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June 7, 1996

Via Federal Express

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center
Room 110
Tallahassee, Florida 32399-0850


Re: Docket No. 950495-WS

Dear Ms. Bayo:

Enclosed herewith for filing in the above-reference docket on behalf of the Citizens of Nassau County, are an original and fifteen copies of Intervenors, Amelia Island et al's Posthearing Statement of Issues and Positions.

Thank you for your assistance.

Yours sincerely,


Arthur I. Jacobs

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FPSC-RECORDS/REPORTING

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SERVICES DIVISION

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate increase for)
Orange-Osceola Utilities, Inc. in Osceola)
County, and in Bradford, Brevard, Charlotte)
Citrus, Clay, Collier, Duval, Highlands, Lake)
Lee, Marion, Martin, Nassau, Orange,)
Osceola, Pasco, Putnam, Seminole, St. Johns,)
St. Lucie, Volusia, and Washington Counties)
by Southern States Utilities, Inc.)
_____)

Docket No. 950495-WS

Filed: June 10, 1996

**INTERVENORS, AMELIA ISLAND ET AL'S
POST HEARING STATEMENT OF ISSUES AND POSITIONS**

Intervenors, Amelia Island Community Association, Resident Condominium, Residence Property Owners Association, Amelia Surf and Racquet Property Owners Association and Sandpiper Association, through the undersigned counsel, submit the following post hearing statement of issues and positions:

STATEMENT OF BASIC POSITION:

The Commission is faced with the position of determining whether or not Southern States Utility Company should be rewarded or "bailed out" for making bad business decisions in purchasing certain utility companies among the some 150 they have bought in Florida. Many of those purchased are allegedly not profitable if allowed to stand alone on their own rate base to give SSU the rate they wish to have. Therefore SSU is asking the Commission to allow the profitable purchases they have made to subsidize the unprofitable. In other words to reward, or bail out, SSU for imprudent acquisition through bad management.

The Commission must also decide whether or not to sanction SSU for misconduct. SSU has compiled a remarkable record of flagrant attempts at improperly influencing and intimidating this Commission. They have encouraged ex parte contact to the triers of fact from those who appoint and confirm each Commissioner. They have actually sought those customers who benefit from uniform rates to have their Legislators contact you to promote uniform rates. Their efforts have been to those customers who benefit from stand alone rates. Therefore the sanction that should be imposed is dismissal of this case.

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FPSC-RECORDS/REPORTING

ISSUES OF FACT:

FACILITIES NOT OWNED BY SSU

ISSUE 1: Should the Enterprise plant and facilities be removed from this docket?

Yes. SSU operates the Enterprise facilities as a receiver, Enterprise is not owned by SSU and should be removed from this docket.

QUALITY OF SERVICE

ISSUE 2: Is the value and quality of service provided by SSU at each of its water and wastewater facilities satisfactory?

The value and quality of SSU's service is unsatisfactory.

ISSUE 3: What adjustments should be made and what corrective action should the Commission require for any facilities that are not currently meeting Department of Environmental Protection standards or have unsatisfactory quality of service?

The Commission should require corrective action for facilities not meeting DEP standards. See Issue 4 regarding quality of service.

ISSUE 4: Based on the findings as to the value and quality of SSU's service, should the Commission reduce SSU's return on equity? If so, by how much?

Yes. Return on equity should be reduced by at least 100 basis points.

ISSUE 5: Has there been misconduct or mismanagement on the part of SSU, and, if so, what is the appropriate sanction or remedy?

Yes. There has been both misconduct and mismanagement on the part of SSU and they should be penalized by dismissal of the case.

DISCUSSION

Tracy L. Smith, Manager, Government Relations, A registered Lobbyist, had some remarkable admissions to make in his testimony. First, he admits that it is his job to lobby Legislators about matters pending before the FPSC. (TR3162) Second, he readily admits contacting a number of different Legislators regarding these matters (TR3164) Third, he admits to preparing letters for Legislators to the FPSC regarding

uniform rates knowing full well that it is the primary subject of this pending rate case. (TR3166) Fourth, he readily admits to preparing a letter for Senator Karen Johnson to the FPSC regarding uniform rates while this case was pending. (TR3169) He, however, kept no copies and did not respond properly to OPC questions in deposition about these letters ever existing. (TR3170) Sixth, he admits to not contacting or informing Legislators in the loser category if uniform rates are approved. (TR3174) Seventh, he did not inform the other Legislators of the disaster awaiting these losers if uniform rates are installed. (TR3174) He admits that he knew the Governor's office appoints FPSC Commissioners and that the Senate has to confirm them. (TR3175) He admits to knowledge of the concept of ex-parte communication. (TR3179) He admits to preparing the letter for Senator Johnson to be sent to FPSC Commissioners with the following paragraph.

“Yet seemingly without consideration for the public, the Public Service Commission willingly orders increases of \$40.00, \$50.00, and even \$75.00 a month by just restructuring rates. Your actions are unthinkable and indefensible from a public policy standpoint.” (TR3181) (Exh 189, TR 3196)

Ida Roberts, a lawyer, was hired specifically as manager of Community Affairs in October or November of 1995 to handle communications to customers in this case. (TR4290) This included letters, notices on customers bills such as the one on exhibit #254 found at (TR5374) as follows:

“Uniform rates at risk.. voice your opinion to the FPSC today. In September 1995, the Florida Public Service Commission reversed its 1993 decision on uniform rates. Unless they reconsider, the average monthly water and wastewater bill, based on the average monthly usage from your plant, will increase water from \$12.74 to \$14.94 and wastewater from \$34.63 to \$68.11. SSU is seeking reconsideration of this change. If you want to keep your uniform rates, please write or call the Public Service Commission at 2340 Shumard Oak Boulevard, Tallahassee, Florida 32399-0860, or phone 1-800-342-3552, and your State Legislators, the Florida Legislature, Tallahassee, Florida or at their local offices.”

None of the customer meetings held were in areas which were the losers if uniform rates are adopted. (TR4290) and (TR4296) All her efforts were against the losers in the uniform rate structure. (TR4292)

As a lawyer, she surely understood the impropriety of encouraging ex-parte communication to the triers of fact in this case, the FPSC. She cannot bathe this blatant attempt at intimidation in the waters of ignorance of the consequence of this action attempting to influence this case. She was also instrumental in hiring Jeff Sharkey as a Lobbyist. Jeff Sharkey, admittedly, is the outside Lobbyist for SSU. He reports directly to Ida Roberts and Tracy Smith. (TR588) He is paid \$3,000 a month. He took President Cirello, of SSU, to meet with the Lt. Governor. During the 20 minute meeting no one disclosed to the Lt. Governor that their rate case was pending before the FPSC. (TR591) He admits drafting a letter for the Lt. Governor to send to Chairman Clark of the FPSC. (TR602) Sharkey knows full well that the Governor appoints the members of the FPSC. (TR 634) He sought an appointment with the Governor but had to settle for the Lt. Governor (TR 634) to meet with President Cirello. While Sharkey says he only gathers and supplies information for SSU (TR629) the tone of his hand crafted letter speaks for itself and I quote - Lt. Governor to Chairman Clark -

“I realize that your rate making decisions are very complicated and our office would not questions those detailed case-specific decisions. However, I would be very concerned if we were to place in serious financial jeopardy a unique private water utility company.”
(TR628)

Sharky's efforts have been rewarded by a minimum of \$90,000 to lobby over the last 2 ½ years. (TR643) All of his information for that letter came from his employer SSU. (TR647)

It is unfathomable that a clearer or stronger case of misconduct has ever or will ever come before this Commission. The attempts at intimidating through ex-parte communication are remarkable. The utilization of Legislators and the Governor's Office to do their dirty work is bad enough, but the using of innocent customers to participate in these dirty deeds is unforgivable. The FPSC as a sanction must dismiss this rate application.

RATE BASE

ISSUE 6: Are any adjustments to rate base necessary to reduce Lehigh land for Parcel 4, Tract D, as Plant Held for Future Use (Staff Audit Disclosure No. 2)?

*Yes. With respect to the amount of \$10,480 which should be included in rate base as used and useful, the raw amount of the land value should be reduced by 60% to reflect the Commission's decision in Lehigh's last rate case concerning which entity should be attributed the discount book value associated with the acquisition of the

Lehigh consortium of companies. *

ISSUE 7: Are any adjustments to water rate base appropriate to reflect the original cost of the Collier property acquired for Marco Island?

Yes. Adjustments should be made to reflect the actual cost and to remove overhead allocations.

ISSUE 8: Should an adjustment be made to reclassify a portion of the Collier Property for Marco Island from rate base to non-utility property (Staff Audit Exception No. 2)?

A portion of the purchase price should be allocated to non-utility property. Rate base should be reduced by \$5,833,617.

ISSUE 9: Should the transfer of the Section 35 (160 Acres) property from plant held for future use to land be allowed for Marco island?

* No. Currently, it does not seem feasible that this facility will be put into service for the projected test year 1996 because no facilities have been constructed on the site. Therefore, the cost of the 160 acre new water supply site should be eliminated from the rate base in this filing.

ISSUE 10: Should an adjustment be made to disallow the company's proposed transfer of a Deltona site and Marco Island site from property held for future use?

Yes. The Deltona site and Marco Island site should remain classified as property held for future use. Rate base should be reduced by \$253,885.

PLANT IN SERVICE

ISSUE 11: Should Buenaventura Lakes' rate base be reduced to reflect adjustments made in Docket No. 941151-WS, pursuant to Order No. PSC-96-0413-S-WS, issued March 29, 1993, which approved the transfer?

Yes. Rate base should be reduced by \$298,190 for the water operations and by \$930,770 for the wastewater operations. Depreciation expense should also be reduced by \$2,261 for the water operations, in accordance with adjustments reflected on K. Dismukes, Schedule 39.

ISSUE 12: Dropped

ISSUE 13: Are adjustments necessary to the utility's additions to plant, both historic and projected?

*Yes. Adjustments should be made to plant in service accumulated depreciation and depreciation expense on account of project slippage. *

ISSUE 14: Are SSU's classifications of expenditures as to "growth", "regulatory", etc. well-founded and reasonable?

*No. SSU's classifications tend to shift most capital expenditure to "regulatory mandate" to give the false impression that the money is being spent in conformance with environmental regulations. *

ISSUE 15: Dropped

USED AND USEFUL

ISSUE 16: Is the utility's methodology of converting ERCs to connected lots for calculating used and useful for transmission, distribution, and collection lines appropriate?

*No. Actual connected lot numbers or customers should be used. *

ISSUE 17: Should a margin reserve be included in the calculations of used and useful for each facility?

Utilities should require developers to contribute water and wastewater lines, and treatment plant capacities. Existing customers should not pay any margin reserve for future development..

ISSUE 18: If margin reserve is included in the calculation of used and useful, what is the appropriate margin reserve period?

*Three years and five years of margin reserve should not be allowed in the used and useful calculations for water and wastewater treatment facilities, respectively. The Commission traditionally uses twelve months as margin reserve for water mains and sewer lines, and eighteen months as margin reserve for water and wastewater treatment facilities. *

ISSUE 19: Stipulation

ISSUE 20: What is an acceptable level of unaccounted-for-water?

*The achieve appropriate levels of unaccounted for water, PSC should allow no more

than 10 percent of unaccounted for water for each water system. The Commission should not allow the 12.5 percent company-wide level of unaccounted for water requested by SSU.*

ISSUE 21: Do any water facilities have excessive unaccounted-for-water and, if so, what adjustments are necessary?

Yes. Test year expenses should be reduced by \$67,121 to adjust for chemical, purchased water, purchased wastewater, and purchased power expenses for excessive unaccounted for water.

ISSUE 22: What is an acceptable level of infiltration and/or inflow?

In the Recommended Standards for Wastewater Facilities, 200 gallons per inch of pipe diameter per mile per day is the recommended guideline, and that criteria is generally used by the FDEP staff. However, from the response to OPC documents request no. 279, SSU indicated that eight out of forty WWTP have excess inflow and infiltration based on the 120 gallons per capita per day EPA guideline. Without knowing the total sewer line footage of each system, engineers could use the 120 gpd EPA guideline as SSU did.

ISSUE 23: Do any wastewater facilities have excessive infiltration and/or inflow and, if so, what adjustments are necessary?

Yes, excessive inflow and infiltration should be removed from wastewater influent prior to determining the used and useful percentages for the following wastewater plants: Amelia Island, Sunshine parkway, South Forty, Florida Central Commerce Park, Lelani Heights, Beecher's Point and Marco Island.

ISSUE 24: Should the hydraulic analyses performed on the Citrus Springs, Marion Oaks, Pine Ridge, and Sunny Hills transmission and distribution lines be the basis for determining used and useful percentages for water transmission and distribution facilities at these four sites?

No. Hydraulic analysis modeling should not be used for water transmission and distribution used and useful calculations. Hydraulic analysis modeling unfairly shifts the majority of the cost burden to existing customers, especially in new or sparsely developed areas. The build out flows generated from the hydraulic analysis modeling do not represent the ultimate capacity of water mains. Hydraulic analysis modeling is too complicated, time consuming, and can be manipulated to produce almost any desired results.

ISSUE 25: Should adjustments be made to SSU's filing for its deep injection well on Marco

Island?

***Yes.** The deep injection well on Marco Island is 37.24% used and useful and an adjustment of \$2,132,776 should be made, accordingly.*

ISSUE 26: Should an adjustment be made to the Burnt Store water plant capacity?

***Yes.** The capacity of the Burnt Store reverse osmosis water plant should be 380 gallons per minute (gpm) instead of 333 gpm.*

ISSUE 27: What is the correct wastewater treatment plant capacity to use for calculation of SSU's used and useful percentage at Sugarmill Woods?

Construction permit capacity should be used.

ISSUE 28: Should rate base include water mains laid in the ground but not connected to the existing distribution system?

***No,** any water mains constructed in place but which do not connect to the existing system should be considered nonused and useful and excluded from rate base. According to late Filed Deposition Exhibit No. 8 of Charles M. Bliss, the following dollar amounts should be removed from each water system: \$913,386.25 from Citrus Spring; \$204,309.60 from Marion Oaks, \$45,144.00 from Pine Ridge; and \$686,711.20 from Sunny Hills.*

ISSUE 29: Should an adjustment be made to Buenaventura Lakes rate base to remove non-used and useful wetlands?

***Yes.** Rate base should be reduced by \$1,019,119. Depreciation expense should be reduced by \$15,707, in accordance with adjustments reflected on K. Dismukes' Schedule 40.*

ISSUE 30: Should the fire flow requirement be included in used and useful calculations?

Fire flow should be included in the used and useful calculation only if fire flow provision was proven by sufficient fire flow test records.

ISSUE 31: Should a single maximum day flow be used in calculating the used and useful percentages for water facilities instead of the average of 5 maximum day flows?

***No,** the single maximum day flow should not be used in the used and useful calculations in this filing.*

ISSUE 32: Should the Commission use operating permit capacities instead of construction permit capacities for used and useful calculations?

No, the construction permit capacities should be used because they represent the actual capacities constructed.

ISSUE 33: Should the “firm reliable capacities” be used in used and useful calculations for supply wells, high service pumps and water treatment facilities?

*No, it is not justified to use firm reliable capacity on more than one component. *

ISSUE 34: Should an emergency storage of 8 hours of average daily flow be allowed in used and useful calculations?

No emergency storage requested by SSU should be allowed because the utility was unable to confirm the emergency storage in the original plant designs.

ISSUE 35: What peaking factor should be allowed for peak domestic hour demands in finished water storage used and useful calculations?

*AWWA M32, *Distribution Network Analysis for Water Utilities*, suggests a peak factor range of 1.3 to 2.0 for peak-hour demand to maximum-day demand. The minimum requirement 1.3 should be used.*

ISSUE 36: Should 10% of the finished water storage be treated as dead storage?

No, it is not justified to assume 10% of the storage capacity is dead storage for every single storage tank. Dead Storage should be allowed only if it is confirmed in as-built drawings.

ISSUE 37: For high service pumps used and useful calculations, should the maximum daily flows or peak hourly flows be used for peak demands?

When fire flow requirement is provided by high service pumps, only maximum daily flows should be added to the capacity requirement. If the system is not designed to provide fire flow, then the high service pumps should be designed to meet peak hourly flows.

ISSUE 38: Should facility lands, hydro tanks, and auxiliary power be considered 100% used and useful without analysis?

*No. Calculations should be performed to justify the 100% used and useful allocation for facility lands, hydro tanks, and auxiliary power. Without the information

necessary to make those calculations, the Commission should assign to facility lands, hydro tanks, and auxiliary power the same percentages of used and useful given to related utility facilities.*

ISSUE 39: **What is the appropriate flow data to use for calculating used and useful for wastewater treatment plant and effluent disposal?**

Flow data in the used and useful calculation should be consistent with FDEP permits. Usually the permit flow requirement is in terms of annual daily flow or could be three months average daily flow.

ISSUE 40: **Should iron infiltration equipment be considered water treatment plant, and if so, what is the appropriate use and useful percentage?**

Yes. See Exhibit TLB-3 for used and useful percentages.

ISSUE 41: **What is the appropriate method for determining used and useful percentage for water transmission and distribution mains and wastewater collection lines?**

Existing lots connected compared to total lots available for water and wastewater services.

ISSUE 42: **What wastewater plant components should be considered as reuse components? And if not 100 percent used and useful pursuant to Sections 367.0817 and 403.064, what are the appropriate used and useful percentages for such components?**

Any additional facilities required to achieve reuse standards should be considered as reuse facilities. The appropriate used and useful percentages are dependent upon actual reuse demands and available reuse capacities.

ISSUE 43: **Should an adjustment be made to reflect non-used and useful lines constructed by Lehigh Acquisition Corporation?**

Yes. Rate base should be reduced by \$1,297,253. Depreciation expense should be reduced by \$40,706, in accordance with adjustments reflected on K. Dismukes Schedule 38.

ISSUE 44: **If the used and useful calculations in this rate proceeding result in used and useful percentages lower than those allowed in previous rate cases, which percentages should be used?**

*The Commission should not automatically assume that because it approved a used

and useful percentage in a prior rate case that anything less than that previously approved should be adopted in the instant rate case. A variety of factors could have contributed to the decline in used and useful percentages - including plant expansions. Further more, to the extent that the decline was caused by conservation, this frees up capacity for future additions and customers. to ignore this fact, is to suggest that current customers that have conserved -- if that is the cause -- should pay for plant capacity that is available for future customers.*

ISSUE 45: What are the appropriate used and useful percentages for each facility?

The appropriate used and useful percentages for the water and wastewater facilities are presented in Exhibit TLB-3 and Exhibit TLB-4, respectively.

ACCUMULATED DEPRECIATION

ISSUE 46: Should the utility's proposed adjustment to reverse depreciation taken on non-used and useful facilities be approved?

Southern States' proposal to adjust accumulated depreciation for non-used and useful mains is retroactive, going back to pre-1991 in some cases. It is inappropriate for determining going-forward rate base. Southern States' proposal should be disallowed by reducing rate base by \$592,634.

ISSUE 47: Are any adjustments necessary to correct accumulated depreciation and amortization of CIAC related to guideline depreciation and amortization rates being booked prior to implementation of service rates (Response to FPSC Interrogatory 33)?

SSU should not be permitted to retroactively adjust its books for items it fees it has not fully recovered in rates in the past. Rate base should be reduced by \$527,690.

CONTRIBUTIONS IN AID OF CONSTRUCTION

ISSUE 48: If a margin reserve is approved, should CIAC be imputed on the ERCs included in the margin reserve?

Yes.

ISSUE 49: Should the Commission impute CIAC associated with assets constructed by Lehigh Corporation?

Yes. The Commission should impute CIAC in the amount of \$769,000.

ISSUE 50: Should an adjustment be made for non-used and useful offsets to plant capacity fees and line/main extension fees?

Plant capacity fees and line/main extensions should not be offset by a non-used and useful factor. Rate base should be reduced by \$2,315,994.

ISSUE 51: Should CIAC be increased to reflect cost share funds for the Marco Island ASR project?

Yes. The Commission should increase CIAC by \$225,100.

ACCUMULATED AMORTIZATION OF CIAC

ISSUE 52: Stipulation

ACQUISITION ADJUSTMENT

ISSUE 53: Should the Commission recognize any negative acquisition adjustment in rate base for facilities purchased at less than book value?

Yes. The Commission should recognize negative acquisition adjustments so that the company receives a return only on its actual investment. Rate base should be reduced by \$13,060,124 along with corresponding adjustments to accumulated amortization and amortization expense.

WORKING CAPITAL

ISSUE 54: Stipulation

ISSUE 55: Moved to Issue 86(a)

ISSUE 56: Are any adjustments necessary to SSU's projected balance in the Preliminary Survey and Investigations (PS&I) account?

Yes. According to Staff's Audit Disclosure No. 14, an adjustment should be made to reduce the 1996 projected amount by \$1,849,076 due to the wide variance between actual and projected amounts as of September 30, 1995.

ISSUE 57: Dropped

ISSUE 58: What adjustments are necessary to reflect reduced costs associated with the Keystone Heights aquifer performance test?

The \$75,000 budgeted for the aquifer performance test should be reduced to reflect the revised cost of \$24,300. Therefore, an adjustment should be made to reduce working capital by \$43,454 to reflect the 13-month average balance as of December 31, 1996. A corresponding adjustment should also be made to reduce amortization expense by \$1,990.

ISSUE 59: Should deferred debits for the Spring Hill wastewater treatment plant expansion be included in working capital?

No. An adjustment should be made to reduce the deferred debit account by \$17,615 in order to remove the unamortized balance from the working capital allowance. No expense adjustment is necessary because this facility is not included in this proceeding. All costs associated with this project were incurred prior to the utility's ownership of this facility and should have been previously written off.

ISSUE 60: Should miscellaneous current assets be included in the working capital allowance?

No. The balance recorded in this account relates to possible acquisition costs and should not be included in the working capital calculation. An adjustment should be made to reduce the working capital allowance by \$145,972 in order to remove the balance recorded in the miscellaneous current assets account.

ISSUE 61: What is the total company balance of working capital?

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

OTHER RATE BASE COMPONENTS

ISSUE 62: Should deferred debits related to the attempts to obtain a water supply for Marco Island be allowed and if so, what is the appropriate amount and amortization period?

The use of deferred debits to defer these costs from 1990 through 1994 to the present case should not be allowed. Rate base should be reduced by \$1,319,227 and amortization expense should be reduced by \$293,162.

RATE BASE SUMMARY

ISSUE 63: What are the appropriate rate base amounts in total and by plant?

The final amounts are subject to the resolution of other issues.

ISSUE 64: Stipulation

ISSUE 65: Should any adjustments be made to the equity component of the Company's capital structure?

Yes. The Commission should reduce the equity component of the Company's capital structure by \$4,800,000. The Commission should also remove \$203,924 of non-utility investment in general plant from equity. If the Commission does not make an adjustment amortizing the gain on sale of water and wastewater systems, an adjustment should be made to the equity component of capital structure to account for gains on sale.

ISSUE 66: What is the appropriate cost of common equity?

A return on equity of 10.1% should be used.

ISSUE 67: What is the appropriate amount of accumulated deferred income taxes and what are the appropriate methods for allocating deferred income taxes to the individual plants?

No position.

ISSUE 68: What is the appropriate amount of unamortized investment tax credits?

No Position

ISSUE 69: What is the appropriate weighted average cost rate for investment tax credits?

No position

ISSUE 70: What is the appropriate, overall cost of capital including the proper components, amounts, and cost rates?

The overall cost of capital is dependent upon the resolution of other cost of capital issues.

NET OPERATING INCOME

OPERATING REVENUES

ISSUE 71: Stipulation

ISSUE 72: Has SSU correctly calculated its 1996 water revenues at Marco Island?

No. SSU has understated its revenues at Marco Island.

ISSUE 73: Are any revenue or expense adjustments necessary to reflect the normalization of test year revenue for weather/rainfall?

Yes. The Commission should increase test year revenue by \$1,937,931 to reflect the abnormally high level of rainfall experienced during the test year and the period used by SSU to project test year revenue. (K. Dismukes, Schedule 16) Likewise the Commission should increase test year expenses by \$539,611 to reflect the increased variable expenses associated with increased consumption.

ISSUE 74: Are any revenue or expense adjustments necessary due to the utility's proposed repression adjustment?

No position at this time.

ISSUE 75: What are the appropriate projected number of water and wastewater bills and consumption to be used to calculate revenue for the 1996 projected test year and to calculate rates for service?

No position at this time with respect to the growth in the number of customers. The appropriate test year gallons for residential customers is 9,501,263,000 as reflected on K. Dismukes Schedule 16. These are the weather normalized gallons for the projected test year ending 1996. If the Commission does not adopt the Citizen's primary recommendation, the appropriate gallons for the projected test year for all customers is 12,122,034,117 as reflected on K. Dismukes Schedule 17. The Commission should reject the Company's proposal to decrease billing determinate by 933,808,000 for the effects of repression.

ISSUE 76: Should an adjustment to revenue be made for reuse revenue on Marco Island.

Yes. Test year water revenue should be increased by \$183,668 and test year wastewater should be reduced by \$13,688.

ISSUE 77: Should the miscellaneous revenue adjustments proposed by Witness Dismukes for billing adjustments and non-utility income be made?

Yes. Test year revenue should be increased by \$57,595 and test year income should be increased by \$8,474.

OPERATION AND MAINTENANCE EXPENSE

ISSUE 78: Stipulation

ISSUE 79: Stipulation

ISSUE 80: Should the Commission accept the projected wage increases of SSU regarding market equity, merit, licensure, and promotional adjustments?

SSU failed to justify its projected wage increase. Salary expenses should be reduced by \$1,027,052; payroll tax expense should be reduced by \$82,164.

ISSUE 81: Stipulation

ISSUE 82: Should the utility's proposed salary adjustment based on the Hewitt study be approved?

No Position at this time.

ISSUE 83: What adjustments are necessary to remove salaries and benefits associated with employee lobbying?

Yes. Test year expenses should be reduced by \$65,661 for salaries and \$15,626 for related expenses.

ISSUE 84: Should expenses be reduced to reflect salaries and expenses related to SSU's acquisition efforts?

Yes. Test year expenses should be reduced by \$175,928 for salaries and \$10,742 for related expenses.

ISSUE 85: Stipulation

ISSUE 86: What adjustments are necessary to SSU's Hepatitis Immunization Program (Audit Disclosure No. 11)?

The \$16,312 incurred for Hepatitis Immunizations is a nonrecurring expense and should be amortized over five years. Water miscellaneous expenses should be reduced by \$13,050.

ISSUE

86(A): Should an adjustment be made to reflect other Administrative Projects that will be amortized by the end of the test year?

Yes. Test year expenses should be reduced by \$93,452.

ISSUE 87: Are any adjustments necessary to sludge hauling expense at the Beechers

Point/Palm Port facility

***Yes.** The hauling of treated effluent should be identified as a "Purchased Sewage Treatment Expense" rather than sludge hauling; further these costs should not be treated as recurring. The utility should be directed to determine a more cost-effective solution.*

ISSUE 88: Should SSU's requested amount of purchased power expense for Deltona Lakes be approved

***No.** Projected 1996 purchased power expenses for Deltona Lakes water plant should be reduced by \$56,916.*

ISSUE 89: Stipulation

ISSUE 90: Should an adjustment be made to remove the utility's allocated share of Shareholder Services from A&G Expenses

***Yes.** 1996 A&G expenses should be reduced by \$208,776 to remove SSU's allocated share of Shareholder Services.*

ISSUE 91: Stipulation

ISSUE 92: Should the Commission allow the Company's proposed conservation expenses?

***No.** The Commission should reduce the Company's conservation expenses by \$268,534. (K. Dismukes, Schedule 7) If the Commission adopts the Citizens' adjustment, it should for consistency increase test year revenue by \$70,710 and reduce variable expenses by \$33,372.*

ISSUE 93: What is the appropriate amount of current rate case expense associated with Docket No. 950495-WS?

Test year expense should be reduced.

ISSUE 94: Should the expense associated with Docket No. 930880 -WS (Uniform Rate Investigation Docket) be considered Regulatory Commission Expense - Other, and if so, what is the appropriate treatment and amount?

***Yes,** these amounts do not relate to a rate case proceeding and should be removed from current rate case expense. Only prudently incurred costs associated with this docket should be allowed and amortized over 5 years to those facilities included in Docket No. 930880-WS*

ISSUE 95: Should the expense associated with Docket No. 930945 - WS (Jurisdiction Docket) be considered Regulatory Commission Expense - Other, and if so, what is the appropriate treatment and amount?

Only that part of the identified expenses which were prudently incurred should be recovered. As to the methodology for recovery, where recovery is approved, agree with Staff.

ISSUE 96: What is the appropriate treatment for additional rate case expense incurred subsequent to the final order in Docket No. 920199-WS (Prior Rate Case)?

Agree with Staff. Much of the costs incurred subsequent to the amounts approved in Docket No. 920199-WS were associated with legal expenses associated with the Company's advocacy of uniform rates. The Company has not justified or proved the reasonableness of these expenses.

ISSUE 97: Should an adjustment be made to administrative and general and customer expenses for SSU's inefficiency?

Yes. Test year expenses should be reduced for diseconomies of scale by \$243,773.

ISSUE 98: Should an adjustment be made to corporate insurance expense?

Corporate insurance expense should be reduced by \$96,458.

ISSUE 99: Should a true-up budget adjustment be made to test year expenses?

Yes. Test year expenses should be reduced by \$496,035.

ISSUE

100: Should the miscellaneous adjustments for bad debt, excessive employee recognition and the Price Waterhouse audit proposed by Witness Dismukes be made?

Yes. Test year expenses should be reduced by \$137,759, in accordance with adjustments reflected on K. Dismukes, Schedule 35.

ISSUE

101: Dropped

ISSUE

102: Should a 1996 attrition factor of 2.49% be applied to 1995 expenses as opposed to the 1.95% used in the MFRs?

No.

ISSUE

103: Should actual 1995 FASB 106 expenses be considered in the 1995 test year?

No.

ISSUE

104: Dropped

AMORTIZATION OF GAINS OR LOSSES

ISSUE

105: Are adjustments appropriate to reflect gains or losses on the sale of SSU plants as above the line income?

Yes. Utility gains on sales should be included above the line for ratemaking purposes. The Commission should increase test year income by \$3,363,412.

ISSUE

106: If gains on sale are to be amortized and shared by ratepayers, should the amount of the gain first be offset by an amount sufficient to increase the level of utility earnings during the historic period to a level equivalent to the applicable rate of return authorized by the Commission for each year during the historic period?

No. This would amount to retroactive ratemaking and deny customers the benefit of the gains on sale.

TAXES OTHER THAN INCOME

ISSUE

107: Is an adjustment appropriate to reduce regulatory assessment fees related to Marco Shores purchased water from Marco Island (Audit Exception No. 4)?

Yes. Water regulatory assessment fees for Marco Island should be reduced by \$3,118.

ISSUE

108: Are adjustments necessary to property taxes for used and useful plant adjustments?

An adjustment should be made to property tax expense to reflect appropriate non-used and useful percentages. Property tax expense should be reduced by \$731,678.

ISSUE

109: **Stipulation**

INCOME TAX EXPENSE

ISSUE

110: **What is the proper amount of parent debt adjustment and the method of allocation to the individual plants?**

*The adjustment should be increased by \$18,027.

ISSUE

111: **What is the above-the-line amount of ITC amortization and what is the appropriate method for allocating the above-the-line ITC amortization to the individual plants?**

No position.

ISSUE

112: **Is an ITC interest synchronization adjustment appropriate, and if so, what is the proper amount and the proper method of allocation to the individual plants?**

No position.

ISSUE

113: **What is the appropriate provision for test year income tax expense, in total?**

No position.

TEST YEAR OPERATING INCOME

ISSUE

114: **What are the test year operating income amounts before any revenue increase in total and by plant?**

No position.

REVENUE REQUIREMENT

ISSUE

115: **Should SSU's revenue requirement be calculated on a plant specific basis?**

SSU's revenue requirement should be calculated on an individual, plant specific basis.

ISSUE

116:

What are the revenue requirement in total and by plant?

The final amounts are subject to the resolution of other issues.

RATES AND RATE STRUCTURE

ISSUE

117:

Are SSU's facilities and land functionally related, and if so, does the combination of functionally related facilities and land, wherever located, constitute a single system as defined under Section 367.021(11), Florida Statutes?

No. With the exception of those few systems that are physically interconnected by pipes so that water or wastewater can be transmitted from one to the other, no systems are functionally related in a manner that operations at one plant have any impact on relevant service operations at another. SSU's attempts to "tie" its systems together through purchasing, accounting, and management operations, involve functions that neither involve land or facilities.

DISCUSSION AS TO ISSUES 117, 119, 124 AND 125

In 1983 Minnesota Power and Light Company came into Florida to get into the fast growing water and sewer utility business. According to their President, Aaron J. Sandbult, their acquisition policy was to look at the assets, rates, total purchase price and compare the price to what the asset price as compared to the asset base was. They looked to see whether or not there was a negative or positive acquisition adjustment and make projections on that. (TR 3979) They utilized these factors in purchasing SSU as well as in purchasing many companies since that date. (TR 3982).

They even have on staff and in place, Charles L. Sweatt, Vice President of Corporate Development for SSU whose primary responsibility is in acquiring and selling these utility companies. (TR 2991) He has been with the company for 32 years and adds to Mr. Sandbult's promises that they also investigate when acquiring utilities, the capital improvements necessary and environmental compliance and non compliance. (TR 3004) Mr. Sweatt testified that they have an aggressive policy of acquisition. (TR 3007) He also recommends that they currently sell 20 of the utility companies or at least 13% of the inventory owned by SSU. (TR 3005)

According to President Sandbult, they made projections as to their earnings which did

not hold up to be true in all of these acquisitions. (TR 3983) They have now come to FPSC and asked that the FPSC take money from Amelia Island customers and other similarly situated customers and bail out Minnesota Power and Light from their business mistakes made for acquisition. As an example, Citizen Belackas, one of the customers who testified at the hearing, is a customer of Sunny Hills, one of the many utilities acquired by SSU. The original owner, Deltona, made many mistakes and SSU acquired these customers, plus all the mistakes made by the former owner. They utilized all their due diligence as they did in all their other acquisitions and now they are trying to raise the rates to a high extent just to try and make the mistake pay. (TR 99)

Mr. Sandbult testifies that in years 1992 through 1995 that Minnesota Power and Light had a cumulative net return on investment of plus 11.5%. (TR3936) This is hardly a company, as he describes, on the edge of economic disaster. (TR 3936) In his testimony he calls the acquisition and sales "extraordinary events" but quite to the contrary they are in the acquisition and sales business. Certainly the energies devoted by them are quite evident in Mr. Sweatt's evaluation and readiness to sell 13% of their inventory.

The FPSC must take into consideration this new breed of investor who is in the business of buying and selling as well as operating utility companies. These concepts are obviously new. Even Mr. Ludsen, who is Vice President of Operations, seemed to be shocked when Chairman Clark asked him the question "That if the FPC allows uniform rates and SSU sells one of the utilities, it has customers who take service under a uniform rate and they sell a utility, the rate base will be reduced." (TR5347 - 5348) Certainly SSU, encouraged by its investor, Minnesota Power and Light, is in the used utility as well as the operations business. They purchase utility companies after a great deal of due diligence on their part because these projections are found not to be correct, they make bad business mistakes. They are attempting to make users in other areas of uniform rates prisoners in their own homes while they rob them of their contributions in aid of construction and let SSU use these moneys to bail them out from bad business decisions.

The structuring of rates was set forth by Gregory L. Schaffer, FPSC staff, as he told the FPSC that they must consider the rate design on the following criteria. Not all but some of which must be met by a particular rate structure.

1. The afford ability of rates for all customers.
2. The ease of administration.
3. Customer acceptance and understandability.
4. Fairness (the degree to which subsidies occurerr)
5. Rate continuity.
6. Conservation and resource protection.

7. Revenue stability and predictability for the utility.
8. The utility stance on acquisitions.
(TR 3325)

1. The affordability aspect is ridiculously high under uniform rates or under any rate increase for SSU to begin with. The rates they are seeking are artificially inflated because of their attempt to have customers of high CIAC bailout customers of low contribution.

J. Donald Riney, expert testified on behalf of Amelia Island, points out that SSU is seeking a 12.25% return on equity and the rate of return on rate base of 10.32%. However, with the Amelia Island System in real dollars, because of contributions in aid of construction it would be a 94.33% return on water and a 35.1% return on sewer return on equity. The rate of return on water would be 43.12% and 19.49% on sewer. This is nearly a \$1,000,000 contribution in subsidy for some other distant unconnected system. (TR 2602 - 2604) Sugar Mill Woods expert witness, Buddy L. Hanson, testified that they were asked to subsidize others by \$1,282,246, which is a 95% increase for water and sewer to give money to luxurious homeowners in other parts of the state from SMW residents, some of whom are on Medicaid. This is patently unfair. (TR 3116)

2. The issue of ease of administration is not any particular bonus under uniform rates as Mr. Leutsen, on behalf of the company points out, there are no cost savings aside from whatever expense savings you associate with the filing of the consolidated annual report that you would not otherwise obtain from centralized management. (TR5331)

3. As to customer acceptance and understandability, uniform rates are not acceptable or understandable to those who are forced to subsidize. Florida Statutes, State and Federal Constitutions and case law, require that rates not be unduly discriminatory and if the FPSC fails to recognize significant cost differences, the Commission opens itself up to approving rates that are unduly discriminatory. (TR3626) The rate shock in this case is to those who will be subsidizing others. (TR 3638)

4. As to the fairness criteria, and that fairness is based upon the degree to which subsidies occur, Judge Robert Mann's testimony said it best when he said "CIAC must be considered in a manner that gives the customer who paid it the benefit of his contribution. Anything less is inherently unfair and in my opinion represents an unconstitutional taking under the 5th and 14th Amendment to the United States Constitution. Article 1, Section 9, and Article 10, Section 6, of the Florida Constitution. Two otherwise identical customers would be paying identical rates but one was forced to pay as much as \$2800 to hook up to the system, while the other

may have paid as little as \$7.00...customers clearly have a property right that cannot be affected without due process.” (TR 3637) Even Mr. Ludsen, Operations Vice President of SSU, in his testimony, informed the Commission that higher contribution to in aid of construction, all other things being equal, result in lower rates. (TR 5315) He also admitted that all systems or service areas contained in this case have differences in costs, CIAC, and age of facilities. (TR 5326)

In summary as to the various aspects, not only are these subsidies that will be required unfair, they are illegal. (TR 3637)

6. As to conservation and resource management uniform rates could encourage water consumption. Those who are subsidized are not responsible for their own actions. There is no incentive to conserve with subsidies. (TR 3364) The rate structure at Amelia Island is obviously not going to affect water usage in a subsidized facility area according to the Assistant Director, Department of Resource Management for St. Johns Water Management District. (TR4025) Uniform rates wouldn't deter consumption but would encourage it. (TR 3350)

7. As to revenue stability and predictability, the utility rate stability is pointed in the question by Commissioner Deason, rate stability does not depend on whether or not you have stand alone rates or stand alone but rather a question of allocation between base facility and gallonage charge and whether the usage component has a minimum. (TR 3422) Uniform rates are not the panacea just because they are the simple averaging of costs and have no underlying logic to support them neither cost of service or value of service based. Modified stand alone rates are an acceptable alternative in this docket based on a subsidy cost of 5%. This along with an allocation between base facility and gallonage charge and with the usage component having a minimum satisfies the revenue stability and predictability.

8. Lastly, in Mr. Schaffer's outline of criteria, the utility stance on acquisitions. It is obvious that this utility company is in the acquiring and selling business and is geared up to do so. They are aggressive in those acquisitions and have acquired many companies based on their projections. They are big boys. They do not require hand feeding nor socialization of the rate structure to bail them out. They obviously are making money on their purchases and sales and, in spite of their protest, this is their business. The rate structure of their acquisition certainly did not discourage them from acquiring some 150 service areas in Florida. Now they wish the FPSC, if their acquisitions were poor ones, which is doubtful, to spread jelly on the bread which would come from the captured customers through the monopolies they have purchased by a forced subsidy from those who worked hard and made the bread possible in the first place. Uniform rates make sense as they have in the past whenever they are placed on interconnected systems then they can help each other out and there is a win win proposition. (TR3417) Without cost of service as a guiding

factor in rate cases, you will not be promoting economic efficiency and you would not be allowing fair and reasonable rates to all customers. (TR3718) Uniform rates ignore all cost or service considerations for each and every one of the water and wastewater systems or locations involved. (TR3619) Uniform rates dilute the importance of the customer and nullify entirely his participation in future rate cases. Each customer becomes meaningless because they cannot possibly monitor the conduct of the far away plants now effecting their destinies. (TR3631) SSU attempts to offer the FPSC some comfort as to uniform rates. They would have you believe this is the situation is the electrical industry.

If we were to take SSU's uniform rate case theory seriously, the Commission would average a cost of all Florida's investor owned utilities since they are all interconnected and are not only capable of sharing generation but do so on a daily basis. Certainly SSU's utilities they have acquired are not interconnected and do not share in sources. Arguably one would not stop at the investor owned electric companies but would include the municipal and member cooperative systems as well since they too are interconnected and routinely share generation and transmission facilities. The reality however is that each of the five investor owned utilities have separate rates, rate structures and rate tariffs. Within each electric utility, cost of services studies are conducted in order to establish costs from which costs based rates may be established. (TR3625)

Electric companies have different rates within a customer rate classification. For example, Florida Public Utilities have two separate operating divisions, one in Marianna and one in Fernandina Beach. The two divisions are separate, non generating distribution systems with separate operating facilities, generating supplies and operating costs. No subsidies from one base of customers to the other. They share many of the shared attributes as SSU claims it does. Florida Power Corporation makes distinctions as well in the Sebring area based on cost of generation. (TR3627) (Exh 199 at TR3661). In both cases, all customers of FPUC and FPC can enjoy economies of scale obtained by centralized management, while still being required to support, through their rates, distinct costs associated with providing them service. This precisely the SSU situation.

In summary as Judge Mann stated in his testimony, the principle objection to the proposed uniform rate structure is that it is unjust to those customers whose contributions to the system are above average and unjustified subsidy to those who are below average. (TR3642)

ISSUE

118:

Should the utility's proposed weather normalization clause be implemented?

No.

ISSUE

119:

Should rates be adjusted for any service areas for the purpose of encouraging water conservation?

The Commission has no statutory authority to depart from cost of service considerations in rate setting in order to affect water conservation. Properly structured Base facility Charge and Separate gallonage or usage charge rates may encourage water conservation by properly reflecting the costs of consuming the water in the gallonage charge. This goal can only be met if the gallonage charge accurately reflects the percentage of costs associated with the variable costs of producing the water. Differing consumption and cost data from plant site to plant site dictate that the split of revenue responsibility between the base facility charge and the gallonage charge should vary from system to system or plant site to plant site. Furthermore, the concept of uniform rates totally defeats the ability of the Base Facility Charge/Gallonage Charge rate structure to encourage conservation by completely masking the "price signal" of the true cost of producing the water at each location. The result is that some high cost areas with a great necessity for water conservation will actually be encouraged to consume more water because of the subsidies inherent in uniform rates, while others will be forced to utilize less because of the subsidies they are forced to pay. Charging each system stand-alone rates designated to recover the actual revenue responsibility for that plant through the Base Facility Charge/Gallonage Charge Methodology is the best way to legally affect water conservation.

DISCUSSION

See Discussion at ISSUE 117.

ISSUE

120:

What is/are the appropriate bulk rate(s)?

Bulk rates should be cost-based and the costs should reflect the actual costs of the plant site providing the service.

ISSUE

121:

In light of Section 367.0817, Florida Statutes, should any of the revenue requirements associated with reuse be allocated to the water customers in those facilities?

No, they should be allocated only to the reuse customers in this case.

ISSUE

122:

What are the appropriate rates for reuse customers in this case?

As with other rates, reuse rates should be established to recover the required revenue requirement of the reuse facility providing the customers with service. That is, reuse rates should be established on a system-by-system or facility-by-facility basis.

ISSUE

123:

What are the appropriate miscellaneous service charges for this utility?

No position.

ISSUE

124:

For SSU, what goals and objectives (i.e. safe and efficient service at an affordable price, resource protection, financial viability, regulatory efficiency) should the Commission consider in determining the appropriate rate structure and service availability charges?

The Commission has no statutory basis for considering and “goals and objectives” that are not related to the recovery of the legitimate costs of providing service at each plant location from the customers being served by each system. The rates must be “fair and reasonable and not unduly discriminatory.” For the rates to be so they must be set on a stand-alone basis, and, thereby, be designed to recover the return on investment and the reasonable and prudent expenses necessary to provide service at each location, along with the allocation of truly “common costs” through a reasonable cost allocation methodology. It is essential that the return on equity and overall return at each location equal to returns approved for the utility by the Commission.

DISCUSSION

See Discussion at ISSUE 117.

ISSUE

125:

What is the appropriate rate structure for SSU in this docket?

***Amelia, Marco Island, Sugarmill Woods, Spring Hill and Harbor Woods take the position that the proposed uniform rates are unduly discriminatory wherever they deviate by more than 5 percent from the costs of providing service at the system or location in question. All parties, except Concerned Citizens and East County, take the position that any rates or rate structure that require customers from any system to pay more than 5 percent more than their actual cost of service are unacceptable from the fairness and legal perspective. Current application of the proposed uniform rates would often have low-income customers subsidizing the utility services of high-income customers without any regard for their relative income levels. If the Commission finds that it has the legal authority and necessity to provide rate supports to truly needy customers, it should attempt to obtain funding from the state’s general**

revenue fund or promote a lifeline assistance program similar to United telephone's Lifeline Plan. Amelia takes the position that subsidies from other systems at times of capital expenditures will never occur during the life of the average retiree/resident who is currently being expected to pay subsidies under the prior and currently proposed uniform rate structures.*

DISCUSSION

See Discussion at ISSUE 117.

ISSUE

126:

Should the Commission adopt the rate structure of 40% of revenue collected from the BFC and 60% of revenue collected from the gallonage charge, as proposed by SSU?

No. The Commission should reject the Company's proposal and adopt the recommendation of the Citizens' witness K. Dismukes.

ISSUE

127:

What are the appropriate rates for wastewater-only residential customers?

No position.

ISSUE

128:

If the capped rate structure is approved, what should be the treatment for indices and pass-throughs on a going forward basis.

No Position.

ISSUE

129:

What are the appropriate rates for SSU?

The final rates are subject to the resolution of other issues.

ISSUE

130:

What are the appropriate amounts 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?

No position.

ISSUE

131:

In determining whether any portion of the interim increase granted should be

refunded, how should the refund be calculated, and what is the amount of the refund?

No position.

SERVICE AVAILABILITY

ISSUE

132:

What are the appropriate meter installation and service installation charges for this utility?

No position.

ISSUE

133:

What are the appropriate main extension charges for this utility?

No Position

ISSUE

134:

Has SSU's sewer main extension charge of \$280 under the heading of "present charges" been approved by PSC order?

It appears that this charge has never been approved by PSC order.

ISSUE

135:

Should the utility's plant capacity charges be differentiated by type of treatment?

Plant capacity charges should be established on a system-by-system basis irrespective of what the levels of CIAC are at each site.

ISSUE

136:

Should the utility's plant capacity charges be differentiated by the level of CIAC of the service area?

Plant capacity charges should be established on a system-by-system-basis irrespective of what the levels of CIAC are at each site.

ISSUE

137:

Should the utility's plant capacity charges include a provision for replacement costs as well as plant added for growth?

No position.

ISSUE

138:

What are the appropriate service availability charges for each plant?

No position.

ISSUE

139:

Dropped

OTHER OR MISCELLANEOUS ISSUES

ISSUE

140:

Should the Utility's requested AFPI charges be approved?

No position

ISSUE

141:

Stipulation

ISSUE

142:

Should the utility be required to offer the option of electronic funds transfer for direct payment of customer bills?

No Position

ISSUE

143:

Dropped

ISSUE

144:

Are the utility's books and records in compliance with Rule 25-30.450, Florida Administrative Code (Audit Exception No. 1)?

No. SSU's books and records are not in compliance with the above mentioned rule. This rule requires that documents supporting a rate filing be organized in a systematic and rational manner so as to enable Commission personnel to verify the schedules in an expedient manner and minimum amount of time. Further, the utility should be required to compile its MFRs so that the beginning balances in the MFRs agree with the balances shown on the utility's books. Adjustments should then be made to reflect changes from the books to the amounts requested for ratemaking purposes.

LEGAL ISSUES

ISSUE

145:

Do Sections 367.0817 and 403.064, Florida Statutes require the reuse facilities

be considered 100% used and useful?

For reuse facilities to be considered 100% used and useful, the construction of the facilities must be prudent and the facilities must be specifically designed and used for effluent reuse purposes.

ISSUE

146:

Are uniform rates as proposed by SSU in the instant case both in accord with statutes and constitutional?

Amelia, Marco Island, Sugarmill Woods, Spring Hill, and Harbor Woods take the position that uniform rates are not statutorily allowable because they charge for capital costs not used and useful and providing service and for expenses not necessary in the provision of services and because they are unduly discriminatory amongst customer groups. Furthermore, the parties take the position that the uniform rates are unconstitutional because they are a "taking" in violation of the Fifth Amendment to the United States Constitution.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished this 7th day of June, 1996 by U. S. Mail, to the following:

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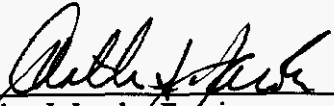
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