

MEMORANDUM

October 18, 1996

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DIVISION OF RECORDS AND REPORTING

FROM:

DIVISION OF LEGAL SERVICES (AGARWAIN)

RE:

DOCKET NO. 951593-WS - Application for approval of revised service availability charges in Flagler County by Palm Coast Utility Corporation

Please file the attached documents in the above referenced docket.

RA/dp

Attachment

cc: Division of Water and Wastewater (Washington, Starling)

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GATLIN, WOODS, CARLSON & COWDERY

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Attorneys as Law

a parteership including a professional association

The Mater Station 1708-D Mater Drive Tellahesecs, Porkle 32308

B. KRINETH GATLIN, P.A. THOMAS F. WOODS JOHN D. CARLSON KATHITH G.W. CONDEN WAYNE L. SCHETCLERN

Talap-one (804) 877-7191 Talacorea (804) 877-9031

PACSINILE COVER SHEET

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THE INFORMATION CONTAINED IN THIS PACSIMILE MESSAGE IS ATTORNEY - CLIENT PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTERESTED RECIPIENT, YOU ARE HEREST NOTIFIED TEAT ANY DISSEMINATION, DISTRIBUTION OR COPTING OF THIS COMMUNICATION IS STRICTLY PROSIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE INMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

IF PROBLEMS WITH TRANSMISSION OCCUR, PLEASE CALL (904) 877-7191.

BEFORE THE PLONIDA PUBLIC SERVICE COMOUSSION

In Re: Application of Palm Coast) Utility Corporation for an Increase) in Service Availability Charges in) Plagler County, Florida

TO

Docket Mo. 951593-WS Filed: October 7, 1996

SUGGESTION OF EXPORE IN STAFF RECOGNISHDATION

Palm Coast Utility Corporation (PCUC) heraby submits its Suggestion of Error in the September 26, 1996 Staff Recommendation for a Proposed Agency Action.

- 1. This Suggestion of Error addresses factual errors in the text of the recommendation, legal implications of the Staff's recommendation, and mathematical errors in the schedules attached to the recommendation.
 - 2. Factual Error No. 1. The recommendation states:

For its calculation of the proposed system capacity charges, PCUC adjusted its utility plant in service (UPIS) as of 1995. The adjustment reflects the limiting factor of ERCs in plant. This results in UPIS set of used and useful. This is shown on Schedule No. FB-5, pages 1 & 2 of PCUC's application.

The statement that the adjustments result in UPIS net of used and useful is incorrect. The adjustments result in the allocated gross investment in UPIS serving the number of ERCs at the next milestone; i.e, when the treatment plants will be built out.

3. Pactual Error No. 2. The recommendation states:

This methodology deviates from the Commission practice in calculating service availability charges.

This statement is incorrect. The methodology used in this application is the Coumission practice as applied to PCUC. PCUC, in preparing its application, ralied on the Staff methodology testified to by Coumission staff number John D. Williams in Docket No. 810485-WS and formalized by his exhibit, "Revised Appendix A". Docket No. 810485-WS is the docket in which PCUC's present wastewater service availability charge (SAC) was authorized. Attachment No.1 to this Suggestion of Error is a copy of "Revised Appendix A". Order No. 12957 in Docket No. 810485-WS set the wastewater SAC at the amount recommended by Mr. Williams

as determined using the Commission Staff methodology.

4. Factual Error No. 3. The recommendation states:

Also, as shown on Schedules Nos. A-12 & A-14 of PCUC's application, the utility did not include the amount of prepaid CIAC. PCUC recorded \$34,440,537 in prepaid CIAC and \$8,124,376 in CIAC in trust as of December 31, 1995. Staff believes these amounts should be included in the calculation of service availability charges.

The statement that Staff believes these [prepaid] amounts should be included is inconsistent with the position established by Staff when it developed the existing charges in Docket Mo. \$10485-WB, upon which PCUC relied in preparing its filing. Staff witness Williams' "Revised Appendix A" [Attachment No. 1 to this Pleading], uses the existing wastewater "used" CIAC net at 12/82, in the amount of \$2,640,507, in calculating the proper level of the SAC. The 1982 Annual Report for PCUC, as filed with this Commission, shows existing wastewater CIAC net, including prepayments, as \$25,712,967. The testimony of Mr. Williams indicates that he was aware that there very large amounts of prepaid sever CIAC. In developing the Staff position, he knowingly did not include prepaid CIAC.

5. Legal Considerations, Regulatory law requires the utility to charge the SAC in effect at the time of connection. M. Miller and Sons, Inc. v Hawkins, 373 So. 2d 913 (Fla. 1979).

The Staff recommendation to cause collecting the SAC is equivalent to setting the SAC at zero. If the Staff recommendation is adopted, the SAC that will in effect will be zero, at the time lot purchasers that prepaid to the developer connect to the system. In accordance with H. Miller and Sons v Hawkins, at the time of connection, customers that prepaid to the developer must pay the difference between the SAC in effect and the amount prepaid. If the amount in effect at the time of connection is less that the amount prepaid, the difference must be refunded. This is the practice followed by PCUC.

When a homesite purchaser requests service, what he has previously paid is credited against the them prevailing charge. At that time, the party would either be requested to pay the difference between the previous payments and the SAC applicable at the time of connection or, in those cases where the previous payments would exceed current SAC, the utility would refund the

difference to the customer. (Docket No. 810485-WS; Tr. 114). (Emphasis added)

The recommendation to cease collecting CTAC will cause PCCC to refund in its entirety all prepaid CTAC, thereby making those amounts unavailable to the utility. The Staff's recommendation wipes out the prepayments upon which it has relied in its calculation.

6. <u>Mathematical Error No. 1.</u> In determining the proper level of the SAC, the Staff recommendation includes prepaid CTAC as a given amount.

The prepayments collected by the developer at the time a lot purchase contract is entered into is not necessarily the SAC that will be in effect at the time of connection. The purpose of the SAC analysis is to determine what the SAC should be at the time of connection to keep the utility within the Commission's guidelines for the relation of net CIAC to set plant at buildout. It is not mathematically possible to determine what the SAC should be at time of connection, if the enount prepaid toward that amount is included in the calculation. Including the prepaid amount in the calculation is circular reasoning and will always cancel out the amount of CIAC to be collected at buildout. If the prepaid amount is included, there can be no determination of the proper level of SAC against which to measure the difference between the prepaid amount and the amount to be collected at time of connection. If this error is corrected by excluding prepaid CIAC from Schedule No.3 of the Staff recommendation, the resulting maximum allowable SAC in Schedule Nos. 2-A&B, using but not necessarily endorsing, Staff's other assumptions would be \$2,776.94 for water and \$458.75 for wastewater. With this correction aione, the total allowable combined SAC is \$3,235.94 compared to the \$3,100 total combined SAC requested by petitioner.

7. Mathematical Error No. 2. The amount of prepaid CTAC used in the Staff's calculation of the vater SAC in its Schedule No. 3 is overstated by \$16,706,383.

As previously pointed out, it is legally and mathematically incorrect to include prepaid CIAC in the calculation of the SAC. Nevertheless, the Staff calculation which utilizes this approach contains a mathematical error which should be pointed out. On Schedule No. 3 of the Staff recommendation, staff states that is has allocated 25.75% of the \$34,440,537 prepaid CIAC to water. However, the actual calculation includes 74.25% of the prepaid CIAC instead of 25.75%, overstating the prepaid CIAC allocated to water by \$16,706,393. The effect of correcting this arror is to increase the allowable water SAC from zero to a maximum allowable amount of \$1,795.03, based on all of Staff's assumptions,

including recognition of prepaid CIAC.

8. PCUC has not had the opportunity to determine if there are other errors in the Staff Recommendation, but failure to correct the errors identified will a)deny PCUC access to CIAC which it is entitled to collect, b)will place PCUC in jeopardy of having to refund \$34 million already prepaid, c)jeopardize PCUC's ability to finance future capital improvements, and d) endanger the future financial viability of the utility. In addition, it will unduly discriminate against existing customers that have paid the proper charges by allowing future customers to connect without paying their allocated cost of the system, and burden all customers with rate increases necessary to recover the cost of capital necessary to replace the refunded CIAC amounts and the lack of CIAC resources in the future.

Based on the foregoing, Palm Coast Utility Corporation requests that this Suggestion of Errors in Staff Recommendation be considered by the Commission, that the errors be corrected, and the total requested BAC be approved.

Respectfully submitted, this 7th day of October, 1996

B. Kenneth Gatlin

Gatlin, Woods & Carlson Plorida Bar No. 0027966 1709-D Mahan Drive

Tallahassee, Florida 32308

(904) 877-7191

Attorneys for Palm Coast Utility Corporation

Calculation of Service Availability Charge for Masternater System

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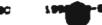
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REFORE THE PLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Palm Coast Utility Corporation for an Increase in Service Availability Charges in Flagler County, Florida

Docket No. 951593-WS Filed: October 7, 1996

CERTIFICATE OF SERVICE

I HEREST CERTIFY that a true and correct copy of Suggestion of Errors in Staff Recommendation has been furnished by fax to Mr. Raj Agarwal, Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, on this 7th day of October, 1996.

B. Kenneth Gatlin Gatlin, Woods & Carlson Florida Bar No. 0027956 1709-D Mahan Drive Tallahassee, Florida 32308 (904) 877-7191

Attorneys for Palm Coast Utility Corporation

GATLIN, WOODS & CARLSON

Attorneys at Law

a partnership including a professional association

Tim Malus States 1709-D Malus Drive Tallahassa, Pioreis 12/05

B. KEMMETH GATLIN, P.A. THOMAS P. WOODS JOHN D. CAPLISON WATHE L. SCHIEFELISON TELEP-IONE (804) 877-7191 TELECOPER (804) 877-9031

PACSINILE COVER SHEET

ro:	Raj Agarwal	
FROM:	B. Kenneth Gotlin	
RE:	Peuc - Service Avo	ailability Changes
DATE:	10-8-96	STATE
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^{*} Corrected 10/03/96, to also remove prepayments in trust.



GATLIN, WOODS, CARLSON & COWDERY

Attorneys at Law

a partnership including a professional association

The Mahan Station 1709-D Mahan Drywe Tallahar-see, Plorida 32308

B KENNETH GATUR P.A. THOMAS F WOODS JOHN D CARLSON KATHRYN G W. GOWDERV WAYNE L SCHIEFLEUEN

TELEPHONE (804) 877 7101 TELECOMER (804) 877 9. J

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THE INFORMATION CONTAINED IN THIS PACSIMILE MESSAGE IS ATTORNEY—CLIENT PRIVILEGED AND CONFIDENTIAL IMPORMATION INTENDED COLT FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTERESTED RECIPIENT, YOU ARE HERBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE INDIVIDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

IF PROBLEMS WITH TRANSMISSION OCCUR, PLEASE CALL (904) 877-7191.

REPORT THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application of Palm Coast ; Utility Corporation for an Increase) in Service Availability Charges in ; Plagler County, Florida ; Docket No. 951593-W6

Filed: October 7, 1996

SUGGESTION OF ERRORS IN STAFF RECOMMENDATION

Palm Coast Utility Corporation (PCUC) hereby submits its Suggestion of Error in the September 26, 1996 Staff Recommendation for a Proposed Agency Action.

- 1. This Suggestion of Error addresses factual errors in the text of the recommendation, legal implications of the Staff's recommendation, and mathematical errors in the schedules attached to the recommendation.
 - 2. Factual Error No. 1. The recommendation states:

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The statement that the adjustments result in UPIS net of used and useful is incorrect. The adjustments result in the allocated gross investment in UPIS serving the number of RRCs at the next milestone; i.e, when the treatment plants will be built out.

3. Pactual Error No. 2. The recommendation states:

This methodology deviates from the Commission practice in calculating service availability charges.

This statement is incorrect. The methodology used in this application is the Commission practice as applied to PCUC. PCUC, in preparing its application, relied on the Staff methodology testified to by Commission staff member John D. Williams in Docket No. 810485-WS and formalized by his exhibit, "Revised Appendix A". Docket No. 810495-WS is the docket in which PCUC's present wastewater service availability charge (SAC) was authorized. Attachment No.1 to this Suggestion of Error is a copy of "Revised Appendix A". Order No. 12957 in Docket No. 810485-WS set the wastewater SAC at the amount recommended by Mr. Williams

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Also, as shown on Schedules Nos. A-12 & A-14 of PCUC's application, the utility did not include the amount of prepaid CIAC. PCUC recorded \$34,440,537 in prepaid CIAC and \$8,124,376 in CIAC in trust as of December 31, 1995. Staff believes these amounts should be included in the calculation of service availability charges.

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5. Legal Considerations. Regulatory law requires the utility to charge the SAC in effect at the time of connection. H. Miller and Sons, Inc. v Hawkins, 373 So. 2d 913 (Fla. 1979).

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including recognition of prepaid CIAC.

8. PCUC has not had the opportunity to determine if there are other errors in the Staff Recommendation, but failure to correct the errors identified will a)deny PCUC access to CIAC which it is entitled to collect, b)will place PCUC in jeopardy of having to refund \$34 million already prepaid, c)jeopardize PCUC's ability to finance future capital improvements, and d) endanger the future financial viability of the utility. In addition, it will unduly discriminate against existing customers that have paid the proper charges by allowing future customers to connect without paying their allocated cost of the system, and burden all customers with rate increases necessary to recover the cost of capital necessary to replace the refunded CIAC amounts and the lack of CIAC resources in the future.

Based on the foregoing, Palm Coast Utility Corporation requests that this Suggestion of Errors in Staff Recommendation be considered by the Commission, that the errors be corrected, and the total requested SAC be approved.

Respectfully submitted, this 7th day of October, 1996

B. Kenneth Gatlin

Gatlin, Woods & Carlson Florida Bar No. 0027966

1709-D Mahan Drive

Tallahassee, Florida 32308

(904) 877-7191

Attorneys for Palm Coast Utility Corporation

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APPERDIX "A"

Palm Conne Utility Docket so. 818485-WS

Celculation of Service Availability Charge for Mantewater System

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service availability charge per anch new connection -

Attachment

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BEFORE THE PLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Palm Coast Dillity Corporation for an Increase In Service Availability Charges in Flagler County, Plorida

Docket No. 951593-WS Filad: October 7, 1996

CERTIFICATE OF BERVICE

I HEREBY CERTIFY that a true and correct copy of Suggestion of Errors in Staff Recommendation has been furnished by fax to Mr. Raj Agarwal, Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, on this 7th day of October, 1996.

> B. Kenneth Gatlin Gatlin, Woods & Carlson Plorida Bar No. 0027966 1709-D Mahan Drive

Tallahassec, Florida 32308 (904) 877-7191

Attorneys for Palm Coast Utility Corporation

GATLIN, WOODS & CARLEON

Attorneys at Law

a partnership including a professional association

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TELEPHONE (904) 877-7:91 TELECOPER (904) 877-9031

PACSIMILE COVER SHRET

TO:	Raj Ag	arwal		
	B.Kennet			
RE:	Pauc - 3	Service Availa	bility Changes	
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difference to the customer. (Docket No. \$10485-Ws: Tr. 114). (Emphasis added)

The recommendation to cease collecting CYAO will cause TCUC to refund in its entirety all prepaid CTAC, thereby making those amounts unavailable to the utility. The Staff's recommendation wipes out the prepayments upon which it has relied in its calculation.

6. <u>Kathematical Error No. 1.</u> In determining the proper level of the EAC, the Staff recommendation includes prepaid CIAC as a given amount.

The prepayments collected by the developer at the time a lot purchase contract is entered into is not necessarily the SAC that will be in effect at the time of connection. The purpose of the SAC analysis is to determine what the SAC should be at the time of connection to keep the utility within the Commission's guidelines for the relation of net CIAC to net plant at buildout. It is not mathematically possible to determine what the SAC should be at time of connection, if the amount prepaid toward that amount is included in the salculation. Including the prepaid amount in the calculation is circular reasoning and will always cancel out the amount of CIAC to be collected at buildout. If the prepaid amount is included, there can be no determination of the proper level of SAC against which to measure the difference between the prepaid amount and the amount to be collected at time of connection. If this error is corrected by excluding prepaid CIAC from Schedule No.3 of the Staff recommendation, the resulting maximum allowable SAC in Schedule Nos. 2-A&B, Using but not necessarily endorsing, Staff's other assumptions would be * \$2,776.94 for water and \$450.75 1,146.74 for wastewater. With this correction alone, the total allowable combined SAC is * \$3,235.04 4,123.68 compared to the \$3,100 total combined SAC requested by patitioner.

7. Mathematical Error No. 2. The amount of prepaid CIAC used in the Staff's calculation of the water SAC in its Schedule No. 3 is overstated by \$16,706,383.

As previously pointed out, it is legally and mathematically incorrect to include prepaid CIAC in the calculation of the SAC. Nevertheless, the Staff calculation which utilizes this approach contains a mathematical error which should be pointed out. On Schedule No. 3 of the Staff recommendation, staff states that is has allocated 25.75% of the \$34,440,537 prepaid CIAC to water. However, the schual calculation includes 74.25% of the prepaid CIAC instead of 25.75%, overstating the prepaid CIAC allocated to water by \$16,766,383. The effect of correcting this error is to increase the allowable water SAC from sero to a maximum allowable amount of \$1,795.03, based on all of Staff's assumptions,

^{*} Corrected 10/08/96, to also remove prepayments in trust.





September 26, 1996

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



Capacity

Dear Ms. Bayo:

Signed

Pursuant to Section 25-30.550, F.A.C., enclosed are copies of service availability contracts between Palm Coast Utility and the following contributors:

	Date	Contributor	This Agra	ment (GPD)
		Agreements	Water	Saver
	9/05/96	Joe Mayes	490	490
	9/05/96	I.M.B.P. of Palm Coest Inc.	1,031	230
ACK		Michael E. Matuszczak	485	230
APP	_			
CMU	of which	the 1995 average load was 3.5 sewer treatment facilities is load was 2.2 MGD. The above Deviced	MGD. The G 3.35 MGD, or	capacity of Palm f which the 1995
IAG	no mater.	ial impact on the rates of the	utility.	
	Sincerel			
051 —	Bu	Rh'		
	- Brian Bi	linski		
SEC	-Assistan	t Controller		
WAS EL	cc: W.	Schiefelbein		

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