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May 17, 1996

Blanca S. Bayo, Director
Division of Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

HAND DELIVERY

Re: Docket No. 950387-SU
Application for a rate increase for North Ft. Myers Division in Lee county by FLORIDA CITIES WATER COMPANY - Lee County Division.

Dear Ms. Bayo:

Enclosed for filing in the above docket are an original and 15 copies of Post-Hearing Statement of Issues and Positions and Brief of Florida Cities Water Company.

Also enclosed is a 3 1/2" high density diskette containing the Post-Hearing Statement of Issues and Positions and Brief. The software used to prepare this document is WordPerfect 5.1.

Please acknowledge receipt of the foregoing by stamping the enclosed extra copy of this letter and returning same to my attention. Thank you for your assistance.

Sincerely,

Wayne L. Schiefelbein

Wayne L. Schiefelbein

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for Increased Wastewater Rates by Florida Cities Water Company - North Ft. Myers Division in Lee County.	Docket No. 950387-SU Filed: May 17, 1996

POST-HEARING STATEMENT OF ISSUES AND POSITIONS AND BRIEF OF FLORIDA CITIES WATER COMPANY

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ISSUE 1: DID FCWC MISREPRESENT WITH LESS THAN TRUTHFUL STATEMENTS IN THREE PUBLIC DOCUMENTS?

FCWC: ***There was no intentional misrepresentation by the company.***

Intervenor Walla testified that a billing insert prepared by FCWC was "false," that

> (i)t represents to customers that the water and wastewater service costs only $1.85 per day. I have no idea as to whether that may be true for FCWC and its affiliates as an entire company, but it is true neither for me nor my neighbors here in N. Fort Myers, and the company knows it to be untrue. (T. 497)

The billing insert actually provides that

> (e)ach year, Florida Cities Water Company and Poinciana Utilities Inc. (FCWC/PUI) provide our customers with 10.6 million gallons of water per day, throughout Florida. Although the cost varies from system to system, the average cost of providing that water to your home, on a company wide basis is 88¢ per day. FCWC/PUI processes nearly eight (8) million gallons of wastewater each day. The average cost of FCWC/PUI wastewater service, on a company-wide basis is 97¢ per day. These services are delivered to your home 24 hours a day, 365 days a year, for a total average cost of $1.85 per day. (Exh. 19 (CW-7))

The billing insert is patently clear that the $1.85 per day cost of water and wastewater is the average cost on a company-wide basis. There is no misrepresentation. (T. 762 - 763)

Intervenor Walla further testified that Robert Dick, the Division Manager for FCWC's Lee County Division,

> says that he values communications with the customers, yet in a recent meeting with a group of customers (the North Fort Myers Water Committee) the utility represented that 12 of the 13 persons who protested the PAA had withdrawn. . . . It was apparent, as no one had withdrawn that FCWC was trying to

> discredit the merit of our protest. (T. 497 - 498)

Mr. Dick testified that he "did not try to discredit the merit of the customers protest," but that at the January 30, 1996 meeting of the North Fort Myers Water Committee,

> I reported that 12 customers had withdrawn their protest. I thought this had taken place but it did not. The mistake was brought to my attention the next meeting and I apologized for the misinformation. (T. 731 - 732)

Intervenor Walla further testified that a fact sheet distributed to customers by FCWC "outwardly misrepresented" facts regarding pending litigation between FCWC and the United States Environmental Protection Agency. (T. 498)

The fact sheet states that there were "no litigation expenses included in this rate case." (Exh. 19 (CW-10))

In response, Mr. Coel testified that while Operating and Maintenance Expense do not contain any legal costs associated with this issue, it was discovered in the PSC audit for this case that $210,734 of legal costs related to this lawsuit had been capitalized (not expensed). FCWC therefore agreed with PSC Audit Disclosure No. 2 that such capitalized legal fees should be removed from plant and classified below-the-line as a non-recoverable expense in December, 1995. (T. 763 - 764)

FCWC regrets that any of its above statements may have created misunderstanding or may have been misinterpreted. However, the record readily supports a finding that there was in fact no intentional misrepresentation by FCWC, on the matters raised by Ms. Walla, or otherwise.

ISSUE 2: **SHOULD THE COMMISSION SERIOUSLY CONSIDER CUSTOMERS' TESTIMONY ON SERVICE WHEN RENDERING ITS DECISION ON QUALITY OF SERVICE?**

FCWC: *****In rendering its decision on quality of service, the Commission should seriously consider all pertinent testimony and exhibits admitted into the record including that of the customers, and the FDEP and FCWC witnesses.*****

ISSUE 3: **IS THE QUALITY OF SERVICE SATISFACTORY?**

FCWC: *****Yes.*****

On November 28, 1995, the Florida Department of Environmental Protection (FDEP) conducted a Compliance Evaluation Inspection of the wastewater treatment plant. FDEP evaluated the facility site, permit status, records, flow measurements, operations and maintenance, sampling, laboratory analysis, and residual disposal. All areas evaluated received satisfactory ratings. (Exh. 10 (RMD-1))

Compliance with FDEP and USEPA requirements was corroborated by the testimony of Mr. Dick, FCWC Division Manager, and Andrew Barienbrock, FDEP Environmental Manager for the Domestic Wastewater Compliance and Enforcement Section. While the plant had been operating above its permitted capacity, it is in compliance with all effluent limits. The capacity has now been expanded to 1.25 MGD, with a Notice of Completion of Construction submitted to FDEP in March, 1996. (Exh. 24) The collection, treatment and disposal facilities are otherwise in compliance with FDEP regulations, and the overall maintenance of those facilities is considered satisfactory by FDEP. The system has not been the

subject of any FDEP enforcement action within the past two years. (T. 185)

Mr. Dick testified about the Division's efforts to maintain adequate channels of communication with its customers. He personally meets with the North Fort Myers Water Utility Committee on a regular basis. The Division participates each year in the AWWA Safe Drinking Water Week, offers individual and group tours of the treatment facilities, and makes available to customers information on water quality, conservation and water saving ideas with leak detection kits. (T. 238) In addition, Mr. Dick described the procedures in place to resolve customer service inquiries, indicating his belief that customer service is excellent. The Division did not receive any inquiries from the PSC concerning wastewater service in 1995. (T. 238 - 239)

There was customer testimony alleging that there was odor from the wastewater treatment plant.

The FDEP regulates wastewater treatment plant odors and is responsive to customer complaints on that concern. Inspectors will generally respond to complaints within 15 minutes of a call. According to Mr. Barienbrock, FDEP has received a few complaints from FCWC's North Fort Myers customers, including complaints from a nearby restaurant. FDEP, FCWC and the complainant met and all parties agreed that "in order to reduce odors, the plant would stabilize residuals late at night and haul immediately in the early morning hours." Mr. Barienbrock testified that FCWC has fulfilled its responsibilities under that agreement, and that he

was aware of no subsequent odor complaints. (T. 184 - 185; 188; 200; 203; Exh. 1 (LC-1), p. 278) The FDEP has inspected the treatment plant site eight times in the past year and has not found any obnoxious odors emanating from this facility. (T. 675)

FCWC's efforts to reduce odors, which occur only occasionally, has met with reasonable success. While it would be technologically feasible to reduce odors to minimal levels, the technology would be extremely expensive and not warranted in this case. (T. 675; 696)

Two customers expressed concern over estimated bills they had received. (T. 84 - 85; 362 - 363; 373) Mr. Dick testified that FCWC's policy is to base billings on actual meter readings. FCWC does use estimated bills, "as infrequently as possible and only because of abnormal situations." These abnormal situations include underground meters being flooded by heavy rains, or a car being parked on top of a meter box where utility personnel cannot physically read it. In such cases, estimates are based on the average usage for the previous 12 months. (T. 733 - 734)

Two customers expressed concerns that FCWC requires deposits without regard to individual credit histories. (T. 374; 418) Deposits are required in accordance with the FCWC tariff and Rule 25-30.311, Florida Administrative Code, until a satisfactory payment record is established over a period of 23 months, with 6% interest paid annually by credits to bills. Deposits protect the general body of ratepayers by avoiding bad debt expense. (T. 377; 735)

Mr. Dick also responded to individual concerns raised by other

customers. In response to concerns over a sinkhole depression in her yard, FCWC investigated and determined that it was caused by a gravity sewer line break. The location, amidst several houses with a lot of mature fruit trees, has been difficult to access for line repairs, and FCWC is in the process of removing hammer-taps (tap where the end of a customer lateral protrudes into the sewer gravity line causing an obstruction) that hampered repair of the gravity line. Once complete, FCWC will completely restore the grounds. (T. 44 - 49; 256 - 257)

Responding to a customer's testimony about truck traffic during early morning and evening hours, Mr. Dick indicated that the only truck traffic entering or leaving the plant would be for chemical deliveries or sludge hauling. FCWC has adopted policies limiting such traffic to between 7:00 a.m. and 5:00 p.m., unless some type of emergency situation warrants deviating from that time frame. (T. 52; 258)

Mr. Dick also addressed a customer's testimony concerning potable water flooding out of a tank at the water treatment plant. The source is an onsite tank where treated water is stored prior to being pumped to the distribution system. The system, supplied by groundwater wells pumping to the water plant, is manually operated, and a potential for overflow exists. Alarm systems are in place to alert water plant operators prior to overflow. Since the plant is not staffed at night, the alarm systems also alert operators at other treatment facilities for after hours corrections. (T. 53 - 58; 259)

At the conclusion of the hearing, counsel indicated that FCWC personnel were available to consult with PSC Staff regarding any other customer concerns regarding quality of service. (T. 802) If there are additional concerns remaining, FCWC would welcome any opportunity to assist in addressing them.

The Commission should determine that quality of service is satisfactory, based on "the quality of the utility's product,. . . operational conditions of the utility's plant and facilities, and the utility's attempts to address customer satisfaction." Rule 25-30.433(1), Fla. Admin. Code.

ISSUE 4: WHAT CAPACITY OF THE WASTEWATER PLANT AND WHAT FLOWS SHOULD BE USED TO CALCULATE USED AND USEFUL?

FCWC: ***The capacity of the wastewater treatment plant is 1.25 MGD based on annual average daily flows. Used and useful should be determined by comparing that capacity with the average daily flows for the max month, plus a margin reserve.***

The advanced wastewater treatment plant is currently permitted at 1.0 MGD. (T. 279) The FDEP required FCWC to expand the treatment plant in accordance with FDEP rules governing capacity analysis and expansion. (T. 280; Exh. 1 (LC-1), pp. 230 - 242) The plant is presently being expanded to 1.25 MGD based upon current growth projections that capacity will be reached by the year 2000. Master planning performed by FCWC project a total build-out flow of 1.5 MGD when all the undeveloped land in the service area is developed. (T. 281; Exh. 14 (JLK-2), p. 3, 5; (JLK-3))

The design capacity of the wastewater plant expansion in the

preliminary design report and FDEP construction permit was 1.30 MGD expandable to 1.50 MGD. The plant expansion was originally designed to treat 1.30 MGD on an average annual daily flow basis. This preliminary figure was based in part on the provision of reclaimed water to the Lochmoor Country Club Golf Course for irrigation at an annual rate of 0.30 MGD. This was calculated assuming 0.96 inches of irrigation per week over 81 acres. It was subsequently determined that this figure was too high, given reduced irrigation usage by the golf course during wet weather periods. (T. 577 - 578) As revised, the amount of flow to be sent to the golf course on an annual average daily basis is 0.25 MGD. (T. 654)

Construction of the plant expansion has recently been completed. (Exh. 24) The actual capacity as constructed is 1.25 MGD based upon the average annual daily flow and the waste concentration associated with this flow. The operating permit application to be submitted this month will reflect the 1.25 MGD capacity. The plant, as constructed, cannot be permitted to treat annual average daily flow greater than 1.25 MGD. (T. 578 - 579)

Hydraulically, the plant has a short term peaking factor of three times the average daily flow. (T. 632 - 633) However, plant capacity is properly determined considering the biological treatment capabilities of the plant on a continuous basis.

Thomas A. Cummings, P.E. is the project manager and engineer of record for the expansion. He explained how plant capacity is determined as follows:

Wastewater treatment plants are normally designed to remove solids and dissolved pollutants contained in the raw wastewater received by the plant. The plants are normally permitted by the regulatory agency to meet effluent requirements on an annual average basis. Of course, the flow received by a wastewater treatment plant is not constant, but varies during the day in relationship to the activities of the customers connected to the plant. The flows also vary daily and seasonally throughout any given year in response to weather conditions, the influx of seasonal and tourist population, changes in the number of wastewater customers, etc. Therefore, these variations must be considered when designing the plant and are normally calculated from historical or industry literature data as a multiple of the annual average daily design flow. The peak hour flow results when customers are most active during the daytime hours and the plant design must be able to hydraulically allow this flow to pass through the plant to prevent the treatment units from overflowing and at the same time, provide full treatment.

Each individual unit process must be analyzed in relationship to accepted design standards to determine its ability to meet effluent quality limits under varying flow conditions associated with the annual average daily design flow. Even though these unit processes may provide acceptable effluent quality in response to short-term variations in influent flow, the plant generally will not be able to meet these limits on a continuous basis.

The plant capacity is not only based upon the hydraulic capacity received by the facility, it is also based upon the load or quantity of pollutants carried by the flow which require treatment or removal in order to meet the effluent limitations. The pollutant load is normally determined based upon the average annual daily design flow and the associated design pollutant concentrations. Therefore, the plant capacity determination must also take into account the ability of the unit processes to remove the influent pollutant load down to levels that meet the effluent limitations.

> The final determination of plant capacity is based upon the ability to respond to variations in raw wastewater flow and pollutant load, and whichever of these variables is the most limiting upon plant capacity is usually the final determining factor. (T. 579 - 581)

The limiting factor regarding plant capacity for the North Fort Myers wastewater treatment plant is the treatment process. From a biological or pollutant load standpoint, the plant can only handle 1.25 MGD average annual daily flow. Substantial plant modifications would be necessary to increase the treatment capacity to 1.50 MGD: (1) the size of the chlorine injectors and rotameters would need to be increased; (2) this may create a need for additional storage; (3) up to an additional 200 diffusers would be needed, as well as drop pipes and diffuser headers; (4) additional pumping capability for reclaimed water would be required, as well as related electrical gear, valves and piping; (5) the transfer pumps may need to be replaced; and (6) an additional effluent filter would have to be added. (T. 597 - 610)

Even if such treatment process modifications were made, the plant as currently permitted would still be limited to 1.30 MGD in disposal capacity (1.00 MGD to Caloosahatchee River, .30 MGD for reuse). (T. 616 - 617; Exh. 1 (LC-1), p. 230, 247 et seq.) Since the FDEP will not allow FCWC to discharge additional flow into the Caloosahatchee River, increasing disposal capacity would necessarily involve extension of the reuse system. (T. 656 - 658)

The PSC should base its finding on the capacity of the wastewater treatment plant on competent evidence. The sole

competent testimony in the record, by Messrs. Cummings and Young and Ms. Karleskint, support a finding that the capacity of the plant is 1.25 MGD, using annual average daily flow. Messrs. Cummings and Young and Ms. Karleskint are Professional Engineers who practice in the areas of sanitary or environmental engineering and have specific educational background or experience in the design and operation of wastewater treatment facilities. Such level of expertise is required to sign and seal FDEP permit applications and to certify the completion of construction of such facilities. A person not possessing such qualifications cannot properly determine the capacity of a wastewater treatment facility such as that serving the North Fort Myers division. (T. 582 - 583)

Used and useful should therefore be determined in the manner consistent with the Commission's past practice by comparing plant capacity (1.25 MGD) with the average daily flows for the max month, plus a margin reserve, as discussed in Issue 6.

ISSUE 5: DOES THE WASTEWATER COLLECTION SYSTEM HAVE EXCESSIVE INFILTRATION AND INFLOW THAT SHOULD BE REMOVED WHEN CALCULATING USED AND USEFUL?

FCWC: ***No.***

The Water Pollution Control Federation Manual of Practice No. 9 is the accepted reference in the industry for determination of acceptable levels of infiltration and inflow. This manual's guidelines were accepted by the PSC in the last rate case involving the North Fort Myers wastewater system as reliable reference and authority in that regard. Order No. PSC-92-0594-FOF-SU (July 1, 1992) at p. 13.

As in this system's last rate case, the applicable I&I standard for the system is found on page 31 of Manual No. 9. (Exh. 6 (RMD-3); T. 191 - 192; 240)

> For small to medium sized sewers (24 in. and smaller) it is common to allow 30,000 gpd/mile for the total length of main sewers, laterals, and house connection, without regard to sewer size.

The North Forth Myers collection system includes 29 pumping stations, 52,388 feet of force mains, and 155,016 feet of gravity sewer main. (T. 237) The system also served 2,559 customers in the 1994 base test year through an unspecified but substantial footage of customer-owned lateral lines which are also a source of I&I into the system. (T. 470, Exh. 1 (LC-1), p. 160)

Of the 3,128 water customers, 2,559 or 81.8% are also wastewater customers. Thus, 81.8% of the water sold, or .703 MGD, can be attributed to wastewater treated. In its calculation, FCWC assumed that all water used by water and wastewater customers would be returned to the collection system due to the limited irrigation usage characterizing the system. (T. 248 - 251; 334) Subtracting .703 MGD from the average wastewater flow of .942 MGD yields an average of .239 MGD in infiltration and inflow, 25% of the average daily flow. This I&I level is well within the manual guidelines, and, in fact, at the low end of the acceptable range. Using the accepted standard of 30,000 gpd/mile of pipe, the allowable I&I is 0.880 mgd. (T. 240, 713)

Ms. Dismukes used I&I standards for new pipe construction in her I&I calculation. (T. 555 - 559; 188; 190; Exh. 5; Exh. 6 (RMD-

3)) These criteria do not apply to older systems such as North Fort Myers. (T. 191 - 192; 473) This is recognized in Manual No. 9, which states

> (e)xisting sewage systems frequently are very leaky. Infiltration rates as high as 60,000 gpd/mile of sewer have been recorded for systems below ground water, with rates up to and exceeding 1 mgd/mile for short stretches. (Exh. 6 (RMD-3))

According to Manual No. 9,

> (w)ith non-compression type joints it is possible to meet the average specification allowance of 500 gpd/in. diam./mile in workmanship, but the low infiltration rate is not likely to be maintained where the system is in groundwater. (Exh. 6 (RMD-3))

As explained by Mr. Young,

> (a)llowances for infiltration into old systems are greater than infiltration test allowances for new pipe. The pipe in the North Fort Myers wastewater collection system is below groundwater. Approximately 80% of the gravity collection system was constructed using non-compression joints. The system has been in service in excess of 20 years. The allowances chosen by witness Dismukes are totally incorrect for the North Fort Myers collection system and should be rejected. She has incorrectly applied engineering criteria. The allowance of 30,000 gpd/mile of sewer used by FCWC is correct. (T. 710)

Public Counsel witness Mr. Biddy testified that

> (a) utility can avoid unnecessary plant expansion by eliminating excessive inflow and infiltration. The wastewater system of City of Apalachicola is a typical example. Inflow and infiltration is excessive from the City's wastewater collection system. The wastewater effluent exceeded the permitted treatment plant capacity 1.0 MGD numerous times. However, the City's is not planning for plant expansion because the City is in the process of rebuilding its collection system. (T. 227

- 228)

Mr. Biddy declared that I&I would be considered excessive "in the neighborhood of 30 to 40%." (T. 231) Mr. Biddy testified that he had "no basis to make a comparison" between the North Fort Myers and City of Apalachicola systems. (T. 231 - 232)

Mr. Biddy made no attempt to gauge the actual cost effectiveness of reducing I&I in the North Fort Myers system so as to avoid plant expansion. His rebuttal testimony, in fact, rebutted no one. Although the Prehearing Order ruled that FCWC should be given wide latitude in presenting oral rebuttal testimony at the hearing, FCWC's attempt to rebut Mr. Biddy was frustrated at hearing and the exhibit proferred by FCWC estimating the astronomical expense of an overhaul of the collection system was not admitted. (Order No. PSC-96-0540-PHO-SU (April 17, 1996), at p. 25; T. 676 - 685)

However, using Public Counsel's witness Biddy's example of Apalachicola, the cost per linear foot (LF) would be $76.25 (Exh. 9, Table 7-3 prepared by Mr. Biddy's firm.) Applying Mr. Biddy's cost per LF to the North Fort Myers system of 124,709 LF (the amount of vitrified clay pipe (VCP) in the system) (Exh. 22, Schedule 13) the renovation cost would be $9,509,061.25. This compares to only $798,301 spent for an increase in plant capacity of the $1,611,673 plant additions under consideration in this docket. (See MFRs, Exh. 30 (LC-1), p. 231.) This is calculated as follows:

Linear footage of pipe replaced by Mr. Biddy's Apalachicola project:	68,066	(Exh. 9, Table 7-3, Nos. 1 - 8, inclusive)
Total cost of Apalachicola project:	$5,190,138.30	(Exh. 9, Table 7-5)
Cost per foot:	$5,190,138.30 ÷ 68,066 = $76.25	
To rehabilitate North Ft. Myers:	($76.25/LF) (124,709/LF) = $ 9,509,061.25	
Utility Plant in Service (UPIS) at 12/31/95:	+ 13,382,349.00	
Total UPIS:	$22,891,410.25	(Does not take into account retirements and other minor adjustments.)

In any event, it would be cost prohibitive to eliminate I&I from the system. Further, there is no direct relationship between the amount of pipe replaced and the I&I reduction achieved:

> When you repair one spot of a collection system. . . theoretically, the water table has risen by whatever number of inches or millimeters. . . that would. . . potentially go to another weak spot in the collection system and come in through there so the one individual repair would not necessarily reduce I&I by any amount. (T. 470 - 471)

Mr. Young described FCWC's ongoing I&I control program, as follows:

> Sources of infiltration are identified by televising and videotaping wastewater collection mains. The video tapes clearly show the location and extent of deterioration or damage. After the sources of infiltration are identified, repairs are made using the most cost effective method. (T. 713 - 714)

FCWC also has an ongoing program that involves comparing rainfall data with pump run times for individual lift stations. In addition, FCWC's efforts have included grouting lines, and manhole inspections and rehabilitations, as necessary. FCWC spent $20,942 in 1992 on this program; $29,985 in 1993; $30,207 in 1994; and $18,069 in 1995. (T. 472) In view of the nature, age, and size of the collection system, and its location below groundwater, I&I is not excessive. No adjustment is warranted.

ISSUE 6: WHAT IS THE APPROPRIATE AMOUNT OF USED AND USEFUL PLANT?

FCWC: ***100% Used & Useful.***

The capacity of the wastewater treatment plant after the recent expansion is 1.25 MGD, as discussed in Issue 4. Average daily flows for the max month were 1.1753 MGD. A margin reserve equivalent to 0.0573 MGD should be allowed. (Exh. 1, (LC-1), p. 152) The sum of the average daily flow max month and the margin reserve equals 1.232 MGD. A 0.25 MGD expansion is the most prudent and economical way to increase the treatment capacity from 1.0 MGD and meet customer demand requirements. (T. 272 - 273)

The wastewater treatment plant should therefore be considered 100% used and useful.

As for the collection system,

> (a)ll on-site collection systems are designed and constructed in accordance with current company and DE[P] regulations. All of the original collection system lines are advanced or contributed and are being used to provide service to customers. All renovations or replacements of this property have been funded by FCWC and, since the original construction

is in service to customers, the replacements are 100% used and useful. (Exh. 1 (LC-1), p. 153)

The contributed nature of the North Fort Myers collection system has been previously accepted by the Commission to support a finding that the system is 100% used and useful. Order No. PSC-92-0594-FOF-SU (July 1, 1992). There is no record support disputing the requested used and useful determination for the collection system. The Commission should therefore find the collection system to be 100% used and useful.

ISSUE 7: SHOULD A MARGIN RESERVE BE ALLOWED?

FCWC: ***Yes, as per MFRs.***

FCWC is required to provide "safe, efficient and sufficient service,. . . not . . . less safe, less efficient, or less sufficient than is consistent with the approved engineering design of the system and the reasonable and proper operation of the utility in the public interest." Sec. 367.111(2), Fla. Stat. This obligation to serve applies to both existing and future customers located within the utility's certificated service area. Sec. 367.111(1), Fla. Stat. Consistent with longstanding PSC policy, recognition of this "readiness to serve" is achieved by including margin reserve allowances within used and useful calculations.

A margin reserve is defined as the investment in plant needed to meet the demands of potential customers and the changing demands of existing customers within a reasonable time. (T. 298)

Until recently, the PSC adhered to an 18 to 24 month guideline

for measuring a margin reserve period for plant other than lines. The PSC has justified that measure as the time period necessary to construct facilities to meet near-term growth. In the last year or so the PSC has begun to recognize a three-year construction period for wastewater treatment plant. The incipient liberalization of this policy reflects the PSC's interpretation of the DEP's requirement for planning wastewater facilities expansion. Rule 62-600.405(8)(c), Florida Administrative Code, provides:

> If the initial capacity analysis report or an update of the capacity analysis report documents that the permitted capacity will be equaled or exceeded within the next three years, the permittee shall submit a completed construction permit application to the Department within 30 days of submittal of the initial capacity analysis report or the update of the capacity analysis report.

Through Rule 62-600.405(8)(a), Florida Administrative Code, DEP also requires that utilities begin the preliminary design for the expansion of a wastewater treatment plant five years before the plant flows are anticipated to equal their permitted capacity. (Exh. 16)

FCWC has requested a margin reserve equivalent to 0.0573 MGD. (T. 273; Exh. 1 (LC-1), p. 152)

The requested margin reserve approximates projected customer growth over the next three years, based on an annual average of actual customer growth from 1990 through 1994. (Exh. 1 (LC-1), p. 152) Given the length of time it takes to design, permit, and construct additional capacity, a five-year margin reserve would be reasonable. (T. 299 - 300; 317)

The requested three-year margin reserve would be appropriate to provide a cushion such that FCWC can be prepared to meet changing load conditions of its existing customers, over and above the peak loads historically experienced, with a reasonable degree of reliability. (T. 663; 313 - 318)

A three-year margin reserve would be an appropriate recognition of the advance planning and construction requirements of Rule 62-600.405. (T. 299; 663)

Ultimately, the requested margin reserve would also recognize that it is in the best interests of all customers to build economic increments of plant capacity to minimize the cost per gallon of capacity. (T. 663; 300; 313 - 318)

The treatment plant is currently permitted at 1.0 MGD. (T. 279) The FDEP required FCWC to expand the treatment plant in accordance with its rules governing capacity analysis and expansion. (T. 280; Exh. 1 (LC-1), pp. 230 - 242) A 0.25 MGD expansion is the most prudent and economical increment to increase capacity to meet customer demand requirements. (T. 272 - 273)

In consideration of the current average daily flow for the max month, the permitted capacity, annual average growth in ERCs, and the FDEP requirements governing advance planning and construction, the Commission should approve the requested margin reserve.

ISSUE 8: SHOULD THE COMMISSION APPROVE A YEAR-END RATE BASE VALUE IN THIS PROCEEDING?

FCWC: ***Yes.***

During the test year, there has been an extraordinary level of investment in wastewater plant which serves the public interest, without a corresponding major growth in customers. (T. 119 - 121; Exh. 1, (LC-1), pp. 5 - 6; 230 - 231) Over $1.6 million, nearly 20% of total rate base, is associated with the recent treatment plant expansion, the construction of which was completed shortly after the test year. An average rate base determination would severely understate the revenue requirement and deprive the utility of an opportunity to earn a reasonable rate of return. (T. 119 - 120; Exh. 14)

Under similar circumstances, the PSC has approved the use of a year-end rate base calculation. For example, please see Order No. PSC-95-0720-FOF-WS (June 15, 1995); Order No. 25821 (February 27, 1992).

No party opposed a year-end rate base calculation. A year-end rate base should be approved.

ISSUE 9: IF THE COMMISSION DOES ALLOW A MARGIN RESERVE, SHOULD IT IMPUTE CIAC ASSOCIATED WITH THE MARGIN RESERVE?

FCWC: ***No.*

As discussed in Issue 8, investment in margin reserve is properly recognized as a necessary investment in used and useful plant to allow a utility to meet its statutory duty of readiness to service existing and future customers. Offsetting margin reserve by imputing anticipated CIAC effectively subverts the purpose of a margin reserve, and confiscates utility investment in plant used and useful in the public service. The inevitable result of

imputation policy is a perpetual process of design and construction of wastewater treatment facilities and small incremental plant expansions, in direct conflict with the intent of FDEP advance planning and construction requirements. (T. 299 - 300; 313 - 318)

While future customers, when and if they appear, pay CIAC as they need capacity, FCWC should be allowed to earn a return on the investment in margin reserve until those customers actually pay the CIAC. The basis for ratemaking is the test period, with revenues, expenses, investment and offsets to investment, including CIAC, matching. To offset the margin reserve by imputed CIAC beyond the test year "results in a clear mismatch of speculative future CIAC against current investment in used and useful plant." (T. 301) The logical mismatching of period investment with out-of-period contributions denies a utility the ability to ever earn on its investment in margin reserve, rendering the margin reserve meaningless. (T. 664)

Ms. Dismukes asserted that FCWC would be compensated for investment in margin reserve through an Allowance for Funds Prudently Invested (AFPI). AFPI is a mechanism which allows a utility to earn a fair rate of return on prudently constructed plant held for future use through a charge collected from the future customers to be served by that plant. Rule 25-30.434(1), Fla. Admin. Code. AFPI charges may be appropriate for funding non-used and useful plant built to maximize economies of scale. AFPI charges do not apply to used and useful plant, which by past PSC practice includes a margin reserve. (T. 664)

In sum, existing customers should be responsible for paying a return in investment in margin reserve. The recovery of capital should come from future customers as they make CIAC payments. (T. 301) The PSC should not destroy the utility's ability to earn a return on its actual investment in margin reserve by the imputation of speculative future CIAC.

ISSUE 10: SHOULD WORKING CAPITAL BE ADJUSTED?

FCWC: ***Yes, working capital should be reduced by Other Deferred Credits of $10,217.***

The initially requested working capital allowance should be adjusted to include Deferred Metered Sales and Deferred Pension Cost. However, the Deferred Gross Receipts Tax directly related to Carrying Charges should be excluded from working capital. The resulting adjustment to working capital, as allocated to the North Fort Myers wastewater division, is $10,217. This results in a net working capital allowance for North Fort Myers wastewater of $114,557. (T. 760 - 761)

To avoid a mismatch with the balance of rate base components, a year-end working capital calculation should be employed. (T. 759)

ISSUE 11: WHAT RATE BASE AMOUNT SHOULD BE APPROVED?

FCWC: *$8,404,278, as per MFRs. However, the final amount is subject to the resolution of other issues.*****

ISSUE 12: WHAT IS THE APPROPRIATE RATE OF RETURN ON EQUITY?

FCWC: ***11.88%, under the current leverage graph.***

Rule 25-30.433(11), Florida Administrative Code, provides:

> In establishing an authorized rate of return on common equity, a utility, in lieu of presenting evidence, may use the current leverage formula adopted by Commission order. The equity return established shall be based on the equity leverage order in effect at the time the Commission decides the case.

The current equity leverage order is Order No. PSC-95-0982-FOF-WS (August 10, 1995). Given the equity ratio supported by the record, the appropriate rate of return on equity is 11.88%. (T. 764)

ISSUE 13: SHOULD ANY ADJUSTMENTS BE MADE TO THE EQUITY COMPONENT OF THE COMPANY'S CAPITAL STRUCTURE?

FCWC: ***Yes, equity should be increased by a $2,000,000 parent company equity investment made in December, 1995.***

In December, 1995, FCWC issued $18,000,000 in senior notes. This significantly lowered its cost of debt, as discussed in Issue 14. As part of the proceeds of that issue, FCWC repaid a $2,000,000 parent company advance. Also in December, 1995, the parent company made an equity contribution to FCWC of $2,000,000. In summary, there was a paydown of debt and a subsequent equity infusion.

This equity infusion was consistent with FCWC's past practice, and was necessary to improve FCWC's common equity ratio. Prior to the equity investment, FCWC's common equity ratio was dangerously close to 30%, the minimum requirement set by controlling debt instruments. The $2,000,000 equity infusion was necessary for FCWC

to remain viable by preserving its ability to obtain financing through borrowing. (T. 749 - 750; 800 - 802) FCWC's capital structure should therefore be adjusted to recognize the $2,000,000 equity contribution.

ISSUE 14: SHOULD ANY ADJUSTMENTS BE MADE TO THE DEBT COMPONENT OF THE COMPANY'S CAPITAL STRUCTURE?

FCWC: ***Yes, the debt component of the capital structure should be adjusted to reflect the December, 1995 issuance of $18 million in senior notes at 7.27%.***

The MFRs, filed in May, 1995, reflected a $2,000,000 advance at 9.00% from FCWC's parent company, which was subsequently repaid. The MFRs also projected a $5,000,000 debt issue at 9.50% later in the test year ended December 31, 1995. That projected debt issue should be replaced by FCWC's actual issuance, in December, 1995, of $18,000,000 in senior notes at 7.27%. (Exh. 1 (LC-1), p. 92; T. 749 - 750; T. 800 - 802)

The debt component of the company's capital structure should be adjusted accordingly.

ISSUE 15: SHOULD ANY ADJUSTMENTS BE MADE TO THE COST OF INVESTMENT TAX CREDITS?

FCWC: ***Yes, the customer deposit component should be removed from the calculation.***

In its MFRs, FCWC included customer deposits in its calculation of tax credit cost. (Exh. 1 (LC-1), pp. 84 - 85) This was inappropriate. However, if customer deposits are removed from the calculation, there is no effect on the overall cost of capital and rate of return.

ISSUE 16: WHAT IS THE APPROPRIATE OVERALL COST OF CAPITAL?

FCWC: ***As per MFRs. However, the final amount is subject to the resolution of other issues.***

ISSUE 17: SHOULD CHEMICAL AND PURCHASED POWER EXPENSE ADJUSTMENTS BE MADE TO RECOGNIZE INFLOW AND INFILTRATION?

FCWC: ***No.***

As discussed in Issue 5, inflow and infiltration should be deemed to be within allowable limits.

Further, I&I in itself does not necessarily increase treatment costs. As Mr. Dick testified,

> (t)he wastewater contains a certain amount of pollutants, and if its diluted with rainwater or groundwater, that does not change the amount of the pollutants that come to the plant; therefore, the actual treatment process would not be any more costly. You would still be treating this same amount of pollutants. (T. 253)

In any event, given the nature, age, size and below groundwater location of the collection system, no expense adjustments are warranted.

ISSUE 18: ARE THE PROPOSED ADJUSTMENTS TO WATER AND WASTEWATER EXPENSES TO REFLECT CUSTOMER GROWTH AND THE PSC INDEX APPROPRIATE?

FCWC: ***Yes.***

Public Counsel challenged FCWC's growth and index adjustments to certain operating expenses, based on Ms. Dismukes' belief that it was unrealistic "to assume that expenses will automatically increase." (T. 540)

In its MFRs, FCWC made numerous such adjustments, some based

on customer growth and inflation, and some based only on customer growth. (Exh. 1 (LC-1), pp. 34 - 38) FCWC used a 1.62% growth factor, and a 1.95% inflation factor based on the PSC's 1995 price index factor. As Mr. Coel testified, FCWC's utilization of the price index factor to "cover anticipated inflation in the projected test year is in lieu of filing a Price Index Application immediately following this rate case proceeding." It is reasonable and more prudent to incorporate these adjustments in the pending rate case. While it may be unrealistic to assume that expenses will "automatically increase," it is also unrealistic to assume that the expenses will not be affected by customer growth and inflation. (T. 750 - 751)

Ms. Dismukes removed $227 from materials and supplies, since the actual expense decreased between June 30, 1993 and December 31, 1995. She also removed $1,269 from transportation since the actual expense decreased from 1993 to 1994. (T. 541 - 542) Mr. Coel testified that while these particular expenses may have decreased, other expenses have increased above projections, and that to "adjust or true-up one expense item creates a mismatch." (T. 753)

Ms. Dismukes' recommended adjustment to postage and billing costs is discussed in Issue 19.

Finally, Ms. Dismukes advocated removal of $3,198 of miscellaneous expenses attributed to growth and projected inflation. (T. 542 - 543) Mr. Coel explained that most of the significant increase in miscellaneous expense is due to FDEP mandated sample analysis and toxicity testing requirements for the

wastewater facility and the Caloosahatchee River outfall. (T. 754 - 755)

FCWC's expense projections are reasonable, logical and supported by changed conditions or past experience. Ms. Dismukes' adjustments are unsupported and should be rejected.

ISSUE 19: IS THE COMPANY'S ADJUSTMENT TO INCREASE EXPENSE FOR POSTAGE AND ENVELOPE BILLING COSTS APPROPRIATE?

FCWC: ***Yes.***

Customer service has been enhanced by the implementation of a laser-printed stuffed bill with return envelope. (Exh. 10 (RMD-2)) The previous postcard bills were frequently misplaced by the postal service or mixed with other 4th class mail and accidentally discarded. The new envelope-style billing offers improved readability and facilitates the provision of customer information previously requiring separate mailings. The new billing package also offers the convenience of a return envelope. (T. 238; 240)

Ms. Dismukes testified that improvements in mail delivery of the bills "should increase the Company's cash flow and reduce its working capital requirements." (T. 542) She provided no evidence in that regard. (T. 752)

Ms. Dismukes further advocated a reduction in postage, on the grounds that the ability to provide customer information on the bills would avoid separate mailings. (T. 542) Mr. Coel refuted this notion, testifying that "(i)n the past, separate mailings have been rarely used because of the expense. It was not until FCWC went to the stuffed billings did FCWC have a cost effective means

to communicate with its customers." (T. 752)

Ms. Dismukes also testified that the proposed cost increase was overstated, since the only increased cost was the postage differences for a postcard and an envelope. (T. 541 - 542) This erroneous assertion was corrected by Mr. Coel, who testified that

> (t)he cost associated with the stuffed bill including the extra paper cost for the larger bill, an envelope, and a return envelope are more than the cost of the postcard bill. In addition, since the last rate application there has been an increase in postage rates. (T. 752)

Given the benefits to the customer the Commission should accept the new billing method as a cost-effective means for the utility to communicate with its customers. No adjustment is warranted.

ISSUE 20: SHOULD ANY ADJUSTMENT BE MADE TO AFFILIATE EXPENSES CHARGED TO THE COMPANY?

FCWC: ***No, the charges are reasonable.***

Public Counsel challenged the level of affiliated expenses charged to the North Fort Myers division. Ms. Dismukes advocates a 10% disallowance of certain administrative and general and customer accounting expenses, contending that FCWC failed to follow the Commission's MFR requirements on expenses allocated from affiliates, and that unreasonable, duplicative, or otherwise improper charges "may" have been included. Public Counsel engaged in no discovery regarding affiliate charges and provided no documentation in support of her proposed disallowance. (T. 724 - 725)

Contrary to Ms. Dismukes' assertion, FCWC in fact complied with Rule 25-30.436(4)(h), Florida Administrative Code. (T. 752) The MFRs in fact contain workpapers in support of the proposed allocations. These include the basis for divisional allocation ratios, the underlying services agreement, and related information. (Exh. 1 (LC-1), pp. 51; 163 - 176) The MFRs further state that "(d)ue to the voluminous number of allocations made, schedules showing the computation of allocation percentages for all expenses allocated are available for inspection at the Utility's office in Sarasota, Florida." (Exh. 1 (LC-1), p. 51) The PSC found no deficiencies in its determination that the minimum filing requirements as submitted were complete as filed. (Exh. 22 (LC-4)) This level of documentation of workpapers regarding affiliate allocations has been accepted by the Commission in all recent FCWC rate cases. (T. 758) Public Counsel's challenge disregards the PSC's finding in the last completed rate case in which Ms. Dismukes similarly challenged FCWC's affiliate expenses. By Order No. PSC-93-1288-FOF-SU (September 7, 1993) at p. 27, the PSC determined that "it is inappropriate to make a reduction when the record does not support an argument that any specific charge is unreasonable. Therefore, we find that no adjustment shall be made to the allocation of transactions with affiliate companies."

The requested divisional allocated expenses, as amply documented in the MFRs, are consistent with FCWC's allocation methodology as previously accepted by the PSC. (T. 758)

Ms. Dismukes asserted that there appeared to be a discrepancy

between the method of allocation of administrative staff's wages and salaries. Mr. Coel therefore explained that

> (s)alaries and wages of Sarasota's General Office administrative staff are first allocated to subsidiaries and affiliates of Avatar Utilities Inc. based on annual estimates. These charges are adjusted as circumstances change. These subsidiaries are Florida Cities Water Company, Poinciana Utilities Inc., Barefoot Bay Propane Gas Company and Avatar Utility Services, Inc.; affiliates are Rio Rico Utilities Inc. as well as time allocated to Avatar Utilities Inc. Of the amount allocated to FCWC a further allocation to each division's water and wastewater functions is based upon the three factor method which computes an allocation based upon the system size to the size of all FCWC systems using three criterion, utility plant, customers and payroll. (T. 755 - 756)

Ms. Dismukes' arbitrary disallowance of affiliate expenses is irreconcilable with the Supreme Court's holding in GTE Florida Incorporated v. Deason, 642 So. 2d 545 (1994). In that case, the Court found that the PSC had abused its discretion in disallowing certain costs arising from transactions between the utility and its affiliates, where the evidence indicated that utility costs were no greater than they would have been had the utility purchased services and supplies elsewhere:

> The mere fact that a utility is doing business with an affiliate does not mean that unfair or excess profits are being generated, without more . . . . We believe the standard must be whether the transactions exceed the going market rate or are otherwise inherently unfair. (at 547 - 548)

The PSC recently concluded an undocketed audit of FCWC's affiliate transactions. The recently released audit opinion rendered by Staff clearly found that the services provided by the

affiliate companies to FCWC are "ordinary and necessary, effective and beneficial, not redundant and reasonably costed and appropriately allocated. (Exh. 22 (LC-3))

There is ample support for the reasonableness of both the allocation methodology employed by FCWC for this case and the actual level of allocated expense. No adjustment therein is supported by the record.

ISSUE 21: WHAT IS THE APPROPRIATE PROVISION OF RATE CASE EXPENSE?

FCWC: *$90,863.*****

The utility submitted ample documentation of the rate case expense incurred and projected to complete the case. (Exh. 1 (LC-2); Exh. 30 (LC-5)) Rate case expense is $90,863.

Public Counsel witness Dismukes asserted that a $13,949 disallowance should be made to avoid double counting expenses already included in test year expenses for in-house preparation of MFRs and testimony. (T. 551)

Mr. Coel refuted Ms. Dismukes' testimony. The expenses at issue related to his own time "for preparing and filing the MFRs, preparing testimony, responding to data requests and interrogatories, preparing customer notices, and general administration of the rate case proceeding." Mr. Coel testified that these charges are deferred and recorded in account 11-186.10, deferred rate case expenses. These charges "are not recorded in FCWC's labor expense and therefore, there is no double counting of this expense. . . . Only the time spent by Mr. Coel on `non-rate'

case related work is recorded as labor expense." (T. 761 - 762)

Ms. Walla challenged twenty-one specific rate case expense items. Ms. Walla offered no explanation other than her conclusion that the expenses "are not prudent and should not be paid by the customers." (T. 504 - 505) In supplemental prefiled testimony, Mr. Coel provided a detailed justification for each of the twenty-one rate case expenses challenged by Ms. Walla. (T. 766 - 778)

The record clearly supports a finding that requested rate case expenses were reasonable and prudently incurred. No adjustment is warranted.

ISSUE 22: WHAT PERSONAL PROPERTY TAX EXPENSE IS APPROPRIATE?

FCWC: ***As per MFRs. However, the final amount is subject to the resolution of other issues. Ms. Dismukes' calculation of property taxes is in error since it utilizes an incorrect non-used and useful percentage.*

In Ms. Dismukes' direct testimony, taxes other than income is adjusted by ($34,553). (Exh. 22, Schedule 2) Ms. Dismukes provided a supporting schedule titled "Property Tax Adjustment" after Schedule 14 in her Direct Testimony. This schedule calculates an adjustment (reduction) to property taxes due to non-used and useful plant. Ms. Dismukes' calculation is based on her non-used and useful percentage, which is significantly in error. The treatment facilities are 100% used and useful as presented in the Direct Testimony of Douglas R. Young. (T. 747 - 748)

ISSUE 23: WHAT REGULATORY ASSESSMENT FEE EXPENSE IS APPROPRIATE?

**FCWC: ***As per MFRs. However, the final amount is subject to

the resolution of other issues. Ms. Dismukes' calculation of taxes other than income is in error as she made no allowance for regulatory assessment fees.*

Ms. Dismukes erroneously omitted from her calculation of taxes other than income any allowance for regulatory assessment fees. (Exh. 22, Schedule 2) Regulatory assessment fees should be calculated as 4.5% of revenues and included in taxes other than income. (T. 748; Exh. 1 (LC-1), p. 37, line 11)

ISSUE 24: WHAT INCOME TAX EXPENSE IS APPROPRIATE?

FCWC: ***As per MFRs. However, the final amount is subject to the resolution of other issues. Ms. Dismukes' calculation utilizes an inappropriate marginal income tax factor.*

Ms. Dismukes' calculation of income taxes uses a marginal income tax factor of 7.7%. She provided no supporting schedule or backup for her calculation. The appropriate marginal income tax factor is 22.4%. (Exh. 1 (LC-1), p. 30) FCWC would also not oppose the income tax calculation methodology used in the Proposed Agency Action order in this proceeding. (T. 746 - 747)

ISSUE 25: WHAT IS THE TEST YEAR OPERATING INCOME BEFORE ANY REVENUE INCREASE?

FCWC: ***As per MFRs. However, the final amount is subject to the resolution of other issues.*

ISSUE 26: WHAT IS THE APPROPRIATE REVENUE REQUIREMENT?

FCWC: *$2,591,990, as per MFRs. However, the final amount is subject to the resolution of other issues.***

ISSUE 27: WHAT REUSE RATE SHOULD BE APPROVED?

FCWC: *****The market price in North Lee County should be used. The PSC should avoid creating a disincentive for use of reclaimed water given the limited options available at this time.*****

FCWC proposed a $0.13/1000 gallons reuse rate. This is the same rate authorized by the PSC in Order No. PSC-92-0731-FOF-SU for FCWC's South Fort Myers Division. (Exh. 1 (LC-1), p. 105)

FCWC is required by the FDEP to dispose of all effluent flows over 1.0 MGD as reclaimed water. (T. 673; Exh. 1 (LC-1), p. 230)

FCWC's reuse plan involves an estimated .25 MGD of effluent disposal at the Lochmoor Country Club golf course. (T. 654) Construction of the reclaimed water line is complete. The treatment plant has been recently upgraded to meet high level disinfection requirements. FCWC has entered into a twenty-year reclaimed water agreement with Lochmoor Country Club. (Exh. 28 (JLK-4)) The agreement provides for Lochmoor's payment for reclaimed water "at rates and charges specified in its tariff as approved by the FPSC." The agreement further provides that either party may terminate its obligations by notice given 180 days prior to each annual renewal of the agreement (or otherwise upon one year advance notice). Ms. Karleskint testified that pricing of reclaimed water is market driven:

> If the price is higher than the market, little or none will be sold, thus forcing wastewater utilities to pursue other, and often more costly disposal options. The reclaimed water must be priced to induce reuse customers to accept reclaimed water. FCWC is required by the FDEP to dispose of all effluent flows over one million gallons per day as reclaimed water. AS long as the purchaser has options,

> as is the case with Lochmoor Country Club, then the purchaser has the domina[nt] hand in pricing. The Country Club is not required to accept reclaimed water if it can demonstrate that it is not economically feasible. If the price of reclaimed water is increased to the point of being uneconomical, the Lochmoor Country Club would have the right to terminate the use of reclaimed water with notice. . . . Lochmoor Country Club is the nearest reuse site to the treatment plant and is presently the only reclaimed water customer that can be served with the reclaimed water main, and it would be at an additional cost to the rate payers to extend reclaimed water service to serve other customers should Lochmoor decide not to take reclaimed water. (T. 673)

In its contract negotiations with FCWC, Lochmoor has indicated that it would accept the $0.13/1000 gallons rate. (T. 703) While Lochmoor's consumptive use permit requires its use of available reclaimed water for irrigation, Ms. Karleskint testified that she believes a higher rate would cause Lochmoor to decrease its actual usage. Further, the Water Management District may modify its consumptive use permit conditions if Lochmoor can demonstrate that it is not economically feasible for the golf course to accept reclaimed water. (T. 702 - 704)

The Commission should avoid creating a disincentive for use of reclaimed water, which would jeopardize FCWC's effluent disposal capabilities and necessitate more costly disposal options. The provision of reclaimed water to other customers and the attendant costs are discussed in Issue 28.

ISSUE 28: WAS LOCHMOOR GOLF COURSE A PRUDENT CHOICE FOR THE REUSE SITE?

**FCWC: ***Yes, Lochmoor Golf Course is the nearest reuse site to

the treatment plant.***

FCWC is required by FDEP to dispose of all effluent flows over 1.0 MGD as reclaimed water. (T. 673; Exh. 1 (LC-1), p. 230; T. 677)

FCWC's reuse plan includes an estimated .25 MGD of effluent disposal at the Lochmoor Country Club golf course. (T. 654) FCWC has entered into a twenty-year reclaimed water agreement with Lochmoor. (Exh. 28 (JLK-4)) Construction of the reclaimed water line is complete. The treatment plant has been upgraded to meet high level disinfection requirements. During periods of heavy rains the treatment plant is permitted for wet weather discharge into the Caloosahatchee River. (T. 587 - 588)

Lochmoor is the nearest reuse site to the treatment plant and is the only reclaimed water customer that can be served with the existing reclaimed water main. Substantial additional costs would be required to extend reclaimed water service to other customers. (T. 673) The cost of extending the reclaimed water main to the El Rio Golf Course, for example, was estimated in 1992 to be $350,000. Other potential customers would require a further reclaimed water main extension. (T. 286 - 289) The City of Cape Coral has indicated that it would accept reclaimed water from FCWC, but at no charge. The City already provides reclaimed water to most of its service area. (T. 283 - 285) At this time it would be premature to speculate on reclaimed water arrangements with the City. (T. 303)

The record clearly supports a finding that Lochmoor is a

prudent choice as a reuse site.

ISSUE 29: WHAT ARE THE APPROPRIATE WASTEWATER RATES FOR FLORIDA CITIES WATER COMPANY - NORTH FT. MYERS WASTEWATER DIVISION?

FCWC: ***As stated in the MFRs. However, the final amount is subject to the resolution of other issues.***

ISSUE 30: WHAT IS THE APPROPRIATE AMOUNT BY WHICH RATES SHOULD BE REDUCED FOUR YEARS AFTER THE ESTABLISHED EFFECTIVE DATE TO REFLECT THE REMOVAL OF THE AMORTIZED RATE CASE EXPENSE AS REQUIRED BY SECTION 367.0816, FLORIDA STATUTES?

FCWC: ***The appropriate rate reduction is subject to the resolution of issue 21.***

ISSUE 31: SHOULD THE UTILITY BE REQUIRED TO REFUND A PORTION OF THE REVENUES IMPLEMENTED PURSUANT TO ORDER NO. PSC-95-1360-FOF-SU, ISSUED NOVEMBER 2, 1995?

FCWC: ***The final amount, if any, is subject to the resolution of other issues.***

ISSUE 32: DOES THE ORDER ESTABLISHING PROCEDURE FACILITATE THE PARTICIPATION OF LAY CUSTOMERS IN THE HEARING PROCESS?

FCWC: ***Due process safeguards must be preserved.***

ISSUE 33: DOES THE COMMISSION WAIVE, TO THE EXTENT LEGALLY POSSIBLE, ITS CHARGES FOR DOCUMENTS PROVIDED TO INTERVENING CUSTOMERS?

FCWC: ***No position.***

ISSUE 34: SHOULD THE RATE DECREASE REQUIRED BY ORDER NO. PSC-92-0594-FOF-SU TO REFLECT RATE CASE EXPENSE AMORTIZATION FROM DOCKET NO. 910756-SU BE IMPLEMENTED AS SCHEDULED ON JUNE 30, 1996?

FCWC: *****Yes, pursuant to stipulation, the rate reduction should be implemented as monthly credits until final rates are implemented.*****

Under Order No. PSC-92-0594-FOF-SU (July 1, 1992), a nominal rate reduction is required by June 30, 1996 to reflect the expiration of rate case expense amortization from a previous North Fort Myers wastewater division rate case. The rate reduction would reduce annual revenues by about $21,000, or $1750 on a monthly basis. (Exh. 2; T. 133) The PSC is scheduled to vote on a permanent rate increase on July 16, 1996, which is expected to far exceed the nominal rate reduction. It would avoid customer confusion and be efficient and cost effective to incorporate the rate reduction in the final rate order. (T. 126 - 127)

At the hearing, all parties agreed to this procedure, and the Commission approved the stipulation, with the understanding that Staff-calculated allocations of the rate reduction would be used as monthly credits until final rates are implemented, with FCWC to submit a customer notice for comment by the parties and approval by Staff. (T. 132 - 137)

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of May, 1996, a true and correct copy of Florida Cities Water Company's Post-Hearing Statement of Issues and Positions and Brief has been furnished by hand delivery to Ralph R. Jaeger, Esquire, Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 and to Mr. Harold McLean, Esquire, Office of Public Counsel, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, and by regular U.S. Mail to:

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