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October 13, 1998

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 950387-SU

Dear Ms. Bayó:

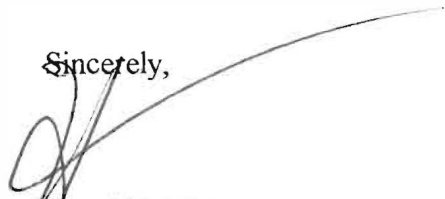
Enclosed is an original and fifteen copies of the Remand Testimony of Ted L. Bidy and Kimberly H. Dismukes on behalf of the Office of Public Counsel for filing in the above referenced file.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

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FPSC BUREAU OF RECORDS

Sincerely,



Harold McLean
Associate Public Counsel

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FPSC-RECORDS REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate)
increase for North Ft. Myers)
Division in Lee County by)
Florida Cities Water Company -)
Lee County Division.)

Docket No. 950387-SU
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REMAND TESTIMONY

OF

KIMBERLY H. DISMUKES

ON BEHALF OF THE CITIZENS OF THE STATE OF FLORIDA

Jack Shreve
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Attorney for the Citizens
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TESTIMONY

OF

KIMBERLY H. DISMUKES

ON BEHALF OF THE CITIZENS OF FLORIDA

BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 950387-SU

Q. WHAT IS YOUR NAME AND ADDRESS?

A. Kimberly H. Dismukes, 6455 Overton Street, Baton Rouge, Louisiana 70808.

Q. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?

A. I am a self-employed consultant in the field of public utility regulation. I have been retained by the Office of the Public Counsel (OPC), on behalf of the Citizens of the State of Florida, to address the annual average daily flow versus peak month flow issues remanded to the Florida Public Service Commission (Commission) by the First District Court of Appeals for the taking of additional evidence. Mr. Ted Bidy will address the engineering aspects of these issues and I will address the policy and regulatory aspects of these issues.

Q. DO YOU HAVE AN APPENDIX THAT DESCRIBES YOUR

1 **QUALIFICATIONS IN REGULATION?**

2 A. Yes. Appendix I, attached to my testimony, was prepared for this purpose.

3

4 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

5 A. The purpose of my testimony is to explain why it was appropriate for the Florida
6 Public Service Commission (the Commission) to use annual average daily flows in the
7 numerator of the used and useful calculation in Florida Cities - North Fort Myers
8 Division's (Florida Cities or the Company) rate case. In particular, I explain why it
9 was appropriate for the Commission, in Order No. PSC 96-1133-FOF-SU, to use
10 annual average daily flows to calculate the used and useful percentage to apply to
11 Florida Cities' wastewater treatment plant. Likewise, I explain why it is appropriate
12 for the Commission to continue to use the annual average daily flow in both the
13 numerator and denominator to calculate the used and useful percentage for Florida
14 Cities Waterway Estates Advanced Wastewater Treatment Plant.

15

16 **Q. HAS THE COMMISSION EXPLAINED WHY IT USED THE ANNUAL**
17 **AVERAGE DAILY FLOW IN THE NUMERATOR OF THE USED AND**
18 **USEFUL CALCULATION FOR FLORIDA CITIES' WASTEWATER**
19 **TREATMENT PLANT?**

20 A. Yes. In Order No. PSC-98-0509-PCO-SU, dated April 14, 1998, the Commission
21 explained its rationale in response to the First DCA's remand of its decision in Order

1 No. PSC-96-1133-FOF-SU.

2 In its opinion, the First DCA also reversed the portion of our
3 Final Order, which calculated the used-and-useful percentage
4 using annual average daily flows (AADF) in the numerator,
5 citing the lack of competent substantial evidence. The use of
6 AADF, as opposed to average daily flows for the maximum
7 month (ADFMM), was precipitated because the DEP changed
8 its method of permitting. Originally, in most cases and in this
9 case in particular, the DEP had permitted the wastewater
10 treatment plant without designating whether the capacity was
11 based on AADF or ADFMM, or some other flow.

12
13 However, the DEP permit issued in 1994 for this wastewater
14 plant stated the permitted capacity in terms of AADF. Based
15 on this change, our staff recommended, and we approved, the
16 use of AADF in the numerator. Other than the permit itself,
17 there was no evidence justifying the use of AADF in the
18 numerator of the used-and-useful fraction when the permit
19 was issued based on AADF.

20
21 In essence, the Commission found that because the denominator of the used and

1 useful calculation was based upon the annual average daily flow capacity of the plant,
2 it was appropriate and consistent to use the test year annual average flows in the
3 numerator of the calculation. The Commission determined that because the Florida
4 Department of Environmental Protection's (FDEP) permit of the wastewater
5 treatment plant stated the capacity in terms of annual average daily flow, it was
6 appropriate to use annual average daily flow in the numerator of the used and useful
7 calculation. By using the same yard stick in the numerator and denominator, the
8 Commission appropriately compared "apples to apples".

9
10 **Q. WHY IS IT APPROPRIATE FOR THE COMMISSION TO USE THE**
11 **ANNUAL AVERAGE DAILY FLOW IN BOTH THE NUMERATOR AND**
12 **DENOMINATOR OF THE EQUATION?**

13 **A.** It is appropriate because the permit for that plant reflects that the plant was permitted
14 in terms of annual average daily flows. In the most basic terms, used and useful is a
15 comparison of the capacity of a plant to the load (or flows) it must treat. In order to
16 reach a meaningful result, the capacity and the load must be expressed in the same
17 units of measurement. In other words, the numerator and denominator of the used
18 and useful calculation must both be expressed in the same units of measurement.

19
20 The question is not whether it is proper to express flow in annual average daily flow
21 or monthly peak flows: the issue is which of these two measuring methodologies is

1 correct where the plant capacity is clearly expressed in one or the other. It is clear
2 that irrespective of which methodology is used, it should be used for both load
3 (numerator) and capacity (denominator). Thus, where the FDEP has permitted a
4 wastewater treatment plant in terms of annual average daily flow, the load should be
5 expressed the same. Expressing the load in terms of monthly peak flows, as argued
6 by Florida Cities, where the same plant is rated in annual average daily flow will not
7 only yield a meaningless result, but it will also overstate the used and useful
8 percentage. Florida Cities would have the Commission compare “apples with
9 oranges” as opposed to correctly comparing “apples to apples.”

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**Q. WHY DOES FLORIDA CITIES TAKE ISSUE WITH THE COMMISSION’S
USE OF ANNUAL AVERAGE DAILY FLOW IN BOTH THE NUMERATOR
AND DENOMINATOR OF THE USED AND USEFUL CALCULATION?**

A. Florida Cities give two primary reasons. First, Florida Cities appears to suggest that because the Commission used peak month flows in the numerator in past cases, it should likewise use that in the instant docket. The First DCA also suggested in its remand to the Commission that it had changed its policy without adequate explanation. Second, Florida Cities suggests that by using annual average daily flow in the numerator, the Commission somehow ignores the peak flows and fluctuations of the wastewater treatment plant.

1 Q. DO YOU AGREE WITH FLORIDA CITIES REASONS FOR DISAGREEING
2 WITH THE COMMISSION'S "MATCHING" PRINCIPLE?

3 A. No, I do not. Concerning their first argument, I agree that the Commission has used
4 peak month flows in the numerator in prior rate cases. Nevertheless, this is not a
5 logical reason to continue to use peak month flows in the numerator when it is now
6 known that the plant is permitted based upon an annual average daily flow, not a peak
7 month flow. The Commission's change in the calculation of the treatment plant used
8 and useful may be characterized by some as a change in policy.

9
10 In contrast to this view, I see it as a correction of past mistakes or as an
11 acknowledgment of additional information and evidence that it available today, that
12 was not available in the past. Concerning the latter, as acknowledged by Mr. Acosta,
13 in approximately 1991, the FDEP changed the permit application form. This change
14 required the permittee to designate the basis of design, as annual average daily flow,
15 average daily flow in the max month, three-month average daily flow, or other. Prior
16 to this change in the permit application form, there was no designation of the basis of
17 the design capacity. Once this new information became available, it was possible for
18 the Commission to correctly "match" the numerator and denominator of the used and
19 useful calculation. Prior to this change in the permit application, the application did
20 not indicate the basis of the design capacity. Therefore it was not possible to match
21 the numerator and denominator of the used and useful calculation based upon the

1 plant's permitted capacity.

2

3 **Q. WHAT ABOUT FLORIDA CITIES' SECOND CONCERN THAT USE OF**
4 **THE ANNUAL AVERAGE DAILY FLOW IGNORES THE PEAK FLOW**
5 **REQUIREMENTS OF THE TREATMENT PLANT?**

6 A. Use of the annual average daily flow in the numerator and denominator of the used
7 and useful calculation does not ignore the peak flow requirements of the treatment
8 plant, as discussed in the testimony of Mr. Bidy. As acknowledged by
9 Mr. Cummings, the hydraulic flow rate used in the design of the treatment facility was
10 a daily peak flow rate that is twice the annual average rate. (Testimony, p. 16.)
11 Consequently, even though the plant's permitted design capacity is based upon an
12 annual average daily flow, it is still able to handle peak day flows that are twice the
13 annual average daily flow. This concept is further described in the Preliminary
14 Engineering Design Report prepared by Black & Veatch for Florida Cities. That
15 report also addresses the relationship between the average and peak flows:

16 A hydraulic analysis of the existing facilities was performed at
17 the Phase I average and peak flow of 1.3 mgd and 2.6 at the
18 Phase II average and peak flows of 1.5 mgd and 3.0 mgd,
19 respectively. A peaking factor of two times the average daily
20 flow was used for peak flow to account for diurnal
21 fluctuations in excess of existing equalization basin capacity.

1 (Preliminary Engineering Design Report, p. 6.)

2 As both Mr. Cummings and the Preliminary Engineering Design Report show, use of
3 the annual average daily flow and peak flow are considerations in the design and
4 capacity handling ability of the treatment plant. Use of the annual average daily flow
5 to calculate used and useful does not limit the plant's ability to meet peak demands,
6 nor does it understate the used and usefulness of the plant.

7

8 **Q. IF THE COMMISSION ADOPTED THE PROPOSAL OF FLORIDA CITIES**
9 **TO USE THE PEAK MONTH FLOW IN THE NUMERATOR AND THE**
10 **ANNUAL AVERAGE DAILY FLOW IN THE DENOMINATOR OF THE**
11 **CALCULATION, WHAT IMPACT WOULD THIS HAVE?**

12 **A.** If the Commission used this apples to oranges approach it would seriously overstate
13 the used and useful percentage of the plant. This would directly increase the amount
14 of plant included in rate base. This, in turn, would increase the revenues granted by
15 the Commission in this rate proceeding. By overstating the amount of plant that is
16 used and useful, the Commission would increase rates excessively to customers. The
17 difference between correctly calculating used and useful, i.e., annual average daily
18 flow to annual average daily flow, and incorrectly calculating used and useful, i.e.,
19 peak month flow to annual average daily flow, would increase the used and useful
20 percentage from 75% to 94%.

21

1 **Q. IF THE COMMISSION FOUND THAT IT WAS MORE APPROPRIATE TO**
2 **USE THE PEAK MONTH FLOW IN THE NUMERATOR OF THE USED**
3 **AND USEFUL CALCULATION, WHAT SHOULD BE USED IN THE**
4 **DENOMINATOR OF THE CALCULATION?**

5 **A.** If the Commission found that the peak month flow was more appropriate in the
6 numerator of the calculation, then it should likewise use the peak month design
7 capacity of the plant in the denominator. Clearly, the peak month design capacity of
8 the plant is higher than the annual average daily flow design capacity of the plant. By
9 using the same "yard stick" in the numerator and denominator, the Commission could
10 calculate a consistent used and useful calculation. As testified to by Mr. Bidy, using
11 annual average daily flow in both the numerator and denominator, or using peak
12 month flows in both the numerator and denominator would produce similar used and
13 useful percentages. However, it is not appropriate or logical to mix the units of
14 measure used in the numerator and denominator.

15
16 **Q. DOES THIS COMPLETE YOUR TESTIMONY PREFILED ON OCTOBER**
17 **13, 1998?**

18 **A.** Yes, it does.
19

APPENDIX
OF
KIMBERLY H. DISMUKES

1 **APPENDIX I**

2 **QUALIFICATIONS**

3

4 **Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?**

5 A. I graduated from Florida State University with a Bachelor of Science degree in
6 Finance in March, 1979. I received an M.B.A. degree with a specialization in Finance
7 from Florida State University in April, 1984.

8

9 **Q. WOULD YOU PLEASE DESCRIBE YOUR EMPLOYMENT HISTORY IN
10 THE FIELD OF PUBLIC UTILITY REGULATION?**

11 A. In March of 1979 I joined Ben Johnson Associates, Inc., a consulting firm specializing
12 in the field of public utility regulation. While at Ben Johnson Associates, I held the
13 following positions: Research Analyst from March 1979 until May 1980; Senior
14 Research Analyst from June 1980 until May 1981; Research Consultant from June
15 1981 until May 1983; Senior Research Consultant from June 1983 until May 1985;
16 and Vice President from June 1985 until April 1992. In May 1992, I joined the
17 Florida Public Counsel's Office, as a Legislative Analyst III. In July 1994 I was
18 promoted to a Senior Legislative Analyst. In July 1995 I started my own consulting
19 practice in the field of public utility regulation.

20

21 **Q. WOULD YOU PLEASE DESCRIBE THE TYPES OF WORK THAT YOU**

1 **HAVE PERFORMED IN THE FIELD OF PUBLIC UTILITY REGULATION?**

2 A. Yes. My duties have ranged from analyzing specific issues in a rate proceeding to
3 managing the work effort of a large staff in rate proceedings. I have prepared
4 testimony, interrogatories and production of documents, assisted with the preparation
5 of cross-examination, and assisted counsel with the preparation of briefs. Since 1979,
6 I have been actively involved in more than 170 regulatory proceedings throughout the
7 United States.

8 I have analyzed cost of capital and rate of return issues, revenue requirement
9 issues, public policy issues, market restructuring issues, and rate design issues,
10 involving telephone, electric, gas, water and wastewater, and railroad companies.

11 In the area of cost of capital, I have analyzed the following parent companies:
12 American Electric Power Company, American Telephone and Telegraph Company,
13 American Water Works, Inc., Ameritech, Inc., CMS Energy, Inc., Columbia Gas
14 System, Inc., Continental Telecom, Inc., GTE Corporation, Northeast Utilities,
15 Pacific Telecom, Inc., Southwestern Bell Corporation, United Telecom, Inc., and U.S.
16 West. I have also analyzed individual companies like Connecticut Natural Gas
17 Corporation, Duke Power Company, Idaho Power Company, Kentucky Utilities
18 Company, Southern New England Telephone Company, and Washington Water
19 Power Company.

20
21 **Q. HAVE YOU PREVIOUSLY ASSISTED IN THE PREPARATION OF**

1 **TESTIMONY CONCERNING REVENUE REQUIREMENTS?**

2 A. Yes. I have assisted on numerous occasions in the preparation of testimony on a wide
3 range of subjects related to the determination of utilities' revenue requirements and
4 related issues.

5 I have assisted in the preparation of testimony and exhibits concerning the
6 following issues: abandoned project costs, accounting adjustments, affiliate
7 transactions, allowance for funds used during construction, attrition, cash flow
8 analysis, conservation expenses and cost-effectiveness, construction monitoring,
9 construction work in progress, contingent capacity sales, cost allocations, decoupling
10 revenues from profits, cross-subsidization, demand-side management, depreciation
11 methods, divestiture, excess capacity, feasibility studies, financial integrity, financial
12 planning, gains on sales, incentive regulation, infiltration and inflow, jurisdictional
13 allocations, non-utility investments, fuel projections, margin reserve, mergers and
14 acquisitions, pro forma adjustments, projected test years, prudence, tax effects of
15 interest, working capital, off-system sales, reserve margin, royalty fees, separations,
16 settlements, used and useful, weather normalization, and resource planning.

17 Companies that I have analyzed include: Alascom, Inc. (Alaska), Arizona
18 Public Service Company, Arvig Telephone Company, AT&T Communications of the
19 Southwest (Texas), Blue Earth Valley Telephone Company (Minnesota), Bridgewater
20 Telephone Company (Minnesota), Carolina Power and Light Company, Central
21 Maine Power Company, Central Power and Light Company (Texas), Central

1 Telephone Company (Missouri and Nevada), Consumers Power Company
2 (Michigan), C&P Telephone Company of Virginia, Continental Telephone Company
3 (Nevada), C&P Telephone of West Virginia, Connecticut Light and Power Company,
4 Danube Telephone Company (Minnesota), Duke Power Company, East Otter Tail
5 Telephone Company (Minnesota), Easton Telephone Company (Minnesota), Eckles
6 Telephone Company (Minnesota), El Paso Electric Company (Texas), Florida Cities
7 Water Company (North Fort Myers, South Fort Myers and Barefoot Bay Divisions),
8 General Telephone Company of Florida, Georgia Power Company, Jasmine Lakes
9 Utilities, Inc. (Florida), Kentucky Power Company, Kentucky Utilities Company,
10 KMP Telephone Company (Minnesota), Idaho Power Company, Oklahoma Gas and
11 Electric Company (Arkansas), Kansas Gas & Electric Company (Missouri), Kansas
12 Power and Light Company (Missouri), Lehigh Utilities, Inc. (Florida), Mad Hatter
13 Utilities, Inc. (Florida), Mankato Citizens Telephone Company (Minnesota), Michigan
14 Bell Telephone Company, Mid-Communications Telephone Company (Minnesota),
15 Mid-State Telephone Company (Minnesota), Mountain States Telephone and
16 Telegraph Company (Arizona and Utah), North Fort Myers Utilities, Inc.,
17 Northwestern Bell Telephone Company (Minnesota), Potomac Electric Power
18 Company, Public Service Company of Colorado, Puget Sound Power & Light
19 Company (Washington), Sanlando Utilities Corporation (Florida), Sierra Pacific
20 Power Company (Nevada), South Central Bell Telephone Company (Kentucky),
21 Southern Union Gas Company (Texas), Southern Bell Telephone & Telegraph

1 Company (Florida, Georgia, and North Carolina), Southern States Utilities, Inc.
2 (Florida), Southern Union Gas Company (Texas), Southwestern Bell Telephone
3 Company (Oklahoma, Missouri, and Texas), St. George Island Utility, Ltd., Tampa
4 Electric Company, Texas-New Mexico Power Company, Tucson Electric Power
5 Company, Twin Valley-Ulen Telephone Company (Minnesota), United Telephone
6 Company of Florida, Virginia Electric and Power Company, Washington Water
7 Power Company, and Wisconsin Electric Power Company.

8

9 **Q. WHAT EXPERIENCE DO YOU HAVE IN RATE DESIGN ISSUES?**

10 A. My work in this area has primarily focused on issues related to costing. For example,
11 I have assisted in the preparation of class cost-of-service studies concerning Arkansas
12 Energy Resources, Cascade Natural Gas Corporation, El Paso Electric Company,
13 Potomac Electric Power Company, Texas-New Mexico Power Company, and
14 Southern Union Gas Company. I have also examined the issue of avoided costs, both
15 as it applies to electric utilities and as it applies to telephone utilities. I have also
16 evaluated the issue of service availability fees, reuse rates, capacity charges, and
17 conservation rates as they apply to water and wastewater utilities.

18 **Q. HAVE YOU TESTIFIED BEFORE REGULATORY AGENCIES?**

19 A. Yes. I have testified before the Arizona Corporation Commission, the Connecticut
20 Department of Public Utility Control, the Florida Public Service Commission, the
21 Georgia Public Service Commission, Louisiana Public Service Commission, the

1 Missouri Public Service Commission, the Public Utility Commission of Texas, and the
2 Washington Utilities and Transportation Commission. My testimony dealt with
3 revenue requirement, financial, policy, rate design, and cost study issues concerning
4 AT&T Communications of Southwest (Texas), Cascade Natural Gas Corporation
5 (Washington), Central Power and Light Company (Texas), Connecticut Light and
6 Power Company, El Paso Electric Company (Texas), Florida Cities Water Company,
7 Kansas Gas & Electric Company (Missouri), Kansas Power and Light Company
8 (Missouri), Houston Lighting & Power Company (Texas), Lake Arrowhead Village,
9 Inc. (Florida), Lehigh Utilities, Inc. (Florida) Jasmine Lakes Utilities Corporation
10 (Florida), Mad Hatter Utilities, Inc. (Florida), Marco Island Utilities, Inc. (Florida),
11 Mountain States Telephone and Telegraph Company (Arizona), North Fort Myers
12 Utilities, Inc. (Florida), Southern Bell Telephone and Telegraph Company (Florida,
13 Louisiana and Georgia), Southern States Utilities, Inc. (Florida), St. George Island
14 Utilities Company, Ltd. (Florida), Puget Sound Power & Light Company
15 (Washington), and Texas Utilities Electric Company.

16 I have also testified before the Public Utility Regulation Board of El Paso,
17 concerning the development of class cost-of-service studies and the recovery and
18 allocation of the corporate overhead costs of Southern Union Gas Company and
19 before the National Association of Securities Dealers concerning the market value of
20 utility bonds purchased in the wholesale market.

21

1 Q. HAVE YOU BEEN ACCEPTED AS AN EXPERT IN THESE
2 JURISDICTIONS?

3 A. Yes.

4
5 Q. HAVE YOU PUBLISHED ANY ARTICLES IN THE FIELD OF PUBLIC
6 UTILITY REGULATION?

7 A. Yes, I have published two articles: "Affiliate Transactions: What the Rules Don't
8 Say", Public Utilities Fortnightly, August 1, 1994 and "Electric M&A: A Regulator's
9 Guide" Public Utilities Fortnightly, January 1, 1996.

10

11 Q. DO YOU BELONG TO ANY PROFESSIONAL ORGANIZATIONS?

12 A. Yes. I am a member of the Eastern Finance Association, the Financial Management
13 Association, the Southern Finance Association, the Southwestern Finance
14 Association, and the Florida and American Water Association.

15

16

17

18

CERTIFICATE OF SERVICE
DOCKET NO. 950387-SU

I certify that a true copy of the foregoing REMAND TESTIMONY OF KIMBERLY H. DISMUKES was served by United States Mail, or where the party is denoted by an asterisk (*) by hand delivery upon representatives of the following parties on this the 13th day of October, 1998.

Kenneth Gatlin, Esquire
3301 Thomasville Road, #300
Tallahassee, Florida 32312

Cheryl Walla
1750 Dockway Drive
North Fort Myers, Florida 33903

Jerilyn Victor
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Harold McLean
Associate Public Counsel