

FLORIDA PUBLIC SERVICE COMMISSION  
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M E M O R A N D U M

AUGUST 1, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REP( G B YO)

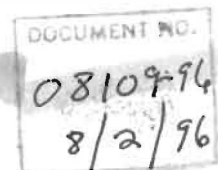
FROM: DIVISION OF WATER & WASTEWATER (WALDEN, WALKER, ALLOWAY,  
XANDERS) EXON  
DIVISION OF LEGAL SERVICES (JAEGER) JH

RE: DOCKET NO. 950387-SU - FLORIDA CITIES WATER COMPANY,  
NORTH FT. MYERS DIVISION - APPLICATION FOR A RATE  
INCREASE IN WASTEWATER RATES

AGENDA: AUGUST 13, 1996 - REGULAR AGENDA - POST HEARING DECISION  
PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: 8-MONTH EFFECTIVE DATE: JULY 27, 1996

SPECIAL INSTRUCTIONS: S:\PSC\WAW\WP\950387C.RCM



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### CASE BACKGROUND

Florida Cities Water Company (FCWC or utility) is a Class A utility that provides water and wastewater service to two communities in Ft. Myers: a northern sector and a southern sector. The North Ft. Myers service area is the applicant in this proceeding, serving about 2559 customers at December 31, 1994. Many of the customers are master metered and therefore the number of ERCs served is 4590. The utility serves an area that has been designated by the South Florida Water Management District (SFWMD) as a critical use area. Wastewater treatment is provided by a newly expanded AWT plant which the utility states has a capacity of 1.25 mgd. Effluent is disposed into the Caloosahatchee River and to the Lochmoor golf course in the service area.

The utility's last rate case was finalized July 1, 1992 by Order No. PSC-92-0594-FOF-SU in Docket No. 910756-SU. In 1994, the utility's rates were increased due to an index proceeding. On May 2, 1995, the utility filed an application for approval of increased rates pursuant to Section 367.081, Florida Statutes. The petition met minimum filing requirements (MFRs) on May 19, 1995, which was declared the official date of filing pursuant to Section 367.083, Florida Statutes. The utility requested that this filing be processed under the proposed agency action procedures identified in Section 367.081(8), Florida Statutes. No interim rates were requested.

The Commission issued PAA Order PSC-95-1360-FOF-SU on November 2, 1995. The PAA Order was protested on November 27, 1995, by a group of customers, and customer Cheryl Walla was granted intervenor status. The Office of Public Counsel was also granted intervenor status. The matter was set for hearing for April, 1996. After the protest of the PAA, the utility requested implementation of the rates approved in the Commission's PAA Order. This request was granted in Order No. PSC-96-0038-FOF-SU dated January 10, 1996, making the rates subject to refund, and providing security.

The prehearing conference was held April 4, 1996 in Tallahassee, with all parties attending, either in person or by telephone. Thirty-four issues were identified to be addressed at the formal hearing. Prehearing Order No. PSC-96-0540-PHO-SU was issued April 17, 1996. The Commission panel heard the testimony in this case on April 24 and 25, 1996 in Ft. Myers.

Schedules in the filing indicate a 6.71% return on average investment in 1994. The utility's last allowed overall rate of return was 9.14%. The utility expanded the capacity of its wastewater plant in 1995 at a cost of \$1.6 million, which included

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the installation of reclaimed water facilities and initiated provision of effluent to a lake on the Lochmoor golf course. The utility believes the magnitude of this investment justifies and end-of-period rate base determination.

The approved test year is the twelve-month period ending December 31, 1995. That calendar period is based on actual costs for the historical base year ended December 31, 1994, with applicable adjustments. During the base year the utility's wastewater revenues were \$2,085,157. The corresponding net operating income for the period was \$474,319. Proposed rates are designed to generate \$2,591,990 in annual revenues, reflecting a \$480,078 (22.73%) overall increase. The requested net operating income amount of \$763,108 would yield a 9.08% return on the projected \$8,404,278 rate base balance.

Pursuant to Order No. PSC-96-0035-PCO-SU and Rule 25-22.056(3)(a), Florida Administrative Code, all parties are required to file post-hearing statements to include a summary of each position. Any issue or position not included in the post-hearing statement is considered waived. FCWC, OPC, and Ms. Walla filed post-hearing statements.

Primary staff recommends annual revenues of \$2,003,347 which is a decrease of \$108,368 (5.13% reduction), relative to adjusted 1995 test year revenues. Alternate staff recommends slightly higher annual revenues as explained in Issue 26. Either revenue requirement will necessitate a refund as addressed in Issue 31.

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**DISCUSSION OF ISSUES**

**ISSUE A:** Should FCWC's request to take notice of the issuance of a Department of Environmental Protection Letter or, in the alternative, request to reopen the record and receive such letter as an exhibit be granted?

**RECOMMENDATION:** No. The Commission should deny the request and neither take notice of the letter nor reopen the record to receive the letter as an exhibit. However, after receipt and review of the responses of the parties, staff may amend this recommendation at the Agenda Conference. (JAEGER)

**STAFF ANALYSIS:** On July 30, 1996, FCWC filed its Notice of Issuance of FDEP Letter of Authorization or, in the Alternative, Motion to Accept FDEP Letter of Authorization into the Record. In this document, FCWC attaches a DEP letter dated July 19, 1996, and notes that in that letter DEP authorized FCWC to place the modified 1.25 million gallons per day (mgd) advanced wastewater treatment plant into service. FCWC then requests that the Commission take notice of this letter of authorization or reopen this docket and receive as an exhibit the attached letter.

Because the time for filing a response has not expired at the time of writing this recommendation, staff has contacted the parties (Ms. Walla and OPC) by telephone, and they have indicated that they do oppose the utility's request. They also indicated that they would file some response.

Having reviewed FCWC's motion, staff will first address FCWC's request that the Commission take notice of this letter. Section 90.201, Florida Statutes, (Florida Evidence Code) sets forth the matters which must be judicially noticed. Specifically, Section 90.201(1), Florida Statutes, requires a court to notice decisional, constitutional, and public statutory law of the Florida Legislature. Section 90.202, Florida Statutes, sets forth the matters which may be judicially noticed. Specifically, Section 90.202(5), Florida Statutes, provides that official actions of the legislative, executive, and judicial departments of the United States and of any state, territory, or jurisdiction of the United States may be judicially noticed. In addition, Section 90.202(9), Florida Statutes, provides that rules promulgated by governmental agencies of this state which are published in the Florida Administrative Code or in bound written copies may be judicially noticed. Lastly, Section 90.203, Florida Statutes, provides that a court **shall** take judicial notice of any matter in Section 90.202, Florida Statutes, when a party requests it and provides timely written notice and sufficient information.

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Staff does not believe that the DEP letter, written by Harley W. Young, Water Facilities Section Manager, could be said to be an official act of DEP. Accordingly, it does not meet the statutory definitions of the items which the Commission must or may take official notice. Therefore, staff does not believe it is appropriate for the Commission to take notice of this letter.

In the event that the Commission believes the letter is an official act of DEP, staff believes that the letter is a needless presentation of cumulative evidence, redundant, and that its probative value is substantially outweighed by the danger of unfair prejudice. See, Sections 90.402-3, Florida Statutes. Mr. Young, the author of the letter was not a witness at the hearing, and thus the parties had no opportunity to cross-examine him.

Having reviewed Sections 90.201-203, Florida Statutes, staff does not believe that the DEP letter meets any of the requirements listed in those sections.

FCWC has requested in the alternative, that the Commission reopen the record in this docket and receive as an exhibit the DEP letter. Staff believes that the issue of the permitted capacity of the treatment plant was thoroughly discussed at hearing. Witness Shoemaker (DEP) testified that the permitted capacity was 1.5 mgd with the disposal capacity of 1.3 mgd. (TR 171) Although he testified that the permit would be issued with clarification of what is actually there for the two different parameters, he further testified that the facility was limited to 1.3 mgd due to constraints on disposal capacity for the reuse system. (TR 169, 172) Witness Cummings testified that the plant capacity of the original plant was determined based upon providing reclaimed water at an annual rate of 0.30 mgd to the Lochmoor Country Club, but that the actual irrigation rate was less than expected. (TR 577-578) Witness Cummings also testified at length that the plant actually constructed by FCWC had a capacity of only 1.25 mgd based upon the average annual daily flow and the waste concentration associated with this flow, and that this capacity was reflected in the operating permit application being submitted to DEP. (TR 578-579) Witness Victor testified that the actual disposal capacity at the Lochmoor Country Club was 0.25 mgd and not the original 0.30 mgd. (TR 527) Based on Witness Shoemaker's testimony, and the testimony of Cummings and Victor that the disposal capacity was 0.05 mgd less than originally estimated, the letter authorizing placing into operation a modified 1.25 mgd advanced wastewater treatment plant, by itself, adds nothing to the evidence already presented. Witness Cummings and Shoemaker have already testified at length as to the calculation of the capacity of the plant, whether it be 1.25 mgd, 1.3 mgd or 1.5 mgd, and staff believes that

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this letter would just be redundant, cumulative, and of no additional probative value. See, Roberto v. Allstate Insurance Co., 457 So. 2d 1148, 1150 (3d Fla. DCA 1984), where the Third District Court of Appeal, in considering whether to grant a new trial on newly discovered evidence, stated that the evidence must be material to the issue, and that it must not merely be cumulative or impeaching.

Based on all the above, staff recommends that the request of FCWC for the Commission to take notice of the DEP letter or, in the alternative, to reopen the record and receive the letter as an exhibit, should be denied. However, staff will present to the Commission any responses of the parties to FCWC's request, and may amend this recommendation at the August 13, 1996 Agenda Conference accordingly.



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

**RECOMMENDATION:** There appears to have been no intentional misrepresentation. (WALDEN)

**POSITION OF PARTIES**

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

**OPC:** Agree with Ms. Walla.

**WALLA:** Yes, the three documents are Exhibit 19.

**STAFF ANALYSIS:** The discussion in this issue focuses on three documents in Exhibit 19: a billing insert (CW-7), a summary of a meeting dated January 30, 1995 [1996] (CW-8), and a fact sheet dated July 19, 1995 prepared by the utility (CW-10). The billing insert discusses average cost of water and wastewater to customers of Florida Cities and Poinciana Utilities. The meeting summary erroneously stated that twelve customers had withdrawn their protest [to the PAA] in this docket. The third document stated on page 2 that none of the litigation expenses involving Florida Cities and the United States Environmental Protection Agency (USEPA) were included in this rate case docket, yet the staff audit found some of these litigation expenses had been capitalized as part of the plant expansion project. (EXH 19)

The billing insert was sent to all customers of Florida Cities and Poinciana Utilities as a general information piece. The purpose of the insert according to witness Coel was to inform customers of the value of water and wastewater service on a company-wide basis and not to compare that information between divisions. (TR 762-763) The meeting summary prepared by employee Mr. Dick stated that twelve customers had withdrawn their protest. Witness Dick testified that he thought this had indeed occurred, but was incorrect. The mistake was brought to his attention at the next meeting with the North Ft. Myers utility committee and he apologized for the misinformation. (TR 731-732, 738) Witness Coel testified the third document (titled "FACT SHEET") correctly states that there are no litigation expenses included in this rate case. Mr. Coel explained that the O & M schedules do not contain any legal costs association with the USEPA litigation, and that this is the information that was conveyed to the customers. (TR 763, EXH 1, p. 30)

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Witness Walla believes the information in the insert is false. The statements are not accurate for the North Ft. Myers system. She suggests if the information is perceived as true by the Commission, flows which result in costs of \$1.85 per day per bill for the North Ft. Myers customers should be computed and the utility's used and useful adjusted in accordance with those flows. (TR 497) After reading Mr. Dick's meeting summary, Ms. Walla believes FCWC was attempting to discredit the merit of the customers' protest. (TR 498) Ms. Walla expressed concern over the \$210,734 legal fees related to the USEPA litigation that were capitalized in 1992, 1993, and part of 1994. (TR 498)

Staff believes the information in the billing insert contains no misrepresentation. The insert states:

Although the cost varies from system to system, the average cost of providing water service to your home, on a company-wide basis is 88¢ per day... The average cost of FCWC /PUI [Poinciana Utilities, Inc.] wastewater service, on a company-wide basis is 97¢ per day.

The insert clearly states that costs vary between systems and the average cost is a specific amount. The North Ft. Myers wastewater rates are significantly higher than the average and therein lies the irritation to the customers. It may have been better not to send this insert to the North Ft. Myers customers which in effect points out just how much higher the rates are to this system as compared to other Florida Cities' systems. After reviewing the insert, staff concludes there is no misrepresentation.

The meeting summary prepared by Mr. Dick does contain a mistake, as was admitted to by Witness Dick, and was discussed at the next committee meeting. He apologized for the error. While the statement was not accurate, it does not appear to have been intentional, and did not affect the processing of this case or in any way diminish the effect of the customers' protest in the eyes of the Commission.

The legal fees involved in the USEPA litigation were removed from rate base. These costs were discovered during the staff audit and appropriate reductions made. The company began expensing these legal fees below the line during 1994, which means the company's stockholders bear this cost. (EXH 19, CW-9, p. 6; EXH 23) Had the staff not discovered these legal fees during the course of the audit, they would have remained in rate base, and, depreciation expense would have been incurred. The record does not address why these fees were capitalized for more than 2 years, and then

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expensed below the line. The bottom line effect is that the customers through their rates have not incurred any legal expenses involving this litigation.

Staff concludes there has been no intentional misrepresentation by the utility by these statements.

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

**RECOMMENDATION:** Yes. (WALDEN)

**POSITION OF PARTIES**

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

**OPC:** Yes.

**WALLA:** The Commission should consider the 1065 letters, the 54 name odor petition, the testimony of the customers at the customer meeting on July 26, 1995, and all subsequent testimony. (EXH 19) The Commission should also consider all customer testimony from April 24, 1996 and April 25, 1996.

**STAFF ANALYSIS:** Staff believes it is obvious that the testimony in the record should be evaluated and considered in this proceeding. Further, from a policy standpoint, the Commission considers each of the complaints testified to in an informal customer meeting (such as was held July 26, 1995) or received through its Division of Consumer Affairs as a serious matter.

Concerning the odor petition, staff believes there is no question that the customers who signed it have experienced sewer odors over the past several years, except perhaps the two signors with Cape Coral addresses. (EXH 19, CW-6, p. 1) A more precise focus of the time period is not clear. Witness Barienbrock testified that the DEP had received complaints from a nearby restaurant about odors and the problem had been resolved. (TR 184-185, 188) He explained that Rule 62-600.400(2), FAC, referring to treatment plant design and location so as to minimize adverse effects of odors, noise, aerosol drift, and lighting was really a permitting requirement. He noted that no recent complaints had been received by the DEP. (TR 201-203) Representatives from the DEP can respond quickly to odor complaints, although they are generally not available nights and weekends. He encouraged customers to call if an odor problem occurs. (TR 203)

The customer testimony taken at the informal customer meeting on July 26, 1995 was not made a part of the record. The staff recommendation for the Commission's PAA Order discussed the customer testimony from that meeting and specifically referred to

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the testimony of eight of the 35 customers who spoke. Commission Order PSC-95-1360-FOF-SU referred numerous times to "several customers" and did not refer to the petition (TR 496) nor to any customer by name. This reference in the Commission Order could have the appearance of not having taken the customers' testimony seriously.

Staff concludes that customer testimony should be considered when evaluating the utility's quality of service. Discussion of the customer testimony from the April 24 and 25, 1996 hearing is discussed in Issue 3.

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

**RECOMMENDATION:** Yes. The quality of service meets DEP standards, although considerable customer dissatisfaction exists. (WALDEN)

**POSITION OF PARTIES**

**UTILITY:** Yes.

**OPC:** No position pending further development of the record.

**WALLA:** No, it is inefficient and there is leakage in the pipes-infiltration [as explained in Issue 5]. Also the ongoing sewage odors emanating from the AWWTP constitutes inefficiency and poor management of the plant.

**STAFF ANALYSIS:** The DEP conducted an inspection of the facilities on November 28, 1995, rating all categories as satisfactory. Witness Dick explained that the plant was in compliance with regulations prescribed by the DEP and the USEPA. (TR 239, EXH 10) Mr. Dick explained the company's activities related to AWWA Safe Drinking Water Week, informational material the company has on water quality and conservation available to customers, availability of plant tours, and meetings he has had with the North Ft. Myers Utility Committee. (TR 238) He explained the procedure used by the company to address customer inquiries, and concluded that he believed the company's customer service is excellent. (TR 238-239)

Witness Barienbrock testified that the DEP does have regulatory authority concerning odors and is responsive to customer concerns on that issue. Complaints of odors from a nearby restaurant have been resolved, and while complaints have been received from customers in the past, none are recent. (TR 184-185, 188, 200, 203) He also testified that while the plant was meeting effluent standards, it was operating above its permitted capacity. He noted that the utility did have a construction permit to expand its facilities and the work was nearly complete. (TR 184)

Witness Karleskint explained that the majority of customers who signed the petition (EXH 19) do not live near the wastewater plant. (TR 675, 694) Those living near the plant may notice an occasional odor. She noted that the DEP has inspected the plant eight times in the last year and not found any obnoxious odors. She did not consider that some of these customers might frequent the restaurant or marina adjacent to the wastewater plant. (TR 675, 695, 698) The utility has made some changes in its procedures to help control odor. The plant could be covered with a dome, but it would be very expensive and cost prohibitive. (TR 675, 696)

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As discussed in Issue 2, a petition signed by 54 North Ft. Myers residents contained complaints of repeated sewage odors. (TR 496) Customers Ebie, Mills, Brillhart, and Catalano complained of odor from this utility's facilities. (TR 48, 57, 70, 483-485) There are other problems too. Several customers spoke of identical or estimated bills they had received. (TR 84, 362-363, 389-390, 408) Others spoke of repairs that were not properly made. (TR 44, 67-69, 385-387) One customer spoke of the water storage tank that overflows two or three times a month, and has been overflowing for a couple of years. (TR 53-54)

Ms. Walla states that the petition related to odor problems (EXH 19) is signed by customers who have actually witnessed these odors, regardless of where each customer lived. She believes witness Barienbrock should have been more explicit in his comments about odor complaints more clearly stating that complaints had been received by the DEP by Shuckers Restaurant and utility customers. (BR, p. 4)

In evaluating the quality of service, Rule 25-30.433(1), FAC, requires the Commission to consider the quality of the utility's product, operational conditions of the facilities, and the utility's attempts to address customer satisfaction, as well as testimony and records of the DEP and its witnesses, and, testimony of customers. These parameters will be discussed below.

The quality of the product is meeting effluent standards as testified to by witness Barienbrock. (TR 184) The plant was operating in excess of its capacity, and has been enlarged to accommodate more flow. A construction permit was in effect for this expansion, and an operating permit was to be applied for in May, 1996. (TR 579)

Operational conditions are more difficult to assess. Witness Barienbrock testified that the plant is meeting effluent standards, and that steps have been taken to control odor, noise, and aerosol drift. (TR 184-185) The utility met with the DEP on these problems and has complied with the suggestions of the DEP. (TR 188) To eliminate the odors will be cost prohibitive if a dome is constructed over the tanks. (TR 675, 696) Noise from trucks is minimized by restricting traffic to the plant to between the hours of 7 am until 5 pm, except in the case of emergency. (TR 259)

The overflowing water storage tank testified to by Witness Mills (TR 53-54) demands more attention, even though it is not part of this wastewater case. This service area is located in a critical use area as designated by the SFWMD, and the utility should never have an overflowing tank. Although Witness Dick

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explained the high level alarm that alerts operators at other treatment facilities since the water plant is not staffed at night (TR 259), it is obvious that the operators are not responding. Perhaps the alarm needs to activate sooner by repositioning the sensor in the tank, or an automatic pump shut off is needed.

Customers testified about repairs that the utility or its contractors made that are inefficient. (TR 44, 67-69, 385-387) The utility's policy is to perform complete restoration to the grounds once all work is finished. (TR 256-257) This detail needs special attention by the utility. Staff will be following up with each of the customers who testified to construction work problems as a result of utility repairs to ensure satisfaction with the repair.

On customer satisfaction, the utility believes its customer service is excellent. (TR 238) Billing problems and the construction repair work mentioned above indicates that the customer service is less than excellent. The number of customers who attended the Commission hearing, as well as those who spoke about dissatisfaction, should indicate to the utility that the while it perceives the customer service as excellent, the customers do not see it that way.

Staff is recommending the quality of service is satisfactory, noting that considerable customer dissatisfaction exists. Staff will be contacting the customers to resolve the problems brought to the Commission's attention at the hearing, and staff will monitor the utility's steps to aid in problem resolution.



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

**RECOMMENDATION:** The capacity of the wastewater plant is 1.5 mgd, limited by disposal to 1.3 mgd. The flows that should be recognized for used and useful calculations are 0.942 mgd, average annual daily flow, plus a margin reserve of 0.0458 mgd, or total daily flow of 0.9878 mgd. (WALDEN)

**ALTERNATE RECOMMENDATION:** The capacity of the wastewater plant is 1.25 mgd, which matches the total disposal of 1.25 mgd (1.0 mgd to the river; 0.25 to the golf course). The flows that should be recognized for used and useful calculations are 0.942 mgd, average annual daily flow, plus a margin reserve of 0.0458 mgd, or total daily flow of 0.9878 mgd. (WALDEN)

**POSITION OF PARTIES**

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

**OPC:** 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.

**WALLA:** Whether you use average annual daily flows, or peak flows, the flows shown by the utility include infiltration, and, therefore, used and useful is overstated. Peak capacity of the plant should be used to calculate used and useful.

**STAFF ANALYSIS:** The analysis for the primary and alternate recommendations are jointly discussed in this staff analysis section. The conclusions reached are different, and are at the end of the analysis.

Witness Cummings testified the plant was originally designed to treat 1.3 mgd on an average daily flow basis (AADF), and that the plant could be expanded to treat 1.5 mgd. (TR 577, 593) This design was changed at the direction of FCWC to a maximum of 1.25 mgd based on AADF and the design waste concentration associated with this flow. This change is not reflected in the DEP construction permit, but is anticipated to be shown in the

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operating permit application. (TR 577-578) The operating permit application is expected to be submitted to the DEP in May, 1996, and will show a design capacity of 1.25 mgd, based on AADF. In Witness Cummings' opinion, the plant as constructed could not be permitted to treat more than 1.25 mgd. (TR 579) The plant capacity is 1.25 mgd due to biological loading, even though the discharge is permitted at 1.3 mgd. (TR 614-616, 634) He concludes that the capacity of the plant is 1.25 mgd using AADF. (TR 583-584, 594, 635)

The limiting factor of this plant is the treatment process, not the disposal capacity [to the Caloosahatchee River and Lochmoor Country Club]. (TR 581-582) The DEP construction permit allows expansion of the plant to 1.5 mgd, limiting the discharge to 1.3 mgd due to treatment capacity and discharge limits. The permit does not delineate between the 1.3 mgd first stage expansion, and the ultimate expansion to 1.5 mgd. More specifically, the permit allows the utility "To construct a modification to the existing 1.0 MGD, (Annual Average) advanced wastewater treatment facility (AWWT) by expanding a 1.5 MGD limited to 1.3 disposal capacity..." (TR 592-593; EXH 25, p. 4) Discussions with the DEP in the initial design and planning stages of this expansion led FCWC to design for the 1.5 mgd plant instead of 1.3 mgd, and avoid redesign and resubmittal of another permit to reach 1.5 mgd. (TR 594)

To enlarge the plant to 1.5 mgd, no additional tanks will be required. Modification to the chlorination system would be necessary and additional air diffusers would be installed. Ballpark figures for these items are less than \$100,000 for the chlorine equipment and in the hundreds of thousands for the diffusers. (TR 597-599) The reclaimed water system would need an additional pump, electrical work, valves and piping which also would be six figures. (TR 601-602) The transfer pumps may have to be replaced, and there is a likely chance that an additional effluent filter will be needed. (TR 603; 609-610)

From a design standpoint, Witness Cummings stated that it is prudent engineering design to not focus only on the immediate need, but to allow for economical expansion to the ultimate capacity and to accommodate that in the future without expending additional funds now. (TR 604-605) Since no additional tanks are required, it is apparent that the design and construction for 1.5 mgd is complete.

Capacity is not only based upon the hydraulic capacity received by the facility. The final determination of plant capacity is the ability of the plant to respond to variations in flow and pollutant load, and whichever of these variables is the most limiting is

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usually the final determining factor. (TR 581) A plant can experience short term loadings greater than its rated capacity and still provide adequate treatment. The fact that Florida Cities continues to meet discharge limits on effluent indicates the flow does, indeed, get treated. (TR 631, 633-634) On a hydraulic basis, a plant can typically handle three times the average daily flow, although Witness Cummings suspected that the BOD, CBOD, and TSS would be lower on those days of higher flows. (TR 632) The 1.25 mgd (AADF) plant was designed to handle peak design flow of 2.5 mgd (EXH 27, p. 2) rather than the more typical three times ADF which was the design of the 1.0 mgd plant. (TR 636)

Exhibit 24 shows the construction of the expanded facilities began on March 16, 1995, and was completed by March 15, 1996. Prior to the expansion, the plant was rated at 1.0 mgd. (TR 617) Reviewing Exhibit 26, the plant's ADF in July, 1995, was 110% of its permitted capacity. More specifically, the second line shows six days where flow exceeded 1.0 mgd between July 1 and 17, 1995. The effluent CBOD ranged from 0.3 mg/L to 1.9 mg/L, with one day at 2.7 mg/L. Results of TSS effluent ranged between 2.0 mg/L and 3.3 mg/L, with one day at 4.0 mg/L. Between July 18 and 31, plant flows were above 1.0 mgd every day, averaging 1.634 mgd for that fourteen day period. Three non-consecutive days were above 2 mgd. Effluent CBOD for this period ranged between 0.8 and 1.4 mg/L, with one day at 4.3 mg/L (this one day showed flows of 1.3 mgd). Results of effluent TSS ranged between 0.7 and 3.0 mg/L, with two days above that at 4.0 mg/L. The influent TSS was higher during the last two weeks than during the first part of the month, yet achieved effluent results were similar. (EXH 26) Comparing the last half of the month with the first half of the month shows similar achieved results of treatment of effluent. Staff concludes that Witness Cummings' suspicions that treatment plant results are less on those days with higher flows are unfounded.

Exhibit 26 and its test results show that the utility's plant can consistently operate above its permitted capacity and achieve similar and sometimes better results than at flows less than its permitted capacity of 1.0 mgd. Witness Cummings stated the expanded plant capacity as constructed is 1.25 mgd, annual average. (TR 603) He reiterated that the plant is not a 1.5 mgd plant and cannot treat 1.5 mgd a day on an annual average. (TR 615) The plant at the time of the hearing was permitted to treat 1.0 mgd annual average. (TR 617)

The utility plant's treatment capability, and its ability to provide effluent meeting quality standards, does not appear to match its hydraulic permit allowances. The 1.0 mgd plant in July, 1995 was able to achieve similar effluent standards at ADF of 0.907

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mgd for the first 17 days of July as for the last two weeks of the months when flows were 1.634 mgd.

The record indicates that Ms. Walla's position that peak capacity of 3 mgd should be used is not correct. The DEP permit specifically allows annual average flows (EXH 25), and to recognize peak flows is contrary to the permit. Additionally, Witness Cummings stated that the plant expansion, while designed hydraulically to accommodate a peaking factor of 2.5, the plant prior to expansion had a peaking factor of three. He noted that the old plant was designed by another firm. (TR 636) A peaking factor of three for the new plant is contrary to the testimony.

Witness Shoemaker testified that the plant is capable of handling 1.5 mgd, and is permitted for 1.5 mgd, although limited to 1.3 mgd due to disposal. These are the amounts specified in the utility's application for a construction permit submitted to the DEP. (TR 169, 171-172, 177-178) This current capacity of 1.5 mgd is expected to accommodate the future build out of the utility's service area. (TR 170)

Primary staff is not persuaded by the testimony of Witness Cummings that the plant's true capacity is 1.25 mgd when considering the biological loading criteria. It is obvious that the 1.0 mgd prior to expansion could effectively treat flows considerably in excess of the plant's permitted capacity, and for an extended period of time. The construction permit issued by the DEP is for 1.5 mgd. All the tanks are in place to accommodate the plant's ultimate capacity of 1.5 mgd, although some additional chlorine equipment, diffusers, pumps, and a filter may be necessary. The largest cost is the diffusers, but the witness unfortunately was not able to provide a more precise financial impact for the items, other than narrowing each estimate to six figures. Staff concludes the capacity of the plant is 1.5 mgd due to the tank sizing, and the amount of the equipment in place requiring no modification.

Alternate staff recommends accepting the testimony of witness Cummings that the plant is limited to 1.25 mgd. Alternate staff believes the hydraulic and biological loading factors are different, and the limiting factor of biological loading should be recognized. While not able to resolve the ability of the old 1.0 mgd plant to treat flows significantly in excess of the plant's capacity, staff is reluctant to assign a higher capacity to the treatment plant than that which the design engineer has certified to the DEP that the plant can treat on an annual average basis. Alternate staff therefore concludes the capacity of the plant is 1.25 mgd.

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

**RECOMMENDATION:** No. (WALDEN)

**POSITION OF PARTIES**

**UTILITY:** No.

**OPC:** 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.

**WALLA:** The public should not be compelled to pay increased wastewater rates because of an inefficient wastewater collection system. Moreover, if the utility's existing infiltration and inflow reduction program has not been vigorously pursued, then customers should not pay those costs.

**STAFF ANALYSIS:** In the last rate case for this system, there was considerable testimony addressing the amount of infiltration and inflow (I & I). Order No. PSC-92-0594-FOF-SU discussed the utility's 29 miles of pipe in the system, and the allowance of 10,000 gpd per mile, or 290,000 gpd, at the low end of the range specified in the Water Pollution Control Federal [Manual of Practice No. 9]. This 290,000 gpd was a little less than 22% of the water sold. The high end of the range would allow 30,000 gpd per mile or 870,000 gpd. The Commission concluded that infiltration was not excessive and made no adjustments to pumping and treatment expenses. (See Order, p. 13)

The utility performed calculations on the amount of I & I and found an average of 0.239 mgd, or 25% of the average daily flow, which is within the guidelines of MOP 9. (TR 240) The manual's upper limit would allow this system to have 0.870 mgd I & I and still be acceptable. (TR 241) Witness Young explained that the parameters referred to by OPC witness Dismukes are for newly constructed extensions to systems, and said that an allowance of 30,000 gpd/mile is the correct amount to use. He also noted that the collection system is below groundwater, and has been in service over 20 years. (TR 710)

Witness Acosta admitted that infiltration had been increasing since 1985, yet he did not think it was a problem. (TR 322-323, 329) He noted that additional increments of capacity would not have to be built if I & I were reduced by a specific amount. (TR

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325) He believed the utility's I & I program, a preventative maintenance program, is keeping I & I within limits as prescribed by MOP 9. (TR 327) He did not think it was economically feasible to achieve a 25% reduction in lieu of building a plant expansion, nor was it less expensive to reduce I & I than to build plant. (TR 329-330)

Mr. Acosta explained that I & I also enters the utility's systems from customer laterals. He said it would be extremely expensive to eliminate I & I and would not be in the customers' interest to do that because of cost. (TR 470-471) He agreed with MOP 9 (EXH 6) which allows 30,000 gpd per mile for the total length of mains, laterals, and house connections without regard to the diameter of the line. This amount is allowable for an existing system, as opposed to a new system. (TR 473) His testimony also shows that the utility has an ongoing program for inspections and repairs to mains and manholes. Over the last four years the utility has spent an average of \$24,800 per year in rehabilitating its collection system, and plans to continue working on I & I control. (TR 472)

Witness Dismukes performed calculations showing the amount of infiltration in this system. The allowances she used allow 5,000 gpd/per mile for pipe up to 8" diameters; 6,000 gpd/mile for pipe 9-12", and 12,000 gpd/mile for 13-24" pipe. Her calculations show excessive I & I of 13.4 million gallons for the peak month. (TR 555) Other calculations performed included default formulas in the staff's proposed rule and the last Commission Order involving this system. (TR 556-557) Witness Dismukes' evaluation was based on peak month flows since she concluded the plant design must meet peak requirements and treat I & I. She believes the company's examination of I & I on an average annual basis fails to recognize I & I affected the peak month and that capacity additions were required to treat the I & I. (TR 559)

Witness Bidy stated that if excessive I & I exists, an alternative to a plant expansion was to rebuild the collection system, as is being done in the City of Apalachicola. He had no basis however to compare the City's system with the North Ft. Myers system. (TR 227-228)

Ms. Walla points out that witness Barienbrock's analysis is flawed because he did not remove the 550 water only customers that do not contribute flows to the wastewater plant, and used water flows instead of water sold data. (TR 198-200) She correctly notes that witness Dick assumed 100% water returned as wastewater. (TR 493, 248)

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Witness Barienbrock testified that both Ten State Standards and MOP 9 are manuals that refer to I & I allowances for new systems. (TR 188, EXH 5, EXH 6) This North Ft. Myers system is not a new system. (TR 189) He concluded that the system does not have a serious infiltration problem. (TR 186, 194, 199) He acknowledged that DEP's concern over infiltration was limited to hydraulic and pollutant loading affecting the treatment of wastewater, and not economic considerations. (TR 195-197)

In reaching this conclusion he reviewed flows from the water and wastewater plants, based on annual average, which is how the wastewater plant is permitted. He did not consider the water only customers, although he was aware that some existed. In looking at the [flow] numbers, and taking into account the difference in the water and wastewater customers, witness Barienbrock concluded that there was no problem. (TR 198-199)

Staff is not persuaded by Witness Dismukes' testimony that I & I is excessive. Witnesses Young and Acosta noted Ms. Dismukes' allowances were for newly constructed extensions to systems, not older systems. He also pointed out that the system is below groundwater. Ms. Dismukes' calculations using peak data contradict other testimony in the record which use annual average flows. Her statement that plant capacity must be designed to treat peak flows and to treat I & I is misleading. As explained by witness Cummings, a plant can experience short term loadings greater than its rated capacity and still provide adequate treatment. The fact that Florida Cities continues to meet discharge limits on effluent indicates the flow does, indeed, get treated. (TR 631, 633-634, EXH 26) Witness Bidy's inability to compare this system to the City of Apalachicola's sheds little light on the amount of I & I that might be excessive.

While witness Barienbrock did not consider the water only customers, he did compare the water to wastewater flows and concluded there was not a great difference. Staff agrees with Ms. Walla that Mr. Dick's assumption of 100% water sold returned as wastewater is unreasonable, but also believes that Mr. Acosta's statement that a very high percentage of water is returned as wastewater due to conservation factors. (TR 334-335)

The allowances in MOP 9 indicate that this utility is within prescribed limits, and staff concludes that the amount of I & I is not excessive. Therefore, no reduction in flows is necessary when calculating used and useful. Staff believes that I & I is a challenging problem for every wastewater company, and Florida Cities is no different. Due to the collection system being in the groundwater table only exacerbates the problem. Nonetheless, staff

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believes the utility must be vigilant in its I & I maintenance program. During rainy periods, of when ground water levels are high, utilities should do visual inspections of lift stations, review lift station pump times, and whatever else it finds productive in controlling I & I.

Engineering references such as MOP 9 do not always specifically address the capital costs that must be incurred if plant expansions are required to handle flows that are greatly affected by I & I. Generally the reference concludes that if it is less expensive to pump and treat the I & I than to repair the system, leave the system alone. In these times when plant expansions are expensive, and the degree of treatment is very refined, plant expansions should be avoided whenever possible by reducing demand on the treatment facility (and thereby freeing up capacity for additional connections). This is exactly what has occurred in the electric industry through conservation and more efficient electrical components. The water industry is seeing this too as a result of reduced flow plumbing fixtures.



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

**RECOMMENDATION:** The wastewater treatment plant is 65.9% used and useful; the effluent disposal system 76.0% used and useful; and, the collection system 100% used and useful. (WALDEN)

**ALTERNATE RECOMMENDATION:** The wastewater plant is 79% used and useful; the effluent disposal system is 79% used and useful; and, the collection system is 100% used and useful. (WALDEN)

**POSITION OF PARTIES**

**UTILITY:** 100% used and useful.

**OPC:** The wastewater plant is 49.34% used and useful. The wastewater rate base should be reduced by \$3,669,429 for non-used and useful plant and depreciation expense should be reduced by \$232,848.

**WALLA:** The used and useful is 54%, as per testimony. This is a difficult and vague concept. It should not be rendered as a matter of opinion but should be a written standard that all concerned can use the same methodology. It should always have infiltration amounts taken out to give truer used and useful plant.

**STAFF ANALYSIS:** The utility suggests in its brief that the plant capacity is 1.25 mgd, as discussed in Issue 4. Plant flows to be used in this calculation are those in the MFRs. (EXH 1, p. 152) Witness Acosta supports the inclusion of a margin reserve to serve the existing and changing demands of the present customers, and the demands of potential customers within a reasonable time period. (TR 299)

Citizens suggest using average annual daily flow (.942 mgd) as compared to the plant capacity of 1.5 mgd, which yields used and useful of 62.8%. Using plant capacity of 1.25 mgd, used and useful is 75.36%. (BR, p. 9) Neither of Citizen's calculations includes margin reserve.

Ms. Walla suggests in her position that the concept is difficult one, and a written standard would be a better method. She also notes that infiltration should be removed prior to making the used and useful calculation. In her brief, she points out that until the biological and hydraulic capacities are determined, used and useful cannot be calculated. (BR, p. 10)

For the reuse being sent to Lochmoor Country Club, there is conflicting testimony as to the amount of effluent that will be

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sent to the golf course. The amount originally planned was 300,000 gpd, which matched the plant addition's preliminary design. This was reduced after it became apparent that the actual irrigation was less than originally estimated. (TR 577-578) The amount of the decrease was from 300,000 to 250,000, although witness Cummings did not know for certain why there was a decrease. He acknowledged that the amount could be as high as 300,000 on a dry day. (TR 653-654) The construction application submitted to the DEP showed reuse of 300,000 gpd, and the change occurred after construction had begun. (TR 654-655)

The discussion addressing the capacity of the plant, and therefore the denominator of the used and useful equation, is discussed in Issue 4. The flows to be considered should be annual average flows, as specified in the DEP permit, and, as testified to by witnesses Cummings and Acosta. (EXH 25, p. 4; TR 577, 584, 594, 635, 305-307) Flows shown in the MFRs for the used and useful calculations (EXH 1, p. 152) are not annual average flows, and instead are average flows from the peak month. These flows do not match the plant design nor the permitting considerations in the DEP construction permit. For that reason, the utility's suggestion of using the flows as presented in the MFRs should be rejected.

Staff has carefully evaluated the primary and alternate recommendations and the effect of each on the utility's earnings, especially in light of the utility's previous rate case and the Commission's finding in that case that the facilities were 100% used and useful.

When the primary staff's used and useful ratios are applied to test year plant balances, the resulting used and useful reductions to gross plant are \$2,883,790 for treatment facilities and \$55,555 for disposal facilities. Because these facilities are subject to depreciation, the net reductions to rate base are smaller: \$2,375,511 for treatment facilities and \$50,312 for disposal facilities. The utility's overall rate base investment - including plant, CIAC and working capital accounts (as discussed in subsequent issues) would be \$7,951,738 before used and useful adjustments are considered, but \$5,525,915 afterwards. This \$5,525,915 investment is less than the \$6,343,868 rate base amount approved in FCWC's last rate proceeding (Docket No. 910756-SU, Order No. PSC-92-0594-FOF-SU). This approximate reduction of \$800,000 is a troubling consideration since it is obvious that FCWC's investment in treatment facilities is increased relative to prior years.

In Docket No. 910756-SU, using the projected test year ended June 30, 1993, the Commission observed that FCWC's investment would

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be substantially enlarged when it completed construction of a 1.0 mgd advanced wastewater treatment plant. In that proceeding, the Commission found that FCWC's investment was 100% used and useful based upon a comparison of average daily flow conditions during a peak month to available capacity. In this proceeding, staff is recommending that peak month measurements should be disregarded in favor of average daily flow considerations.

In part, the above mentioned \$800,000 approximate reduction is due to elimination of peak flow measurements. In other respects, the reduction can be traced to additional depreciation on the \$10,181,421 plant balance recognized in Docket No. 910756-SU. In that proceeding, an average test year was used for the projected test period ended June 30, 1993. Thus, compared to the current year-end rate base for this proceeding, three years will have transpired since that prior docket. The added depreciation on the \$10,181,421 earlier plant balance would approximate \$1,600,000. Retirement entries and used and useful corrections would affect that amount. Likewise, the current CIAC amount is about \$200,000 larger than the amount included in Docket No. 910756-SU. Thus, the rate base reduction in this proceeding relative to the prior proceeding can be traced to several factors - added depreciation, increased CIAC (including an imputation adjustment in this proceeding), and plant flow considerations. Overall, the recommended provision for plant investment, before depreciation but after used and useful adjustments, is \$10,185,984 per our primary recommendation. The allowed plant balance in Docket No. 910756-SU was \$10,181,421 before depreciation, CIAC, and other corrections.

Due to the constraints in the DEP permit of annual average flows, as testified to by the utility witnesses, and the change from the use of average daily flow from the maximum month, the used and useful percentage decreases from the last rate case. While the plant expansion above 1.0 mgd will be needed at some time in the near future, it is obvious from the record in this case that it was not needed for the customers on line during the test year, including the small number of connections in the margin reserve. Exhibit 26 and its achieved test results show that the utility's plant can consistently operate above its permitted capacity and achieve similar and sometimes better results than at flows less than its permitted capacity of 1.0 mgd (see discussion in Issue 4).

**PRIMARY STAFF RECOMMENDATION:** Based upon the testimony, primary staff concludes the correct flow in this calculation is the annual average daily flow of 0.942 mgd, plus margin reserve flows of 0.0458 mgd, or a total daily demand of 0.9878 mgd. (EXH 1, p. 152) Dividing this daily demand by 1.5 mgd yields 65.9% used and useful.

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For the reuse system, primary staff recommends recognizing the higher amount of 300,000 gpd being sent to the golf course, which more closely matches the plant capacity of 1.5 mgd.

**PRIMARY STAFF RECOMMENDATION:** Under the alternate recommendation, staff would alter the used and useful calculation by substituting the plant capacity of 1.25 mgd discussed in Issue 4 and recommending used and useful of 79.02%. The only difference between the primary and alternate recommendations for the treatment plant is the plant capacity placed in the denominator of the used and useful equation. For the reuse system, alternate staff recommends recognizing the reduced flow of 250,000 gpd being sent to the golf course, which matches the plant capacity of 1.25 mgd.

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

**RECOMMENDATION:** Yes, in the amount of 0.0458 mgd, representing a three year period. (WALDEN)

**POSITION OF PARTIES**

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

**OPC:** No. Margin reserve is for the benefit of future customers; it does not benefit existing customers.

**WALLA:** This policy of including margin reserve should be totally excluded from rate making practices. The present customer base should never have the burden of the cost to provide for future customers.

**STAFF ANALYSIS:** Utility witness Acosta supports the inclusion of margin reserve to serve the existing and changing demands of the present customers, and the demands of potential customers within a reasonable time period. (TR 298-299, 308-313) He compares the margin reserve period to the time frame imposed upon utilities by Section 62-600, FAC, discussing the impact of a capacity analysis report and the timing of construction for expanded facilities, and advocates three years as a reasonable period of time. (TR 299-300) The number of ERCs and the amount to be included in the margin are contained in the MFRs. (EXH 1, pp. 152, 155)

Citizens oppose the inclusion of a margin reserve because it is for the benefit of future customers, but paid for by the present customers. (TR 559-560) Witness Acosta agreed that the present customers pay for the plant included in the margin. (TR 313, 317)

Ms. Walla agrees with OPC that margin reserve should be excluded, and that the present customers should not incur any cost to provide for future customers.

The Commission has a long standing practice of including a eighteen month margin reserve when growth is occurring. (TR 493) There have been some variations of this time period. When there is no growth, or when the service area is built out, margin reserve is not needed or allowed. Inclusion of the margin in rate base does require the present customers to pay for the plant in the margin. An Allowance for Funds Prudently Invested (AFPI) can be an alternative to margin reserve, although generally it applies to plant both within and beyond the margin reserve period. The purpose of margin reserve is to allow an increment of plant in

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readiness to serve new customers, and help to avoid some constant phase of expansion.

Based on the record, staff is recommending a three year margin as testified to by Witness Acosta. The engineer's notification of completion of construction (EXH 24, p. 1) states that actual construction took only one year to complete. It is obvious that some planning and design occurred prior to the construction period, yet the record contains none of those details. It is doubtful two full years was required. Staff has some concern over recommending a three year margin in this case, but in keeping with the record believes this recommendation is appropriate. Growth in the service area is slow, and the number of ERCs in the recommended margin reserve is 222. (EXH 1, p. 152)

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**ISSUE 8:** Should the Commission approve a year-end rate base value in this proceeding?

**RECOMMENDATION:** Yes. The Commission should approve a year-end rate base determination. (WALKER)

**POSITION OF PARTIES**

**UTILITY:** Yes.

**OPC:** No position in Brief.

**WALLA:** No, the Commission should not approve a year-end rate base value in this proceeding. The utility's investment in rate base is substantially enlarged under year-end considerations because they chose to expand their plant to treat infiltration. Further, the improvements are not in the public interest; they are in FCWC's interest to increase their assets. Maintaining their collection system over the past 4 years would have been in the public's interest.

**STAFF ANALYSIS:** FCWC filed its application using projected information for the test year ended December 31, 1995. FCWC used actual expenses and investment levels for twelve months ended December 31, 1994, and applied various adjustments to provide updated cost information. (EXH 1)

FCWC requested approval of a year-end rate base to reflect the full weight of various additions to plant in service. Significant construction costs were anticipated, including expansion of the wastewater treatment plant and installation of an effluent disposal system. The projected cost of those improvements was \$1,611,673. (TR 119-120; EXH 1, pp. 5-6, 230) In its application, FCWC claimed that the magnitude of the projected addition to plant was an extraordinary condition that justified a year-end rate base determination. As stated in FCWC's application: "(w)ith the investment that will be placed into effect during the projected test year, the rate of return will be deteriorated to the point that FCWC's property will be being confiscated in violation of the federal and state constitutions." (TR 119-120)

Overall, the planned improvements were expected to cost \$1,728,332 for the wastewater division, a 14.8% increase compared to the beginning balance. (EXH 1, p. 5) Conversely, historical growth patterns suggested a 1.6% increase in the number of customers. (EXH 1, p. 155) The projected cost to expand the wastewater plant and upgrade effluent treatment was \$1,611,673. Accounting schedules in the MFRs indicated completion of those

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projects in December of 1995. (EXH 1, p. 8-9) When the rate base calculation is averaged, the later a project's completion date, the smaller its consequent impact. Under the averaging process, using the December 1995 in-service date shown in the MFRs, about 92% (thirteen-month basis) of the wastewater plant expansion and effluent disposal cost would be eliminated. Utility Witness Coel testified that an extraordinary condition existed since major improvements that served the public interest were expected in 1995, but a major growth in customers was not expected. (TR 120)

In the absence of the most extraordinary conditions or circumstances, the Commission should apply average investment during the test year in determining rate base. Citizens of Florida v. Hawkins, 356 So. 2d 254 (Fla. 1978) at 257. The staff recommends approval of a year-end rate base determination. The wastewater plant expansion project is a substantial improvement that serves the public interest. According to Utility Witness Young, FCWC's manager for engineering and construction, completion of the wastewater plant expansion was projected for mid-January 1996. He testified that the expansion was delayed beyond its originally scheduled October 1995 completion date due to excessive rainfall and delayed shipments from equipment suppliers. (TR 270) This completion date falls within the 24-month limit prescribed by Section 367.081(2)(a), Florida Statutes. In this case, an average rate base determination would distort the revenue requirement picture, since factors which are increasing the investment in operating plant are not matched by a concomitant growth in customers. The Commission has approved a year-end rate base determination under similar circumstances (see Order No. PSC-95-0720-FOF-WS and Order No. 25821).

No party opposed a year-end rate base calculation during the hearing. OPC did not address this issue in its brief. Ms. Walla argued in her brief that expansion of the wastewater plant was the result of treating excessive infiltration. That subject is discussed in Issue 5.



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

**RECOMMENDATION:** Yes. CIAC should be imputed to exactly offset the corresponding allowance for margin reserve. The recommended provision for imputed CIAC is \$219,105 and the consequent reduction to depreciation expense is \$14,113. (WALKER)

**POSITION OF PARTIES**

**UTILITY:** No.

**OPC:** Yes.

**WALLA:** Yes, consistent with Commission practice.

**STAFF ANALYSIS:** Utility Witness Acosta testified that the used and useful determination should include an appropriate provision for margin reserve "to meet the demands of potential customers and the changing demands of existing customers within a reasonable time." He testified that the Commission has historically recognized the importance of margin reserve by allowing its inclusion in used and useful plant. He indicated however that the practice of imputing Contributions in Aid of Construction (CIAC), whereby funds that will be derived from future customers offset current plant balances, detracts from the utility's ability to earn a return on its investment. Margin reserve becomes a meaningless attribute when the imputation adjustment is substantial. For this proceeding, he explained that the utility's investment in margin reserve would be wholly eliminated if CIAC is imputed. (TR 298-299)

Mr. Acosta indicated that Section 62-600, FAC, a rule enforced by the Department of Environmental Protection (FDEP), necessitates timely planning and construction of wastewater treatment facilities. He stated that the Commission's current practice concerning imputation of CIAC combined with limited time frames for margin reserve produce "disincentives" for economically designed plant expansions. He testified that: "(t)he present Commission policy results in perpetual design/construction of wastewater treatment facilities and small incremental plant expansions, in direct conflict with the intent of Section 62-600 F.A.C." (TR 300)

Mr. Acosta asserted that FCWC should be allowed to earn a return on its investment in margin reserve. He stated that the imputation of CIAC produced a mismatch between current investment and speculative future collections. He testified that: "(p)resent customers should be responsible for the return on the investment in

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margin reserve. The recovery of capital should come from future customers as they make CIAC payments." (TR 301, 317)

OPC Witness Dismukes testified that margin reserve should not be included in the used and useful calculation. (TR 559) She reported that FCWC could receive compensation for margin reserve through collection of an AFPI charge. (TR 560) However, in the event margin reserve is considered in the used and useful calculation, Ms. Dismukes testified that "to achieve a proper matching, an amount of CIAC equivalent to the number of equivalent residential connections (ERCs) represented by margin reserve should be included in rate base." Since expansion of the utility's wastewater plant will serve future customers, she observed that imputing CIAC would mitigate the impact on existing customers. (TR 561)

Ms. Dismukes testified that failure to impute CIAC would allow FCWC to earn a return on an investment in margin reserve that would eventually be recovered from customers. She stated that the risk of any inaccurate forecasting regarding customer growth should be borne by the utility. Ms. Dismukes reported that the Commission usually imputes CIAC associated with margin reserve, but it does not likewise recognize additional revenues from those customers. She suggested that this growth in potential earnings is a balancing argument to the claimed mismatch between existing investment and anticipated CIAC. (TR 562)

During rebuttal testimony, Mr. Acosta testified that Ms. Dismukes was incorrect in her premise that FCWC would overearn on its investment if CIAC was not imputed. "Rate base changes continuously due to additional investment in plant, depreciation and CIAC. The lack of imputation of CIAC is not a causal factor that ultimately leads to overearning on used and useful plant." (TR 665) Mr. Acosta also disagreed with the suggestion that revenues from margin reserve customers should be imputed, because the expenses associated with serving future customers were likewise omitted from operating expenses. (TR 666)

When an allowance for margin reserve is included in the used and useful determination, the Commission, in accordance with past practice, will impute CIAC as an offsetting adjustment. This practice of imputing CIAC is well established, as evidenced by numerous decisions rendered by the Commission (i.e., See Order Nos. 23660, PSC-92-0594-FOF-SU, PSC-93-0423-FOF-WS, PSC-93-0301-FOF-WS). In accordance with the Commission's current policy, the staff recommends that CIAC should be imputed as an offsetting adjustment relative to margin reserve.

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We agree with Ms. Dismukes that such imputation is a matching consideration that limits the impact on current customers. Our review indicates that a portion of the investment in treatment plant was designed to accommodate customer growth.

On May 19, 1995, FCWC filed an application for authority to increase its plant capacity charge for wastewater service from \$350 to \$1,800 per ERC. FCWC's application disclosed that an \$1,800 plant capacity fee closely matched a pro rata division of its investment in treatment plant facilities among projected customers. Pursuant to Order No. PSC-95-1351-FOF-SU, issued November 1, 1995, the Commission approved collection of the requested charge.

As discussed in Issue 7, the staff recommends that a provision for margin reserve should be included in the used and useful determination. The recommended provision for margin reserve is designed to serve 222 ERCs (45,800 gpd). Based upon 222 ERCs paying a \$1,800 plant capacity charge, the potential CIAC totals \$399,600. However, pursuant to Commission practice, the imputed CIAC cannot exceed the fraction of investment directly related to margin reserve. Based upon a 1,500,000 gpd treatment plant (primary recommendation per Issue 4), with 45,800 gpd assigned to margin reserve, about 3.05% of the net investment in treatment plant is directly attributable to margin reserve. The net investment in treatment plant for the test year is \$7,175,940. Thus, based upon these ratios, the recommended provision for imputed CIAC is \$219,105 and the consequent reduction to depreciation expense is \$14,113.

If the alternate recommendation in Issue 4 is approved, 3.66% of treatment plant capacity would be associated with margin reserve (45,800 gpd ÷ 1,250,000 gpd). Thus, the recommended adjustment to impute CIAC would be \$262,926 ( $\$7,175,940 * 3.66\%$ ) and the reduction to depreciation expense would be \$16,936.

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**ISSUE 10:** Should working capital be adjusted?

**RECOMMENDATION:** Yes. A \$35,712 reduction is recommended to reflect the average test year balance. Also, as stipulated, a \$10,217 reduction is recommended for deferred pension costs and metered sales. The recommended working capital amount is \$78,845. (WALKER)

**POSITION OF PARTIES**

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

**OPC:** 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.

**WALLA:** Adjustments should be made.

**STAFF ANALYSIS:** This utility system is a Class A utility system. Therefore, pursuant to Rule 25-30.433, FAC, the working capital provision for this system was calculated using the balance sheet approach. FCWC initially requested approval of a \$124,774 year-end provision for working capital using the balance sheet approach. (EXH 1, p. 5) That amount represents an allocated share (6.6%) of selected balance sheet accounts for all of its operating divisions. FCWC's allocation process is based upon comparative operating and maintenance expenses. Although FCWC used year-end balances to calculate working capital, average account balances were also reported. (EXH 1, p. 20)

OPC Witness Dismukes testified that working capital should be determined on an average basis since that approach yields a more representative amount than a year-end approach. (TR 552) Ms. Dismukes proposed further reductions to include certain Deferred Credits in the working capital determination. The aggregate balance for Deferred Credits was \$539,071 on an average basis and \$538,664 at year-end. (EXH 22, Sch 10) Using average test-year balances, in accordance with the utility's allocation practice, Ms. Dismukes reported that a \$57,635 provision for working capital was appropriate for this utility. (TR 552; EXH 22, Sch 3)

Utility Witness Coel testified that three sub-accounts were excluded through FCWC's omission of Deferred Credits: a) Account 257.03 - Deferred Metered Sales; b) Account 257.05 - Deferred Pension Cost; and c) Account 257.06 - Deferred Gross Receipts Tax (4.5%) on Carrying Charges on Capacity Fees. Mr. Coel agreed that

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the working capital provision should include Deferred Credits for metered sales and pension costs. The consequent reduction to working capital, using year-end balances and appropriate allocations, was \$10,217. (TR 760-761) All parties stipulated that this correction was appropriate and the Commission approved that stipulation. (TR 106) Mr. Coel testified that Deferred Credits due to carrying charges on capacity fees (\$383,861) should be not be included in working capital because the matching Deferred Debit account (\$8,530,251) was likewise excluded from working capital. (TR 760) To the extent deferred debit and credit accounts are considered part of working capital, each division will receive an allocated share.

Utility witness Coel testified that FCWC proposed and supported a year-end working capital amount to avoid a "miss-match" with its requested year-end rate base. (TR 759) However, FCWC did not dispute Ms. Dismukes' contention that an average balance is more representative of the utility's working capital requirement.

We recommend that the stipulated \$10,217 reduction is appropriate to include Deferred Pension Costs and Deferred Metered Sales. We recommend excluding the Deferred Credit associated with AFPI carrying charges since the Deferred Debit for AFPI carrying charges was excluded. We further recommend that working capital should be the 13-month average balance proposed by Ms. Dismukes. (TR 552) We believe that the averaging process tends to suppress ebb and flow conditions during the test year, which fluctuations would include property tax obligations and other conditions that mature at irregular dates.

In its brief, OPC also commented that rate base should be reduced to reflect the unfunded provision for post-retirement benefits. The Commission approved a stipulation by all parties that rate base should be reduced by \$81,855 ( $\$1,240,226 * 6.6\%$ ) to represent the average balance associated with unfunded post-retirement benefits. (TR 106; EXH 1, p. 25)

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**ISSUE 11:** What rate base amount should be approved?

**RECOMMENDATION:** The appropriate rate base balance is \$5,525,915.  
(WALKER)

**POSITION OF PARTIES**

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

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

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

**STAFF ANALYSIS:** Based upon a year-end rate base determination and staff's recommended adjustments, the appropriate rate base amount is \$5,525,915 for FCWC's wastewater division in North Ft. Myers. The recommended rate base schedule is attached as Schedule 1-A(P). The recommended adjustments are reviewed on Schedule 1-B(P).

If the alternate recommendation in Issue 6 is approved, the corresponding rate base amount would be \$6,403,792. The rate base schedules for the alternate position are attached as Schedule 1-A(ALT) and Schedule 1-B(ALT)

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COST OF CAPITAL

ISSUE 12: What is the appropriate rate of return on equity?

RECOMMENDATION: Using the current leverage formula, the rate of return on equity should be 11.88%, with a range of 10.88% to 12.88%. (WALKER)

POSITION OF PARTIES

UTILITY: 11.88%, under the current leverage graph.

OPC: No position.

WALLA: Agrees with OPC.

STAFF ANALYSIS: When FCWC filed its petition for increased rates, it requested approval of a return on equity consistent with the leverage formula then in effect, which was at that time delineated in Order No. PSC-94-1051-FOF-WS. (EXH 1) That return on equity formula was subsequently revised pursuant to Order No. PSC-95-0982-FOF-WS, issued on August 10, 1995. In accordance with Rule 25-30.433(11), the return on equity shall be established using the equity leverage order in effect when the Commission decides the case unless evidence is presented to support a different return.

Based upon the evidence in the record and the components of staff's recommended capital structure, as shown on Schedule No. 2, the equity ratio for FCWC is 29.96%. Using the current leverage formula, the appropriate rate of return on equity should be 11.88%. In addition, the appropriate range for the return on equity should be 10.88% to 12.88%.

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**ISSUE 13:** Should any adjustments be made to the equity component of the Company's capital structure?

**RECOMMENDATION:** Yes, a \$2,000,000 addition to equity capital is appropriate to recognize an additional equity investment made by FCWC's parent company in December of 1995. (WALKER)

**POSITION OF PARTIES**

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

**OPC:** No.

**WALLA:** No position.

**STAFF ANALYSIS:** When FCWC filed its application for increased rates on May 19, 1995, a projected capital structure for 1995 was employed. The projected capital structure (EXH 1, p. 86) included \$20,782,539 for equity investment. The forecasted balance also included \$30,660,000 for long-term debt. The anticipated interest rate for long-term debt was 9.53%. (EXH 1, p. 86) The projected provision for debt capital included \$5,000,000 to represent issuance of a new bond with a 9.5% interest rate. (EXH 1, p. 92)

In December of 1995, FCWC actually issued \$18,000,000 worth of senior notes. The corresponding interest rate was 7.27%. (TR 750) This transaction resulted in a substantial reduction to the cost of debt. As part of the proceeds of that issue, FCWC repaid a \$2,000,000 intercompany loan. (TR 800) Further discussion of the debt capital component follows in Issue 14.

Also in December of 1995, FCWC's parent company increased its equity investment by \$2,000,000. (TR 750) According to Utility Witness Schifano, this infusion of equity capital was similar to previous capital contributions. He testified that since FCWC's equity ratio was approaching 30%, the minimum condition permitted by controlling debt instruments, additional equity investment was needed. He explained an improved equity ratio was needed so that FCWC would remain financially viable. (TR 801)

In its brief, OPC argues that the equity contribution by the parent company was merely a paper transaction which converted \$2,000,000 of intercompany debt at 9% interest to equity capital with an 11.88% corresponding cost. Since no additional funds were provided, this transaction merely increased the cost of capital. (TR 800-801)



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The staff recommends that FCWC's equity capital should be increased by \$2,000,000 to recognize an additional equity contribution by FCWC's parent company in December of 1995. Mr. Schifano, the Controller for FCWC, testified that additional equity was needed to satisfy existing obligations per outstanding debt instruments and to preserve FCWC's ability to acquire additional financing. Although this equity contribution was accompanied by an identical repayment of intercompany debt, the utility's comptroller testified that an improved equity ratio was the driving factor for this transaction. (TR 800-801)

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

**RECOMMENDATION:** The debt component of FCWC's capital structure should be adjusted to reflect the December 1995 issuance of \$18 million in senior notes at 7.27%. Further, debt capital should be adjusted to reflect repayment of a \$2 million intercompany loan. These adjustments reduce the embedded cost of debt to 8.3% and reduce the debt ratio to 45.78%. (WALKER)

**POSITION OF PARTIES**

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

**OPC:** 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%.

**WALLA:** Agrees with OPC.

**STAFF ANALYSIS:** When FCWC filed its application for increased rates on May 19, 1995, a projected capital structure was employed. FCWC forecasted that an additional \$5 million in senior securities would be issued in 1995 with a corresponding 9.5% interest rate. Based upon projected balances when the MFRs were filed, the utility anticipated that its capital structure would include \$36,660,000 for long-term debt with an attending 9.53% weighted debt cost. (EXH 1, p. 84)

OPC Witness Dismukes testified that FCWC presented updated cost of capital information when it filed a rate application for its Barefoot Bay system in Docket No. 951258-WS. That application disclosed that FCWC borrowed \$18 million when it issued its Series L bonds, and that the corresponding interest rate was 7.27%. Ms. Dismukes reported that FCWC anticipated retiring other securities (Series D, F, and H) and a \$10 million line of credit. Ms. Dismukes prepared a schedule showing the consequent impact on the utility's cost of debt capital. As adjusted, the debt component in the capital structure would be \$36,820,000 and the corresponding cost of debt capital would be reduced from 9.53% to 8.34%. (TR 538-539; EXH 22, Sch 5)

Utility Witness Coel agreed that FCWC issued an \$18,000,000, 7.27% senior note in December 1995. He testified that a \$2,000,000 equity investment was also made in December 1995. (TR 749-750) Utility Witness Schifano was asked whether this \$2,000,000 addition

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to equity capital was obtained through repayment of an equivalent \$2,000,000 intercompany loan. He testified that the intercompany loan identified in the MFRs (EXH 1, p. 92) was repaid, but the equity infusion was a separate transaction. (TR 800)

The staff recommends adjusting the debt component of FCWC's capital structure to reflect the December 1995 issuance of \$18 million in senior notes at 7.27%. Further, we recommend adjusting debt capital to reflect repayment of a \$2 million intercompany loan. These adjustments reduce the embedded cost of debt to 8.3% and reduce the debt ratio to 45.78%.

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

**RECOMMENDATION:** Yes, the customer deposit component should be removed from the calculation. The recommended cost of deferred ITCs is 9.62%. (WALKER)

**POSITION OF PARTIES**

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

**OPC:** Yes. The cost of investment tax credits should be calculated using the cost of investor supplied funds only, which is consistent with Commission policy.

**WALLA:** Agrees with OPC.

**STAFF ANALYSIS:** The utility's reported cost for Deferred Investment Tax Credits (ITCs) included a return factor associated with customer deposits. (EXH 1, p. 84) In accordance with Commission policy, such inclusion is improper since customer deposits are not considered a source of outside funding relative to ITCs. (TR 539) In its brief, FCWC concurs that Deferred ITCs should be calculated independent of customer deposits. However, FCWC asserts that the cost of capital is unaffected by this correction.

The cost rate for deferred ITCs is derived pursuant to a mechanical formula using the respective interest and return features for long-term debt, preferred stock, and common stock. Using those respective elements, staff recommends approval of a 9.62% cost of deferred ITCs (Schedule 2).

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

**RECOMMENDATION:** The appropriate overall cost of capital should be 8.72%, with a range of 8.42% to 9.02%. (WALKER)

**POSITION OF PARTIES**

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

**OPC:** The appropriate overall cost of capital is 8.64%.

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

**STAFF ANALYSIS:** The staff's recommended overall rate of return is based on evidence in the record and is derived as shown in Schedule No. 2(P). Based upon the recommended adjustments in previous issues, staff recommends an overall cost of capital of 8.72%, with a range of 8.42% to 9.02%. The same cost of capital rates also apply if the Commission approves the alternate position, as shown on Schedule 2(ALT).

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

RECOMMENDATION: No. (WALDEN)

POSITION OF PARTIES

UTILITY: No.

OPC: Yes.

WALLA: Yes, for reasons discussed in Issue 5.

STAFF ANALYSIS: The discussion and analysis in Issue 5 concludes that I & I is not excessive. Therefore no reduction should be made to chemical and purchased power expense.

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NET OPERATING INCOME

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

RECOMMENDATION: Yes. Since the utility filed a projected test year, staff believes that FCWC acted reasonably in utilizing the growth and index factors to project its operation and maintenance expenses. (WALKER)

POSITION OF PARTIES

UTILITY: Yes.

OPC: 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.

WALLA: Agrees with OPC.

STAFF ANALYSIS: FCWC requested recovery of operating and maintenance expenses that reflect increases associated with customer growth and the PSC Index factor. FCWC increased some of its expenses to account for customer growth alone, but most of the expenses were increased to account for both growth and inflation. FCWC used a 1.62% factor to match historical customer growth patterns. Based upon the Commission's 1995 Index Factor, FCWC used a 1.95% factor to adjust for inflation. (EXH 1, p. 34-37)

OPC Witness Dismukes testified that it is unrealistic to assume that expenses will automatically increase in proportion to customer growth and inflation. (TR 540) Ms. Dismukes explained that some expenses in 1994 were less than corresponding expenses in the utility's last rate proceeding for the twelve-month period ended June 30, 1993. She testified that after evaluating each of the utility's proposed adjustments, she removed any increases "where it is not evident that the expense will necessarily increase in 1995." (TR 540)

Ms. Dismukes proposed reducing test year operating expenses by \$7,494. (EXH 22, Sch 7) That amount includes a \$2,800 reduction for projected increases in postage and billing costs, which is discussed in Issue 19. Ms. Dismukes proposed reducing the other expenses (\$4,694) based upon the proposition 1995 expenses should not exceed 1994 expenses if 1994 expenses were less than costs incurred in 1993. Ms. Dismukes recommended reducing materials and supplies by \$227, transportation expenses by \$1,269, and

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miscellaneous expenses by \$3,198 because those expenses did not increase in 1994 relative to the prior test year. (TR 541-543) Ms. Dismukes suggested that the increase relative to miscellaneous expenses was particularly onerous because that expense is "controllable by the Company." (TR 543)

Utility Witness Coel testified that FCWC uses the "Price Index Factor" to cover anticipated inflation in lieu of filing a Price Index Application immediately after the test year. He testified that FCWC believes this practice is reasonable and more prudent than filing two petitions. In response to Ms. Dismukes' contention that it is unrealistic to assume that expenses will automatically increase, Mr. Coel testified that it is also unrealistic to assume that expenses will remain constant or decrease. (TR 751) He testified that FCWC believes it is reasonable to employ growth and inflation factors when a projected test year is employed. (TR 751)

With respect to the disputed increases in materials and supplies (\$727) and transportation expenses (\$1,269), Mr. Coel testified that while some expenses may be reduced from year to year, other expenses will increase. "To adjust or true-up one expense item creates a mismatch." (TR 753) With respect to the disputed increase for miscellaneous expenses (\$3,198), Mr. Coel noted that increased charges to this account are mostly due to required sampling analysis for the wastewater treatment plant and effluent disposal to the Caloosahatchee River. He testified that "FCWC's projections are reasonable, logical and supported by changed conditions or past experience." (TR 755)

The staff recommends denial of Ms. Dismukes' proposed reductions that eliminate increases associated with customer growth and inflation. We agree that it is unreasonable to assume that expenses will remain fixed when customer growth and inflation are present. Therefore, we believe FCWC's utilization of index adjustments and growth factors for this proceeding is reasonable. Further, since Section 367.081(4)(a), Florida Statutes, authorizes submission of index applications to address inflationary pressures, we believe that denial of FCWC's projected adjustments for inflation would be inappropriate.



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**ISSUE 19:** Is the Company's adjustment to increase expense for postage and envelope billing costs appropriate?

**RECOMMENDATION:** Yes. The requested \$2,800 increase should be approved. (WALKER)

**POSITION OF PARTIES**

**UTILITY:** Yes.

**OPC:** No.

**WALLA:** Agrees with OPC.

**STAFF ANALYSIS:** FCWC requested recovery of a \$2,800 provision for increased postage and billing costs. (EXH 1, p. 36) Utility Witness Dick testified that FCWC's billing practice will be enhanced through implementation of a laser-printed bill with a return envelope. He testified that customers should benefit by the "improved readability of the full-sized bill." (TR 238, 240) He reported that FCWC previously used 5 X 7 cards that were "frequently misplaced by the postal service or mixed with other 4th class mail and accidentally discarded." (TR 240) He testified customers should realize benefits through communication about conservation and water quality, receipt of information about rate changes and service related matters, and the convenience of having a return envelope. (TR 240)

OPC Witness Dismukes testified that the utility did not explain why this new billing method would necessitate an increase in postage/billing charges. Although she recognized that some increased costs would be expected, she predicted that the utility's cash flow would improve if customer bills were no longer accidentally discarded. She further asserted that postage costs should be reduced since messages could be sent to customers without sending separate mailings. She suggested that the proposed cost increase was simply the difference between the cost of sending an envelope versus a postcard. (TR 541-542)

In response, Utility Witness Coel testified that the new billing method produced increased expenses due to the extra paper cost for the larger bill, the envelope, and a return envelope. He reported that postage costs have increased since the last rate application. He testified that Ms. Dismukes offered no evidence to support her position that the utility's cash flow would suddenly improve and thus reduce costs. Regarding Ms. Dismukes' contention that postage costs should decrease due to the elimination of separate mailings, Mr. Coel reported that FCWC rarely sent separate

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mailings before conversion to stuffed billings because of the added expense. Only then "did FCWC have a cost effective means to communicate with its customers." (TR 752)

The staff recommends approval of the requested \$2,800 expense for the new billing procedure. Testimony of record indicates that additional costs will be incurred for added postage and production costs. (TR 752) Although cash flow may theoretically increase if bills are more readily delivered, there is no direct evidence to suggest an overall cost reduction. Staff agrees with FCWC that "readability" will be enhanced using laser-printing techniques. Testimony further discloses that FCWC will obtain a cost effective means for communication with its customers and that the enclosed envelope will be an additional convenience for customers. (TR 240)

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

**RECOMMENDATION:** No. Absent any evidence in the record that a specific charge is unreasonable, staff believes that it would be inappropriate to make an arbitrary reduction to expenses. (WALKER)

**POSITION OF PARTIES**

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

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

**WALLA:** Agrees with OPC.

**STAFF ANALYSIS:** FCWC is a member of an affiliated group of related companies, some of which charge or allocate costs to FCWC for management and administrative services. First, FCWC allocates administrative and general expenses and customer billing and customer accounting expenses among its operating divisions and other related parties. Second, Avatar Utility Services, Inc. directly charges FCWC for data processing services. Third, Avatar Utilities, Inc. provides management services to FCWC. And last, Avatar Holdings, Inc. charges management fees to Avatar Utilities, Inc. (TR 543-544; EXH 1, p. 163)

OPC Witness Dismukes testified that due to the affiliation among FCWC and various companies that allocate or assign expenses to the utility's cost of service, whether direct or indirect, the Commission should closely scrutinize allocation methods and techniques. (TR 544) The following is a summary of Ms. Dismukes' major concerns:

- \* Lack of support concerning reasonableness and necessity of affiliated charges. (TR 545)
- \* Possible duplication of services from affiliates. (TR 545)
- \* Lack of support for the allocation method regarding the equitable cost distribution among affiliates. (TR 545-546)
- \* Allocation method employed by parent under-allocates costs to non-regulated business. (TR 546)

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- \* Appearance of a discrepancy between the allocation method described in the MFRs compared to how the allocations actually occur. (TR 547)
- \* Lack of supporting documentation verifying allocations of administrative and general and customer expenses from ~~FCWC~~ to its various divisions. (TR 547)

OPC Witness Dismukes further testified that FCWC failed to follow Rule 25-30.436(4)(h), Florida Administrative Code, since the utility's MFRs did not include workpapers to support some of its allocations. (TR 547-549) The Rule 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 ... 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.

Ms. Dismukes testified that the utility provided all the required information with respect to Avatar Utilities, Inc., as well as the information required in parts 6 and 7 for all other affiliates. On the other hand, Ms. Dismukes testified that the company did not provide any of the information required in parts 1, 3, 4, or 5, with respect to the costs allocated from Avatar

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Holdings, Inc. Likewise, the company did not provide the information required in parts 1, 2, 3, 5, and part of 4, with respect to the allocations from FCWC. (TR 549) Ms. Dismukes also noted that a schedule in the MFRs describing FCWC allocations states: "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." (TR 550)

Based on the arguments listed above, Ms. Dismukes recommended removal of 10% of the company's administrative and general expenses and customer accounting expenses. The combined reductions totalled \$36,795. (TR 551; EXH 22, Sch 8)

In response to Ms. Dismukes' proposed adjustments, Utility Witness Coel testified as follows:

"Included on page 51 of the MFRs, FCWC provided the basis for its divisional allocations. This schedule has been included in all recent FCWC rate cases and has been subject to review at FCWC's General Office in Sarasota. This allocation method has been accepted by the PSC in its recent FCWC rate orders without adjustment."

Additional details presented in the MFRs show: a) an Organization Chart listing the members of the affiliated group, b) the services provided by affiliated parties, and c) the service contract with Avatar Utility Services regarding specified fees for recordkeeping and support services. (EXH 1, pp. 163-176) Schedules that show the allocated charges from Avatar Utilities, Inc., are also found in the MFRs. This information shows the basis for a \$22,148 allocation of expenses to FCWC's North Ft. Myers wastewater division. (EXH 1, pp. 216-224) The MFRs also disclose how FCWC allocates common costs among its operating divisions and related companies in terms of plant investment, payroll charges, and relative customers. However, this description of the allocation practice does not show total FCWC expenses before allocations. (EXH 1, pp. 225-228) Further, Mr. Coel testified that the PSC confirmed that the utility's MFRs were accepted as complete on May 19, 1995. (TR 758, EXH 30)

To further support the reasonableness of the company's allocations among its affiliates, Utility Witness Coel presented a FPSC Staff Audit Report regarding FCWC's affiliated company transactions. The Audit Opinion for this affiliated audit examination stated: "The services provided by the affiliate companies to the Water Utility are ordinary and necessary,

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effective and beneficial, not redundant and reasonably costed and appropriately allocated." (TR 756-757; EXH 30)

To further support FCWC's argument that affiliated charges should not be reduced, Mr. Coel referred to the Commission's finding in Order No. PSC-93-1288-FOF-SU, Docket No. 920808-SU, issued September 7, 1993. The Commission ruled in that case: "We find that it is inappropriate to make a reduction when the record does not support an argument that any specific charge is unreasonable. Therefore, we find that no adjustment shall be made to the allocation of transactions with affiliated companies." (TR 757)

Mr. Coel further testified that: "Ms. Dismukes did not offer any testimony that any particular charge exceeds the going market rate or is otherwise inherently unfair. Ms. Dismukes' recommendations regarding affiliated company charges and cost allocations are totally unsupported and her adjustments should be rejected." (TR 757-758)

In its brief, FCWC argues that Ms. Dismukes' proposed adjustment to arbitrarily disallow 10% of affiliate expenses is irreconcilable with the Supreme Court's holding in GTE Florida Incorporated v. Deason, 642 So.2d 545 (1994). In that case, the Court held that the Commission abused its discretion by disallowing affiliated charges:

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

Staff agrees with Ms. Dismukes that FCWC did not submit the detailed information required pursuant to Rule 25-30.436(4)(h) for affiliated company transactions. And although Ms. Dismukes provided no documentation to support her proposed disallowance of affiliated expenses, staff agrees that it is the utility's burden to prove that these charges are reasonable and necessary. (TR 505) Failure to detect omission of detailed affiliated company data was an oversight by staff.

However, staff believes that sufficient information was presented by FCWC to demonstrate that no abnormal costs or excessive costs were incurred. The record is devoid of evidence to contest either the reasonableness of the allocation methodology or the actual level of allocated expenses. Staff believes that an

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arbitrary reduction to expenses would be inappropriate. Absent evidence that any specific charge was duplicated or unreasonable, we believe that no adjustment is warranted.

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

**RECOMMENDATION:** The appropriate provision for rate case expense is \$90,863. Amortized over 4 years, the resulting test year charge is \$22,716. (WALKER)

**POSITION OF PARTIES**

**UTILITY:** \$90,863.

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

**WALLA:** There should be a detailed list of prudent expenses allowed by a utility.

**STAFF ANALYSIS:** When FCWC filed its MFRs, a \$51,600 provision for rate case charges was estimated for a PAA proceeding. Amortized over the 4 years, the corresponding annual expense would be \$12,900. (EXH 1, p. 49) In addition, \$24,418 was added for rate case charges from Docket No. 910756-SU. (EXH 1, pp. 36, 49) Since the amortization period for that docket has expired, the \$24,418 prior period charge is properly eliminated for this case. (Order No. PSC-92-0594-FOF-SU, issued 7/1/92)

At the hearing, Utility Witness Coel filed updated information showing a revised \$90,863 estimate for rate case costs. (EXH 2 and EXH 30) That amount amortized over 4 years yields a \$22,716 annual expense. The original estimate and the revised amount are compared below:

	<u>MFRs</u>	<u>EXH 30</u>
Mail, Printing, Supplies & Miscellaneous	\$ 1,500	\$ 5,390
FCWC (Rate Dept.)	18,000	15,263
Avatar Utility Services	2,600	18,358
Avatar Utilities	0	840
Legal	25,000	41,512
Outside Consulting	0	5,000
Filing Fee	<u>4,500</u>	<u>4,500</u>
Total	<u>\$51,600</u>	<u>\$90,863</u>

OPC Witness Dismukes recommended removal of \$13,949 for services provided by FCWC's rate department to eliminate a potential double-counting error if that charge was already included



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in test year expenses. Amortized over 4 years, the resulting reduction would be \$3,487. (TR 551)

In response, Utility Witness Coel testified that Ms. Dismukes' assumption regarding duplication of charges was incorrect. He testified that the disputed charges were incurred by him to prepare testimony, respond to interrogatories, prepare customer notices, and to generally administer the rate proceeding. According to Mr. Coel, these charges are assigned to a "deferred rate case" account and were not included in labor expenses. (TR 761-762)

Intervenor Witness Walla testified that "some rate case expenses were not prudent and should not be paid by the customers." She questioned 21 separate items in the FCWC's list of charges. (TR 504-505) In her brief, Ms. Walla proposed an invoice by invoice audit of all rate case expenses because "many invoices and hours logged for work on this case are very questionable."

Utility Witness Coel filed 13 pages of rebuttal testimony to explain in detail why the disputed charges were prudently incurred and properly recovered. To the extent Ms. Walla challenged his time and expense, Mr. Coel explained that his time was devoted to preparation of testimony and performing other meaningful tasks related to this proceeding. Disputed payments for copying source documents, postage, transcript fees, customer meeting payments, and other minor charges were adequately explained. Mr. Coel explained that the disputed charges for lunch and dinner were work-related. (TR 766-778)

With regard to Ms. Walla's contested charges, excluding the two items that relate to Mr. Coel's hourly wages, staff observes that the disputed expenses totalled \$2,816. Amortized over 4 years, the consequent impact on rate case expense would be \$704. By itself, removal of such an insignificant cost does not impact final rates. A reduction of more than \$2,000 is needed to change the gallonage charge.

Based on staff's review of the supporting documentation, as well as the above discussion, we believe that the utility's requested rate case expense is prudent and reasonable. Therefore, we recommend that the appropriate provision for current rate case expense should be \$90,863, resulting in annual expense of \$22,716. This increases the originally requested test year provision for rate case expense by \$9,816.

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

**RECOMMENDATION:** A \$79,118 provision for property taxes is recommended. This amount is based upon the projected \$104,349 annual expense reduced by a \$25,231 used and useful adjustment. (WALKER)

**POSITION OF PARTIES**

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

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

**WALLA:** Agrees with OPC.

**STAFF ANALYSIS:** In accordance with Rule 25-30.433(5), Florida Administrative Code, property taxes on non-used and useful plant shall not be allowed in rate case proceedings. The utility contends that its utility system is 100% used and useful. As discussed in Issue 6, staff recommends that the utility's investment is partly non-used and useful. Accordingly, reductions to the test-year provision for property taxes are appropriate.

As shown on the attached Rate Base schedule (Schedule 1-A), the utility's net plant investment is \$10,032,505 before used and useful corrections are considered. The recommended used and useful adjustment is \$2,425,823. Thus, 24.18% of the utility's net investment in utility plant is considered non-used and useful. Multiplying the utility's reported \$104,349 test year provision for property taxes (EXH 1, p. 53) by this 24.18% factor yields the recommended \$25,231 reduction to test year expenses. Therefore, pursuant to Rule 25-30.433(5), Florida Administrative Code, which prescribes removal of property taxes on non-used plant, the staff recommends a \$25,231 reduction to test year expenses.

If the Commission approves the alternate recommendation in Issue No. 6, 15.02% of the utility's net investment in utility plant will be considered non-used and useful. The corresponding reduction to property taxes would be \$15,674 ( $\$104,349 * 15.02\%$ ).

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**ISSUE 23:** What regulatory assessment fee expense is appropriate?

**RECOMMENDATION:** A \$90,385 provision for regulatory assessment fees is recommended. This amount is derived using a mechanical formula whereby operating revenues are multiplied by 4.5%. (WALKER)

**POSITION OF PARTIES**

**UTILITY:** As per MFRs. However, the final amount is subject to the resolution of other issues. Ms. Dismukes' calculation of taxes other than income is in error as she made no allowance for regulatory assessment fees.

**OPC:** No position stated in Brief.

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

**STAFF ANALYSIS:** Utility Witness Coel testified that his review of Ms. Dismukes' proposed provision for "Taxes Other Than Income" indicated that her calculation did not include an appropriate provision for regulatory assessment fees. He testified that this tax expense should be calculated in a manner consistent with the Commission's PAA order in this proceeding. (TR 748)

The provision of regulatory assessment fees is derived pursuant to a mechanical calculation that multiplies adjustments to the revenue requirement by 4.5% to yield appropriate corrections to the reported test year expense. Consistent with staff's recommended revenue requirement, the appropriate provision for regulatory assessment fees is \$90,385. If the alternate recommendation in Issue 6 is approved, the corresponding provision for regulatory assessment fees would be \$98,245.

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**ISSUE 24:** What income tax expense is appropriate?

**RECOMMENDATION:** A \$106,035 provision for income taxes is recommended. This amount is derived using a mechanical formula whereby operating income, after appropriate reductions, is multiplied by state and federal income tax rates of 5.5% and 34%, respectively. (WALKER)

**POSITION OF PARTIES**

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

**OPC:** No position stated in Brief.

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

**STAFF ANALYSIS:** Utility Witness Coel testified that he was unable to reconstruct Ms. Dismukes' proposed provision for income taxes due to the absence of a supporting schedule. However, he testified that her calculation seemed to produce an unreasonably low amount. He reported that income taxes should be calculated in a manner consistent with the PAA Order No. PSC-95-1360-FOF-SU. (TR 747)

The calculation of income taxes is derived pursuant to a mechanical calculation using appropriate state (5.5%) and federal (34.%) income tax rates applied to the utility's net operating income after considering certain tax reductions. The most significant reduction is the interest expense that corresponds to the rate base determination. Based upon the recommended Cost of Capital for this proceeding, that reduction was \$223,558 in our calculation. Other reductions include: a) \$5,644 to amortize Investment Tax Credits; b) \$15,074 due to the Parent-Debt rule; c) \$5,646 to correspond with post-retirement benefits; and d) \$4,633 to show the tax effect of depreciating CIAC. Those other reductions were reported on Schedule B-2 (page 2) of the MFRs. (EXH 1, p. 31)

Therefore, in accordance with staff's recommendation regarding operating income, a \$106,035 provision for income taxes is recommended. If the alternate recommendation in Issue 6 is approved, the corresponding provision for income taxes would be \$130,770.

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

**RECOMMENDATION:** The test year operating income should be \$546,173.  
(WALKER)

**POSITION OF PARTIES**

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

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

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

**STAFF ANALYSIS:** Based on the adjustments discussed in previous issues, staff recommends that the test year operating income before any provision for increased revenues should be \$546,173 for FCWC's wastewater division in North Ft. Myers. The operating statement for wastewater service is attached as Schedule No. 3-A(P), and the adjustments are shown on Schedule No. 3-B(P). If the alternate recommendation in Issue 6 is approved, the corresponding operating income amount would be \$518,654. The operating statements for the alternate position are attached as Schedule No. 3-A(ALT) and Schedule 3-B(ALT).

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**REVENUE REQUIREMENT**

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

**PRIMARY RECOMMENDATION:** The following revenue requirement should be approved: (WALKER)

	<u>Total</u>	<u>\$ Decrease</u>	<u>% Decrease</u>
Wastewater	\$2,003,347	(\$108,368)	(5.13%)

**ALTERNATE RECOMMENDATION:** If the Commission adopts the alternate position in Issue 6, the following revenue requirement should be approved: (WALKER)

	<u>Total</u>	<u>\$ Increase</u>	<u>% Increase</u>
Wastewater	\$2,178,007	\$66,292	3.14%

**POSITION OF PARTIES**

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

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

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

**STAFF ANALYSIS:** The revenue requirement is a summation measure that depends upon previously approved provisions for rate base, cost of capital, and operating expenses. FCWC requested approval of final rates that were designed to generate annual revenues of \$2,591,990. Those revenues exceeded test year revenues by \$506,833 (24.3%). Based upon staff's proposed recommendations concerning the underlying rate base, cost of capital, and operating income issues, we recommend approval of rates that are designed to generate a revenue requirement of \$2,003,347. This revenue amount is a reduction relative to annualized test year revenues for 1995.

If the alternate position in Issue 6 is approved, the corresponding revenue requirement would be \$2,178,007, a \$66,292 (3.14%) increase relative to test year revenues. This revenue amount is an increase relative to annualized test year revenues for 1995.

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

**RECOMMENDATION:** A reuse rate of 21¢/1,000 gallons should be approved. (XANDERS)

**POSITIONS OF PARTIES**

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

**OPC:** A rate of 21¢ should be used.

**WALLA:** The reuse rate of 32¢ per 1,000 gallons should be used.

**STAFF ANALYSIS:** An agreement between the Lochmoor Country Club (Lochmoor) and FCWC allows for the provision of reuse to Lochmoor. (EXH 28) In this issue, we must determine the appropriate rate for providing reuse. The company believes a rate of 13¢/1,000 gallons is appropriate, Ms. Walla believes a rate of 32¢/1,000 gallons is appropriate, and the OPC believes that a rate of 21¢/1,000 gallons is appropriate.

Ms. Walla's brief indicates that a 32¢/1,000 is appropriate because it is a cost based rate. This recommendation is based on a cost analysis contained in Exhibit 32. According to Ms. Walla, any rate lower than 32¢/1,000 would be inappropriate since it causes the remaining customers to bear the remaining costs.

Exhibit 32 contains FCWC's response to a request made by Commission staff during the PAA proceeding. It was offered into evidence by Ms. Walla. As shown in the exhibit, staff's request was that FCWC prepare a detailed schedule of the estimated revenue requirement associated with the provision of reuse to Lochmoor. (EXH 32)

An analysis of Exhibit 32 indicates that a reuse rate of 32¢/1,000 gallons is not appropriate. First, the expenses are understated because operation and maintenance (O&M) expenses are not included and depreciation expense is calculated using a half year rather than a full year. (TR 790, EXH 32) This would understate the reuse revenue requirement.

Second, in Exhibit 32, the company allocated the entire portion of plant specifically related to reuse and calculated the resulting rate by spreading these costs over the expected consumption of Lochmoor. Therefore, this exhibit assumes that Lochmoor will be

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the only reuse customer and that all reuse costs would be recovered by Lochmoor. This is inappropriate because FCWC's master plan indicates that there are other potential reuse customers, such as El Rio Golf Course, Orange Grove Blvd. Median, the North Fort Myers High School, Palm Island Development, Tropic Isles Elementary School and the Tropic Terrace Condo Association. (EXH 14, TR 286-287)

A cost-based reuse rate should include O & M associated with reuse in the determination of the revenue requirement. Further, the reuse rate should be calculated by dividing the full reuse revenue requirement by the total wastewater flows. In this way a reuse rate could be calculated that would apply to all reuse customers, both existing and future customers. The record in this case is not sufficient to calculate a cost-based reuse rate because there is no testimony on the appropriate O&M costs that should be included in the revenue requirement. Based on the above, staff believes Exhibit 32 is misleading and should not be used to determine the appropriate reuse rate in this case.

The Office of Public Counsel has argued that a rate of 21¢/1,000 gallons is appropriate. According to its brief, this rate is appropriate because it is competitive with Lee County and because Mr. Coel conceded that this was the appropriate rate to use. (TR 145-146)

In its brief, the company argues that the pricing of reclaimed water is market driven. Ms. Karleskint testified that when the price is higher than the market, little or none will be sold. (TR 673) Therefore, the company proposed that the reuse rate be the market price in North Lee County.

While the utility proposes that the rate be the market price in North Lee County, there is no testimony regarding a price specific to North Lee County. There is testimony, however, describing a rate for Lee County. Ms Karleskint testified that she was aware of only two reuse rates in Lee County, the South Fort Myers Division of FCWC and Lee County. (TR 700-701) Lee County's reuse rate is 21¢/1,000 gallons and the rate for the South Fort Myers facility is 13¢/1,000 gallons. (TR 700-701)

In this case, we believe that there are three elements that should be considered when determining the appropriate rate for reuse. First, we should consider the options of the reuse customer. Ms. Karleskint testified that Lochmoor has other options for its sources of supply. (TR 673) According to her testimony, these options allow Lochmoor to exercise its right to terminate the



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contract with FCWC should the price for reclaimed water become too high. (TR 673)

It appears, however, that Lochmoor's options are limited. Stormwater and groundwater are the current sources of supply at Lochmoor. (TR 585) Currently, Lochmoor is permitted by the South Florida Water Management District to withdraw groundwater at a rate of 250,000 gallons per day. (TR 586) FCWC's average capacity for reuse is 250,000 gallons per day. (TR 586) Once reclaimed water is available to Lochmoor, the consumptive use permit for groundwater will be reviewed to determine whether it will be feasible for the golf course to continue using groundwater. (TR 586, 704) FCWC's witness Cummings testified that it is possible that the review of Lochmoor's permit will result in either a denial of the permit or a reduction in the amount of groundwater that can be withdrawn. (TR 586) Therefore, Lochmoor's options for irrigation water may be limited.

Second, we should consider whether FCWC could secure any other customer should Lochmoor terminate the contract. Staff would note that in this issue, we are not attempting to determine whether Lochmoor was a prudent choice for a customer. That determination is made in Issue 28. For purposes of this issue, we believe that FCWC could secure another reuse customer if Lochmoor was to terminate the contract. As shown above, the master plan prepared by FCWC indicates that six other entities were identified as potential customers. (EXH 14) An extension of the main would be required for these entities to become customers; however, if required, the utility would make the extension. (TR 286-288) Additionally, FCWC has been working on an arrangement with the City of Cape Coral where the city would supply FCWC with potable water in exchange for reuse from FCWC. (TR 283) At present, the city is not willing to pay for the reuse. (TR 284) However, Ms. Karleskint testified that she hoped something could be arranged in the future and she identified the city as a potential customer. (TR 284-285, 289)

Third, we should consider the contract between Lochmoor and FCWC. The contract specifically states: "... the User shall pay the utility at the rates and charges ... approved by the FPSC." (EXH 28) Accordingly, there was nothing in the contract that obligated Lochmoor to pay a rate of 13¢/1,000 gallons. Ms. Karleskint testified that Lochmoor has stated that it would accept a rate of 13¢/1,000 gallons; however, it has been advised that the rate would be determined by the PSC. (TR 703, EXH 28) Also, while the Commission should consider the contract, it is not bound by the contract. Pursuant to Sections 367.081 and 367.0817, Florida Statutes, the Commission has jurisdiction to set, as it deems

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appropriate, rates which are just, reasonable, compensatory and not unfairly discriminatory.

In addition to the three elements discussed above, staff notes that, with the exception of margin reserve and rate case expense, the company agreed with the provisions of the PAA order. (TR 143) Therefore, it did not take exception to the rate of 21¢/1,000 gallons. Mr. Coel testified that he believes that the rate set forth in the PAA was reasonable and that he did not take issue with this amount. (TR 143)

Based on the above, staff believes that a reuse rate of 21¢/1,000 gallon rate is appropriate.

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**ISSUE 28:** Was Lochmoor Golf Course a prudent choice for the reuse site?

**RECOMMENDATION:** Yes. (WALDEN, XANDERS)

**POSITIONS OF PARTIES**

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

**OPC:** No position pending further development of the record. (Position from Prehearing Order)

**WALLA:** The selection of Lochmoor Golf Course reflects questionable reuse site design. Specifically the inadequate study (poor research) by the engineering firm Black & Veatch to evaluate the reuse needs of the golf course.

**STAFF ANALYSIS:** FCWC's Witness Karleskint testified as to the current and potential reuse customers of FCWC. Currently, FCWC is providing reuse to Lochmoor, through an agreement dated March 3, 1995. (EXH 28) Lochmoor was chosen because it was the closest reuse customer with the least cost. (TR 688) There are five other entities who could become customers, however, at this time it is not cost effective for these entities to become customers. (TR 288) According to the utility's brief, Lochmoor is the nearest reuse site and is the only reclaimed water customer that can be served with the existing reclaimed water main.

According to Ms. Walla, the selection of Lochmoor Golf Course reflects a questionable reuse site design. (TR 427-428) In addition, confusing testimony from the utility's witness makes it difficult for customers to understand the factors that establish a wastewater plant's rated capacity and how the capacity links to the reuse requirements at Lochmoor. (TR 653)

Although other reuse customers are available if needed (see Issue 27), staff believes that the record supports that Lochmoor was the most prudent choice. As noted above, Lochmoor was chosen because it was the closest customer with the least cost, and connecting any additional customers would require a more costly extension. (TR 286, 688, 689)

In addition, although Lochmoor has its own irrigation system, its consumptive use permit will be reviewed once reuse is in place. (TR 586) Upon review of the permit, the South Florida Water Management District may decide not to renew the permit or it may decide to renew the permit, but allow the withdrawal of less

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groundwater. (TR 586) If this should occur, FCWC will be Lochmoor's primary source of irrigation water. Consequently, more effluent will be taken by Lochmoor. This will require less wet weather discharge to the Caloosahatchee River since less effluent will be pumped to the ponds. The reclaimed water is disposed of in the Caloosahatchee River when the ponds are at a high level. (TR 587) Therefore, having Lochmoor as a customer will aid in protecting the water resources in that area as well as promoting water conservation.

Witness Cummings testified that the AADF to Lochmoor will be 250,000 gpd, and not the 300,000 gpd originally planned. He said that there would be variations in the reclaimed water sent to Lochmoor, explaining more would be sent in dry weather. Lochmoor's pumping records show there are some months when no water had been pumped from their wells [for irrigation]. Some months FCWC would send no reclaimed water to Lochmoor. (TR 653-654) This comports with Witness Artis' testimony where he stated that during the rainy season the golf course is very wet, and the course could not handle another 250,000 gpd of treated wastewater. (TR 427-428) During the rainy season when the Lochmoor ponds are at a high level, reclaimed water will be diverted to the Caloosahatchee River as provided for in its permit pursuant to the wet weather discharge provision. (TR 587-588)

FCWC has a pump at the plant site that provides reclaimed water to pond 5 at Lochmoor. All the other pumps belong to Lochmoor and pressurize the golf course's sprinkler system. Lochmoor will draw irrigation water from pond 3, which is fed from pond 5 and pond 4. As the water level in pond 3 drops, water will refill it by gravity flow from pond 5. Flow was not totally reversed in the [lake] system, but the flow to pond 3 is now changing direction from pond 5 to 4. (TR 646-648)

Staff believes that the choice of Lochmoor was a prudent one. It is the closest site to the treatment plant; it was agreeable to taking effluent; it needs irrigation during the non-rainy season; it had ponds already in place to accept reclaimed water; and, a wet weather discharge permit to allow discharge to the river when irrigation is not needed. Based on these conclusions, staff recommends the Commission find Lochmoor a prudent choice for reuse.

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**ISSUE 29:** What are the appropriate wastewater rates for Florida Cities Water Company - North Fort Myers Wastewater Division?

**PRIMARY RECOMMENDATION:** Consistent with staff's primary recommendation in Issue 26 and staff's recommendation in Issue 27, the recommended rates should be designed to allow the utility the opportunity to generate annual operating revenues in the amount of \$1,959,347 which excludes miscellaneous revenues, guaranteed revenues and reuse revenues. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Section 25-30.475(1), Florida Administrative Code, provided the customers have received notice. The rates should not be implemented until proper notice has been received by the customers. The utility should provide proof to staff of the date notice was given within 10 days after the date of notice. (GALLOWAY)

**ALTERNATE RECOMMENDATION:** Consistent with staff's alternative recommendation in Issue 26 and staff's recommendation in Issue 27, the recommended rates should be designed to allow the utility the opportunity to generate annual operating revenues in the amount of \$2,134,007 which excludes miscellaneous revenues, guaranteed revenues and reuse revenues. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Section 25-30.475(1), Florida Administrative Code, provided the customers have received notice. The rates should not be implemented until proper notice has been received by the customers. The utility should provide proof to staff of the date notice was given within 10 days after the date of notice. (GALLOWAY)

**POSITION OF PARTIES**

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

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

**OPC:** No position.

**STAFF ANALYSIS:** The company requested permanent rates designed to produce revenues of \$2,591,990. The requested revenues represent an increase of \$480,078 or 22.73%. (EXH 1, p. 30) However, in accordance with Issue No. 26, staff is recommending that the rates be designed to recover annual operating revenues of \$1,959,347 if the primary recommendation is approved and annual operating revenues of \$2,134,007 if the alternative recommendation is

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approved. The allocation of revenue requirement for ratemaking purposes was not at issue in this case. Therefore, the recommended rates were allocated consistent with the company's proposed allocation methodology in its MFRs. (EXH 1, p. 39)

When calculating the base facility and gallonage charges, staff must consider the portion of the revenue requirement which is to be recovered through service rates. Miscellaneous revenues, guaranteed revenues and reuse revenues are generated through sources other than the service rates. Therefore, when calculating base facility and gallonage charges, miscellaneous revenues, guaranteed revenues, and reuse revenues are excluded from the revenue requirement so that the utility is not collecting these revenues twice. This exclusion explains the discrepancy between the revenue requirement stated in Issue No. 26 and the revenue amount stated in this issue.

The appropriate reuse revenue to be deducted from the wastewater revenue requirement should be \$22,995. This amount was calculated by applying the reuse rate of \$.21/1,000 gallons per day to an annual average daily flow of 300,000 gpd. Although witnesses for the company testified that the irrigation rate was less than originally estimated, staff believes that the appropriate flows are 300,000 gpd. (TR 578, 586, 654)

The reuse revenue contained in the MFRs is based on an average annual daily flow of 300,000 gpd. (EXH 1) The company did not request that this revenue be reduced as a result of the reduced flows. Witness Coel, who sponsored rates contained within the MFRs, testified that FCWC accepts the PAA in its entirety except for two issues - imputing CIAC to offset the margin reserve and rate case expense. (TR 123, 143) The original PAA order contained a reuse revenue of \$22,995.

Revenues and their resulting rates are determined for the long run. Although the record indicates that Lochmoor may be using 250,000 gallons per day, Witness Cummings testified that he was not aware of the reasons the actual usage was less than the contract amount, and stated that Lochmoor could accept up to 300,000 gpd during dry periods. (TR 653, 654) Further, the reuse agreement between Lochmoor and FCWC indicates that Lochmoor will accept an annual average daily flow of approximately 300,000 gpd. (EXH 28) Accordingly, the appropriate reuse revenue is \$22,995.

Consistent with the utility's request, staff recommends a 20% differential between the residential and general service wastewater gallonage charges. (EXH 1, p. 98) The purpose of the 20% differential in the wastewater gallonage charge between

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residential and general service customers recognizes that approximately 20% of the water used by residential customers is used for purposes such as irrigation and is not collected by the wastewater systems.

The utility should be required to file revised tariff sheets and a proposed customer notice to reflect the appropriate rates pursuant to Rule 25-22.0407(10), Florida Administrative Code. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. The rates may not be implemented until proper notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice.

A comparison of the utility's current tariffed rates, requested rates, and staff's primary and alternative recommended rates is shown on Schedule 4.

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**ISSUE 30:** What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

**RECOMMENDATION:** The wastewater rates should be reduced as shown on Schedule No. 5, to remove \$23,786 of rate case expense grossed-up for regulatory assessment fees which is being amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariff sheets and a proposed customer notice setting forth the lower rates and the reason for the reduction not later than one month prior to the actual date of the required rate reduction. (GALLOWAY)

**POSITION OF PARTIES**

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

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

**OPC:** No position.

**STAFF ANALYSIS:** Section 367.0816, Florida Statutes, requires that the rates be reduced immediately following the expiration of the four-year period by the amount of rate case expense previously authorized in the rates. The reduction will reflect the removal of revenues associated with the amortization of rate case expense and the gross-up for regulatory assessment fees which is \$23,786. The removal of rate case expense will reduce rates as recommended by staff on Schedule No. 5.

The utility should be required to file revised tariffs no later than one month prior to the actual date of the required rate reduction. The utility also should be required to file a proposed customer notice setting forth the lower rates and reason for the reduction.

If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease, and for the reduction in the rates due to the removal of the amortized rate case expense.



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**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?

**PRIMARY RECOMMENDATION:** Yes. The utility should be required to refund the entire 17.29% rate increase which was collected through the implementation of rates established pursuant to Order No. PSC-95-1360-FOF-SU, issued November 2, 1995. These refunds should be made with interest as required by Rule 25-30.360(4). The utility should be required to submit the proper refund reports pursuant to Rule 25-30.360(7), Florida Administrative Code. The utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), Florida Administrative Code. (GALLOWAY)

**ALTERNATIVE RECOMMENDATION:** Yes. The utility should be required to refund 12.62% of the revenues collected through the implementation of rates established pursuant to Order No. PSC-95-1360-FOF-SU, issued November 2, 1995. These refunds should be made with interest as required by Rule 25-30.360(4). The utility should be required to submit the proper refund reports pursuant to Rule 25-30.360(7), Florida Administrative Code. The utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), Florida Administrative Code. (GALLOWAY)

**POSITION OF PARTIES**

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

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

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

**STAFF ANALYSIS:** The Commission approved PAA rates in Order No. PSC-95-1360-FOF-WS, issued November 2, 1995. Pursuant to Section 367.081(8), Florida Statutes, the utility implemented its PAA rates effective December 13, 1995, subject to refund. Staff is recommending primary and alternative revenue requirements in Issue 26, both of which are lower than the revenue requirement established in Order No. PSC-95-1360-FOF-WS. Therefore a refund is appropriate.

To establish the appropriate refund, staff compares the recommended revenues to those revenues collected pursuant to Order No. PSC-95-1360-FOF-WS and held subject to refund. In that

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comparison, staff removes any miscellaneous revenues, guaranteed revenues, and reuse revenues.

In accordance with Order No. PSC-96-0038-FOF-SU, issued January 10, 1996, as a result of the utility's implementation of PAA rates, the total increase above original rates was held subject to refund. In the primary recommendation, the revenue requirement is less than adjusted test year revenues. As a result, the actual refund amount is greater than the amount held subject to refund. However, the actual refund cannot exceed the amount collected subject to refund pursuant to Section 367.082(4), Florida Statutes. Therefore, the entire 17.29% rate increase which was implemented by the utility must be refunded with interest if the primary recommendation is approved.

If the alternate recommendation is approved, a rate increase of 3.07% would result. Therefore, in accordance with the alternate recommendation, 12.62% of the revenues collected through the implementation of rates established pursuant to Order No. PSC-95-1360-FOF-SU should be refunded with interest.

In addition to the refunds being made with interest as required by Rule 25-30.360(4), Florida Administrative Code, staff is recommending that the utility be required to submit the proper refund reports pursuant to Rule 25-30.360(7), Florida Administrative Code. Further, staff is recommending that the utility treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), Florida Administrative Code.

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

**RECOMMENDATION:** Yes. (JAEGER)

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

**OPC:** Agrees with Ms. Walla.

**WALLA:** This procedure does not allow an average customer to successfully protest an order of the Commission without outside assistance of professionals.

**STAFF ANALYSIS:** The basis for this issue was first raised by Ms. Walla in her prehearing statement and was discussed at the Prehearing Conference held on April 4, 1996. However, there is no testimony which specifically addresses this issue.

In Ms. Walla's post-hearing statement, she argues that the OPC may not always assist the customer in a protest of a Commission order, but that the customer still has the right to protest such order. She then states that there should be a booklet drawn up by the Commission showing the different steps to protest a Proposed Agency Action (PAA) order and to process such protest through final hearing. She suggests that such booklet should provide information on how the protest sheet, testimony, interrogatories, request for documents, prehearing statement and post hearing statement should be set up, and should include specific examples of each of these documents. If she had had such a booklet, Ms. Walla states that it would have saved her phone calls, time and personal funds. Also, Ms. Walla takes the position that the procedures delineated in the Order do not allow an average customer to successfully protest an order of the Commission without outside assistance of professionals.

OPC states only that it agrees with Ms. Walla. FCWC states only that due process safeguards must be preserved.

Staff believes that the Order Establishing Procedure (Order) is a very quick and concise order that lays out the procedures for the whole formal hearing process. It sets out the requirements (referring, where appropriate, to the applicable rule) for: the conduction of discovery; the prefilng of testimony and exhibits; the prehearing statements; the prehearing conference; the prehearing procedure to include waiver of issues; the controlling dates of the case; the use of confidential information at hearing; and the post-hearing procedure. All of the specifically outlined procedures are designed to insure the smooth and efficient handling

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of the case. Through this Order, everyone is put on notice of what is expected of them, and no one's due process requirements are violated.

Staff does not believe that the Order Establishing Procedure prevents an average customer from successfully protesting an order of the Commission without outside assistance of professionals (also, such assistance is available -- both through OPC and staff). The Order Establishing Procedure merely sets out the procedures that have been developed and used by this Commission. It is those procedures which actually make the formal hearing process proceed more smoothly. Therefore, staff believes that the Order alerts all parties as to what is expected of them, and, further, advises all parties of legal and procedural requirements.

In attempting to comply with the Order, customer protestors are able to contact the staff and, also, the OPC, which, pursuant to Section 350.0611, Florida Statutes, is required to provide legal representation for the people of the state in proceedings before the Commission. Staff attempts to provide any requested information as soon as possible (to include samples of any of the documents listed by Ms. Walla) to the customer protestors.

Without the assistance of either staff or OPC, it might be difficult for "lay customers" to comply with the requirements of the Order. However, Staff believes that the Order Establishing Procedure is the best means the Commission has for insuring that everyone knows the procedures to be followed and the time schedule of the case. The Order usually does direct the parties to the appropriate rules and merely sets out the procedures that have been developed by this Commission for an orderly and timely processing of a case. Therefore, the Order does "facilitate the participation of lay persons in the hearing process." Without the Order, the process would be even more confusing and time consuming. Also, without the safeguards built into the Order, it would be almost impossible to insure that everyone was afforded due process. Further, staff believes that the Commission has found such detailed and standardized procedures to be a necessity for processing a formal hearing, especially in the context of a rate case.

As stated previously, staff will provide any procedural information, to include samples, on the processing of a case upon request. This information is provided on a case by case basis and has not been gathered in booklet form. Therefore, staff recommends that no changes be made to Commission policy as regards this issue.

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

**RECOMMENDATION:** While Commission staff attempts to work with the customers, the Commission has no authority to waive a statute, and, for public document requests, must comply with Section 119.07, Florida Statutes. (JAEGER)

**POSITION OF PARTIES:**

**UTILITY:** No position.

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

**WALLA:** A person whom intervenes in a case should not be charged for documents that are needed for discovery purposes from the Commission. After all, unlike the utility, the expense is all out of pocket and cannot be recovered in rate case expense like the utility.

**STAFF ANALYSIS:** The basis for this issue was first raised by Ms. Walla in her prehearing statement, and was modified at the prehearing conference on April 4, 1996. However, there is no testimony which specifically addresses this issue.

Ms. Walla, in her post-hearing statement, argues that a customer intervenor should not be charged for documents that are needed for discovery purposes from the Commission, because, unlike the utility, a customer intervenor cannot recover such expense through rate case expense. The OPC states that all accommodations should be made to intervening customers, and FCWC had no position.

Staff notes that a letter dated February 16, 1996, whereby Ms. Walla discussed obtaining various documents, was mailed to the OPC. This letter was forwarded to the Commission's Director, Division of Records and Reporting (Records and Reporting), who then forwarded a copy of the request to the Division of Legal Services on March 11, 1996.

This letter (addressed to Jack Shreve, Office of Public Counsel), upon being forwarded to Records and Reporting, was received as a "public documents" request. Staff in the Division of Water and Wastewater (Water & Wastewater) familiar with the case were asked to assist in identifying the documents listed. In response, Water & Wastewater produced some copies which, because of

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their brevity and ready availability, were provided to Ms. Walla at no charge.

However, other documents on the list required research and copy time, and Records and Reporting advised Ms. Walla of the potential costs as prescribed by Sections 119.07(1)(a) and (b), Florida Statutes. Ms. Walla indicated that she did not want to pay these charges, and the other documents requested were not produced. Other than this letter and other questions about procedures (which staff promptly answered), staff is not aware of any other requests, either formal or informal, for documents or information from Ms. Walla.

For copying of public records, staff believes that Section 119.07, Florida Statutes, is applicable. Subsections 119.07(1)(a) and (b), Florida Statutes, specifically state, in pertinent part:

The custodian shall furnish a copy . . . of the record upon payment of the fee . . . of not more than 15 cents per one-sided copy, and for all other copies, upon payment of the actual cost of duplication of the record. . . .

(b) If the nature or volume of public records requested to be . . . copied pursuant to this section is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved . . . the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred . . . or the labor cost of the personnel providing the service . . . .

In pointing out the possible costs to Ms. Walla, staff believes that the Division of Records and Reporting was merely following the requirements of Section 119.07, Florida Statutes, which the Commission has no authority to waive. Based on the above, staff attempts to work with the customers, but the Commission, for public document requests, has no authority to waive a statute and must comply with Section 119.07, Florida Statutes.

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DATE: AUGUST 1, 1996

**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?

**RECOMMENDATION:** This issue was stipulated as discussed in Staff Analysis below. (GALLOWAY)

**POSITION OF PARTIES**

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

**WALLA:** No position.

**OPC:** This issue was stipulated at the hearing.

**STAFF ANALYSIS:** As discussed in prior issues, the timing of this case resulted in the situation arising where the utility, under Order No. PSC 92-0594-FOF-SU, issued July 1, 1992, was required to make a nominal rate reduction on June 30, 1996. The rate reduction was required by that order to reflect the expiration of rate case expense amortization from its previous North Fort Myers wastewater division rate case. The rate reduction reduced annual revenues by about \$21,000, or \$1,750 on a monthly basis. (EXH 2, TR 133)

At the hearing, all parties agreed to incorporate the rate reduction in the final rate order. This procedure was approved for several reasons, including efficiency and cost effectiveness along with avoiding customer confusion since this item was scheduled to be brought before the Commission within 2 months from the hearing. (TR 126-127) The Commission approved the stipulation, with the understanding that staff-calculated allocations of the rate reduction would be used as monthly credits until final rates are implemented, with FCWC to submit a customer notice for comment by the parties and approval by staff. (TR 132-137)

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**ISSUE 35:** Should the docket be closed?

**RECOMMENDATION:** Yes. This docket should be closed after the time for filing an appeal has run, upon staff's verification that the utility has completed the required refunds with interest and the proper revised tariff sheets and customer notice have been filed by the utility and approved by staff. Further, the utility's corporate undertaking can be released upon staff's verification that the refund has been completed. (JAEGER, GALLOWAY)

**STAFF ANALYSIS:** Yes, the docket should be closed 32 days after issuance of the order, to allow time for filing an appeal to run, upon staff's verification that the utility has completed the required refunds with interest and the proper revised tariff sheets and customer notice have been filed by the utility and approved by staff. Further, the utility's corporate undertaking can be released upon staff's verification that the refund has been completed.



FLORIDA CITIES WATER CO.-NORTH FT. MYERS DIVISION  
 SCHEDULE OF WASTEWATER RATE BASE  
 TEST YEAR ENDED 12/31/95

SCHEDULE NO. 1-A (P)  
 DOCKET NO. 950387-SU

COMPONENT	TEST YEAR PER UTILITY	UTILITY ADJUSTMENTS	ADJUSTED TEST YEAR PER UTILITY	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR
1 UTILITY PLANT IN SERVICE	\$ 11,649,007	1,728,332 \$	13,377,339	(257,010)	13,120,329
2 LAND	5,000	0	5,000	0	5,000
3 PROPERTY HELD FOR FUTURE USE	0	0	0	(2,425,823)	(2,425,823)
4 CONSTRUCTION WORK IN PROGRESS	91,345	(91,345)	0	0	0
5 ACCUMULATED DEPRECIATION	(2,558,856)	(584,542)	(3,143,398)	50,722	(3,092,676)
6 CIAC	(3,183,270)	(136,760)	(3,320,030)	(133,313)	(3,453,343)
7 AMORTIZATION OF CIAC	1,159,806	172,988	1,332,794	14,845	1,347,639
8 UNFUNDED FASB 106 OBLIGATION	0	0	0	(81,855)	(81,855)
9 OTHER: ALLOC. OF GENERAL OFFICE	0	27,799	27,799	0	27,799
10 WORKING CAPITAL ALLOWANCE	0	124,774	124,774	(45,929)	78,845
<b>RATE BASE</b>	<b>\$ 7,163,032</b>	<b>1,241,246 \$</b>	<b>8,404,278</b>	<b>(2,878,363)</b>	<b>5,525,915</b>

EXPLANATION	WASTEWATER
<b>(1) UTILITY PLANT IN SERVICE</b>	
a) Adjustment to reclassify costs associated with EPA lawsuit	\$ (210,734)
b) Reclassification of engineering charges (audit disclosure 2)	(12,441)
c) Adjustment to reclassify retirement cost (audit disclosure 3)	(9,057)
d) Capitalize laboratory equipment	1,352
e) Projected provision for retirements in 1995	(26,130)
	<u>\$ (257,010)</u>
<b>(2) PROPERTY HELD FOR FUTURE USE</b>	
a) Used and Useful Adjustment - Treatment Plant	\$ (2,375,511)
b) Used and Useful Adjustment - Reuse Facilities	(50,312)
	<u>\$ (2,425,823)</u>
<b>(3) ACCUMULATED DEPRECIATION</b>	
a) Adjustment to reclassify litigation costs and engineering charges	\$ 24,662
b) Adjustment to reclassify retirement entry	9,057
c) Additional depreciation on power operated equipment	(9,127)
d) Show provision for projected retirements in 1995	26,130
	<u>\$ 50,722</u>
<b>(4) CIAC</b>	
a) Imputation of CIAC to offset margin reserve	\$ (219,105)
b) Adjustment to restate projected provision for CIAC in 1995	85,792
	<u>\$ (133,313)</u>
<b>(5) ACCUMULATED AMORTIZATION</b>	
a) Pro Forma adjustment that imputes CIAC to offset margin reserve	14,113
b) Adjustment to restate projected provision for CIAC in 1995	(927)
c) Adjustment to accumulated amortization per Audit Disclosure No. 4	1,659
	<u>\$ 14,845</u>
<b>(6) UNFUNDED FASB 106 OBLIGATION</b>	
Allocation of average balance for unfunded post retirement benefits	<u>\$ (81,855)</u>
<b>(7) WORKING CAPITAL</b>	
a) Adjustment to reflect average working capital determination	\$ (35,712)
b) Adjustment to include unfunded pension costs and deferred meter sales	(10,217)
	<u>\$ (45,929)</u>

FLORIDA CITIES WATER CO.-NORTH FT. MYERS DIVISION  
 CAPITAL STRUCTURE  
 TEST YEAR ENDED 12/31/95

SCHEDULE NO. 2 (P)  
 DOCKET NO. 950387-SU

DESCRIPTION	TOTAL CAPITAL	SPECIFIC ADJUSTMENTS (EXPLAIN)	PRO RATA ADJUSTMENTS	CAPITAL RECONCILED TO RATE BASE	RATIO	COST RATE	WEIGHTED COST
<b>PER UTILITY</b>							
1 LONG TERM DEBT	36,660,000	0	(32,600,479)\$	4,059,521	48.30%	9.53%	4.60%
2 SHORT-TERM DEBT	0	0	0	0	0.00%	0.00%	0.00%
3 PREFERRED STOCK	9,000,000	0	(8,003,391)	996,609	11.86%	9.00%	1.07%
4 COMMON EQUITY	20,782,539	0	(18,481,198)	2,301,341	27.38%	11.34%	3.11%
5 CUSTOMER DEPOSITS	1,013,037	0	(900,859)	112,178	1.33%	6.00%	0.08%
6 DEFERRED ITC'S-ZERO COST	0	0	0	0	0.00%	0.00%	0.00%
7 DEFERRED ITC'S-WTD COST	1,678,281	0	(1,492,438)	185,843	2.21%	9.96%	0.22%
8 DEFERRED INCOME TAXES	<u>6,762,006</u>	0	<u>(6,013,220)</u>	<u>748,786</u>	<u>8.91%</u>	0.00%	<u>0.00%</u>
9 TOTAL CAPITAL	<u>75,895,863</u>	0	<u>(67,491,585)\$</u>	<u>8,404,278</u>	<u>100.00%</u>		<u>9.08%</u>
<b>PER STAFF</b>							
10 LONG TERM DEBT	34,820,000	0	(32,290,118)\$	2,529,882	45.78%	8.30%	3.80%
11 SHORT-TERM DEBT	0	0	0	0	0.00%	0.00%	0.00%
12 PREFERRED STOCK	9,000,000	0	(8,346,096)	653,904	11.83%	9.00%	1.07%
13 COMMON EQUITY	22,782,539	0	(21,127,251)	1,655,288	29.96%	11.88%	3.56%
14 CUSTOMER DEPOSITS	1,013,037	0	(939,434)	73,603	1.33%	6.00%	0.08%
15 DEFERRED ITC'S-ZERO COST	0	0	0	0	0.00%	0.00%	0.00%
15 DEFERRED ITC'S-WTD COST	1,678,281	0	(1,556,344)	121,937	2.21%	9.62%	0.21%
16 DEFERRED INCOME TAXES	<u>6,762,006</u>	0	<u>(6,270,706)</u>	<u>491,300</u>	<u>8.89%</u>	0.00%	<u>0.00%</u>
17 TOTAL CAPITAL	<u>76,055,863</u>	0	<u>(70,529,948)\$</u>	<u>5,525,915</u>	<u>100.00%</u>		<u>8.72%</u>
<b>RANGE OF REASONABLENESS</b>					<b>LOW</b>	<b>HIGH</b>	
RETURN ON EQUITY					<u>10.88%</u>	<u>12.88%</u>	
OVERALL RATE OF RETURN					<u>8.42%</u>	<u>9.02%</u>	

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FLORIDA CITIES WATER CO.-NORTH FT. MYERS DIVISION  
 STATEMENT OF WASTEWATER OPERATIONS  
 TEST YEAR ENDED 12/31/95

SCHEDULE NO. 3-A (P)  
 DOCKET NO. 950387-SU

DESCRIPTION	TEST YEAR PER UTILITY	UTILITY ADJUSTMENTS	UTILITY ADJUSTED TEST YEAR	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR	REVENUE INCREASE	REVENUE REQUIREMENT
1 OPERATING REVENUES	2,085,157	506,833	2,591,990	(480,275)	2,111,715	(108,368)	2,003,347
OPERATING EXPENSES						-5.13%	
2 OPERATION AND MAINTENANCE	919,804	40,349	960,153	(15,954)	944,199 \$		944,199
3 DEPRECIATION	379,659	73,908	453,567	(174,230)	279,337		279,337
4 AMORTIZATION	949	0	949	0	949		949
5 TAXES OTHER THAN INCOME	205,132	37,790	242,922	(46,843)	196,079	(4,877)	191,202
6 INCOME TAXES	105,294	65,998	171,292	(26,314)	144,978	(38,944)	106,035
7 TOTAL OPERATING EXPENSES	1,610,838	218,045	1,828,882	(263,341)	1,565,542	(43,821)	1,521,721
8 OPERATING INCOME	474,319	288,788	763,108	(216,934)	546,173	(64,548)	481,625
9 RATE BASE	7,163,032		8,404,278		5,525,915		5,525,915
RATE OF RETURN	6.62%		9.08%		9.88%		8.72%

EXPLANATION	WASTEWATER
<b>(1) OPERATING REVENUES</b>	
a) Adjustment to restate miscellaneous revenues	\$ (7,987)
b) Adjustment to remove utility's proposed rate increase	(480,078)
c) Adjustment to revenues per billing analysis	7,790
	<u>\$ (480,275)</u>
<b>(2) OPERATION &amp; MAINTENANCE EXPENSES</b>	
a) Adjustment to capitalize purchased lab equipment	\$ (1,352)
b) Adjustment to reflect recommended provision for rate case cost	(14,602)
	<u>\$ (15,954)</u>
<b>(3) DEPRECIATION EXPENSE</b>	
a) Provision for increased depreciation expense - power equipment	\$ 3,028
b) Depreciation related to litigation costs and engineering fees	(11,718)
c) Adjustment to reflect double posting error	118
d) Adjustment to reflect capitalized equipment	72
e) Provision to revise projected CIAC in 1995	4,564
f) Adjustment to depreciation expense to reflect assorted retirements	(1,390)
g) Provision to show imputation of CIAC	(14,113)
h) Used and useful adjustment	(154,791)
	<u>\$ (174,230)</u>
<b>(4) TAXES OTHER THAN INCOME TAXES</b>	
a) Regulatory assessment fees related to revenue adjustment	\$ (21,612)
b) Used and useful adjustment to property taxes	(25,231)
	<u>\$ (46,843)</u>
<b>(5) INCOME TAXES</b>	
Income taxes associated with adjusted test year income	\$ <u>(26,314)</u>
<b>(6) OPERATING REVENUES</b>	
Adjustment to reflect recommended revenue requirement	\$ <u>(108,368)</u>
<b>(7) TAXES OTHER THAN INCOME TAXES</b>	
Regulatory assessment taxes on additional revenues	\$ <u>(4,877)</u>
<b>(8) INCOME TAXES</b>	
Income taxes related to recommended income amount	\$ <u>(38,944)</u>

FLORIDA CITIES WATER CO.-NORTH FT. MYERS DIVISION  
 SCHEDULE OF WASTEWATER RATE BASE  
 TEST YEAR ENDED 12/31/95

SCHEDULE NO. 1-A (ALT)  
 DOCKET NO. 950387-SU

COMPONENT	TEST YEAR PER UTILITY	UTILITY ADJUSTMENTS	ADJUSTED TEST YEAR PER UTILITY	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR
1 UTILITY PLANT IN SERVICE	\$ 11,649,007	1,728,332 \$	13,377,339	(257,010)	13,120,329
2 LAND	5,000	0	5,000	0	5,000
3 PROPERTY HELD FOR FUTURE USE	0	0	0	(1,506,948)	(1,506,948)
4 CONSTRUCTION WORK IN PROGRESS	91,345	(91,345)	0	0	0
5 ACCUMULATED DEPRECIATION	(2,558,856)	(584,542)	(3,143,398)	50,722	(3,092,676)
6 CIAC	(3,183,270)	(136,760)	(3,320,030)	(177,134)	(3,497,164)
7 AMORTIZATION OF CIAC	1,159,806	172,988	1,332,794	17,668	1,350,462
8 UNFUNDED FASB 106 OBLIGATION	0	0	0	(81,855)	(81,855)
9 OTHER: ALLOC. OF GENERAL OFFICE	0	27,799	27,799	0	27,799
10 WORKING CAPITAL ALLOWANCE	0	124,774	124,774	(45,929)	78,845
<b>RATE BASE</b>	<b>\$ 7,163,032</b>	<b>1,241,246 \$</b>	<b>8,404,278</b>	<b>(2,000,486)</b>	<b>6,403,792</b>

EXPLANATION	WASTEWATER
<b>(1) UTILITY PLANT IN SERVICE</b>	
a) Adjustment to reclassify costs associated with EPA lawsuit	\$ (210,734)
b) Reclassification of engineering charges (audit disclosure 2)	(12,441)
c) Adjustment to reclassify retirement cost (audit disclosure 3)	(9,057)
d) Capitalize laboratory equipment	1,352
e) Projected provision for retirements in 1995	(26,130)
	<u>\$ (257,010)</u>
<b>(2) PROPERTY HELD FOR FUTURE USE</b>	
a) Used and Useful Adjustment - Treatment Plant	\$ (1,462,925)
b) Used and Useful Adjustment - Reuse Facilities	(44,023)
	<u>\$ (1,506,948)</u>
<b>(3) ACCUMULATED DEPRECIATION</b>	
a) Adjustment to reclassify litigation costs and engineering charges	\$ 24,662
b) Adjustment to reclassify retirement entry	9,057
c) Additional depreciation on power operated equipment	(9,127)
d) Show provision for projected retirements in 1995	26,130
	<u>\$ 50,722</u>
<b>(4) CIAC</b>	
a) Imputation of CIAC to offset margin reserve	\$ (262,926)
b) Adjustment to restate projected provision for CIAC in 1995	85,792
	<u>\$ (177,134)</u>
<b>(5) ACCUMULATED AMORTIZATION</b>	
a) Pro Forma adjustment that imputes CIAC to offset margin reserve	\$ 16,936
b) Adjustment to restate projected provision for CIAC in 1995	(927)
c) Adjustment to accumulated amortization per Audit Disclosure No. 4	1,659
	<u>\$ 17,668</u>
<b>(6) UNFUNDED FASB 106 OBLIGATION</b>	
Allocation of average balance for unfunded post retirement benefits	<u>\$ (81,855)</u>
<b>(7) WORKING CAPITAL</b>	
a) Adjustment to reflect average working capital determination	\$ (35,712)
b) Adjustment to include unfunded pension costs and deferred meter sales	(10,217)
	<u>\$ (45,929)</u>

FLORIDA CITIES WATER CO.-NORTH FT. MYERS DIVISION  
 CAPITAL STRUCTURE  
 TEST YEAR ENDED 12/31/95

SCHEDULE NO. 2 (ALT)  
 DOCKET NO. 950387-SU

DESCRIPTION	TOTAL CAPITAL	SPECIFIC ADJUSTMENTS (EXPLAIN)	PRO RATA ADJUSTMENTS	CAPITAL RECONCILED TO RATE BASE	RATIO	COST RATE	WEIGHTED COST
<b>PER UTILITY</b>							
1 LONG TERM DEBT	36,660,000	0	(32,600,479)\$	4,059,521	48.30%	9.53%	4.60%
2 SHORT-TERM DEBT	0	0	0	0	0.00%	0.00%	0.00%
3 PREFERRED STOCK	9,000,000	0	(8,003,391)	996,609	11.86%	9.00%	1.07%
4 COMMON EQUITY	20,782,539	0	(18,481,198)	2,301,341	27.38%	11.34%	3.11%
5 CUSTOMER DEPOSITS	1,013,037	0	(900,859)	112,178	1.33%	6.00%	0.08%
6 DEFERRED ITC'S-ZERO COST	0	0	0	0	0.00%	0.00%	0.00%
7 DEFERRED ITC'S-WTD COST	1,678,281	0	(1,492,438)	185,843	2.21%	9.96%	0.22%
8 DEFERRED INCOME TAXES	<u>6,762,006</u>	0	<u>(6,013,220)</u>	<u>748,786</u>	<u>8.91%</u>	0.00%	<u>0.00%</u>
9 TOTAL CAPITAL	<u>75,895,863</u>	0	<u>(67,491,585)\$</u>	<u>8,404,278</u>	<u>100.00%</u>		<u>9.08%</u>
<b>PER STAFF</b>							
10 LONG TERM DEBT	34,820,000	0	(31,888,207)\$	2,931,793	45.78%	8.30%	3.80%
11 SHORT-TERM DEBT	0	0	0	0	0.00%	0.00%	0.00%
12 PREFERRED STOCK	9,000,000	0	(8,242,213)	757,787	11.83%	9.00%	1.07%
13 COMMON EQUITY	22,782,539	0	(20,864,283)	1,918,256	29.96%	11.88%	3.56%
14 CUSTOMER DEPOSITS	1,013,037	0	(927,741)	85,296	1.33%	6.00%	0.08%
15 DEFERRED ITC'S-ZERO COST	0	0	0	0	0.00%	0.00%	0.00%
15 DEFERRED ITC'S-WTD COST	1,678,281	0	(1,536,972)	141,309	2.21%	9.62%	0.21%
16 DEFERRED INCOME TAXES	<u>6,762,006</u>	0	<u>(6,192,655)</u>	<u>569,351</u>	<u>8.89%</u>	0.00%	<u>0.00%</u>
17 TOTAL CAPITAL	<u>76,055,863</u>	0	<u>(69,652,071)\$</u>	<u>6,403,792</u>	<u>100.00%</u>		<u>8.72%</u>
<b>RANGE OF REASONABLENESS</b>					<b>LOW</b>	<b>HIGH</b>	
RETURN ON EQUITY					<u>10.88%</u>	<u>12.88%</u>	
OVERALL RATE OF RETURN					<u>8.42%</u>	<u>9.02%</u>	

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00932



FLORIDA CITIES WATER CO.-NORTH FT. MYERS DIVISION  
 STATEMENT OF WASTEWATER OPERATIONS  
 TEST YEAR ENDED 12/31/95

SCHEDULE NO. 3-A (ALT)  
 DOCKET NO. 950387-SU

DESCRIPTION	TEST YEAR PER UTILITY	UTILITY ADJUSTMENTS	UTILITY ADJUSTED TEST YEAR	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR	REVENUE INCREASE	REVENUE REQUIREMENT
1 OPERATING REVENUES	2,085,157	506,833	2,591,990	(480,275)	2,111,715	66,292	2,178,007
OPERATING EXPENSES						3.14%	
2 OPERATION AND MAINTENANCE	919,804	40,349	960,153	(15,954)	944,199 \$		944,199
3 DEPRECIATION	379,659	73,908	453,567	(118,236)	335,331		335,331
4 AMORTIZATION	949	0	949	0	949		949
5 TAXES OTHER THAN INCOME	205,132	37,790	242,922	(37,286)	205,636	2,983	208,619
6 INCOME TAXES	105,294	65,998	171,292	(64,345)	106,947	23,823	130,770
7 TOTAL OPERATING EXPENSES	1,610,838	218,045	1,828,882	(235,822)	1,593,061	26,806	1,619,868
8 OPERATING INCOME	474,319	288,788	763,108	(244,453)	518,654	39,485	558,139
9 RATE BASE	7,163,032		8,404,278		6,403,792		6,403,792
RATE OF RETURN	6.62%		9.08%		8.10%		8.72%

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00933

EXPLANATION	WASTEWATER
<b>(1) OPERATING REVENUES</b>	
a) Adjustment to restate miscellaneous revenues	\$ (7,987)
b) Adjustment to remove utility's proposed rate increase	(480,078)
c) Adjustment to revenues per billing analysis	7,790
	<u>\$ (480,275)</u>
<b>(2) OPERATION &amp; MAINTENANCE EXPENSES</b>	
a) Adjustment to capitalize purchased lab equipment	\$ (1,352)
b) Adjustment to reflect recommended provision for rate case cost	(14,602)
	<u>\$ (15,954)</u>
<b>(3) DEPRECIATION EXPENSE</b>	
a) Provision for increased depreciation expense - power equipment	\$ 3,028
b) Depreciation related to litigation costs and engineering fees	(11,718)
c) Adjustment to reflect double posting error	118
d) Adjustment to reflect capitalized equipment	72
e) Provision to revise projected CIAC in 1995	4,564
f) Adjustment to depreciation expense to reflect assorted retirements	(1,390)
g) Provision to show imputation of CIAC	(16,936)
h) Used and useful adjustment	(95,974)
	<u>\$ (118,236)</u>
<b>(4) TAXES OTHER THAN INCOME TAXES</b>	
a) Regulatory assessment fees related to revenue adjustment	\$ (21,612)
b) Used and useful adjustment to property taxes	(15,674)
	<u>\$ (37,286)</u>
<b>(5) INCOME TAXES</b>	
Income taxes associated with adjusted test year income	<u>\$ (64,345)</u>
<b>(6) OPERATING REVENUES</b>	
Adjustment to reflect recommended revenue requirement	<u>\$ 66,292</u>
<b>(7) TAXES OTHER THAN INCOME TAXES</b>	
Regulatory assessment taxes on additional revenues	<u>\$ 2,983</u>
<b>(8) INCOME TAXES</b>	
Income taxes related to recommended income amount	<u>\$ 23,823</u>

**RATE SCHEDULE**

**Wastewater  
 Monthly Rates**

	Tariffed Rates Prior to Filing	Implemented PAA Rates	Utility Requested Final	Staff's Primary Recommended Final	Staff's Alternative Recommended Final
<b>RESIDENTIAL</b>					
Base Facility Charge All Meter Sizes	\$24.37	\$28.56	\$32.61	\$23.38	\$25.39
Residential Gallonage Charge, per 1,000 gallons (Maximum 6,000 gallons)	\$4.62	\$5.15	\$5.14	\$4.06	\$4.43
<b>GENERAL SERVICE &amp; ALL OTHER CLASSES</b>					
Base Facility Charge:					
5/8"x3/4"	\$24.37	\$28.56	\$32.61	\$23.38	\$25.39
1"	\$60.94	\$58.46	\$81.53	\$58.45	\$63.46
1-1/2"	\$121.87	\$116.90	\$163.05	\$116.90	\$126.93
2"	\$184.99	\$167.08	\$260.86	\$167.04	\$203.08
3"	\$389.98	\$374.15	\$521.76	\$374.08	\$406.16
4"	\$809.35	\$584.61	\$815.25	\$584.50	\$634.63
6"	\$1,218.69	\$1,428.23	\$1,630.50	\$1,169.01	\$1,269.26
General Service Gallonage Charge, per 1,000 gallons (No Maximum)	\$5.55	\$6.18	\$6.17	\$4.87	\$5.32
<b>TYPICAL MONTHLY BILL COMPARISONS</b>					
- Residential Usage (gallons) -					
3,000	\$38.23	\$44.01	\$48.03	\$35.56	\$38.68
5,000	\$47.47	\$54.31	\$58.31	\$43.66	\$47.54
10,000	\$52.09	\$59.46	\$63.45	\$47.74	\$51.97
<b>RECLAIMED WATER CUSTOMERS (REUSE)</b>					
- Per 1,000 gallons -	\$0.00	\$0.21	\$0.13	\$0.21	\$0.21

UTILITY: FLORIDA CITIES WATER COMPANY  
 SYSTEM: NORTH FT. MYERS  
 COUNTY: LEE COUNTY DIVISION  
 DOCKET NO. 950387-SU

Schedule 5

Schedule of Rate Decrease After Expiration of  
 Amortization Period for Rate Case Expense

	Staff's Primary Recommended Rates	Primary Rate Decrease	Staff's Alternative Recommended Rates	Alternative Rate Decrease
<b>Residential</b>				
Base Facility Charge (meter size): All Meter Sizes	\$23.38	\$0.28	\$25.39	\$0.28
Gallage Charge, per 1,000 gallons (Maximum 6,000 gallons)	\$4.06	\$0.05	\$4.43	\$0.05
	Staff's Primary Recommended Rates	Primary Rate Decrease	Staff's Alternative Recommended Rates	Alternative Rate Decrease
<b>General Service and all other classes</b>				
Base Facility Charge (meter size): 5/8"x3/4"	\$23.38	\$0.28	\$25.39	\$0.28
1"	\$58.45	\$0.71	\$63.46	\$0.70
1-1/2"	\$116.90	\$1.41	\$126.93	\$1.41
2"	\$187.04	\$2.26	\$203.08	\$2.25
3"	\$374.08	\$4.53	\$406.16	\$4.51
4"	\$584.50	\$7.07	\$634.63	\$7.04
6"	\$1,169.00	\$14.14	\$1,269.26	\$14.09
Gallage Charge, per 1,000 gallons	\$4.87	\$0.06	\$5.32	\$0.06