charge of \$12.50. The utility may charge the gallongage rates to each customer who has an installed meter.

The utility should submit revised tariff pages within seven days of the date of the order. The revised rates shall be effective for meter readings on or after thirty days from the stamped approval date on the revised tariff sheets. The tariff sheets will not be approved until Staff verifies that the tariffs are consistent with the Commission's decision, and that the customer notice is adequate.

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**ISSUE 5:** Has the utility properly credited all customers who contributed to the payment of the utility's delinquent electric bill?

**RECOMMENDATION:** No, the utility has not credited all customers who contributed to the payment of its delinquent electric bill. The utility should be ordered to issue credits to those customers who have not yet received credits. The credits should be issued on the first bill subsequent to the date of the order. (LINGO)

**STAFF ANALYSIS:** During the time the injunction was in effect, Shady Oaks was unable to pay its electric bills for the months of May and June of 1991. On July 25, 1991, the Withlacoochee River Electric Cooperative discontinued electric service to the utility. All of the pertinent governmental agencies, including this Commission, were given prior notice. The Shady Oaks homeowners were without water and wastewater service as a result of the discontinuance of electric service.

With no opposition from the utility or this Commission, the Circuit Court issued an order which allowed the homeowners to pay the electric bill, provided that such payments would be credited to their water and wastewater bills. The homeowners paid the electric bill and Shady Oaks' power was restored.

The electric bill was paid by 114 homeowners. The utility was provided with a list of those homeowners' names so that the appropriate credit would be posted to their accounts. Although the Circuit Court order does not specify that only the homeowners who paid a portion of the delinquent electric bill would be entitled to a credit on their water and wastewater bills, Staff believes this is a reasonable approach. Even absent the Circuit Court order requiring customer credits, Staff believes the customer credits are appropriate.

The appropriate credit per contributing homeowner is \$9.59. As of mid-March of this year, the utility had issued the appropriate credits to 86 customers. However, there are still 28 homeowners who have yet to be credited the proper amount; the resulting outstanding credits total approximately \$270. Therefore, Staff recommends that the utility be ordered to issue the remaining 28 credits to those homeowners who contributed to paying the utility's delinquent electric bill. These credits should be issued on the first bill subsequent to the date of the order.

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**ISSUE 6:** Should this docket be closed?

**RECOMMENDATION:** No, this docket should not be closed. (LINGO,  
D. VANDIVER)

**STAFF ANALYSIS:** Staff has recommended that the utility be ordered to: 1) show cause why it should not be fined for being in substantial noncompliance with Commission Orders Nos. 24084 and 25296; 2) pay a \$2,000 fine; 3) revert to the base facility/gallonage charge rate structure; and 4) issue customer credits relating to the customers' payment of the utility's delinquent electric bill. Therefore, this docket should remain open pending further proceedings.

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## Public Service Commission

January 22, 1992

Richard D. Sims  
Shady Oaks Mobile-Modular Estates, Inc.  
1315 Eckles Drive  
Tampa, Florida 33612

Dear Mr. Sims:

On November 4, 1991, the Commission issued Order No. 25296 which determined your noncompliance with Commission Order No. 24084 and allowed additional time for compliance. Most of these actions were to be accomplished within five months of the effective date. However, certain of the actions were to be completed prior to this date and the deadline for the remaining actions is rapidly drawing to a close. Therefore, this letter reviews the requirements placed on the utility and requests additional information regarding the status of these requirements.

At this time, staff is preparing to draft a recommendation to the Commission regarding the continued violations. We plan to recommend that the previously suspended fine of \$2,000 for unsatisfactory quality of service be levied. In addition, we plan to recommend that Shady Oaks be show caused why it should not be fined up to \$5,000 per day for failure to comply with the items contained in Order No. 25296. Therefore, please respond to each of the following requests as fully as possible. Your complete response to this letter will enable staff to make a fully informed recommendation to the Commission regarding the disposition of the issues in this case.

- 1) Order No 24296 required Shady Oaks to file within sixty days a request for acknowledgement of a name change and restructure.

In order to acknowledge a name change and restructure, the Commission needs evidence that the utility and all of its assets are in the same name. What is the intended name of the utility? Is this a corporation or a sole proprietorship? In what name is the utility land recorded? Has the utility drawn up a contract selling or transferring the utility assets from Shady Oaks Mobile-Modular Estates, Inc. to the new name? Have these steps been put on hold due to the filing of the bankruptcy proceedings? Is it true that the bankruptcy proceedings were thrown out of court? Have any other proceedings affected the completion of this requirement? The order required that the utility revert to operating under the name Shady Oaks Mobile-Modular Estates, Inc. if the required information was not filed. Has the utility ceased operating under the name S & D Utility?

- 2) The approved rates include a monthly expense of \$1,700 for preventative maintenance. If the utility has not expended at least 85% of the amount allowed, the utility shall submit a written schedule to show what monthly maintenance will be adopted along with a statement of the reasons such funds were not expended.

Please list the monthly maintenance expenditures for September 1991 through January 1992. Provide copies of all invoices and checks supporting these expenditures. If the monthly amount is less than \$1,700 per month, please submit a schedule as required by the Order. This would include a written schedule to show what monthly maintenance will be adopted along with a statement of the reasons such funds were not expended.

- 3) The utility was ordered to place monies in an escrow account in order to accumulate a \$2,000 fine for unsatisfactory quality of service and to put aside the revenues associated with the pro forma plant. Order No. 25296 recognized that the utility had ceased placing money in escrow and ordered the utility to place sufficient money in the escrow account to bring the balance up to the proper level.

Staff has not received evidence of any of these deposits. Nor has staff received any monthly reports required by Order No. 24084 since May 1991. Please submit these reports for June 1991 through January 1992.

- 4) The order stated that the utility must install water meters for all customers within five months.

It does not appear that any water meters have been installed since the order was issued. What plans do you have for installing the remaining water meters? Please provide a time schedule indicating proposed dates of installation and the number of meters to be installed on each date.

- 5) The utility was ordered to escrow the portion of the increase related to the pro forma plant. After six months, the utility shall submit to the Commission copies of the invoices to verify the costs to complete the construction.

Considering the stipulation you reached with DER regarding the wastewater connection with Pasco county, the interconnection was to be completed January 8, 1992. Please explain what action DER is currently taking and what action you are taking?

- 6) The utility was also ordered to improve customer relations. Order No. 25296 suggested several steps that the utility could take to accomplish an improvement.

Please provide a discussion of the steps you have taken to improve customer relations. Specifically address if you have implemented the three suggestions included in the Commission order.

The upcoming recommendation will address the penalty imposed in the last order, future utility actions which the commission should monitor, the disposition of the escrow account and whether the docket should be held open. The more information you are able to give us concerning these issues, the more informed recommendation staff can make to the Commissioners. Please submit the requested information no later than February 17, 1992 in order that staff can complete its recommendation.

Sincerely,

  
Greg Shafer  
Bureau Chief

cc: Charles H. Hill  
Hank Landis  
Denise Vandiver

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S & D UTILITY  
P. O. Box 280012  
Tampa, Fla. 33682-0012

February 16, 1992

RECEIVED

FEB 21 1992

Fla. Public Service Commission  
Division of Water and Sewer

Mr. Greg Shafer, Bureau Chief  
Division of Water & Wastewater  
Florida Public Service Commission  
101 E. Gaines Street  
Tallahassee, Florida 32399-0850

Dear Mr. Shafer:

Concerning your letter of 1-23-92, we were waiting for a letter from Tri-Community Council, which, as you know from our prior correspondence, we have had Nancy Bartek who represents S & D Utility. I talked to Mrs. Bartek, and it is our understanding that we have been approved by Tri-Community for a complete analysis of our water system. Subject to her letter, we understand that this will involve the following analysis; upgrading our water system, which would include an analysis of the electrical system and pumps and water storage facilities, any leakage in any lines, replacement of any cut-off valves, and installation of water meters. Anything that we can do to cut down the cost of providing top-notch service to our consumers. When we receive this letter from her, we will forward it to you. This analysis will be conducted by Florida State University. We wish to especially bring to your attention that upon completion of this analysis this will be a 50/50 proposition. Also we are waiting for a letter of confirmation from Mr. Vora, D.E.R. Wastewater Financial Assistance, concerning the financial assistance afforded by them. He is to contact David Thulman, Chief Legal Council, D.E.R..

Concerning your question # 1, name change was filed. Intended name of the Utility is now and has been S & D Utility, the Corporation cannot be a sole proprietorship at present. Utility name is recorded in the name of Richard D. Sims, these steps have been put on hold due to Bankruptcy proceedings. Concerning the Bankruptcy proceedings, a matter of record. The possibility of additional potential proceedings, the Utility will continue to operate under the name of S & D Utility. The name S & D Utility is recorded and the Federal Tax Number has been applied for and received, as this was recommended by your audit and we have done so.

Question # 2, it appears that since we became under your jurisdiction in 1985, the Utility is still operating under a deficit.

Question # 3, it is obvious that the fine certainly could not be placed in any type of an escrow account since the Utility is operating at a deficit monthly. We believe that you have received copies of the prior escrow account. Enclosed are the copies to bring this information up to date.

Mr. Greg Shafer

-2-

Page 2

EXHIBIT FJL-1

This account will be brought up to date by an addition of \$100.00 a month from the General Operating account to be put in the escrow account, if possible. This has been done for February.

[ Staff Rec ]

Question # 4, we intend to install additional water meters the latter part of this month.

Question # 5, extremely informative deposition with the D.E.R. on 1-8-92. They were completely astounded as to why the Utility could not shut off water for non-payment. I advised them that this was the Circuit Judges' decision and that your Mr. Feil was handling this with the Circuit Court. They did ask me a particular question, what would I do when these funds are released by the customers if the Judge states I can shut off water for non-payment. I told them that the largest majority of these funds would be used to install water meters and for the expansion of the sewer plant, to hook into the Pasco County Wastewater System. I do believe that you have prior correspondence regarding this. If you have any questions concerning this please contact Mr. David Thulman, Chief Legal Counsel, D.E.R., Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Fla., 32399-2400.

Question # 6, concerning question 6, number 5 answers it. Concerning customer relations, very shortly we will have all our billing stamped "It's our privilege to serve you, have a nice day." A total amount of 8 people visited the office during the month of January. There have been several people in the Park who have been ill, and the Utility has endeavored to express its compassion.

We have made application with a Mr. Gary Sica for a large loan to take care of the necessary problems with the D.E.R. and the P.S.C. His reaction has been extremely favorable.

Very truly yours,



R. D. Sims

RDS:ss

ATTACHMENT C

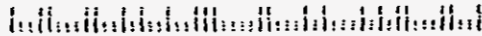
EXHIBIT FJL-1  
[ Staff Rec ]

S & D UTILITY  
P.O. BOX 280012  
TAMPA, FLA 33682-0012



Mr. & Mrs. Robert Bird  
38553 Monet Dr.  
Zephyrhills, Fla.  
33540-6526

© USPS 1991



2-1-92

Service from 2-1-92 to 2-29-92.  
Residential flat rate - Water & Wastewater

\$42.98

Due within 20 days from the above date.


S&D UTILITY  
P. O. Box 280012  
Tampa, Fla. 33682-0012

12/19  
2/5

TO: Denise Vandiver, Regulatory Analyst  
Florida Public Service Commission  
Division of Water and Wastewater

Page 1

EXHIBIT FJL-1  
[ Staff Rec ]

FROM: Shady Oaks Owners Association 

RE: Docket No. 900025-WS, staff-assisted rate case  
Shady Oaks Mobile-Modular Estates, Inc. (aka S&D Utility)

STATEMENT OF CONCERN REGARDING QUALITY OF SERVICE  
September, 1991 through March 25, 1992

DATE: March 25, 1992

We wish to address the following areas of concern with regard to the performance of the above-named utility in the five month period following Commission Order #25296 on November 4, 1991.

MAINTENANCE

The condition of the existing percolation pond and surrounding area gives no evidence that any maintenance has been performed in this period, nor have we observed any being done. The grass is very high and tree roots and grass grow into the water from the edges. The color of the water is a very bright green. Effluent overflow onto the surrounding areas is also evident.

We are concerned that construction of the interconnect to the county sewer line has not even been started. Commission ordered rates have been consistently paid by all of the residents of Shady Oaks since August 1, 1991 following court orders to do so.

Chlorination of the water system has been noticeably heavy on several occasions, the most recent being the past several days. It is almost undrinkable.

OPERATIONS

As we mentioned in our last report, we are concerned that the entire park is being shut down unnecessarily for work on one segment of the system. There are separate shut-off valves to various service loops in the system, and it is our feeling that installation of meters or repairs on any given section should only necessitate the shutdown of that section.

Meter installation seems to follow a very random pattern. While Block H's installation has now been completed, there have been some random meters installed for no apparent reason in other areas, one of which is on one of the vacant lots in an undeveloped area of the subdivision. Digging to find the lines has resulted in landscape being disturbed in several instances.

CUSTOMER RELATIONS

We are still concerned about hours of access to the utility's office, whether for bill paying or other inquiries. Currently the office is scheduled to be open only two (2) hours per week, and these are not consistent - they change from month to month, and sometimes during the month. This inconsistency creates a difficulty in knowing when the office will be open, which we feel creates a hardship especially for the older residents of Shady Oaks.

Our greatest concern at this time is access to the utility in the event of an emergency situation. At present the only telephone number being provided is that of Mr. Sims' home in Tampa, which can be called collect, but not if being answered by machine. If a customer wishes to leave a message on the machine he must pay a toll charge. But even this is not of prime concern; in the event of emergency we need to talk to a human being. Can the utility not provide a 24 hour service for the customers immediate needs, whether it be by hired service or by personal beeper carried by the owner or his representative?

We would appreciate your attention to our concerns. We cannot apply elsewhere for service; we would like this utility to pay attention to our concerns.

Name SHADY OAKS OWNERS ASSOCIATION, INC.

Company SHADY OAKS MOBILE-MODULAR ESTATES.

Request No. 1365L

Address ROBERT W. LINDAHL

Attn. \_\_\_\_\_

By SMM Time 10:06 AM Date 01/14

P. O. BOX 1006

Consumer's \_\_\_\_\_

Telephone # \_\_\_\_\_

To \_\_\_\_\_ Time \_\_\_\_\_ Date /

City/Zip CRYSTAL SPRINGS 33524 County PAS

Can Be \_\_\_\_\_

Reached \_\_\_\_\_

Complaint Type gi-99

Account Number \_\_\_\_\_

Note \_\_\_\_\_

Has consumer contacted company? Yes  No \_\_\_\_\_ Who \_\_\_\_\_

Justification \_\_\_\_\_

Closed by \_\_\_\_\_ Date / /

Reply Received \_\_\_\_\_

See attached letter from Shady Oaks Owners Association, Inc. complaint about the behavior of utility owner of Shady Oaks Mobile-Modular Estates.

Per Denise Vandiver, Research, referred to her for her files.

(Hand carried to her)

## CONSUMER REQUEST

FLORIDA

PUBLIC

SERVICE

COMMISSION



101 EAST GAINES STRE  
TALLAHASSEE, FLORIDA

PLEASE RETURN THIS FI  
WITH REPORT OF ACTION

Stella Maloy

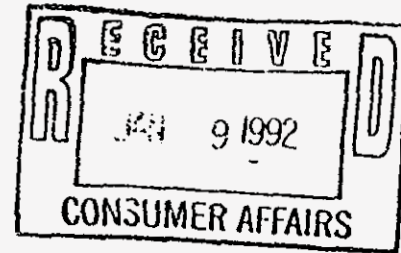
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EXHIBIT FJL-1  
[ Staff Rec ]

ATTACHMENT E  
Page 1

January 3, 1992

Florida Public Service Commission  
Division of Consumer Affairs  
101 East Gaines Street  
Tallahassee, Florida 32399-0867  
Attention: George Hanna



Dear Sir:

We are writing to report the behavior of the owner of the utility serving Shady Oaks Mobile-Modular Estates, Mr. Richard Sims, towards Mr. Alvin Lachapelle, a Shady Oaks resident and customer of said utility.

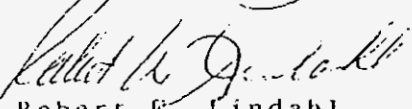
As stated on the utility bill for December 1991, the last day to pay this bill without being delinquent was December 20. On Thursday, December 19, Mr. Lachapelle noticed Mr. Sims was in the subdivision and went to the office to pay his bill. Although the door was open, the payment drop box was not in evidence, and the hours posted on the door for December read: "Monday, 10 to 11 and Friday, 10 to 11". Mr. Lachapelle returned to the utility office on Friday at the posted time to find it closed. He then mailed his check, although he was somewhat upset about it now being delinquent.

Therefore, on Thursday morning, January 2, when Mr. Sims was again in the office, Mr. Lachapelle approached him to request a statement from the utility crediting the payment as having been made timely. After listening to Mr. Lachapelle, Mr. Sims proceeded to harangue him, using extremely profane and vulgar language. We are enclosing a copy of Mr. Lachapelle's account of the incident.

We have protested this type of behavior by Mr. Sims before. We believe that no one should be subjected to this kind of verbal assault from anyone, and certainly not from an individual who is providing a public utility service sanctioned by the state of Florida that we are required to patronize, having no other choice.

We thank you for your attention to this matter.

Sincerely yours,

  
Robert W. Lindahl  
President

RWL/dkb

cc: Gregory Shafer, Chief/Special Assistance  
Denise Vandiver, Staff Analyst  
Gerald A. Figurski, Esquire  
Alvin J. Lachapelle

This morning I saw Mr. Sims and asked for an amended copy of my delinquency account (his estimate). My check for the current payment was in transit (42.08) and that amount was added to the amount he claims I am in arrears. His answer to my request was "Alvin FUCK YOU". His parting shot as he walked away was Alvin I don't talk to white niggers.

*Alvin J. Luchapelle*



Florida Public Service Commission  
Division of Water and Wastewater

Page 1

FROM: Shady Oaks Owners Association *Pub*EXHIBIT FJL-1  
[ Staff Rec ]RE: Water Outage at Shady Oaks, Zephyrhills  
January 22, 1992

DATE: March 25, 1992

We would like to submit the following account of what occurred in Shady Oaks on January 22, 1992 (based on notes made by Dorothy Bird, community representative.)

At approximately 9:30 a.m. there was a water outage to the entire subdivision that lasted for the entire day. Mr. Sims had been seen in the park and on the utility premises shortly before the water outage occurred, but calls to his office in the park were not answered, except by answering machine. These were the first calls made, by several of the residents. When there was no response to the Shady Oaks office number (782-2686), customers then called the utility's Tampa number. (This incurs a long distance charge to the calling party, unless the call is made collect.) The collect calls were unable to be completed as the utility's phone, which is also the owner's home phone, was being answered by an automatic answering device. Several customers placed direct calls and left a message on the machine along with their name, and in most cases their telephone number. Among these were Association president Robert Lindahl, whose wife Gloria left a message with her name and number at approximately 10:20 a.m., and Dorothy Bird, who left word at the Zephyrhills number about 10 a.m. and a message at the Tampa number at 11:40. Calls were made by various customers throughout the day. A number of calls were also made to the PSC Consumer Affairs 800 number during the course of the day.

In the meantime, the clubhouse bulletin board had been checked thoroughly for notice of a shutdown; there was no notice posted. Presuming that electric service may have been cut off for some reason, a call was made to Withlacoochee River Electric Company. Their representative checked and found no problem with the electric service.

At noon, Mrs. Bird explained the situation to Neil Bethea, assistant to Greg Shafer, at the Water and Wastewater Division in Tallahassee. Mr. Bethea said he would look into it and call back. At 1:05 p.m. Mrs. Bird received a call from Hank Landis, the engineer handling Shady Oaks. Mr. Landis said he would try to locate either Mr. Sims or his certified operator to have the water restored. It was recommended that we contact the DER and the Health Department to see if any type of assistance was available.

The residents were of the opinion that the outage was probably caused by a tripped breaker and that if we could gain access to the pumphouse it would be easy to alleviate the situation. Since the pumphouse was locked, and due to the volatile nature of the situation at Shady Oaks, no one was willing to commit trespass.

At 3:53 p.m. Mr. Landis again contacted Mrs. Bird, after several unsuccessful attempts at reaching either Mr. Sims or Mike Dailey, the certified operator for Shady Oaks. Mr. Landis suggested we call the Sheriff's Department to request assistance in gaining access to the pump house. We did; Deputy Sanderson of the Sheriff's office told us they are not allowed to give authority to trespass and cannot assist or accompany anyone for that purpose.

Water was restored to Shady Oaks about 4:23 p.m. on January 22, but not by Mr. Sims or any employee or representative of the utility. A visitor to the park, who felt he was helping us out of a very inconvenient and unnecessary situation, somehow gained access to the premises and flipped a switch that restored power.

Mr. Sims did not return calls to anyone who had left their names and/or numbers on his answering machine. At approximately 7:30 p.m. a call was received by Mr. and Mrs. Clarence Kellnhofer (neither of whom had left their names) from Mr. Sims, who explained that he and his wife had been away for the day, his car broke down and he had just arrived home, and he would be out to fix the water. Mr. Kellnhofer told him the water was on. Mr. Sims did not come out to Shady Oaks.

At least one of our residents received a letter in late February from John Plescow, PSC Consumer Affairs representative, in which he stated that the PSC investigation showed that water was restored the same day, which was true although not by any efforts of the utility; and that the cause of the interruption in service was a burned out transformer and capacitor, according to information obtained from the utility. We dispute this finding, since service was able to be restored by a flip of a switch.

This water outage was a great inconvenience to all of the customers of this utility, but especially hazardous to those who have special needs due to advanced age or medical disabilities. There are several residents of Shady Oaks in their 90's and many in their 80's, and there are some who require special care for strokes and heart conditions. This situation would not have happened if proper provisions had been made by the utility to handle emergencies.

Note to Hank Landis: Re: telephone number to reach Mike Dailey - his car telephone number is 813-480-5435.

Name BRAIDWOOD, RONALD

Company SHADY OAKS MOBILE-MODULAR ESTATES,

Request No. 6992P

Address 3758 CASTLE DRIAVE

Attn. RICHARD SIMS

By SMM Time 4:40 PM Date 02

Consumer's

Telephone # (813)-788-2835

To CO Time mail Date 02

City/zip ZEPHYRHILLS 33540 County PAS

Can Be Reached: (813)-788-2835

Complaint Type WS-50

Account Number \_\_\_\_\_

Note \_\_\_\_\_

Has consumer contacted company? Yes X No \_\_\_\_\_ Who RICHARD SIMS

Justification \_\_\_\_\_

Closed by \_\_\_\_\_ Date  / /

Reply Received \_\_\_\_\_

Co. is installing meters on 2-26. Mr. Braidwood says that co. is installing his meter in Mr. Chaney's back yard. This is apx. 75 feet from property line, two lots away. Upset because if he needs to read his meter he'll have to go to a neighbors. When approached Mr. Sims, he said "I'm a former drill instructor in the Marines & if you don't like where I'm installing the meters, call the Public Service Commission." Also water company cut TV cable. The Cable TV co. has repaired & says will send Mr. Braidwood a bill. Mr. Braidwood approached Mr. Sims about it & Mr. Sims just snickered. Mr. Braidwood wants water co. to pay the bill & water meter installed on his property.

CC: Hank Landis, W&W

Denise Vandiver, RRR

## CONSUMER REQUEST

FLORIDA

PUBLIC

SERVICE

COMMISSION



101 EAST GAINES STREET  
TALLAHASSEE, FLORIDA

PLEASE RETURN THIS FC  
WITH REPORT OF ACTION

Stella Maloy

DUE: 03/11/92

ATTACHMENT G  
EXHIBIT FJL-1  
[ Staff Rec ]

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-	)	DOCKET NO. 900025-WS
assisted rate case in Pasco	)	ORDER NO. 24084
County by SHADY OAKS MOBILE-	)	ISSUED: 2-8-91
MODULAR ESTATES, INC.	)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
BETTY EASLEY  
GERALD L. GUNTER  
FRANK S. MESSERSMITH  
MICHAEL MCK. WILSON

FINAL ORDER GRANTING TEMPORARY RATES  
IN EVENT OF PROTEST

AND

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING INCREASED RATES AND CHARGES, AND  
REQUIRING IMPROVEMENTS AND REPORTS

BY THE COMMISSION:

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

CASE BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) is a Class C water and wastewater utility located in Pasco County. It is a 242 lot mobile-modular home park developed in 1971. Its service area is approximately 1-1/2 miles south of the City of Zephyrhills.

On July 11, 1972, the provisions of Chapter 367, Florida Statutes, became applicable in Pasco County, Florida, whereby those utilities not qualifying for exemption from regulation became subject to the Commission's jurisdiction. Order No. 14540, issued on July 8, 1985, found Shady Oaks subject to the Commission's

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DOCKET NO. 900025-WS  
PAGE 2

jurisdiction. By Order No. 15633, issued February 6, 1986, the Commission issued Water Certificate No. 451-W and Sewer Certificate No. 382-S to Shady Oaks.

Commission Order No. 14540 took note of the Final Judgment of the Circuit Court of the Sixth Judicial Circuit upholding restrictive covenants included in the deeds of existing lot holders receiving service from Shady Oaks. A covenant in each deed requires the developer, Shady Oaks, to provide certain services at a fixed annual cost. These services include water, wastewater and other services. Based upon the data presented at that time, the Commission decided that the utility should continue billing its customers based on the deed restrictions.

On January 10, 1990, Shady Oaks applied for this staff-assisted rate case and has submitted the filing fee. We reviewed the utility's books and records to determine those components necessary for rate-setting, conducted an engineering investigation, and a field inspection of the service area. The test period is the average twelve-month period ended June 30, 1990.

A customer meeting was held on November 28, 1990 in the service area. The customers concerns are addressed subsequently in this Order.

#### NAME CHANGE AND RESTRUCTURE

During the test year, the land and all the utility facilities were owned and operated by Shady Oaks Mobile-Modular Estates, Inc. In August, 1990, the owner of Shady Oaks transferred the title of the utility's land to himself and his wife. He has indicated that he intends to transfer the entire utility, land, buildings and related supplies, from the mobile home park to a separate entity. According to the owner, this will assist in accounting for the utility separately as well as protecting the property from any liens that could result from future unpaid property taxes on mobile home property.

The land transfer was made without Commission approval. The utility states that it was not aware of the requirement of prior Commission approval. We note that the utility has been cooperative in attempting to correct the problem. Upon consideration, we will not penalize the utility for the unauthorized transfer. However, the utility is hereby put on notice that no future transfers of



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PAGE 3

utility land or property shall be made without prior Commission approval.

Because the utility is merely "spinning off" the utility portion of the mobile home park and there will be no change in control of the utility, we find that this sort of restructure is not a transfer within the intent of Section 367.071, Florida Statutes. The utility is still owned by the same persons in the same percentages. Therefore, the utility is hereby directed to file a request for acknowledgement of a restructure and a name change within 60 days from the date of this Order.

#### QUALITY OF SERVICE

We contacted the Department of Environmental Regulation (DER) and our Consumer Affairs and Water and Wastewater Divisions to determine if the utility had active complaints or violations against it. The Commission had no active complaints. However, DER had numerous complaints and violations on file. To settle the issues, DER and the utility entered into a Consent Order whereby the utility will make specific repairs and improvements to its system by March, 1991, which should improve the quality of service to a satisfactory level. We are informed that the utility is behind schedule on the needed improvements.

During the customer meeting held on November 28, 1990, the customers complained of low pressure, water shut-offs, line breaks, bad taste (chlorine) in the water, leaks left unrepaired, and excessive vegetation around the wastewater plant. The utility acknowledged these problems but added that it has responded as diligently as possible considering its lack of needed financial resources. It asserts that the deed restrictions that prevented the utility from increasing its rates have been the main cause of the utility's quality of service problems.

Upon consideration of the foregoing, we find that the quality of service is unsatisfactory. Accordingly, we hereby levy a fine of \$2,000, but suspend the fine for a period of nine months. This will provide the utility with six months to demonstrate its willingness to comply with the DER consent order and complete the needed repairs, and give the Commission three months to investigate compliance after the six month period. The utility shall place \$333.34 each month into an escrow account for the next six months to accumulate the \$2,000 fine.

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PAGE 4

To bring the utility's quality of service to a satisfactory level, the utility should comply with DER's consent order within that order's prescribed deadline. Specifically, it should construct a new effluent disposal system, obtain the necessary permits to operate, and operate the wastewater facilities within DER Standards. In addition, as discussed later in this Order under the section on preventative maintenance, if at the end of six months the utility has not expanded eighty-five percent of its maintenance expense allowance, the utility shall submit a written schedule showing what monthly maintenance the utility will implement. After six months, we will reinspect the plant and assess the performance of the utility to determine the quality of service. If found to be satisfactory, we may suspend the fine permanently.

#### RATE BASE

Our calculation of the appropriate rate base for the purpose of this proceeding is depicted on Schedule No. 1. Our adjustments are itemized on Schedule No. 1-A. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on those schedules without further discussion in the body of this Order. The major adjustments are discussed below.

#### Used and Useful

The system has two wells; each well has a rated capacity of 125 gallons per minute (GPM). The plant has no storage capacity, therefore, both wells are required to meet maximum hour demand, which is approximately 115 GPM. One of the two wells must function as a backup well, therefore, we find that the plant is 100 percent used and useful.

This utility does not have a flow meter. Flows reported to DER are estimated. We shall use a designed capacity for mobile homes of 150 gallons per day (GPD) and equivalent residential connection (ERC), whereby the total capacity necessary to serve the existing 185 ERCs is approximately 27,750 GPD. Estimated flows reported by Shady Oaks to DER average about 17,641 GPD. Using the average of these two estimates, daily flows are 22,695 GPD. The wastewater plant has a capacity of 20,000 GPD; therefore, we find that it is 100 percent used and useful.

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PAGE 5

The collection and distribution systems provide service to 242 platted lots in the service area. Considering the distribution of the 185 connections, we find that the collection and distribution systems are 100% used and useful.

#### Plant-in-Service

Shady Oak's application reflects water utility plant of \$13,888 and wastewater utility plant of \$45,632. The utility does not have original cost documentation to support these figures. We reviewed tax returns, several cost estimates, and plant components. The 1972 tax return indicates a water plant cost of \$11,588 and a wastewater plant cost of \$45,632. We find that the tax return reflects reasonable estimates of the original cost. The utility also provided invoices to support two additional items of plant: a master meter installed in 1984-1985 and a replacement pump installed in 1989-1990. The master meter cost \$1,300 and the pump replacement was a \$151 net reduction to plant. The year-end balance of the water plant has been adjusted to reflect this test year retirement and addition. We will use these estimates and costs to establish utility plant-in-service.

In fiscal year 1980/1981, the utility added the second stage of its transmission/distribution system and collection lines. The utility's estimate indicates that the water transmission and distribution lines cost \$25,060 and the wastewater collection lines cost \$47,129. We accept these estimated costs as reasonable. Based on the foregoing, we find that the utility plant balance at June 30, 1990 is \$37,797 for the water system and \$103,546 for the wastewater system.

#### Projected Plant Improvements

On March 7, 1989, Shady Oaks signed a Consent Final Judgment with the DER. The utility agreed to construct an additional effluent disposal system to eliminate discharge from the plant. The construction permit sets a March 31, 1991 deadline for this construction. The utility has received several estimates for the work. The latest estimate was for \$199,725. We believe that a reasonable estimate to complete the work is \$125,000. This includes the relocation of the existing pond, installation of a pump station, installation of a main from the wastewater treatment plant to the new pond site, additional engineering work, materials, construction of the pond, and improvements to the wastewater



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treatment plant. Accordingly, we find that this \$125,000 cost should be included in rate base.

During the test year, the utility spent \$2,265 on engineering costs related to the development of the plans for the new percolation pond. These costs shall be removed from expenses and capitalized and added to the \$125,000 estimated cost of the pro forma plant.

As discussed subsequently in this Order, Shady Oaks will convert from a flat rate to a base facility/gallage charge rate structure. This change will require the installation of water meters. \$100 is a reasonable estimate of each water meter installation, including the meter, meter box, labor, all valves and other appurtenances. Therefore, \$100 multiplied by the existing 185 customer sites results in a cost of \$18,500, which shall be capitalized and included in the rate base.

When pro forma plant is included in rate base, our policy is to increase accumulated depreciation by one year's depreciation on that plant. Therefore, following this policy, we find that accumulated depreciation attributable to the pro forma plant is \$1,092 for the water system and \$4,709 for the wastewater system.

Shady Oaks' percolation pond is not percolating properly. The Shady Oaks area has a high water table. A new percolation pond is to be constructed in an area where the water table is lower, on a site owned by the utility's President. Because the new site has not been previously dedicated to public use, the utility requests that the value of this land be placed in rate base at its current market value. The utility provided us with a copy of a contract for a sale of 4.65 acres of this land in 1985. The stated sale price per acre was \$68,817. Several customers at the customer meeting pointed out that the sale was never consummated. The same property is currently for sale at approximately \$32,895 per acre. We do not believe the 1985 contract price for a sale that never occurred is a valid basis for determining the current market value of the land.

We have considered several methods in arriving at our decision on the cost of the additional land to be included in rate base. The first method would allow the actual price paid for the land. This method determines the "original cost" of the land to the owner. Using this method would include in rate base the "actual"

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cash investment that the owner has in the property, but the value applied to the land will not necessarily equal the land's value at the time the land is first dedicated to public use.

Commission policy has been to consider the value of the property at the time it is first dedicated to public use. The utility's President developed his system in the early 1970's and set aside the land required for the utility. Due to the fact that the current percolation pond is no longer operating properly, the President now finds himself in the position of acquiring additional land or setting aside some of his other property for utility use. We do not believe that the retirement of the old pond is through any negligence on the part of the owner, nor that he used poor judgment in choosing the initial site. Through no fault of the owner, the utility now requires additional land. Therefore, we believe that the value of the land when it is first dedicated to public use is the current value. If the full value were to be included in rate base, it would have a serious impact on this small system.

We have considered as another option, the possibility of indexing forward the original cost of the land. For instance, using the CPI as an index, the original cost of \$1,460 an acre would be increased to approximately \$4,400 an acre. Order No. 22166, issued November 9, 1989 (Poinciana Utilities, Inc.), discussed this issue of the valuation of land. We believe that Order No. 22166 clearly states the preference of the Commission to use the value of the land at the time the property is dedicated to public use. Further, the Commission discussed the methodology of using an index and stated that the methodology resulted in an unreasonably low and unrealistic per acre cost. Therefore, in that case, the Commission chose an independent appraisal as the basis for the determination of the land cost.

The best evidence we have in this case on which to base the current fair market value of this land is to start with the value placed thereon by the County Property Appraiser, which is \$11,803.53 per acre. We believe this value represents at least 65 percent of the land's actual current market value. Accordingly, we find it appropriate to increase the property appraiser's value, based on an assumed appraisal at 65 percent of current market value, to calculate a full market value of \$18,160 per acre. We multiply this per acre value by the four acres needed for the

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percolation pond site, to establish a current total market value of \$72,640.

The transfer of the four acres from the utility to the utility's President is a related party transaction and not a "sale" of land in the tax sense. The President will not recognize a gain on this transfer for tax purposes. He will, however, be acquiring the "benefits" of the transfer because he will be earning a return on the increased value of the land added to rate base. Therefore, it is appropriate to reduce the current value per acre by the "tax savings" that the President receives from the increased value. We have calculated this "tax savings" by multiplying the increase in value of \$16,700 per acre (\$18,160 less \$1,460) by the tax rate of 28 percent. This results in a total reduction of \$20,339, for a net value of the four acres of \$52,301, which we find to be the appropriate value of the four acres to be added to rate base.

The site of the old percolation pond must be retired from rate base and a gain recognized. The current percolation pond occupies approximately one acre. Because this land may be reclaimed after the new percolation pond is built, it can be sold or used for other purposes. We adjust the revenue requirement to match the retirement of the one acre with the purchase of the additional four acres. The current market value of the one acre is \$16,700 more than its original purchase price. This gain will be recognized in the revenue requirement. The one acre has been owned by the utility and included in rate base. Therefore, any financial benefits from the sale of the one acre should accrue to the ratepayers. Commission policy is to amortize such a gain over a period of time. In prior cases, the Commission has chosen the amortization period by allowing the amortization expense to equal the depreciation and return on investment in rate base of the retired item. Utilization of this method results in an amortization period of seven years. Based on the foregoing, we find that a yearly amortization of \$2,386 should be included in the revenue requirement.

Because the utility has not acquired contracts for the construction, we find that the rate increase related to the pro forma plant and land shall be placed in an escrow account with an independent financial institution established pursuant to a staff-approved written escrow agreement. Any withdrawals of funds from this escrow account are subject to the prior approval of this Commission through the Director of Records and Reporting. Six

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months from the effective date of this Order, the utility shall submit to the Commission copies of the invoices to verify the costs to complete the construction. Staff will make a recommendation regarding the escrowed funds after reviewing the invoices and the completed construction. We expect staff's recommendation to be complete within eight or nine months from the effective date of Order.

#### Land Currently Owned

In 1971, Shady Oaks Mobile-Modular Estates, Inc. purchased 63 acres for \$92,000, or \$1,460 per acre. The water system is located on approximately 1/2 acre and the wastewater system currently occupies approximately 2.1 acres. During the test year, land and all utility facilities were owned and operated by Shady Oaks Mobile-Modular Estates, Inc. The owner of Shady Oaks transferred the title of the land to himself and his wife in August, 1990. The owner has indicated his intention to transfer all utility property from the mobile home park to a separate entity. Although the name on the utility's certificate does not currently match the name of the land title because of the recent transfer, the land and plant shall be included in rate base. We find that the original cost of \$1,460 per acre shall be applied to the acreage for a land cost of \$730 in the water system and \$3,066 in the wastewater system.

#### Accumulated Depreciation

We have calculated an accumulated depreciation balance using the estimated plant costs and the estimated construction dates. We find that a forty year life (a 2.5 percent depreciation rate) is an appropriate estimate for calculating the accumulated depreciation. Using these facts and including the retirement of two minor plant items, we have calculated a year end test year balance of accumulated depreciation of \$9,408 for the water system and \$37,286 for the wastewater system. We find that averaging the test year changes results in an average test year balance of \$8,936 for the water system and \$35,992 for the wastewater system.

#### Contributions-in-Aid-of-Construction (CIAC)

As discussed earlier, the utility was unable to provide original cost documentation for utility plant-in-service. While we did not perform an original cost study, we reviewed engineering estimates and tax returns. The utility's tax returns for the years

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1971 - 1983 show a water plant balance of \$11,588 and a wastewater plant balance of \$45,632. We find that the difference between the tax returns and the original cost estimates for plant additions prior to 1985 shall be imputed as CIAC. This results in a 1983 balance of \$25,060 for the water system and \$57,914 for the wastewater system.

In addition, the federal tax return for the fiscal year ended July 31, 1989 includes an impact fee collected in the amount of \$2,085. The \$2,085 shall be included in the test year balance of CIAC and be divided evenly between the water and wastewater systems. We find that this increases the year-end balance of CIAC for the water system to \$26,103 and for the wastewater system to \$58,956. The utility did not change its CIAC balance during the test year; therefore, no averaging adjustment is needed.

#### Accumulated Amortization of CIAC

Using the same methodology to calculate the accumulated depreciation balance, we have calculated a year-end balance for accumulated amortization of CIAC of \$5,991 for the water system and \$16,220 for the wastewater system. This balance has been adjusted to an average for the test year. We find that the resulting balance of \$5,665 for the water system and \$15,483 for the wastewater system shall be included in rate base.

#### Working Capital Allowance

Using the formula method (one-eighth of operation and maintenance expenses) to calculate the working capital allowance, we find that the appropriate amount of working capital to be included in rate base is \$3,176 for the water system and \$3,613 for the wastewater system.

#### Test Year Rate Base

After incorporating all adjustments, we find that the average test year rate base is \$29,812 for the water system and \$204,157 for the wastewater system.

#### COST OF CAPITAL

Our calculation of the appropriate cost of capital, including our adjustments, is depicted on Schedule No. 2, attached to this

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Order. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on that schedule without further discussion in the body of this Order.

During the test year, Shady Oaks had three issues of short-term debt. The first issue was from the 1st National Bank of Pasco for \$2,492, issued on June 25, 1990 for 24 months. The second issue was from Mark Sims for \$2,000, issued on December 22, 1989 for 12 months. The third issue was also from the 1st National Bank of Pasco for \$975, and issued on November 21, 1988 for 24 months. These issues will be classified as short-term debt. The average balance of these three debt issues for the test year is \$1,121, which shall be included in the capital structure at the average interest rate paid during the test year of 16.80 percent.

At the end of the test year, Shady Oaks had a balance of long-term debt outstanding of \$172,542. In December, 1989, \$3,000 in debt was added to the balance. The \$3,000 has been averaged to determine the average test year balance. The entire balance of the long-term debt is owed to the owners of the utility. The utility has not paid interest or principal on any of these notes. This debt is a total of approximately 90 promissory notes made in varying amounts since 1973. Each note has an individual interest rate stated on its face. There is no direct correlation between the prime rate and the stated interest rates. The average rate for this debt, based on the stated rates, is 17.254 percent. We believe it appropriate to recalculate the average rate by substituting the prime rate plus 3 percent for each of the stated rates. Based on this analysis, we find that the average rate is 13.4 percent.

In 1988, Shady Oaks Mobile-Modular Estates, Inc. went through a reorganization under Chapter 11 of the Bankruptcy Code and a final judgment was issued on August 2, 1988. This judgment listed the debts of the company and stated the debts would bear interest at the rate of 11.5 percent. We find that the interest rate on all the debts incurred before the final judgment shall be adjusted to the 11.5 percent interest rate specified in the judgment. The small portions of debt incurred after the bankruptcy court's final judgment will be included at their averaged actual interest rates. This brings the total average rate to 11.55 percent. Therefore, considering all adjustments, we find that the average long-term debt for the test year is \$171,157 at an average interest rate of 11.55 percent.

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### Return on Equity

At the end of the test year, the utility/mobile home park had a \$5,000 balance in common stock, a \$1,785 balance in paid-in capital, and a negative retained earnings of \$290,577. While the entire balance of negative retained earnings does not belong to the utility, the utility's share is significantly higher than its investment through common stock and paid-in capital. Commission policy is to include a zero equity balance when a negative balance of retained earnings is larger than the investment through stock. Accordingly, we find that a zero equity balance exists for the test year.

Earlier in this Order we held that a substantial amount of plant shall be included in rate base as a pro forma item. The utility will need financing to pay for this plant. The most likely source of funding is through equity or personal loans. Therefore, the best measure of the cost of this financing is to include the pro forma item as equity and use our leverage graph to determine the cost of the financing. The Commission's leverage graph was last adjusted in Docket No. 900006-WS, Order No. 23318 on August 7, 1990. Using that graph, the proper cost of this equity is 12.49 percent. Therefore, we find that the pro forma equity shall be included in the capital structure at a cost of 12.49 percent, with a range of 11.49 percent to 13.49 percent.

### Overall Rate of Return

Considering all adjustments, the appropriate overall cost of capital is calculated by using the utility's capital structure with each item reconciled to rate base on a pro rata basis. We find that this results in an overall cost of capital of 12.10 percent.

### NET OPERATING INCOME

Our calculation of net operating income is depicted on Schedule No. 3, with our adjustments itemized on Schedule No. 3-A. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on those schedules without further discussion in the body of this Order. The major adjustments are discussed below.



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### Test Year Revenues

Shady Oak's tariffs do not specify a stated rate for water and wastewater service. As discussed in the Case Background, the utility has certain deed restrictions which required the developer, Shady Oaks, to provide certain services at a fixed cost of \$25 per month. These services include water, wastewater, and other services. Based upon data presented in the original certificate case in 1986, the Commission decided that the utility should continue billing its customers in accordance with the deed restrictions. Therefore, the utility's existing tariffs reflect that the water rate and the wastewater rate are part of the monthly \$25 charge.

Currently, some of Shady Oak's customers are paying \$25 rate for water and wastewater. Some are paying a \$35 rate for water, wastewater, and garbage. Others are paying a \$40 rate for water, wastewater, garbage and streetlights. It appears that \$25 per month rate is all that is being charged to cover water and wastewater service. Therefore, we have calculated annualized revenues using \$25 per month multiplied by the 185 test year customers, which results in an annualized revenue of \$55,500. We find that this revenue shall be split equally between water and wastewater, resulting in annualized revenue of \$27,750 for water service and of \$27,750 for wastewater service.

### Operation and Maintenance Expenses (O & M)

The test period ending June 30, 1990 was used to determine the appropriate expense levels which follow. The audited totals and detailed components of each expense account were examined for reasonableness, taking into consideration both average test period customers and year-end customers. Reclassification adjustments, annualizing adjustments, adjustments for appropriate levels and known changes were made to arrive at expense allowances. The results of our analysis are detailed below. Schedule No. 4, attached, includes a summary of each account.

1) Salaries and Wages - Employees - The utility pays its Secretary \$250 a month for an average of ten hours a week for office expense incurred relating to delinquent customer billing, record keeping and other duties. This amount is reasonable. However, because the utility is changing to a base facility/gallonage charge rate



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structure, we estimate an additional 8 hours of work each month will be required to calculate and prepare customers' bills. This results in a \$50 per month increase, for a total annual expense of \$3,600, to be divided equally between water and wastewater.

2) Salaries and Wages - Officers - The utility pays its President for the day-to-day operation of the utility system. His rate of pay is \$1,500 a month for an average of thirty hours each week. He may be spending close to 30 hours a week at the present time because of the DER Consent Order, however the normal course of business should require only 10 hours a week for his services. The utility is changing to the base facility/gallonage charge rate structure. Therefore, we estimate that the President will spend additional time each month reading meters. We believe an allowance of \$100 per month is a reasonable amount to compensate for those additional duties. These adjustments result in a total annual expense of \$7,200, which is a reduction of \$10,800 per year. Accordingly, we find that the total salaries and wage expenses for Officers shall be \$3,000 for water and \$4,200 for wastewater.

3) Employee Pensions and Benefits - During the test year, the utility spent \$4,205.40 for employee benefits, including \$3,528 for hospitalization insurance for its President and Secretary and \$677 for other medical expenses. Several customers did not agree that the rates should include a provision for hospitalization insurance for "part-time" employees. These two employees are the officers of the mobile home park and a portion of their hours are spent on the utility. It is reasonable for the company officers to receive hospitalization insurance, but the utility should not pay the entire expense. The number of hours spent on utility work indicates that a majority of the Officers' labor hours are spent on other duties. Accordingly, the test year expenses are hereby reduced to reflect 20 hours of labor per week, combined total of both Officers, which is a 75 percent reduction. Effective February 10, 1991, the insurance premium will be increased to \$670 a month, or \$8,040 per year. The expected insurance premium of \$670 a month plus the other miscellaneous expenses are hereby allowed; however, only 25 percent of these amounts shall be allocated to the utility. These adjustments decrease test year expenses by \$796 for the water system and a like amount for the wastewater system.

4) Purchased Power - The electric meter that meters the water treatment plant also meters the power usage at the mobile home park's recreation center. We have analyzed the power requirements

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of the water treatment plant pump and have prorated these expenses. This proration results in the purchased power expense for the water system to be reduced by \$3,302, to \$730 per year. No adjustment is necessary to wastewater purchased power expense.

5) Preventative Maintenance - The utility must increase its preventative maintenance because of the unsatisfactory level of service. Maintenance expenses are hereby authorized to be increased to \$1,700 a month to allow for the extra maintenance. The test year maintenance expenses include materials, supplies, and labor for maintenance performed during the test year that totalled \$1,242 for the water system and \$1,700 for the wastewater system. These expenses are hereby increased by \$8,958 for the water system and \$8,500 for the wastewater system, for an annual total of \$20,400.

This increase in allowed expenses is substantial. We will monitor the expenditure of these funds to insure they are used for their intended purposes. Therefore, at the end of six months from the effective date of this Order, the utility shall provide to the Commission a detailed record of its maintenance expenditures. We will review these records to determine if the funds are being used as intended. If the utility has not begun to spend a substantial amount (85 percent) of the allowance, the utility shall submit a statement as to the reasons why a substantial amount of these funds have not been utilized and a detailed statement of its future plans to maintain the system. If the maintenance is not performed, we will consider initiating a show cause proceeding to fine the utility for not performing as ordered.

6) Contractual Services - During the test year, Shady Oaks paid \$11,737 for contractual services; \$4,347 in the water system and \$7,391 in the wastewater system. These expenses are hereby adjusted to \$3,217 in the water system and \$7,488 in the wastewater system. The specifics of several adjustments are noted below.

\$114.76 was found in accounts payable for accounting services during the test year. This is an expense and is hereby transferred to the contractual service expense account, to be divided evenly between water and wastewater.

Four invoices for a total of \$500 were paid during the test year for services received in the prior period. These invoices are

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removed from test year expense, resulting in a reduction of \$225 to water expense and \$275 to wastewater expense.

Test year expenses included \$2,000 in attorneys' fees for settlement in a bankruptcy proceeding. This is an extraordinary, non-recurring item that is disallowed. Accordingly, we reduce water expenses by \$1,000 and we reduce wastewater expenses by \$1,000.

The contractual services expenses also included \$2,755 for items which should more appropriately be included in other accounts: telephone bills (\$44.06), gasoline charges (\$9.75), repayment of principal and interest (\$436.49) and engineering costs related to the development of the plans for the new percolation pond (\$2,265.00). The telephone and gasoline charges are hereby reclassified to the appropriate expense account. Further, the debt and interest charges are removed as expenses and will be recovered as discussed in the Rate Base portion of this Order. Moreover, the expense related to the development of the percolation pond is removed from contractual services and reclassified to the wastewater system as a part of the pro forma plant addition.

The largest part of the contractual services account is paid to Mathis Water and Wastewater, Inc. for operation of the facilities. During the test year, the utility was charged \$350 per month for the contract service, \$126 for chemical samples, \$306 for chlorine, and \$907 for miscellaneous items. This fee is being increased by the contractor from \$350 per month to \$450 per month. This reasonable increase is approved. The chlorine cost is reasonable, but has been reclassified to chemical expense. The miscellaneous charges include \$320 for sludge hauling; this item has been reclassified to the sludge removal expense account. The utility's books do not appear to reflect the total expense for the test year on an accrual basis. The expense must be adjusted to reflect the increased contractual services fee and the same test year related expense - samples, and miscellaneous charges. After these adjustments, we approve an increase to the constructional services expenses of \$767 for the water system and \$1,042 for the wastewater system.

7) Rents - In 1985, the utility signed a lease to rent office space for \$250 each month. This expense should be allocated partially to the mobile home park. The utility allocates 35 percent of transportation expense to the mobile home park. This is

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a reasonable allocation for the office space. Allocation of 35 percent of the rent expense to the park reduces the utility's rent expense to \$975 per year for the water systems and \$975 per year for the wastewater system.

8) Transportation - The utility records indicate a transportation expense of \$2,042 (plus \$10 reclassified from another account) for the water system and \$2,040 for the wastewater system. This expense includes expenditures for gasoline, auto insurance and auto repairs. We find that the transportation expense is reasonable, provided it is properly allocated among the various activities.

Shady Oaks' gas expense included all payments the utility had made during the year, with thirty-five percent allocated to the mobile home park, which is reasonable. The utility paid \$924 for auto repairs during the year. Thirty-five percent of these expenses, or \$323, should be allocated to the mobile home park. Therefore, we remove \$155 from water system expenses and \$168 from wastewater system expenses. Finally, the insurance expense of \$1,262 must be reclassified to the insurance expense account. These adjustments result in a balance for the transportation expense of \$1,266 in the water system and \$1,241 for the wastewater system.

9) Insurance - The utility paid \$1,262 for automobile insurance for the President's and the Secretary's automobiles during the test year. The Secretary's car is not used to any material extent for utility business. The President's car is used approximately 65 percent of the time for utility business. We will allow only the insurance expense relating to the President's car and allocate 35 percent of that expense to the mobile home park. \$571 of the insurance premiums were for the President's car. After allocating 35 percent of this expense to the mobile home park, the utility's expense is \$370, which shall be divided equally between water and wastewater.

The utility has requested that liability insurance be included in its revenue requirement. The utility provided a policy for the period 7/16/85 to 7/16/86 with premium costs of \$4,168 for the utility premises, the recreation building, and the office. The utility requests that this policy be used as an estimate of the liability expense. We believe that the policy provides a reasonable estimate of the expense. The utility should acquire the liability insurance and the expense should be allocated based on

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the limits of liability shown in the policy for each of the structures. Also, 35 percent of the cost of the coverage for the office shall be allocated to the mobile home park. We find that these adjustments result in an expense for liability insurance of \$144 for the water system and \$198 for the wastewater system.

10) Regulatory Commission Expense - The only cost related to this case is a filing fee of \$300. This amount shall be amortized over four years, consistent with Section 367.0816, Florida Statutes. This results in a reduction to the expense of \$1,882 for the water system and a like amount for the wastewater system. We find that the proper expense is \$37.50 for water and \$37.50 for wastewater, for a four year period.

11) Other Regulatory Expense - The utility's books reflected \$1,800 in other regulatory expenses. This entire amount was paid to the DER Pollution Recovery Fund for fines assessed by DER. Commission policy is to disallow any fines incurred by a utility. Therefore, we find that this expense should be reduced to zero.

12) Office Supplies and Expense - The utility recorded office supplies and expense for the test year in the amount of \$683 (plus \$44 reclassified from another account) for the water system and \$727 for the wastewater system. We find that the water expense should be reduced by \$35 and the wastewater expense should be reduced by \$36 to eliminate out of test year telephone expenses.

Depreciation Expense

Using the rates prescribed by Chapter 25-30.140, Florida Administrative Code, we calculate depreciation on test year plant of \$1,232 for the water system and \$3,705 for the wastewater system. Using the same rates, the amortization of CIAC totals \$791 for the water system and \$2,181 for the wastewater system. The same rates as applied to the proforma plant add \$1,092 to the water system and \$4,709 to the wastewater system. We find that the appropriate depreciation expense to include in the revenue requirement is \$1,533 for the water system and \$6,233 for the wastewater system.

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Amortization Expense

Earlier in this Order we held that the gain on the retirement of one acre of the wastewater land will be amortized over seven years. The gain totalled \$16,700. Amortizing that amount over seven years results in an annual amortization amount of \$2,386. We find that this amortization shall be used to offset a portion of the wastewater revenue requirement by including it as a negative amortization expense.

Taxes Other than Income Taxes

The utility's records do not reflect any taxes other than income. However, earlier in this Order, we held that certain salary expenses for the President and Secretary be allowed. The related payroll taxes will also be allowed. These taxes result in a payroll expense of \$923.

In the past, the utility has been delinquent in paying its tangible and real property taxes. This expense will nevertheless be included in rates to eliminate a risk that any utility property could be lost to the tax collector. We allow \$347 for tangible property taxes. The utility's ad valorem tax millage rate of .019 percent results in a total test year real estate tax of \$14 for the water system and \$58 for the wastewater system. Applying the .019 rate to the pro forma land for the new percolation pond results in a pro forma real estate tax expense of \$1,772.

We find that the regulatory assessment fees, at 4.5 percent of the test year revenues, total \$2,498, which we hereby approve.

Based on the above considerations, we find that the test year taxes other than income are \$1,870 for the water system and \$3,742 for the wastewater system.

Income Tax Expense

Shady Oaks is a Subchapter S corporation. No income tax expense should be included in the rates of a Subchapter S corporation as the corporation itself does not pay taxes. Therefore, we find that the income tax expense for Shady Oaks shall be zero.

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Based on the previous adjustments, we find that the test year operating loss is \$1,061 for the water system and the test year operating loss is \$8,744 for the wastewater system.

#### REVENUE REQUIREMENTS

Based on the utility's books and records and the adjustments discussed above, we find that the annual revenues required are \$32,639 for the water system and \$62,799 for the wastewater system. This is an increase of \$4,889, or 17.6 percent for the water system and an increase of \$35,029, or 126.2 percent for the wastewater system. This will allow the utility the opportunity to recover its expenses of \$28,811 in the water system and \$36,494 in the wastewater system and earn a 12.10 percent return on its investment in rate base.

#### RATES AND CHARGES

##### Commission Authority to Increase Rates

The developer, Shady Oaks, entered into contracts for the sale of land which contain certain provisions regarding utility service. The charge for utility service is included as an unspecified portion of an annual fee of \$300 for a variety of services.

As previously stated, Order No. 14540, issued July 8, 1985, found that Shady Oaks is subject to the jurisdiction of this Commission. By Order No. 15633, issued February 6, 1986, we issued Water Certificate No. 451-W and Sewer Certificate No. 382-S. Order No. 15633, issued March 7, 1986, stated that the utility should file tariff pages consistent with its then current rates. The specific language in the tariff states that "the customers pay an annual fee of \$300 (\$25/month) that is fixed by deed restriction. An undetermined portion of this amount applies to water service."

The Florida Supreme Court recognized the Commission's exclusive jurisdiction to establish rates for utility service in Storey v. Mayo, 217 So.2d 304 (Fla. 1968). All private contracts with a utility are regarded as entered into subject to the reserved authority of the State acting through the Public Service Commission under the police power to modify the contract in the interest of public welfare, State ex rel. Ellis v. Tampa Waterworks Co., 48 So. 639 (Fla. 1908); State ex rel. Triay v. Burr, 84 So. 61 (Fla. 1920); Miami Bridge Co. v. Railroad Comm., 20 So.2d 356 (Fla.



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1945); and Midland Realty Co. v. Kansas City Power & Light Co., 300 U.S. 687 (1937). In the Midland case, the court opined that rates which were approved subsequent to the contract were proper, although they were higher than an existing contract rate between the parties. The Court stated:

"A state has the power to . . . prohibit service at rates too low to yield the cost rightly attributable to it." Midland, supra.

In Cohee v. Crestridge Utilities Corp. 324 So.2d 155 (Fla 2nd DCA 1975), the Court held that the Commission has authority to raise, as well as lower, rates established by a pre-existing contract when deemed necessary in the public interest. The Commission's power to establish rates supersedes preexisting agreements that establish such rates. Hampton Utilities Co. v. Hampton Homeowners Ass'n, 252 So.2d 286 (Fla 4th DCA 1971) and H. Miller & Sons, Inc. v. Hawkins, 373 So.2d 913 (Fla 1979). While a state may exercise its power to modify or abrogate private rate contracts, it is under no obligation to do so merely to relieve a contracting party from the burden of an improvident undertaking; rather, the power to fix rates . . . in contravention of a contract must be exercised solely for the public welfare. Arkansas Natural Gas Co., v. Arkansas R. Comm., 261 U.S. 67 (1936). We believe that adequate service cannot be provided to customers through the year 2000 at an annual rate of \$300. The system is already approaching a critical need for additional funds to not only maintain the system, but to maintain a satisfactory quality of service. This Commission has the authority to establish rates irrespective of the pre-existing contract, and must do so in order to maintain a satisfactory quality of service to the Shady Oaks' customers.

We are not without concern for the ratepayers. However, this result is required under the mandates of Section 367.081(2), Florida Statutes, which requires rates that are just, fair, compensatory and not unfairly discriminatory. The fact that there exists a Circuit Court judgement styled Emerson French and Louisa Ann French v. Shady Oaks Mobile-Modular Estates, Incorporated issued on October 7, 1983, in Case No. 83-430 in the Circuit Court (Pasco County) does not alter our decision. The judgement does not address these issues and the Commission was not a party to that lawsuit. There is no indication the Trial Judge was aware of the



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Commission's primary jurisdiction over the subject matter of these rates.

For purposes of this case and in determining the test year revenues, we have assumed the entire \$300 yearly payment charged to most of the park residents was for utility services. This may or may not be the case. The rates listed below are the total rates necessary to give the utility the opportunity to recover its expenses and a reasonable rate of return on its investment in rate base. The Commission has no authority as to what portion of the \$300 yearly payment which the customers may or may not still owe to the mobile home park. This question must be discussed between the customers and the utility President and, if not resolved, it would be a matter for the circuit court. The utility is reminded that pursuant to Rule 25-30.320, Florida Administrative Code, service cannot be discontinued if the customers pay their utility bills and comply with the utility's rules and regulations which are set forth in its tariff.

#### RATES AND CHARGES

The rates established by this Order have been designed to allow the utility the opportunity to recover its expenses and earn a 12.10 percent return on its investment. The utility's current rate structure is a flat rate. Flat rates are not conducive to conservation. We find that the utility shall employ the base facility/ gallonage charge rate structure, which establishes a fixed charge for each customer to recover a proportionate share of fixed operating costs and a variable gallonage charge to recover the variable costs of providing the services.

We have used an average of 6,000 gallons per month per customer and the average test year number of customers to compile a billing analysis for the test year and to calculate rates. Because the customer usage has not been previously metered, there is no historical data to determine the customers' actual consumption. Our estimate of usage is based on average usage in other mobile home parks in Florida. While not every customer resides in Shady Oaks for twelve months, and not every household has two persons who use 100 gallons per day each, we believe that the estimated 6,000 gallons per month is a reasonable average. Although the swimming pool, laundry and office are not typical household users of water, the total of 6,000 gallons per month per customer is a good estimate of all water used by all sources. We

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find the following rates and rate structure to be fair, just and reasonable. ..

WATER

MONTHLY RATES

Residential

<u>Base Facility Charge</u>	<u>Commission Approved</u>
<u>Meter Size</u>	
5/8" x 3/4"	\$ 6.34
3/4"	9.51
1"	14.84
1-1/2"	29.01
2"	46.02
3"	91.36
4"	142.36
6"	284.05
<u>Gallonage Charge</u>	
Per 1,000 gallons	\$ 1.39

General Service

<u>Base Facility Charge</u>	<u>Commission Approved</u>
<u>Meter Size</u>	
5/8" x 3/4"	\$ 6.34
3/4"	9.51
1"	14.84
1-1/2"	29.01
2"	46.02
3"	91.36
4"	142.36
6"	284.05
<u>Gallonage Charge</u>	
Per 1,000 gallons	\$ 1.39

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WASTEWATER

MONTHLY RATES

Residential

<u>Base Facility Charge</u>	<u>Commission Approved</u>
All Meter Sizes	\$ 12.50
<u>Gallonge Charge</u>	
Per 1,000 gallons (6,000 gal. maximum)	\$ 2.63

General Service

<u>Base Facility Charge</u>	<u>Commission Approved</u>
<u>Meter Size</u>	
5/8" x 3/4"	\$ 12.50
3/4"	18.75
1"	31.08
1-1/2"	62.02
2"	99.15
3"	198.16
4"	309.55
6"	618.96
<u>Gallonge Charge</u>	
Per 1,000 gallons (No maximum)	\$ 3.15

The utility has requested that it be allowed to implement the rate increase prior to the installation of the water meters. The utility states that it will be difficult to find financing to purchase meters and install them without revenues produced by the increased rates. We find that implementation of the rate increase prior to the installation of the meters is a reasonable solution.

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We will approve flat rates as follow, until the water meters are installed.

Monthly Water Flat Rate	\$ 14.70
Monthly Wastewater Flat Rate	\$ 28.28

The utility must install water meters for all customers as quickly as possible. We believe that six months is more than adequate time to install 185 water meters. If all water meters have been installed at or before six months of the effective date of this Order, the utility may begin to charge all customers the base facility and gallonage charges, effective not earlier than 30 days after approval of new tariffs. If all of the water meters have not been installed within six months of the effective date of this Order, the utility shall begin billing the appropriate base facility charges to all customers, but shall charge the gallonage charge only to those customers who have a functioning water meter installed at the respective customer's service site. In no event shall the gallonage charge be applied to any customer earlier than for meter readings taken on or after 30 days following the stamped approval date of the revised tariff pages implementing the base facility charge rate structure.

The Commission's investigation in this case indicated that there are a couple of lots which are not being charged the same as other lots. Rule 25-30.135(2), Florida Administrative Code, states that no utility may modify or revise its rates until the utility files and receives approval from the Commission for any such modification or revision. Accordingly, we find that the rates approved herein should be applied, without discrimination, to all customers.

Customer Access to Information

Customers have questioned whether the utility has a policy and procedures manual. No manual is maintained by the utility. However, the tariff includes the rates, charges and various operating rules required by the Commission. Rule 25-30.135(3), Florida Administrative Code, requires that the utility maintain for customer inspection, a copy of Chapter 25-30, Florida Administrative Code, and a copy of the utility's tariffs, rules, regulations and schedules at the utility office in the service area and make them readily accessible to the customers during office hours. The utility must comply with these requirements.

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#### Rates After Amortization of Rate Case Expense

The only rate case expense incurred by the utility for this case was a \$300 filing fee. Following the requirements of Section 367.0816, Florida Statutes, the appropriate recovery period for this fee is four years which allows the utility to recover approximately \$37 per year per system through its rates. This revenue recovery grossed up to account for regulatory assessment fees results in an annual revenue of \$39 per system. Therefore, at the end of four years the utility's rates for water and for wastewater should each be reduced by \$39 annually. Based on the existing circumstances, the effect of this rate reduction is a \$.01 reduction in the utility's water base facility charge and a \$.01 reduction in the utility's wastewater gallonage charge. The utility shall file revised tariff pages no later than one month prior to the actual date of the required rate reduction. The utility also shall file a proposed customer letter setting forth the lower rates and the reason for the reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

#### Miscellaneous Service Charges

Currently, the utility's tariff has no provision for miscellaneous service charges. Miscellaneous service charges are designed to provide revenues to a utility for services other than the direct provision of potable water and wastewater collection and treatment. These fees are designed to more accurately defray the costs associated with each service and place the responsibility for the cost on the persons creating it rather than the ratepaying body as a whole. The four types of miscellaneous service charges are as follows:

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

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

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Violation Reconnection: This charge is to be levied prior to reconnection of an existing customer after disconnection of service for cause according to Rule 25-30.320(2), Florida Administrative Code, including a delinquency in bill payment. (Actual cost is limited to direct labor and equipment rental.)

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

We approve the following miscellaneous service charges as being appropriate.

	<u>WATER</u>	<u>WASTEWATER</u>
Initial Connection:	\$ 15.00	\$ 15.00
Normal Reconnection	\$ 15.00	\$ 15.00
Violation Reconnection	\$ 15.00	Actual Cost(1)
Premises Visit (in lieu of disconnection)	\$ 10.00	\$ 10.00

(1) Actual cost for a wastewater violation reconnection is limited to materials and equipment rental.

When both water and wastewater services are provided, only a single charge is appropriate unless circumstances beyond the control of the utility require multiple actions.

#### Service Availability Charges

The utility's tariff does not include any service availability charges. However, in 1989 the utility collected an impact fee of \$2,085. While this was not an authorized charge, we believe that it is beneficial to the contribution level of the utility and should not be refunded. However, the utility is admonished to collect only those charges approved in the tariff.

Rule 25-30.580, Florida Administrative Code states that:

(1) A utility's service availability policy shall be designed in accordance with the following guidelines:

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- (a) The maximum amount of contributions-in-aid-of-construction, net of amortization, should not exceed 75 percent of the total original cost, net of accumulated depreciation, of the utility's facilities and plant when the facilities and plant are at their designed capacity; and
- (b) The minimum amount of contributions-in-aid-of-construction should not be less than the percentage of such facilities and plant that is represented by the water transmission and distribution and sewage collection systems.

We estimate that the utility will add approximately 57 additional customers and that it will take 11 years before the system is built out. Considered along with the current depreciation rate of 3.26 percent for the water system, we believe the guidelines in the rule would require a water charge within the range of \$28 to \$210. Because the maximum is a relatively low charge, it is hereby approved as the water service availability charge.

Considering the same facts and a composite depreciation rate of 3.70 percent for the wastewater system, the rule would require a wastewater charge within the range of \$677 to \$2,854. This range is unusually high because of the high cost of the pro forma plant and land that the utility is required to add. If the maximum charge is approved, it would in effect be making all new customers pay 75 percent of not only their share of the new construction, but 75 percent of the current customers' share of the new construction. This is not reasonable. It is more appropriate for future customers to pay their share of the construction and for the current customers to pay for their share through rates.

Based on charges for similar utilities, we find that a service availability charge of \$1,200 for wastewater is appropriate. That charge places the utility at a 30 percent contribution level at build-out.

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ESCROW ACCOUNT - PLANT AND PENALTY

We have held that the portion of the increase related to the pro forma plant and the penalty be placed in escrow until the construction is complete and our final review of the quality of service is complete. The portion of rates which relates to the pro forma plant is \$.17 for the water gallonage charge or \$.99 of the water flat rate. The wastewater portion related to the pro forma plant is \$1.65 of the gallonage charge, or \$9.90 of the flat rate. The portion of the rates which relates to the proposed penalty is \$.15 for the water gallonage charge and \$.90 for the water flat rate. The wastewater portion related to the proposed penalty is \$.15 for the wastewater gallonage charge and \$.90 for the wastewater flat rate. Therefore, we find that a total of \$.32 of the water gallonage charge, or \$1.89 of the water flat rate be escrowed and a total of \$1.80 of the wastewater gallonage charge, or \$10.80 of the wastewater flat rate be escrowed to accumulate the proper sums as required.

RATES IN THE EVENT OF PROTEST

This Order proposes an increase in water and wastewater rates. A timely protest could delay what may be a justified rate increase, pending a formal hearing and final order in this case, resulting in an unrecoverable loss of revenue to the utility.

Accordingly, in the event a timely protest is filed by anyone other than the utility, we authorize the utility to collect the rates approved herein, subject to refund, provided that the utility furnishes security for such a potential refund. The security should be in the form of a bond or letter of credit in the amount of \$40,000. Alternatively, the utility may establish an escrow account with an independent financial institution pursuant to a written agreement. If this alternative is chosen, all revenue collected under the rate increase will be subject to the escrow. Any withdrawals of funds from the escrow account shall be subject to the written approval of the Commission through the Director of Records and Reporting. Should any refund ultimately be required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code.

In addition, Shady Oaks shall file reports with the Division of Records and Reporting no later than the twentieth day following the monthly billings, after the increased rates are in effect,



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indicating the amount of revenue collected under the implemented rates. Shady Oaks must also keep an account of all monies received by reason of the increase authorized herein, specifying by whom and in whose behalf such monies were paid.

EFFECTIVE DATE OF RATES AND CHARGES

The approved flat rates shall be effective for service rendered on or after the stamped approval date on the revised tariff pages provided the utility has provided its customers with a written notice explaining the new rates. The approved flat rates shall be discontinued as soon as the utility has installed meters for each of its customers or at the end of six months following the effective date of this Order, whichever comes first. The utility shall then file revised tariff pages to reflect the base facility/gallorage charge rates approved herein. These rates shall be effective for meter readings taken on or after 30 days after the stamped approval date on the revised tariff pages. All customers not then having a functioning water meter properly installed at the service site shall be charged only the base facility charge with no gallorage charge. Each such customer shall be required to pay the gallorage charge only after the utility properly installs the customer's water meter.

The service availability charges approved herein shall be effective for connections on or after the stamped approval date on the revised tariff pages. Miscellaneous service charges will be effective for service rendered on or after the stamped approval date on the revised tariff pages.

The revised tariff pages will be approved upon staff's verification that the tariffs are consistent with the Commission's decision, that the proposed customer notice is adequate, and that the required security, if needed, has been provided.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the application of Shady Oaks Mobile-Modular Estates, Inc. for an increase in its water and wastewater rates in Pasco County is approved to the extent set forth in the body of this Order. It is further

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

ORDERED that all matters contained in the body of this Order and in the schedules attached hereto are by reference incorporated herein. It is further

ORDERED that the provisions of this Order issued as proposed agency action shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc. shall, within sixty (60) days after the effective date of this Order, file with the Commission a request for acknowledgement of a name change and restructure. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc. is authorized, subject to stated prerequisites, to charge the new rates and charges set forth in the body of this Order. It is further

ORDERED that the flat rates approved herein shall be effective for service rendered after the stamped approval date on the revised tariff pages. It is further

ORDERED that the metered rates approved herein shall be effective for meter readings taken on and after thirty (30) days after the stamped approval date of the revised tariff pages. It is further

ORDERED that the miscellaneous service charges approved herein shall be effective for services rendered on or after the stamped approval date on the revised tariff pages. 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 pages. It is further

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ORDERED that prior to its implementation of the rates approved herein, Shady Oaks Mobile-Modular Estates, Inc. shall submit and have approved revised tariff pages and a proposed notice to its customers of the increased rates and charges and the reasons therefor. The revised tariff pages will be approved upon Staff's verification that they are consistent with our decisions herein and that the protest period has expired. The proposed customer notice will be approved upon Staff's determination of its adequacy. It is further

ORDERED that if at six months after the effective date of this Order, Shady Oaks Mobile-Modular Estates, Inc. has not expended at least 85 percent of the increase approved herein for maintenance, it shall then submit a written schedule to the Commission to show what monthly maintenance schedule will be adopted along with a statement of the reasons such funds were not expended for preventative maintenance. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc. shall establish an escrow account with an independent financial institution, pursuant to a written agreement, to escrow the fine imposed and to escrow the maintenance allowance as set out in the body of this Order. It is further

ORDERED that in the event of a protest by any substantially affected person other than Shady Oaks Mobile-Modular Estates, Inc., the utility, is authorized to collect the rates approved herein on a temporary basis, subject to refund in accordance with Rule 25-30.360, Florida Administrative Code, provided that Shady Oaks Mobile-Modular Estates, Inc., has established the required security for any potential refund and provided that it has submitted and staff has approved revised tariff pages and a proposed customer notice. It is further

ORDERED that after the expiration of the protest period, this Order shall become final if no timely protest is filed. It is further

ORDERED that this docket will not be closed, but will remain open until the contingencies specified in this Order have been accomplished.

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By ORDER of the Florida Public Service Commission this 8th  
day of FEBRUARY, 1991.



STEVE TRIBBLE Director  
Division of Records and Reporting

( S E A L )

TCP

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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.

As identified in the body of this order, our actions other than granting of temporary rates in the event of a protest, are preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on March 1, 1991. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer 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 of the effective date 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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Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer 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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SCHEDULE NO. 1

COMPONENT	(A) AVERAGE TEST YEAR PER UTILITY	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) PRO FORMA ADJUSTMENTS	(C) PRO FORMA TEST YEAR
1					
2					
3 UTILITY PLANT IN SERVICE	\$ 13,888	\$ 23,984	\$ 37,872	\$ 18,500	\$ 56,372
4 LAND	0	730	730		730
5 C.W.I.P.	0	0	0		0
6 NON-USED AND USEFUL COMPONENTS	0	0	0		0
7 C.I.A.C.	0	(26,103)	(26,103)		(26,103)
8 ACCUMULATED DEPRECIATION	(11,599)	2,663	(8,936)	(1,092)	(10,028)
9 AMORTIZATION OF C.I.A.C.	0	5,665	5,665		5,665
10 ADVANCES FOR CONSTRUCTION	0	0	0		0
11 WORKING CAPITAL ALLOWANCE	0	3,176	3,176		3,176
12					
13 RATE BASE	\$ 2,289	\$ 10,115	\$ 12,404	\$ 17,408	\$ 29,812
14					
15					

COMPONENT	(A) AVERAGE TEST YEAR PER UTILITY	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) PRO FORMA ADJUSTMENTS	(C) PRO FORMA TEST YEAR
1					
2					
3 UTILITY PLANT IN SERVICE	\$ 45,632	\$ 57,914	\$ 103,546	\$ 127,265	\$ 230,811
4 LAND	0	3,066	3,066	50,841	53,907
5 C.W.I.P.	0	0	0		0
6 NON-USED AND USEFUL COMPONENTS	0	0	0		0
7 C.I.A.C.	0	(58,956)	(58,956)		(58,956)
8 ACCUMULATED DEPRECIATION	(32,275)	(3,717)	(35,992)	(4,709)	(40,701)
9 AMORTIZATION OF C.I.A.C.	0	15,483	15,483		15,483
10 ADVANCES FOR CONSTRUCTION	0	0	0		0
11 WORKING CAPITAL ALLOWANCE	0	3,613	3,613		3,613
12					
13 RATE BASE	\$ 13,357	\$ 17,403	\$ 30,760	\$ 173,397	\$ 204,157
14					

SCHEDULE 1-A  
 PAGE 1 OF 2

ADJUSTMENT	WATER	SEWER
-----	-----	-----
1 UTILITY PLANT IN SERVICE		
2 -----		
3 1. To adjust the utility's balance to the		
4 original cost estimate.	\$ (2,300)	\$ 10,785
5		
6 2. To include Phase 2 line additions.	25,060	47,129
7		
8 3. To record installation of master meter.	1,300	
9		
10 4. To reflect replacement of pump in 1989.	(151)	0
11		
12 5. To reflect the average test year balance.	75	
13		
14 TOTAL ADJUSTMENTS TO UTILITY PLANT	\$ 23,984	\$ 57,914
15	-----	-----
16		
17 LAND		
18 ----		
19 1. To include land based on the original		
20 purchase price.	\$ 730	\$ 3,066
21	-----	-----
22		
23 CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION		
24 -----		
25 1. To reflect cash contribution shown on the		
26 tax return.	\$ (1,043)	\$ (1,042)
27		
28 2. To reflect lines imputed based on tax		
29 return plant balance (1971-1972).	0	(10,785)
30		
31 3. To include Phase 2 lines not reflected		
32 on tax return.	(25,060)	(47,129)
33	-----	-----
34 TOTAL ADJUSTMENTS TO CIAC	\$ (26,103)	\$ (58,956)
35	-----	-----
36		
37 ACCUMULATED DEPRECIATION		
38 -----		
39 1. To adjust accumulated depreciation		
40 using the adjusted balance of U.P.I.S.		
41 and a 2.5% composite depreciation rate.	\$ 2,191	\$ (5,011)
42		
43 2. To reflect the average test year balance.	472	1,294
44	-----	-----
45 TOTAL ADJUSTMENTS TO ACCUMULATED DEPRECIATION	\$ 2,663	\$ (3,717)
46	-----	-----



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SCHEDULE 1-A  
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ADJUSTMENT	WATER	SEWER
1 AMORTIZATION OF C.I.A.C.		
2 -----		
3 1. To reflect accumulated amortization on		
4 the adjusted balance of CIAC		
5 and a 2.5% composite depreciation rate.	\$ 5,991	\$ 16,220
6		
7 2. To reflect the average test year balance.	(326)	(737)
8	-----	-----
9 TOTAL ADJUSTMENTS TO AMORTIZATION OF CIAC	\$ 5,665	\$ 15,483
10	-----	-----
11		
12 WORKING CAPITAL ALLOWANCE		
13 -----		
14 1. To record the working capital allowance		
15 using the formula method.	\$ 3,176	\$ 3,613
16	-----	-----
17		
18 PRO FORMA PLANT		
19 -----		
20 1. To include projected cost of percolation pond.	\$ 0	\$ 125,000
21		
22 2. To include estimated cost of meters.	18,500	0
23		
24 3. To include the engineering costs spent		
25 for the perc pond design.	0	2,265
26	-----	-----
27 TOTAL ADJUSTMENTS TO PRO FORMA PLANT	\$ 18,500	\$ 127,265
28	-----	-----
29		
30 PRO FORMA LAND		
31 -----		
32 1. To include the current cost of the		
33 land required for the new percolation pond.	\$ 0	\$ 52,301
34		
35 2. To retire the original cost of the land for the		
36 old percolation pond.	0	(1,460)
37	-----	-----
38 TOTAL ADJUSTMENTS TO PRO FORMA LAND	\$ 0	\$ 50,841
39	-----	-----
40		
41 PRO FORMA ACCUMULATED DEPRECIATION		
42 -----		
43 1. To include one year's depreciation on		
44 pro forma plant.	\$ (1,092)	\$ (4,709)
45	-----	-----

SCHEDULE NO. 2

COMPONENT	AVERAGE TEST YEAR	COMMISSION ADJUSTMENTS	COMMISSION ADJUSTED TEST YEAR	PRO RATA ADJUSTMENTS	ADJUSTED BALANCE	WEIGHT	COST	WEIGHTED COST
1								
2								
3 LONG-TERM DEBT	171,157		171,157	(72,406)	98,751	42.21%	11.55%	4.87%
4 SHORT-TERM DEBT	1,121		1,121	(474)	647	0.28%	16.80%	0.05%
5 CUSTOMER DEPOSITS	0		0	0	0	0.00%	0.00%	0.00%
6 COMMON EQUITY	0	233,242	233,242	(98,671)	134,571	57.52%	12.49%	7.18%
7 ITC'S	0		0	0	0	0.00%	0.00%	0.00%
8 DEFERRED INCOME TAXES	0		0	0	0	0.00%	0.00%	0.00%
9 OTHER CAPITAL	0		0	0	0	0.00%	0.00%	0.00%
10								
11								
12 TOTAL	172,278	233,242	405,520	(171,551)	233,969	100.00%		12.10%
13								
14								
15								
16								
17								
18								
19								
20								

	RANGE OF REASONABLENESS:	HIGH	LOW
EQUITY		13.49%	11.49%
OVERALL RATE OF RETURN		12.68%	11.53%

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SCHEDULE NO. 3

DESCRIPTION	(A) AVERAGE TEST YEAR PER UTILITY	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) CONSTRUCTED ADJUSTMENTS	(E) CONSTRUCTED TEST YEAR
1					
2					
3 OPERATING REVENUES	\$ 27,750	\$	\$ 27,750	\$ 4,889	\$ 32,639
4 OPERATING EXPENSES:					
5 OPERATION & MAINTENANCE	\$ 17,268	\$ 8,140	\$ 25,408	\$	\$ 25,408
6 DEPRECIATION	0	1,533	1,533		1,533
7 AMORTIZATION	0	0	0		0
8 TAXES OTHER THAN INCOME	0	1,870	1,870	220	2,090
9 INCOME TAXES	0	0	0	0	0
10					
11 TOTAL OPERATING EXPENSES	\$ 17,268	\$ 11,543	\$ 28,811	\$ 220	\$ 29,031
12					
13 OPERATING INCOME	\$ 10,482	\$ (11,543)	\$ (1,061)	\$ 4,669	\$ 3,608
14					
15 RATE OF RETURN	457.93%		-8.55%		12.10%
16					
17					

DESCRIPTION	(A) AVERAGE TEST YEAR PER UTILITY	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) CONSTRUCTED ADJUSTMENTS	(E) CONSTRUCTED TEST YEAR
1					
2					
3 OPERATING REVENUES	\$ 27,750	\$	\$ 27,750	\$ 35,029	\$ 62,779
4 OPERATING EXPENSES:					
5 OPERATION & MAINTENANCE	\$ 18,022	\$ 10,883	\$ 28,905	\$	\$ 28,905
6 DEPRECIATION	0	6,233	6,233		6,233
7 AMORTIZATION	0	(2,386)	(2,386)		(2,386)
8 TAXES OTHER THAN INCOME	0	3,742	3,742	1,576	5,318
9 INCOME TAXES	0	0	0	0	0
10					
11 TOTAL OPERATING EXPENSES	\$ 18,022	\$ 18,472	\$ 36,494	\$ 1,576	\$ 38,070
12					
13 OPERATING INCOME	\$ 9,728	\$ (18,472)	\$ (8,744)	\$ 33,453	\$ 24,709
14					
15 RATE OF RETURN	0.00%		-28.43%		12.10%
16					

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SCHEDULE 3-A  
 PAGE 1 OF 3

ADJUSTMENT -----	WATER -----	SEWER -----
1 OPERATION AND MAINTENANCE		
2 -----		
3 1. To estimate the salary for the secretary.	\$ 1,800	\$ 1,800
4		
5 2. To estimate the salary for the president.	3,000	3,000
6		
7 3. To allow additional expense for meter reading.	1,200	
8		
9 4. To recognize the increased cost of		
10 hospitalization insurance.	2,254	2,254
11		
12 5. To remove 75% of medical costs		
13 to match benefits to utility work-hours.	(3,050)	(3,050)
14		
15 6. To reduce the purchased power expense		
16 to the staff engineer's estimate.	(3,302)	0
17		
18 7. To adjust materials and supplies expense		
19 to properly accrue expenses.	5	60
20		
21 8. To accrue an accounting services invoice.	57	57
22		
23 9. To remove four invoices for services		
24 in a prior period.	(225)	(275)
25		
26 10. To remove costs to settle bankruptcy.	(1,000)	(1,000)
27		
28 11. To remove non-expense items - perc pond		
29 engineering costs and debt/interest payments.	(530)	(2,171)
30		
31 12. To recognize the projected increase in the contrac-		
32 tual services rate and accrue the yearly expense	767	1,042
33		
34 13. To accrue rental expense for the office.	975	975
35		
36 14. To allocate a portion of the auto repairs		
37 to the mobile home park.	(155)	(168)
38		
39 15. To adjust automobile insurance.	(446)	(446)
40		
41 16. To include liability insurance.	144	198
42		
43 17. To remove out of period reg. comm. exp.	(1,770)	(1,770)
44		
45		
46		
47		
48		
49		

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SCHEDULE 3-A  
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ADJUSTMENT -----	WATER -----	SEWER -----
1 OPERATION AND MAINTENANCE (CONT'D)		
2 -----		
3 18. To amortize the filing fee over four years.	(112)	(112)
4		
5 19. To remove fines and penalties.	(950)	(900)
6		
7 20. To increase expenses to allow additional		
8 amounts for preventative maintenance.	8,958	8,500
9		
10 21. To allow mowing costs for the percolation pond.		2,925
11		
12 22. To remove telephone expense		
13 related to prior period.	(35)	(36)
14		
15 23. To allow postage for mailing bills.	555	
16	-----	-----
17 TOTAL ADJUSTMENTS TO OPERATION		
18 AND MAINTENANCE	\$ 8,140	\$ 10,883
19	=====	=====
20		
21 DEPRECIATION		
22 -----		
23 1. To reflect depreciation expense		
24 on test year plant.	\$ 1,232	\$ 3,705
25		
26 2. To reflect amortization		
27 on test year CIAC.	(791)	(2,181)
28		
29 3. To include depreciation expense		
30 on pro forma plant.	1,092	4,709
31	-----	-----
32 TOTAL ADJUSTMENTS TO DEPRECIATION	\$ 1,533	\$ 6,233
33	=====	=====
34		
35 AMORTIZATION		
36 -----		
37 1. To amortize the gain on the retiremet		
38 of the old percolation pond land.	\$ 0	\$ (2,386)
39	=====	=====

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SCHEDULE 3-A  
 PAGE 3 OF 3

ADJUSTMENT	WATER	SEWER
-----	-----	-----
1 TAXES OTHER THAN INCOME		
2 -----		
3 1. To reflect regulatory assessment		
4 fees on test year revenues.	\$ 1,249	\$ 1,249
5		
6 2. To include tangible property tax.	94	253
7		
8 3. To include real estate taxes		
9 on utility plant sites.	14	58
10		
11 4. To include real estate taxes on the		
12 pro forma land.	0	1,772
13		
14 5. To include federal and state unemployment taxes		
15 on salaries.	54	43
16		
17 6. To include FICA taxes on salaries.	459	367
18		
19 TOTAL ADJUSTMENTS TO TAXES OTHER THAN INCOME	\$ 1,870	\$ 3,742
20	=====	=====
21		
22 OPERATING REVENUES		
23 -----		
24 To reflect recommended increase (decrease)		
25 to allow a fair rate of return.	\$ 4,889	\$ 35,029
26	=====	=====
27		
28 TAXES OTHER THAN INCOME		
29 -----		
30 To reflect regulatory assessment		
31 fees on revenue change.	\$ 220	\$ 1,576
32	=====	=====

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SCHEDULE NO. 4

ACCT NO.	ACCOUNT TITLE	(A) UTILITY BALANCE PER BOOKS	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) PRO FORMA ADJUSTMENTS	(E) PRO FORMA TEST YEAR
1	601 SALARIES AND WAGES - EMPLOYEES	\$ 0	\$ 1,800	\$ 1,800	\$ 0	\$ 1,800
2	603 SALARIES AND WAGES - OFFICERS	0	4,200	4,200	0	4,200
3	604 EMPLOYEE PENSIONS & BENEFITS	2,103	(796)	1,307	0	1,307
4	615 PURCHASED POWER	4,032	(3,302)	730	0	730
5	618 CHEMICALS	0	145	145	0	145
6	620 MATERIALS AND SUPPLIES	1,040	8,963	10,003	0	10,003
7	630 CONTRACTUAL SERVICES	4,347	(1,130)	3,217	0	3,217
8	640 RENTS	0	975	975	0	975
8	650 TRANSPORTATION EXPENSES	2,042	(776)	1,266	0	1,266
9	655 INSURANCE	0	329	329	0	329
10	665 REGULATORY COMMISSION EXPENSE	1,920	(1,882)	38	0	38
11	668 OTHER REGULATORY EXPENSE	950	(950)	0	0	0
12	675 MISCELLANEOUS EXPENSES	151	0	151	0	151
13	680 OFFICE SUPPLIES & EXPENSE	683	564	1,247	0	1,247
14						
15	TOTAL	\$ 17,268	\$ 8,140	\$ 25,408	\$ 0	\$ 25,408
16						

20 SEWER OPERATION & MAINTENANCE EXPENSES

ACCT NO.	ACCOUNT TITLE	(A) UTILITY BALANCE PER BOOKS	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) PRO FORMA ADJUSTMENTS	(E) PRO FORMA TEST YEAR
27	701 SALARIES AND WAGES - EMPLOYEES	\$ 0	\$ 1,800	\$ 1,800	\$ 0	\$ 1,800
28	703 SALARIES AND WAGES - OFFICERS	0	3,000	3,000	0	3,000
29	704 EMPLOYEE PENSIONS & BENEFITS	2,103	(796)	1,307	0	1,307
30	711 SLUDGE REMOVAL EXPENSE	0	320	320	0	320
31	715 PURCHASED POWER	2,457	0	2,457	0	2,457
32	718 CHEMICALS	0	161	161	0	161
33	720 MATERIALS AND SUPPLIES	286	8,560	8,846	0	8,846
34	730 CONTRACTUAL SERVICES	7,391	97	7,488	0	7,488
35	740 RENTS	0	975	975	0	975
36	750 TRANSPORTATION EXPENSES	2,040	(799)	1,241	0	1,241
37	755 INSURANCE	0	383	383	0	383
38	765 REGULATORY COMMISSION EXPENSE	1,920	(1,882)	38	0	38
39	768 OTHER REGULATORY EXPENSE	900	(900)	0	0	0
40	775 MISCELLANEOUS EXPENSES	198	0	198	0	198
41	780 OFFICE SUPPLIES & EXPENSE	727	(36)	691	0	691
42						
43	TOTAL OPERATION AND MAINTENANCE	\$ 18,022	\$ 10,883	\$ 28,905	\$ 0	\$ 28,905
44						

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff- )  
 assisted rate case in Pasco County )  
 by SHADY OAKS MOBILE-MODULAR )  
 ESTATES, INC. )

DOCKET NO. 900025-WS  
 ORDER NO. 25296  
 ISSUED: 11/04/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
 SUSAN F. CLARK  
 J. TERRY DEASON  
 BETTY EASLEY

ORDER DETERMINING NONCOMPLIANCE WITH  
 PRIOR COMMISSION ORDER AND APPROVING  
 TEMPORARY RATES IN EVENT OF PROTEST

AND

NOTICE OF PROPOSED AGENCY ACTION ORDER  
 APPROVING CHANGE IN RATES AND RATE STRUCTURE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein regarding changing rates and rate structure is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Case Background

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. By resolution of the Pasco County Commission, the provisions of Chapter 367, Florida Statutes, became effective in Pasco County as of July 11, 1972. By Order No. 14540, issued July 8, 1985, this Commission found that Shady Oaks was subject to Commission jurisdiction.

DOCUMENT NUMBER-DATE

10955 NOV-4 1991

FPSC-RECORDS/REPORTING



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On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. On February 8, 1991, this Commission issued proposed agency action (PAA) Order No. 24084, wherein we approved a rate increase for Shady Oaks. In that Order, we also required Shady Oaks to do the following: file a request for acknowledgement of a restructure and a name change, improve its unsatisfactory quality of service, expend 85% of the allowance for preventive maintenance on systems maintenance or provide written explanation for not doing so, provide a detailed record of maintenance expenditures, install meters for all of its customers, and escrow a certain portion of the approved monthly rates to account for a fine and proforma plant allowances. The primary purpose of this Order is to evaluate Shady Oaks' compliance with Order No. 24084.

On March 1, 1991, several utility customers filed a timely protest to Order No. 24084. In their protest, the customers objected to the location of percolation pond proposed by the utility. Because we have no jurisdiction to dictate the location of the proposed percolation pond, by Order No. 24409, issued April 22, 1991, we dismissed the protest and revived Order No. 24084, making it final and effective.

After the new rates became effective, the homeowners in the Shady Oaks park, on June 21, 1991, filed suit against Shady Oaks in Circuit Court attacking, among other things, the increased water and wastewater rates approved by this Commission. Each deed whereby the developer (Shady Oaks) transferred property in the Shady Oaks mobile home park to a buyer contained a covenant which requires Shady Oaks to provide certain services at a fixed annual cost. The listed services include water and wastewater service. In Order No. 14540, whereby we certificated Shady Oaks, we noted a 1982 decision of the Circuit Court for the Sixth Judicial Circuit in and for Pasco County which upheld the restrictive covenants included in the deeds. Shady Oaks did not request new rates upon certification, and we decided that the utility should continue billing its customers the rate established in the deed restrictions.

On June 24, 1991, Circuit Court Judge Lynn Tepper granted the homeowner's request for an emergency temporary injunction enjoining Shady Oaks from charging or attempting to collect the Commission-approved rates. In addition, on July 5, 1991, the Circuit Court issued an order requiring Shady Oaks to show cause why it should not be found in contempt for violating the 1982 Court Judgment.

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This order also enjoined the utility from collecting the Commission-approved rates and ordered that the monthly service fee paid by the homeowners be deposited into the registry of the Clerk of the Court. In August, both injunctions were lifted, and the utility was able to begin collecting the Commission-approved rates; however, the homeowner's lawsuit is still pending.

During the time that the injunction was in effect, Shady Oaks was unable to pay its electric bills for May and June, 1991. On July 25, 1991, the Withlacoochee River Electric Cooperative discontinued electric service to the utility. All of the pertinent governmental agencies, including this Commission, were given prior notice. The Shady Oaks homeowners were without water and wastewater service when electric service was discontinued. In order to get service restored, the homeowners proposed paying the utility's electric bill. With no opposition from the utility or the Commission, the Circuit Court issued an order which allowed the homeowners to pay the electric bill, provided that payment would be credited to the homeowner's water and wastewater bills. The homeowners paid the electric bill, and Shady Oaks' power was restored.

In looking at all of the circumstances surrounding this case, we note two other relevant factors. First, on March 13, 1991, Shady Oaks' owners, Mr. Richard D. Sims and his wife Caroline S. Sims, filed for personal bankruptcy under Chapter 13 with the United States Bankruptcy Court for the Middle District of Florida, Tampa Division. Secondly, on July 8, 1991, the Circuit Court issued an order approving the stipulation of the parties in an action initiated by the Florida Department of Environmental Regulation (DER) against Shady Oaks. In the approved stipulation, Shady Oaks agreed to remove its wastewater treatment plant and to divert all flows to Pasco County's wastewater collection system within six months.

Noncompliance With Order No. 24084

Name Change

In August, 1990, Shady Oaks transferred the title of the utility land from the Shady Oaks corporation to its owners individually. Shady Oaks undertook this transfer without the prior approval of the Commission. As stated earlier, in Order No. 24084

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we ordered Shady Oaks to file a request for acknowledgment of a name change and restructure within sixty days.

On March 17, 1991, we received a letter from the utility wherein it requested official recognition of the utility's new name, S & D Utility (S & D). On April 1, 1991, we wrote the utility that the name change could not be recognized until we received evidence that utility land and assets had been properly transferred to S & D and that S & D had been properly registered as a fictitious name. The utility submitted evidence that S & D was registered as a fictitious name; however, it explained that because of the pending bankruptcy proceeding, title to the utility land and assets could not yet be transferred to S & D. Subsequently, the Shady Oaks' owners informed us that under the payment plan entered into in the bankruptcy proceeding, they will soon be able to correct the title to utility land and assets.

In consideration of the foregoing, we hereby require Shady Oaks' owners to submit within sixty days of the date of this Order evidence that the title to all the utility land and assets has been corrected.

We are concerned, as are the customers, that the utility has been billing the customers and operating under the name of S & D, even though we have not yet officially approved this name. However, this would appear to be an exceptional case. We believe that it is only a matter of time before the utility provides sufficient information for us to process the name change. Nonetheless, if for any reason, title to the utility land and assets cannot be corrected within sixty days, the utility shall revert to operating under the name currently shown on its certificate: Shady Oaks Mobile-Modular Estates, Inc.

#### Escrow Requirement

The utility's new rates under Order No. 24084 became effective on March 2, 1991. Pursuant to that Order, on March 26, 1991, the utility began placing a portion of its increased rates into an escrow account. From March until August, 1991, the utility escrowed the following amounts: March, \$284.18; April, \$350.88; May, \$256.38; June, \$243.19; July, \$61.18; August, \$0. The total amount escrowed was \$1,195.81

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The utility did not comply with Order No. 24084, wherein we required it to escrow \$333.34 per month in order to accumulate the \$2,000 fine assessed and the revenues associated with the proforma plant improvements. We believe that the utility's failure to escrow the proper sums was caused by the failure of many Shady Oaks' customers to pay their water and wastewater bills.

As discussed in the Case Background, the customers filed suit against the utility regarding the increased water and wastewater rates. A majority of the customers withheld payment of their utility bills. As of mid-September, 1991, 98 customers (out of 185 total customers) owed \$100 or more and 50 customers owed over \$200. The utility had \$21,185 in total receivables. Revenues were also depleted by some \$13,861 because 71 customers had service discontinued during the summer while they were out of town. By July, 1991, the utility was receiving so few utility payments, that it unilaterally decided to discontinue placing money in escrow in order for it to pay its bills.

Although we understand the utility's difficulty in escrowing the required amount, we admonish it for ceasing to escrow without our approval. The utility should immediately place enough money in the escrow account to bring the balance up to the proper level. Although we will not order the utility to show cause why it should not be fined for violating a Commission Order at this time, if the utility does not immediately correct the deficiency or does not continue placing the appropriate portion of revenues in the escrow account, we shall take appropriate action.

#### Installation of Water Meters

By Order No. 24084, we required the utility to install water meters for all its customers. As of mid-September, the utility had installed 31 of the 185 meters required, and had dug holes for 41 more.

Although not in complete compliance with our Order, Shady Oaks' installation of the 31 meters indicates that it has made an effort to comply. As indicated above, Shady Oaks has been receiving less than half the revenues allowed in the rate case. Considering the insufficient funds on hand to purchase meters, we believe that the utility has done a reasonable job.

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As noted in the Case Background, the Circuit Court lifted its injunction in August. Our review of the utility's books indicates that most of the customers have begun paying the Commission-approved rate. Indeed, as of mid-September, only twelve active customers have not made a payment in either August or September. Although the customers are currently paying their bills, they have not brought their accounts up-to-date. There is still some dispute about bills owing from March through July. Now that the utility appears to be collecting its appropriate level of revenue, we shall allow the utility another five months to complete the installation of the water meters.

#### Quality of Service

By Order No. 24084, we imposed a \$2,000 fine against the utility for its unsatisfactory quality of service, but suspended the fine for a nine-month period, by the end of which we would dispose of the fine. With six months passed from the time of Order No. 24084, we find that the utility's quality of service remains unsatisfactory.

In September, we conducted a site inspection of the utility and found that the physical condition of both the water and wastewater systems had deteriorated. Neither system had a certified operator for the period of July 12 through August 27, 1991. Virtually no maintenance other than emergency repairs had been performed on either system.

Very heavy vegetation had grown in and around the berms of the percolation pond causing the ponds to function improperly. In addition, the wastewater treatment plant equipment looked derelict and in need of maintenance. The cost of making the necessary improvements to the wastewater system would be significant. However, as stated in the Case Background, Shady Oaks has agreed to interconnect with Pasco County. The interconnection is scheduled to take place in five months. We believe that Shady Oaks should maintain the system according to DER standards until the interconnection takes place. We anticipate that the interconnection will cost at least as much as the amount we allowed in Order No. 24084 for a new percolation pond and the associated land. We shall compare the costs when we reevaluate the quality of service in five months.

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As for the water system, we are specifically concerned with the holes in the pump house roof being significantly worse than in our prior inspection. This condition leaves the equipment unprotected from the environment and subject to corrosion and accelerated attrition.

All of the above conditions are at least partially attributable to decreased revenues. Now that revenues have increased, we expect the utility to improve its quality of service with respect to plant condition; in meeting this goal, the utility should complete its interconnection with Pasco County within the designated time.

The other aspect of quality of service which has deteriorated since the issuance of Order No. 24084 is customer relations. On November 17, 1991, we received a letter from the Shady Oaks Homeowners Association wherein the customers listed numerous complaints against the utility. For instance, the customers complained that when they asked a question of the utility owner, he would refer them to our staff. Our staff verifies that they have encountered this situation directly on more than one occasion. In addition, the customers assert that the utility owner is generally unresponsive, profane, abusive, and insulting.

The customers also complain about the utility's limited and inconsistent office hours. The office hours change from week to week, and the customers point out that they are inconvenienced by having to call the utility just to be told that the office hours are posted or that the office is currently open. Even when the office is open, the utility owner has refused to accept hand-delivered payments.

The customers also complain about the utility's billing format. Prior to the Commission's approving increased rates, the utility did not issue bills because utility service was part of the monthly service fee the customers had to pay. The customers want the utility's bills to show the previous balance, payment received, new charges, and total due. According to Rule 25-30.335, Florida Administrative Code, each bill need only contain the billing period, the applicable rate, the amount due, and the delinquent date. Our rules do not require the level of detail requested by the customers because our rules do not contemplate overdue balances. Normally, unpaid bills result in disconnection. The utility may, but is not required to, provide the detail which the

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customers request. Indeed, it may be wise to do so in order to eliminate customer confusion and unnecessary bill inquiries.

In order to improve its quality of service, the utility must improve customer relations. Although customer relations is a somewhat subjective matter, we note several concrete steps the utility should undertake in this regard.

The utility should keep a complaint log which should list each customer complaint received and the corrective action taken. Customer complaints or inquiries should be responded to, if not resolved, within forty-eight hours. If the problem cannot be resolved within this time, the customer should be given the timetable for resolution.

The utility should maintain reasonable and dependable office hours. Although the expense we allowed in the rate case for the utility president and secretary was not intended to account for office hours only, we expect the utility's office to be open at least two to three hours, twice a week. The most important aspect in this case is consistency. The utility should maintain consistent hours. If the utility officers are not able to be in the office on a consistent basis, they should consider alternative staffing.

Finally, the utility shall stop referring customers to our staff to solve problems. We recognize that our staff is needed on occasion to explain Commission rules and procedures; but our staff should not be relied upon by the utility or its customers as a substitute for utility management.

#### Preventative Maintenance

As indicated in the Case Background, in Order 24084, we ordered the utility to spend 85% of the monthly allowance for preventive maintenance for its stated purpose. We have reviewed the utility's disbursements for March through August, 1991, and note the following outlays: March, \$193; April, \$366; May, \$0; June, \$294; July, \$0; August, \$300. As with its other failures, the utility's failure here was likely caused by decreased revenues. The utility shall henceforth comply with this aspect of Order No. 24084. We shall revisit this issue in five months' time.



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### Fine Suspension

In Order No. 24084, we imposed a \$2,000 fine, but suspended same for a nine-month period during which we expected the utility to improve its quality of service. We do not take lightly the utility's continued unsatisfactory quality of service or its continued failure to comply with other requirements of our prior order. However, this is a somewhat exceptional case because of the decreased revenue situation.

According to the utility's stipulation with DER, the utility should complete its interconnection with the Pasco County wastewater treatment system by January 8, 1992. We will extend our suspension of the \$2,000 fine for forty-five days beyond the interconnection date, until February 21, 1992, by which time we will begin our final review of the utility's quality of service. We remind the utility that it is not relieved of its obligation to accumulate the fine in escrow as required above and in Order No. 24084.

### Change in Rates and Rate Structure

In Order No. 24084, we allowed the utility to charge a flat rate for the six months which we expected it would take the utility to install meters for all customers. At the end of six months, the base facility charge rate structure would become effective and any customers without water meters would only pay the base facility charge. In this case, the base facility charge rate structure became effective automatically on October 1, 1991.

The customers request that the tariff be adjusted so that only the base charge would be billed to all customers until all water meters have been installed. The customers state that the utility is not in such dire straits as it claims to be. In support of their claim, the customers estimated their payments for January through December, 1991. The customers' estimate includes monthly payments for utility services as well as a \$25 maintenance fee, which the Commission does not regulate.

Not considering the \$25 maintenance fee, we calculate that for the six months of March through August, 1991, the customers paid a total of \$28,371. This amount is considerably less than one-half of the \$98,592 annual revenue requirement which we approved in



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Order No. 24084. Therefore, we will not adjust the tariff as requested by the customers.

Because we recognize that the likely cause of the utility's failure to install meters was its reduced revenues, we hereby allow the utility to continue to collect the flat rate set forth in Order No. 24084 until we reevaluate this case in five months. The applicable rate is as follows.

	<u>WATER</u>	<u>WASTEWATER</u>
Flat Monthly Rate	\$14.70	\$28.28

The approved flat rates shall be effective for service rendered on or after the stamped approval date on the revised tariff sheets. The utility shall submit revised tariff sheets reflecting the approved rates along with a proposed customer notice listing the new rates and explaining the reasons therefor. The revised tariff sheets will be approved upon staff's verification that the tariffs are consistent with the Commission's decision, that the proposed customer notice is adequate, and that the protest period has expired.

Temporary Rates in the Event of Protest

As discussed above, we are continuing the flat rate structure, rather than implementing the base facility charge rate structure. A timely protest could delay what may prove to be a justified revenue level pending the completion of a formal hearing and issuance of a final order, thus resulting in an unrecoverable loss of revenue to the utility. Therefore, in the event that a timely protest is filed by anyone other than the utility, we hereby authorize the utility to collect the rates approved herein, on a temporary basis, subject to refund. All revenue related to the difference in the base facility charge rate currently in the tariff and the flat rate approved above will be escrowed. This amount shall be escrowed in addition to the funds escrowed pursuant to Order No. 24084. Any withdrawals of funds from the escrow account shall be subject to the written approval of the Commission through the Director of Records and Reporting.

Once the temporary rates become effective, the utility shall deposit the funds to be escrowed into the escrow account within

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seven (7) days of the utility's receipt thereof. The utility must keep an accurate and detailed account of all monies received as a result of its implementing the temporary rates, specifying by whom or on whose behalf such amounts were paid. By the twentieth day of the month for each month that the temporary rates are in effect, the utility shall file a report showing the amount of revenues collected pursuant to the implementation of the temporary rates and the amount of revenues that would have been collected under the prior rates. Should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

The temporary rates shall be effective for service rendered or after the stamped approval date on the revised tariff sheets. The utility shall submit revised tariff sheets reflecting the temporary rates along with a proposed customer notice listing the temporary rates and explaining the reasons and conditions for their implementation. The revised tariff sheets will be approved upon our staff's verification that the tariff sheets are consistent with our decision herein. The proposed customer notice will be approved upon our staff's determination that the notice is adequate.

It is, therefore

ORDERED by the Florida Public Service Commission that Shady Oaks Mobile-Modular Estates, Inc., shall submit within sixty days of this Order all necessary information for changing its certificated name, including evidence that title to all utility land and assets has been properly transferred to S & D Utility, or revert to operating under its currently certificated name. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., shall immediately place in the escrow account established pursuant to Order No. 24084 all funds required to be deposited in said account by said Order. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., shall within five months of the date of this Order install water meters for all of its customers. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., shall within five months of the date of this Order improve its quality of service and interconnect with the Pasco County wastewater treatment

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system within the time designated therefor and improve its customer relations as set forth herein. It is further

ORDERED that the provisions of this Order regarding a change in rates and rate structure is issued as proposed agency action and shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., is authorized to charge flat rates as set forth in the body of this Order. It is further

ORDERED that the rates approved herein shall be effective for service rendered on or after the stamped approval date on the revised tariff pages. It is further

ORDERED that prior to its implementation of the rates and charges approved herein, Shady Oaks Mobile-Modular Estates, Inc., shall submit and have approved a proposed notice to its customers of the increased rates and charges and the reasons therefor. The notice will be approved upon Staff's verification that it is consistent with our decision herein. It is further

ORDERED that prior to its implementation of the rates and charges approved herein, Shady Oaks Mobile-Modular Estates, Inc., shall submit and have approved revised tariff pages. The revised tariff pages will be approved upon Staff's verification that the pages are consistent with our decision herein and that the protest period has expired. It is further

ORDERED that in the event of a protest by any substantially affected person other than the utility, Shady Oaks Mobile-Modular Estates, Inc., is authorized to collect the rates approved herein on a temporary basis, subject to refund in accordance with Rule 25-30.360, Florida Administrative Code, provided that Shady Oaks Mobile-Modular Estates, Inc., has furnished satisfactory security for any potential refund and provided that it has submitted and Staff has approved revised tariff pages and a proposed customer notice. It is further

ORDER NO. 25296  
DOCKET NO. 900025-WS  
PAGE 13

ORDERED that this docket shall remain open pending further proceedings.

By ORDER of the Florida Public Service Commission, this  
4th day of NOVEMBER, 1991.

STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

MJF

by: Kary Ferguson  
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.

As identified in the body of this order, our action approving a change in rates and rate structure is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This

ORDER NO. 25296  
DOCKET NO. 900025-WS  
PAGE 14

petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on 11/25/91. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer 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 of the effective date 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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer 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.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff- )  
assisted rate case in Pasco )  
County by SHADY OAKS MOBILE- )  
MODULAR ESTATES, INC. )

DOCKET NO. 900025-WS  
ORDER NO. PSC-92-0367-FOF-WS  
ISSUED: 05/14/92

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

AND

FINAL ORDER IMPOSING FINE

BY THE COMMISSION:

CASE BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. On February 8, 1991, this Commission issued proposed agency action (PAA) Order No. 24084, wherein we approved a rate increase for Shady Oaks. In that Order, we also required Shady Oaks to do the following: file a request for acknowledgement of a restructure and a name change, improve its unsatisfactory quality of service, expend 85% of the allowance for preventative maintenance on systems maintenance or provide written explanation for not doing so, provide a detailed record of what monthly maintenance will be implemented, install meters for all of its customers, and escrow a certain portion of the approved monthly rates to account for a fine and pro forma plant allowances. By Order No. 24409, issued April 22, 1991, we dismissed a timely protest to the PAA Order and revived Order No. 24084, making it final and effective.

After the new rates became effective, the homeowners in the Shady Oaks park filed suit against Shady Oaks in Circuit Court complaining of, among other things, the increased water and

DOCUMENT NUMBER-DATE

04937 MAY 14 1992

FPSC-RECORDS/REPORTING

wastewater rates approved by this Commission. The deeds whereby the developer (Shady Oaks) transferred property in the Shady Oaks mobile home park to a buyer covenanted that Shady Oaks would provide certain services, including water and wastewater service, at a fixed annual cost; the homeowners sought to have the Court enforce the covenant.

On June 24, 1991, Circuit Court Judge Lynn Tepper granted the homeowners' request for an emergency temporary injunction enjoining Shady Oaks from charging or attempting to collect the Commission-approved rates. In addition, on July 5, 1991, the Circuit Court issued an order requiring Shady Oaks to show cause why it should not be found in contempt for violating a 1983 Court Judgment upholding the restrictions. This latter order also enjoined the utility from collecting the Commission-approved rates and ordered that the monthly service fee paid by the homeowners be deposited into the registry of the Clerk of the Court. In August, 1991, both injunctions were lifted, and the utility was able to begin collecting the Commission-approved rates; however, the homeowners' lawsuit is still pending.

In Order No. 25296, issued November 4, 1991, we determined that the utility failed to comply with the requirements of Order No. 24084. In Order No. 25296, we ordered the utility to comply with what was previously ordered and, specifically, to do the following: submit all necessary information for changing its certificated name or revert to operating under its currently certificated name, immediately place in the escrow account all funds necessary to bring said account to its proper balance, install water meters for all its customers within five months, to improve its quality of service, and (as is discussed further below) to interconnect with the Pasco County wastewater treatment system.

#### SHOW CAUSE

Prior to our considering action against the utility, we reviewed the utility's revenues and expenses from March, 1991, to February, 1992, and made a field inspection. By this Order, we are requiring the utility to show cause why it should not be fined for its substantial noncompliance with Orders Nos. 25296 and 24084. Our discussion of the specific items of noncompliance follows.

#### Name Change and Restructure

In August, 1990, Shady Oaks transferred the title of the utility land from Shady Oaks Mobile-Modular Estates, Inc. to its shareholders individually. Shady Oaks undertook this transfer

ORDER NO. PSC-92-0367-FOF-WS  
DOCKET NO. 900025-WS  
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without the prior approval of the Commission. In Order No. 24084, we ordered Shady Oaks to file a request for acknowledgement of a name change and restructure within sixty days. On March 17, 1991, we received a letter from the utility wherein it requested official recognition of the utility's new name, S & D Utility. On April 1, 1991, we wrote the utility that the name change could not be recognized until we received evidence that the utility land and assets had been properly transferred to S & D Utility and that S & D Utility had been properly registered as a fictitious name. The utility submitted evidence that S & D Utility was registered as a fictitious name; however, it explained that because of the pending bankruptcy proceeding, title to the utility land and assets could not yet be transferred to S & D Utility.

Since the utility's owners informed us that under the payment plan entered into in the bankruptcy proceeding they would soon be able to transfer the title to the utility land and assets, we allowed the utility additional time to complete the name change and restructuring. By Order No. 25296, we ordered the utility to submit within 60 days all necessary information for changing its certificated name, including evidence that the title to all the utility land and assets had been properly transferred to S & D Utility. If it did not timely submit that information, the utility was to revert to operating under its currently certificated name, Shady Oaks Mobile-Modular Estates, Inc.

By letter dated January 22, 1992, we reminded the utility of the information necessary to complete the name change and asked several questions regarding the utility's progress. In its February 16, 1992, reply, the utility was largely unresponsive to the questions in our letter. For example, the utility stated in its response that the name change request had already been made with the Commission, and it also indicated that the bankruptcy proceedings still presented an impediment. However, we are aware that on November 14, 1991, the Bankruptcy Judge issued an order dismissing the utility owner's case and on December 17, 1991, issued an order denying the owner's motion for reconsideration or, in the alternative, conversion to Chapter 11.

Not only has the utility failed to file the information necessary for the name change, it has disregarded our Order to revert to operating under its certificated name. We have verified that customer bills bear the heading of S & D Utility and that the utility makes deposits into and writes checks from a bank account in the name S & D Utility. When our Division of Consumer Affairs has called the utility's business phone, the recorded message answers in the name S & D Utility. .



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It is apparent that the utility is not in compliance with Orders Nos. 24084 and 25296 with regard to the name change and restructure requirements. Therefore, the utility is hereby ordered to show cause why it should not be fined up to \$5,000 per day for such noncompliance.

Installation of Water Meters

By Order No. 24084, we required the utility to install water meters for all its customers within six months. As of mid-September, 1991, the utility had installed 31 of the 185 meters required. In Order No. 25296, we stated that although Shady Oaks was not in complete compliance with our Order, its installation of the 31 meters indicated an effort to comply. We acknowledged that prior to August of 1991, the utility collected less revenue than we had allowed it to collect, as the customers' refusal to pay and the Circuit Court litigation ensued. We estimate arrearages from past nonpayment to be over \$15,000. By Order No. 25296, we allowed the utility an additional five months in which to complete the meter installations.

However, from our recent review of the utility's billing records, we have determined that by the end of 1991, the vast majority of the customers were paying the Commission-approved rates. In a January, 1992, letter, we requested the utility to provide plans and a time schedule for installing the remaining water meters. The utility responded that it intended to install additional meters in February, 1992. As of the end of March, 1992, the utility had only installed an additional 16 meters, which brings the total number of installed meters to 47.

Since the utility has not completed installation of the meters within the prescribed time frame and was unresponsive to our request for information, we hereby order the utility to show cause why it should not be fined up to \$5,000 per day for its failure to install water meters.

Preventative Maintenance

As indicated above, in Order No. 24084, we ordered the utility to spend 85% of the monthly allowance of \$1,700 for preventative maintenance for its stated purpose. In Order No. 25296, we evaluated the utility's disbursements for March through August, 1991, and noted that the utility did not spend what was required. We thought that the utility's failure to comply was likely caused by decreased revenues, but ordered it to thereafter comply with the preventative maintenance aspect of Order No. 24084.

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We have reviewed the utility's expenditures for the months of September, 1991, through February, 1992. During this period, the utility spent approximately \$3,300--less than 40% of the \$8,670 which the utility was required to spend. Also, the utility did not explain its failure to meet the spending requirement for preventative maintenance as required by Order No. 24084.

We do not believe the utility has complied with Order No. 25296 regarding maintenance expenditures. Therefore, we order the utility to show cause why it should not be fined up to \$5,000 per day for failing to spend at least 85% of its \$1,700 monthly allowance for preventative maintenance.

#### Quality of Service

By Order No. 24084, we imposed a \$2,000 fine against the utility for its unsatisfactory quality of service, but suspended the fine for a nine-month period, by the end of which we would dispose of the fine. We directed the utility to improve its quality of service by constructing a new effluent disposal system, obtaining the necessary permits, and operating its wastewater facilities within Florida Department of Environmental Regulation (DER) standards. DER-required plant improvements were included in rate base as pro forma plant.

In Order No. 25296, we found that the utility's quality of service remained unsatisfactory and, in fact, had deteriorated. However, for two reasons, we allowed the utility additional time to make quality of service improvements. First, we recognized that the quality of service deficiencies were at least partially attributable to the decreased revenues collected. Second, the utility had entered into a court-approved settlement agreement with DER wherein the utility agreed to interconnect its wastewater system with Pasco County within six months of the agreement, which was approved by Court Order on July 8, 1991. Accordingly, in Order No. 25296, we ordered the utility to improve its quality of service as prescribed by Order No. 24084, ordered it to interconnect with Pasco County within the designated time frame, and ordered it to improve deteriorating customer relations.

The interconnect with the County was scheduled to take place on or before January 8, 1992. To date, the utility has not only failed to interconnect with the County, but it has not even begun the design or construction of the required interconnect facilities. In addition, customer relations have not improved at all.

On the latter point, we note three incidents of concern.

ORDER NO. PSC-92-0367-FOF-WS  
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PAGE 6

First, on January 9, 1992, we received a customer complaint describing an incident between the utility's owner and a customer. The customer went to pay his water and wastewater bill during posted office hours, but the owner was not present. After mailing his bill, the customer went to discuss the matter with the owner. The customer claims to have been verbally abused by the owner. Although the owner denies using the profane language the customer claims he used, we think it evident that the customer was insulted.

On January 22, 1992, we received numerous complaints regarding a service outage. The customers claimed that the utility did not respond to their calls on the day the outage occurred. Apparently, service was restored only when the guest of one of the customers climbed the fence at the plant and switched on a circuit breaker. The customers are rightfully concerned that the utility did not promptly respond to their calls. In the utility's reply to our inquiry regarding the incident, the utility's owner stated that he could not have responded to the customer's calls any sooner, as he had been out of town on the day the outage occurred.

Finally, on February 24, 1992, we received a customer complaint regarding the utility's installation of several water meters on one customer's property. We conducted a field investigation and found that the utility was placing individual meters as close to the water main as possible even when that meant that the meter was on another customer's property. The utility was then directed to place the water meters on the individual properties associated with the consumption. Rule 25-30.260, Florida Administrative Code, requires utilities to locate meters at or near the customer's curb or property line except when doing so is impractical. It would appear in this instance that it is practical for the utility to place each meter on the property it serves.

It is evident that the utility has made no substantial improvement in the total quality of service as required by Orders Nos. 24084 and 25296. Therefore, we hereby order the utility to show cause why it should not be fined up to \$5,000 per day for continuing to provide unsatisfactory quality of service.

#### Escrow Requirement

The utility's new rates under Order No. 24084 became effective on March 2, 1991. By Order No. 24084, we required the utility to place in escrow the portion of the rate increase attributable to the pro forma plant and a portion of the \$2,000 penalty we imposed for poor quality of service; specifically, the utility was required

ORDER NO. PSC-92-0367-FOF-WS  
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to escrow \$333.34 per month. In Order No. 25296, we found that the utility had not been escrowing the proper amounts primarily because it had not been collecting sufficient revenues. We admonished the utility for ceasing to escrow the proper amount without our prior approval and ordered it to immediately place enough money in the escrow account to bring the balance up to the proper level.

As stated earlier, the vast majority of the utility's customers are now paying their utility bills. From our review of the utility's cash collections from customers from December, 1991, to February, 1992, we calculate that the utility should have escrowed approximately \$5,600 during that three month period. However, the bank statements indicate that only \$3,500 was deposited into the escrow account in that time. In addition, the utility did not place enough money in the escrow account to correct the deficiency that resulted from the utility's prior failure to place funds into the account.

We think the utility has failed to comply with Orders Nos. 24084 and 25296 regarding the escrow requirements. Therefore, we hereby order the utility to show cause why it should not be fined up to \$5,000 per day for not maintaining the appropriate balance in the escrow account.

#### IMPOSITION OF FINE

As referenced above, by Order No. 24084, we imposed a \$2,000 fine against the utility for its unsatisfactory quality of service, but suspended the fine for nine months, at the expiration of which we would review the situation. As was also previously stated, in Order No. 25296, we found that the utility's quality of service remained unsatisfactory, and we again required the utility to improve its quality of service, suspending the fine for another five months.

As discussed in detail above, the utility remains in substantial noncompliance with Orders Nos. 24084 and 25296 with regard to its quality of service. Therefore, the suspension on the \$2,000 fine previously imposed is hereby lifted, and said fine is due and payable.

By Order No. 24084, we ordered the utility to escrow a portion of the \$2,000 fine. Since the utility has not been escrowing the required amounts, the funds in the escrow account are insufficient to pay both the \$2,000 fine and a refund to the customers in the event one is required. Therefore, we prohibit the utility from paying the \$2,000 fine from the escrow account.

ORDER NO. PSC-92-0367-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 8

In the event that reasonable efforts to collect this fine fail, we hereby authorize its referral to the Comptroller's Office, as further collection efforts on our part would not be cost-effective. At a minimum, two certified letters demanding payment shall be sent.

It is, therefore,

ORDERED by the Florida Public Service Commission that Shady Oaks Mobile-Modular Estates, Inc., shall show cause in writing why it should not be fined up to \$5,000 a day for violating Orders Nos. 24084 and 25296 as described in the body of this Order. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc.'s written response to this Order must be received as set forth in the Notice below. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc.'s response to this Order must contain specific allegations of fact and law. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc.'s opportunity to file a written response to this Order shall constitute its opportunity to be heard prior to final determination of noncompliance and assessment of penalty by this Commission. It is further

ORDERED that a failure to file a timely response to this Order shall constitute an admission of the facts alleged in the body of this Order and a waiver of any right to a hearing. It is further

ORDERED that in the event that Shady Oaks Mobile-Modular Estates, Inc., files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57, Florida Statutes, further proceedings may be scheduled before a final determination on these matters is made. It is further

ORDERED that the suspension of the \$2,000 fine previously imposed by Order No. 24084 is hereby lifted, and said fine is due and payable. The utility is hereby prohibited from paying said fine from escrowed funds. Our action in imposing this fine is final agency action. If reasonable collection efforts prove ineffective, further disposition of the fine will be referred to the Comptroller's Office. It is further

ORDER NO. PSC-92-0367-FOF-WS  
DOCKET NO. 900025-WS  
PAGE 9

ORDERED that this docket shall remain open pending further Order of the Commission.

By ORDER of the Florida Public Service Commission, this 14th day of May, 1992.

\_\_\_\_\_  
STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

by: Kay Flynn  
\_\_\_\_\_  
Chief, Bureau of Records

MJF

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.

The show cause portion of this order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 3, 1992.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida

ORDER NO. PSC-92-0367-FOF-WS  
DOCKET NO. 900025-WS  
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Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to the show cause portion of this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer 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.



Commissioners:  
THOMAS M. BEARD, CHAIRMAN  
BETTY EASLEY  
J. TERRY DEASON  
SUSAN F. CLARK  
LUIS J. LAUREDO



[ Correspondence ]  
DIVISION OF WATER & WASTEWATER  
CHARLES HILL  
DIRECTOR  
(904) 488-8482

## Public Service Commission

July 21, 1992

Mr. R. D. Sims  
Shady Oaks Mobile-Modular Estates, Inc.  
Post Office Box 280012  
Tampa, Florida 33682-0012

Re: Request for name change of Shady Oaks Mobile-Modular Estates, Inc. to S  
& D Utility

Dear Mr. Sims:

Your request for an application for a name change has been referred to this office for response. We do not currently have an application form or administrative rules governing the filing requirements for a change in name of a utility. In order to process a name change, staff must verify that the utility's name has changed with **no change in ownership or control of the utility or its assets**, and that ownership of the utility assets are in the new name of the utility. Therefore, you must submit the utility's complete new name, proof of ownership of the utility's property in the new name of the utility, and the effective date of the name change. In addition, you must submit a complete new tariff reflecting the new name of the utility on each page of the tariff, including all standard forms, such as the billing statement and the application for service. The utility's certificate must be returned so that it can be re-issued in the new name.

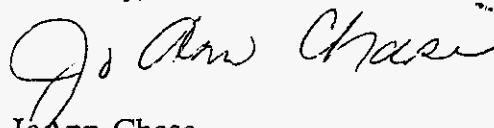
If the name change also involves a change in the structure of the utility, such as a change from a corporation to a partnership with a change in the control of the utility, this would be considered a transfer of majority organizational control and the filing requirements are more extensive. If that is the case, please contact this office before you file for a name change so that we can send you the appropriate application form and administrative rules.



Mr. R. D. Sims  
July 21, 1992  
Page Two

If you have any further questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "JoAnn Chase". The signature is written in dark ink and is positioned above the printed name and title.

JoAnn Chase  
Regulatory Analyst Supervisor

/jc  
cc: Division of Water and Wastewater (Hill, Lingo)  
Division of Legal Services (Feil)



MEMORANDUM

Mr. Greg Shafer, Bureau Chief  
P.S.C.  
101 E. Gaines St.  
Tallahassee, Fla. 32399-0864

S & D UTILITY  
P.O. BOX 280012  
TAMPA, FLA 33682-0012

9-9-92

Dear Mr. Shafer:

In chronological order, we have reviewed our memo's to the P.S.C. Tell us if we are right or wrong? On July 20, 1992, we sent the P.S.C. four tariff sheets and the customer letter, on August 24, 1992, we received stamped approval on the tariff sheets. On September 1, 1992 we mailed out our customer letters with the monthly billing of \$42.98. It appears that between our mailing of August 24th, 1992, that we possibly may have lost a months receipts, and it appears that actually we won't get any type of income above the \$18.84 for water and wastewater until November. Now, to me this is not right in the Church. These people are going to go ahead and use tens of thousands of gallons of water for nothing. We borrowed the money to put the water meters in and they are going to suck us dry. Please comment.

But yet, we keep getting phone calls from your staff, "when are you going to do this and when are you going to do that?" You have some extremely highly intelligent people up there.

Very truly yours,

FAX  
cc: Lingo

R. D. Sims

002

15:16

09/10/92

# MEMORANDUM

TO  
Miss Jeni Lingo  
P.S.C.  
101 E. Gaines St.  
Tallahassee, Fla.

EXHIBIT FJL-6  
[Correspondence]

FROM  
S & D UTILITY  
P.O. BOX 280012  
TAMPA, FLA 33682-0012

DATE  
8-31-92

SUBJECT

## MESSAGE

Dear Miss Lingo:

Sue advised me that you are rather insistant that we refund for credit the money that was expended for the electric bill because the consumers refused to pay the Utility that particular month. We must abide by the Commissions decision and intend to do so, but would prefer to give credit, as you are aware there is in excess of \$18,000.00 out-standing which is in the hands of the Appellate Court. We would appreciate your allowing us to give credit when this money is released to us. Many thanks.

We are enclosing the Notice To Customers which we are sending to all the residents in the Park.

Very truly yours,

*R. D. Sims*  
R. D. Sims

**RECEIVED**

SEP 02 1992

Fla. Public Service Commission  
Division of Water and Sewer

PLEASE REPLY BY \_\_\_\_\_

NO REPLY NECESSARY \_\_\_\_\_

**Memorandum**

DOCKET NO. 900025-WS

EXHIBIT FJL-7

SHADY OAKS MOBILE-MODULAR ESTATES, INC.  
DOCKET NO. 900025-WS

ANALYSIS OF PREVENTATIVE  
MAINTENANCE EXPENDITURES

Month/Year =====	Required Expenditures =====	Actual Expenditures =====	Amount Over (Under) Expended =====	Cumulative Amount Over (Under) Expended =====
September 1991	\$1,445	\$261	(\$1,184)	(\$1,184)
October 1991	1,445	52	(1,393)	(2,577)
November 1991	1,445	203	(1,242)	(3,819)
December 1991	1,445	143	(1,302)	(5,121)
January 1992	1,445	1,445	0	(5,121)
February 1992	1,445	1,187	(258)	(5,379)
	----- \$8,670	----- \$3,291		

REVISED

01/06/93

DOCKET NO. 900025-WS  
EXHIBIT FJL-8

SHADY OAKS MOBILE-MODULAR ESTATES, INC.  
DOCKET NO. 900025-WS

ANALYSIS OF BALANCE  
IN ESCROW ACCOUNT

Month/Year	Amount to be Escrowed	Actual Amount Escrowed	Amount Over (Under) Escrowed	Cumulative Over (Under) Escrowed
=====	=====	=====	=====	=====
March 1991	393	284	(109)	(109)
April 1991	216	351	135	26
May 1991	191	256	66	92
June 1991	229	245	16	108
July 1991	194	65	(129)	(21)
August 1991	1,383	0	(1,383)	(1,404)
September 1991	1,429	0	(1,429)	(2,833)
October 1991	470	0	(470)	(3,302)
November 1991	114	0	(114)	(3,417)
Subtotal	4,618	1,201		
December 1991	1,561	879	(682)	(4,099)
January 1992	2,132	1,351	(781)	(4,880)
February 1992	1,955	1,307	(648)	(5,529)
March 1992	2,001	861	(1,141)	(6,669)
Subtotal	7,649	4,396		
April 1992	1,967	1,807	(160)	(6,830)
May 1992	1,485	871	(614)	(7,443)
June 1992	1,129	924	(205)	(7,648)
July 1992	1,040	51	(990)	(8,638)
August 1992	1,066	0	(1,066)	(9,704)
September 1992	1,155	0	(1,155)	(10,859)
Subtotal	7,842	3,653		
TOTALS	20,109	9,251		

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

00001

In re: Application for staff-) DOCKET NO. 900025-WS  
 assisted rate case in Pasco )  
 County by SHADY OAKS MOBILE- )  
 MODULAR ESTATES, INC. )

COMMISSION STAFF'S FIRST SET OF INTERROGATORIES TO  
SHADY OAKS MOBILE-MODULAR ESTATES, INC.

The Staff of the Florida Public Service Commission, by and through its undersigned attorney, hereby propounds the following interrogatories, numbered 1 through 27, to Shady Oaks Mobile-Modular Esates, Inc., also known as S & D Utility, (hereinafter referred to as "the utility"), pursuant to Rule 1.340, Florida Rules of Civil Procedure. These interrogatories shall be answered under oath by the utility or its agent who is qualified to answer and who shall be fully identified, within thirty (30) days.

INSTRUCTIONS

A. The utility shall answer these interrogatories to the fullest extent possible and shall furnish all information which is reasonably available to the utiltiy, its principals, agents, attorneys, affiliates or other representatives. The utility may respond to an interrogatory by indicating that the requested information is reported on a specific schedule in the minimum filing requirements.

B. If the utility cannot answer a particular interrogatory in full, after exercising due diligence to secure the information to do so, it should state the answer to the extent possible and specify why it is unable to answer the remainder. In addition, utility shall state whatever information or knowledge that it has concerning the unanswered portion.

C. If the requested information is not applicable, that response should be reported as well as the reason why. If the requested information is not available, that response should be reported as well as the reason why.

D. Please report the name(s) of each person responding to each of the following interrogatories, the business address and telephone number of each such person, and the relationship of each person to utility. Also, identify which interrogatory each such person has answered.

DOCKET 900025-WS  
 CASE # 93-03339  
 VOLUME III

FLORIDA PUBLIC SERVICE COMMISSION  
 DOCKET NO. 900025-WS *Comp.*  
 COMPANY/ EXHIBIT NO. 6  
 WITNESS: Lingo  
 DATE: 1-7-93

INTERROGATORIES

1. On page one of the utility's response to the Commission's Order to Show Cause, Mr. Sims states:

"These assets were transferred from Shady Oaks to Richard D. and Caroline Sue Sims. At the present, I am the sole owner of the Utility, but the land is registered in the name of Richard D. and Caroline Sue Sims."

- (a) Does the above-referenced statement mean that Richard D. and Caroline Sue Sims own the land upon which the utility's assets are located?
  
- (b) If the response to (a) is negative, who owns the utility's land?



2. (a) Does the statement referenced in Interrogatory No. 1 mean that Richard D. and Caroline Sue Sims own all of the utility's assets?
  
- (b) If the response to 2(a) is negative, who owns the utility's assets?

3. (a) As a result of the transfer of any utility assets, is the utility now considered a sole proprietorship for federal income tax purposes?
- (b) If the response to 3(a) is negative, please indicate the utility's federal income tax filing status.

4. (a) If the utility is now a sole proprietorship, has the utility filed with the Commission the documents required for the Commission to approve a transfer of majority organizational control?
- (b) If the response to 4(a) is negative, please explain why these documents have not been filed.

5. (a) What was the effective date of the name change from Shady Oaks Mobile-Modular Estates, Inc. to S & D Utility?
- (b) Why has the utility failed to file the documents which the Commission required it to file in Orders Nos. 24084 and 25296 regarding acknowledgement of the name change?

6. On page one of the utility's response to the Commission's Order to Show Cause, Mr. Sims states, "We filed bankruptcy in order to protect the assets of the utility."

(a) On what date was the most recent bankruptcy filed?

(b) In whose name was the most recent bankruptcy filed?

7. Regarding the installation of water meters, on page two of the utility's response to the Commission's Order to Show Cause, Mr. Sims states,

"The water meters have been installed on all residential lots, and we have incurred an additional monthly expense of \$1,155. The final date of completion of installation was June 13, 1992."

Please explain the nature of the additional monthly expense of \$1,155.



10. If any copies of maintenance-related invoices from September, 1991, through September, 1992, provided pursuant to Staff's Request for Production No. 4 do not indicate on their face the specific item purchased or service rendered, please provide an itemized list showing that information for each invoice.



11. If the utility has spent less than an average of \$1,445 per month from September, 1991, through September, 1992, on preventative maintenance, please explain why the utility has failed to submit a written schedule to the Commission showing what monthly maintenance will be adopted, along with a statement of the reason such funds were not expended, and a detailed statement of its future plans to maintain the system.

12. (a) Has the utility paid the \$2,000 fine levied in Order No. PSC-92-0367-FOF-WS?

(b) If the response to 12(a) is negative, please explain why the fine has not been paid.

(c) If the response to 12(a) is negative, please indicate the date the utility plans to pay the fine.

Interrogatories 13 through 22 relate to the utility's potential wastewater interconnection with Pasco County.

On page two of the utility's response to the Commission's Order to Show Cause, the utility states, "Concerning the Interconnection to the County's Wastewater System. We have before us, an agreement that the County submitted to the Mad Hatter Utility, they have requested that we use this as a guideline. This agreement supersedes the prior agreement, our engineers have discussed this with the County, and have given us tentative estimates as to the cost."

13. Please explain why has the interconnection of the utility's wastewater system to Pasco County not yet been completed.

14. What is the anticipated date of the interconnection?





20. (a) Has the utility complied with all aspects of its settlement agreement (consent order) with DER?

(b) If the response to 20(a) is negative, with what portion(s) of the agreement (consent order) has the utility failed to comply with and why?



23. (a) Does the utility maintain a customer complaint log, and if not, why not?

(b) If the response to 23(a) is negative, does the utility maintain some other system which records customer complaints and the resolution to those complaints? If not, why not?

(c) If the response to 23(b) is positive, please describe the utility's customer complaint recordkeeping system.



24. (a) Is the utility aware of any customer complaints against it that remain unresolved?
- (b) If the response to 24(a) is positive, please list each outstanding customer complaint that remains unresolved, and the action(s) taken by the utility in its attempt to resolve each of these complaints.

25. For the months of March, 1992, through September, 1992, please provide the number of customers billed each month.

26. For the months of March, 1992, through September, 1992, please provide the number of customers on vacation each month.

27. (a) How many of the remaining 28 homeowners who contributed to paying the utility's delinquent electric bill have been issued credits by the utility?
- (b) If the answer to (a) is less than 28, please explain why credits to all 28 have not been issued.
- (c) For each of the 28 customers who have not received the credit, please indicate the customer's name and the date the utility plans to issue the credit to that customer.

27. (d) For each of the 28 customers who have received the credit referred to in the above parts of this interrogatory, please indicate the customer's name and the date the utility issued the credit to that customer.

DATED:

10-15-92



Matthew J. Feil, Staff Attorney

Bureau of Water and Wastewater  
Division of Legal Services  
Florida Public Service Commission

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

00023

In re: Application for staff-) DOCKET NO. 900025-WS  
 assisted rate case in Pasco )  
 County by SHADY OAKS MOBILE- )  
 MODULAR ESTATES, INC. )  
 \_\_\_\_\_ )

I HEREBY DECLARE that the responses to the above interrogatories are true and correct to my best knowledge and belief.

Mr. R.D. Sims  
 1315 Eckles Drive  
 Tampa, Florida 33612

By: \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

SWORN to and subscribed before me at \_\_\_\_\_,  
 County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
 Notary Public  
 State of Florida  
 My Commission Expires:

( S E A L )

MJF

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-) DOCKET NO. 900025-WS  
 assisted rate case in Pasco )  
 County by SHADY OAKS MOBILE- )  
 MODULAR ESTATES, INC. )  
 \_\_\_\_\_ )

COMMISSION STAFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS  
TO SHADY OAKS MOBILE-MODULAR ESTATES, INC.

The Staff of the Florida Public Service Commission, by and through its undersigned attorney, hereby requests that Shady Oaks Mobile-Modular Estates, Inc., also known as S & D Utility (hereinafter referred to as "the utility") produce copies of the following documents, pursuant to Rule 1.350, Florida Rules of Civil Procedure, at the office of Matthew J. Feil, Esquire, Division of Legal Services, Florida Public Service Commission, Suite 228, 101 East Gaines Street, Tallahassee, Florida 32399-0863, within thirty (30) days of service of this request.

1. Please provide all copies of documents (deeds, title insurance, closing statements, etc.) in the utility's possession pertaining to title to all utility assets and to the land upon which utility assets are located.
  
2. Please provide copies of all documents that relatē to the bankruptcy proceeding referred to in the utility's response to the Commission's Order to Show Cause.
  
3. Please provide copies of all invoices related to the utility's purchase of water meters.
  
4. Please provide copies of all maintenance-related invoices from September, 1991, through September, 1992.

5. Please provide copies of any and all invoices relating to the utility's purchase of construction materials for the wastewater interconnection with Pasco County.
6. Please provide a copy of any DER-issued construction permit for the collection system modifications necessary for the utility to interconnect with Pasco County.
7. Please provide a copy of the Mad Hatter Utility document which the utility referred to in its response to the Order to Show Cause.
8. Please provide a copy of the settlement agreement (consent order) entered into between the utility and DER.
9. Please provide copies of all documents in the utility's possession related to any and all pending legal action against the utility as a result of the DER settlement agreement (consent order).
10. To the extent not already provided, please provide all official documents, invoices, cost estimates, contracts, permits, and other supporting documentation relating to the wastewater interconnection with Pasco County.
11. Please provide copies of all customer complaints and complaint resolutions from September, 1991, to September, 1992.

DOCKET NO. 900025-WS  
STAFF'S FIRST REQUEST FOR  
PRODUCTION OF DOCUMENTS

00026

12. Please provide copies of all customer billing records from March 1992 through September 1992.

Dated:

10-15-92



Matthew J. Feil, Staff Attorney

FLORIDA PUBLIC SERVICE COMMISSION  
101 East Gaines Street  
Tallahassee, Florida 32399-0863  
(904) 487-2740



In re: Application for staff-) DOCKET NO. 900025-WS  
 assisted rate case in Pasco )  
 County by SHADY OAKS MOBILE- )  
 MODULAR ESTATES, INC. )  
 \_\_\_\_\_ )

STAFF'S FIRST REQUEST FOR ADMISSIONS

The Staff of the Florida Public Service Commission, by and through its undersigned attorney, hereby propounds the following requests for admissions upon Shady Oaks Mobile-Modular Estates, Inc., also known as S & D Utility (hereinafter referred to as "the utility"), pursuant to Rule 1.370, Florida Rules of Civil Procedure.

INSTRUCTIONS

Pursuant to Rule 1.370, Florida Rules of Civil Procedure, the matter is admitted unless the utility serves a written answer or objection addressed to the matter within 30 days after service. If an objection is made, the reasons shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the utility cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that the utility qualify its answer or deny only a part of the matter of which an admission is requested, the utility shall specify so much of it as is true and qualify or deny the remainder. The utility may not give lack of information or knowledge as a reason for failure to admit or deny unless the utility states that it has made reasonable inquiry and that the information known or readily obtainable by the utility is insufficient to enable it to admit or deny. If the utility considers that a matter of which an admission has been requested presents a genuine issue for hearing, it may not object to the request on that ground alone; the utility shall deny the matter or set forth reasons why it cannot admit or deny it, subject to Rule 1.380(c), Florida Rules of Civil Procedure.

Please admit or deny the following:

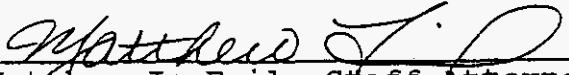
1. The utility has not filed with the Public Service Commission an application for approval of or documents pertaining to a transfer of majority organizational control.
  
2. The utility has not filed with the Public Service Commission an application for approval of or documents pertaining to a change in its certificated name.

DOCKET NO. 900025-WS  
STAFF'S FIRST REQUEST  
FOR ADMISSIONS

00028

3. The utility is not operating under the name of Shady Oaks Mobile-Modular Estates, Inc.
4. The utility has violated and continues to violate Commission Orders Nos. 24084 and 25296 regarding the required actions for changing its name.
5. The utility violated Commission Order No. 25296 regarding the required actions on meter installations because it did not install the meters in a timely manner.
6. The utility has violated and continues to violate Commission Orders Nos. 24084 and 25296 regarding the required actions for spending funds on preventative maintenance and filing reports in the absence of spending the amounts established.
7. The utility has violated and continues to violate Commission Orders Nos. 24084 and 25296 regarding the required actions for escrowing funds.
8. The utility has violated Commission Order No. PSC-92-0356-FOF-WS because it failed to issue credits to each of the remaining 28 homeowners who contributed to paying the utility's delinquent electric bill.

Dated: 10-15-92

  
Matthew J. Feil, Staff Attorney

FLORIDA PUBLIC SERVICE COMMISSION  
101 East Gaines Street  
Tallahassee, FL 32399-0863  
(904) 487-2740

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

00029

In re: Application for staff- )  
assisted rate case in Pasco )  
County by SHADY OAKS MOBILE- )  
MODULAR ESTATES, INC. )  
\_\_\_\_\_ )

DOCKET NO. 900025-WS  
FILED: 10-15-92

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the Commission Staff's First Set of Interrogatories to Shady Oaks Mobile-Modular Estates, Inc., numbered 1 through 27, Commission Staff's First Request for Production of Documents to Shady Oaks Mobile-Modular Estates, Inc., numbered 1-12, and Staff's First Request for Admissions, numbered 1 through 8, has been furnished to Mr. R.D. Sims, 1315 Eckles Drive, Tampa, Florida 33612 by U.S. Mail, this 15<sup>th</sup> day of October, 1992.

  
\_\_\_\_\_  
Matthew J. Feil, Staff Attorney

FLORIDA PUBLIC SERVICE COMMISSION  
101 East Gaines Street  
Tallahassee, Florida 32399-0863  
(904) 487-2740

RECEIVED

Nov 23 8 23 AM '92  
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

00030

ADMINISTRATION

MAIL ROOM

In re: Application for staff-  
assisted rate case in Pasco  
County by SHADY OAKS MOBILE-  
MODULAR ESTATES, INC. )

DOCKET NO. 900025-WS

RESPONDANT'S REPLIES TO COMMISSION STAFF'S FIRST SET  
OF INTERROGATORIES TO SHADY OAKS MOBILE-MODULAR  
ESTATES, INC.

The answers to the interrogatories propounded by the Commission under date of 10-15-92 are as follows: (answers corresponded to interrogatory numbers and sub-sections)

1. (a) The land upon which the utility's assets are located is owned by Richard D. and Caroline Sue Sims.
2. (a) No. The utility's assets are owned individually by Richard D. Sims d/b/a S & D Utility. However, some minor tools and miscellaneous spare parts are owned by Shady Oaks Mobile Modular Estates. The value of these assets would not exceed \$1,000.00 in value.
3. Yes, the Utility is a sole proprietorship for federal income tax purposes and its operations would be reflected on 1040 Sch. C showing the Federal I.D. Number as: 59-3056011.
4. (a) No, these required documents have not yet been filed.  
(b) These documents have not yet been filed for basically two reasons:
  - (1) I did not receive sufficient information to provide this data prior to my having individually filed Chapter 11 Bankruptcy on June 22, 1992.
  - (2) Since I am presently under the pervuew and control of the Bankruptcy Court, I feel compelled to postpone this requirement until issues of the Bankruptcy are resolved.
5. (a) There was no name change from Shady Oaks Mobile-Modular Estates, Inc. to S & D Utility. Shady Oaks Mobile-Modular Estates, Inc. continues as an ongoing

NOV 23 1992  
LEGAL DIVISION

entity. What occurred here was that when the real estate upon which the water treatment and sewer plants repose was transferred to Richard D. and Caroline Sue Sims, this gave rise to the creation of S & D Utility, which is solely owned by Richard D. Sims.

- (b) I am anxious to comply with the order, but I am confused and vague concerning the nature of the documentation required. Could the Commission provide me with sample format so that I might comply. As to the requirement to place \$333.34 per month in escrow --- I have been unable to comply because of a cash flow problem resulting from the Chapter 11 filing wherein I am compelled to escrow \$886.08 to cover back real estate taxes. I am also delinquent in payments to the U.S. Trustee in regard to Chapter 11 Bankruptcy filing.
6. (a) The most recent Bankruptcy was filed on June 22, 1992.
- (b) Richard D. Sims d/b/a S & D Utility - Chapter 11 Case No. 92-06718-8B1.
7. The additional monthly expense of \$1,155.00 is derived from loan service expense and to defray past due engineering fees occurred in connection with the expansion of the waste water system.
8. I have, because of cash flow restraints incurred little or no expense for preventative maintenance for the period in question.
9. See response to question 8.
10. See response to question 8.
11. See response to question 8. It appears obvious that in order to have the resources to implement a meaningful and effective maintenance system, customer usage would have to increase, or a rate increase be granted.
12. (a) No.
- (b) The present cash flow position of the Utility mitigates against a successful effort to resolve and pay the fine. A pro forma operating loss is presently being

incurred.

- (c) The fine will be paid upon resolution to answer b above.
13. Our discussions with Pasco County and our Engineer revealed that the approximate cost of the inter-connection would be \$125,000.00. The present cash flow of the Utility mitigates any chance to raise these funds from banks or other lending institutions. The fact of my personal bankruptcy is likewise a major obstacle to furthering this effort.
14. Hopefully, in the next 2 or 3 years.
15. C. Fred Deuel & Assoc.  
5151 North Gall Blvd.  
Zephyrhills, Fla. 33541
16. \$125,000.00
17. No.
18. No.
19. No.
20. (a) No.
- (b) The Utility has complied with the consent order to the best of its ability under its present circumstances as outlined in responses to earlier questions.
21. Yes, the Commission has a record of this pending litigation.
22. D.E.R. initiated this action against Shady Oaks Mobile-Modular Estates, Inc., and the Commission has a copy of this action.
23. (a) Yes.
- (b) All complaints are duly recorded.
- (c) An example is attached for your information.
24. (a) No.

DOCKET NO. 900025-WS  
RESPONDANT'S REPLIES TO  
FIRST SET OF INTERROGATORIES

00033

(b) Not applicable.

25. March, 1992, 168 customers billed, April, 1992, 155 customers billed, May, 1992, 117 customers billed, June, 1992, 89 customers billed, July, 1992, 82 customers billed, August, 1992, 84 customers billed, August, 1992, 84 customers billed, September, 1992, 91 customers billed. There were 35 customers from the above that were billed  $\frac{1}{2}$  month due to vacation.

26. March, 1992, 14 customers on vacation, April, 1992, 27 customers on vacation, May, 1992, 65 customers on vacation, June, 1992, 92 customers on vacation, July, 1992, 100 customers on vacation, August, 1992, 98 customers on vacation, September, 1992, 91 customers on vacation.

NO VACATION RATE WAS IMPLEMENTED.

27. (a) Our figures show 26 homeowners.

(b) Waiting upon Appellate Court decision.

(c) Upon resolution of this matter by the Appellate Court.

(d) With the limited resources available to the Utility I am unable to provide this information at this time. See also, response to b and c above.

DATED: 11-20-92

R. D. Sims

R. D. Sims

S & D UTILITY  
P.O. BOX 280012  
TAMPA, FLA 33682-0012

00034

September 14, 1992

Mrs. Denise Vandiver  
Division of Water and Wastewater  
Public Service Commission  
101 E. Gaines Street  
Tallahassee, Florida 32399-0864

Dear Mrs. Vandiver:

This is in response to your Order To Show Cause, dated May 14, 1992.

First, we would like to bring to your attention that this letter has been re-written several times. As you know, we have been under your jurisdiction since 1985, and not until March 11, 1991, did we receive a rate increase.

In your letter of October 19, 1990, you requested that we file for a name change, set up different bookkeeping system, and register the name change in the County Court House. We did change the name of the Utility to S & D Utility, and did request a name change, we did open up a separate set of books and filed for a Federal I. D. Number, which we received. Also we have a Florida State Employment Compensation Number, and all with-holding and social security payments and employment compensation payments have been made in a timely manner. We filed bankruptcy in order to protect the assets of the Utility. These assets were transferred from Shady Oaks to Richard D. and Caroline Sue Sims. At the present, I am the sole owner of the Utility, but the land is registered in the name of Richard D. and Caroline Sue Sims.

In reference to your orders #24084 and #25296, upon convirmati of my Chapter 11 Reorganization Plan, S & D Utilities Inc. will be formed and various assets will be transferred to that entity, as per your request. This can only be made with the approval of the Court. At that time there is an extremely strong possibility, upon advise by Counsel, that Shady Oaks Mobile Modular Estates will be dissolved.

INSTALLATION OF WATER METERS: We acknowledge that prior to August, 1991, the Utility collected less revenue than you allowed it to collect, as customers refused to pay and the Circuit Court litigation in suit. Your estimated averages for past non-payment



at that time is well above your estimated \$15,000.00. The water meters have been installed on all residential lots, and we have incurred an additional monthly expense of \$1,155.00. The final date of completion of installation was 6-13-62. We have been test reading the meters for the months of June, July and August. It appears that we will be receiving a Base Facility Rate in October, but the consumer will have free water up until the end of September. We will not receive any actual revenue until possibly the 25th of November, or when they decide to pay, as we still cannot shut off water. I believe possibly this is included in the Appeal.

PREVENTATIVE MAINTENANCE: Concerning your Order Number 25296, it appears that after your reviewing our records, that if we had the required cash flo, we probably would have exceeded the 40%. Now, I want you to bring attention to the rate analysis that was performed by your staff, it stipulated that certain benefits that are common in all businesses were to be paid for by the \$25.00 maintenance fee. We are not collecting the maintenance fee, this has been prohibited by the Circuit Judge's Order.

Concerning the Inter-connection to the County's Wastewater System. We have before us, an agreement that the County submitted to the Mad Hatter Utility, they have requested that we use this as a guideline. This agreement supersedes the prior agreement, our engineers have discussed this with the County, and have given us tentative estimates as to the cost.

Concerning QUALITY OF SERVICE: I have not had any complaints. Any time we have had to discontinue service, except in emergencies, we have called the P.S.C. Several customers have made unjustifiable complaints, and will probably continue to do so, because no one wants a rate increase. We anticipate quite a few complaints when the first billing goes out showing the actual amount of water used. As you know, the prior fee of \$25.00 include water, sewer and use of the recreation facilities. Of course this was approved by your staff in 1985, and of course, it is quite obvious, even at that time the \$25.00 was insufficient for water and sewer only. We honestly believe that the Utility and the P.S.C. were unprepared for the onslaught of unjustified harassment by these consumers. In fact in several instances the Utility had spoken to the officials of the P.S.C. and were both upset concerning the monetary expense and mental anguish experienced by both.

Now concerning the proposed fine of \$5,000.00 a day. It doesn't seem very practical, as we are trying to do the best we can with what we have. Now one thing is a point of deep concern, is the \$2,000.00 fine levied on us, which we think is unjustifiable, and also the escrow account. There is approximately \$9,200.00 in the escrow account. If you decide that the escrow account should be continued, we would like to have the amount reduced

00036

Mrs. Vandiver

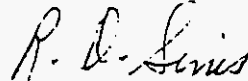
-3-

September 14, 1992

to 5%. Now, I believe that this pretty well covers the subject at hand. What are we going to do about the lack of monies that we were going to receive from Shady Oaks maintenance fund to off-set various normal operating expenses? Our A.A.R.P. Insurance does not cover a lot.

Who is on my mailing list for any and all correspondance? As I would like to add the name of Mr. Michael Messina, C.P.A., Sheahen, Rowlson & Messina, Certified Public Accountants, 415 South Hyde Park Avenue, Tampa, Florida 33606, and Mrs. Aileen B. Delehanty, C.P.A., P. O. Box 5715, Hudson, Florida, 34674.

Very truly yours,



R. D. Sims

RDS:ss

cc: Jeni Lingo  
Greg Shafer  
Betty Easley, Commissioner

# MEMORANDUM

TO  
Miss Jeni Lingo  
P.S.C.  
101 E. Gaines St.  
Tallahassee, Fla.

FROM  
S & D UTILITY  
P.O. BOX 280012  
TAMPA, FLA 33682-0012 00037

DATE  
8-31-92

SUBJECT

## MESSAGE

Dear Miss Lingo:

Sue advised me that you are rather insistant that we refund for credit the money that was expended for the electric bill because the consumers refused to pay the Utility that particular month. We must abide by the Commissions decision and intend to do so, but would prefer to give credit, as you are aware there is in excess of \$18,000.00 out-standing which is in the hands of the Appellate Court. We would appreciate your allowing us to give credit when this money is released to us. Many thanks.

We are enclosing the Notice To Customers which we are sending to all the residents in the Park.

Very truly yours,

*R. D. Sims*  
R. D. Sims

PLEASE REPLY BY \_\_\_\_\_

NO REPLY NECESSARY \_\_\_\_\_

Adams  
3042

## Memorandum

# C. FRED DEUEL & ASSOCIATES, INC.

CONSULTING ENGINEERS • LAND SURVEYORS • LAND PLANNERS

00038

## CORPORATE OFFICE

P.O. BOX 10116  
ST. PETERSBURG, FLORIDA 33733-0116  
1620 FIRST AVENUE NORTH  
ST. PETERSBURG, FLORIDA 33713  
(813) 822-4151  
FAX (813) 821-7255

## BRANCH OFFICE

P.O. BOX 1798  
ZEPHYRHILLS, FLORIDA 33539-1798  
3151 NORTH GALL BOULEVARD  
ZEPHYRHILLS, FLORIDA 33541  
(813) 782-6717  
FAX (813) 782-5426

July 27, 1992

PLEASE REPLY TO: ZEPHYRHILLS

Richard Sims  
SHADY OAKS  
38616 Shady Oaks Drive  
Zephyrhills, FL 33540

Dear Dick:

I met with Doug Bramlett, Pasco County Utilities Director on July 23rd. The purpose of the meeting was to discuss tying in a sanitary sewer force main from Shady Oaks to the existing Pasco County facility.

To summarize, we discussed the following points:

1. Upgrading the Shady Oaks lift station.
2. Providing a route for the new force main location and acquiring easements, if necessary, to the by-pass right of way.
3. Jack & bore beneath the road bed of the by-pass.
4. Tie in to existing force main located on easterly side of U.S. 301
5. Install flow meter on Shady Oaks property, provide written easement for County access.
6. Acquire necessary permits
  - a. Pasco County right of way use permit
  - b. Florida D.O.T. right of way permit
  - c. D.E.R. construction permit.

Pasco County will charge Shady Oaks a flat rate of \$4.12 per 1000 gallons of pumpage based on the meter reading. All construction and engineering costs will your responsibility.

An agreement will be required between Shady Oaks Utilities and Pasco County prior to commencement. A sample agreement is included for your review.

Mr. Bramlett seemed receptive of your intentions, and I presently anticipate permitting to be straight forward.

Please feel free to contact me with any questions or comments that you may have regarding this matter.

Sincerely,

  
David G. Armstrong

DGA/mp

Enc.

**C. FRED DEUEL & ASSOCIATES, INC.**

CONSULTING ENGINEERS • LAND SURVEYORS • LAND PLANNERS

44489

1620 FIRST AVENUE N.  
P. O. BOX 10116  
ST PETERSBURG, FL 33733-0116  
PHONE 813/822-4151

00039

ZEPHYRHILLS, FLORIDA  
PHONE 813/782-6717

OCALA, FLORIDA  
PHONE 904/237-1101

- RICHARD SIMS
- 38616 SHADY OAKS DR
- ZEPHYRHILLS FL 33540

DATE JULY 27, 1992

PROJECT SHADY OAKS

JOB NUMBER 8703-ZH

ORDERED BY \_\_\_\_\_ DATE OF ORDER \_\_\_\_\_ TERMS: NET 15 DAYS

DATE	PROFESSIONAL SERVICES PERFORMED	AMOUNT
7/23/92	MEETING WITH DOUG BRAMLETT - PASCO COUNTY UTILITIES DIRECTOR - - - - -	\$ 250.00

PAST DUE INVOICES ARE SUBJECT TO 1½% PER MONTH SERVICE CHARGE (ANNUAL RATE 18%)

PURCHASER AGREES TO PAY REASONABLE COSTS OF COLLECTION OR ATTORNEY'S FEES IF ANY PART OF THE AMOUNT DUE IS COLLECTED BY LEGAL ACTION OR UPON THE DEMAND OF AN ATTORNEY.

REMIT TO: P. O. BOX 10116 ST. PETERSBURG, FL 33733 PAY LAST AMOUNT IN THIS COLUMN ▲

ORIGINAL

BULK WASTEWATER TREATMENT AGREEMENT  
BETWEEN MAD HATTER UTILITY, INC.  
AND PASCO COUNTY

00040

THIS AGREEMENT, made and entered into this 11<sup>th</sup> day of February, 1992, by and between Mad Hatter Utility, Inc., a Florida Corporation, organized under the laws of the State of Florida, hereinafter referred to as "Utility", and Pasco County, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing body thereof, hereinafter referred to as "County".

W I T N E S S E T H:

WHEREAS, the Utility has received a certificate from the Florida Public Service Commission authorizing the provision of public sewer service to an area located in the southeast portion of the County pursuant to Chapter 367.041, Florida Statutes; and,

WHEREAS, the Utility has requested the County to provide such bulk wastewater treatment service for its existing customers and specifically designated new customers of Mad Hatter's system; and,

WHEREAS, subject to the conditions and limitations set forth herein, the County desires to provide bulk wastewater treatment services to Mad Hatter for the purpose of offering centralized wastewater services from the County's Land O'Lakes Subregional Wastewater Treatment Plant which presently possesses sufficient excess capacity to provide such treatment; and,

WHEREAS, in conjunction with the requested service the County desires to provide certain standards for the expansion of the Utility's wastewater treatment system and certain requirements for

the quality of effluent delivered by the Utility to the County for treatment.

NOW, THEREFORE, in consideration of the premises which shall be deemed an integral part of this Agreement and of the mutual covenants and conditions set forth herein, the County and Utility intending to be legally bound thereby, agree as follows:

**Section 1. Purpose.**

It is the purpose and intent of this Agreement to provide for central public sewer services to existing homes and structures and future homes and structures located in the certificated area of Mad Hatter Utility, Inc. and to provide for additional assurances of timely payment to the County of all costs incurred in the provision of such service by the County, including, but not limited to, cost of operation and maintenance, debt service costs, capital costs, renewal and replacement costs, and expansion costs. All terms and conditions contained herein shall be read and interpreted in a manner consistent with and in furtherance of this purpose and intent.

**Section II. Bulk Wastewater Treatment Service.**

A. Subject to the conditions and limitations set forth in the Memorandum of Understanding and this Agreement, the County shall provide bulk wastewater treatment services in an amount of 350,000 gallons per day (annual average) to Mad Hatter. Such services shall be provided through the existing connection with Mad Hatter Utility, Inc's system. Mad Hatter agrees to change this connection, at no cost to the County, if determined necessary by the

County to continue service under this Agreement. The location and type of connection shall be approved by the County prior to the time that the work is actually performed. Such work shall be supervised and directed by the County and must meet all applicable State and County standards. It shall be the responsibility of Mad Hatter to furnish proof from its staff, engineer, or other appropriate source to the County's Utility Director and/or other appropriate members of the staff of the comparability and equivalency of all such material and standards of performance as previously mentioned.

1. Mad Hatter shall install, as part of its connection to the County system, an appropriate metering device(s) at all points of connection which is acceptable to the County for the purposes of determining the amount of wastewater treatment services being provided by the County pursuant to this Agreement. It shall be the responsibility of Mad Hatter to pay all costs associated with the purchase and installation of such meter(s). The County shall own and operate the meter(s), and the County shall have the absolute right of access for testing, reading purposes, and for any necessary repairs to maintain the integrity of the County's wastewater collection system. Mad Hatter shall also be provided reasonable access to the meter(s) for testing and reading purposes.

2. Meter Reading and Payments - The County will invoice Mad Hatter on a monthly basis in accordance with meter readings taken. Mad Hatter shall make payment based upon the meter readings within thirty (30) days after receipt of the invoice from the



County. In the event that the payment is not made within thirty, (30) days after receipt of the invoice, Mad Hatter agrees to pay interest or penalties as established from time to time in the County's utility system service regulations on the outstanding balance until paid in full. Nothing contained herein, including the charging of interest, shall extend the due date for any payment and any failure to pay on or before the due date shall be considered a default under the terms of this Agreement. Mad Hatter shall be liable for the costs of the purchase and installation of any meters or similar equipment or devices used to measure the amount of wastewater treated. In the event Mad Hatter disputes the accuracy of any meter reading, it must notify the County within ten (10) days of billing and demonstrate through appropriate calibration testing that the meter is either not properly calibrated or is not functioning properly. All meter readings not disputed within fifteen (15) days of reading and publication are final and not subject to dispute.

B. Monthly Service Rate - Mad Hatter agrees to pay the County a service rate of Three and 12/100 Dollars (\$3.12) per thousand gallons of wastewater treated based upon the meter readings; provided, however, this rate, including any or all components thereof, may be adjusted upward or downward by the Board of County Commissioners from time to time in accordance with the County's rate-setting procedures. In addition One and 00/100 Dollar (\$1.00) per thousand gallons, which amount may be adjusted from time to time by the Board of County Commissioners, shall be added as a

capital recovery surcharge for wastewater flow treated from existing development and committed development as described below.

C. Impact Fees - In addition to the monthly service rate, Mad Hatter agrees to pay impact fees to the County as follows:

(a) New Development - Mad Hatter agrees that any new development within its service area will pay to the County, uniform commitment and impact fees in an amount equivalent to fees charged by the County for its retail utility customers as established from time to time by the Board of County Commissioners, which fees will be collected by the County in accordance with its Sewer Use Ordinance. However, in the event the County adopts a bulk wastewater treatment impact fee for new developments subsequent to the execution of this Agreement, said new development shall pay the bulk impact fees established by the Board of County Commissioners from time to time for connections made to Mad Hatter's systems after such adoption. Said fee shall be paid to the County prior to the connection of any new development to Mad Hatter's system and will be collected by the County in the same manner as the County collects impacts fees for its utility system.

(b) Existing Development - Mad Hatter and the County agree that no separate, up-front impact fees will be charged for existing structures or development as of the date of this Agreement which are presently connected to Mad Hatter's system.

(c) Committed Development - Mad Hatter and the County agree that no separate, up-front impact fees will be charged for that development which has paid or partially paid Mad Hatter for service commitments and which is specifically identified on Exhibit "1" attached hereto and incorporated herein by reference; provided, however, any funds owed to Mad Hatter by developers who have partially paid for commitments, as identified on Exhibit "2", shall be paid to the County in a time frame consistent with the existing agreements with Mad Hatter.

D. Excess Capacity - The County agrees to treat wastewater in excess of 350,000 gallons per day pursuant to this Agreement provided sufficient unused and uncommitted capacity is available at the County's wastewater treatment facilities, as determined by the

County, and all appropriate permits have been obtained by Mad Hatter from State regulatory agencies. Mad Hatter agrees to pay the per thousand gallon rate for such services as set forth above.

E. Discharge Regulations - Mad Hatter agrees to abide by the Pasco County Sewer Use Ordinance including the Regulations for Discharge to Pasco County Wastewater System in its entirety and as it may be changed from time to time by requirement of federal or state authorities and/or by the County.

F. Coordination of Flows - Mad Hatter will cooperate in every possible way with the County to coordinate flows into the plant so that they shall not exceed the permitted per-day maximum for the plant.

G. Notwithstanding any other provisions contained herein, the County shall not be liable for any damages as the result of the inability or failure to provide sewage treatment services pursuant to this Agreement either on a temporary, emergency, or permanent basis. The County shall use its best efforts to provide the treatment capacity needed by Mad Hatter to service its customers. Notwithstanding the foregoing, the County reserves the right to proportionately reduce the gallonage made available under this Agreement to comply with reduced treatment capacity as restricted from time to time by governmental regulatory authorities.

H. Public Sewer Collection System - Mad Hatter shall, at its expense:

1. Purchase, install, repair, or maintain its entire wastewater collection system, including all sewer lines, pump

stations, and other facilities and appurtenances that may be necessary in order to tap into or make connections with the County's wastewater system.

2. Cause to be conducted all investigations and testing that may be required in order for Mad Hatter to tap into said system, including all design, construction, repair and maintenance of said connection equipment.

3. Cause all sewer lines, pump stations, and all other facilities required for the connection to the County system to be repaired and maintained in accordance with appropriate standards and specifications.

I. Permits - Mad Hatter shall have the responsibility of securing and maintain all necessary permits from all governmental agencies having regulatory authority of Mad Hatter's public sewer collection system. The County shall have the same responsibility as to its sewer system.

J. Quantity Deficiencies - The County shall not be liable in damages to Mad Hatter in the event that the quantity of sewage to be treated under this Agreement shall be curtailed or diminished at no fault of the County.

### Section III. General Provisions.

A. These conditions are binding upon the successors and assignees of the parties hereto. Whenever one (1) party gives notice to the other party concerning any of the provisions of this Agreement, such notice shall be given by certified mail, return receipt required. Said notice shall be deemed given when it is

deposited in the United States mail with sufficient postage prepaid (notwithstanding that the return receipt is not subsequently received). Notices shall be addressed as follows:

Pasco County:

County Administrator  
Pasco County Government Center  
7530 Little Road  
New Port Richey, Florida 34654

Mad Hatter Utility Inc.:

Larry Delucenay, President  
Post Office Drawer 1387  
Lutz, Florida 33549

These addresses may be changed by giving notice as provided for in this paragraph.

B. No waiver of breach of any of the terms of this Agreement shall be construed to be a waiver of any succeeding breach.

**Section IV. Default.**

If either party materially fails or defaults in keeping, performing, or abiding by the terms and provisions of this Agreement, then the non-defaulting party shall give written notice to the defaulting party specifying the nature of the default. If the defaulting party does not cure the default within thirty (30) days after the date of written notice, then this Agreement, at the option of the non-defaulting party, shall terminate. In the event the County elects to terminate pursuant to this Section such termination shall include the cessation of bulk wastewater services. Neither party shall be relieved of liability to the other for damages sustained by virtue of any party wrongfully exercising this provision. This paragraph is not intended to replace any other legal or equitable remedies available to any non-

defaulting party under Florida law, but it is in addition thereto. Notwithstanding the foregoing, any failure to make timely payments shall be considered a material default under the terms of this Agreement without the necessity for any written notice to Mad Hatter.

**Section V. Utility System Charges.**

Mad Hatter shall fix, revise, maintain, and collect such fees, rates, rentals, or other charge for the use of the products, services and facilities of its utility system as shall be necessary to fund the timely payment of its respective obligations and liabilities under this Agreement. Mad Hatter shall maintain its utility system operation and maintenance accounts throughout the term of this Agreement for the purpose of paying its obligations and liabilities hereunder.

**Section VI. Miscellaneous Provision.**

A. In the event the parties' performance of this Agreement, other than the payment of money, is prevented or interrupted by consequent of an act of God, or of the public enemy, or national emergency, allocation, or other governmental restrictions upon the use or availability of labor or materials, rationing, civil insurrection, riot, racial or civil rights disorder or demonstration, strike, embargo, flood, tidal wave, fire, explosion, bomb detonation, nuclear fallout, windstorm, hurricane, sinkholes, earthquake, or other casualty or disaster or catastrophe, unforeseeable failure or breakdown of pumping, transmission, or other facilities, governmental rules or acts or orders or restrictions of

regulations or requirements, acts or actions of any government, except the County, or public or governmental authority, commission, board, agency, official, or officer, or judgment or a restraining order or injunction of any court, the party shall not be liable for such nonperformance, and the time of performance shall be extended for such time period that the party is diligently attempting to perform.

B. The parties hereto agree that from and after the date of execution hereof, each will, upon the request of the other, execute and deliver such other documents and instruments and take other actions as may be reasonably required to carry out the intent of this Agreement.

C. This Agreement shall not be considered an obligation on the part of the County to perform in any way other than as indicated herein. The County shall not be obligated under the terms of this Agreement to treat additional wastewater from Mad Hatter from areas outside of its certificated area or areas which are not presently served by Mad Hatter unless the County issues written notification that it does not object to such additional service. Mad Hatter's service area is more specifically identified on Exhibit "3" attached hereto and incorporated herein by reference.

D. This Agreement shall be binding upon the heirs, representatives, and assigns of the parties hereto and the provision hereof shall constitute covenants running with the land for the benefit of the heirs, representatives, and assigns of the party. However,

this Agreement shall not be assigned by Mad Hatter without the express permission of the County; however, such consent shall not be unreasonably withheld by the County.

E. In the event the County ever elects to exercise its power of eminent domain for the purpose of acquiring all, or any part, of the utility system which may be owned by Mad Hatter, the County will not be required to pay Mad Hatter for any value which might be attributable to the services provided by the county under the terms of this Agreement. In other words, such services provided by the County under this agreement shall have no residual value in the event the County seeks to condemn all, or any part, of Mad Hatter's system. This shall not be construed as a waiver of any defense, including the defense of lack of authority, Mad Hatter may have to such an action by the County or to any claim for compensation as an ongoing business concern.

F. Term - This Agreement shall have a term of twenty-five (25) years commencing on the date of execution of this Agreement.

G. The Utility agrees that immediately upon execution of the Bulk Wastewater Agreement the Utility will file the same with the Florida Public Service Commission and, in the event Commission approval is required, the Utility shall use its best faith efforts to obtain such approval. Notwithstanding any other provision of the Agreement, in the event the Commission approval of this Agreement is required prior to its effectiveness, the same must be approved in its entirety as a condition precedent to the County's obligations hereunder. The Commission must also approve the



establishment of an appropriate escrow account for the purpose of assuring timely payment to the County for wastewater treatment services provided to the Utility.

H. An express condition precedent to this Agreement and the County's obligations hereunder is the payment to the County by or on behalf of the Utility of the amount of \$54,342.54, which is the delinquent amount claimed by the County to be due and owing for past services to the Utility.

I. This Agreement shall replace and supersede all prior agreements and understandings between the County and Utility on the subject matter, including specifically that Temporary Emergency Bulk Wastewater Agreement dated June 11, 1991.

IN WITNESS WHEREOF, the County and the Utility have executed this Bulk Wastewater Treatment Agreement on the date, month and year first above written.

[SEAL]

BOARD OF COUNTY COMMISSIONERS  
OF PASCO COUNTY, FLORIDA

ATTEST:

By Jed Pittman  
Jed Pittman, Clerk  
By: Rebecca S. Dink

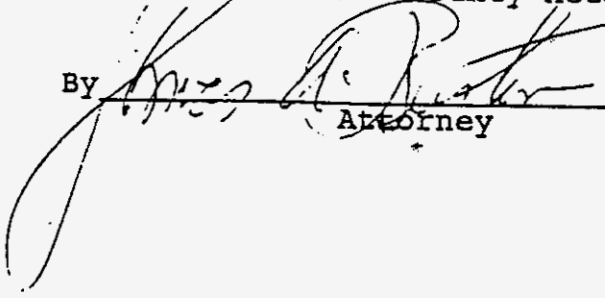
By Mike Wells  
Mike Wells, Chairman

WITNESSES:  
[Signature]  
[Signature]

MAD HATTER UTILITY, INC.  
By [Signature]  
President

APPROVED AS TO LEGAL FORM AND CONTENT  
Office of the County Attorney

By



Attorney

# C. FRED DEUEL & ASSOCIATES, INC.

CONSULTING ENGINEERS • LAND SURVEYORS • LAND PLANNERS

00053

## CORPORATE OFFICE

P.O. BOX 10116  
ST. PETERSBURG, FLORIDA 33733-0116  
1820 FIRST AVENUE NORTH  
ST. PETERSBURG, FLORIDA 33713  
(813) 822-4151  
FAX (813) 821-7255

## BRANCH OFFICE

P.O. BOX 1798  
ZEPHYRHILLS, FLORIDA 33539-1798  
5151 NORTH GALL BOULEVARD  
ZEPHYRHILLS, FLORIDA 33541  
(813) 782-6717  
FAX (813) 782-5426

July 27, 1992

PLEASE REPLY TO: ZEPHYRHILLS

Richard Sims  
SHADY OAKS  
38616 Shady Oaks Drive  
Zephyrhills, FL 33540

Dear Dick:

I met with Doug Bramlett, Pasco County Utilities Director on July 23rd. The purpose of the meeting was to discuss tying in a sanitary sewer force main from Shady Oaks to the existing Pasco County facility.

To summarize, we discussed the following points:

1. Upgrading the Shady Oaks lift station.
2. Providing a route for the new force main location and acquiring easements, if necessary, to the by-pass right of way.
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Enc.