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DATE: JANUARY 7, 1999

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

FROM: DIVISION OF WATER AND WASTEWATER (CASEY, EDWARDS, GILCHRIST, LINGO) *Casey* *Edwards* *Gilchrist* *Lingo*
DIVISION OF LEGAL SERVICES (REYES) *Reyes*

RE: DOCKET NO. 980726-WU - APPLICATION FOR STAFF-ASSISTED RATE CASE BY DIXIE GROVES ESTATES, INC.
COUNTY: PASCO

AGENDA: 01/19/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION EXCEPT ISSUES NOS. 14, 15, 16, AND 17 - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: 15-MONTH EFFECTIVE DATE: 11/08/99 (SARC)

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\WAW\WP\980726.RCM

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CASE BACKGROUND

Dixie Groves Estates, Inc. (Dixie Groves or utility), came under jurisdiction of this Commission on July 11, 1972, by resolution of the Pasco County Commission. The utility is a Class C utility providing water service to approximately 337 customers in Pasco County. By Order No. 6417, issued December 19, 1974, the Commission ordered the utility to install meters at its own cost within 90 days, for all customers not receiving metered service. The same Order also established metered rates for the utility. By Order No. 7268, issued June 10, 1976, the Commission established rate base, revenues, expenses, and cost of capital, after all meters were installed.

On November 13, 1980, the utility submitted an application for a staff assisted rate case. The Commission found Dixie Groves eligible for staff assistance and assigned Docket No. 800712-WU for the case. Order No. 10535, issued January 20, 1982, established rate base for Dixie Groves, and approved an annual revenue increase of \$312. The utility also received price index adjustments in 1983, 1985, and 1996, along with one pass-through price adjustment in 1996.

On June 9, 1998, the utility submitted an application for this staff assisted rate case. The cover letter submitted with the application requested emergency interim rates within the scope of the utility's staff assisted rate case. After a review of the utility's annual reports and other data provided by the utility, staff filed a recommendation on July 23, 1998 recommending denial of emergency interim rates. By Order No. PSC-98-1106-FOF-WU, issued August 19, 1998, the Commission denied the utility's request for emergency interim rates. The official filing date for this rate case has been established as August 8, 1998.

In preparation for this recommendation, staff audited the utility's records for compliance with Commission rules and orders and examined all components necessary for rate setting. The staff engineer has also conducted a field investigation, which included a visual inspection of the water plant and water distribution facilities along with the service area. The utility's operating expenses, maps, files and rate application were also reviewed to determine reasonableness of maintenance expenses, regulatory compliance, utility plant in service, and quality of service. Staff selected an historical test year ending June 30, 1998.

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Based on the staff analysis, the utility's test year revenue is \$34,032, and test year operating expenses are \$58,877. This results in an operating loss of \$24,845 for the test year.

A customer meeting was conducted at 6:00 pm on December 2, 1998 at the New Port Richey City Hall. Approximately 12 customers, 2 utility employees, and the utility operator attended the meeting. Five customers chose to give comments regarding the utility's quality of service, the proposed rate increase, and other issues related to the case. Quality of Service and Customer Service issues are discussed in Issue No. 1.

DISCUSSION OF ISSUES

ISSUE 1: Is the quality of service provided by Dixie Groves Estates, Inc. considered satisfactory?

RECOMMENDATION: Yes. The overall quality of service provided by Dixie Groves Estates, Inc. should be considered satisfactory. The utility should initiate an office procedure that would expedite response time to customer complaints and phone calls. This program should be developed within nine months of a Commission order and a copy sent to the Commission. (EDWARDS)

STAFF ANALYSIS: Staff's recommendation on the overall quality of service provided by the utility is derived from the evaluation of three separate components of water utility operations:

- (1) Quality of the utility's product,
- (2) Operational condition of the utility's plant or facilities
- (3) Customer satisfaction

Quality of Utility's Product

In order to assess the overall quality of service provided by the utility, the quality of the product must be evaluated. This evaluation consists of a review of the utility's current compliance with Department of Environmental Protection (DEP) and Health Department standards.

The ultimate concern of a water utility is the quality of piped water consumed by customers. The degree to which a utility is able to maintain satisfactory water quality may be reflected by its ability to meet DEP primary and secondary drinking water standards, as well as several unregulated standards set by the Environmental Protection Agency (EPA).

The primary drinking water standards include maximum contaminant levels (MCLs) for harmful contaminants. These MCLs are not to be exceeded, unless specified otherwise by a DEP variance or exemption. Some examples of primary contaminants are arsenic, lead, trihalomethanes, coliform bacteria and radium. Secondary drinking water standards generally contain MCLs which regulate the aesthetic qualities of the water, such as color, corrosivity, odor and hardness. Additionally, each utility must periodically test for several unregulated contaminants, which the EPA considers

A review of the DEP 1997 records has revealed that the status of the water treatment plant and distribution system is not in compliance, but not critical. A DEP inspection was conducted in 1997 and deficiencies were discovered. The deficiencies (sequential water tests were not conducted properly, paperwork was not submitted in a timely manner, and other deficiencies) did not merit closing down the operation of the plant. The engineer also checked with the Florida Public Service Commission's (PSC) Division of Consumer Affairs for any registered complaints and found that no complaints have been received.

Customer Satisfaction

The final component of the overall quality of service which must be assessed is the level of customer satisfaction which results from the utility's relations with its customers. A qualitative evaluation of these relations includes a review of proper notification requirements between the utility and its customers as well as a review of action taken by the utility regarding customer complaints. For example, utility policies are reviewed in order to insure that customers have been properly notified of scheduled service interruptions. A customer meeting was held on December 2, 1998 in New Port Richey, Florida and, out of the twelve customers that attended the customer meeting, only five customers were interested in speaking and only two customers expressed a negative appraisal concerning quality of the finished product. Ms. David and Mr. Lambropoulos expressed concerns regarding utility owners not responding to customer phone calls, dark water, pressure and odor. However, other customers, like Mr. Cassini, stated he was very satisfied with the water quality and the cost. However, he would like to see plant improvements. At the time of the engineering investigation, staff did not smell any abnormal odors or abnormal water color in the plant's finished product.

On December 3, 1998, a staff engineer performed an on site investigation at the residences of Ms. David and Mr. Lambropoulos, and found no evidence of abnormal water quality. At the time of the investigation, the water treatment plant and distribution system appeared to be operating properly.

As a result of the concerns expressed by the customers, staff recommends that Dixie Groves be required to initiate an office procedure that would expedite responses to customer complaints and phone calls. This program should be developed within three months of a Commission order and a copy of it sent to the Commission.

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Staff further recommends the quality of service provided by be
Dixie Groves be considered satisfactory.

ISSUE 2: What percentage of the utility's water treatment plant and distribution system is used and useful?

RECOMMENDATION: The system is built out. Therefore, both the water treatment plant and the water distribution system should be considered 100% used and useful. The plant's records show fifty percent (50%) of the pumped raw water is unaccounted for. Staff recommends that revenues be imputed for all water pumped, allowing a 10% unaccounted for water percentage. The utility should also be required to initiate a meter replacement program and a gate valve replacement program. (EDWARDS)

STAFF ANALYSIS: The utility's Monthly Operation Reports (MORs) for the test year were utilized to calculate the used and useful percentages. In addition, a review of the utility's records, (annual reports) which displayed the amount of water treated (by the plant) compared to the amount of water purchased (by the customers) and the quantity of the water released during the initiation of the line flushing program, revealed that fifty percent (50%) of the total water pumped was unaccounted for. Dixie Groves believes the unaccounted for water may be the result of old defective meters. The utility has taken steps (by employing the Florida Rural Water Association to preform leak testing) to try to resolve this situation.

The utility's meters are old and measurement accuracies are in question; most of the customer meters in service need to be replaced. This utility is in the process of replacing its older meters and anticipates that this program will continue until all connections have new or rebuilt meters in place. Staff has included the cost for a meter replacement program in this recommendation. Staff's recommendation will allow the utility to replace 100 known defective meters immediately, and initiate an annual meter replacement program of twelve meters.

In addition, the distribution system is more than 23 years old. There are some components that are in need of being replaced, and the utility is in the process of initiating a gate valve replacement program. The staff engineer concludes that because the average service life of the gate valves is twenty years, all of the gate valves should be replaced as soon as possible. Therefore, staff has included \$1,144 in contractual services - other, to allow the utility to replace approximately six gate valves per year over a five year period.

The utility's service area is built out, and all of the service lines have been installed. In conclusion, staff recommends

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that both the water treatment plant (Attachment A), and the water distribution system (Attachment B) should be considered 100% used and useful. Because this facility has fifty percent (50%) of its raw pumped water unaccounted for, staff recommends that revenues be imputed for all water pumped, allowing a 10% unaccounted for water percentage. The utility should also be required to initiate a meter replacement program and a gate valve replacement program.

ISSUE 3: What is the appropriate average amount of test year rate base?

RECOMMENDATION: The appropriate average amount of test year rate base for Dixie Groves Estates, Inc. should be \$35,805. The utility should replace 100 customer water meters which are registering zero usage each month, within six months of the effective date of the Commission order. (CASEY, EDWARDS)

STAFF ANALYSIS: The appropriate components of Dixie Groves' rate base include depreciable plant in service, land, contributions in aid of construction (CIAC), accumulated depreciation, accumulated amortization of CIAC, and working capital allowance. Utility plant, land, depreciation, and CIAC balances were last determined as of September 30, 1980 in the utility's last staff assisted rate case by Order No. 10535, issued January 20, 1982. Staff used the amounts set forth in that Order as a base for rate base components updated in this recommendation. Further adjustments are necessary to reflect test year changes. A discussion of each component follows.

Depreciable Plant in Service: The utility recorded utility plant in service balances of \$57,725 at the end of the test year. Staff calculated utility plant by starting with Order No. 10535, which established utility plant of \$53,190 as of September 30, 1980, made an adjustment of \$11,047 to include plant additions and retirements through the test year, and reclassified \$5,925 of utility plant from operation and maintenance expenses. An investigation revealed that approximately 100 existing customer meters have a zero meter reading each month. The manufacturer's recommended life of a 5/8" x 3/4" meter is 17 years which is above normal for meters exposed to Florida waters, and the majority of meters for this utility have exceeded their useful life. Therefore, staff is recommending a meter replacement program which will replace 100 meters within six months of the effective date of the Commission order, and start an annual replacement program which is addressed in Issue No. 6 of this recommendation. An adjustment of \$6,750 was made to include pro forma plant which consists of replacing 100 meters. Staff made an adjustment of (\$3,174) to retire the original cost of 100 meters which are being replaced as pro forma. An averaging adjustment of (\$3,294) was also made to plant. Total adjustments amount to \$17,254, which results in staff's recommended test year utility plant in service of \$74,979.

Land: The utility recorded a land value of \$211 for the test year. Order No. 10535, issued January 20, 1982, included a land value of

\$1,211 for the utility. No utility land has been sold since land value was established in Order No. 10535. Staff made an adjustment of \$1,000 to utility books land cost to staff's recommended amount of \$1,211.

Non-Used and Useful Plant: As discussed in Issue No. 2 of this recommendation, all distribution and collection system accounts should be considered 100% used and useful.

Contributions in Aid of Construction: The utility recorded a CIAC balance of (\$663) at the end of the test year. By Order No. 10535, the Commission established CIAC of (\$9,680). In June, 1998, the utility added \$663 in this account for the cost of a new line connection. Staff made an adjustment of (\$9,680) to bring CIAC to staff's recommended amount. An averaging adjustment of \$332 was also made. Staff recommends test year CIAC of (\$10,011).

Accumulated Depreciation: The utility books reflected an accumulated depreciation balance of (\$48,730) at the end of the test year. Staff calculated accumulated depreciation starting with balances from Order No. 10535 and used the depreciation rates set forth in that Order to calculate depreciation up to the test year. Staff calculated test year depreciation expense using the rates prescribed in Rule 25-30.140, Florida Administrative Code. Staff made an adjustment of (\$1,100) to bring the utility's figure to staff's calculated amount, made an adjustment of \$3,174 to reflect the retirement of 100 meters, and made an adjustment of (\$198) to reflect depreciation expense on proforma meters. An averaging adjustment of \$1,694 was also made. Staff recommends test year accumulated depreciation of (\$45,160).

Accumulated Amortization: The utility did not record an accumulated amortization balance at the end of the test year. Staff calculated amortization of CIAC by starting with balances from Order No. 10535, and amortized CIAC by using a yearly composite rate. Staff made an adjustment of \$8,597 to reflect test year accumulated amortization of CIAC. An averaging adjustment of (\$235) brings the total recommended accumulated amortization balance to \$8,362.

Working Capital Allowance: Consistent with Rule 25-30.443, Florida Administrative Code, staff recommends that the one-eighth of operation and maintenance expense formula approach be used for calculating working capital allowance. Applying that formula, staff recommends a working capital allowance of \$6,424 (based on O&M of \$51,393).

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Rate Base Summary: Based on the foregoing, the appropriate balance of Dixie Groves' test year rate base should be \$35,805. Rate base is shown on Schedule No. 1, and adjustments are shown on Schedule No. 1A.

ISSUE 4: What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility?

RECOMMENDATION: The appropriate rate of return on equity should be 9.85% with a range of 8.85% - 10.85% and the appropriate overall rate of return should be 9.64%. (CASEY)

STAFF ANALYSIS: Based on the staff audit, the utility's capital structure consists of a \$9,378 note at a cost of 8.00%, a \$12,636 note at a cost of 12.50%, a \$2,677 note at a cost of 8.00%, customer deposits of \$1,406 at a cost of 6.00%, and negative common equity of \$17,807. The debts are notes to the utility from the stockholders. Based on the staff audit, there are no executed debt instruments, and no payments are being made on the interest or principal of the loans. Since the utility has no debt instruments and no payments are being made on the principal or interest, staff has assigned the cost of debt based on the cost of equity as done in previous SARCs (Docket Nos. 890792-WS, 930656-WU, 950966-WS). Using the current leverage formula approved under Docket No. 980006-WS, Order No. PSC-98-0903-FOF-WS, issued July 6, 1998, the rate of return on common equity should be 9.85% with a range of 8.85% - 10.85%. Since including a negative common equity would penalize the utility's capital structure by understating the overall rate of return, staff has adjusted the negative common equity to zero.

Applying the weighted average method to the total capital structure yields an overall rate of return of 9.64%. The company's test year capital structure balance has been adjusted to match the total of the water rate base.

The Dixie Groves return on equity and overall rate of return are shown on Schedule No. 2.

ISSUE 5: What is the appropriate test year operating revenue?

RECOMMENDATION: The appropriate test year operating revenue should be \$34,032. (CASEY)

STAFF ANALYSIS: The utility recorded revenues of \$27,159 during the test period. An engineering investigation of the amount of water pumped (23,436,000 gallons) versus the amount of water sold (12,275,000 gallons) during the test year yields an unaccounted-for water percentage of 47.62%. The utility believes the unaccounted-for water is due to inaccurate customer water meters. As mentioned in Issue No. 3, approximately 100 customer meters have a zero meter reading each month. An investigation by the Florida Rural Water Association did not reveal any leaks which would explain the large amount of unaccounted-for water, which supports the utility's belief that it is due to inaccurate customer water meters. The utility was initially providing unmetered water service. By Order No. 7268, issued June 10, 1976, the Commission ordered the utility to meter all connections. Meter installation was completed and the first meter reading was completed April 1, 1975, over 23 years ago. The manufacturer's recommended life of a 5/8" x 3/4" meter is 17 years which is above normal for meters exposed to Florida waters.

Staff is recommending and including an allowance for a meter replacement program which includes pro forma replacement of 100 meters within six months of the effective date of the Commission Order (Issue No. 3), along with an annual replacement program thereafter (Issue No.6). Staff believes that once the meters are replaced, an acceptable unaccounted-for water amount (10% or less) will result. In order to prevent the utility from experiencing an overearnings situation once new meters are installed, and to encourage the rapid replacement of inaccurate meters, staff is recommending that test year revenue be based on the amount of water pumped (allowing a 10% unaccounted-for water percentage). Staff is recommending imputing \$6,873 in revenue, resulting in test year revenue of \$34,032. The Dixie Groves test year revenue is shown on Schedule No. 3.

ISSUE 6: What is the appropriate amount of operating expense?

RECOMMENDATION: The appropriate amount of operating expense should be \$60,478. (CASEY, EDWARDS)

STAFF ANALYSIS: The utility recorded operating expenses of \$61,607 for the test year. The components of these expenses include operation and maintenance expenses, depreciation expense (net of related amortization of CIAC), and taxes other than income taxes. The utility's test year operating expenses have been reviewed and invoices and other supporting documentation have been examined. Adjustments have been made to reflect unrecorded test year expenses and to reflect recommended allowances for plant operations.

Operation and Maintenance Expenses (O & M): The utility charged \$56,547 to O & M expenses during the test year. A summary of adjustments that were made to the utility's recorded expenses follows:

(615)Purchased Power - The utility recorded a purchased power expense of \$1,824 for the test year. Staff made an adjustment of (\$132) to allow for repression. This is addressed in Issue No. 9. Staff recommends a test year purchased power expense of \$1,642.

(618)Chemicals - The utility recorded a chemical expense of \$3,278 during the test year. Staff made an adjustment of (\$328) to allow for repression. Staff recommends test year chemical expense of \$2,950.

(635)Contractual Services - Testing - The utility recorded water testing expenses of \$6,146 for the test year. Staff annualized the testing costs based on the required testing frequency. Staff made an adjustment of (\$853) to reflect the annualized water testing cost for the test year. The required tests and frequency at which those test must be repeated are:

Required Water Testing

<u>Test</u>	<u>Frequency</u>	<u>Annualized Cost</u>
Coliforms	Monthly	\$ 624
TDS	Monthly	\$ 312
So4	Monthly	\$ 480
Micro Particles	Annually	\$ 68
Lead	Semi-Annually	\$ 1,142

Required Water Testing(cont'd)

<u>Test</u>	<u>Frequency</u>	<u>Annualized Cost</u>
Copper	Semi-Annually	\$ 1,142
Sulfate	Every 3 years	\$ 20
Primary Inorganics	Every 3 years	\$ 90
Secondary Inorganics	Every 3 years	\$ 90
Pesticides	Every 3 years	\$ 350
VOC's	Every 3 years	\$ 97
Gross Alpha	Every 3 years	\$ 50
Group II's	Every 3 years	\$ 83
T. Hard	Every 3 years	\$ 17
Alk	4 times per year	\$ 208
Calcium	4 times per year	\$ 208
	Annual Cost	<u>\$ 5,293</u>

Staff recommends contractual services - testing expense of \$5,293 for the test year.

Contractual Services - Other - The utility recorded a contractual services - other amount of \$20,897 for the test year. Staff made adjustments to this account to remove \$290 out of test year expenses, to reclassify \$5,925 of utility plant to rate base, to include \$1,144 for a valve replacement program (6 per year for five years), to include \$1,644 for a meter changeout program (12 per year), to disallow \$506 of cost of meter services which is covered under an employees job description, and to disallow \$108 of cost for locating lines which should have been done by the utility. Total adjustments amount to (\$4,041) which result in staff's recommended contractual services-other amount of \$16,856.

Regulatory Commission Expense - The utility recorded no regulatory commission expense for test year. Staff made an adjustment of \$250 to include the SARC filing fee (\$1,000) amortized over four years as required by Section 367.0816, Florida Statutes. Staff recommends a regulatory commission expense of \$250.

Operation and Maintenance Expenses (O & M) Summary: Total operation and maintenance adjustments are (\$5,154). Staff recommends operation and maintenance expenses of \$51,393. Operation and maintenance expenses are shown in Schedule No. 3B.

Depreciation Expense (Net of Amortization of CIAC): The utility recorded \$1,073 of depreciation expense on its books for the test year. Staff calculated test year depreciation expense using the rates prescribed in Rule 25-30.140, Florida Administrative Code. Staff made a \$2,315 adjustment to depreciation expense to bring the utility balance to staff's recommended amount, made a \$397 adjustment to include depreciation on pro forma meters, made a (\$187) adjustment to reflect depreciation expense on the retired meters, and made a CIAC amortization adjustment of (\$439). Total adjustments amount to \$2,086. Staff recommends depreciation expense net of CIAC of \$3,159 for the test year.

Taxes Other Than Income Taxes: The utility recorded taxes other than income of \$3,987 for the test year. Staff made adjustments to increase regulatory assessment fees by \$661 to reflect regulatory assessment fees on staff's recommended test year revenue, and to remove a \$67 late filing fee on ad valorem taxes. Staff recommends test year taxes other than income of \$4,581.

Operating Revenues: Revenues have been adjusted by \$29,898 to reflect the increase in revenue required to cover expenses and allow the recommended rate of return on investment.

Taxes Other Than Income Taxes: This expense has been increased by \$1,345 to reflect the regulatory assessment fee of 4.5% on staff's recommended increase in revenue.

Operating Expenses Summary: The application of staff's recommended adjustments to the utility's test year operating expenses results in staff's recommended operating expenses of \$60,478.

Operating expenses are shown on Schedules Nos. 3. Adjustments are shown on Schedule No. 3A.

ISSUE 7: What is the appropriate revenue requirement?

RECOMMENDATION: The appropriate revenue requirement should be \$63,930. (CASEY)

STAFF ANALYSIS: The utility should be allowed an annual increase in revenue of \$29,898 (87.85%). This will allow the utility the opportunity to recover its expenses and earn the recommended 9.64% return on its investment. The calculations are as follows:

	<u>Water</u>
Adjusted Rate Base	\$ 35,805
Rate of Return	<u>x .0964</u>
Return on Investment	\$ 3,452
Adjusted Operation Expenses	51,393
Depreciation Expense (Net)	3,159
Taxes Other Than Income Taxes	<u>5,926</u>
Revenue Requirement	<u>\$ 63,930</u>
Annual Revenue Increase	\$ 29,898
Percentage Increase/(Decrease)	<u>87.85%</u>

Since the utility's last rate case was over 18 years ago, staff completed an analysis to determine what the rates would have increased if the utility took advantage of the Commission price index on an annual basis. If the utility applied for, and received, an annual price index each year since its last rate case, its rates would have increased 101.69%, based on operation and maintenance expenses allowed in Order No. 10535.

The revenue requirement and resulting annual increase are shown on Schedules Nos. 3.

ISSUE 8: What is the appropriate conservation rate structure for this utility?

RECOMMENDATION: The appropriate conservation rate structure for this utility is a continuation of the current base facility and gallonage charge rate structure. (GILCHRIST)

STAFF ANALYSIS: Dixie Groves is located in a water use caution area (WUCA). The Southwest Florida Water Management District (SWFWMD) declared Pasco County a WUCA in 1989. Dixie Groves has implemented a conservation program that has been approved by the SWFWMD. On November 10, 1998, staff received a copy of the utility's Water Conservation Plan. Specifically, in the areas of unaccounted-for-water losses and public education, the utility is doing the following to achieve its conservation goals:

Unaccounted-for-water

- (1) Replace and repair meters on a regular basis.
- (2) Locate and repair leaks in the distribution system.
- (3) Maintain, repair and replace water system components on a regular basis.
- (4) Maintain records and procedures for identifying needed repairs, the cost, and subsequent implementation.
- (5) Meter all existing and future water customers for billing purposes.
- (6) Charge rates based upon the cost of providing service and request rate adjustments from the Public Service Commission to ensure that water revenues are sufficient to finance future expansions, repair and replacement. Calculate and report the gross per-capita water usage.

Public Education

- (1) Mail water conservation pamphlets to its customers.
- (2) Encourage customers to view video tapes on water conservation that are available at the Pasco County Public Library.

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The utility's current rate structure consists of a base facility and gallonage charge rate structure which applies to both the residential and general service customers. Under the current rate structure, the total average consumption per bill is 5,213 gallons which is below the 10,000 gallon threshold that determines whether a more aggressive conservation-oriented rate structure is appropriate.

Based on the above, staff is recommending that the base facility and gallonage charge rate structure be continued for this utility.

ISSUE 9: Is repression of consumption likely to occur, and, if so, what is the appropriate consumption adjustment?

RECOMMENDATION: Yes, repression of consumption is likely to occur. The appropriate consumption adjustment is a reduction of 2,109,200 gallons for the water system. In order to monitor the effects of the rate increase on consumption, the utility should be ordered to file, on a quarterly basis, reports detailing the number of bills rendered, the number of gallons sold and the total revenues billed during the quarter. These reports should be required for a period of two years, beginning the first quarter after the revised rates go into effect. (LINGO)

STAFF ANALYSIS: This case represents only the fifth instance in which Staff has contemplated making a repression adjustment to billed consumption. Therefore, in order to present a thorough analysis, a discussion of the merits of repression adjustments in general is warranted, as well as a discussion of Staff's recommended adjustment.

General Discussion Regarding Repression and Price Elasticity

The term "price elasticity" refers to the relationship between water use and water price. Price elasticity measures the percentage change in the quantity demanded resulting from a one percent change in price, all other factors held constant. For example, if a water price increase of one percent leads to a 0.2 percent reduction in water use, price elasticity would be -0.2. (In other words, there is an inverse relationship between price and the quantity demanded -- this is the first law of demand). The term "repression" refers to the expected reduction in quantity demanded resulting from an increase in price.

Consider the following example:

Assume: A 10% increase in price
Price elasticity = -0.3
Then: Resulting price = 110%
Reduction in demand = 3% (10% x -0.3)
Resulting demand = 97%
Resulting revenue increase = 6.7%
(110% price x 97% demand)

The above example illustrates that ignoring price elasticity in rate design analysis creates the potential for both revenue instability and revenue shortfalls. Furthermore, if rate structure

is substantially modified or if a large rate increase is implemented, revenue shortfalls can be especially problematic.

The approximate preliminary increase in an average customer bill in this case, before any adjustment for repression, was 90%. The magnitude of the water system rate increase leads us to believe that it is appropriate to consider making a repression adjustment in this proceeding.

Staff's Recommended Repression Adjustment

In an attempt to quantify the relationship between revenue increases and consumption impacts, Staff has created a database of all water utilities that were granted rate increases or decreases (excluding indexes and pass-throughs) between January 1, 1990 and December 31, 1995 (including those that were granted concomitant wastewater rate increases). This database contains utility-specific information from the applicable orders, tariff pages and the utilities' annual reports for the years 1989 - 1995. A summary of the contents of the database is listed below:

Data Obtained from:

Orders

1. The dollar amount of the revenue requirement increase for the water system (and for the wastewater system, if applicable).
2. The utility's rate structure(s) and rates before and after the rate proceeding.

Annual Reports

1. The number of water gallons sold for the years 1989 - 1995.
2. The number of year-end water system meter equivalents for the years 1989 - 1995.

Tariff Pages

1. The effective date of the revised rates.

Resulting Calculations:

1. The revenue requirement percentage increase (decrease) for the water system (and for the wastewater system, if applicable).
2. The annual dollar amount of the water system revenue requirement increase (decrease) per meter equivalent (and for the wastewater system, if applicable).
3. The average monthly water consumption per meter equivalent for the years 1989 - 1995.

4. The percentage change in the average monthly water consumption per meter equivalent from the prior year for the years 1990 - 1995.
5. The average monthly water bill for both the year prior to and the year subsequent to the rate change. The average monthly bills are based on the average monthly consumption per meter equivalent in the year prior to the rate change.

Several utilities were excluded from the analysis, typically due to the lack (or unreliability) of consumption data. Data from the remaining 67 utilities forms the basis for our analysis.

Our analysis in this case was performed using two different bases of comparison. The first basis of comparison used Dixie Groves' preliminary increase in an average bill (before any repression adjustment) of 90%. This preliminary increase was compared to other utilities in the database which, as in Dixie Groves' case, underwent no change in the BFC/gallonge charge water system rate structure. We isolated seven utilities in the database which had experienced similar percentage increases in average monthly bills. The reductions in average monthly consumption per mete. equivalent (ME) for these seven isolated utilities were 25%, 23%, 19%, 9%, 5%, 4% and 3%. We analyzed further the seven utilities, comparing their prior average bills and average consumption per ME to Dixie Groves. This analysis eliminated the utilities which had experienced reductions in average consumption of 19%, 9%, 4% and 3%.

We do not believe that the consumption reductions of the remaining three utilities of 25%, 23% and 5%, respectively, provide us with clear guidance with regards to our recommended consumption reduction for Dixie Groves. Although we believe it is better to err on the side of caution, we believe that recommending a 5% reduction in consumption is too conservative in this case. A summary analysis of our database reveals that, on an overall basis, utilities which experienced increases to the water system only (as in Dixie Groves' case) with no change in the BFC/gallonge charge rate structure averaged an approximate 37% increase in customers' average bills, and exhibited a corresponding overall consumption reduction of approximately 7%. As mentioned previously, the increase in Dixie Groves' average bill, before any adjustment for repression, was 90%. We do not believe it is reasonable to recommend a consumption reduction of 5% in this case when the magnitude of the increase in Dixie Groves' average bill is more than double the average of similar utilities in the database. Nor do we believe, however, that recommending a 23% - 25% consumption

reduction is appropriate. The utilities in the database that exhibited the 23% and 25% consumption reductions received concomitant wastewater increases, which, we believe, further incited their customers to reduce consumption.

Because this analysis does not provide clear guidance with respect to Dixie Groves' estimated consumption reduction, we believe the following method would represent the upper limit of Dixie Groves' potential consumption reduction:

Dixie Groves' preliminary increase	90%
/ Overall average of water-only increases	37%
= Magnitude of Dixie Groves' increase compared to overall average	2.4
x Average consumption reduction associated with water-only increases	6.97%
= Estimate of upper limit of Dixie Groves' consumption reduction	16.81%

The second basis of comparison used Dixie Groves' annual revenue requirement increase for the water system, which was \$90/ME. Staff isolated eight utilities which experienced similar revenue requirement increases; utilities were then eliminated from our analysis using the same bases of comparison as in the preceding analysis. There were three remaining utilities -- two utilities exhibited reductions in average monthly consumption per ME of 7% and 5%, while one utility experienced an increase in consumption of 5%. The utility with a 5% increase in average consumption appears to be anomalous, as the other two utilities exhibited fairly significant consumption reductions of 5% and 7%. For the same reasons as in the first analysis, we do not believe that, based on the magnitude of the increase in this case, it is reasonable to recommend an adjustment to reduce consumption by 5% - 7%.

Based on our analyses, Dixie Groves' anticipated consumption reduction ranges from a low of 5% - 7% to a high of 17%. Therefore, although arguably subjective, we believe that, based on our analysis, 10% is an appropriate, conservative estimate of the anticipated reduction in consumption.

As discussed above, this case represents only the fifth instance in which Staff recommends that a regression adjustment be made, and, as such, we have no established, previously-approved methodology to calculate an appropriate adjustment. Until we do have approved methodologies in place, we believe it is appropriate to err on the side of caution when considering the magnitude of our recommended adjustments. Therefore, Staff recommends that the

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appropriate consumption adjustment is a reduction of 2,109,200 gallons for the water system. In addition, in order to monitor the effects of the rate increase on consumption, the utility should be ordered to file, on a quarterly basis, reports detailing the number of bills rendered, the number of gallons sold and the total revenues billed during the quarter. These reports should be required for a period of two years, beginning the first quarter after the revised rates go into effect.

ISSUE 10: What are the recommended rates for this utility?

RECOMMENDATION: The recommended rates should be as shown in the staff analysis. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates should not be implemented until proper notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice. (CASEY)

STAFF ANALYSIS: Approximately 57% (or \$36,265) of the revenue requirement is associated with the fixed costs of providing service. Fixed costs are recovered through the base facility charge based on an annualized number of factored Equivalent Residential Connections (ERC's). The remaining 43% (or \$27,665) of the revenue requirement represents the consumption charge based on the estimated number of gallons consumed during the test period. Schedules of the utility's existing rates and staff's preliminary rates are as follows:

RESIDENTIAL AND GENERAL SERVICE WATER RATES

<u>Base Facility Charge</u>	<u>Existing Monthly Rate</u>	<u>Recommended Monthly Rate</u>
<u>Meter Size</u>		
5/8" x 3/4"	\$ 3.98	\$ 8.96
3/4"	N/A	13.44
1"	9.95	22.41
1-1/2"	N/A	44.82
2"	N/A	71.71
3"	N/A	143.41
4"	N/A	224.08
6"	N/A	448.16
<u>Gallonage Charge</u>		
Per 1,000 gallons	\$.85	\$ 1.46

Using the 337 test year residential water customers with an average use of 5,213 gallons/month per customer, an average residential MONTHLY water bill comparison would be as follows:

	Average	Average	
	<u>MONTHLY</u> Bill	<u>MONTHLY</u> Bill	
	Using	Using	
	Existing	Recommended	Percent
	<u>Rates</u>	<u>Rates</u>	<u>Increase</u>
Base Facility Charge	\$ 3.98	\$ 8.96	
Gallorage Charge	<u>4.43</u>	<u>7.61</u>	
Total	\$ 8.41	\$ 16.57	97.03%*

*7.59% of the increase is for repression.

The rates should be effective for service rendered as of the stamped approval date on the tariff sheets provided the customers have received notice pursuant to Rule 25-30.475(1), Florida Administrative Code. The tariff sheets should be approved upon staff's verification that the tariffs are consistent with the Commission's decision, and that the customer notice is adequate. The utility should provide proof of the date notice was given within 10 days after the date of the notice.

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

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

ISSUE 11: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

RECOMMENDATION: The rates should be reduced as shown on Schedule No. 4 to remove rate case expense grossed-up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file revised tariff sheets and a proposed customer notice setting forth the lower rates and the reason for the reduction not later than one month prior to the actual date of the required rate reduction.
(CASEY)

STAFF ANALYSIS: Section 367.0816, Florida Statutes, requires that the rates be reduced immediately following the expiration of the four year period by the amount of the rate case expense previously included in the rates. The reduction will reflect the removal of revenues associated with the amortization of rate case expense and the gross-up for regulatory assessment fees which is \$262 annually. The reduction in revenues will result in the rate reduction recommended by staff on Schedule No. 4.

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

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

ISSUE 12: What should be the appropriate amount of customer deposits, should the utility be required to pay interest on customer deposits collected since 1993, and should customers who have established a satisfactory payment record, and have had continuous service for a period of 23 months, have their deposit refunded?

RECOMMENDATION: The appropriate amount of customer deposits should be \$33.00. The utility should file revised tariff sheets which are consistent with the Commission's vote. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. Once revised tariff sheets are filed and approved, the customer deposits should become effective for connections made on or after the stamped approval rate of the revised tariff sheets, if no protest is filed. The utility should be ordered to pay interest on all customer deposits, including those collected since 1993, as required by Rule 25-30.311, Florida Administrative Code. Past due monies should include interest calculated in accordance with Rule 25-30.311(4), Florida Administrative Code. The utility should refund deposits of all customers who have established a satisfactory payment record and have had continuous service for a period of 23 months pursuant to Rule 25-30.311, Florida Administrative Code. Past due interest should be paid and eligible deposits should be refunded within 90 days of the effective date of the Commission order. (CASEY)

STAFF ANALYSIS: Customer Deposits - The utility's tariff presently provides for a customer deposit of \$10.00, or an amount to cover minimum charges for service for three billing periods. This tariff became effective over 23 years ago (June 24, 1975), and staff believes the customer deposit amounts should be updated. Rule 25-30.311(1), Florida Administrative Code, states "Each utility may require an applicant for service to satisfactorily establish credit, but such establishment of credit shall not relieve the customer from complying with utilities' rules for prompt payment of bills." Rule 25-30.311(7), Florida Administrative Code, states:

A utility may require, upon reasonable written notice of not less than 30 days, such request or notice being separate and apart from any bill for service, a new deposit, where previously waived or returned, or an additional deposit, in order to secure payment of current bills; provided, however, that the total amount of the required deposit shall not exceed an amount equal to the average actual charge for water and/or wastewater service for two

billing periods for the 12 month period immediately prior to the date of notice. In the event the customer has had service less than 12 months, then the utility shall base its new or additional deposit upon the average monthly billing available.

Staff believes the utility's existing amounts for customer deposits should be updated to an amount equal to the average charge for water service for two billing periods. Staff's preliminary recommendation is to approve customer deposits of \$33.00 for water service. The utility should file revised tariff sheets which are consistent with the Commission's vote. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. Once revised tariff sheets are filed and approved, the customer deposits should become effective for connections made on or after the stamped approval rate of the revised tariff sheets, if no protest is filed.

Interest on Customer Deposits - The utility started collecting customer deposits in May, 1993. It was discovered during the audit that the utility has not paid any interest on the customer deposits it has received. Rule 25-30.311(4)(a), Florida Administrative Code, states:

Each public utility which requires deposits to be made by its customers shall pay a minimum interest on such deposits of 6 percent per annum. The utility shall pay an interest rate of 7 percent per annum on deposits of nonresidential customers qualifying under subsection (5) below when the utility elects not to refund such a deposit after 23 months.

The utility books showed customer deposits of \$1,406 for the test year. Staff's preliminary recommendation is that the utility be ordered to pay interest on all customer deposits, including those collected since 1993, as required by Rule 25-30.311, Florida Administrative Code. Past due monies should include interest calculated in accordance with Rule 25-30.311, Florida Administrative Code, and be paid within 90 days of the effective date of the Commission order. Further discussion of interest on customer deposits is included in Issue No. 16 of this recommendation.

Refund of Customer Deposits - 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 and shall, at its option, either refund or pay the higher rate of interest specified above for nonresidential deposits, providing the customer has not, in the preceding 12 months, (a) made more than one late payment of a bill (after the expiration of 20 days from the date of mailing or delivery by the utility), (b) paid with check refused by a bank, (c) been disconnected for nonpayment, or at any time, (d) tampered with the meter, or (e) used service in a fraudulent or unauthorized manner. Nothing in this rule shall prohibit the company from refunding at any time a deposit with any accrued interest.

The staff audit showed a total of nine customers who may be eligible to have their deposits refunded. Prior to the utility change in ownership in January, 1997, all customer deposits were being held in an attorney trust fund. The utility should investigate and determine if these nine customers with deposits being held over 23 months have established a satisfactory payment record as described above. If so, the utility should refund those customer deposits to those customers within 90 days of the effective date of the Commission order.

ISSUE 13: What should the appropriate miscellaneous service charges be for Dixie Groves?

RECOMMENDATION: The appropriate miscellaneous service charges should be those recommended in the staff analysis. The utility should file revised tariff sheets which are consistent with the Commission's vote. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the miscellaneous service charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed. (CASEY)

STAFF ANALYSIS: The utility's existing tariff currently provides for miscellaneous service charges which include a reconnect fee of \$10.00 if performed during regular business hours, and a reconnect fee of \$15.00 if performed after regular business hours. Staff believes the miscellaneous service charges should be updated and recommends that the following charges be authorized:

	Existing Normal Hours	Existing After Hours	Recommended (All Hours)
Initial Connection	N/A	N/A	\$15.00
Normal Reconnection	\$10.00	\$15.00	\$15.00
Violation Reconnection	\$10.00	\$15.00	\$15.00
Premises Visit (in lieu of disconnection)	N/A	N/A	\$10.00

The four types of miscellaneous service charges are:

- 1) **Initial Connection:** This charge is to be levied for service initiation at a location where service did not exist previously.
- 2) **Normal Reconnection:** This charge is to be levied for transfer of service to a new customer account at a previously served location, or reconnection of

service subsequent to a customer requested disconnection.

- 3) Violation Reconnection: This charge is to be levied prior to reconnection of an existing customer after disconnection of service for cause according to Rule 25-30.320(2), Florida Administrative Code, including a delinquency in bill payment.
- 4) Premises Visit (in lieu of disconnection): This charge is to be levied when a service representative visits a premises for the purpose of discontinuing service for nonpayment of a due and collectible bill, but does not discontinue service because the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill.

These charges are designed to more accurately reflect the costs associated with each service and to place the burden of payment on the person who causes the cost to be incurred (the "cost causer"), rather than on the entire ratepaying body as a whole.

Therefore, staff recommends that the utility's tariff be revised to incorporate the charges discussed above. The utility should file revised tariff sheets which are consistent with the Commission's vote. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. Once revised tariff sheets are filed and approved, the miscellaneous service charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed.

ISSUE 14: Should the recommended rates be approved for the utility on a temporary basis in the event of a protest filed by a party other than the utility?

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

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

The utility should be authorized to collect the temporary rates upon the staff's approval of security for both the potential refund and a copy of the proposed customer notice. The security should be in the form of a bond or letter of credit in the amount of \$20,637. Alternatively, the utility could establish an escrow agreement with an independent financial institution.

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

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

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

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

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

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

In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the utility. Irrespective of the form of security chosen by the utility, an account of all monies received as result of the rate increase should be maintained by the utility. This account should specify by whom and on whose behalf such monies were paid. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code.

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

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should indicate the amount of revenue collected under the increased rates.

ISSUE 15: Should Dixie Groves Estates, Inc. be ordered to show cause within 21 days why it should not be fined in an amount up to \$5,000 for each apparent violation of Rule 25-30.110(1)(a), Florida Administrative Code, for failure to preserve its records in accordance with the "Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities" as issued by the National Association of Regulatory Utility Commissioners (NARUC), and for failure to notify the Commission of the destruction of utility records within 90 days?

RECOMMENDATION: No, a show cause proceeding should not be initiated. However, the utility should be placed on notice that if it fails to preserve its records in the future or fails to report any other premature destruction of records in accordance with the "Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities" as issued by the National Association of Regulatory Utility Commissioners (NARUC), as revised May 1985, a future show cause proceeding may be initiated. (REYES, CASEY)

STAFF ANALYSIS: Rule 25-30.110(1)(a), Florida Administrative Code, provides that "[e]ach utility shall preserve its records in accordance with the "Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities" as issued by the National Association of Regulatory Utility Commissioners (NARUC), as revised May 1985".

The NARUC Regulations to Govern the Preservation of Records General Instructions state,

The public utility or licensee shall provide reasonable protection for records subject to the regulations in this part from damages by fires, floods, and other hazards and, in the selection of storage spaces, safeguard the records from unnecessary exposure to deterioration from excessive humidity, dryness, or lack of proper ventilation.

The NARUC Regulations to Govern the Preservation of Records General Instructions further state,

When any records are destroyed before the expiration of the prescribed period of retention, a certified statement listing, as far as may be determined, the records destroyed and describing the circumstances of accidental or other premature destruction shall be filed with the Commission

within ninety days from the date of discovery of such destruction. Discovery of loss of records is to be treated in the same manner as in the case of premature destruction.

During the staff audit, the utility was requested to provide invoices and supporting documentation for all plant additions and retirements to utility plant in service from January 1, 1981 through June 30, 1998. However, the utility was unable to provide invoices or other supporting documentation to substantiate \$12,496 of plant additions recorded on its books from January 1, 1987 to December 31, 1994. The utility previously had stored these records in a pump house, and in 1990, the gas chlorination equipment malfunctioned and destroyed everything in the pump house, including the motor, pump, electrical wiring, and boxes of records. The records were obliterated once they came into contact with the gas chlorine.

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 Commission rule, order, or provision of Chapter 367, Florida Statutes. 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 preserve its records and the utility's failure to notify the Commission of the destruction of utility records within ninety days 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.

Failure of a utility to preserve its records in accordance with the "Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities" as issued by the National Association of Regulatory Utility Commissioners (NARUC), and failure to notify the Commission of the destruction of utility records within ninety days is an apparent violation of Rule 25-30.110(1)(a), Florida Administrative Code. However, staff does not

believe that the utility's apparent violation of Rule 25-30.110(1)(a), Florida Administrative Code, rises to the level of warranting that a show cause proceeding be initiated because the destruction of the utility's records was the result of an accident and staff was subsequently able to physically verify utility plant and the appropriate costs associated with that plant. Furthermore, the utility's records are now being kept at the office of the secretary/treasurer of the utility, who is a certified public accountant. Therefore, it appears that the utility has taken the appropriate steps to ensure that its books and records are preserved and maintained in the future.

In addition, the destruction of the records has now been brought to the Commission's attention, albeit not within ninety days, and the utility is now cognizant of its affirmative obligation to report any future loss or destruction of records. Accordingly, staff recommends that the Commission should not initiate a show cause proceeding. However, the utility should be placed on notice that if it fails to preserve its records in the future or fails to report any other premature destruction of records in accordance with the "Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities" as issued by the National Association of Regulatory Utility Commissioners (NARUC), as revised May 1985," a future show cause proceeding may be initiated.

ISSUE 1. Should Dixie Groves Estates, Inc. be ordered to show cause within 21 days why it should not be fined in an amount up to \$5,000 for each apparent violation of Rule 25-30.311(4)(a), Florida Administrative Code, for failure to pay interest on customer deposits?

RECOMMENDATION: No, a show cause proceeding should not be initiated. (REYES, CASEY)

STAFF ANALYSIS: As previously discussed, the utility started collecting customer deposits in May, 1993, and it was discovered during the audit that the utility has not paid interest on the customer deposits it has received. Rule 25-30.311(4)(a), Florida Administrative Code, states:

Each public utility which requires deposits to be made by its customers shall pay a minimum interest on such deposits of 6 percent per annum. The utility shall pay an interest rate of 7 percent per annum on deposits of nonresidential customers qualifying under subsection (5) below when the utility elects not to refund such a deposit after 23 months.

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 Commission rule, order, or provision of Chapter 367, Florida Statutes. 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 pay interest on customer deposits, 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.

Failure to pay interest on customer deposits is an apparent violation of Rule 25-30.311(4)(a), Florida Administrative Code.

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However, staff believes that a show cause proceeding should not be initiated at this time. The utility books show customer deposits of \$1,406 for the test year. Interest on these deposits would amount to approximately \$84 on an annual basis. Staff believes that an immediate payment of the past due interest to each customer is the most appropriate method to remedy this apparent violation now because it assures that the customers will receive the money to which they are entitled. In Issue 12, staff's recommendation is that the Commission should order the utility to pay all monies due customers, plus interest, calculated in accordance with Rule 25-30.311, Florida Administrative Code. Staff believes that ordering the payment of these past due monies, instead of initiating a show cause proceeding, is in the best interests of the customers of the utility at this point in time. Accordingly, staff recommends that the Commission decline to initiate a show cause proceeding.

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ISSUE 17: Should this docket be closed?

RECOMMENDATION: This docket should be closed if no person whose interests are substantially affected by the proposed action files a protest within the 21-day protest period. (CASEY, REYES)

STAFF ANALYSIS: At the conclusion of the protest period, if no timely protest is filed by a substantially affected party, this docket should be closed.

DIXIE GROVES ESTATES, INC.
 SCHEDULE OF WATER RATE BASE
 TEST YEAR ENDING JUNE 30, 1998

SCHEDULE NO. 1
 DOCKET NO. 980726-WU

	<u>TEST YEAR PER UTILITY</u>	<u>STAFF ADJUST. TO UTIL. BAL.</u>	<u>BALANCE PER STAFF</u>
UTILITY PLANT IN SERVICE	\$ 57,725	\$ 17,254 A	\$ 74,979
LAND/NON-DEPRECIABLE ASSETS	211	1,000 B	1,211
NON USED AND USEFUL PLANT	0	0	0
CIAC	(663)	(9,348) C	(10,011)
ACCUMULATED DEPRECIATION	(48,730)	3,570 D	(45,160)
AMORTIZATION OF CIAC	0	8,362 E	8,362
WORKING CAPITAL ALLOWANCE	0	6,424 F	6,424
WATER RATE BASE	\$ 8,543	\$ 27,262	\$ 35,805

DIXIE GROVES ESTATES, INC.
 ADJUSTMENTS TO RATE BASE
 TEST YEAR ENDING JUNE 30, 1998

SCHEDULE NO. 1A
 DOCKET NO. 980726-WU

A. <u>UTILITY PLANT IN SERVICE</u>	WATER
1. To adjust utility plant to staff's recommended balance.	\$ 11,047
2. To reclassify utility plant from O & M expenses.	5,925
3. To include 100 pro forma meters.	6,750
4. To retire 100 meters.	(3,174)
5. To reflect an averaging adjustment.	(3,294)
	<u>\$ 17,254</u>
B. <u>LAND</u>	
1. To reflect original cost of land.	<u>\$ 1,000</u>
C. <u>CONTRIBUTIONS IN AID OF CONSTRUCTION</u>	
1. To adjust CIAC to staff recommended amount.	\$ (9,680)
2. To reflect an averaging adjustment.	332
	<u>\$ (9,348)</u>
D. <u>ACCUMULATED DEPRECIATION</u>	
1. To reflect staff calculated accumulated depreciation.	\$ (1,100)
2. To reflect the retirement of 100 meters	3,174
3. To reflect depreciation on pro forma meters.	(198)
4. To reflect averaging adjustment.	1,694
	<u>\$ 3,570</u>
E. <u>AMORTIZATION OF CIAC</u>	
1. To reflect staff calculated amortization of CIAC.	\$ 8,597
2. To reflect averaging adjustment.	(235)
	<u>\$ 8,362</u>
F. <u>WORKING CAPITAL ALLOWANCE</u>	
1. To reflect 1/8 of operation and maintenance expenses.	<u>\$ 6,424</u>

DIXIE GROVES ESTATES, INC.
 SCHEDULE OF CAPITAL STRUCTURE
 TEST YEAR ENDING JUNE 30, 1998

SCHEDULE NO. 2
 DOCKET NO. 980726-WU

	PER UTILITY	SPECIFIC ADJUSTMENTS	BALANCE BEFORE PRO RATA ADJUSTMENTS	PRO RATA ADJUSTMENTS	BALANCE PER STAFF	PERCENT OF TOTAL	COST	WEIGHTED COST
LONG-TERM DEBT	\$ 9,378	\$ 0	\$ 9,378	\$ 3,489	\$ 12,867	35.94%	9.85%	3.54%
LONG-TERM DEBT	\$ 12,636	\$ 0	\$ 12,636	\$ 4,701	\$ 17,337	48.42%	9.85%	4.77%
LONG-TERM DEBT	\$ 2,677	\$ 0	\$ 2,677	\$ 996	\$ 3,673	10.26%	9.85%	1.01%
COMMON EQUITY	\$ (17,807)	\$ 17,807	\$ 0	\$ 0	\$ 0	0.00%	9.85%	0.00%
CUSTOMER DEPOSITS	\$ 1,406	\$ 0	\$ 1,406	\$ 523	\$ 1,929	5.39%	6.00%	0.32%
TOTAL	\$ 8,290	\$ 17,807	\$ 26,097	\$ 9,708	\$ 35,805	100.00%		9.64%

RANGE OF REASONABLENESS

LOW HIGH

RETURN ON EQUITY 8.85% 10.85%

OVERALL RATE OF RETURN 9.64% 9.64%

DIXIE GROVES ESTATES, INC.
 SCHEDULE OF WATER OPERATING INCOME
 TEST YEAR ENDING JUNE 30, 1998

SCHEDULE NO. 3
 DOCKET NO. 980728-WU

	<u>TEST YEAR PER UTILITY</u>	<u>STAFF ADJ. TO UTILITY</u>	<u>STAFF ADJUSTED TEST YEAR</u>	<u>ADJUST. FOR INCREASE</u>	<u>TOTAL PER STAFF</u>
OPERATING REVENUES	\$ 27,159	\$ 6,873 A	\$ 34,032	\$ 29,898 E	\$ 63,930
				87.85%	
OPERATING EXPENSES:					
OPERATION AND MAINTENANC	\$ 56,547	\$ (5,154) B	\$ 51,393	\$ 0	\$ 51,393
DEPRECIATION (NET)	1,073	2,086 C	3,159	0	3,159
AMORTIZATION	0	0	0	0	0
TAXES OTHER THAN INCOME	3,987	594 D	4,581	1,345 F	5,926
INCOME TAXES	0	0	0	0	0
TOTAL OPERATING EXPENSES	\$ 61,607	\$ (2,474)	\$ 59,133	\$ 1,345	\$ 60,478
OPERATING INCOME/(LOSS)	\$ (34,448)		\$ (25,101)		\$ 3,453
WATER RATE BASE	\$ 8,543		\$ 35,805		\$ 35,805
RATE OF RETURN	<u>-403.23%</u>		<u>-70.10%</u>		<u>9.64%</u>

DIXIE GROVES ESTATES, INC.
ADJUSTMENTS TO OPERATING INCOME
TEST YEAR ENDING JUNE 30, 1998

SCHEDULE NO. 3A
DOCKET NO. 980726-WU

A. OPERATING REVENUES	WATER
1. To impute revenue for water pumped, but not billed.	\$ 6,873
B. OPERATION AND MAINTENANCE EXPENSES	
1. (615) Purchased Power	
a. To adjust purchased power for repression.	\$ (182)
2. (618) Chemicals	
a. To adjust chemical expense for repression.	\$ (328)
3. (635) Contractual Services - Testing	
a. To annualize DEP required water testing costs.	\$ (853)
4. (636) Contractual Services - Other	
a. To remove out of test year expenses.	\$ (290)
b. To capitalize expensed utility plant.	(5,925)
c. To include valve replacement program.	1,144
d. To include meter change-out program.	1,644
e. To disallow invoice for meter turnoffs.	(506)
f. To disallow expenses for locating lines	(108)
	\$ (4,041)
5. (665) Regulatory Commission Expenses	
a. To reflect \$1,000 rate case filing fee amortized over 4 years.	\$ 250
	TOTAL O & M ADJUSTMENTS
	\$ (5,154)
C. DEPRECIATION AND AMORTIZATION EXPENSE	
1. To reflect staff's calculated test year depreciation expense net of non-used and useful depreciation expense.	\$ 2,315
2. To reflect depreciation expense on pro forma meters.	397
3. To reflect depreciation expense on retired meters	(187)
4. To reflect staff's calculated test year amortization expense.	(439)
	\$ 2,086
D. TAXES OTHER THAN INCOME	
1. To reflect regulatory assessment fees on staff's recommended test year revenue.	\$ 661
2. To remove late filing penalty fee.	(67)
	\$ 594
E. OPERATING REVENUES	
1. To reflect increase in revenue required to cover expenses and allow recommended rate of return.	\$ 29,696
F. TAXES OTHER THAN INCOME	
1. To reflect regulatory assessment fee at 4.5% on increase in revenue.	\$ 1,345

DIXIE GROVES ESTATES, INC.
 ANALYSIS OF WATER OPERATION AND
 MAINTENANCE EXPENSE
 TEST YEAR ENDING JUNE 30, 1998

SCHEDULE NO. 3B
 DOCKET NO. 980726-WU

	TOTAL PER UTIL.	STAFF ADJUST.	TOTAL PER STAFF
(601) SALARIES AND WAGES - EMPLOYEES	\$ 14,400	\$ 0	\$ 14,400
(603) SALARIES AND WAGES - OFFICERS	1,200	0	1,200
(604) EMPLOYEE PENSIONS AND BENEFITS	2,340	0	2,340
(610) PURCHASED WATER	0	0	0
(615) PURCHASED POWER	1,824	(182)[1]	1,642
(616) FUEL FOR POWER PRODUCTION	0	0	0
(618) CHEMICALS	3,278	(328)[2]	2,950
(620) MATERIALS AND SUPPLIES	1,319	0	1,319
(630) CONTRACTUAL SERVICES - BILLING	0	0	0
(631) CONTRACTUAL SERVICES - PROFESSIONAL	2,250	0	2,250
(635) CONTRACTUAL SERVICES - TESTING	6,146	(853)[3]	5,293
(638) CONTRACTUAL SERVICES - OTHER	20,887	(4,041)[4]	16,846
(640) RENTS	600	0	600
(650) TRANSPORTATION EXPENSE	0	0	0
(655) INSURANCE EXPENSE	1,031	0	1,031
(665) REGULATORY COMMISSION EXPENSE	0	250 [5]	250
(670) BAD DEBT EXPENSE	130	0	130
(675) MISCELLANEOUS EXPENSES	1,132	0	1,132
	\$ 56,547	\$ (5,154)	\$ 51,393

DIXIE GROVES ESTATES, INC.
 SCHEDULE OF RATE CASE EXPENSE RATE
 REDUCTION AFTER FOUR YEARS
 TEST YEAR ENDING JUNE 30, 1998

SCHEDULE NO. 4
 DOCKET NO. 980726-WU

MONTHLY RATES

<u>RESIDENTIAL AND GENERAL SERVICE</u>	<u>RECOMMENDED RATES</u>	<u>RATE DECREASE</u>
BASE FACILITY CHARGE:		
Meter Size:		
5/8" x 3/4"	\$ 8.96	\$ 0.02
3/4"	13.44	0.03
1"	22.41	0.05
1-1/2"	44.82	0.09
2"	71.71	0.15
3"	143.41	0.29
4"	224.08	0.46
6"	448.16	0.92
RESIDENTIAL GALLONAGE CHARGE PER 1,000 GALLONS	\$ 1.46	\$ 0.00

WATER TREATMENT PLANT

Attachment A
USED AND USEFUL DATA

Docket No. 980726-WU Utility DIXIE GROVES ESTATES, INC. Date SEPT. 1998

- 1) Capacity of Plant 80,000 gallons per day
- 2) Maximum Daily Flow 130,000 gallons per day
- 3) Average Daily Flow 69,125 gallons per day
- 4) Fire Flow Capacity N/A gallons per day
 - a) Needed Fire Flow N/A gallons per day
- 5) Margin Reserve -0- gallons per day
Not to exceed 20% of present customers
 - a) Test Year Customers in ERC's - Begin 336 End 336.5 Av. 336
 - b) Customer Growth Using Regression Analysis in ERC's for Most Recent 5 Years Including Test Year ** 6.6 ERC's
 - c) Construction Time for Additional Capacity 1.5 Years
- (b) $x \odot x \left[\frac{2}{(a)} \right] = \underline{N/A}$ gallons per day Margin Reserve
- 6) Excessive Unaccounted for Water 27,311 gallons per day
 - a) Total Amount 34,351 gallons per day % of Av. Daily Flow
 - b) Reasonable Amount 8,003 gallons per day 10 % of Av. Daily Flow
 - c) Excessive Amount 27,311 gallons per day 40 % of Av. Daily Flow

PERCENT USED AND USEFUL FORMULA

$$\left[\frac{(2 + 5) + 4a - 6}{1} \right] = \underline{*** 100} \% \text{ Used and Useful}$$

- * This is the SWWMD permitted capacity and not DEP's.
- ** The utility's records show 22 new connections were added in one year, after more than twenty years of zero growth. In addition, the records indicate no growth since the year the 22 new connections were added.
- *** Because the service area is builtout the used and useful is 100%

Gerald Edwards Engineer

WATER DISTRIBUTION SYSTEM

Attachment B
USED AND USEFUL DATA

Docket No. 980726-WU Utility DIXIE GROVES ESTATES INC. Date SEPT. 1998

- 1) Capacity 336 ERC's (Number of potential customers without expansion)
- 2) Number of TEST YEAR Connections 336 ERC's day
- a) Begin Test Year 336 ERC's
- b) End Test Year 336.5 ERC's
- c) Average Test Year 336 ERC's
- 3) Margin Reserve 0 ERC's
*Not to exceed 20% of present customers
- a) Customer Growth Using Regression Analysis in ERC's for Most Recent 5 Years Including Test Year 6.6 ERC's
- c) Construction Time for Additional Capacity 0 Years
- (a) x (b) = 0 ERC's Margin Reserve

PERCENT USED AND USEFUL FORMULA

$$\frac{(2 + 3)}{1} = \underline{100} \% \text{ Used and Useful}$$

The utility's records show 22 new connections were added in one year, after more than twenty years of zero growth. In addition, the records indicate no growth since the year the 22 new connections were added.

Gerald Edwards Engineer