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May 20, 1996

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

Re: Case No. 950387-SU

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Post Hearing Statement. A diskette in IBM-compatible WordPerfect 5.1 is also submitted. Also submitted for filing is the original and 15 copies of Cheryl Walla Post Hearing Statement.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Harold McLean  
Associate Public Counsel

ACK \_\_\_\_\_  
AFA 2  
APP HM:bsr  
CAF Enclosures  
CMU \_\_\_\_\_  
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PH Statement  
DOCUMENT NUMBER-DATE  
05547 MAY 20 88  
FPSC-RECORDS/REPORTING

Walla's PH Statement  
DOCUMENT NUMBER-DATE  
05548 MAY 20 88  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

URGENT  
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In Re: Application for	)	DOCKET NO. 950387-SU
Increased Wastewater Rates by	)	Filed: May 20, 1996
Florida Cities Water Company -	)	
North Ft. Myers Division in Lee	)	
County.	)	
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CITIZENS' POST HEARING STATEMENT

The Citizens of the State of Florida, by and through JACK SHREVE, Public Counsel, file this their Post Hearing Statement. Where material is in addition to the positions taken in the Citizens' Prehearing, the new material is marked with an asterisk (\*) at the beginning and end of the new material.

POSITIONS AND DISCUSSION

Basic Position: The rates proposed by Florida Cities Water Company, North Ft. Myers Division, are excessive. Florida Cities Water Company, North Ft. Myers Division, has overstated its rate base, projected operating and maintenance expenses, and cost of capital. Florida Cities Water Company has failed to demonstrate that costs charged or allocated to it by its affiliates are reasonable. Florida Cities Water Company, North Ft. Myers Division, has overstated its rate base by including more working capital than required, and by overstating the used and useful percentage of its wastewater treatment plant.

DOCUMENT NUMBER-DATE  
05547 MAY 20 86  
FPSC-RECORDS/REPORTING 00692

QUALITY OF SERVICE

ISSUE 1: Did FCWC misrepresent with less than truthful statements in three public documents?

Position: Agree with Ms. Walla.

Discussion: \*While the evidence in the record does not show an intention to misrepresent with respect to this issue, the record certainly discloses a lack of regard for the truth of public statements by FCWC. When Ms. Walla cross-examined Mr. Dick regarding the Company's statements regarding the withdrawal of certain protesting customers, Mr. Dick, a company witness said the following:

- Q. (By Ms. Walla) Where did you get your information from that -- where did you get your information that 12 customers had withdrawn from this protest?
- A. I had gotten that information inner-company information. I provided that information at the utility committee meeting without having verified that information. It was just an attempt to keep them updated. You know, there was no other reason to, you know, supply that information. Once it was brought to my attention that it was not accurate, I apologized to the committee. But it was hearsay information that I did not take the time to verify the accuracy of the information.

(Tr. 738)

The Citizens believe that it would be good policy for the utility to verify any statement which is of great importance to the customers of the utility, particularly where the information

concerns customer participation.\*

**ISSUE 2:** Should the Commission seriously consider customers' testimony on service when rendering its decision on quality of service?

**Position:** Yes.

**Discussion:** \*The Commission should consider the customer's testimony paramount on the issue. The Customers are in the best position to experience quality of service, and to evaluate it accordingly. The Commission ought to ensure that it gives due consideration to all customer testimony whether offered before or after the Proposed Agency Action.\*

**ISSUE 3:** Is the quality of service satisfactory?

**Position:** No position, pending further development of the record.

**Discussion:** \*The record shows considerable customer dissatisfaction with the odors arising from the sewage treatment plant.

Customer witnesses Ebie (Tr. 47); Mills (Tr. 56); Brillhart (Tr. 70); and Catalano (Tr.483); each testified as to odors at the sewage treatment plant. Company witness Barinbrock (a FDEP employee) admitted that his own testimony acknowledged complaints lodged by the nearby restaurant (Tr. 184). Mr. Barinbrock also apparently meant to include additional complaining customers in addition to the restaurant complaints.

When quizzed about the matter by Ms. Walla, he said:

Q. Okay. Now we're going to go to your testimony, Page 2, Lines 21, and Page 3, Lines 1 and 2. Has the DEP received other complaints of odors other than the nearby restaurant that you mention in your testimony?

A. Yes, sir [sic]. they have.

Q. How many were there? And do they not carry some weight to be mentioned in this testimony here along with the restaurant?

A. They do carry weight. When I included this portion in my testimony they were also included in my mind. It's not specifically stated here, but they are included in that. The Department hasn't received odor complaints recently.

(Tr. 200)

Thus a DEP witness acknowledged that other persons had complained about an odor problem at the sewage treatment plant. There was testimony about an odor petition circulated by the customers which contained complaints either including already referenced complaints, setting forth different ones:

Q. (By Ms. Walla) Okay. (Pause) I'd like to go to Page 4 of your testimony, Lines 4 through 7.

A. (Witness Karleskint) Yes, ma'am.

Q. Are you aware of how many customers who signed the older [sic] petition live in the immediate area of the plant?

A. Yes, ma'am. When I responded to that question, I asked Mr. Dick, our division manager, to list all of the addresses of those people in there that signed the petition and put them on a map for me so I could see where the problems were. Unfortunately, when I looked at the map, I noticed that people, you know, a mile away were complaining about the odor of the plant, and I realized that that's probably not the case. Those living in the immediate vicinity -- I didn't bring it

with me. I probably should have, but it was just maybe five.

Company witness Karleskint then attempted to impeach the apparent representations of the odor petitioners because of their distance from the plant. When asked by Ms. Walla how many of the petitioners lived within the immediate vicinity of the plant, Witness Karleskint said:

A. I wouldn't consider a mile to be in the immediate area, ma'am. You know, I've worked around wastewater treatment plants for a long time; and when you're a mile away from a wastewater treatment plant, you usually cannot smell it. You need to be pretty close to that wastewater plant and there needs to be a pretty strong wind for you to get some odors because of the dispersion with the air.

(Tr. 694)

However, it was also established by Ms. Walla's questioning of the witness that there was clear opportunity for the petitioners to detect the odor of the plant even though they may not be within the zone which Ms. Karleskint regarded as immediate.

Under questioning, Ms. Karleskint said:

Q. (By Ms. Walla) Are you aware that the plant is next to Shuckers Restaurant and Caloosa Island Marina?

A. Yes, I am, ma'am.

Q. Do you know how many of your customers frequent the restaurant or the marina or simply are walkers or boaters in the area?

A. I would assume that there would be quite a few.

Q. Did you not consider these facts when deciding these customers would not have the opportunity to notice odors from the plant?

A. I did not consider that, ma'am. I looked at where their addresses were.

(Tr.695)

While it may be true that the DEP has not received any odor complaints lately, the record shows numerous, credible complaints regarding odor at the sewage treatment plant. The Commission should give appropriate attention to this matter when establishing permanent rates for this utility.\*

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RATE BASE

ISSUE 4: What capacity of the wastewater plant and what flows should be used to calculate used and useful?

Position: The average annual daily flow capacity of the plant is 1.5 MGD. The peak day hydraulic capacity of the plant is 3.0 MGD. If the Commission uses the peak month flow to calculate used and useful, then the peak month capacity of the plant should likewise be used.

However, if the Commission uses the average annual daily flow capacity to calculate used and useful, then the average annual daily flow of the system should be used.

Discussion:

\*Capacity

The average annual daily flow capacity of the plant is 1.5 MGD. The peak daily flow of the plant is 3.0. According to Late-Filed Exhibit 27, the peak hydraulic design flow of the plant is based

on a peak daily flow of two times the average annual daily flow. [Late-Filed Exhibit 27.] The construction and operating permit issued by the DEP shows the average annual daily flow capacity of the plant to be 1.5 MGD. [Exhibit 25, Tr. 553.] Thus, two times the average annual daily flow of the plant produces a peak flow capacity of 3.0 MGD.

The Company argues that the expanded plant's average annual daily flow capacity is only 1.25 MGD. However, the reason for the difference between the 1.25 MGD argued by the Company and the 1.5 MGD contained in the construction and operating permit remains somewhat of a mystery. Witness Cummings agreed that the construction permit, Exhibit 25, allowed the Company to expand the plant to 1.5 MGD. [Tr. 592.] Furthermore, Mr. Cummings indicated that the basis of the information contained in the construction and operating permit issued by the DEP was obtained from information that was submitted by Florida Cities Water Company. [Tr. 592-93.] The Company claims that despite its permitted capacity, the plant is designed to meet an average annual daily flow of 1.25 MGD. [Tr. 594.] The difference between the 1.25 MGD and the 1.5 MGD is partly explained by Exhibit 24, which identifies a few modifications to the original design of the plant. Under cross-examination, Mr. Cummings admitted that several components of the allegedly constructed 1.25 MGD plant would require no change to increase the capacity of the plant to



1.50 MGD. Other components, however, would require modification or replacement. Unfortunately, Mr. Cummings could not provide a reasonable financial impact associated with the modifications that would be required to increase the capacity of the plant to 1.5 MGD. [Tr.596-610.]

In contrast to the testimony of Mr. Cummings, Mr. Shoemaker of the DEP testified that the plant's permitted capacity is 1.5 MGD, limited to 1.3 MGD for disposal purposes. [Tr.171.] Mr. Shoemaker also testified that DEP would not necessarily accept the certification of the engineer of record as to the capacity of the plant, but that DEP would have to ask questions concerning the confusion between the capacities to the plant. [Tr. 173-74.] Mr. Shoemaker testified that the capacity of the plant "is confused right now by all parties..." [Tr. 174.] He elaborated that the notification of completion to place a modified facility into operation has to "be reviewed based on the original submitted documents and reviewed associated with the new submitted documents, and an evaluation of all of these documents, and question asked by the Department from the applicant to clarify the two different capacities of concern in this project." [Tr. 175.]

The utility has the burden to demonstrate the capacity of the expanded wastewater treatment plant. The Company's construction

permit shows a capacity of 1.5 MGD and the DEP witness believes the capacity to be 1.5 MGD. Despite these two consistent sources, the Company comes to the Commission suggesting that it changed the design, such that the plant's capacity is only 1.25 MGD--but it can not tell the Commission how much it would cost to expand the alleged 1.25 MGD plant to 1.5 MGD. The Commission should reject the Company's claims and find that the average annual daily flow capacity of the plant is 1.5 MGD.

#### Flow

The Citizens recommend use of a flow that is consistent with the capacity of the plant. Accordingly, if the Commission uses a capacity which is based upon an average annual daily flow capacity of 1.50 MGD, then it would likewise be appropriate to use an average annual daily flow (.942 MGD) to calculate the used and useful percentage. Using a 1.5 MGD hydraulic capacity with consistent average annual daily flows would produce a used and useful percentage 62.80%. Using an average annual daily flow capacity of 1.25 MGD, the plant would be 75.36% used and useful. [Exhibit 1.]

If the Commission uses the max month flow to calculate the used and useful percentage with the average annual daily flow capacity of 1.50 MGD, the plant is shown to be 49.34% used and

useful. [Exhibit 22, Schedule 11 and Tr. 557.]\*

**ISSUE 5:** Does the wastewater collection system have excessive infiltration and inflow that should be removed when calculating used and useful?

Position: Yes. Excessive inflow and infiltration for the peak month was at least 13,408,794 gallons. The excessive infiltration and inflow should be removed from the flow used to calculate used and useful plant.

\*Discussion: As shown on Exhibit 22, Schedule 19, during the historic test year peak month, the Company experienced infiltration and inflow of 50.98%. This figure was unrebutted and unchallenged by the Company.

Customers should not be required to pay for extra plant due to excessive infiltration and inflow (I&I) problems. If the Commission adopts the Company's flow for purposes of calculating used and useful and ignores the adjustment for excessive infiltration and inflow, it will essentially condone the construction of plant capacity to treat an infiltration and inflow problem that could be corrected using other means. The Company presented no evidence that it was cheaper to build a larger plant (transport and treat) than to correct the problem by other means.[Tr. 231.]

There was considerable testimony from customers of North Fort Myers concerning the infiltration and inflow problems and

the failure of the Company to properly maintain their collection lines. [Tr. 408-411, 448, 462, 44-45, 79.] As discussed below, the Commission should not require the customers of this utility to pay for the cost of expanding a plant that was only needed to treat excessive infiltration and inflow.

Exhibit 22, Schedule 13, shows the calculations the Citizens recommend to determine an appropriate level of inflow and infiltration for this system. The criteria set forth in the Water Pollution Control Federation, Manual of Practice No. 9 and the Recommended Standards for Wastewater Facilities, was used to develop the amount of infiltration and inflow that should be permitted for this system. As depicted on Exhibit 22, Schedule 13, the former manual recommends a high allowance for inflow and infiltration of 5,000 gpd/per mile for pipe that is 8 inches or less, 6,000 gpd/per mile for pipe that is 9 to 12 inches, and 12,000 gpd/per mile for pipe that is 13 to 24 inches. Using the pipe parameters of North Fort Myers and the criteria set forth in this manual, the permitted amount of infiltration and inflow for this system for the peak month is 4,538,494 gallons. This compares to the actual infiltration and inflow of 35,259,000 gallons or an excessive amount of 13,408,794 gallons. Subtracting the excessive amount of inflow and infiltration from the actual flow, shows that the peak month flow adjusted for excessive infiltration and inflow is .728 MGD, as opposed to the actual flow of 1.1753 MGD. [Exhibit 22, Tr. 555-57.]

The Company disputes the use of Table VII because it believes Table VII refers to extensions. This contention, however, is incorrect. Table VII shows the allowances of I&I that have been allowed in the past. The table does refer to extensions, but in the context of determining, based upon past practices, how much I&I should be considered for design purposes. [Exhibit 6.] What has been allowed in the past, clearly would apply to systems such as North Fort Myers. It is reasonable to conclude that a study conducted in 1955 would obviously contain the lower grade of pipe used by FCWC to construct the collection system at North Fort Myers and thus would take these types of factors into consideration. Furthermore, Ms. Dismukes' analysis was more precise than the Company's because it gave consideration to pipe size. Table VII of Exhibit 30 clearly shows the larger the diameter of the pipe the greater the allowance for I&I. [Exhibit 6.] An examination of Exhibit 22, Schedule 13 shows that the Company has virtually no gravity mains that are 13 to 24 inches in diameter. In fact, 95.24% of the Company's gravity mains are 8 inches in diameter or less, 3.40% of the gravity mains are between 9 and 12 inches and 1.4% are between 13 and 24 inches. [Exhibit 22, Schedule 13.]

Ms. Dismukes used the most conservative number, i.e., allowing for the most infiltration and inflow, to develop her recommended used and useful calculations. Ms. Dismukes' conclusions that the Company has excessive infiltration and

inflow were confirmed by Mr. Bidy when he stated that infiltration and inflow is excessive if it exceeds 30 to 40 percent. [Tr. 230-31.] Likewise, Ms. Dismukes recommendation was confirmed by Staff witness Barienbrock who used a standard of 10 to 20 percent. Anything in excess of this amount is considered excessive.

Mr. Barienbrock, concluded however, that there was no excessive infiltration and inflow because of a faulty analysis. Mr. Barienbrock testified that he merely looked at the average annual flows of the water treatment plant compared to the wastewater treatment plant. [Tr.198.] Mr. Barienbrock did not consider if the peak month used for calculating used and useful has excessive infiltration and inflow because he only examined the average annual daily flows. [Tr. 189.] Likewise, he did not take into consideration that not all water customers are wastewater customers. [Tr. 199-200.] Finally, Mr. Barienbrock's analysis did not consider the fact that not all water used is returned to the wastewater system. Furthermore, Mr. Barienbrock testified that from the DEP's standpoint the primary reasons the DEP has concerns about infiltration and inflow is because it can result in hydraulic overloading and pollutant loading problems. [Tr. 195.] It is not the DEP's primary focus to be concerned about whether or not infiltration and inflow results in sizing a plant larger than it needs to be to accommodate excessive infiltration and inflow. [Tr. 195-96.] Because of the flaws in

his analysis and the difference in focus between the Commission and the DEP, Mr. Barienbrock's conclusion can not be relied upon by the Commission.

The Company's witness, Mr. Dick claims that infiltration and inflow for the wastewater system is 25% based upon a comparison between the average annual daily flow of wastewater treated versus the average water flow. These calculations are erroneous for three reasons, as explained by Ms. Dismukes.

First, Mr. Dick failed to adjust for the fact that not all water that is sold to the wastewater customers is returned to the wastewater system. Unlike Mr. Dick, Ms. Dismukes accounted for this fact by multiplying the amount of water sold by 70.89%. (This percentage takes into consideration that only a portion of the water customers use the wastewater system and of those customers, not all of the water is returned to the wastewater system.) Mr. Dick accounted for the fact that not all water customers use the Company's sewer system, but he failed to account for the fact that some of this water is used for purposes that do not require it to be returned to the wastewater system-- for example, irrigation and car washing. If his figures are adjusted correctly, it would show an average annual amount of infiltration and inflow of 35% as opposed to 25%. [Tr. 558.] Mr. Dick's suggestion that customers do not use water for purposes such as irrigation and car washing should be rejected as ludicrous. [Tr. 251.] His testimony was contradicted by Mr. Acosta

who agreed that wastewater customers do not return some of the water they buy to the wastewater system. [Tr. 333.] In addition, the suggestion that customers have conserved to the point that they return 100% of their water to the wastewater system is contradicted by the fact that for the North and South Fort Myers division, water use has been flat, indicating little or no conservation. [Tr. 348.] This flaw in Mr. Dick's reasoning is also confirmed by the MFRs, Exhibit 1. Page 157, shows that from 1990 to 1994 there has been little conservation on the part of the Company's water customers. For the year ending 1990, customers on average used 105,000 gallons of water per year. In 1994, this figure had declined to only 100,000 gallons per year per customers. The conservation that did take place amounts to 5,000 gallons per year or 14 gallons per day--not enough to conclude that customers do not use water for purposes other than those that would return it to the wastewater system. [Exhibit 1, P. 157.]

Second, the evaluation preformed by Ms. Dimsukes was based upon the peak month, not the average flow of the system. The Company must design its plant to meet peak requirements. Accordingly, it must also consider the capacity required during the peak period to treat infiltration and inflow. By examining the issue on an average annual basis, as opposed to a peak basis, the Company failed to recognize that the peak month was largely driven by excessive infiltration and inflow, and that the



capacity additions were required in order to treat this infiltration and inflow. [Tr. 559.]

The final flaw in the Company's analysis is the standard chosen to measure if infiltration and inflow was excessive. The Company chose a liberal standard. The Water Pollution Control Manual presents several allowances that can be used to plan for infiltration and inflow--most of which are less than the one selected by the Company. In addition, the standard selected by the Company is much greater than the standard selected by the Commission's Staff when designing the default formulas for the used and useful rulemaking proceeding. Moreover, the standard selected by the Company is greater than the one used by the Company in its last rate case and the one adopted by the Commission that case. [Tr.559.]

The Company's contention that excessive infiltration and inflow does not exist for this system was contradicted by its own document. Exhibit 17, the Capacity Analysis report, submitted to the DEP stated that the flows examined show "an indication of increasing Inflow and Infiltration (I&I) since 1985." Furthermore, the report characterized I&I as a "problem." [Exhibit 17.] The DEP also indicated that there was an I&I problem with the North Fort Myers collection system. In a letter to the Company, the DEP told the Company to address corrective measures pertaining to infiltration at the Waterway Estates wastewater treatment plant.[Exhibit 19, CW-1.] Mr. Acosta agreed

that the DEP's letter indicated that the DEP was not satisfied with the earlier capacity analysis report submitted by the Company. [Tr. 339.]

The method of determining if the Company's collection system experienced excessive infiltration and inflow should be the one recommended by the Citizens. As depicted on Schedule 13, of Exhibit 22, the flow used to calculate the used and useful percentage of the plant should be reduced by 13,408,794 gallons, or .447 MGD to account for the excessive infiltration and inflow treated by the wastewater plant.\*

**ISSUE 6:** What is the appropriate amount of used and useful plant?

**Position:** The wastewater treatment plant is 49.34% used and useful. The wastewater rate base should be reduced by \$3,668,429 for non-used and useful plant and depreciation expense should be reduced by \$232,848.

**\*Discussion:** Based upon the discussion under issues 4 and 5, the Commission should find that the used and useful percentage of the Company's wastewater plant is 49.35% using a permitted capacity of the plant of 1.5 MGD. If the Commission finds the capacity of the plant to be 1.25 MGD, the wastewater plant is 59.21% used and useful. [Exhibit 22, Schedule 11.]\*

**ISSUE 7:** Should a margin reserve be allowed?

Position: No. Margin reserve is for the benefit of future customers; it does not benefit current customers.

\*Discussion: It is not appropriate to include margin reserve in the used and useful calculations. Margin reserve represents capacity required to serve future customers, not current customers. The inclusion of a margin reserve to account for future customers above and beyond the future test year level represents investment that will not be used and useful in serving current customers. If the Commission includes margin reserve in the used and useful calculations this will result in current ratepayers paying for plant that will be used to serve future customers. This causes an intergenerational inequity between ratepayers. If no margin reserve is allowed, the Company will still be compensated for the prudent cost of its plant with Allowance for Prudently Invested Funds (AFPI). The sewer rates proposed by this Company are extremely high--they will be one of the highest in the state. To include in current rates to customers the cost of plant designed to serve future customers would add insult to injury. (Tr. 559-60.) Even the Company's witness, Mr. Acosta agreed that if margin reserve is allowed in the used and useful calculations, current customers will pay for capacity to meet the demands of future customers. (Tr.317.)

Moreover, under the Company's methodology and the methodology typically employed by the Commission, it would not be appropriate to include margin reserve in the used and useful

calculations, as they already include an allowance for margin reserve.

For example, using the Company's recommendation that a plant capacity of 1.25 MGD should be used to calculate used and useful, it must be recognized that this is an average annual daily flow capacity of the plant. This is the capacity of the plant that can be met on a year-round basis. It is not the peak capacity of plant. (Tr. 651.) As Ms. Cummings testified, the plant can meet maximum month flows and peak day flows, both of which are higher than the average annual flow of 1.25 MGD. [Tr. 651.] The Company, however, has not used an average annual daily flow to calculate the used and useful percentage. It has instead used the peak month demand. By using the latter instead of the former, the Company has built into its used and useful calculations a margin reserve of .2330 MGD. (This is the difference between the peak month flow and the average annual daily flow treated by the plant.) Since the used and useful calculations will implicitly allow the Company a margin reserve of .2330 MGD, there is no need to further exacerbate the problem by allowing margin reserve in excess of that which is implicitly allowed in the used and useful calculations.\*

**ISSUE 9:** If the Commission does allow a margin reserve, should it impute CIAC associated with the margin reserve?

**Position:** Yes.

\*Discussion: If margin reserve is included in the used-and-useful calculations, then, to achieve a proper matching, an amount of CIAC equivalent to the number of equivalent residential connections (ERCs) represented by the margin reserve should be reflected in rate base. This is especially important in this case because the Company is adding the cost of an expensive plant upgrade to plant in service. Because of this upgrade, the Company is proposing to increase its plant capacity charges. In calculating the imputation of CIAC, the Commission should use the proposed or final new capacity charges. The CIAC that will be collected from these future customers would at least serve to partially mitigate the impact on existing customers of paying for plant that will be utilized to serve future customers. [Tr. 561.]\*

ISSUE 10: Should working capital be adjusted?

Position: Yes, working capital should be reduced by Other Deferred Credits of \$10,217. In addition, the Commission should reduce rate base by the unfunded post-retirement benefits as contained in Exhibit 22, Schedule 1.

#### COST OF CAPITAL

ISSUE 13: Should any adjustments be made to the equity component

of the Company's capital structure?

Position: No.

\*Discussion: The Commission should not increase the equity component of the capital structure as suggested by FCWC. The additional equity added to the Company's capital structure after the end of the test year is merely a paper transaction. In 1995, the Company reclassified \$2,000,000 of inter-company payables to paid in capital. FCWC's parent company declared a capital contribution to the Company in the amount of \$2,000,000. [Tr. 800-81.] The effect of this paper transaction is to merely move \$2,000,000 of debt, at a cost of 9%, to equity, at a cost of 11.88%. The contribution provided no additional funds for the Company's use. As such, it merely increases the Company's overall cost of capital. [Tr. 801.] The Commission should accordingly reject the suggestion of the Company to increase the equity component of the capital structure.\*

ISSUE 14: Should any adjustments be made to the debt component of the Company's capital structure?

Position: Yes. The adjustments reflected on Exhibit 22, Schedules 4 and 5 should be made. These adjustments reduce the embedded cost of debt to 8.34% and increase the debt ratio to 48.41%.

\*Discussion: When the Company originally prepared its MFRs using

the projected test year ending December 31, 1995, it anticipated issuing new long-term debt at an interest rate of 9.50%. However, according to the Company's more recent filing in the Barefoot Bay rate case, Docket No. 951258-WS, the Company's MFRs indicated that the Series L bonds had been issued at a coupon rate of 7.27% as opposed to 9.50%. This application also showed that instead of \$5.0 million of new debt, the Company anticipated issuing \$18.0 million. In addition, the Company's more recent Barefoot Bay MFRs also show that the Company anticipates retiring some high cost debt, specifically the Series D, F, and H, which have coupon rates of 9.50%, 9.25%, and 11.55%, respectively. Since the Company's Barefoot Bay MFRs reflect more accurate and recent estimates of Florida Cities Water Company, Ms. Dismukes incorporated them into the Company's overall cost of capital. To be consistent with the increase in the amount of Series L bonds, Ms. Dismukes reduced the Company's \$10,000,000 line of credit. As shown on Exhibit 22, Schedule 5, these changes reduce the Company's embedded cost of long-term debt from 9.55% to 8.34%. The Commission should make the adjustments recommended by witness Dismukes, as reflected on Exhibit 22, Schedule 5. [Tr. 538-39.]\*

**ISSUE 15:** Should any adjustments be made to the cost of investment tax credits?

**Position:** Yes. The cost of investment tax credits should be

calculated using the cost of investor supplied funds only, which is consistent with Commission policy. [Tr. 539.]

**ISSUE 16:** What is the appropriate overall cost of capital?

**Position:** The appropriate overall cost of capital is 8.64%. [Tr. 539.]

**NET OPERATING INCOME**

**ISSUE 17:** Should chemical and purchased power expense adjustments be made to recognize inflow and infiltration?

**Position:** Yes.

**\*Discussion:** Consistent with the discussion under Issue 5, the Commission should adjust chemical and purchased power expenses to reflect the excessive amount of infiltration and inflow treated by the wastewater plant.\*

**ISSUE 18:** Are the proposed adjustments to water and wastewater expenses to reflect customer growth and the PSC index appropriate?

**Position:** No. The Commission should not automatically assume that expenses will increase by this factor. The Commission should reduce the Company's proposed adjustments as reflected on Exhibit 22, Schedule 7.

**\*Discussion:** For purposes of developing its projected test year the Company increased its expenses for the historical year ended



December 31, 1994 by a factor that reflected one year's customer growth and the PSC's 1995 price index, where applicable. The Company essentially assumed that regardless of the circumstances or the account, its expenses would increase in 1995 equal to the increase in customers and inflation. The Citizens believe that it is unrealistic to assume that expenses will automatically increase. In fact, a comparison of the expenses from the Company's prior rate case to the historic test year ending December 31, 1994 shows that some expenses have actually declined. The Company should be striving to reduce expenses, not be put in a Position where increasing expenses is endorsed, as would be the case if the Commission automatically accepted the Company's proposed level of 1995 expenses. The Commission should accordingly adopt the adjustments proposed by Ms. Dismukes, where the historical analysis she preformed showed that certain expenses have declined--not increased as suggested by the Company. The appropriate adjustments are to reduce test year water expenses by \$4,694 (\$7,494-\$2,800<sup>1</sup>). [Tr. 540-41, Exhibit 22, Schedule 7.]\*

**ISSUE 19:** Is the Company's adjustment to increase expense for

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<sup>1</sup> \$2,800 is the amount of the expense increase proposed by FCWC associated with increased billing costs. This figure should be removed from the total shown on Exhibit 22, Schedule 7, to arrive at the inflation and growth adjustments recommended by Ms. Dismukes.

postage and envelope billing costs appropriate?

Position: No.

\*Discussion: The Company has assumed that its projected test year expenses will increase by \$2,800 due to a change in billing methods. Mr. Dick explained that the Company has switched from a postage card style of billing to a laser printed stuffed bill with return envelope. While some increased postage costs would be expected, Mr. Dick also explained that this change had two benefits. First, the 5x7 cards were frequently misplaced by the postal service or mixed with other fourth class mail and discarded. Elimination of these problems should increase the Company's cash flow and reduce its working capital requirements. Second, the Company will be able to send messages to customers about rates, services and similar matters without the need to mail separate notices. This factor alone should reduce postage costs, not increase them. Since the proposed cost increase is merely the difference between the cost of sending a post card versus an envelope, the Company's estimate is overstated. The Company has not reflected the reduction in expense that will result from not sending separate notices for other matters. Since information was not provided concerning how much would be saved because the Company will no longer need to send out separate mailers on other matters, the Commission should reduce test year expenses by the amount of the increase proposed by the Company.

Specifically, test year expenses should be reduced by \$2,800 [Tr. 541-42, Exhibit 22, Schedule 7.]\*

**ISSUE 20**: Should any adjustment be made to affiliate expenses charged to the Company?

**Position**: Yes. The Commission should reduce test year expenses by \$36,795.

**\*Discussion**: There are a variety of problems associated with the Company's presentation of charges from its affiliated companies. These problems were addressed in detail by Ms. Dismukes. Ms. Dismukes identified seven problems with the charges to the Company by its affiliates.

First, the Company has presented no evidence concerning the reasonableness or necessity of the charges from its parent and affiliated companies.[Tr. 545.]

Second, the Company may be charged for duplicative services. For example, Avatar Holdings, Inc., Avatar Utilities, Inc., and Florida Cities Water Company all provide similar services to the utility. There is no assurance that the costs allocated by the parent companies are not duplicated by each other or Florida Cities Water Company. [Tr. 545.]

Third, the allocation method used to distribute costs between Florida Cities Water Company and its division and the unregulated operations of Avatar Utilities, Inc. -- specifically the propane gas operations and the Avatar Utility Services, Inc.,

is not equitable. For example, with respect to the allocation of costs from Avatar Utility, Inc. to FCWC and Avatar Utility Services, Inc. the Company uses a composite factor based upon payroll and plant in service. The latter over allocates costs to the water and wastewater operations because they are very capital intensive, and under allocates costs to Avatar Utility Services, Inc. that is not capital intensive. [Tr. 545-46.]

Fourth, FCWC also allocates costs to its divisions and to the unregulated operations of Avatar Utilities, Inc. The allocation method employed, which appears to be a combined factor consisting of employees, plant, and customers, inherently under allocates costs to Avatar Utility Services, Inc. Since the Company did not produce the workpapers used to make these allocations, Ms. Dimsukes could not change the allocation method and properly redistribute the costs. This under allocation of costs to Avatar Utility Services, Inc. may be what has contributed to that company's overearnings in the past. [Tr. 546-47.]

Fifth, there is a discrepancy between the method of allocation described in the MFRs compared to how some allocations actually occur. For example, the MFRs indicate that "the administrative staff in the general office in Sarasota provides service to affiliated companies and divisions. These costs are apportioned to all companies on the average of net plant, customers and payroll." The statements made in the Company's MFRs

are in error. In the Staff's Audit workpapers, the salaries of the general office personnel are not allocated on this basis, but on a judgement of how much time is devoted to the various operations. (Exhibit 31, Tr. 781.) The information contained in Exhibit 31 was not part of the Company's MFRs and cannot be found in the MFRs or any part of the Company's direct or rebuttal case. [Tr. 547.]

Sixth, Florida Cities Water Company charges its various divisions for services rendered for administrative and general and customer expenses. The Company did not provide as part of its MFRs the workpapers supporting these allocations. As such, it is not possible to even verify if the allocation methodology described in the MFRs is applied correctly, or to ensure that there is no double counting of allocated expenses.

Seventh, the Company did not follow the Commission's Rules concerning the information that should have been provided on this subject as part of the MFRs. [Tr. 547-49.] The Commission's Rule, 25-30.436 (h), F.A.C., specifically states that the following should be provided as part of a utility's application when it files for a rate increase:

(h) Any system that has costs allocated or charged to it from a parent, affiliate or related party, in addition to those costs reported on Schedule B-12 of Commission Form PSC/WAW 19 for a Class A

utility or PSC/WAW 20 for a Class B utility,  
(incorporated by reference in Rule 25-30.437)  
shall file three copies of additional schedules  
that show the following information:

1. The total costs being allocated or charged  
prior to any allocation or charging as well as the  
name of the entity from which the costs are being  
allocated or charged and its relationship to the  
utility.
2. For costs allocated or charged to the utility  
in excess of one percent of test year revenues:
  - a. A detailed description and  
itemization;
  - b. the amount of each itemized cost.
3. The allocation or direct charging method used  
and the bases for using that method.
4. The workpapers used to develop the allocation  
method, including but not limited to the numerator  
and denominator of each allocation factor.
5. The workpapers used to develop, where  
applicable, the basis for the direct charging  
method.
6. An organizational chart of the relationship  
between the utility and its parent and affiliated  
companies and the relationship of any related

parties.

7. A copy of any contracts or agreements between the utility and its parent or affiliated companies for services rendered between or among them.

The Company provided the information required of parts 6 and 7 for all affiliates. With respect to allocations from Avatar Utility, Inc., the Company provided the information required in parts 1, 2, 3, 4, and 5. However, with respect to costs allocated from Avatar Holdings, Inc. the Company did not provide any of the information required in parts 1, 3, 4, and 5. An examination of the Company's MFRs, Exhibit 1, pages 163-175 and 215-228 clearly shows that the following items required by Commission rule were not provided: the total cost being allocated prior to any allocation (part 1)--the only cost shown for Avatar Holdings, Inc. is the amount charged to Avatar Utility, Inc. under the category management fee shown on page 220 of Exhibit 1; the allocation method used (part 3)--the Commission simply can not tell from the MFRs how these costs were allocated; the workpapers used to develop the allocation method (part 4); and the workpapers used to develop the direct charging method (part 5).

With respect to the allocations from FCWC, the Company did not provide the information required in parts 1, 2, 3, 5, and part of 4. In fact, the Company's MFRs, Exhibit 1, clearly shows

that it did not provide the workpapers used to develop the allocation factors (part 4). The MFRs state: "Due 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." If such information was available for inspection in Sarasota Florida, it could not have been part of the MFRs. Likewise part 1 of the Commission's Rule is nowhere to be found in the Company's MFRs. One simply cannot take an allocation factor found on page 226 of the MFRs, Exhibit 1, and apply those factors to arrive at the amount allocated to North Fort Myers. In addition, part 2 of the Commission's Rule is simply not contained in Exhibit 1.

In conclusion, the Commission can only find that the Company did not follow the Commission's Rule with respect to the affiliate charges from Avatar Holdings, Inc. and from Florida Cities Water Company.

The Company's only defense concerning the charges between and among its affiliates is that the Staff's audit of its affiliate transactions found them to be reasonable. The Staff's audit, Exhibit 30, however, did not address most of the concerns raised by Ms. Dismukes. In fact, although Mr. Coel used the Staff audit as a basis for suggesting that affiliate costs were reasonable, he could not verify the reasonableness of the charges from Avatar Holdings, Inc. In response to the Citizens'



questions, Mr. Coel did not know if lobbying expenses were allocated down to FCWC from its parent. [Tr. 785.] Mr. Coel conceded that he did not review the invoices from Avatar Holdings, Inc. [Tr. 787.] He did not know if charitable contributions are allocated to FCWC from Avatar Holdings, Inc. [Tr. 787.]

With respect to allocations from FCWC to its affiliates, Mr. Coel did not know how the various administrative staff employees estimated the time that they spent on the various affiliates of the Company. (Tr. 782, Exhibit 31.) Mr. Coel could not support the veracity of the allocation factors for the administrative staff. He had no knowledge concerning how any person, except himself, estimated the ratios set forth on Exhibit 31. [Tr. 782-83.]

Mr. Coel conceded that the information contained on Exhibit 31, was not provided in the MFRs, as required by Commission Rule. [Tr. 781.]

The Commission should adopt the recommendation of Ms. Dismukes and reduce test year expenses by \$36,525. (Exhibit 22, Schedule 8.)\*

**ISSUE 21:** What is the appropriate provision for rate case expense?

**Position:** Test year expenses should be reduced by \$3,487.

**\*Discussion:** The Citizens recommend the Commission remove from

rate case expense the charges from FCWC because it is not evident that these costs are not already included in the projected test year operating expenses. The Citizens recommendation reduces rate case expense by \$13,949 in total, with the amount amortized for the instant case being reduced by \$3,487. (Tr. 551)\*

**ISSUE 22:** What personal property tax expense is appropriate?

**Position:** Property taxes should be adjusted consistent with the used and useful finding of the Commission.

**ISSUE 25:** What is the test year operating income before any revenue increase?

**Position:** The final amount is subject to the resolution of other issues.

#### **REVENUE REQUIREMENT**

**ISSUE 26:** What is the appropriate revenue requirement?

**Position:** The final amount is subject to the resolution of other issues.

#### **RATES AND CHARGES**

**ISSUE 27:** What reuse rate should be approved?

**Position:** A rate of \$.21 should be used.

\*Discussion: The Commission should increase the rate charged to the Loochmoore golf course for reuse water from the proposed rate of \$.13 to \$.21 for the reasons discussed in the Commission's PAA Order. The primary reason given by the Commission in its PAA order was that \$.21 is the rate charged by Lee County and as such it is a competitive rate. In addition, Mr. Coel conceded that this was the appropriate rate to use. [Tr. 145-46.] As shown on Exhibit 22, Schedule 6, test year revenue should be increased by \$8,760.\*

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?

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

#### POLICY ISSUES AND POSITIONS

ISSUE 32: Does the Order Establishing Procedure facilitate the participation of lay customers in the hearing process?

Position: Agrees with Ms. Walla.

ISSUE 33: Does the Commission waive, to the extent legally possible, its charges for documents provided to intervening

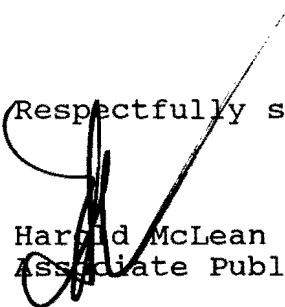
customers?

Position: The OPC believes that all accommodations should be made to intervening customers.

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?

Position: This issue was stipuated at the hearing.

Respectfully submitted,

  
Harold McLean  
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CERTIFICATE OF SERVICE  
DOCKET NO. 950387-SU

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail or by \*Hand-delivery to the following party representatives on this 20th day of May, 1996:

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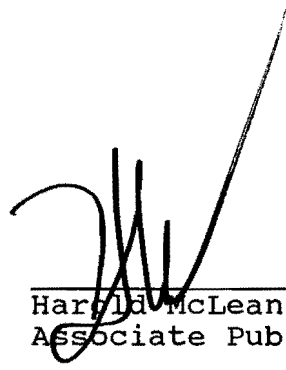
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A handwritten signature in black ink, appearing to be 'H. McLean', written over a horizontal line.

Harold McLean  
Associate Public Counsel