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MEMORANDUM

June 12, 1997

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF WATER AND WASTEWATER (MANN, RIEGER) *SR*  
DIVISION OF LEGAL SERVICES (CYRUS-WILLIAMS) *WR* *DR* *GP*

RE: UTILITY: RHV UTILITY, INC.  
DOCKET NO.: 961220-SU  
COUNTY: CITRUS  
CASE: STAFF ASSISTED RATE CASE

AGENDA: JUNE 24, 1997 - REGULAR - PROPOSED AGENCY ACTION EXCEPT  
ISSUE 11 - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE, THE 15-MONTH STATUTORY REQUIREMENT FOR  
COMPLETION HAS BEEN WAIVED

SPECIAL INSTRUCTIONS: THIS IS AN INITIAL DECISION AND SHOULD BE  
HEARD BY THE FULL COMMISSION

FILE LOCATION: I:/PSC/WAW/WP/961220.RCM

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FPSC-RECORDS/REPORTING

<u>TABLE OF CONTENTS</u>		
<u>ISSUE</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
	Case Background	2
<u>QUALITY OF SERVICE</u>		
1	Quality of Service (RIEGER, MANN)	5
2	Show Cause (CYRUS-WILLIAMS, RIEGER, MANN)	15
<u>RATE BASE</u>		
3	Used and Useful % (RIEGER, MANN)	20
4	Test Year Rate Base (MANN, RIEGER)	21
<u>COST OF CAPITAL</u>		
5	Rate of Return on Equity, Overall Rate of Return (MANN)	24
<u>NET OPERATING INCOME</u>		
6	Test Year Revenue (MANN)	25
7	Operating Expenses (MANN, RIEGER)	26
<u>REVENUE REQUIREMENT</u>		
8	Revenue Requirement (MANN)	34
<u>RATES AND CHARGES</u>		
9	Rates and Rate Structure (MANN)	35
10	Rate Case Expense (MANN)	38
<u>OTHER ISSUES</u>		
11	Rates in Event of Protest (MANN)	39
12	Books and Records (MANN)	42
13	Customer Deposits (MANN)	43
14	Escrow of Increase For Pro Forma (MANN)	45
15	Show Cause Fine (CYRUS-WILLIAMS)	48
16	Collection of Fine (CYRUS-WILLIAMS)	49
17	Close the Docket (CYRUS-WILLIAMS)	50
<u>SCHEDULES DESCRIPTION</u>		
1	Wastewater Rate Base	51
1-A	Adjustments to Rate Base	52
2	Capital Structure	53
3	Wastewater Operating Income	54
3-A	Adjustments to Operating Income	55
3-B	Wastewater Oper. and Maint. Expenses	57
3-C	Wastewater Rate Case Expense Reduction	58
4-A	Wastewater Rate Case Expense Reduction	58
Attachment A	Used and Useful	59

Docket No.: 961220-SU  
Date: June 12, 1997

### CASE BACKGROUND

RHV Utility, Inc. (RHV or utility) is a Class C wastewater utility located near the City of Homosassa in Citrus County. The utility provides wastewater service to approximately 402 residential customers and 4 general service customers ((a hotel / restaurant (Riverside Villas / Yardarm Restaurant), a 32 unit condominium complex (Sportsman's Lodge), a restaurant (K.C. Crumps), and a recreation club house). The Homosassa Association, a non-jurisdictional utility, provides water service to the utility's service area.

This Commission first regulated the utility when it was owned by Marathon Realities, Inc. (Marathon), from October 1975 through February 1985, at which time it was sold to Citrus County. In June 1986, Marathon repurchased the utility from Citrus County and the Commission granted Marathon Certificate No. 429-S. By Order No. 20518, issued December 23, 1988, the Commission authorized the transfer of Certificate No. 429-S from Marathon to Homosassa Utilities. Order No. PSC-94-1163-FOF-SU, issued September 22, 1994, approved the transfer of Certificate No. 429-S from Homosassa Utilities, Inc. to RHV Utility, Inc., the current owner. RHV Utility Inc. serves the Riverhaven subdivision and the utility is owned by a group of shareholders who are property owners within the Riverhaven development.

The utility was granted a general rate increase in Docket No. 900967-SU through Order No. 24937, issued August 20, 1991. In this rate case, the average bill was increased from \$16.29 per month to \$20.50 per month, an increase of 26% from the rates that had been in effect while under the jurisdiction of Citrus County. In this case, the Commission approved \$161,855 in pro forma additions. The purpose of these additions was to meet Department of Environmental Protection (DEP) mandated repairs and to attempt to have the growth moratorium on the service territory lifted. To date, the DEP has not given the utility an operating permit and the growth moratorium is still in effect.

On June 20, 1994, RHV applied for another staff-assisted rate proceeding (SARC). At this time, the utility stated that the major reason for applying for a rate increase was to recover some of the cost of plant improvements required by the DEP. A general rate increase was granted through Order PSC-95-0961-FOF-SU, issued August 7, 1995. The increase did not include any provision for necessary improvements, as the utility failed to provide sufficient



Docket No.: 961220-SU  
Date: June 12, 1997

supporting evidence for planned additions of plant in service. In this rate case, the Commission approved an increase in the average bill from \$19.58 to \$20.75, an increase of approximately 6%. Considering the fact that the utility has never filed for an index or pass-through increase, the result of this rate case was to merely true rates for inflationary increases in cost and the problems of necessary plant improvements were not addressed. As with the previous rate case, the utility did not have a valid operating permit and there was a growth moratorium in the service territory. The following is a chronology of regulatory events for this utility:

- ▶ 1970 Utility Constructed by Marathon Realities, Inc.
- ▶ 1975 PSC Regulation Begins
- ▶ 1985 Marathon Realities, Inc. Sells Utility to Citrus County for \$100,000
- ▶ 1986 Marathon Realities, Inc. Buys Utility from Citrus County for \$100,000
- ▶ 1988 Transfer of Certificate From Marathon Realities, Inc. To Homosassa Utilities, Inc.
- ▶ 1990 Wastewater Plant Begins To Exceed Permit Requirements For Effluent Quality And Disposal. Operating Permit Expired - Never Renewed
- ▶ 1991 PSC Rate Case (Order No. 24937, Issued 8/20/91)
- ▶ 1993 Transfer Of Certificate From Homosassa Utilities, Inc. To RHV Utility Inc.
- ▶ 1994 PSC Rate Case Initiated 6/20/94. PSC Rate Case-Pro Forma Not Considered Due To Lack Of Information And Signed Contracts; Revenue Increase From \$113,678 to \$120,613 (6.1% Increase) On Rate Base Of \$78,816 And Operating Expenses Totaling \$112,928 Tariff Rates: BFC \$10.46 Gallonage Charge \$1.47 (10,000 Gallons Max). Average Bill \$20.75 (Order No. PSC-95-0961-FOF-SU, issued 8/7/95)
- ▶ 1996 Current Rate Case Filing



Docket No.: 961220-SU  
Date: June 12, 1997

Citing the same reasons as those used in prior rate cases, that of recouping the costs of plant improvements required by the DEP, the utility filed the instant rate case on October 10, 1996. Staff has selected a historical test year ended October 31, 1996. During this fiscal year, the utility's books reflected unaudited operating revenue of \$115,366 for the wastewater system. The utility recorded unaudited net operating loss of \$72,797. At the present time, the utility is being sued by the DEP for noncompliance with regulatory directives and for the improper disposal of effluent.

Docket No.: 961220-SU  
Date: June 12, 1997

## DISCUSSION OF ISSUES

### QUALITY OF SERVICE

**ISSUE 1:** Is the quality of service provided by this utility satisfactory?

**RECOMMENDATION:** No. The quality of service provided by the utility should be considered unsatisfactory. In addition, the utility should be required to complete all pro forma additions, submit reports as detailed in the staff analysis and to obtain an operating permit or consent agreement with the DEP within six months of the date of the order in this case. (RIEGER, MANN)

**STAFF ANALYSIS:** The customer meeting was held on April 9, 1997, at the Riverhaven Village Community Club in Homosassa, Florida. There were approximately 86 customers who attended the meeting. Of the eleven customers who spoke, the majority of comments made at the meeting dealt with concerns over the utility's ability to serve existing and potential customers.

The first customer who spoke commented on the utility's ineffective management and questioned its future viability to provide service. He presented a statement of comments concerning the utility's proposed rate increase by the board of directors of the Riverhaven Village Property Owners Association, Inc. That statement cited the utility as having a long history of compliance problems with the Florida Department of Environmental Protection (DEP), causing damage to the environment and degrading the quality of life for the members of the Association. The utility is blamed for these failures. In service related issues, the statement referred to past problems with the collection system and questions the utility's ability to address future problems. Although improvements have been made, the statement noted ongoing problems with noxious odors and noise emanating from the wastewater treatment facility.

In general, the rest of the customers who spoke commented about the utility's inability to provide service for new connections, cited recent problems with a liftstation that caused a sewage spill, odors, having enough of the utility's excuses and promises, and the unsatisfactory quality of service provided by the utility. One customer said that the pro forma improvements are only band-aids that do not fully address the DEP compliance problems. However, there was one customer who believed the

**Docket No.: 961220-SU**

**Date: June 12, 1997**

treatment plant was providing good service.

There were also comments about the possibility of Citrus County providing service to the area. The attorney for Citrus County addressed the customers about an upcoming one-cent sales tax option known as "The Clean Water Referendum." That referendum, which did not pass in an April 22, 1997 vote, would have created funds to accelerate the time frame for the construction of a County force main to serve the area.

This facility has had compliance problems with the DEP for quite some time. Under the previous ownership, as far back as 1990, the plant has suffered operational problems that has caused the treated effluent to consistently fail to meet water quality standards. Because of these problems, the facility's DEP operating permit expired in October of 1990 and a growth moratorium was placed on the service territory. Even though consent order agreements with DEP were made by the former and present owners to obtain an operating permit by specific dates, compliance has not been obtained. Although both the former and present owners entered into DEP consent orders agreeing to obtain an operating permit by a specific date, they failed to do so. As a result of the utility's failure to satisfy DEP requirements, it has been prohibited from connecting additional customers, except for several lots that were grandfathered prior to the moratorium, since 1990. This connection prohibition has severely hampered development in the area, and has been a source of frustration with the property owners who are unable to build.

In SARC Docket No. 900967-SU, it was determined in PAA Order No. 24937, that the quality of service was unsatisfactory. The same problems exist. In that order, the utility was required to submit a comprehensive study of available connection capacity to the existing facility. Also, it was required to make necessary plant improvements in order to achieve the DEP operating permit as agreed to in a January 1991 consent order agreement with DEP. The utility did not comply. Eventually the utility was fined \$5,000 by the Commission. The fine was later suspended and then dropped as a result of the sale to the present ownership. Order No. PSC-94-1163-FOF-SU, to transfer Docket No. 930763, stated that the new owners had the financial ability to operate the system. In addition, since the owners will be serving themselves and had a vested interest in upgrading and properly operating the utility, it was found in the public interest at that time for the transfer to be approved.



Docket No.: 961220-SU  
Date: June 12, 1997

In SARC Docket No. 940655-SU, it was determined in PAA Order No. PSC-95-0961-FOF-SU, that quality of service was satisfactory. Although the DEP compliance problems still existed, and a connection moratorium was still in place, the Commission believed that the utility was making adequate progress towards compliance. At that time, the utility had recently signed a consent order agreement with DEP, and it was determined that the health and welfare of the customers were not directly affected by the permitting problems. The Commission concluded that as long as the utility was cooperating with DEP, involvement by the Commission was unnecessary.

At the time of the January 9, 1997, engineering investigation in the instant case, the treatment facility was not operating properly. Apparently, due to an inadequately operating diffused air system, there was basically no treatment occurring. The quality of the wastewater effluent leaving the facility at the time of that field visit appeared only slightly improved over the raw untreated wastewater entering the facility. The DEP effluent treatment standards were obviously not being met. Related problems with the aeration system were noted at the time of a DEP field inspection in mid October, 1996. At that time, it was noted that one of the return activated sludge lines was leaking air, causing sludge blanket problems. In addition, there were inoperable diffusers on the blower system and insufficient blower capacity.

In addition to the above mentioned aeration system problem, DEP also cited the following problems with the treatment facility:

- (1) The lack of adequate freeboard and improperly installed overflow pipe with the percolation ponds. The berm to one of the three effluent disposal ponds has been leaking. Increased wetland vegetation encroaching on the pond beams has also been observed;
- (2) Fence repair and installation at the plant and surrounding the percolation ponds is necessary;
- (3) The plant flow meter is inoperable;
- (4) Sampling is not being done properly;
- (5) The facility's tanks are leaking at the seams;
- (6) Safety railings are in need of being repaired; and
- (7) A Reduced Pressure Zone backflow preventer was leaking.

Most of the treatment plant problems have been corrected. As a result, treatment at this facility has improved dramatically. The remaining required plant improvements yet to be addressed are a composite sampler needed for 24 hour testing, and the installation of a second blower needed for backup reliability. Although operations at the plant have improved, the problems

Docket No.: 961220-SU

Date: June 12, 1997

related to the percolation ponds and a subaqueous force main have not yet been solved.

In early February of 1996, it was discovered that the utility's subaqueous force main under the Homosassa River was leaking and spilling raw wastewater into the river. The health department immediately required the use of that line to cease until repairs were made. Riverside Inn is the only customer at this time that is serviced by this line. This active commercial customer is composed of 76 motel rooms and a restaurant. With the use of this line discontinued, there was an immediate service crisis. To accommodate the need of this customer, wastewater was removed by truck from the liftstation wetwell at the motel in order to prevent sewage spills. Trucking continued from February 9th until the line was repaired on March 5, 1996, at a cost of approximately \$44,000. The owner of the Riverside Inn loaned the utility \$25,000 of the line repair costs under an agreement that the Inn would receive free service until the loan was repaid. This line lies exposed on the river bottom. Since the DEP requires the utility to permanently protect this line from future possible damage by the boating traffic, this project is not considered to be completed until the line is encased by protective materials. The subaqueous force main under the Homosassa River is in need of permanent repair. According to the DEP, plant permitting is contingent to its repair. The cost of the permanent repair is estimated to be in the range of \$100,000 to \$200,000.

RHV's most serious problems relate to effluent disposal. As late as the first week in May of this year, because of recent heavy rains, the percolation ponds became overloaded and flooded over into private and public lands. Hauling of the effluent to avert catastrophic failure of the ponds may be necessary. The problems related to effective and reliable effluent disposal are the main obstacle in obtaining DEP permitting. The utility is required to provide DEP with a plan that will assure adequate disposal to ensure that the freeboard in the ponds are maintained and to prevent lateral seepage. However, by all accounts, the ponds have failed and it is improbable that they could ever be rehabilitated. Preliminary test results indicate that the ponds are polluting the ground water.

Alternative effluent disposal methods will have to be found. Possible options include interconnection with the County, spray irrigation, and reuse. Interconnection with the County does not appear to be a timely option because of the recent failure of the

Docket No.: 961220-SU  
Date: June 12, 1997

clean water referendum. Spray irrigation is unlikely because of the unavailability of suitable land. The utility submitted to DEP a possible reuse option with a \$800,000 to \$850,000 price tag. However, its application for an operating permit for the treatment facility was denied in January, 1997. The permit denial notice cited multiple application deficiencies that the utility had failed to appropriately and timely address. The notice stated that:

The application and supporting information has been reviewed by the Department, and it has been determined that the applicant has not provided reasonable assurance that the construction of the proposed residential public access reclaimed water system and wastewater plant modifications to increase the permitted capacity and the operation of such a facility will be in accord with applicable laws or rules (Rule 62-4.070(2), F.A.C.). Pursuant to these rules, the wastewater permit for the Riverhaven WWTP is hereby denied.

Frustrated over problems with working with the utility in order to achieve compliance, DEP has opted to seek enforcement through civil court. In a October, 1996, letter to the utility from DEP, the following was stated:

The Department has tried for more than three years to work with RHV to address the numerous chronic problems mentioned above. RHV has not adequately addressed any of these serious problems. In the past, RHV only acted to fix emergency situations when raw sewage was discharged into the river or neighboring lands. Now, RHV will not even take such basic action due to its financial problems. Each time RHV has failed to meet a deadline that RHV had previously agreed to, RHV has asked to meet with the Department to get additional time. After more than three years of trying to work with RHV, the Department must take other action to protect the public and environment and prevent environmental disasters.

On April 24, 1997, a continuance order related to a final hearing over the DEP permitting problems was issued by the Division of Administrative Hearings. That order allowed the petitioner, RHV Utilities, Inc., more time for settlement negotiations with DEP. In any event, the parties are to report in writing the progress of the



Docket No.: 961220-SU  
Date: June 12, 1997

negotiations and the case status within 60 days, and every 30 days thereafter. If the parties report that the case should be rescheduled for final hearing, the report shall include a range of mutually agreeable dates for rescheduling the final hearing.

On May 1, 1997, staff met in Tampa to discuss the RHV compliance situation with representatives from DEP and Citrus County. At that meeting, the DEP staff indicated that all avenues in working with the utility to gain compliance have been exhausted, and it is continuing its enforcement through legal channels. The Citrus County representative who attended the meeting indicated that since the County's clean water referendum failed at the polls, there are no immediate plans for the County to provide service to the RHV area.

Although there has been recent increased operation and maintenance activities with the hiring of a new plant operator, this facility had been subject to an extended period of deferred maintenance. Based on its track record, staff has little confidence in the utility's ability to obtain compliance with DEP. For whatever reasons, the utility has chosen not to timely adhere to compliance deadlines. From all appearances, the utility is being uncooperative with DEP.

However, H2O Utility Services, Inc. (H2O), the utility's present management, has submitted cost estimates for pro forma treatment plant and collection system improvements in this rate case.

For the wastewater facility, the utility proposes to spend \$34,891. These improvements include: (1) Relocation of the bar screen; (2) Repair and relocate the plant influent force main; (3) Repair the air header system; (4) Repair/replace rusty hand railing; (5) Repipe the clarifier RAS piping; (6) Install back-up blower and new duplex control panel; (7) Repair existing and install new fencing at the plant and pond sites; (8) Install a composite sampler; (9) Relocate the electronic portion of the flow meter; (10) Install "No Trespassing" signs around plant site; (11) Install facility lighting; and (12) Repair leaks in concrete wall seams.

For the collection system, the utility proposes to spend \$138,392. These improvements include: (1) The performance of an inflow and infiltration study; (2) Create "as built" drawings of the entire collection system; (3) manhole repairs; and (4) General

Docket No.: 961220-SU  
Date: June 12, 1997

repairs and improvements to the liftstations. They include replacement and improvement of electrical controls and wiring, pumps, piping, check valves, float controls, alarm systems, and security locks.

With the completion of the above pro forma items, staff believes that the customers will at least benefit in the area of improved treatment. These improvements are expected to reduce biological hazards and obnoxious odors caused by inadequate treatment, and a reduction in noise should be noted with the installation of a more efficient blower. In addition, the collection system should become more efficient. Possible infiltration should be reduced, and potential backups and sewage spills should be less likely if the proposed improvements are completed. However, these proposed improvements only partially consider the compliance needs. They do not address the effluent disposal problems, plant expansion to accommodate further growth, or the permanent repair of the force main under the Homosassa River. Although they do appear to be necessary to help insure reliable treatment, they fall short of the overall compliance needs of the utility. Given the above, the quality of service should be considered unsatisfactory.

As stated above, the utility has not addressed the effluent disposal problems, plant expansion needs to accommodate future growth, or the permanent repair of the force main under the Homosassa River. Although the pro forma improvements do appear to be necessary to help insure reliable treatment, they fall short of the overall compliance needs of the utility. As a result, the utility's treatment plant has gone without a DEP operating permit since 1990 and customer growth has been severely hampered due to a connection moratorium. It appears that the DEP has exhausted all avenues in working with the utility to gain compliance. It is continuing its enforcement through legal channels.

In addition, the Commission has allowed the utility more than adequate time to get its affairs in order. This was reflected in SARC Docket No. 900967-SU, where a \$5,000 fine was levied, suspended, and then dropped because it was believed that a reasonable opportunity to comply should be afforded to the present owners. In approving the utility's transfer in Docket No. 930763-SU, the Commission believed that the new owners had the financial ability to operate the system, and since they would be serving themselves, the owners had a vested interest in upgrading and properly operating the utility. In SARC Docket No. 940655-SU, in

**Docket No. : 961220-SU**

**Date: June 12, 1997**

light of a recently signed consent order agreement, the Commission believed that the utility was cooperating with the DEP and that Commission involvement was unnecessary.

Staff now believes that the time for tolerance has ended. The fact remains that this utility has not developed an acceptable plan to achieve compliance with DEP. A good indication that all reasonable avenues to achieve compliance have been exhausted, is DEP's pursuit through legal channels for enforcement. If the Commission determines in this issue that the quality of service is unsatisfactory, staff believes that the utility should be penalized and that corrective action should be taken.

Staff would like to propose that a plan of action be undertaken to insure that the following objectives are met:

1. Utility completes pro forma plant additions within six months of the date of the order in this case.
2. Utility prepares a plan of action for the resolve of the effluent disposal and sub-aqueous pipe line problems.
3. Utility obtains an operating permit or consent agreement from the DEP within six months of the date of the order in this case.

Considering the multitude of problems this utility has encountered with the DEP, the PSC, and POA's (Property Owner Associations), staff has often wondered if the only solution for the plight of this utility would be if Citrus County became the operator of the system. This appears to be the only solution for an under funded utility that has no economical solution for the current disposal problem. The perk ponds were built in a marsh and do not perk properly. As recently as mid May of this year, the utility was draining the perk ponds directly into the marsh, a marsh that is directly connected to the Homosassa River. Unavailable or astronomically expensive, the purchase of additional land in the service area is not a viable solution for replacing the perk ponds. With a water table only a few feet below the perk ponds themselves, refurbishing the ponds would be ineffective and, therefore, does not appear to be a viable option. Trucking the effluent to an offsite depository is prohibitively expensive and therefore not an option. Reuse of the wastewater effluent, which was previously proposed by the utility, also does not appear to be a feasible option due to the high cost and the lack of willing



Docket No.: 961220-SU  
Date: June 12, 1997

customers. The only option or apparent solution to the effluent disposal problem is for Citrus County to interconnect with the utility and to build a regional plant to serve this rapidly growing region of the County.

As a result of the failed sales tax referendum vote on April 22, 1997, Citrus County is left with precious few dollars to resolve pressing problem of sewage treatment in this environmentally sensitive region. Staff from the County have indicated that construction of a force main and regional plant in this area is now five to ten years away from completion. Ten years ago in 1987, another sales tax referendum was put before the voters, and while it was voted down, more citizens voted then for the increase than voted for it this year. A solution to the pressing infrastructure problems of Citrus County will not be resolved in the immediate future. While all agree that the utility has grave problems when it comes to effluent disposal, no one seems to have an economical solution for these problems. Akin to being stuck between a rock and a hard place, the utility is left with few options to resolve regulatory concerns. Staff is empathetic to these intractable problems and realizes that all parties associated with this utility must work together to find a solution. This having been said, staff would be remiss if they didn't require that the utility formulate a plan of action for dealing with these problems. Staff would like the following addressed, in report form, within six months of the date of the order in this case:

1. Prepare a specific plan, including a time table of events, for resolving the problems associated with the sub-aqueous line serving the Riverside Inn. This plan shall address the concerns of both the DEP and the Army Corp of Engineers and include a description of proposed funding sources for these repairs.
2. Prepare a specific plan, including a time table of events, to bring the utility into compliance with DEP standards.
3. Prepare a report showing the date of completion of pro forma additions, to be completed within six months, along with description of the vendor used and the amount spent (see Issue No. 14 regarding release of funds for pro forma additions).

Therefore, staff has determined that the quality of service

Docket No.: 961220-SU  
Date: June 12, 1997

provided by the utility should be considered unsatisfactory. The utility should be required to complete all pro forma additions, submit reports as detailed in the staff analysis and to obtain an operating permit or consent agreement with the DEP within six months of the date of the order in this case.

Docket No.: 961220-SU

Date: June 12, 1997

**ISSUE 2:** If Issue 1 is approved, should the utility be ordered to show cause in writing within 20 days of the Commission order why it should not be fined for failure to comply with Section 367.111(2), Florida Statutes, by not providing satisfactory service which meets the standards promulgated by the DEP?

**RECOMMENDATION:** Yes. If Issue 1 is approved, the utility should show cause in writing within 20 days of the Commission order as to why it should not be fined up to \$5,000 per day for failing to comply with Section 367.111(2), Florida Statutes, by not providing satisfactory service which meets the standards promulgated by the DEP. (CYRUS-WILLIAMS, RIEGER, MANN)

**STAFF ANALYSIS:** As discussed previously, in SARC Docket No. 900967-SU, it was determined in PAA Order No. 24937 that the utility's quality of service was unsatisfactory, and the utility was required to make necessary plant improvements in order to reobtain the DEP operating permit as agreed to in a January 1991 consent order agreement with DEP. The utility did not comply, and was ordered to show cause by Order No. PSC-92-0192-FOF-SU, issued April 13, 1992. By Order No. PSC-92-0542-FOF-SU, issued June 23, 1992, the Commission imposed a fine of \$5,000; however, in that same order, the fine was suspended, in light of the potential transfer of ownership of the utility to homeowners in the area. On July 30, 1993, a transfer application was filed, requesting the transfer of the utility from Homosassa Utilities, Inc. to RHV, and by Order No. PSC-94-1163-FOF-SU, issued September 22, 1994, the transfer was approved. In SARC Docket No. 940655-SU, it was determined in PAA Order No. PSC-95-0961-FOF-SU, that quality of service was satisfactory, although the DEP compliance problems still existed, and a connection moratorium was still in place. The utility had recently signed a consent order agreement with DEP, and the Commission believed that the utility was making adequate progress towards compliance.

Since that time, however, as discussed in Issue 1, the condition of the wastewater treatment plant continued to decline, the utility's subaqueous line under the Homosassa River leaked, spilling raw wastewater into the river, and the percolation ponds failed, sometimes spilling effluent onto private and public lands. Although most of the treatment plant problems have been corrected, the subaqueous line still remains exposed on the river bottom, and is in need of permanent repair. Further, the utility has not satisfactorily addressed its effluent disposal problem. These



Docket No.: 961220-SU  
Date: June 12, 1997

problems, along with the utility's failure to fully cooperate with the DEP, have resulted in the inability of the utility to reobtain its DEP permit. Staff now believes that the time for tolerance has ended. The fact remains that this utility has not developed an acceptable plan to achieve compliance with DEP. A good indication that all reasonable avenues to achieve compliance have been exhausted is the DEP's pursuit, through legal channels, enforcement of the consent order between the utility and the DEP.

Section 367.111(2), Florida Statutes, states:

Each utility shall provide to each person reasonably entitled thereto such safe, efficient, and sufficient service as is prescribed by part VI of chapter 403 and parts I and II of chapter 373, or rules adopted pursuant thereto; but such service shall not be less safe, less efficient, or less sufficient than is consistent with the approved engineering design of the system and the reasonable and proper operation of the utility in the public interest. If the commission finds that a utility has failed to provide its customers with water or wastewater service that meets the standards promulgated by the Department of Environmental Protection or the water management districts, the commission may reduce the utility's return on equity until the standards are met.

If Issue 1 is approved, RHV's failure to provide satisfactory service which meets the standards promulgated by the DEP (as evidenced by its inability to reobtain its operating permit) is an apparent violation of Section 367.111(2), Florida Statutes. Staff believes that RHV's apparent violation rises, in these circumstances, to the level of warranting initiation of show cause proceedings.

Section 367.161(1), Florida Statutes, authorizes the Commission to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated, any provision of Chapter 367, Florida Statutes, or any lawful rule or order of the Commission.

Utilities are charged with the knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). Thus, any intentional act, such

Docket No.: 961220-SU  
Date: June 12, 1997

as the utility's failure to comply with Chapter 367, Florida Statutes, would meet the standard for a "willful violation." In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., the Commission, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id. at 6.

Considering the multitude of problems this utility has encountered with the DEP, the PSC, and POA's (Property Owner Associations), staff has often wondered if the only solution for the plight of this utility would be for Citrus County to become the operator of the system. This appears to be the only solution for an under-funded utility that has no economical solution for the current disposal problem. The percolation ponds were built in a marsh and do not percolate properly. As recently as mid-May of this year, the utility was draining the percolation ponds directly into the marsh that is directly connected to the Homosassa River. Unavailable or very expensive, the land in the service area is not a viable solution for replacing the percolation ponds. With a water table only a few feet below the percolation ponds themselves, refurbishing the ponds would be ineffective and, therefore, does not appear to be a viable option. Trucking the effluent to an offsite depository is prohibitively expensive and therefore not an option. Reuse of the wastewater effluent, which was previously proposed by the utility, also does not appear to be a feasible option due to the high cost and the lack of willing customers. The only option or apparent solution to the effluent disposal problem appears to be for Citrus County's interconnection with the utility and a regional plant to serve this rapidly developing region of the County.

As a result of the failed sales tax referendum vote on April 22, 1997, Citrus County is left with few dollars to resolve the pressing problem of sewage treatment in this environmentally sensitive region. The County has indicated that construction of a force main and regional plant in this area is now five to ten years in the future. Ten years ago in 1987, another sales tax referendum was put before the voters, and while it was also voted down, more citizens voted then for the increase than voted for it this year. A solution to the pressing infrastructure problems of Citrus County will not be resolved in the immediate future. While all agree that

Docket No.: 961220-SU  
Date: June 12, 1997

the utility has grave problems when it comes to effluent disposal, no one seems to have an economical solution for these problems. Akin to being stuck between a rock and a hard place, the utility is left with few options to resolve regulatory concerns. Staff is empathetic to these intractable problems and realizes that all parties associated with this utility must work together to find a solution. In light of this, in Issue 1, we have recommended that the utility be required to propose some corrective action.

However, in this issue, staff recommends that the utility should show cause in writing within 20 days of the Commission order as to why it should not be fined up to \$5,000 per day for failing to comply with Section 367.111(2), Florida Statutes, by not providing satisfactory service which meets the standards promulgated by the DEP. Staff recognizes that Section 367.111(2), Florida Statutes, grants the Commission the authority to reduce the utility's return on equity until the DEP standards are met; however, staff is not recommending a reduction in the utility's return on equity in this case because, in addition to the penalty authorized by Section 367.161(1), Florida Statutes, a reduction to return on equity will further deteriorate the utility's already weakened financial condition.

If the Commission approves this issue, RHV's response should contain specific allegations of fact and law. This opportunity to file a written response should constitute RHV's opportunity to be heard prior to a final determination of noncompliance or assessment of penalty. A failure to file a timely written response should constitute an admission of the facts herein alleged and a waiver of the right to a hearing. Should RHV file a timely written response that raises material questions of fact and request a hearing pursuant to Section 120.569, Florida Statutes, further proceedings should be scheduled before a final determination on this matter is made. If the utility fails to respond within 20 days of the issuance of the Commission order, the fine proposed by the Commission should be imposed without further action of the Commission. If RHV fails to respond to reasonable collection efforts of the Commission, the fine should be deemed uncollectible, and this matter should be referred to the Comptroller's Office for further collection efforts based on the Commission's finding that, under the aforesaid circumstances, further collection efforts would not be cost effective. Reasonable collection efforts should consist of two certified letters requesting payment. Any collection as a result of the action of the Office of the Comptroller should be deposited in the State General Revenue Fund



**Docket No. : 961220-SU**

**Date: June 12, 1997**

pursuant to Section 367.161, Florida Statutes. If, however, the utility responds to the show cause by remitting the fine imposed by the Commission, no further action is required.

Docket No.: 961220-SU  
Date: June 12, 1997

### RATE BASE

**ISSUE 3:** What percents of the wastewater treatment and collection systems are used and useful?

**RECOMMENDATION:** Staff recommends that the wastewater treatment plant be considered 64% used and useful. The effluent disposal ponds should be considered 100% used and useful. The collection system should be considered 58% used and useful. (RIEGER, MANN)

### STAFF ANALYSIS:

#### Wastewater Treatment Plant

The wastewater treatment plant has a design treatment capacity of 100,000 gallons per day. The plant flow readings during the test year are considered unreliable since the flow meter was more or less inoperative during that time. Connection growth over the years has stagnated due to a DEP moratorium placed on the plant. The moratorium was placed because of plant compliance problems that have existed for years. In the previous staff assisted rate case, Docket No. 940655-SU, the treatment plant used and useful was determined to be 67% used and useful. Since connection growth has not changed since the previous determination, it is assumed that flows have remained constant. Based on this information and the fact that the utility will not be growing in the immediate future due to the growth moratorium, staff has removed the margin reserve used in the last case and determined a used and useful percentage for the treatment plant at 64%. Although the treatment plant itself has available capacity, there is little indication that the facility's effluent disposal ponds are capable of handling additional flows. They appear to be at capacity, and the utility has been required by DEP to explore other effluent disposal possibilities. Therefore, the effluent disposal ponds should be considered 100% used and useful (see Attachment A).

#### Wastewater Collection System

The wastewater collection system has a capacity of 861 ERC's. As discussed above, connection growth over the years has stagnated due to a DEP moratorium placed on the plant. Since connection growth has not changed since the previous staff assisted rate case, Docket No. 940655-SU, staff recommends that a used and useful percentage of 58% be applied to the utility collection system (see Attachment A).

Docket No.: 961220-SU

Date: June 12, 1997

**ISSUE 4:** What is the appropriate average amount of test year rate base for the wastewater system?

**RECOMMENDATION:** The appropriate average amount of test year rate base for the RHV Utilities, Inc. water system should be \$162,460. (MANN, RIEGER)

**STAFF ANALYSIS:** The appropriate components of the utility rate base include depreciable plant in service, contributions in aid of construction (CIAC), accumulated depreciation, accumulated amortization of CIAC, and the working capital allowance. Plant, depreciation, and CIAC balances were determined through staff audit. Further adjustments are necessary to reflect test year changes and pro forma plant. A discussion of each component follows:

#### **Plant in Service**

Staff recommends audit adjustments to wastewater plant to reflect truing the utility records to the amount determined in the last rate case, Order No. 950961, issued August 7, 1995 and for additions and retirements since this case in the amount of \$740,286, an averaging adjustment of (\$6,119), a pro forma adjustment of PIS for equipment that is currently needed to bring the plant into partial compliance with DEP mandates of \$173,283, a reclassification of construction work in progress to plant in service for completed projects of \$16,026, and lastly, an adjustment for the cost of installing a meter and related services at the liftstation located at the Riverside Inn of \$1,000 (currently the expense for this liftstation is being paid by the hotel owner and it is the responsibility of the utility to make this payment-see Purchased Power Expense for additional detail).

Total recommended wastewater plant in service is \$1,105,352.

#### **Land**

Utility records indicated the value of land holdings to be \$10,000. Staff has adjusted this amount by \$75,967 to true the figure for land value to the amount established in the last rate case (Docket No. 940655) of \$85,967.

Total recommended wastewater land value is \$85,967.



Docket No.: 961220-SU  
Date: June 12, 1997

#### Non-Used and Useful Plant

Based on the staff engineer recommendation concerning the used and useful components of utility plant in service, we recommend a net adjustment to nonused and useful plant of \$171,788.

Total recommended net nonused and useful wastewater plant is \$171,788.

#### Contributions in Aid of Construction

In its records, the utility reported unaudited CIAC levels of \$950. The CIAC level has been adjusted by \$734,634 to adjust the utility reported amount to the amount determined in the last rate case (Docket No. 940655-SU).

Staff recommends a CIAC balance of \$735,584.

#### Accumulated Depreciation

Consistent with Commission practice, staff calculated accumulated depreciation using the prescribed rates of Rule 25-30.140, Florida Administrative Code. The accumulated depreciation balances have been adjusted to reflect rates approved by the National Association of Regulatory Utility Commissioners (NARUC) of \$453,205, to reflect an averaging adjustment of (\$16,240), and lastly, an adjustment of \$8,069 to account for depreciation related to the pro forma additions.

Staff recommends an accumulated depreciation balance of \$482,418.

#### Accumulated Amortization

Staff calculated accumulated amortization of CIAC using the prescribed rates contained in Rule 25-30.140, Florida Administrative Code. Based on these rates, staff has adjusted the utility filing by \$360,987 to true accumulated amortization to approved levels and an averaging adjustment of (\$15,594).

Staff recommends a balance of accumulated amortization of CIAC of \$345,392.

Docket No.: 961220-SU

Date: June 12, 1997

**Working Capital Allowance**

Following current Commission practice and consistent with Rule 25-30.443, Florida Administrative Code (Form PSC/WAS 18), staff recommends that the one-eighth of operation and maintenance (O&M) expense formula approach be used to calculate the working capital allowance. Applying this formula, staff recommends a working capital allowance of \$15,539 (based on O&M expense of \$124,311).

Staff recommends a balance of \$15,539 for the working capital allowance.

**Rate Base Summary**

The appropriate average balance of RHV rate base is \$162,460. Calculation of the rate base amounts are shown on Schedule No. 1 and adjustments to rate base accounts are shown on Schedule No. 1-A.

Docket No.: 961220-SU

Date: June 12, 1997

COST OF CAPITAL

ISSUE 5: What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility?

RECOMMENDATION: The appropriate rate of return on equity is 10.52% and the appropriate overall rate of return is 10.77%. (MANN)

STAFF ANALYSIS: Based on the staff audit, the utility's capital structure includes long-term debt owed to shareholders, at an interest rate of 18%, equity, and customer deposits. Using the current leverage formula approved under Docket No. 960006, Order No. PSC-96-0729-FOF-WS, issued May 31, 1996, the rate of return on common equity is 10.52%. Applying the weighted average method to the total capital structure yields an overall rate of return of 10.77%. The company's debt and equity have been adjusted to match staff's recommendation for the total staff allowance of rate base. Customer deposits are included in the capital structure at 6%. While it is true that deposits from residential and non-residential customers carry different interest rates, 6% for residential and 7% for non-residential, the immaterial amount of total deposits for the utility, \$1,635, does not warrant the segregation of cost factors for the calculation of the capital structure. Staff has adjusted the recommended rate of interest for the shareholder loan from 18% to the upper limit of the Florida Public Service Commission (PSC) approved leverage graph amount of 11.88%. As there are few, if any, options in securing long term financing for this company, staff believes this rate to be reasonable based on the financial plight of the utility.

Staff recommends that the rate of return on common equity should be 10.52% and that the overall rate of return should be 10.77%.



Docket No.: 961220-SU  
Date: June 12, 1997

**TEST YEAR REVENUE**

**ISSUE 6:** What is the appropriate test year operating revenue?

**RECOMMENDATION:** The RHV appropriate test year operating revenue should be \$116,497. (MANN)

**STAFF ANALYSIS:** The RHV wastewater system recorded revenues of \$115,366 for the wastewater system during the test year. A review of the test year billing analysis indicates that an adjustment should be made to increase annual revenues by \$1,131 for unrecorded receipts. RHV operating revenues are shown on Schedule No. 3-A and adjustments are shown on Schedule No. 3-B.

Staff recommends that the appropriate test year operating revenue for the wastewater system should be \$116,497.

Docket No.: 961220-SU  
Date: June 12, 1997

**ISSUE 7:** What is the appropriate amount for operating expense?

**RECOMMENDATION:** The appropriate amounts for RHV wastewater operating expense should be \$146,684. (MANN, RIEGER)

**STAFF ANALYSIS:** The utility recorded operating expense of \$188,163 for the wastewater system in the test year. The components of this expense include operation and maintenance expense (O&M), depreciation expense (net of related amortization of CIAC), and taxes other than income taxes (the utility is considered by the Internal Revenue Service to be an "S" corporation, therefore federal income tax does not apply).

The utility's test year operating expenses have been traced by the staff auditor to supporting invoices. Adjustments have been made to reflect unrecorded test year expenses and to reflect recommended allowances for pro forma additions.

#### **Operation and Maintenance (O&M) Expenses**

The utility charged \$155,292 of operation and maintenance expense to the wastewater system during the test year. Explanations of the utility's recorded expenses and staff's recommended allowances are as follow:

##### **1) Salaries and Wages - Employees**

There are no specific expenditures for in-house personnel, as the utility is charged a management fee for all services (see contractual services).

##### **2) Salaries and Wages - Officers**

The utility recorded \$11,600 for this expense. Staff recommends that this amount be eliminated in favor of including an allowance for a contract operator in contractual services. Therefore, staff recommends that the balance in this account be reduced to \$0 (an adjustment of (\$11,600)) and that the contractual services account reflect the appropriate allowance for salaries and wages to operate the utility.

Staff recommends no allowance for salaries and wages for officers expense.

Docket No.: 961220-SU  
Date: June 12, 1997

### 3) Sludge Removal Expense

Staff's audit details that \$6,250 was spent for sludge hauling during the test period. In its proposed operating budget, H20, the new contract operator, estimates that an annual expense for sludge removal should be \$17,850. This figure is based on hauling 3,000 gallons of sludge three times per month for a year. Staff agrees with this estimate and recommends an adjustment of \$11,600.

Staff recommends sludge removal expense of \$17,850.

### 4) Purchased Water

This expense category is not applicable for a wastewater only rate case filing (see contractual services for the allowance for water used at the sewer plant).

### 5) Purchased Power

The utility included \$8,468 in purchased power expense in its application. At the current time, the owner of the Riverside Inn is paying for the electricity that is being consumed at the utility liftstation. Staff recommends that this expense be included in utility purchase power expense and has therefore included a provision of \$500. As a related adjustment, staff has included \$1,000 in plant in service for the estimated costs of installing a new meter, with associated services, at the liftstation.

Staff recommends purchased power expense of \$8,968.

### 6) Chemicals

The utility recorded chemical expense of \$3,775. For disinfection purposes, the utility uses sodium hypochlorite (chlorine bleach) at its wastewater treatment facility. The proposed budget accepts the historical usage, but includes an additional \$5,814 for other chemicals needed to increase treatment control. This increased amount includes \$4,014 for polymer (settling aid), \$1,200 for liquid degreaser and \$600 for deodorant blocks. Staff is of the opinion that increased attention must be paid toward treatment, and therefore, staff agrees that additional chemical purchases should be made. Therefore, staff recommends that chemical expense be increased by \$5,814.

Staff recommends chemical expense of \$9,589.



Docket No.: 961220-SU

Date: June 12, 1997

### 7) Materials and Supplies

The utility recorded materials and supplies expense of \$2,965 for the test year. This amount represents the fee paid to the engineering firm of Berryman & Henniger for professional services rendered to expand the effluent disposal system. While staff could reclassify this amount to contractual services, staff recommends that this non-recurring amount be left in the expense category as it represents a fair estimate of the materials and supplies expense that a utility of this size can expect to incur in an average year. Staff believes this amount to be reasonable and therefore no adjustment is being proposed.

Staff recommends materials and supplies expense for the wastewater system of \$2,965.

### 8) Contractual Services

The utility recorded contractual service expense of \$90,172. Staff has made adjustments to reflect the audited amount in the test year, a reduction of (\$17,844), adjustment to amortize certain engineering and legal costs associated with plant improvements and legal action with the DEP of (\$30,861) (\$38,576/5 year amortization = \$7,715; \$30,861 deferred to future periods), reclassification of PIS of (\$17,694), adjustment to amortize pipeline repairs of (\$4,265) (\$5,331/5 year amortization = \$1,066; \$4,265 deferred to future periods), to reclassify PIS as expense for certain pipeline repairs of \$7,892 (\$39,460/5 year amortization = \$7,892; \$31,568 deferred to future periods), adjust for contract operator expense of \$40,872, to adjust testing expense by \$5,519 to reflect the amount that should be spent on an annual basis, and finally, increase contractual services by \$317 to account for necessary water purchases to be used in the maintenance of the plant.

Staff recommends that the \$44,791 cost of repair to the sub-aqueous force main serving the Riverside Inn be amortized over a five year period. Customers have raised concern that they should not be forced to pay for a repair that benefits a single commercial customer, nor should this amount be amortized over such a short period of time. History indicates that this commercial customer was the first customer of the utility when the system was initially constructed in 1970. As an "anchor development," this customer has always been integral to the overall development of the area. Staff does not believe that a separate rate for this commercial customer, other than the rates delineated in the general service tariff, is

Docket No.: 961220-SU

Date: June 12, 1997

necessary. Staff is not of the opinion that a cost of service study is either practical for this utility or cost effective. In addition, plans indicate that the liftstation at the hotel will be utilized for the Cherokee Trace development, thereby indicating the need for networked facilities in this region of the service territory. As for the period of time that staff is recommending that this expense be amortized, the underlying asset (which is underlying several feet of brackish water) is 27 years old. These repairs have essentially revived a dead asset and cannot be expected to enhance the overall life of the pipe, thus permitting a longer amortization period. Currently, the Army Corp of Engineers is requesting that this sub-aqueous pipe be more suitably anchored to the bottom of the river. This will require substantial costs, costs that will likely not be incurred for an asset with no remaining depreciable life. At some point in the near future, this pipe will probably be replaced. While staff could have argued that this expense should be amortized totally in the test year, we are cognizant that this is not a recurring expense and that it would be unfair to amortize the amount in just one year. But to extend this period of time beyond the estimate of five years would be equally unjust as the underlying asset has come to the end of its depreciable life. While the line is still being used, staff is uncertain as to how long it will be operable and whether or not it will be replaced. Therefore, staff recommends that this amount be amortized over a five year period, resulting in an annual expense of \$8,958.

Based on these audit adjustments, a total of (\$16,064), staff recommends total wastewater contractual services of \$74,108. A breakdown of staff's recommended expense for this category is as follows:

Expense	Amount
Contract Operator & Management	\$40,872
Amortized Pipeline Repairs	8,958
Testing Expense	8,624
Amortized Professional Fees	7,715
Accounting Fees	5,000
Insurance	500

Docket No.: 961220-SU

Date: June 12, 1997

Purchased Water	1,000
Repairs & Miscellaneous	1,439
Total	\$74,108

Staff recommends total wastewater contractual services of \$74,108.

**9) Rents**

Provision for rental expense has been included in contractual services. Therefore, this expense category has no balance and no adjustment is deemed necessary.

**10) Transportation Expenses**

The audited amount for transportation expense is \$1,612. Staff believes this amount to be reasonable and recommends that no adjustment be made.

Staff recommends total transportation expense of \$1,612.

**11) Insurance Expense**

The utility included \$500 of insurance expense for the test period. The audit determined that there are currently no policies in force for the utility. Staff believe a liability policy should be purchased and has included a \$500 allowance in the contractual services account.

**12) Regulatory Commission Expense**

The utility recorded \$22,293 of regulatory commission (rate case) expense during the test year. Staff believes it to be reasonable to allow \$267 to include an amortized portion of the instant rate case filing fee (\$1,068 amortized over four years) and \$4,770 for rate case expense (\$19,082/4 year amortization = \$4,770; \$14,311 deferred to future periods). Therefore, based on an allowance of \$5,037 for the test year, staff is reducing the utility filing by \$17,256 for amounts to be deferred to future periods.

Staff recommends \$5,037 for regulatory commission (rate case) expense.



Docket No.: 961220-SU

Date: June 12, 1997

**13) Miscellaneous Expense**

The utility recorded \$7,657 of miscellaneous expense in the test year. The composition of this expense account is as follows:

Expense	Amount
Director Fees	\$ 3,975
Postage	1,550
Printing	933
Phone Charges	501
Bank Charges	340
Miscellaneous	358
Total	\$ 7,657

Staff recommends that the allowance for director's fees be eliminated. The reasons for this disallowance are staff's belief that management of this utility has been remiss in its duty to properly operate the utility. Accordingly, this expense is not reasonable and staff recommends that it be removed. This belief is founded in the long-term problems the management has had dealing with the DEP (compliance problems, lack of operating permit, current court proceedings), the PSC (late submittal of Regulatory Assessment Fees, Annual Reports, evidence to support rate case filings) and Citrus County (sale-resale of utility to county and claims of misrepresentation, County required to respond to emergency operation of plant following problems with system operator). Considering the staff engineer's opinion that the quality of service for this utility is unsatisfactory, the accounting staff believes it would be inappropriate to provide director's fees for a utility which has for some time had little or no direction. While strides have been made of late to return the operation of the treatment plant to a satisfactory level, due in large part to the work of the independent operating company (H2O), staff cannot ignore the long history of noncompliance and neglect. Therefore, staff recommends that miscellaneous expense be reduced by \$3,975 to reflect the disallowance of directors fees.

Staff recommends total miscellaneous expense of \$3,682.

Docket No.: 961220-SU  
Date: June 12, 1997

**Operation and Maintenance Expenses (O&M) Summary**

Total RHV O&M adjustments are (\$30,981). Based on these adjustments, staff recommends total operation and maintenance expense of \$124,311. Operation and maintenance expenses are shown on Schedule No. 3-C.

**Depreciation Expense**

Staff has made an adjustment of \$6,971 to agree the utility expense level with the NARUC approved rates for depreciation, adjusted depreciation for amounts associated with nonused and useful plant of (\$6,658), and lastly, adjusted expense for the period by \$8,069 to reflect pro forma additions to plant in service.

Based on these adjustments, staff recommends total depreciation expense of \$40,480.

**Amortization of CIAC**

In its application, the utility made no provision for the amortization of CIAC. Staff has made an adjustment of (\$31,229) to agree the utility expense level with the NARUC approved rates for the amortization of CIAC.

Based on these adjustments, staff recommends total amortization expense of (\$31,229).

**Taxes Other Than Income Tax**

The utility recorded \$773 of taxes other than income in the test year. Staff has adjusted this expense account by \$5,242 to reflect actual test year regulatory assessment fees, by \$716 to adjust property taxes to that actually spent during the test year, by \$4,620 to adjust tangible property taxes, and lastly, by (\$375) to eliminate a fine paid by the utility for a corporate reinstatement penalty.

Staff recommends \$10,976 for wastewater taxes other than income in the test year, prior to any adjustment for a rate increase.

Docket No.: 961220-SU  
Date: June 12, 1997

**Operating Revenue**

Revenues have been adjusted by \$47,683 to reflect the increase in revenue required to cover utility expense and allow the recommended rate of return on investment.

**Taxes Other Than Income Tax**

This expense has been increased by \$2,146 to reflect the regulatory assessment fee of 4.5% on the staff recommended increase in revenue.

**Operating Expense Summary**

The application of staff's recommended adjustments to the utility's test year operating expenses results in recommended operating expense of \$146,684 for the wastewater system.

Operating expenses are shown on Schedule No. 3-A. Adjustments are shown on Schedule No. 3-B. Operational and maintenance expense are detailed on Schedule No. 3-C.



Docket No.: 961220-SU  
Date: June 12, 1997

**REVENUE REQUIREMENT**

**ISSUE 8:** What is the appropriate revenue requirement?

**RECOMMENDATION:** The appropriate revenue requirement is \$164,180 for the wastewater system. (MANN)

**STAFF ANALYSIS:** RHV should be allowed an annual increase in revenue of \$47,683 (41%) for the wastewater system. This will allow the utility an opportunity to recover its expenses and earn a 10.77% return on investment. The calculation of the appropriate revenue requirement is as follows:

	<u>Wastewater</u>
Adjusted Rate Base	\$ 162,460
Rate of Return	x .1077%
Return on Investment	\$ 17,496
Adjusted Operation Expenses	124,311
Depreciation Expense (Net)	9,251
Taxes Other Than Income Taxes	<u>13,122</u>
Revenue Requirement	<u>\$ 164,180</u>
Annual Revenue Increase	\$ 47,683
Percentage Increase	<u>41%</u>

The revenue requirement and resulting annual increase is shown on Schedule No. 3-A.

Docket No.: 961220-SU

Date: June 12, 1997

### RATES AND CHARGES

**ISSUE 9:** What is the appropriate rate structure and what are the recommended wastewater rates for this utility?

**RECOMMENDATION:** The recommended rates are designed to produce revenues of \$164,180. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates should 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. (MANN)

**STAFF ANALYSIS:** The Commission has a memorandum of understanding with the Florida Water Management Districts. This memorandum recognizes that a joint cooperative effort is necessary to implement an effective, state wide conservation policy. Staff believes that rates determined by meter size and usage (no allowance for gallonage in the base facility charge) will continue to encourage continued conservation by utility customers.

During the test year, RHV provided wastewater service to approximately 402 customers. Staff has calculated a recommended base facility/gallonage charge for these wastewater customers based on test year data. The base facility/gallonage charge rate structure is the preferred rate structure because it is designed to provide for the equitable sharing by the rate payers of both the fixed and variable costs of providing service. The base facility charge is based upon the concept of readiness to serve all customers connected to the system. This ensures that rate payers pay their share of the costs of providing service (through the consumption or gallonage charge) and also pay their share of the fixed costs of providing service (through the base facility charge).

Staff has reviewed the billing analysis of the utility and the composition of the customer base and determined that the cap for gallonage for the server system should be reduced from 10,000 gallons to 6,000 gallons. The reason for this change is two fold. Primary is the fact that the customer base is primarily retired couples, for whom the 6,000 gallon cap more fully approximates home usage. Secondly, analysis indicates that by using the 6,000 cap, the utility will experience a 48% return of purchased water to the sewer plant. Staff believes this is a more accurate approximation

Docket No.: 961220-SU

Date: June 12, 1997

of sewer gallonage, considering the makeup of the community and the degree of landscape irrigation in the area.

Approximately 48% (or \$78,232) of the wastewater revenue requirement is associated with the fixed costs of providing service. Fixed costs are recovered through the base facility charge based on the number of factored ERC's. The remaining 52% (or \$85,948) of the wastewater revenue requirement represents the consumption charge based on the estimated number of gallons consumed during the test period.

Schedules of the utility's existing rates and staff's recommended rates are as follows:

RHV Utilities, Inc.

Wastewater Rates

General Service and Residential Service

<u>Meter Size</u>	<u>Base Facility Charge</u>	
	<u>Existing Rate</u>	<u>Recommended Rate</u>
5/8" x 3/4"	\$ 10.46	\$ 14.98
3/4"	15.69	22.47
1"	26.15	37.45
1-1/2"	52.30	74.89
2"	83.68	119.83
3"	167.36	239.66
4"	261.50	374.46
6"	523.00	748.92
Gallonage Charge		
Per 1,000 gallons (6K Max) Res.	\$ 1.47	\$ 2.60
General Service (No Maximum)	\$ 1.77	\$ 3.12

Using the 402 test year residential wastewater customers with an average wastewater use of 4,730 gallons per month, an average residential wastewater bill comparison would be as follows:

	<u>Average Bill Using Existing Rates</u>	<u>Average Bill Using Recommended Rates</u>	<u>Percent Increase</u>
Base Facility Charge	\$10.46	\$14.98	
Gallonage Charge	8.89	12.31	
Total	\$19.35	\$27.29	41%

The rates should be effective for service rendered as of the stamped approval date on the tariff sheets provided the customers



Docket No.: 961220-SU  
Date: June 12, 1997

have received notice. The tariff sheets will be approved upon staff's verification that the tariffs are consistent with the Commission's decision, that the customer notice is adequate, and that any required security has been provided. The utility should provide proof of the date notice was given within 10 days after the date of the notice.

If the effective date of the new rates falls within a regular billing cycle, the initial bills at the new rate may be prorated. The old charge should be prorated based on the number of days in the billing cycle before the effective date of the new rates. The new charge should be prorated based on the number of days in the billing cycle on or after the effective date of the new rates.

In no event should the rates be effective for service rendered prior to the stamped approval date on the tariffs.

Docket No.: 961220-SU

Date: June 12, 1997

**ISSUE 10:** 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 revenues should be reduced by a total of \$5,264 annually to reflect the removal of rate case expense grossed-up for regulatory assessment fees and amortized over a four year period. The effect of the revenue reduction results in rate decreases as shown on Schedule No. 4-A. The decrease in rates should become effective immediately following the expiration of the four year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. (MANN)

**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 the rate case expense previously included 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. This amount is \$5,264. The reduction in revenues will result in the rates recommended by staff on Schedule No. 4-A.

The utility should be required to file revised tariff sheets 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 the 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 the reduction in the rates due to the amortized rate case expense.

Docket No.: 961220-SU  
Date: June 12, 1997

**OTHER ISSUES**

**ISSUE 11:** Should the recommended rates be approved for the utility on a temporary basis in the event of a protest filed by a party other than the utility?

**RECOMMENDATION:** Yes, the recommended rates should be approved on a temporary basis in the event of a protest filed by a party other than the utility. RHV should be authorized to collect the temporary rates after staff's approval of the security for potential refund, a copy of the proposed customer notice, and revised tariff sheets. (MANN)

**STAFF ANALYSIS:** This recommendation proposes an increase in wastewater rates for RHV. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the utility. Therefore, in the event of a protest filed by a party other than the utility, staff recommends that the recommended rates be approved as temporary rates. The recommended rates collected by the utility should be subject to the refund provisions discussed below.

The utility should be authorized to collect the temporary rates upon the staff's approval of security for both the potential refund and a copy of the proposed customer notice. The security should be in the form of a bond or letter of credit in the amount of \$32,929. Alternatively, the utility could establish an escrow agreement with an independent financial institution.

If the utility chooses a bond as security, the bond should contain wording to the effect that it will be terminated only under the following conditions:

- 1) The Commission approves the rate increase; or
- 2) If the Commission denies the increase, the utility shall refund the amount collected that is attributable to the increase.

If the utility chooses a letter of credit as a security, it should contain the following conditions:

- 1) The letter of credit is irrevocable for the period it is in effect.



Docket No.: 961220-SU  
Date: June 12, 1997

- 2) The letter of credit will be in effect until final Commission order is rendered, either approving or denying the rate increase.

If security is provided through an escrow agreement, the following conditions should be part of the agreement:

- 1) No refunds in the escrow account may be withdrawn by the utility without the express approval of the Commission.
- 2) The escrow account shall be an interest bearing account.
- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers.
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility.
- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt.
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So.2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.
- 8) The Director of Records and Reporting must be a signatory to the escrow agreement.

In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the utility. Irrespective of the form of security chosen by the utility, an account of all monies received as result of the rate increase

Docket No.: 961220-SU  
Date: June 12, 1997

should be maintained by the utility. This account must specify by whom and on whose behalf such monies were paid. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code.

The utility should maintain a record of the amount of the bond, and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, the utility should file reports with the Division of Water and Wastewater no later than 20 days after each monthly billing. These reports shall indicate the amount of revenue collected under the increased rates.

Docket No. 1961220-SU  
Date: June 12, 1997

**ISSUE 12:** Are the utility's books and records in compliance with Rule 25-30.115 and Rule 25-30.450, Florida Administrative Code.

**RECOMMENDATION:** No. Rule 25-30.115, Florida Administrative Code (FAC), states that water and wastewater utilities shall maintain its accounts and records in conformity with the 1994 NARUC Uniform Systems of Accounts. Rule 25-30.450, FAC, requires that documents supporting a rate filing be organized in a systematic and rational manner so as to enable Commission personnel to verify the schedules in an expedient manner and minimum amount of time. RHV's books and records are not in compliance with the above mentioned rules. RHV should be given six months from the date of this order to bring its books and records into compliance with the NARUC Uniform System of Accounts. (MANN)

**STAFF ANALYSIS:** The Commission has very specific rules regarding utilities' books and records and provisions regarding the burden of proof for audit purposes. Rule 25-30.115, Florida Administrative Code, states that water and wastewater utilities shall maintain its accounts and records in conformity with the 1994 NARUC Uniform Systems of Accounts adopted by the National Association of Regulatory Utility Commissioners. Rule 25-30.450, FAC, requires that the utility must be able to support any schedule submitted, as well as any adjustments or allocations relied on by the utility. This rule further indicates that documents supporting a rate filing must be organized in a systematic and rational manner so as to enable Commission personnel to verify the schedules in an expedient manner and minimum amount of time.

Through the course of the field audit, the staff auditor concluded that RHV's books and records are not in compliance with the above mentioned rules. The staff auditor revealed, in Audit Exception No. 2 of the Audit Report, that the books and records of this utility did not enable Commission personnel to verify the schedules in an expedient manner and with the minimum amount of time. Therefore, RHV should be given six months from the date of this order to bring its books and records into compliance with the NARUC Uniform System of Accounts.



Docket No.: 961220-SU

Date: June 12, 1997

**ISSUE 13:** Should the utility be required to refund customer deposits and submit refund reports regarding customer deposits?

**RECOMMENDATION:** Yes. The utility should be required to refund deposits for all customers that have established a satisfactory payment record and have had continuous service for a period of 23 months. In addition, the utility should submit refund reports regarding customer deposits for staff review. These reports should specify the amount of money to be refunded and how that amount was computed, the amount of money actually refunded, the amount of any unclaimed refunds, the status of any unclaimed amounts and this should be completed within six months of the date of the order in this case. (MANN)

**STAFF ANALYSIS:** As a result of the review of the utility's customer deposits, it was determined that the utility has a substantially high level of customer deposits for a utility that has experienced zero growth for several years. This raised a concern about the utility's refund policies regarding deposits. Pursuant to Rule 25-30.311(5), Florida Administrative Code,

After a customer has established a satisfactory payment record and has had continuous service for a period of 23 months, the utility shall refund the residential customer's deposits . . .

The utility's tariff authorized it to collect a deposit for wastewater service. Staff believes that a large portion of this deposit total is being held in violation of the 23-month maximum period under the provision of Rule 25-30.311, Florida Administrative Code. Staff recommends that the utility make the appropriate refunds with interest by granting credits to the customers within 90 days of the date of the order in this rate case. By the end of this 90 day period, staff recommends that the utility file a refund report similar to that required in Rule 25-30.360(7), Florida Administrative Code.

Although Rule 25-30.360(1), Florida Administrative Code, exempts deposit refunds from its purview, staff believes that the Commission has both statutory and rule authority to require the utility to submit customer deposit refund reports to the Commission. The information staff requests is similar to that required by Rule 25-30.360(7). Section 367.171, Florida Statutes, grants the Commission exclusive jurisdiction over regulated

Docket No.: 961220-SU  
Date: June 12, 1997

utilities' authority, service, and rates. Because customer deposits and the refunds thereof relate to a utility's rates and service, the Commission has the power to require proof that a utility is properly handling and refunding those deposits. In addition, pursuant to Section 367.121(1)(c), Florida Statutes, the Commission has the authority to require any report from a regulated utility. Furthermore, Rule 25-30.311(3), Florida Administrative Code, requires a utility to keep records of customer deposits and a record of each transaction concerning such deposits, which includes any refund transaction. These records and reports are to be provided to the Commission, upon request, pursuant to Rule 25-30.110, Florida Administrative Code. Therefore, the utility should be required to refund deposits for all customers that have established a satisfactory payment record and have had continuous service for a period of 23 months. In addition, the utility should submit refund reports regarding customer deposits for staff review. These reports should specify the amount of money to be refunded and how that amount was computed, the amount of money actually refunded, the amount of any unclaimed refunds, the status of any unclaimed amounts and this should be completed within six months of the date of the order in this case.

Docket No.: 961220-SU

Date: June 12, 1997

**ISSUE 14:** Should the utility be required to escrow increased revenue associated with pro forma additions?

**RECOMMENDATION:** Yes. The utility should be required to escrow increased revenue associated with pro forma additions. The utility should be required to file an escrow agreement to guarantee the completion of pro forma additions to plant in service. The utility should deposit \$1,704 in the escrow account each month. In addition, the escrow agreement should allow for withdrawals each month by the utility for approved payments made for pro forma improvements contained in the Commission Order. Under no circumstances should the utility be allowed to withdraw any amount of monies except for approved payments, approval to be made by PSC staff. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should provide a report by the 20th day of each month indicating in detail the total amount collected from its wastewater customers on a monthly and total basis. (MANN)

**STAFF ANALYSIS:** The history of this utility details repetitive assurances that improvements would be made and that utility maintenance would be improved. Time and time again, these promises were not kept and the service provided by this utility suffered. As did the customers. It is for this reason, staff recommends that the increased revenue associated with the completion of pro forma additions should be escrowed and that staff will have a role in the disbursement of funds from this account. Therefore, the utility should deposit in the escrow account, each month, the amount of \$1,704, as calculated below:

Pro Forma Additions	\$174,283
Rate of Return	10.77%
	-----
Revenue Associated With Pro Forma	\$18,770
Depreciation Associated With Pro Forma	\$796
Regulatory Assessment Fees Associated With Pro Forma	\$880



Docket No.: 961220-SU  
Date: June 12, 1997

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Income Associated With Pro Forma	\$20,446
Months In Year	12
	-----
Amount To Be Escrowed Monthly	\$1,704
	=====

In addition, the escrow agreement should only allow for withdrawals by the utility for payments for pro forma improvements contained in the body of the Commission Order in this case and with the acquiescence of PSC staff. Under no circumstances should the utility be allowed to withdraw any of these funds without prior approval of PSC staff who will have confirmed the completion of approved pro forma additions.

Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should provide a report by the 20th day of each month indicating in detail the total amount collected from its wastewater customers on a monthly and total basis. The escrow agreement should be established between the utility, the PSC and an independent financial institution pursuant to a written escrow agreement. The Commission should be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement should state the following: That the account is established at the direction of this Commission for the purpose set forth above; that withdrawals of funds to pay for approved pro forma additions to plant in service can only occur with prior approval of the Commission; that the account should be interest bearing; that the Director of Records and Reporting must be signatory to the escrow agreement; that all information concerning the escrow account be available from the institution to the Commission or its representative at all times; and that pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d. DCA 1972), escrow accounts are not subject to garnishments.

If a refund to the customers is required, all interest earned by the escrow account should be distributed to the customers and undertaken in accordance with Rule 25-30.360, Florida

Docket No.: 961220-SU  
Date: June 12, 1997

Administrative Code. If a refund to the customers is not required, the interest earned by the escrow account should revert to the utility.

In no instance should maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and should be borne by, the utility.

Docket No.: 961220-SU  
Date: June 12, 1997

**ISSUE 15:** If the Commission approves Issue 2, and the utility fails to respond timely to the show cause, should the fine be imposed without further action by this Commission?

**RECOMMENDATION:** Yes. If the Commission approves Issue 2, and the utility fails to respond timely to the show cause, the fine amount should be established and imposed without further action by this Commission. (CYRUS-WILLIAMS)

**STAFF ANALYSIS:** The failure of the utility to file a timely response to the show cause order shall both constitute an admission of the facts alleged in Issue 2 and a waiver of any right to a hearing. Therefore, if no timely response is received from the utility, the fine should be imposed with no further action required by this Commission.



Docket No.: 961220-SU

Date: June 12, 1997

**ISSUE 16:** If the fine is imposed, should this Commission forward the matter to the Comptroller's Office if reasonable collection efforts are unsuccessful?

**RECOMMENDATION:** Yes. If reasonable collection efforts are unsuccessful, the collection of the fine should be forwarded to the Comptroller's Office and the docket should be closed, if the utility has completed the construction of recommended pro forma adjustments. (CYRUS-WILLIAMS)

**STAFF ANALYSIS:** Staff recommends that the Commission's show cause order direct the collection of the fine imposed by the Commission to the Comptroller's Office for further collection efforts if RHV fails to respond to reasonable collection efforts by the Commission staff. Reasonable collection efforts shall consist of two certified letters requesting payment. The referral to the Comptroller's Office would be based on the conclusion that further collection efforts by this Commission would not be cost effective. After referral to the Comptroller's Office, the docket should be closed, if the utility has completed the construction of recommended pro forma adjustments.

Docket No.: 961220-SU

Date: June 12, 1997

**ISSUE 17:** If the Commission approves Issue 2, and the utility responds timely to the show cause without remitting the fine, should the docket be closed?

**RECOMMENDATION:** No. If the Commission approves Issue 2 and the utility responds timely to the show cause without remitting the fine, this docket should not be closed. (CYRUS-WILLIAMS)

**STAFF ANALYSIS:** If the utility responds timely, a recommendation will be presented to the Commission regarding the disposition of the show cause. Therefore, this docket should not be closed.

Docket No.: 961220-SU  
 Date: June 12, 1997

RHV UTILITY, INC.  
 TEST YEAR ENDING OCTOBER 31, 1996  
 SCHEDULE OF WASTEWATER RATE BASE

SCHEDULE NO. 1  
 DOCKET NO. 961220-SU

	BALANCE PER UTILITY 10/31/1996	STAFF ADJUST. TO UTIL. BAL.	BALANCE PER STAFF
UTILITY PLANT IN SERVICE	\$180,875	\$924,477 A	\$1,105,352
LAND/NON-DEPRECIABLE ASSETS	10,000	75,967 B	85,967
PLANT HELD FOR FUTURE USE	0	0	0
NON-USED AND USEFUL PLANT	0	(171,788) C	(171,788)
CWIP	16,026	(16,026)	0
CIAC	(950)	(734,634) D	(735,584)
ACCUMULATED DEPRECIATION	(37,384)	(445,034) E	(482,418)
AMORTIZATION OF ACQUISITION ADJUSTMENT	0	0	0
AMORTIZATION OF CIAC	0	345,392 F	345,392
WORKING CAPITAL ALLOWANCE	0	15,539 G	15,539
WASTEWATER RATE BASE	\$168,567	(\$6,107)	\$162,460



Docket No.: 961220-SU  
 Date: June 12, 1997

SCHEDULE NO. 1-A  
 DOCKET NO. 961220-SU

RNV UTILITY, INC.  
 TEST YEAR ENDING OCTOBER 31, 1996  
 ADJUSTMENTS TO RATE BASE

	WATER	WASTE- WATER
<b>A. UTILITY PLANT IN SERVICE</b>		
1. Agree utility balances with previous Orders, additions & retirements	\$ 0	\$ 740,266
2. Reflect averaging adjustment	0	(6,119)
3. Pro forma additions of pia	0	173,283
4. Reclassification from construction work in progress to plant in service	0	16,026
5. Pro forma additions of meter and electrical equip. at hotel lift station	0	1,000
6.	0	0
7.	0	0
8.	0	0
9.	0	0
	<u>\$ 0</u>	<u>\$ 924,477</u>
<b>B. LAND</b>		
1. Agree utility balances with Order 950961	\$ 0	\$ 75,967
2.	0	0
	<u>\$ 0</u>	<u>\$ 75,967</u>
<b>C. NON-USED AND USEFUL PLANT</b>		
1. Net adjustment for non used and useful plant	\$ 0	\$ (171,788)
	<u>\$ 0</u>	<u>\$ (171,788)</u>
<b>D. CIAC</b>		
1. Agree utility bal. with Order 950961 and NARUC rates	\$ 0	\$ (734,634)
2.	0	0
3.	0	0
4.	0	0
	<u>\$ 0</u>	<u>\$ (734,634)</u>
<b>E. ACCUMULATED DEPRECIATION</b>		
1. Agree utility balances with previous Orders, additions & retirements	\$ 0	\$ (453,205)
2. To reflect averaging adjustment	0	16,240
3. Adjust acc. depr. related to pro forma additions of pia	0	(8,069)
4.	0	0
5.	0	0
6.	0	0
7.	0	0
	<u>\$ 0</u>	<u>\$ (445,034)</u>
<b>F. AMORTIZATION OF CIAC</b>		
1. Agree utility bal. with previous Orders and NARUC approved levels	\$ 0	\$ 360,987
2. To reflect averaging adjustment	0	(15,594)
3.	0	0
4.	0	0
	<u>\$ 0</u>	<u>\$ 345,393</u>
<b>G. WORKING CAPITAL ALLOWANCE</b>		
1. To reflect 1/8 of test year O & W expenses	\$ 0	\$ 15,532

Docket No.: 961220-SU  
 Date: June 12, 1997

ANY UTILITY, INC.  
 TEST YEAR ENDING OCTOBER 31, 1996  
 SCHEDULE OF CAPITAL STRUCTURE

SCHEDULE NO. 2  
 DOCKET NO. 961220-SU

	PER-UTIL. 10/31/1996	STAFF ADJ. TO UTIL. BAL.	BALANCE PER STAFF	PERCENT OF TOTAL	COST	WEIGHTED COST
LONG-TERM DEBT	\$ 30,000	\$ 5,543	\$ 35,543	21.88%	11.88%	2.60%
LONG-TERM DEBT	0	0	0	0.00%	0.00%	0.00%
LONG-TERM DEBT	0	0	0	0.00%	0.00%	0.00%
LONG-TERM DEBT	0	0	0	0.00%	0.00%	0.00%
LONG-TERM DEBT	0	0	0	0.00%	0.00%	0.00%
LONG-TERM DEBT	0	0	0	0.00%	0.00%	0.00%
LONG-TERM DEBT	0	0	0	0.00%	0.00%	0.00%
LONG-TERM DEBT	0	0	0	0.00%	0.00%	0.00%
EQUITY	105,744	19,538	125,282	77.12%	10.52%	8.11%
PREFERRED STOCK	0	0	0	0.00%	0.00%	0.00%
CUSTOMER DEPOSITS	1,635	0	1,635	1.01%	6.00%	0.06%
TOTAL	\$ 137,379	\$ 25,081	\$ 162,460	100.00%		<u>10.77%</u>
RATE BASE			162,460			

<u>RANGE OF REASONABLENESS</u>	<u>LOW</u>	<u>HIGH</u>
RETURN ON EQUITY	9.52%	11.52%
OVERALL RATE OF RETURN	10.00%	11.54%

Docket No.: 961220-SU  
 Date: June 12, 1997

BHV UTILITY, INC.  
 TEST YEAR ENDING OCTOBER 31, 1996  
 SCHEDULE OF WASTEWATER OPERATING INCOME

SCHEDULE NO. 3-A  
 DOCKET NO. 961220-SU

	TEST YEAR PER UTILITY 10/31/1996	STAFF ADJ. TO UTILITY	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	TOTAL PER STAFF
OPERATING REVENUES	\$ 115,366	\$ 1,131	\$ 116,497	\$ 47,683 40,034	\$ 164,180
OPERATING EXPENSES					
OPERATION AND MAINTENANCE	155,292	(30,981) A	124,311	0	124,311
DEPRECIATION	32,098	8,382 B	40,480	0	40,480
AMORTIZATION	0	(31,229) C	(31,229)	0	(31,229)
TAXES OTHER THAN INCOME	773	10,203 D	10,976	2,146 F	13,122
INCOME TAXES-M/A "S" Corp.	0	0	0	0	0
TOTAL OPERATING EXPENSES	\$ 188,163	\$ (43,625)	\$ 144,538	\$ 2,146	\$ 146,684
OPERATING INCOME / (LOSS)	\$ (72,797)		\$ (28,041)		\$ 17,496
WASTEWATER RATE BASE	\$ 168,567		\$ 162,460		\$ 162,460
RATE OF RETURN	-43.19%		-17.26%		10.77%



Docket No.: 961220-SU  
 Date: June 12, 1997

RHV UTILITY, INC.  
 TEST YEAR ENDING OCTOBER 31, 1996  
 ADJUSTMENTS TO OPERATING INCOME

SCHEDULE NO. 3-B (Sheet 1 of 2)  
 DOCKET NO. 961220-SU

<u>REVENUE</u>		<u>WATER</u>	<u>WASTE- WATER</u>
a.	To adjust income to the billing analysis	\$ 0	\$ 1,131
b.		\$ 0	\$ 0
		\$ 0	\$ 1,131
<u>A. OPERATION AND MAINTENANCE EXPENSES</u>			
1.	Salaries and Wages (Employees)		
a.	N/A-cost included in contractual expense	\$ 0	\$ 0
2.	Salaries and Wages (Officers)		
a.	To reclassify to contractual avcs.	\$ 0	\$ (11,600)
3.	Sludge Removal Expense		
a.	To adjust to appropriate level	\$ 0	\$ 11,600
b.		\$ 0	\$ 0
4.	Purchased Water		
a.	No adjustment deemed necessary	\$ 0	\$ 11,600
b.		\$ 0	\$ 0
5.	Purchased Power		
a.	To include the purchase power expense for the hotel lift station	\$ 0	\$ 500
b.		\$ 0	\$ 0
c.		\$ 0	\$ 0
d.		\$ 0	\$ 500
6.	Chemicals		
a.	To adjust to appropriate level	\$ 0	\$ 5,814
b.		\$ 0	\$ 0
7.	Materials and Supplies		
a.	No adjustment deemed necessary	\$ 0	\$ 5,814
8.	Contractual Services		
a.	To adjust to audited levels	\$ 0	\$ (17,844)
b.	To amort. eng. & legal costs (\$38,576/5yr=\$7,715; defer \$30,861)	\$ 0	\$ (30,861)
c.	To reclass plant in service	\$ 0	\$ (17,694)
d.	To amortize repair of sub-aqueous line (\$8,331/5yr=\$1,666; defer \$4,265)	\$ 0	\$ (4,265)
e.	To amortize pipeline repair (\$39,460/5=\$7,892; defer \$31,568)	\$ 0	\$ 7,892
f.	To adjust for M20 contract operator expense	\$ 0	\$ 40,872
g.	To adjust testing expense	\$ 0	\$ 5,519
h.	To adjust for water used for cleaning	\$ 0	\$ 317
i.		\$ 0	\$ 0
j.		\$ 0	\$ 0
9.	Rents		
a.	No adjustment deemed necessary	\$ 0	\$ (17,844)
b.		\$ 0	\$ 0
c.		\$ 0	\$ 0
10.	Transportation Expenses		
a.	No adjustment deemed necessary	\$ 0	\$ 0
b.		\$ 0	\$ 0
c.		\$ 0	\$ 0
11.	Insurance Expense		
a.	No adjustment deemed necessary	\$ 0	\$ 0
b.		\$ 0	\$ 0
c.		\$ 0	\$ 0
d.		\$ 0	\$ 0
e.		\$ 0	\$ 0

(Continued on Sheet 2)

Docket No.: 961220-SU  
 Date: June 12, 1997

NHV UTILITY, INC.  
 TEST YEAR ENDING OCTOBER 31, 1996  
 ADJUSTMENTS TO OPERATING INCOME

SCHEDULE NO. 3-B (Sheet 2 of 2)  
 DOCKET NO. 961220-SU

	WATER	WASTE- WATER
12. Regulatory Expense		
a. To include filing fee exp. amortized over 4 years	\$ 0	\$ 267
b. To defer rate case expense (\$19,092/4=4,771;\$19,092-4,771=\$14,311)	0	(17,523)
c.	0	0
	<u>0</u>	<u>(17,256)</u>
13. Miscellaneous Expenses		
a. To remove the allowance for Director's fees	\$ 0	\$ (3,975)
b.	0	0
c.	0	0
d.	0	0
e.	0	0
f.	0	0
g.	0	0
h.	0	0
i.	0	0
j.	0	0
k.	0	0
	<u>0</u>	<u>(3,975)</u>
14. Unclassified disbursements		
a. No adjustment deemed necessary	\$ 0	\$ 0
b.	0	0
c.	0	0
d.	0	0
	<u>0</u>	<u>0</u>
<b>TOTAL O &amp; M ADJUSTMENTS</b>		
	<u>0</u>	<u>(21,231)</u>
<b>B. DEPRECIATION EXPENSE</b>		
1. To adj. depr. expense per NARUC rates	\$ 0	\$ 4,971
2. To adj. depr. expense related to num pls adjustment	0	(6,459)
3. To adj. depr. expense for pro forma additions	0	7,347
4. To adj. depr. expense for transfer of work in progress to plant in service	0	680
5. To adj. depr. expense for pro forma meter at lift station	0	82
	<u>0</u>	<u>6,380</u>
<b>C. AMORTIZATION EXPENSE</b>		
1. To adj. CIAC amort. per NARUC rates	\$ 0	\$ (31,229)
<b>D. TAXES OTHER THAN INCOME TAX</b>		
1. To adj. raf's to test year level	\$ 0	\$ 5,242
2. To adj. property tax to test year level	0	714
3. To adj. county tangible tax to test year level	0	4,620
4. Eliminate corporate reinstatement penalty	0	(375)
5.	0	0
6.	0	0
7.	0	0
	<u>0</u>	<u>10,201</u>
<b>E. OPERATING REVENUES</b>		
1. To reflect increase in revenue	\$ 0	\$ 47,683
<b>F. TAXES OTHER THAN INCOME</b>		
1. To reflect additional regulatory assessment fee associated with recommended revenue requirement	\$ 0	\$ 2,144

Docket No.: 961220-SU  
 Date: June 12, 1997

RHV UTILITY, INC.  
 TEST YEAR ENDING OCTOBER 31, 1996  
 ANALYSIS OF WASTEWATER OPERATION AND  
 MAINTENANCE EXPENSE

SCHEDULE NO. 3-C  
 DOCKET NO. 961220-SU

	TOTAL PER UTIL.	STAFF ADJUST.	TOTAL PER STAFF
(701) SALARIES AND WAGES - EMPLOYEES	\$ 0	\$ 0 (1)	0
(703) SALARIES AND WAGES - OFFICERS	11,600	(11,600) (2)	0
(704) EMPLOYEE PENSIONS AND BENEFITS	0	0	0
(710) PURCHASED SEWAGE TREATMENT SLUDGE REMOVAL	0	0	0
(715) PURCHASED POWER	6,250	0	0
(716) FUEL FOR POWER PRODUCTION	8,468	11,600 (3)	17,850
(718) CHEMICALS	0	500 (4)	8,968
(720) MATERIALS AND SUPPLIES	3,775	0	0
(730) CONTRACTUAL SERVICES	2,965	5,814 (5)	9,589
(740) RENTS	90,172	0 (6)	2,965
(750) TRANSPORTATION EXPENSE	0	(16,064) (7)	74,108
(755) INSURANCE EXPENSE	1,612	0 (8)	0
(765) REGULATORY EXPENSES	500	0 (9)	1,612
(770) BAD DEBT EXPENSE	22,293	0 (10)	500
(775) MISCELLANEOUS EXPENSES	0	(17,256) (11)	5,037
UNCLASSIFIED DISBURSEMENTS	7,657	0	0
	0	(3,975) (12)	3,682
	\$ 155,292	\$ (30,981) (13)	\$ 124,311



Docket No.: 961220-SU  
 Date: June 12, 1997

RHV UTILITY, INC.  
 TEST YEAR ENDING OCTOBER 31, 1996  
 CALCULATION OF RATE REDUCTION AMOUNT

RECOMMENDED RATE REDUCTION SCHEDULE

SCHEDULE NO. 4-A  
 DOCKET NO. 961220-SU

CALCULATION OF RATE REDUCTION AMOUNT  
AFTER RECOVERY OF RATE CASE EXPENSE AMORTIZATION PERIOD OF FOUR YEARS

MONTHLY WASTEWATER RATES

RESIDENTIAL AND GENERAL SERVICE

	<u>RECOMMENDED RATES</u>	<u>RATE DECREASE</u>
BASE FACILITY CHARGE:		
Meter Size:		
5/8"X3/4"	\$ 14.98	0.48
1"	22.47	0.72
1-1/4"	37.45	1.20
1-1/2"	74.89	2.41
2"	119.83	3.85
3"	239.66	7.70
4"	374.46	12.03
6"	748.92	24.06
RESIDENTIAL GALLONAGE CHARGE PER 1,000 GALLONS	\$ 2.60	0.08

Docket No.: 961220-SU  
Date: June 12, 1997

Attachment A

WASTEWATER TREATMENT PLANT

USED AND USEFUL DATA  
Date June 97

Docket No. 961220-SU Utility RHV Utility Inc.

1) Capacity of Plant \_\_\_\_\_ gallons  
per day 100,000

2) Maximum Daily Flow \_\_\_\_\_ gallons  
day 77,000

3) Average Daily Flow \_\_\_\_\_ gallons  
per day from CAR Rep= 64,000

4) Fire Flow Requirements NOT APPLICABLE gallons

5) Margin Reserve \_\_\_\_\_ gallons  
per day N/A

\*Not to exceed 20% of present customers

a) Test Year Customers in ERC's - Begin \_\_\_\_\_ End \_\_\_\_\_  
Av. \_\_\_\_\_

b) Customer Growth Using Regression Analysis in ERC's \_\_\_\_\_  
for Most Recent 5 Years Including Test Year  
ERC's \_\_\_\_\_

c) Construction Time for Additional Capacity \_\_\_\_\_  
Years \_\_\_\_\_

(b)  $x \odot x \left[ \frac{3}{(a)} \right] =$  \_\_\_\_\_ gallons per day

6) Excessive Infiltration N/A gallons per day

a) Total Amount \_\_\_\_\_ gallons per day \_\_\_\_\_ % of Av. Daily  
Flow

b) Reasonable Amount \_\_\_\_\_ gallons per day \_\_\_\_\_ % of Av.  
Daily Flow

c) Excessive Amount \_\_\_\_\_ gallons per day \_\_\_\_\_ % of Av.  
Daily Flow

PERCENT USED AND USEFUL FORMULA  
 $\frac{(3) + (5)}{1} = 6$   
= 64 % Used and Useful

Docket No.: 961220-SU  
Date: June 12, 1997

Attachment A

WASTEWATER COLLECTION SYSTEM

USED AND USEFUL DATA

Docket No. 961220-SU Utility RHV Utility Inc. Date  
June 97

- 1) Capacity 861 ERC's
- 2) Number of TEST YEAR Connections 503 ERC's
- a) Begin Test Year 503 ERC's
- b) End Test Year 503 ERC's
- c) Average Test Year 503 ERC's
- 3) Margin Reserve N/A ERC's
- a) Customer Growth Using Regression Analysis in ERC's for  
Most Recent  
5 Years Including Test Year                                  ERC's
- c) Construction Time for Additional Capacity 1.5  
Years
- (a) x (b) =                                  ERC's Margin Reserve

PERCENT USED AND USEFUL FORMULA

$$\frac{(2 + 3)}{1} = \underline{58} \% \text{ Used and Useful}$$



Docket No.: 961220-SU  
Date: June 12, 1997

**Issue Summary**

RE:

UTILITY:  
DOCKET NO.:  
COUNTY:  
CASE:

RHV UTILITY, INC.  
961220-SU  
CITRUS  
STAFF ASSISTED RATE CASE

**QUALITY OF SERVICE**

**ISSUE 1:** Is the quality of service provided by this utility satisfactory?

**RECOMMENDATION:** No. The quality of service provided by the utility should be considered unsatisfactory. In addition, the utility should be required to complete all pro forma additions, submit reports as detailed in the staff analysis and to obtain an operating permit or consent agreement with the DEP within six months of the date of the order in this case. (RIEGER, MANN)

**ISSUE 2:** If Issue 1 is approved, should the utility be ordered to show cause in writing within 20 days of the Commission order why it should not be fined for failure to comply with Section 367.111(2), Florida Statutes, by not providing satisfactory service which meets the standards promulgated by the DEP?

**RECOMMENDATION:** Yes. If Issue 1 is approved, the utility should show cause in writing within 20 days of the Commission order as to why it should not be fined up to \$5,000 per day for failing to comply with Section 367.111(2), Florida Statutes, by not providing satisfactory service which meets the standards promulgated by the DEP. (CYRUS-WILLIAMS, RIEGER, MANN)

**RATE BASE**

**ISSUE 3:** What percents of the wastewater treatment and collection systems are used and useful?

**RECOMMENDATION:** Staff recommends that the wastewater treatment plant be considered 64% used and useful. The effluent disposal ponds should be considered 100% used and useful. The collection system should be considered 58% used and useful. (RIEGER, MANN)

**ISSUE 4:** What is the appropriate average amount of test year rate base for the wastewater system?

**RECOMMENDATION:** The appropriate average amount of test year rate base for the RHV Utilities, Inc. water system should be \$162,460.

Docket No.: 961220-SU  
Date: June 12, 1997

(MANN, RIEGER)

### COST OF CAPITAL

**ISSUE 5:** What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility?

**RECOMMENDATION:** The appropriate rate of return on equity is 10.52% and the appropriate overall rate of return is 10.77%.  
(MANN)

**ISSUE 6:** What is the appropriate test year operating revenue?

**RECOMMENDATION:** The RHV appropriate test year operating revenue should be \$116,497. (MANN)

**ISSUE 7:** What is the appropriate amount for operating expense?

**RECOMMENDATION:** The appropriate amounts for RHV wastewater operating expense should be \$146,684. (MANN, RIEGER)

### REVENUE REQUIREMENT

**ISSUE 8:** What is the appropriate revenue requirement?

**RECOMMENDATION:** The appropriate revenue requirement is \$164,180 for the wastewater system. (MANN)

### RATES AND CHARGES

**ISSUE 9:** What is the appropriate rate structure and what are the recommended wastewater rates for this utility?

**RECOMMENDATION:** The recommended rates are designed to produce revenues of \$164,180. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates should 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. (MANN)

**ISSUE 10:** 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?

Docket No.: 961220-SU

Date: June 12, 1997

**RECOMMENDATION:** The revenues should be reduced by a total of \$5,264 annually to reflect the removal of rate case expense grossed-up for regulatory assessment fees and amortized over a four year period. The effect of the revenue reduction results in rate decreases as shown on Schedule No. 4-A. The decrease in rates should become effective immediately following the expiration of the four year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. (MANN)

**OTHER ISSUES**

**ISSUE 11:** Should the recommended rates be approved for the utility on a temporary basis in the event of a protest filed by a party other than the utility?

**RECOMMENDATION:** Yes, the recommended rates should be approved on a temporary basis in the event of a protest filed by a party other than the utility. RHV should be authorized to collect the temporary rates after staff's approval of the security for potential refund, a copy of the proposed customer notice, and revised tariff sheets. (MANN)

**ISSUE 12:** Are the utility's books and records in compliance with Rule 25-30.115 and Rule 25-30.450, Florida Administrative Code.

**RECOMMENDATION:** No. Rule 25-30.115, Florida Administrative Code (FAC), states that water and wastewater utilities shall maintain its accounts and records in conformity with the 1994 NARUC Uniform Systems of Accounts. Rule 25-30.450, FAC, requires that documents supporting a rate filing be organized in a systematic and rational manner so as to enable Commission personnel to verify the schedules in an expedient manner and minimum amount of time. RHV's books and records are not in compliance with the above mentioned rules. RHV should be given six months from the date of this order to bring its books and records into compliance with the NARUC Uniform System of Accounts. (MANN)

**ISSUE 13:** Should the utility be required to refund customer deposits and submit refund reports regarding customer deposits?

**RECOMMENDATION:** Yes. The utility should be required to refund deposits for all customers that have established a satisfactory



Docket No.: 961220-SU

Date: June 12, 1997

payment record and have had continuous service for a period of 23 months. In addition, the utility should submit refund reports regarding customer deposits for staff review. These reports should specify the amount of money to be refunded and how that amount was computed, the amount of money actually refunded, the amount of any unclaimed refunds, the status of any unclaimed amounts and this should be completed within six months of the date of the order in this case. (MANN)

**ISSUE 14:** Should the utility be required to escrow increased revenue associated with pro forma additions?

**RECOMMENDATION:** Yes. The utility should be required to escrow increased revenue associated with pro forma additions. The utility should be required to file an escrow agreement to guarantee the completion of pro forma additions to plant in service. The utility should deposit \$1,704 in the escrow account each month. In addition, the escrow agreement should allow for withdrawals each month by the utility for approved payments made for pro forma improvements contained in the Commission Order. Under no circumstances should the utility be allowed to withdraw any amount of monies except for approved payments, approval to be made by PSC staff. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should provide a report by the 20th day of each month indicating in detail the total amount collected from its wastewater customers on a monthly and total basis. (MANN)

**ISSUE 15:** If the Commission approves Issue 2, and the utility fails to respond timely to the show cause, should the fine be imposed without further action by this Commission?

**RECOMMENDATION:** Yes. If the Commission approves Issue 2, and the utility fails to respond timely to the show cause, the fine amount should be established and imposed without further action by this Commission. (CYRUS-WILLIAMS)

**ISSUE 16:** If the fine is imposed, should this Commission forward the matter to the Comptroller's Office if reasonable collection efforts are unsuccessful?

**RECOMMENDATION:** Yes. If reasonable collection efforts are unsuccessful, the collection of the fine should be forwarded to the Comptroller's Office and the docket should be closed, if the utility has completed the construction of recommended pro forma adjustments. (CYRUS-WILLIAMS)

Docket No.: 961220-SU  
Date: June 12, 1997

**ISSUE 17:** If the Commission approves Issue 2, and the utility responds timely to the show cause without remitting the fine, should the docket be closed?

**RECOMMENDATION:** No. If the Commission approves Issue 2 and the utility responds timely to the show cause without remitting the fine, this docket should not be closed. (CYRUS-WILLIAMS)