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MEMORANDUM

October 9, 1997

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

FROM: DIVISION OF WATER & WASTEWATER (GROOM, AUSTIN, MUNROE, MERCHANT) *[Signature]*  
DIVISION OF LEGAL SERVICES (VACCARO) *[Signature]*

RE: DOCKET NO. ~~961475-SU~~ - FOREST HILLS UTILITIES, INC. -  
APPLICATION FOR LIMITED PROCEEDING TO INCREASE WASTEWATER  
RATES  
COUNTY: PASCO

AGENDA: 10/21/97 - REGULAR AGENDA - PROPOSED AGENCY ACTION,  
EXCEPT ISSUE 13 - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\WAW\WP\961475SU.RCM  
S:\PSC\WAW\123\FORREST.WK4 & FORHILLS.WK4

DOCUMENT NUMBER · DATE

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FPSC-RECORDS/REPORTING

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### CASE BACKGROUND

Forest Hills Utilities, Inc. (Forest Hills or utility) is a Class B utility that provides water and wastewater service in Pasco County. Forest Hills serves approximately 2,200 water and 1,100 wastewater customers. The wastewater system had revenues totaling \$210,688 in 1995. The utility serves an area that has been designated by the Southwest Florida Water Management District as a water use caution area.

On December 12, 1996, Forest Hills filed an application, pursuant to Section 367.0822, Florida Statutes, for a limited proceeding to increase its wastewater rates. This increase in wastewater rates is based upon the Florida Department of Environmental Protection's (DEP) required interconnection of Forest Hills' wastewater system to Pasco County's wastewater treatment facilities and the resulting increase in cost of sewage operations.

In recent years, problems with the utility's sewage treatment facilities have grown to a point to require discussions with DEP to find solutions to allow continued wastewater treatment services. On February 12, 1993, Forest Hills entered into a stipulated settlement agreement with DEP. Under the terms of the stipulated settlement agreement, the parties agreed that Forest Hills could choose one of two possible solutions to comply with DEP requirements: (1) renovate and/or "reconstruct" the "existing" treatment plant which may include the idea of constructing an entirely new plant; or (2) connect the utility to an outside regional, county or municipal system and terminate the operation of the existing wastewater treatment plant. Both parties agreed that connection to an outside county or municipal system was the preferred solution and that it must be completed by 182 weeks (June, 1996) from the date of the agreement, February 12, 1993.

In mid 1994, Forest Hills learned that Pasco County was planning an extension of its US-19 force main to a point contiguous to Forest Hills' service area. Therefore, Forest Hills opened negotiations for a bulk wastewater agreement with Pasco County. Prior to these negotiations, Forest Hills and the City of Tarpon Springs had negotiated a draft bulk service agreement. However, the agreement was rejected by the Tarpon Springs City Council.

In April, 1995, Forest Hills signed a bulk wastewater treatment service agreement with Pasco County, which was approved

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by the County Commission on April 4, 1995. Under the terms of the agreement (25 year term), Pasco County would extend its force main and build a master pump station. Forest Hills would construct a force main from its system to the master pump station and reimburse the County for its prorata share of costs, in the amount of \$100,000. The County would treat up to .225 million gallons per day based on annual average daily flow. Forest Hills would also pay for the cost and installation of a flow meter. The utility would pay the County's bulk rate which is currently \$3.23 per 1,000 gallons.

In mid November, 1996, Pasco County and Forest Hills completed their facilities for this interconnection. The utility states that because of the discrepancy between the cost of purchase sewage treatment and the utility's existing rates, Forest Hills could not afford to go forward with the interconnection without emergency rates being granted. By Order No. PSC-97-0207-FOF-SU, issued February 21, 1997, the Commission authorized the implementation of emergency rates subject to refund.

On March 12, 1997, a customer meeting was held at the Forest Hills Civic Association, Inc. There were approximately 300 customers in attendance, of which 17 spoke as witnesses. Mainly, the customers expressed their concerns about the emergency increase. A few had concerns about customer deposit refunds. There was also some mention about the water service. However, it was explained that this proceeding was limited in scope to only address the interconnection of the wastewater facilities with Pasco County.

On May 29, 1997, staff filed its initial final recommendation in this docket for the June 10, 1997, Agenda Conference. By letter dated June 4, 1997, the utility requested that staff's recommendation be deferred from the June 10, 1997, Agenda Conference. In addition, Forest Hills requested that an informal meeting be scheduled between staff and the utility to discuss its concerns with staff's recommendation. On June 5, 1997, the Commission granted the deferral. On June 13, 1997, staff received from the utility by letter its concerns with staff's recommendation and its request for rate case expense. On June 20, 1997, the Commission received by letter the utility's additional input and concerns with staff's recommendation. On June 23, 1997, an informal meeting took place at the Commission which included counsel for the utility, representatives of the Office of Public

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Counsel, Forest Hills East Civic Association and staff. The meeting was noticed to all interested persons of record.

On August 5, 1997, staff received a request, by facsimile, from Mr. Ekonomides, legal counsel for Forest Hills East Civic Association, to delay the filing of staff's recommendation until the September 9, 1997, Agenda Conference. Mr. Ekonomides stated in his letter that he needed additional time to submit additional information and to adequately prepare for the Agenda conference. By letter dated August 6, 1997, staff informed all parties that it had agreed to delay its recommendation filing per the request. In addition, staff informed Mr. Ekonomides that it would need the additional information in writing no later than August 11, 1997. By facsimile dated August 11, 1997, Mr. Ekonomides informed staff that he will not be able to meet the deadline for submitting additional information and that he should have all pertinent information filed by August 15, 1997. At the time that the August 28, 1997, recommendation was filed, staff had not received the additional information from Mr. Ekonomides.

At the September 9, 1997, Agenda Conference, the Commission deferred ruling on staff's recommendation to allow Mr. Ekonomides to provide staff with a compiled list of additional concerns. In addition, the Commission directed the utility to provide the final refund reports and to respond to several concerns raised during the Agenda Conference. By letter dated September 17, 1997, the utility attempted to provide answers to those questions raised at the Agenda Conference. By a separate letter dated September 17, 1997, the utility responded to Mr. Ekonomides' concerns raised at the Agenda Conference. However, at the time that this recommendation was filed, staff had not received the compiled list of additional concerns from Mr. Ekonomides. The utility's refund reports were received on September 23, 1997.

During the course of this limited proceeding, the utility was asked to respond to several staff data requests. This recommendation includes staff analysis of this additional information.

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**ISSUE 1:** Was the wastewater interconnection by Forest Hills Utilities with Pasco County required, and if so, should the prudent cost be recovered through rates?

**RECOMMENDATION:** Although interconnection of the Forest Hills Utilities wastewater system with Pasco County was not specifically required by DEP, this interconnection represented the most economical solution for the stipulated agreement with DEP (CASE NO.: CA90 3575), and therefore the prudent cost should be recovered through rates. (MUNROE)

**STAFF ANALYSIS:** This recommendation is made in light of a careful review of all data provided and interviewing all parties involved, including Forest Hills, Lloveras, Baur, and Stephens Engineers, Tarpon Springs, DEP, Pasco County and H<sub>2</sub>O Utility Services. The problem was that the Forest Hills WWTP plant flows exceeded the capacity of the percolation ponds to dispose of effluent. Because of the high water table in both the plant and nearby effluent disposal area, any over flows of effluent had a direct negative environmental impact on the surrounding canals and waterways. On April 14, 1984, DEP issued a warning to the utility regarding "unpermitted discharges". Since the utility plant occupied a small property inside a "built out" service area, their viable options were limited.

The utility's initial solution was to renovate their percolation ponds by the addition of a "french drain" to enhance percolation of excessive effluent. This was a sand lined berm which was added to the percolation ponds. In October 1985, DEP issued a Consent Order disapproving this solution, and indicating the only acceptable solutions were a plant renovation or interconnection to another utility.

Forest Hills began investigating an interconnect with the City of Tarpon Springs. Negotiations on this possibility went on for approximately seven years. Although the additional revenues were appealing to Tarpon Springs, the Tarpon Springs plant did not have the capacity to serve this interconnect and the additional customers. In addition, Forest Hills was outside the Tarpon Springs' designated service area.

In August 1990, a Petition for Enforcement and Complaint was filed by DEP against both Forest Hills Utilities, Inc. and Robert

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L. Dreher, individually. This petition was amended in October 1991, and Forest Hills Utilities' operating permit, which had expired in August 1991, was denied renewal in November 1991. Under the terms of the amended agreement, Forest Hills could operate temporarily under the terms of their 1986 permit with renewal pending.

In January 1993, a Stipulated Settlement Agreement was reached between Forest Hills Utilities and DEP, and an order approving the agreement was issued by the DEP on February 12, 1993. Under the terms of this agreement the utility was given 188 weeks (3.6 years) to renovate the wastewater facility or 182 weeks (3.5 years) to interconnect to a regional county or municipal system with sufficient capacity to handle their wastewater flows. In addition Forest Hills was fined \$10,000 under DEP's "Pollution Recovery Fund" and an additional \$25,000 to be due at the conclusion of the plant renovation or interconnection.

In June 1993, the engineering firm of Lloveras, Baur and Stephens provided a time line for plant renovation and an alternate interconnection with Tarpon Springs. It was becoming apparent that interconnection with someone was the most prudent choice since the Forest Hills plant was surrounded by the golf course which in turn was a built out area, and there were no adequate parcels of land available for plant expansion and new percolation ponds. It was only after exhausting all other solutions that Forest Hills agreed to pursue interconnection. Negotiations with Tarpon Springs were ended, and an agreement was reached with Pasco County in April 1995. While interconnection would result in higher rates, those rates would be lower than rates that would have resulted from a plant renovation.

To address the prudence of this decision, staff received a letter from Lloveras, Baur and Stephens (first data request, Exhibit E) which indicated the estimated cost of plant improvements to meet Class I reliability was 1.6 million dollars excluding the purchase of land which would also be needed for additional percolation ponds. Current information indicates the cost to interconnect with Pasco County was substantially less at approximately \$175,000 including the cost of removal of the abandoned sewer plant.

It is clear in retrospect that this interconnect was inevitable. It took several years for the utility to come to this conclusion and complete the project. In addition, DEP officials



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are of the opinion that the environmental impact of the effluent over flows should reverse now that the plant is offline.

Staff does not believe that the manner in which this problem was dealt with constitutes mismanagement. The utility's problem was not actual plant operation, but effluent disposal. The amount of plant effluent flows exceeded the capacity that could be handled by the percolation ponds. This was a direct effect of the size of the percolation ponds, not the maintenance of the ponds. The utility initially attempted to solve this problem with modifications to existing percolation ponds which were unacceptable to DEP. The final solution was to interconnect with Pasco County at a cost of approximately 1/10 that which would have been required to expand and modify the existing plant.

Staff recommends that the interconnection of Forest Hills wastewater collection system to the Pasco County wastewater treatment system and the abandonment of the Forest Hills treatment plant and percolation ponds was the most prudent and cost effective solution to their problem, and the costs should be recovered in rates.

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**ISSUE 2:** What is the appropriate amount of additional plant-in-service required for the interconnection with Pasco County?

**RECOMMENDATION:** The appropriate amount for additional plant needed for the utility to interconnect with Pasco County is \$202,952, as shown on Schedule No. 2B. (GROOM)

**STAFF ANALYSIS:** In its initial filing, the utility estimated that it will cost an additional \$217,720 to interconnect with Pasco County. However, the utility has indicated through its responses to staff's data requests that the actual cost of this interconnection was \$204,721. The additional cost is for the installation of the wastewater force main, magnetic flow meter, pumping equipment and its associated labor, equipment and engineering.

The utility obtained two bids from unaffiliated companies regarding the cost of the force main, flow meter and pumping equipment installation. The utility ultimately decided to use related party labor and equipment and to utilize the service of H<sub>2</sub>O Utility Services for oversight. The utility believes the overall cost of the facilities, when contracted through the related party labor and use of related party equipment, was "substantially" less than what the utility would have incurred had it used outside contracts instead.

After further review of the actual invoices supplied by the utility, staff believes the utility did interconnect with Pasco County at a cost below the two unaffiliated bids. In addition, staff believes that the utility provided sufficient justification for all non-related and related costs associated with the interconnection except for the adjustments discussed below.

The utility provided actual invoices in the amount of \$204,721. However, after reviewing the attached invoices, staff calculated a total of \$204,435 or \$286 less than the utility's total. Therefore, a reduction of \$286 should be made.

Staff also recommends that \$1,200 should be removed from the total backhoe rental cost of this project since it appears that the utility was allowed recovery of \$1,200 in its last rate case for rent of a backhoe. In Docket No. 810176-WS, the audit work papers, which the Commission ultimately approved, included a line item of \$1,200 for rent on a backhoe. Therefore, staff recommends that

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\$1,200 should be removed from the total backhoe rental cost of this project.

Staff further recommends that \$282.87 should be removed from the actual cost of the force main installation. This amount was paid to Hertz Equipment Rental Company for a backhoe delivered to Croft Mobile Homes. The utility has not justified its reason to have the backhoe delivered to Croft Mobile Homes. Therefore, this cost of \$282.87 should also be removed.

Based on the foregoing, staff recommends that a total of \$202,952 as shown on Schedule No. 2B, for additional plant needed for the utility to interconnect with Pasco County should be approved.

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**ISSUE 3:** What is the appropriate treatment of the land associated with the wastewater treatment plant?

**RECOMMENDATION:** As requested by the utility, the land amount of \$500 should be retired. In addition, the utility should report to the Commission any future sale, foreclosure, or any transaction involving transfer of ownership of the abandoned land and any proposed rate reduction resulting therefrom, regardless of the amount. This report should be filed with the Commission within 60 days of any future sale, foreclosure, or any transaction involving transfer of ownership of the land. (GROOM)

**STAFF ANALYSIS:** The utility has indicated through its responses to staff's data requests that it does not own the land and that there are no transferable land rights in that site. The utility states that the land and land rights are owned by Robert L. and Diane Dreher, individually. In addition, the utility anticipates no sale or development plans for this land since it is low-lying and undevelopable. Furthermore, the utility states the land has never been included in the current rates for the utility. The utility further states that it's charged rent in the amount of \$8,000 per year for the use of this land. However, in the utility's application in Exhibit C, page 9 of 19, the land and land rights account is reduced by \$500 for the loss on abandonment associated with the wastewater plant being retired. This requested retirement is contrary to the utility's responses.

After reviewing the audit work papers from the utility's last rate case, staff believes the wastewater treatment site was included in rates in the amount of \$500. In Docket No. 810176-WS, the audit work papers, which the Commission ultimately approved, included a line item of \$500 for land associated with this wastewater treatment site. Therefore, this amount should be removed from rates. In addition, since this land was included in rates, the utility should report to the Commission any future sale, foreclosure, or any transaction involving transfer of ownership of the abandoned land and any proposed rate reduction resulting therefrom. This report should be made within 60 days of any future sale, foreclosure, or any transaction involving transfer of ownership of the land. Although the utility believes that this land is low-lying and undevelopable, this land is located near a golf course, therefore staff believes that a market value does exist for this site and therefore the utility should inform the Commission of any future sale regardless of the amount.

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In addition, staff believes that \$7,200 was also included in rates for the lease of the wastewater treatment site. In Docket No. 810176-WS, the audit work papers, which the Commission ultimately approved, included a line item of \$7,200 for the lease of the wastewater treatment site. This adjustment will be discussed further in Issue 7.

Based on the forgoing, staff recommends that the land amount of \$500 should be retired, as requested by the utility. In addition, the utility should report to the Commission any future sale, foreclosure, or any transaction involving transfer of ownership of the abandoned land and any proposed rate reduction resulting therefrom, regardless of the amount. This report should be filed with the Commission within 60 days of any future sale, foreclosure, or any transaction involving transfer of ownership of the land.

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**ISSUE 4:** What is the appropriate treatment of the CIAC associated with the wastewater treatment plant?

**RECOMMENDATION:** The appropriate treatment of the CIAC is to retire the amount associated with the wastewater treatment plant. Staff is recommending that \$121,673 of CIAC and \$50,707 of Accumulated Amortization of CIAC be retired. (AUSTIN)

**STAFF ANALYSIS:** In its filing, the utility did not retire any CIAC with the retirement of the wastewater treatment plant. The utility, in its response to a staff data request, indicated that it had, as of December 31, 1996, \$410,732 of wastewater CIAC and \$192,254 of wastewater accumulated amortization of CIAC. Thus, the utility's net wastewater CIAC was \$218,478.

In its tariffs, Forest Hills has a \$300 service availability charge. In staff's data request dated February 7, 1997, the utility was asked to explain the minimum connection fee of \$300. It was also asked to explain the monthly fee of \$4.50 (See Issue 14). The utility, in its response dated March 10, 1997, indicated that the connection fee of \$300 relates to the cost to connect new service to its existing collection system. The utility stated that the connection fee does not relate to a charge for plant capacity. Therefore, the utility believes that no CIAC should be retired. Staff does not agree and recommends that the CIAC related to the treatment plant also be retired.

Staff conducted extensive research to determine whether or not the connection fee was actually a plant capacity charge. This research consisted of reviewing microfilm of dockets dating back to 1973. Staff did find one order that made reference to the \$300 charge. Order No. 10721, issued April 19, 1982, in Docket No. 810176-WS stated that the \$300 was for a wastewater plant capacity charge. With respect to service availability, the order read as follows:

The utility's current plant capacity charges are \$150 and \$300 per ERC for water and sewer, respectively. The collection of these charges and other aspects of the utility's CIAC policy falls within the guidelines of our recent study on the combined water and sewer service basis. We, therefore, are proposing no change in this proceeding.

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Although, the utility's tariff classifies this charge as a connection fee, it is included on a tariff sheet with the heading, Main Extension Policy. Since tariffs are filed in accordance with what is prescribed in an order, staff believes that the order is controlling. Service availability tariffs were not filed in conjunction with Order No. 10721. However, it clearly states that the Commission was not proposing any changes to the utility's current plant capacity charges. Based on the above, staff believes that the \$300 is a wastewater plant capacity charge. Staff believes that the utility has collected CIAC in relationship to the wastewater facilities which are now being taken off-line. Therefore, the utility should be required to retire the CIAC associated with such facilities.

In determining the appropriate amount of CIAC to retire, staff has limited the CIAC to be retired to the amount equal to the wastewater facilities being retired which is \$121,673. In determining the amount of Accumulated Amortization of CIAC to retire, staff initially took the ratio of CIAC being retired to total CIAC and applied this percentage to the total Accumulated Amortization of CIAC. This calculation yielded \$56,942 of Accumulated Amortization of CIAC to be retired. However, if \$56,942 of Accumulated Amortization of CIAC was retired, it would appear that the CIAC was being amortized at a greater rate than the plant was being depreciated. Thus, staff believes that it would be inappropriate to use this methodology. Therefore, staff is limiting the retirement of Accumulated Amortization of CIAC to the same amount of Accumulated Depreciation related to the wastewater facilities being retired which is \$50,707.

Staff is recommending that the appropriate treatment of the CIAC is to retire the amount associated with the wastewater treatment plant. As a result, staff is recommending that \$121,673 of CIAC and \$50,707 of Accumulated Amortization of CIAC be retired. This is reflected on Schedule No. 3.

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**ISSUE 5:** What is the appropriate amount for the loss on the wastewater treatment plant?

**RECOMMENDATION:** The appropriate amount for the loss on the wastewater treatment plant is \$55,790. (MUNROE)

**STAFF ANALYSIS:** Interconnection with Pasco County means that the old wastewater plant is no longer needed and consequently, must be removed.

The utility originally estimated cost for removal of the wastewater plant of \$90,382 with no salvage value (exhibit C page 9 of the filing). An updated plant salvage value of \$8,675 was received by staff on March 31, 1997 from H<sub>2</sub>O Utility Services, Incorporated. H<sub>2</sub>O is a utility engineering/management service employed by Forest Hills Utility in management and consulting capacity. In addition, H<sub>2</sub>O provided an updated plant removal cost of \$64,465 which was received by staff on April 12, 1997. This cost consisted of \$32,465 actual cost to date and \$32,000 in projected expenses to complete the plant removal.

After a review of the project status, the updated cost (\$64,465), less the updated salvage (\$8,675), yields a reasonable cost for the plant removal cost of \$55,790.



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**ISSUE 6:** What is the appropriate amortization period and annual amortization amount for the abandonment of the wastewater treatment plant?

**RECOMMENDATION:** The appropriate amortization period for the abandonment of the wastewater treatment plant should be 11 years. Further, the annual amortization amount should be \$5,072. (AUSTIN)

**STAFF ANALYSIS:** Pursuant to Rule 25-30.433(9), Florida Administrative Code, the amortization period for forced abandonment or the prudent retirement, in accordance with the NARUC Uniform System of Accounts, of plant assets prior to the end of their depreciable life shall be calculated by taking the ratio of the net loss (original cost less accumulated depreciation and CIAC plus any salvage value) to the sum of the annual depreciation expense, net of amortization of CIAC, plus an amount equal to the rate of return that would have been allowed on the net invested plant that would have been included in rate base before the abandonment or retirement. When staff used this formula as shown on Schedule No. 3, the result was unobtainable because the resulting denominator is zero.

The utility requested an amortization period of 9 years. The utility's calculation does not reflect the retiring of the CIAC related to the retiring of the wastewater treatment facilities as discussed in Issue 4. Since staff is recommending retiring the CIAC related to the wastewater treatment facilities, staff's calculation yielded a zero for the denominator when the formula is used. However, pursuant to Rule 25-30.433, Florida Administrative Code, this formula shall be used unless the specific circumstances surrounding the abandonment or retirement demonstrates a more appropriate amortization period. In this instance, the formula is not appropriate because it is not possible to divide by zero. Therefore, a more appropriate amortization period should be calculated.

The concept inherent in Rule 25-30.433(9), Florida Administrative Code, is to allow the utility to remain whole, as if the retirement had not taken place. Therefore, the utility should be allowed to earn a return on the net loss. Staff calculated a total net loss on abandonment of \$55,790. As discussed in Issue 9, staff's recommended rate of return is 8.78%. The result of applying the rate of return to the net loss is an annual return of \$4,897. When dividing the net loss by the annual return on loss

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amount, the result is 11 years. Staff believes that 11 years is appropriate. The net loss was divided by the 11 year amortization period which yield an annual amortization amount of \$5,072. Therefore, staff is recommending that the appropriate amortization period for the abandonment of the wastewater treatment plant is 11 years. Further, the annual amortization amount should be \$5,072.

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**ISSUE 7:** What adjustments should be made to Forest Hills' expenses?

**RECOMMENDATION:** The utility's wastewater expenses should be reduced by \$102,206 for reductions associated with salaries and wages, land rental, sludge removal expense, purchased power, chemicals, materials and supplies, and contract services. In addition, the utility's expenses should be increased by \$240,054 for purchased sewage treatment from Pasco County. Therefore, the net effect is an increase in expenses of \$137,848, as discussed below in staff's analysis and shown on Schedule No. 2A. (GROOM)

**STAFF ANALYSIS:** The utility has proposed in its filing to reduce expenses by \$79,597, as shown on Schedule No. 2A. This reduction is associated with salaries and wages, sludge removal expense, purchased power, chemicals, materials and supplies and contract services that will no longer be needed since the utility will be interconnected with Pasco County. The utility has also proposed to increase expenses by \$257,738 for the purchased sewage treatment from Pasco County. Therefore, the utility's proposed net effect of these two adjustments is an increase in expenses of \$178,141.

Staff believes the following adjustments to Forest Hills' expenses are appropriate:

**Land Rental for Wastewater Treatment Plant**

As discussed in Issue 3, the utility has indicated through its responses to staff's data requests that it does not own the land and that there are no transferable land rights for that site. The utility states that the land and land rights are owned by Robert L. and Diane Dreher, individually. Furthermore, the utility states the land has never been included in the current rates for the utility, even though the application includes a retirement of this land. The utility further states that it's currently charged rent in the amount of \$8,000 per year for the use of this land.

After reviewing the audit work papers from the utility's last rate case, staff believes that \$7,200 was also included in rates for the lease of the wastewater treatment site. In Docket No. 810176-WS, the audit work papers, which were ultimately approved by the Commission, include a pro forma adjustment of \$7,200 for the additional cost associated with the lease on the wastewater site.

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Therefore, staff believes that a reduction to expenses of \$7,200 is appropriate.

**Salaries and Wages**

The utility indicates in its filing that it anticipates a reduction of \$10,286 to salaries and wages and a corresponding reduction of \$787 to payroll taxes. The utility states that three areas of salaries and wages have been reduced based upon the anticipated elimination of the wastewater treatment facilities. The reductions are shown below:

	<u>Salary Reduction</u>	<u>Reduction in Payroll Taxes</u>
Plant and Lift Station Maintenance	\$ 5,227	\$ 400
Maintenance Helper	\$ 4,205	\$ 322
Casual Labor	<u>\$ 854</u>	<u>\$ 65</u>
Total	<u>\$10,286</u>	<u>\$ 787</u>

Staff agrees with these adjustments. In addition to these reductions, staff believes that Mr. Dreher's salary of \$19,000 allocated to the wastewater operations in 1996 should also be reduced. Mr. Dreher is the president and general manager of the utility and is responsible for overseeing all utility functions on a daily basis. At the June 23, 1997, meeting, staff asked the utility's counsel to provide a breakdown of the president's duties, both before and after the interconnection. Staff sent a letter dated July 7, 1997, again requesting this information. On August 1, 1997, the utility's counsel provided a letter stating that it had already provided all of Mr. Dreher's duties and responsibilities in its March 13, 1997, letter. After further review of the March 13, 1997 letter, staff still believes that Mr. Dreher's salary should be reduced by 50 percent to reflect the reduction in responsibilities associated with the wastewater treatment plant being non-operational. There should also be a corresponding reduction of \$727 to payroll taxes associated with his salary reduction.

The utility also provides street light and garbage services which are contracted out to Florida Power Corporation and BFI Waste

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Systems. The utility indicates that it serves primarily as a customer contact regarding these services. The utility estimates that the time spent on these matters is approximately 2 hours a month for the billing clerk and 1/4 hour a month for the bookkeeper. The billing clerk is responsible for adding or deleting garbage customers from the billing and calling the garbage company should they miss picking up a customer's garbage. In addition, the billing clerk is responsible for calling in any street lights that are reported burned out. The office manager is responsible for paying the bills to Florida Power and BFI each month. Given these responsibilities, staff believes the utility's estimate of time allocated to perform these responsibilities are too low. Further, according to the 1996 annual report filed by Forest Hills, the utility collected revenues in the amount of \$200,935 for these services. Of this, \$75,629 was recorded as accounts receivable as of December 31, 1996. The amount of time spent on customer relations and collection of non-utility revenues can be time consuming, therefore staff recommends that the billing clerk's salary should be reduced by 1/3 and the office manager/bookkeeper salary should be reduced by 1/3 for time associated with the garbage and street lights services. Staff made this adjustment realizing that the utility will collect approximately \$400,000 in wastewater revenue while collecting approximately \$200,000, or 1/3 of its total revenue collected, in non-utility revenue. It is staff's belief that the utility's customers should not be required to pay for these administrative salaries associated with this non-utility revenue. Therefore, staff recommends that the administrative salaries should be reduced by 1/3 to reflect time spent on non-utility functions. The reductions to administrative salaries and payroll taxes are as follows:

	<u>1996</u> <u>Salary</u>	<u>Salary</u> <u>Reduction</u>	<u>Reduction in</u> <u>Payroll Taxes</u>
Billing Clerk	\$ 8,002	\$ 2,641	\$ 202
Office Manager	<u>\$ 9,902</u>	<u>\$ 3,268</u>	<u>\$ 250</u>
Total	<u>\$17,904</u>	<u>\$ 5,909</u>	<u>\$ 452</u>

To summarize, staff recommends that a total reduction of \$25,695 to salaries and wages and a corresponding reduction to payroll taxes of \$1,966 is appropriate.

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### Estimated Purchased Sewage Cost

In its filing, the utility indicates that based on the 12 months ending July 31, 1996, it estimates that 79,795,000 wastewater gallons will be billed by Pasco County on a going-forward basis for treatment at \$3.23 per 1,000 gallons. Therefore, the utility is proposing to increase its expenses by \$257,738. The utility simply totaled the number of gallons treated by its wastewater plant during those months and multiplied this by the current Pasco County bulk wastewater rate.

Staff believes it would be appropriate to include the most recent flow data. Based on the 12 months ending December 31, 1996, staff estimates that the amount of wastewater that will be charged by Pasco County for future treatment is 74,320,000. This amount incorporates the most recent flow data for the months of August through December of 1996 which was submitted on March 11, 1997, by the utility in its response to staff's first data requests. Therefore, based on staff's revised number of projected gallons expected to be treated by Pasco County, expenses associated with purchased wastewater should be reduced by \$17,684 from the utility's estimate. The utility should be allowed to increase its expenses associated with purchased sewage treatment by \$240,054 instead of \$257,738. Given the utility did not make any regression adjustment, in the abundance of caution, staff believes that this adjustment should be made since there may be a slight regression of consumption.

### Recovery of Fines

Although not requested in its application, the utility indicated through its responses to staff's data requests that the incurring fines, to the extent they were in the best interests of the customers, should be recovered through rates. However, staff believes any fines imposed on this utility should be paid by the owners/shareholders and not the ratepayers. Pursuant to the Uniform System of Accounts, penalties and fines for violation of statutes pertaining to regulation should be assigned to Account 426, Miscellaneous Non-utility Expenses, which is a below-the-line expense. All fines should be the sole responsibility of the owner/shareholders of the utility, and therefore, not included in rates.

### Rate Case Expense

On June 13, 1997, the utility's counsel Mr. Deterding requested by letter that rate case expense be considered and recovered in this proceeding. This request was submitted sixteen days after staff filed its initial final recommendation and more than six months after the initial application was filed by Mr. Deterding. The total amount of rate case expense being requested is \$45,024. This amount represents \$27,144 of legal expenses charged by Mr. Deterding and \$17,880 of accounting expenses charged by Mr. Nixon's accounting firm.

Due to the timing of this request, staff recommends that all rate case expense should be denied at this time. The reason that staff is recommending denial of all rate case expense is that it does not have the ability to fully examine these expenses by way of interrogatories and/or data requests. In addition, staff has some concerns with Mr. Deterding's request and why the request came so late in this case. During the informal meeting on June 23, 1997, Mr. Deterding informed staff that it was an oversight by both the utility and its legal counsel on the timing of its request. Staff believes that if this rate case expense is approved, the utility customers could ultimately suffer by way of added legal and accounting costs since staff did not have sufficient time to fully examine the prudence of those costs. In addition, staff does not want to send the wrong signal to other utilities by allowing this utility to request and recover known rate case expenses after staff has performed its analysis and has issued its final recommendation. Therefore, rate case expense should be denied.

However, if the Commission were to determine that rate case expense should be recovered in this case, staff has attempted to review the utility's request. Without the benefit of interrogatories and/or data requests, staff has determined that the legal expense should be reduced by \$7,175 and the accounting expense by \$1,038 for reasons stated below.

1. The utility's legal counsel has requested 24 hours of legal expense to review staff's final recommendation and 28 hours are needed to review the Proposed Agency Action (PAA) order. Staff believes the hours requested are excessive. Therefore, staff recommends that 12 hours to review staff's recommendation and 14 hours to review the order is reasonable and more appropriate in this case.

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2. The utility's legal counsel request of \$175 per hour for all work performed after December 4, 1996, is not consistent with the previously requested hourly rate of \$150. Staff does not understand, nor have any reason to allow a higher rate for work performed after December 4, 1996. Therefore, the hourly rate for work performed after December 4, 1996, should be reduced to \$150 per hour to be consistent with the previously requested hourly rate.

3. Staff is concerned that the research performed by counsel at an hourly rate of \$150 is excessive. Staff believes this research could have been performed at a reduced cost by a research assistant. Therefore, all research hours at \$150 should be reduced to \$75 per hour.

4. Staff is also concerned with the accounting consultant's request of unbilled revenue of \$538 for April of 1997 and \$200 for clerical work estimated to complete the case. In addition, Mr. Dechario's fees of \$300 for preparing additional information for staff should also be removed. Staff recommends the removal of these fees since they were not justified by invoices and may not occur. Therefore, the accounting expenses should be reduced by \$1,038.

Therefore, if the Commission were to determine that rate case expense should be recovered in this case, staff recommends removing \$7,175 of legal expenses and \$1,038 of accounting expense for reasons stated above.

#### Summary

Based on the foregoing, staff recommends that the utility's wastewater expenses should be reduced by \$102,206 for reductions associated with salaries and wages, land rental, sludge removal expense, purchased power, chemicals, materials and supplies, and contract services. In addition, the utility's expenses should be increased by \$240,054 for purchased sewage treatment from Pasco County. Therefore, the net effect is an increase in expenses of \$137,848, as shown on Schedule No. 2A.



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**ISSUE 8:** Should the Commission update Forest Hill's authorized return on equity (ROE), and if so, what is the appropriate return on equity?

**RECOMMENDATION:** Yes, the utility's authorized ROE should be lowered to establish a more appropriate return for this limited proceeding and on a going-forward basis. The utility's ROE should be decreased to 9.25% with a range of 8.25% to 10.25%. (MERCHANT)

**STAFF ANALYSIS:** Forest Hills' last rate case was in Docket No. 810176-WS and culminated with the issuance of Order No. 10721 on April 19, 1982. By that order, the Commission authorized rate of return on equity is 15.87%. Based on the current leverage graph, this previously authorized ROE is excessive. However, based on staff's analysis of the prior years' annual reports, the utility has not been earning more than what a reasonable ROE would have been.

In this limited proceeding, the utility has requested that an overall rate of return of 9.60% be used to determine the increased revenues. This was based on its current costs as of June 30, 1996, debt and customer deposits and a 10.50% ROE. On April 28, 1996, staff received the utility's 1996 Annual Report. Our review of that report revealed that several adjustments were necessary to properly reflect Forest Hills' cost of capital for this wastewater limited proceeding and on a going-forward basis for the total company.

Based on the utility's 1996 Annual Report, its achieved overall rate of return (ROR) for the water and wastewater systems were 9.25% and -5.74%, respectively, with a combined ROR of 0.70%. The components of the capital structure used to calculate the ROE in this proceeding have not been audited by staff. However, staff does not believe that any further investigation into potential over earnings for either system is warranted at this time. Based on our analysis water is earning within staff's recommended newly authorized ROE, and wastewater is earning a negative ROR.

In conclusion, staff's recommendation is to reduce the ROE to 9.25%, consistent with the current Water and Wastewater leverage graph, as shown on Schedule No. 4. This recommended ROE should be effective as of the date the Commission's order is final. It should be applied to any future proceedings of this utility,

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including, but not limited to, price indexes, interim rates, and over earnings.

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**ISSUE 9:** Should an adjustment be made to the cost of debt and what is the appropriate overall cost of capital?

**RECOMMENDATION:** Yes. An adjustment should be made to reduce the cost of debt to 8%. Thus, consistent with Issue 8, the appropriate overall cost of capital should be 8.78%, with a range of 7.95% to 9.61%. (AUSTIN)

**STAFF ANALYSIS:** In staff's data request dated April 11, 1997, the utility was asked to provide justification as to why they should continue carrying the long-term debt at a cost of 12%. The utility indicated in its response that the interest rate had changed to 8% on June 1, 1995. Therefore, an adjustment should be made to reduce the cost of debt to 8%. Consistent with staff's recommendation in Issue 8, staff recommends an overall cost of capital of 8.78%, with a range of 7.95% to 9.61%, as shown on Schedule No. 4.

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**ISSUE 10:** What is the appropriate wastewater increase in Forest Hills' revenue requirement associated with the wastewater interconnection to Pasco County?

**RECOMMENDATION:** The following wastewater revenue requirement increase should be approved: (GROOM)

	<u>TOTAL</u>	<u>\$INCREASE</u>	<u>%INCREASE</u>
Wastewater:	\$394,967	\$176,045	80.41%

**STAFF ANALYSIS:** The revenue requirement is a summary computation that is dependent upon previously approved provisions for rate base, cost of capital, and operating expenses. This includes adjustments to depreciation, amortization, and taxes other than income, shown on Schedule No. 1. Forest Hills requested final rates designed to generate annual revenues of \$445,436 for wastewater. These revenues exceed current revenues by \$226,514 (103.47%) for the wastewater operations. Based upon staff's proposed recommendations concerning the underlying rate base, cost of capital, and operating income issues, staff recommends approval of rates that are designed to generate a revenue requirement of \$394,967 for wastewater operations. These revenues exceed current revenues by \$176,045 (80.41%) for the wastewater operations.

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**ISSUE 11:** What are the appropriate wastewater rates?

**RECOMMENDATION:** Staff's recommended rates should be designed to allow the utility the opportunity to generate annual operating revenues of \$394,967 for wastewater. The utility should file revised tariff sheets consistent with the decision herein. Further, a proposed customer notice to reflect the appropriate rates should be filed pursuant to Rule 25-22.0407(10), Florida Administrative Code. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. The rates 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. (GROOM)

**STAFF ANALYSIS:** The permanent rates requested by the utility are designed to produce revenues of \$445,436 for the wastewater service. The requested revenues represent an increase of \$226,514 or 103.47% for wastewater service.

The final rates approved for the utility should be designed to produce annual revenues of \$394,967 for wastewater service, which is an increase of \$176,045 or 80.41%.

The utility proposed that the final rates be increased by an equal percentage basis for the additional revenue associated with the interconnection. However, staff believes that it would be more appropriate to set the rates where the utility collects \$3.23 per 1,000 gallons since that is the amount Pasco County will charge the utility for purchased sewage treatment. Therefore, the remaining revenue will be collected through the base facility charges in accordance with the AWWA standards for meter equivalents. Staff believes its proposed rate structure will be more appropriate since it will help prevent the utility from over earning during low consumption years and will minimize risk during high consumption years in that it allows the utility to meet its obligation to the county.

The utility should be required to file revised tariff sheets consistent with the decision herein. Further, a proposed customer notice to reflect the appropriate rates should be filed pursuant to Rule 25-22.0407(10), Florida Administrative Code. The approved rates should be effective for service rendered on or after the

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stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. The rates 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.

A comparison of the utility's prior wastewater rates, Commission approved emergency rates, utility's requested final rates, and staff's recommended final rates are shown on Schedule No. 5.

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**ISSUE 12:** Should a refund of the difference between revenues generated through the emergency wastewater rates implemented on February 26, 1997, and the revenues generated through wastewater rates approved herein be required, and if so, how should it be calculated?

**RECOMMENDATION:** Yes. The utility should be required to refund the difference between revenues generated through the emergency wastewater rates implemented on February 26, 1997 and the revenues generated through wastewater rates approved herein. The refund should be calculated by comparing the additional revenues granted through emergency rates to the additional revenues recommended for final rates. Based on this calculation, the utility should be required to refund 22.28% of wastewater revenue collected through emergency rates. The refund should be made within 90 days with interest in accordance with Rule 25-30.360 (4), Florida Administrative Code. The utility should be required to file refund reports pursuant to Rule 25-30.360(7), Florida Administrative Code. The utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), Florida Administrative Code. (AUSTIN)

**STAFF ANALYSIS:** By Order No. PSC-97-0207-FOF-SU, issued on February 21, 1997, the utility was authorized to implement emergency, temporary rates, subject to refund. The approved emergency rates generated additional revenues of \$226,514, or a 103.47% increase.

The emergency, temporary rates were granted pending further amplification and explanation provided in this request. Staff has determined that the additional revenue, necessary for the interconnection to Pasco County, should be \$176,045 or a 80.41% increase. This increase is less than the additional revenues granted for the emergency, temporary rates. Therefore, the utility should be required to refund 22.28% of wastewater revenue collected through emergency, temporary rates.

The refund should be made within 90 days with interest in accordance with Rule 25-30.360 (4), Florida Administrative Code. The utility should be required to file refund reports pursuant to Rule 25-30.360(7), Florida Administrative Code. The utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), Florida Administrative Code.

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**ISSUE 13:** Should the Commission order Forest Hills Utilities, Inc. to show cause, in writing within twenty days, why it should not be fined for violation of Section 367.091(3), Florida Statutes, Rules 25-30.311(3)&(5) and Rule 25-30.115, Florida Administrative Code?

**RECOMMENDATION:** Yes. Forest Hills Utilities, Inc. should be ordered to show cause, in writing within twenty days, why it should not be fined \$5,000 for violation of the following: Section 367.091(3), Florida Statutes; Rule 25-30.311(3)&(5) and Rule 25-30.115, Florida Administrative Code. That portion of the order addressing the show cause shall incorporate the terms and conditions set forth in staff's analysis. (VACCARO, AUSTIN)

**STAFF ANALYSIS:** As a result of the review of the utility's 1993 annual report, it was determined that the utility had a substantially high level of customer deposits. This raised a concern about the utility's refund policies regarding deposits. Having reviewed Forest Hill's customer deposit practices, staff believes that the utility has violated a statute and several Commission rules.

Rule 25-30.311(5), Florida Administrative Code & Section 367.091(3), Florida Statutes

On October 13, 1994, staff sent a letter to the utility asking for information regarding its deposit refund policies which would allow staff to verify whether it was in compliance with Rule 25-30.311(5), Florida Administrative Code. Rule 25-30.311(5), Florida Administrative Code, states:

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 . . . .

Since staff had not received any information from the utility, a follow-up letter was sent on November 22, 1994. On February 17, 1995, staff received a letter from utility counsel, Mr. Deterding, on behalf of the utility. The letter stated that the owner had been sick and the matter had apparently "slipped through the cracks." The letter indicated that the company would research the customer deposits and provide staff with a report within three weeks. On April 4, 1995, staff received a letter from the utility



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indicating that the research was taking longer than expected and that it would provide a report within two weeks.

On April 21, 1995, the utility provided the requested customer deposit information. The utility indicated that, as of the date of the letter, it had 641 deposits held longer than the 23-month maximum under the provisions of Rule 25-30.311(5), Florida Administrative Code. Of the 641, 614 were for the minimum deposit under Forest Hills' tariff of \$25. The remaining 27 were \$75 deposits collected from renters. The collection of the \$75 deposit from renters was to minimize the losses from uncollectible accounts from that class of customers. However, the collection of the additional deposit was not authorized under the utility's existing tariff. Pursuant to Section 367.091(3), Florida Statutes, a utility may only impose and collect those charges contained in its Commission-approved tariffs.

The utility's tariff authorized it to collect a deposit for water and wastewater service equal to the greater of \$25 or three times the minimum bill. The maximum deposit the utility could collect under its tariff was \$37.38. The utility proposed a refund with interest of the excess collected over its maximum from the renters who were not eligible, at that time, for a full deposit refund. However, the utility had not yet calculated the exact amount of the refund for the excess deposits collected from renters. The utility indicated that it would provide that information within two weeks. The utility calculated a refund of \$17,375 with an additional \$1,603 of interest for customer deposits, collected at \$25, which were held over the 23-month maximum under the provision of Rule 25-30.311, Florida Administrative Code.

By letter dated April 26, 1995, staff agreed with this refund proposal. The letter indicated that the utility could begin the refund as soon as staff received the information regarding the amount of partial refunds due to the renters because of the over collection that was not authorized in the utility's tariff. On June 7, 1995, the utility sent a letter to staff with the final figures for both the \$25 and the \$75 deposit refunds. In the June 7, 1995 letter, the utility calculated the following deposits for

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refund, as of May 31, 1995, under the provisions of Rule 25-30.311, Florida Administrative Code:

730 deposits at \$25.....	\$18,250
135 deposits at \$75.....	<u>\$10,125</u>
Total deposits eligible for refund.....	<u>\$28,375</u>

The amount of interest to be paid on these deposits was \$2,122.45. The utility proposed to make the appropriate refunds with interest by granting credits to the customers within 90 days of staff approving the refund methodology. On June 12, 1995, staff sent the utility a letter approving its refund plan and requiring the utility to make the necessary refunds within 90 days. Therefore, the refunds should have been completed by September 11, 1995. Staff also requested that the utility submit refund reports pursuant to Rule 25-30.360(7), Florida Administrative Code.

In this limited proceeding filing, the utility indicated it had \$103,935 of customer deposits as of July 31, 1996. In the utility's 1993 annual report, which initiated staff's investigation of the customer deposits, the utility had \$80,150 of customer deposits. The utility had \$90,795 of customer deposits in its 1994 annual report. For the 1995 annual report, the utility had \$99,866 of customer deposits. As stated previously, the utility indicated that, as of May 31, 1995, it had \$28,375 of customer deposits which needed refunding. The fact that the 1995 customer deposit balance was higher than the 1994 customer deposit balance, raises a question as to whether or not the refunds were completed. Based on the utility's 1995 annual report, the number of customers increased by 28 for water and 1 for wastewater. If the refunds were made, the customer deposit balance should have been lower in 1995, considering the relatively small increase in customers in 1995.

The utility did not provide the refund reports previously requested by staff pursuant to Rule 25-30.360(7), Florida Administrative Code. Therefore, staff decided to address the customer deposits as an issue in this limited proceeding. In a staff request dated March 21, 1997, staff once again requested that the utility file a final refund report pursuant to Rule 25-30.360(7), Florida Administrative Code in regards to the refund that should have been completed September 11, 1995. The utility indicated in its responses, dated April 11, 1997, that refund reports related to customer deposit are excluded from Rule 25-

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30.360, Florida Administrative Code. However, the utility assured staff that it has made \$19,793 of customer deposits and continues to refund deposits monthly.

At the September 9, 1997 Agenda Conference, the utility's counsel indicated that the utility could provide refund reports for the customer deposits. Therefore, the ruling on staff's recommendation was deferred to allow the utility to provide the customer deposit refund reports. By letter dated September 16, 1997, staff sent a letter to the utility to confirm the format of the refund report. Staff requested that the utility send two separate reports. Staff asked that the first report correlate to the refund plan approved by staff by letter dated June 12, 1995. For the second report, staff requested that it correlate to the period of June 1, 1995 through August 31, 1997. The reports were to be filed no later than September 22, 1997.

On September 19, 1997, by phone, the utility's counsel indicated that the refund report for the refund plan would not correlate to the customer deposit amounts provided to staff in June of 1995. The refund report would reflect a refund amount less than what was initially indicated. First, the utility realized that some of the refunds, though higher than authorized (renters), had not been retained for a full two years; therefore, some of those customers were not entitled to the full amount of the refund agreed to.

Secondly, the utility indicated that the total customer deposit amounts erroneously included the deposits for garbage collection and street lights. The utility's counsel further explained that the utility has been erroneously including the garbage collection and street light deposits along with the customer deposits for water and wastewater service in its annual reports. The garbage and street light service is a non-regulated service; therefore, it should be recorded separately from the customer deposit for water and wastewater service. The utility's counsel explained that this is the error that has been causing the customer deposit ratio to be high. Also, the utility's counsel indicated that the customer deposit receipt does not make a distinction between the deposit for water and wastewater service and the deposit for garbage collection and street light service.

Staff received the refund reports from the utility on September 23, 1997 along with a letter. The letter expounded on

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the staff's conversation with the utility's counsel in regards to the deposit receipts and the garbage collection and street light service. The letter also explained the data provided in the refund report. Based upon staff's review of the reports, it appears that the utility has made the refunds. However, upon extensive review of the refund reports, staff has determined that the utility did not make the refunds to those customers within the agreed upon 90 day period. For instance, one customer paid a deposit on July 1, 1971. This deposit was not refunded until April 28, 1997, which was 20 months after September 11, 1995, the date the utility should have completed the refund plan. Another deposit was paid on August 1, 1974, and was not refunded until May 30, 1997. This refund was made 21 months after the date the utility was to complete its agreed upon refund plan. Therefore, staff believes this constitutes a willful violation of Rule 25-30.311(5), Florida Administrative Code.

Rules 25-30.115 & 25-30.311(3), Florida Administrative Code

Pursuant to Rule 25-30.115, Florida Administrative Code, water and wastewater utilities shall, effective January 1, 1986, maintain their accounts and records in conformity with the 1984 NARUC Uniform System of Accounts adopted by the National Association of Regulatory Utility Commissioners. The Accounting Instruction #12 of the Uniform System of Accounts for Class B utilities states:

If a utility also operates other utility departments, such as electric, wastewater, gas, etc., it shall keep such accounts for the other departments as may be prescribed by proper authority and in the absence of prescribed accounts, it shall keep such accounts as are proper or necessary to reflect the results of operating each other department.

Staff believes that the commingling of the water and wastewater service deposits and the garbage collection and street light service deposits constitutes a violation of Rule 25-30.115, Florida Administrative Code. As a result of the commingling of deposits, the utility also has violated Rule 25-30.311(3), Florida Administrative Code which requires that the utility keep a record of each transaction concerning such deposits. As stated earlier, one receipt is given for water and wastewater service, garbage collection, and street light service. A customer would be unable to determine how much of the deposit was for each service. As a

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result of the utility's commingling these deposits on its books, staff believes the utility has not kept a record of each transaction concerning deposits.

Show Cause

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 as the utility's failure to comply with Chapter 367, Florida Statutes, and Chapter 25-30, Florida Administrative Code 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.

The utility was given sufficient time to comply with Rule 25-30.311(5), Florida Administrative Code. In 1995, staff requested that the utility explain why its customer deposit ratio was so high. As a result, the utility determined it had deposits that were held longer than 23 months that needed refunding. Based upon staff's review, the utility has held some deposits for over 25 years. The utility did provide staff with the amount of the refund and agreed to refund the deposits within 90 days. However, the refunds were not completed within the agreed upon 90 days, with some deposits being held for at least an additional year. Therefore, staff believes this constitutes a willful violation of the rule. As stated earlier, pursuant to Section 367.091(3), Florida Statutes, a utility may only impose and collect those rates and charges, in the amounts specified in its Commission approved tariff. The utility collected deposits from renters in excess of

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its approved charge, in violation of the aforementioned statute. It has also commingled garbage collection and street light deposits with water and wastewater deposits in violation of Rules 25-30.115 & 25-30.311(3), Florida Administrative Code.

Although staff believes the utility has violated a statute and several rules, if the Commission ultimately concludes that a fine is warranted, staff does not believe the utility should be fined for each violation. The utility should be fined collectively for the violations as a result of its customer deposit practices. Therefore, the utility should be ordered to show cause, in writing within twenty days, why it should not be fined \$5,000 for violation of the following: Section 367.091(3), Florida Statutes; Rules 25-30.311(3)&(5) Florida Administrative Code; and Rule 25-30.115, Florida Administrative Code.

If the Commission approves this issue, Forest Hills Utilities, Inc.'s response should contain specific allegations of fact and law. This opportunity to file a written response should constitute Forest Hills' 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 Forest Hills 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 \$5,000 fine should be imposed without further action of the Commission. If Forest Hills 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. If, however, the utility responds to the show cause by remitting the fine imposed by the Commission, no further action is required and this amount will be remitted to the Comptroller's Office for deposit in the State General Revenue Fund pursuant to Section 367.161, Florida Statutes.

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**ISSUE 14:** Should the utility's wastewater tariff for service availability charges be revised?

**RECOMMENDATION:** Yes. The utility's wastewater service availability charges should be revised. Therefore, utility's wastewater tariff Original Sheet No. 22 for service availability charges should be canceled. The utility should be ordered to file a revised tariff sheet within 10 days of the effective date of the Order, which are consistent with the Commission's vote. Staff should be given administrative authority to approve the revised tariff sheet upon staff's verification that the tariffs are consistent with the Commission's decision. (AUSTIN)

**STAFF ANALYSIS:** In staff's data request dated February 7, 1997, the utility was asked to explain the minimum connection fee of \$300 and the monthly fee of \$4.50. It was also asked to justify why it should continue these charges once the wastewater facilities were interconnected to Pasco County. The utility, in its response dated March 10, 1997, indicated that the \$4.50 monthly fee relates to the flat residential rate approved in its original tariff in 1975. The utility stated that the flat residential rate was superseded by a base facility charge rate and gallonage charge rate in 1982. Therefore, the monthly fee of \$4.50 is no longer applicable and it should be eliminated from the tariff.

As discussed in Issue 4, the utility indicated that the connection fee of \$300 relates to the cost to connect new service to its existing collection system. The utility stated that the connection fee does not relate to a charge for plant capacity. Staff disagrees and believes that the existing \$300 is a wastewater plant capacity charge as discussed in Issue 4. Since the utility is interconnecting to Pasco County for wastewater treatment and disposal, the plant capacity charge is no longer applicable. However, based on an analysis of the utility's wastewater CIAC level, staff is recommending that the plant capacity charge be revised to a main extension charge.

Staff used the utility's 1996 Annual Report to analyze the CIAC level after the retirement of the wastewater treatment plant, related CIAC and the addition of the interconnecting mains. Based on this calculation, using staff's recommended plant retirement and plant addition amounts, the utility's level of CIAC would be 24.24%. The utility's percentage of net sewage collection system to net plant would be 45.77%. As a result of the retirement of the

DOCKET NO. 961475-SU  
DATE: OCTOBER 9, 1997

wastewater treatment plant, related CIAC and the addition of the interconnecting mains, the utility's level of CIAC would be lower than what is prescribed in Rule 25-30.580 (1)(b), Florida Administrative Code. Pursuant to Rule 25-30.580(1)(b), Florida Administrative Code, the minimum amount of contributions-in-aid-of-construction should not be less than the percentage of such facilities and plant that is represented by the water transmission and distribution and sewage collection systems. Since the utility's CIAC level would be lower than minimum, as prescribed by rule, staff is recommending that the \$300 plant capacity fee be revised to reflect a \$300 main extension charge. Staff believes that the \$300 main extension charge would allow the utility to increase its CIAC level to at least the minimum required by rule. Also, this would help to ensure that future customers would pay their pro-rata share of the cost of the interconnect.

The utility should be required to file a revised tariff sheet within 10 days of the effective date of the order issued in this case, which are consistent with the Commission's vote. Upon timely receipt and staff's verification that the tariffs are consistent with the Commission's decision, staff should be given administrative authority to approve the revised tariff sheet. If no protest is filed and the revised tariff sheet is approved, the charges should become effective for connections made on or after the stamped approval date of the revised tariff sheet pursuant to Rule 25-30.475(2), Florida Administrative Code.



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**ISSUE 15:** Should an Allowance for Funds Used During Construction (AFUDC) rate be approved, and if so, what is the appropriate annual rate, monthly discounted rate and the effective date for Forest Hills Utilities, Inc.?

**RECOMMENDATION:** Yes, since the utility does not currently have an authorized AFUDC rate the Commission, on its own motion, should establish such a rate. The utility should be authorized to implement an AFUDC rate of 8.78%, on an annual basis, with a monthly discounted rate of 0.890567%. The charge should be effective for projects as of July 1, 1996. (MERCHANT)

**STAFF ANALYSIS:** Forest Hills does not currently have an approved AFUDC rate, nor did it request approval of such a rate in this proceeding. Rule 25-30.116(5), Florida Statutes, states that no utility may charge or change its AFUDC rate without prior Commission approval. Further, Rule 25-30.116(7) states that the Commission on its own motion may initiate a proceeding to revise a utility's AFUDC. According to the utility's 1996 annual report, the utility does not currently capitalize AFUDC. In the event that the utility will need to charge AFUDC in the future, staff believes that one should be authorized, since we are recommending that the cost of capital be updated for current costs in this proceeding. The incremental costs of approving an AFUDC rate in this docket are very minimal compared to the cost of a separate future filing for approval of an AFUDC rate.

As discussed in Issue 9, staff has recommended that the cost of capital be established as 8.78%. Consistent with Rule 25-30.116(2) and (3), the annual AFUDC rate would also be 8.78%, with a monthly discounted rate of 0.731230%. Further, Rule 25-30.116(5) states that the AFUDC rate should be effective the month following the end of the period used to establish the rate. Since the test year ended June 30, 1996 was used to determine the cost of capital, the AFUDC rate should be effective July 1, 1996. Schedule No. 4 reflects staff's recommended cost of capital and resulting annual AFUDC rate.

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**ISSUE 16:** Should this docket be closed?

**RECOMMENDATION:** If the Commission approves Issue 13, and the utility timely responds to the show cause, the docket should remain open to address the disposition of the show cause. However, in the event the utility remits the fine or if this matter is referred to the Comptroller's office, this docket should be closed if no person, whose interests are substantially affected by the proposed agency action portion of the order, files a protest within the 21 day protest period, and upon staff's receiving the refund reports for the customer deposits, staff's verification that the utility has completed the required refunds and the utility's filing of and staff's approval of revised tariff sheets. Once all outstanding requirements have been completed, this docket should be closed administratively. (VACCARO, AUSTIN)

**STAFF ANALYSIS:** If the Commission approves Issue 13, and the utility timely responds to the show cause, a recommendation will be presented to the Commission to address the disposition of the show cause. However, in the event the utility remits the fine or if this matter is referred to the Comptroller's office and a timely protest to the proposed agency action portion of the order is not received from a substantially affected person by the end of the protest period, this docket should remain open until staff receives the refund reports for the customer deposits and staff verifies that the utility has completed the required refunds and the utility files and staff approves the revised tariff sheets. Once all these requirements have been completed, this docket should be closed administratively.

**Additional Revenue Requirement for  
Pasco County Force Main Tie-in and  
Purchased Sewage Costs**

Operation & Maintenance Expense:	\$178,141	\$137,848
Net Depreciation and Amortization:	\$4,156	\$6,697
Taxes other than Income:	\$2,418	\$771
Amortization of Plant Abandonment Costs:	<u>\$17,928</u>	<u>\$5,579</u>
Total Additional Operating Expenses:	\$202,643	\$150,895
Rate of Return:	<u>\$13,678</u>	<u>\$17,228</u>
Total Additional Expense and Return:	\$216,321	\$168,123
Divide by RAF Expansion Factor:	<u>0.955</u>	<u>0.955</u>
Grand Total of Additional Revenue Requirement:	\$226,514	\$176,045
Divide by Annualized Revenue:	<u>\$218,922</u>	<u>\$218,922</u>
Percentage Increase in Revenue and Rates:	<u>103.47%</u>	<u>80.41%</u>

**Change in Operations &  
Maintenance Expense**

<b>Land</b>			
Land Rent	\$8,000		(\$7,200)
<b>Salaries &amp; Wages</b>			
Plant and Lift Station Maintenance	\$5,227	(\$5,227)	(\$5,227)
Maintenance Helper	\$4,205	(\$4,205)	(\$4,205)
Casual Labor	\$854	(\$854)	(\$854)
President/General Manager	\$19,000		(\$9,500)
Office Manager/Bookkeeper*	\$9,903		(\$3,268)
Billing Clerk*	\$8,003		(\$2,641)
<i>* based on 1996 year-end salaries</i>			
<b>Total Salaries &amp; Wages</b>	<b>\$47,191</b>	<b>(\$10,286)</b>	<b>(\$25,695)</b>
<b>Purchased Sewage Treatment</b>			
Pasco County (Projected)		\$257,738	\$240,054
<i>* staff's recommended adjustment is based on year-end 1996</i>			
<b>Sludge Removal Expense</b>			
Hauling/Disposal	\$20,165	(\$20,165)	(\$20,165)
<b>Purchased Power</b>			
Sewer Plant	\$19,120	(\$19,120)	(\$19,120)
<b>Chemicals</b>			
Treatment Plant	\$13,109	(\$13,109)	(\$13,109)
<b>Materials &amp; Supplies</b>			
Plant Structures	\$486	(\$486)	(\$486)
Rapidrain Pump	\$1,063	(\$1,063)	(\$1,063)
Rapidrain Blowers	\$1,578	(\$1,578)	(\$1,578)
Plant Equipment	\$1,790	(\$1,790)	(\$1,790)
<b>Contract Services</b>			
Sewer Operations	\$12,000	(\$12,000)	(\$12,000)
<b>Total</b>	<b>\$163,694</b>	<b>\$178,141</b>	<b>\$137,848</b>

Additional Plant Costs



Collection Sewers - Force

Pasco County Costs	\$100,000	\$100,000
Flora Ave. Main	\$69,755	\$57,403
Labor & Equipment	\$13,060	\$11,860
Engineering Allocated	\$13,234	\$13,234

Flow Meter

Cost of Meter	\$12,000	\$10,984
Engineering Allocated	\$869	\$869

Pumping Equipment

Rebuild Lift Station	\$8,208	\$8,208
Engineering Allocated	\$594	\$594

<b>Total Costs</b>	<b>\$217,720</b>	<b>\$202,952</b>
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**Schedule of Depreciation Expense**

	Cost of Facilities	Depreciation Rate	Depreciation Expense
Cost of New Force Main	\$202,952	3.30%	\$6,697
Cost of Retired Plant	(\$121,673)	2.50%	(\$3,042)
Total	<u>\$81,279</u>		<u>\$3,656</u>

**Schedule of Amortization Expense**

CIAC Associated with Retirement	\$121,673	2.50%	\$3,042
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**Schedule of Taxes Other than Income**

**Tangible Property Taxes**

Cost of Force Main, Meter and Lift Station	\$202,952
One Year Depreciation	(\$6,697)
Net Book Value of Property Retired	(\$70,966)
Net Increase in Taxable Property	\$125,289
Current Pasco County Mileage Rate	0.021841
Total Increase in Taxes other than Income	<u>\$2,736</u>

**Payroll Taxes**

Reduction in Salaries	(\$25,695)
FICA Rate	0.0765
Total Reduction in Payroll Taxes	<u>(\$1,966)</u>

Total Increase in Taxes other than Income \$171

**Required Rate of Return on Net Invested Plant**

**Required Rate of Return**

Cost of Force Main, Meter and Lift Station	\$202,952
One Year Depreciation	(\$6,697)
Total	<u>\$196,255</u>

Cost of Plant Retired	\$121,673
Less: Accum. Depreciation	(\$50,707)
Contributions-in-Aid-of-Construction	(\$121,673)
Accumulated Amortization of CIAC	<u>\$50,707</u>
Total	<u>\$0</u>

Net Additional Investment	\$196,255
Rate of Return	8.78%
Additional Rate of Return	<u>\$17,228</u>

**Annual Amortization Period Calculation**

*Calculation of Amortization Period Pursuant to Rule 25-30 433(9),  
 Florida Administrative Code*

Original Cost	\$121,673		
Accumulated Depreciation (less)	(\$50,707)	Cost incurred	\$64,465
Contribution-in-aid-of construction (less)	(\$121,673)	Salvage value	\$8,675
Accumulated CIAC (add)	\$50,707	Net cost incurred	<u>\$55,790</u>
Net Costs Incurred (add)	\$55,790		
<b>NET LOSS</b>	<u>\$55,790</u>		
		Annual Depr. Exp.	\$3,029
Annual Depreciation (net of amortization of CIAC)	\$0	Amort. of CIAC	<u>(\$3,029)</u>
Return on Net Plant that would have been incl. in rate base	\$0		<u>\$0</u>
<b>ANN. DEPR. PLUS RETURN ON NET PLANT</b>	<u>\$0</u>		
		Net Plant	\$0
		Rate of Return	8.78%
			<u>\$0</u>
<b>NET LOSS /</b>	\$55,790		
<b>ANN. DEPR. PLUS RETURN ON NET PLANT</b>	\$0		
Amortization Period	ERR		

$$\frac{\text{Net Loss } \$55,790}{\text{Rate of Return } 8.78\%} = \text{Annual Return on Loss } \$4,897$$

Amortization Period  
 Net Loss \$55,790  
 Divided by Annual Return on Loss \$4,897  
 Years 11 Staff Recommended Amortization Period

Net Loss/ Amortization Period \$5,072 Staff Recommended Annual Amortization

FOREST HILLS UTILITIES, INC.  
CAPITAL STRUCTURE  
TEST YEAR ENDED 06/30/96

SCHEDULE NO. 4  
DOCKET 961475-SU

PER UTILITY 6/30/96 - YEAR-END

1 LONG TERM DEBT	\$30,000	\$0	\$0	\$30,000	4.85%	8.00%	0.40%
2 SHORT-TERM DEBT	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
3 PREFERRED STOCK	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
4 COMMON EQUITY	\$471,551	\$0	\$0	\$471,551	77.88%	10.50%	8.18%
5 CUSTOMER DEPOSITS	\$103,835	\$0	\$0	\$103,835	17.17%	8.00%	1.03%
6 DEFERRED INCOME TAXES	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
7 DEFERRED ITC'S-ZERO COST	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
8 DEFERRED ITC'S-WTD. COST	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
9 OTHER	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
10 TOTAL CAPITAL	\$805,486	\$0	\$0	\$805,486	100.00%		8.80%

PER COMMISSION 6/30/96 - YEAR-END

11 LONG TERM DEBT	\$30,000	\$0	(\$2,286)	\$27,704	3.77%	8.00%	0.30%
12 SHORT-TERM DEBT	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
13 PREFERRED STOCK	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
14 COMMON EQUITY	\$471,551	\$190,520	(\$80,880)	\$811,391	83.17%	9.25%	7.88%
15 CUSTOMER DEPOSITS	\$103,835	\$0	(\$7,956)	\$95,879	13.08%	8.00%	0.78%
16 DEFERRED INCOME TAXES	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
17 DEFERRED ITC'S-ZERO COST	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
18 DEFERRED ITC'S-WTD. COST	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
19 OTHER	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
17 TOTAL CAPITAL	\$805,486	\$190,520	(\$80,832)	\$735,074	100.00%		8.78%

LOW HIGH

RETURN ON EQUITY 8.25% 10.25%

OVERALL RATE OF RETURN 7.95% 9.81%



**Wastewater Rate Schedule**

**Monthly Rates**

**Residential**

**Base Facility Charge:**

<b>All Meter Sizes:</b>	<b>\$9.24</b>	<b>\$18.80</b>	<b>\$12.05</b>
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**Gallage Charge, per 1,000 Gallons**

<b>(Wastewater Cap - 10,000 Gallons)</b>	<b>\$1.29</b>	<b>\$2.62</b>	<b>\$3.23</b>
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**Commercial**

**Base Facility Charge:**

**Meter Size:**

<b>5/8" x 3/4"</b>	<b>\$9.24</b>	<b>\$18.80</b>	<b>\$12.05</b>
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<b>1"</b>	<b>\$23.09</b>	<b>\$46.98</b>	<b>\$30.13</b>
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<b>1-1/2"</b>	<b>\$45.83</b>	<b>\$93.25</b>	<b>\$60.25</b>
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<b>2"</b>	<b>\$73.91</b>	<b>\$150.38</b>	<b>\$96.40</b>
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<b>3"</b>	<b>\$147.81</b>	<b>\$300.75</b>	<b>\$192.80</b>
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<b>4"</b>	<b>\$230.93</b>	<b>\$469.87</b>	<b>\$301.25</b>
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<b>6"</b>	<b>\$461.92</b>	<b>\$939.87</b>	<b>\$602.50</b>
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<b>Gallage Charge, per 1,000 Gallons</b>	<b>\$1.29</b>	<b>\$2.62</b>	<b>\$3.23</b>
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**Typical Residential Bills**

**5/8" Meter**

<b>3,000 Gallons</b>	<b>\$13.11</b>	<b>\$26.66</b>	<b>\$21.74</b>
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<b>5,000 Gallons</b>	<b>\$15.69</b>	<b>\$31.90</b>	<b>\$28.20</b>
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<b>10,000 Gallons (Maximum)</b>	<b>\$22.14</b>	<b>\$45.00</b>	<b>\$44.35</b>
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**(Wastewater Cap - 10,000 Gallons)**