

State of Florida



Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

DATE: AUGUST 26, 1999

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

FROM: DIVISION OF WATER AND WASTEWATER (MONIZ, WADDEN, AUSTIN)
DIVISION OF LEGAL SERVICES (BRUBAKER)

RE: DOCKET NO. 971065-SU - APPLICATION FOR RATE INCREASE IN
PINELLAS COUNTY BY MID-COUNTY SERVICES, INC.
COUNTY: PINELLAS

AGENDA: 09/07/99 - REGULAR AGENDA - POST HEARING DECISION -
PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: 8-MONTH EFFECTIVE DATE: WAIVED 9/30/99

SPECIAL INSTRUCTIONS: NONE

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CASE BACKGROUND

Mid-County Services, Inc. (Mid-County or utility), a wholly-owned subsidiary of Utilities, Inc. (UI), of Northbrook, Illinois, is a Class B utility, located in Pinellas County, Florida. Mid-County provides wastewater service to customers located in Dunedin, Florida. The utility is located in a region which has been designated by the South Florida Water Management District (SFWMD) as a critical use area. As of December 31, 1996, the utility served approximately 1,327 residential customers, 108 general service, 69 multi-family dwellings and 3 flat rate customers. Water service and billing is provided by Pinellas County.

On September 4, 1997, the utility filed the instant application for approval of interim and permanent rate increases pursuant to Sections 367.081 and 367.082, Florida Statutes, and requested that the Commission process this case under the proposed agency action (PAA) procedure. However, the information submitted did not satisfy the minimum filing requirements (MFRs) for a general rate increase. Subsequently, on October 14, 1997, the utility satisfied the MFRs and this date was designated as the official filing date. The test year for interim and final purposes is the historical twelve-month period ended December 31, 1996. The current rate case is driven by increased expenses.

Mid-County requested interim wastewater rates designed to generate annual operating revenues of \$1,219,230. Those revenues exceeded test year revenues by \$305,637 or 33.45 percent. By Order No. PSC-97-1608-PCO-SU, issued December 22, 1997, the Commission approved annual operating revenues of \$1,177,602 on an interim basis, subject to refund. These revenues exceed test year revenues by \$264,009 or 28.90 percent. By PAA Order No. PSC-98-0524-FOF-SU, issued April 16, 1998, the Commission proposed wastewater rates for this utility. Specifically, the Commission proposed a \$989,757 wastewater revenue requirement for Mid-County, which represents an annual increase in revenue of \$76,164 or 8.34 percent.

On May 7, 1998, Mid County timely filed a petition protesting PAA Order No. PSC-98-0524-FOF-SU. On June 12, 1998, the Office of Public Counsel (OPC) filed a notice of intervention in this matter, which was acknowledged by Order No. PSC-98-0834-PCO-SU, issued June 24, 1998. The Prehearing Conference was held on June 4, 1999. The

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technical and customer hearings were held on June 21, 1999 at the Dunedin City Hall, Dunedin, Florida.

Approved Stipulations

The Commission found that the following stipulations reached by the parties were reasonable and accepted the stipulated matters set forth below.

1. The appropriate meter equivalency factors to be used for determining rates are the hydraulic factors in the Clow pipe economy usage scale, with the understanding that this stipulation is to the rate structure aspect of these meter equivalency factors rather than to the proper allocation methodology for common costs.

2. Pursuant to Section 120.80 (13)(b), Florida Statutes, all portions of the PAA Order in this case which were not protested were deemed stipulated.

Abbreviations and Technical Terms

The following is a list of acronyms and technical terms which have been used in the recommendation.

COMPANY AND PARTY NAMES

| | |
|-----|----------------------------|
| UIF | Utilities Inc. Of Florida |
| UI | Utilities Inc. |
| WSC | Water Services Corporation |
| OPC | Office of Public Counsel |

TECHNICAL TERMS

| | |
|-------|--|
| AADF | Annual Average Daily Flow |
| AFPI | Allowance for Funds Prudently Invested |
| AFUDC | Allowance for Funds Used During Construction |
| AWWA | American Water Works Association |
| BFC | Base Facility Charge |
| CIAC | Contributions in Aid of Construction |
| CWIP | Construction Work in Progress |
| DEP | Department of Environmental Protection |
| ERCs | Equivalent Residential Connections |
| FAC | Florida Administrative Code |
| GPD | Gallons per Day |
| MFRs | Minimum Filing Requirements |
| MGD | Million Gallons per Day |

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|-------|--|
| MMADF | Maximum Month Average Daily Flow |
| NARUC | National Association of Regulatory Utility Commissioners |
| SFWM | South Florida Water Management District |
| UPI | Utility Plant In Service |
| USOA | Uniform System of Accounts |
| WWTP | Wastewater Treatment Plant |

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DISCUSSION OF ISSUES

LEGAL ISSUES

Three legal issues were raised during the June 4, 1999 Prehearing Conference and set forth in Prehearing Order No. PSC-99-1203-PHO-SU, issued June 15, 1999. Order No. PSC-99-1203-PHO-SU required the parties to file with the Commission, by June 16, 1999, briefs providing analysis on Issues A, B and C, and what effect, if any, those issues have upon Issues 5, 6, 9 and 10. The issues were discussed at the June 21, 1999 hearing in Dunedin, Florida, and the Commission panel made its ruling with respect to those issues at that time. Because the rulings were made at hearing, the discussion on these items is set forth below for informational purposes, and no further action is required at this time with respect to these items.

ISSUE A: What issues are considered to be "in dispute" for the purpose of Section 120.80(13)(b), Florida Statutes?

Section 120.80(13)(b), Florida Statutes provides that "notwithstanding ss. 120.569 and 120.57, a hearing on an objection to proposed action of the Florida Public Service Commission may only address the issues in dispute. Issues in the proposed action which are not in dispute are deemed stipulated".

By a majority vote, the Commission panel ruled at hearing that the issues in dispute for the purposes of Section 120.80(13)(b), Florida Statutes, were those timely raised in the utility's protest, and that Issues 5, 6, 9 and 10 should not be addressed at hearing. Commissioner Deason dissented from the majority vote, stating that he believed that the statutory phrase "in dispute" does not equate to a protest.

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ISSUE B: Does the Commission have the legal authority to take evidence on a protested issue, when the PAA granted the utility all the revenue it sought on that issue?

Legal Issues B and C were raised in connection with the utility's protest of the revenue requirement associated with construction work in progress (CWIP) granted in PAA Order No. PSC-98-0524-FOF-SU. The parties positions and staff's recommendation with respect to CWIP is discussed in greater detail in Issues 1 and 1A of this recommendation.

By a unanimous vote, the Commission panel ruled that the Commission does have the legal authority to take evidence on the protested issue.

ISSUE C: Should the Commission take evidence on a protested issue, when the PAA granted the utility all the revenue it sought on that issue?

As discussed previously, Issue C was raised with respect to the utility's protest of the revenue requirement associated with CWIP, which is discussed in greater detail in Issue 1 and 1A of this recommendation.

By a unanimous vote, the Commission panel ruled at the June 21, 1999 hearing that the Commission should take evidence on the protested issue, noting however that the Commission was not thereby bound in any way to take the particular action urged by the utility with respect to Issues 1 and 1A.

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RATE BASE

ISSUE 1: How should construction work in progress (CWIP) be treated?

RECOMMENDATION: Rate base should include \$189,138 of CWIP related to the US-19, Curlew Road and Belcher main relocation. The \$106,433 related to the seven other CWIP projects should not be included in test year rate base. Corresponding adjustments should be made to increase accumulated depreciation by \$1,772 and decrease depreciation expense by \$3,554 related to the other seven projects. An adjustment should be made to remove \$148,330 in CWIP from Rate Base. (MONIZ)

POSITION OF THE PARTIES

UTILITY: The entire cost of the main relocation project (\$189,138) should be included in rate base, as should the entire cost of the remaining projects (\$101,933) shown as CWIP in the MFRs, after staff's adjustment of \$4,500. There should not be a negative balance in the CWIP account after the inclusion of these projects in plant in service.

OPC: This should not be a legitimate issue because the PAA gave Mid-County everything it sought in its original filing. Even if the PSC entertains Mid-County's additional request, it should not allow 1997 year-end (it is a 1996 test year) CWIP.

STAFF ANALYSIS: The utility had a number of construction projects in progress at the end of the 1996 test year. The estimated cost of these projects was reflected as \$296,659 in the utility's MFRs. (Ex. 4, MFR Sched. A-6). The utility included half of this amount (\$148,330) in CWIP for the test year. (EXH 4) Utility witness Wenz testified that these costs related to the main relocation project required by the widening of U.S. 19 and Belcher Road. He contends that because the project was non-elective, the cost of the project is an appropriate pro forma addition to the 1996 test year rate base. (TR 130)

In its PAA Order, the Commission made a \$4,500 adjustment to the CWIP balance to eliminate a charge which had been booked twice, then it reclassified the rest of the estimated cost of the projects (\$292,159) as utility plant-in-service. At the same time, the CWIP balance as presented in the MFRs was reduced by the full \$296,569,

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leaving a negative CWIP balance of \$148,329. Thus rate base included \$143,830 (\$292,159-148,329), associated with CWIP.

Utility witness Wenz agrees that the total cost of the project was \$292,159. However, he testified that the net effect of the Commission's adjustment is that only half of the cost of the project -- instead of the entire cost -- is included in rate base under the PAA Order. He states that the utility mistakenly included only one-half of the cost of the project in rate base. (TR 130-131) Further, he states that the entire balance should be added to plant and that it not be averaged, and that the utility should not be penalized for the mistake that was made in the MFRs. (TR 151)

Witness Larkin, appearing on behalf of OPC, disputes the utility's claim that all the CWIP balance is associated with the Curlew Road, US-19 and Belcher Road projects. According to Mr. Larkin, the amount related to these projects is only \$195,891, not \$296,659 as claimed by the utility. He suggests that the remaining \$100,768 is related to repair, replacement, and maintenance projects. (TR 271-272,284) He maintains that if that is the case, then the costs should either be included at test year average or totally excluded from rate base because: (1) they were not in service and did not provide benefit to the ratepayer; and (2) they represent on-going replacement and repairs which would normally occur in any accounting period. Mr. Larkin further contends that replacement and repair projects take place on an ongoing basis and are regularly in some phase of the process and each phase in the process is reflected by the appropriate accounting entry. He notes that a test year is generally limited to the transactions of a particular 12-month period and is intended to be representative of a company's ongoing operations. More specifically, Mr. Larkin states that any given test year is likely to have a certain amount of CWIP related to various projects before they are closed to plant-in-service. He states that unless there is a compelling reason to do otherwise, the average balance of CWIP is more representative of the operations associated in an average test year. (TR 272) He suggests that since the utility has not identified any valid reason to treat the \$100,768 in any special way, it should be treated as CWIP and either be excluded from rate base and allowed an allowance for funds used during construction (AFUDC), or be included in rate base on an average basis. (TR 272-273)

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On rebuttal, utility witness Wenz testified that he made a mistake when he characterized the entire \$292,149 as being related to the main relocation project. He also acknowledged that \$96,268 is not related to the road projects, but to seven other projects. (TR 393) But he disagrees with Mr. Larkin's treatment of this amount. Mr. Wenz maintains that the seven projects should be reclassified as plant-in-service because they (a) were completed well before the rates from this case will go into effect, (b) were required to continue providing high quality service to existing customers and (c) did not provide additional capacity to serve future customers. (TR 394) At the hearing, Mr. Wenz updated the CWIP amounts. The cost for the US-19, Curlew Road and Belcher Road main relocation project was \$189,138. The total cost of the remaining seven projects was \$106,433. (EXH 24)

Based on staff's review of the record, we believe that the utility has justified its request to include the \$189,138 for the relocation of the main at US-19, Curlew Road, and Belcher Road in rate base. Witness Wenz testified that the main relocation project was required by the widening of US-19 and Belcher Road. He further testified that the project was non-elective. (TR 130) We therefore believe that these projects are legitimate pro forma costs, and should be included in rate base.

Staff is not persuaded, however, that the remaining \$106,433 of cost related to the other seven projects should be included in rate base. Regarding Exhibit 24, Item 4, "Remove sand and grit from the wastewater treatment plant (WWTP) tankage", and Item 6, "Clean and televise portion of sewer lines impacted by telephone cable installation", staff does not believe that the utility has supported its contention that the cost related to these projects should be capitalized rather than treated as ongoing maintenance, repairs, or replacement, which would normally occur in any accounting period. While Mr. Wenz testified that these costs should be capitalized because they improved the efficiency and extended the life of the equipment, upon further cross-examination, he was not able to explain what exactly was done. (TR 154-155) Also, regarding "removing sand and grit from the WWTP tankage" he testified that it is done periodically. He further testified that it was done once every four to six years. (TR 154,156) In addition, he testified that it would not be capitalized in every instance; instead, it was done on a case-by-case basis. But, generally a project like this would be capitalized and either depreciated or amortized over a period of years. (TR 156) Based on the testimony in the record, staff is not persuaded that the \$37,147, related to

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"removing sand and grit from the WWTP tankage", and "clean and televise portion of sewer lines impacted by telephone cable installation", should be capitalized. We therefore recommend that this cost be excluded from the test year rate base.

In regard to the remaining \$69,286 of CWIP, while Mr. Wenz testified that the seven projects should be included in rate base, the assets were not in service and did not provide a benefit to the ratepayers during the test year. Staff agrees with OPC witness Larkin that any given test year is likely to have a certain amount of CWIP related to various projects before they are closed to plant-in-service, and unless a compelling reason exists to do otherwise, the CWIP should be treated as CWIP is normally treated. (TR 394) No testimony was given by the utility to indicate that these projects were anything other than normal repair and replacement projects. Therefore, staff does not believe that the utility has provided a persuasive reason to justify including these post test year additions in the test year rate base. We therefore recommend that this cost be excluded from rate base.

Based on the above, staff recommends that \$189,138 of CWIP related to the US-19, Curlew Road and Belcher Road projects be included in test year rate base. This represents an increase to rate base of \$45,308 (\$189,138 minus 143,830), from the PAA Order. We also recommend that the \$106,433 related to the seven other CWIP projects be excluded from test year rate base. Corresponding adjustments should also be made to decrease accumulated depreciation by \$1,772 and decrease depreciation expense by \$3,554. Additionally, an adjustment should be made to remove \$148,330 in CWIP from rate base.

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ISSUE 1A: Did the PAA grant the entire revenue requirement associated with the CWIP sought by Mid-County in its original filing?

RECOMMENDATION: No, the PAA granted Mid-County a revenue requirement associated with \$143,830 of CWIP, which is \$4,500 less than the utility requested. (MONIZ)

POSITION OF THE PARTIES

UTILITY: Yes, but the original filing mistakenly included only an average balance for CWIP instead of the full cost of the projects.

OPC: Yes, the PAA granted Mid-County its 1997 average balance CWIP in the 1996 average balance test year, just as the utility requested.

STAFF ANALYSIS: In the MFRs, the utility included \$148,330 in CWIP. The PAA Order reduced the CWIP balance by \$296,659 to reclassify \$292,159 to plant-in-service, and to remove \$4,500 for a charge which was booked twice in the 1997 amounts. (PAA Order pgs. 13-14, Sch 1-A). This adjustment left a negative balance of \$148,329 in the CWIP account. The net effect of this adjustment was that \$143,830 of CWIP was included in rate base (\$292,159 minus \$148,329). The PAA granted the entire revenue requirement associated with this amount. The utility sought recovery on \$148,330 of CWIP in its original filing.

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ISSUE 2: What is the appropriate methodology for calculating used and useful for wastewater treatment plant?

RECOMMENDATION: The utility's annual average daily flow (AADF) should be compared with the permitted capacity, which is also based on AADF, for calculating used and useful. A peaking factor should not be used, due to the plant's design which can handle peak flows. Margin reserve should be allowed as discussed in Issue 3. (WALDEN, BRUBAKER)

POSITION OF THE PARTIES

UTILITY: The appropriate used and useful methodology is to divide the permitted capacity of the wastewater treatment plant by either the maximum month average daily flow or the three maximum month average daily flow. In this case, either methodology results in 100% used and useful, after taking into account an appropriate margin reserve.

OPC: It is axiomatic that, as in any meaningful ratio, the basis used to measure the denominator must also be used to measure the numerator. Since Mid-County chose AADF for its DEP permit, the PSC should use AADF as the system demand.

STAFF ANALYSIS: At the hearing, utility witness Seidman explained that used and useful is a regulatory concept that recognizes the engineering, economic, and regulatory aspects of providing service. He testified that the Commission's economic considerations should be reviewed alongside the Department of Environmental Protection's (DEP) environmental considerations, and that the goal that is sought is determination of assets reasonably necessary to furnish adequate service to the utility's customers. (TR 414-415; 417)

Witness Seidman testified that the flow basis for permitting a plant is prudent management. He stated that a plant cannot exceed a permitted level of flow without being subject to DEP rule violations and a requirement to expand capacity. Further, he stated that flow basis of AADF provides greater flexibility for changes in daily and monthly flows than that provided by the maximum month average daily flow (MMADF) and three months average daily flow (3MADF). Averaging flows allow a plant to remain within the permitted capacity constraints a longer period of time; and that permits under the MMADF or 3MADF reduce flexibility. (TR 423-424)

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Witness Seidman testified that personnel contacted at the DEP favor AADF, except for small plants that have seasonal customers. He stated that in determining when capacity expansion is required, DEP uses 3MADF as compared to the permitted capacity of the plant, even though DEP knows that most plants are permitted using AADF. He believed that in order to be more consistent with the DEP requirements governing capacity expansions, the Commission, in evaluating used and useful would do best to compare 3MADF to the permitted capacity. He also believed that consistency between the economic regulator and the environmental regulator is a valid reason for the Commission to change from its historic MMADF approach to a 3MADF approach. (TR 425-427)

Concerning the amount of plant capacity, witness Seidman stated that the permitted capacity of 0.9 million gallons per day (MGD) is correct. He stated that some of the previously used 0.2 MGD aeration tankage was converted to an equalization basin, with one blower dedicated to this tank. He also stated that due to the Environmental Protection Agency (EPA) levels of required redundancy, the highest capacity that this plant could be assigned would be 1 MGD, but the blower capacity will not support plant operation at 1 MGD or 1.1 MGD. (TR 427-430) Further, he stated that the plant is designed for 1.1 MGD, but without modification of at least an additional blower, the plant cannot operate at 1.1 MGD. (TR 462-464; 472-474; 478-479)

Witness Seidman advocated the methodology of the ratio of MMADF to the plant capacity as the correct method in calculating used and useful. (TR 173, 182) He cited the following reasons for including MMADF: (1) It would allow the plant to have sufficient capacity over and above actual demand to act as a cushion for maximum day flow; (2) Commission staff's 1982 memorandum developed a used and useful formula, which had ADF as a component during the peak month of the test year. This peak demand methodology is the same method as used in the utility's last rate case before the Commission; and, (3) the DEP requires a routine comparison of 3MADF to the permitted capacity of the plant, regardless of the flow designated basis in the permit. This comparison is used as a basis for determination when capacity expansion will be required. (TR 178-181; 184; 421-422; 425) Witness Seidman further suggested that if the AADF methodology is used, a peaking factor of 1.148 should be included to allow for peak flows. (TR 182-183)

Witness Seidman testified that since the last case, the number of equivalent residential connections (ERCs) has increased by

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11.7%, the ADF has increased by 9%, and the MMADF has increased by 10.7%. (TR 184-185) He stated that it is intuitive that with these increases in ERCs and flows, the used and useful percentage should likewise increase. He also stated that even if flows had decreased, the utility's investment had not diminished, and the utility should not be penalized in subsequent years for having the necessary capacity in earlier years. Used and useful should not decrease. (TR 186)

Staff witness Crouch testified that there is no rule on how percentages for used and useful plant are to be calculated, although Commission staff has general guidelines to follow. Witness Crouch believes that each case should be considered on its own merits and used and useful calculations should be made based on the data that is filed in the rate case. (TR 332, 336)

Witness Crouch testified that historically, staff has determined the plant capacity from the DEP permit. Permitted capacity is then compared to flows processed by the treatment plant. Flows have been based upon average daily flow criteria, and the average daily flow from the maximum month was always used prior to 1992. (TR 334) Witness Crouch advocated that the basis for determining average flows should be the same basis used to permit the plant capacity, whether that basis is AADF, MMADF, or 3MADF. (TR 336) Mr. Crouch stated that in 1992, the DEP began to show the basis for permitted flow, as taken from the permit application completed by the utility. Until then, no basis had been listed on DEP permits, and MMADF was presumed as the criteria. Witness Crouch testified that for calculations being performed for used and useful, it is imperative that the same basis be used for flows as for capacity. (TR 337) It is apparent that the DEP agrees that the used and useful formula, to be consistent, should have like terms for the time periods involved. (EXH 19, RJC-4, p. 3)

In Exhibit 19, DEP indicated that overloaded wastewater treatment facilities are a significant problem in Florida. The Capacity Analysis Report rule, effective in 1991, helps alleviate this overloading problem by requiring utilities to plan timely expansions to wastewater treatment plants. The exhibit indicates that the DEP believes that the Commission should allow utilities to recover investment for timely expansions of treatment facilities, consistent with the DEP's rules. (EXH 19, RJC-4, p. 1)

Witness Crouch testified that in the last Mid-County rate case (Docket No. 921293-SU), the used and useful calculation included

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MMADF as compared to plant capacity and concluded the plant was 88% used and useful. This percentage was stipulated by the parties. Staff found upon later review that the utility's DEP permit specified capacity as AADF, yet the flows for the used and useful calculation were MMADF. Had staff calculated used and useful using AADF flows, the result would have been 80.6%, including a 5% margin reserve, instead of 88%. (TR 342-343)

OPC Witness Bidy testified that the appropriate method for used and useful calculations is to match the flow through the plant with the permitted capacity of the plant, whether that rating is AADF or MMADF. He stated that if the plant capacity is permitted or designed on the basis of AADF, then flows should be based on AADF. Likewise, if the plant capacity is permitted on the basis of MMADF, the flows should be based on MMADF. (TR 225-226)

Concerning peak flows, Witness Bidy stated that even though the DEP permit may be expressed using AADF flow characteristics, the plant can handle a higher hydraulic peak flow as designed by the plant's engineer. He stated that most of the time engineers use AADF as the basis of design, and peak flows are considered in the hydraulic loading design. (TR 228, 230) He also stated that it is inappropriate to add a peaking factor in the used and useful calculation because wastewater treatment plants are designed to handle anticipated peak flow conditions even though the design flow might be in AADF or MMADF. (TR 234, 239) Further, he stated that if a peaking factor were used, it would be "double dipping" because components are already designed to handle peaks. (TR 243-244)

Plant capacity is 1.1 MGD according to Witness Bidy, even though the existing permitted capacity is 0.9 MGD. He stated that other than converting 200,000 gallons of the aeration basin into an equalization basin, all the treatment facilities are designed for 1.1 MGD. He testified the plant capacity is still 1.1 MGD, even with the 900,000 gallon aeration basin. (TR 232-233, 239)

OPC Witness Larkin testified that the flow data used by the DEP in issuing an operating permit is chosen by the plant owners. The utility could choose AADF or MMADF, using whichever statistic believed to be the most relevant. Further, Mr. Larkin believed the Commission staff should use the same statistical information from the permit when calculating the used and useful percentage. (TR 260-261) Mr. Larkin advocated consistent data in the use of statistical information in determining used and useful. He noted that the prior case was a stipulated case, and suggests there is no

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precedential value in a stipulated case. (TR 262-263) For the plant capacity, he supported using 0.9 MGD. (TR 264)

Staff notes that it has been Commission policy to use MMADF to calculate how much treatment capacity is used and useful in a wastewater rate case. The First District Court of Appeal has recognized this to have been "repeatedly articulated as the PSC's policy." Florida Cities Water Co. v. FPSC, 705 So. 2d 620, 625 (Fla. 1st DCA 1998) (citations omitted). In that case, as well as in Palm Coast Util. Corp. v. FPSC, Case No. 97-1720 (Fla. 1st DCA May 10, 1999) and Southern States Utils., Inc. v. FPSC, 714 So. 2d 1046 (Fla 1st DCA 1998), the Commission unsuccessfully attempted to depart from this policy by using AADF to calculate used and useful treatment capacity. The Palm Coast Court cited to the Southern States Court in observing that:

For the most part, the Legislature has committed used and useful calculations to the expertise and discretion of the [Public Service Commission].... It is not for the reviewing court to dictate methodology or other policy with [in] the PSC's "statutorily delimited sphere." As regards used and useful calculations, our concern thus far has been only that the PSC comply with the procedural requirements of the Administrative Procedure Act, chapter 120, Florida Statutes (1997), in making changes in policies governing these calculations. The PSC is, after all, subject to the Act."

Palm Coast Util. Corp. v. FPSC at 3 (emphasis added) (citations omitted).

As noted in all three of the above-cited court opinions, Section 120.68(7)(e)(3), Florida Statutes, requires a reviewing court to

remand a case to the agency for further proceedings consistent with the court's decision or set aside agency action, as appropriate, when it finds that...[the agency's exercise of discretion was...[inconsistent with officially stated agency policy or a prior agency practice, if deviation therefrom is not explained by the agency.

Moreover, the Palm Coast Court noted that as the Court stated in Florida Cities and in Southern States, "under chapter 120, Florida

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Statutes (Supp. 1996), a shift in ratemaking policy must be supported by expert testimony, documentary evidence or other evidence appropriate to the nature of the issue involved." Id. at 4.

The Commission's prior policy to use MMADF as the flow to be used in the numerator of the used and useful equation was explained by staff witness Crouch. Mr. Crouch testified that

For many years, the Commission staff has relied upon the permits issued by DEP to determine the permitted capacity of a wastewater treatment plant. That permitted capacity went in the denominator of the equation. Prior to 1992, the DEP issued permit did not normally indicate the basis which the utility specified. Since the basis was not shown on the permit, the Commission staff had no way of knowing what that basis was; consequently, staff selected the maximum month average daily flow, or MMADF, as the flow to be used in the numerator. While use of the MMADF gave the benefit of any doubt to the utility, it must be emphasized that there was no basis shown for the denominator; therefore, staff had no way of knowing if a mismatch existed.

(TR 337) Mr. Crouch testified that use of an AADF flow basis results in the lowest average daily flow and the use of an MMADF flow basis results in the highest average daily flow. (TR 338) This is the reason that the use of MMADF gave the benefit of any doubt to the utility, and was selected when staff had no way of knowing what the permitted basis was.

Mr. Crouch also testified to the reason for the policy shift from MMADF to the flow basis as listed on the DEP permit. He stated that

[s]tarting approximately 1992, DEP began to show the basis for determining permitted flow (AADF, MMADF, TMADF) which was selected by the utility in its permit application.... When DEP started listing the flow basis in the permits (the denominator), it became imperative that the same basis be used in the numerator flow data.

(TR 337) Mr. Crouch further explained that

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While the quantities may differ, the basis for determining average flows should be the same basis used to permit the plant capacity. The engineer responsible for designing the plant will design based upon flow data for a certain period (AADF, MMADF, or 3MADF). That same flow basis or period of time should be designated upon the permit application. As a mathematical example, 12 feet divided by 4 feet equals 3 feet, but 12 feet divided by 4 yards does not equal 3 feet. Similarly, \$4,000 in revenue in maximum month divided by \$1,000 in annual average monthly expenses does not equal 400% profit.

Likewise, you cannot divide the average daily flows treated by a wastewater treatment plant in the maximum month by the permitted annual average daily flows and get a valid percentage of used and useful capacity. It is imperative that terms or time periods under consideration be the same for both the numerator and the denominator of a legitimate equation. This is only logical.

(TR 336-337)

Moreover, Mr. Crouch testified that

In many instances the actual hydraulic capacity of the plant as constructed is larger than the permitted capacity. On the other hand, a utility generally wants to obtain the highest possible used and useful percentage so that the maximum amount of plant it has constructed will be placed in rate base and rates collected from existing customers to pay for that plant. For this reason, it would be most advantageous if a utility used the MMADF (largest average flow) in the numerator while the AADF (smallest average flow) would be used in the denominator. It is easy to see that this would result in a much larger used and useful percentage, a larger rate base, and higher rates. In other words, that utility would enjoy the best of both worlds: It would not have to hire personnel to support a larger permitted plant, its lab testing expenses could be lower, and at the same time, it would enjoy higher rates since a larger used and useful percentage would result if the MMADF was divided by the AADF. The customer would be disadvantaged, however, since this would result in less testing, fewer operators on hand, and higher rates.

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(TR 338-339) When asked how he would propose to calculate the flows treated by the utility, Mr. Crouch testified that

[the solution is simple: staff should use the same basis or units of measurement in both the numerator and the denominator. The utility must decide which is the most appropriate basis for designing and permitting their plant. If it can be either AADF, 3MADF, or MMADF, the utility must decide whether it wants a smaller permitted capacity (AADF) or a larger permitted capacity based upon the MMADF. At the same time, the utility should consider which flow basis will result in the larger used and useful percentage. I must reemphasize that it is the utility's choice. The utility selects the basis it thinks is appropriate when it applies for a permit from DEP. It may consider whether AADF/AADF will be larger or smaller than MMADF/MMADF. Normally, the results will be very close. The mismatch comes when the utility attempts to divide the MMADF by the AADF. Under no circumstances should the utility be allowed to get an abnormally large used and useful percentage by calculating MMADF/AADF. This is a mathematical mismatch that is not proper, and should not be authorized in this case. (TR 339-340)

Furthermore, staff agrees with Witness Seidman that the Commission's economic considerations should track the environmental needs of the DEP, and that the goal of the used and useful evaluation is to ascertain the assets reasonably necessary to furnish adequate service to the utility's customers. Staff also agrees that using AADF provides greater flexibility for changes in daily and monthly flows over MMADF and 3MADF, which allows a plant to remain within the permitted capacity constraints for a longer period of time. It seems obvious and prudent to staff that a utility not build additional capacity until capacity is absolutely needed.

While the DEP may use 3MADF as the flow criteria in determining when additional capacity is needed, it is not clear from Witness Seidman's testimony how the flows are compared to the permitted capacity. Staff is not persuaded that the DEP is using only 3MADF in Capacity Analysis Report evaluations. The letter from Richard Harvey with the DEP states that terms in the used and useful equation should be alike to be consistent. (TR 347-348; EXH 19, RJC-4, p. 3) We believe that matching is an important concept, as explained by witness Crouch, and noted above. Therefore, we

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find it appropriate that the units used for flows should match the units used for permitted capacity.

Staff concludes the plant capacity should be that as taken from the DEP operating permit, which is 0.9 MGD. The testimony is clear that without additional equipment, the plant cannot treat more than 0.9 MGD, even though the ultimate design and configuration is greater than this amount.

Staff believes that there is ample support in the record for the Commission to find that the appropriate methodology or flow data to use is the flow upon which the DEP operating permit is based. As witness Crouch testified, the newer DEP operating permits contain the most recent and accurate information describing the flows upon which capacity is based. When such information is not available, the MMADF should be used. For this case, as indicated by the DEP permit, AADF should be used for calculating used and useful. A peaking factor should not be used, due to the plant's design which can handle peak flows.

Margin reserve should be allowed as discussed in Issue 3.

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ISSUE 3: Should the utility be granted a margin reserve, and if so, what is the appropriate amount which should be used?

RECOMMENDATION: The utility should be allowed a five year margin reserve, equating to 365 ERC's and 98,050 gallons per day (GPD) of flow. (WALDEN)

POSITION OF THE PARTIES

UTILITY: Yes. The appropriate margin reserve period is that sufficient to install the next economically feasible increment of plant capacity. For Mid-County, that period is five years and represents capacity equal to 13.6% of test year flows.

OPC: Pursuant to Commission rule, eighteen months should be used.

STAFF ANALYSIS: Utility witness Seidman testified that margin reserve capacity is needed to meet the changing demands of existing customers and the potential demand of future customers within a reasonable timeframe. He stated that a minimum timeframe is five years to allow for design, permitting, and construction. (TR 187-188) Calculations show 73 ERCs added a year, at average usage of 269 GPD. (EXH 11, p. FS-2) When considered using flows, this calculates to 13.6% of flows [AADF of 720,956 from EXH 11], or 98,050 GPD. (TR 210)

Witness Seidman noted that recently Senate Bill 1352 became law, allowing a five year margin reserve for rate cases filed after March 11, 1999. (TR 211) This case was filed before March 11, 1999, and therefore is excluded now, but it was hoped by Mr. Seidman that the Commission would consider the intent of the legislation. (TR 212)

OPC witness Larkin testified that no margin reserve should be allowed in the used and useful calculation. He was aware that the Commission has allowed a margin reserve in most cases. If a margin reserve is included, witness Larkin suggested using linear regression in projecting growth for 18 months, and not the hypothetical, arbitrary 20% advocated by the utility. (TR 264-265)

OPC witness Bidy disagreed with the utility's position that a five year margin reserve is appropriate. Noting that the basis of the utility's rationale is the DEP's Rule 62-600.405(8)(a),

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Florida Administrative Code, Mr. Bidy stated that while the intent of the rule is to ensure that timely planning, design, and construction of expanded facilities will occur, the only real requirement of the rule is that a professional engineer registered in Florida sign and seal a statement that planning and preliminary design of the necessary expansion have been initiated. Mr. Bidy believed it is not justified to require the existing customers to bear the costs of the future five year capacity needs. (TR 236-237)

Witness Crouch testified that the utility may argue that it is required by DEP to plan, design, permit and construct additional plant as much as five years in advance, but minimal funds are expended during the planning stage. He stated that major expenses are incurred when construction begins.

The used and useful percentage in the last Mid-County case contained a 5% allowance for margin reserve, included in the 88% conclusion as the result of a stipulation. Mr. Crouch believed the current request of a 20% margin reserve is unsupported, and instead an 18 month period and a 3% margin reserve should be used. (TR 342-343)

Commission practice historically has been to allow 18 months as the margin reserve period, unless additional time is justified by the utility. Staff is recommending the utility be allowed five years margin reserve in this case. Witness Crouch testified that "[s]taff and the Commission have consistently considered an 18-month period for a margin reserve for plant and a 12-month period for distribution and collection lines unless additional time is requested and justified by the utility." (TR 340) Further, Mr. Crouch testified that "[the Commission's use of 18/12 months unless additional time is justified revolves around the question of what requires investment by a utility, and when it is required. A utility may argue that it is required by DEP to plan, design, permit, and construct additional plant and lines as much as 5 years in advance." (TR 341)

Staff is persuaded by Witness Seidman's testimony wherein he explained that

The margin reserve portion of plant, used and useful in the public service, must be in place and available to serve until the next economic capacity addition can be placed in service without causing a deterioration in the quality of service. For wastewater treatment plants,

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giving due recognition to today's permitting requirements of the FDEP, five years is considered a minimum period during which sufficient capacity must be available while an economically sized expansion is being planned, designed, permitted and constructed. A measure of the capacity necessary to be available during that period is the capacity associated with annual customer demands over a five year period.

(TR 187-188) Thus, staff believes that the utility has justified the allowance of a 5 year margin reserve period. This utility is not experiencing significant growth in its service area as evidenced by the 73 ERCs added per year as testified to by witness Seidman. Additionally, through plant modifications, the utility has avoided expansions, and by requesting the permitting of the plant using AADF, has kept the flows below the permitted capacity and has been able to provide service longer between construction periods. (TR 423)

For the foregoing reasons, staff believes that under the circumstances of this case, the utility has presented persuasive justification that a five year margin reserve period is appropriate.¹(TR 340-341)

¹Staff notes that as a result of the newly enacted law which allows a five year margin period, this will be the norm for rate cases filed with the Commission after March 11, 1999.

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ISSUE 4: What is the appropriate used and useful percentage of the wastewater treatment facility?

RECOMMENDATION: The wastewater treatment facility is 91% used and useful, including margin reserve of 365 ERCs. (WALDEN)

POSITION OF THE PARTIES

UTILITY: The wastewater treatment plant should be considered 100% used and useful.

OPC: 65.54%

STAFF ANALYSIS: From the discussion in Issues 2 and 3, the used and useful calculation should be based on AADF, with a five year margin reserve.

The calculations therefore are:

$$\begin{aligned} & (720,956 \text{ GPD AADF} + 98,050 \text{ GPG margin}) / 900,000 \text{ GPD capacity} \\ & = 91\% \text{ used and useful} \end{aligned}$$

These calculations follow the same format as contained in the engineering schedules of the MFRs, which show daily flows plus margin reserve, divided by plant capacity. (EXH 4, p. 81) Witness Seidman testified that the methodology he used is ADF plus margin reserve, divided by the firm reliable plant capacity. (TR 178-179)

The ADF used in the equation is AADF as discussed in Issue 2, and margin reserve is based upon 73 ERCs for five years, or 365 ERCs total, as explained in Issue 3.

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ISSUE 5: DROPPED

ISSUE 6: DROPPED

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ISSUE 7: Should Contributions in Aid of Construction (CIAC) be imputed on the margin reserve, and if so, what amount?

RECOMMENDATION: No, CIAC should not be imputed on margin reserve.
(MONIZ, BRUBAKER)

POSITION OF THE PARTIES

UTILITY: No, CIAC should not be imputed on margin reserve.

OPC: Yes. The Commission should impute CIAC to the margin reserve that is allowed. Generally, the Citizens believe that the entire CIAC balance should be imputed. In this case, however, the Citizens support the 50% CIAC imputation already imposed by the PAA.

STAFF ANALYSIS: Mid-County witness Seidman testified on the imputation of CIAC. He began his testimony by asserting that the imputation of CIAC against investment in margin reserve is a mismatch of investment and contributions from different accounting periods. He argues that margin reserve is a component of plant and used and useful; that the investment in margin reserve capacity is a real one; that the costs have been incurred during or prior to the rate case test year; and that the cost were incurred to enable the utility to meet its statutory obligation to its customers and to the state. He states that CIAC is contributed funds received from customers and offsets all or part of the costs incurred by the utility in providing service; and that any CIAC received prior to or during the rate case test year is a legitimate offset to those costs incurred by the utility prior to or during the rate case test year. He further testified that the matching investment and offsetting CIAC from the same accounting periods are properly reflected in rate base. (TR 189)

Mr. Seidman testified that imputed CIAC is potential CIAC that may be collected some time in the future from potential customers. If and when potential customers become actual customers, any CIAC paid will be recorded on the books of the utility and will offset the costs incurred by the utility, thus reducing the amount of the investment on which it is entitled the opportunity to earn a fair rate of return. He further testified that between the time when a utility makes an investment and the time it receives CIAC to offset the investment, the utility has expended actual funds upon which it is entitled to earn a return. He asserts that imputing CIAC

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assumes that the time period between investment and offsetting CIAC either does not exist or is arbitrarily reduced. According to Mr. Seidman, this results in the utility being denied the opportunity to ever earn a return on its investment. (TR 190) He contends that, if CIAC is imputed against Mid-County's margin reserve, the result will be that none of the utility's investment in margin reserve will be included in rate base. (TR 191)

OPC witness Larkin testified that according to Mr. Seidman's testimony, he views margin reserve as currently utilized and currently necessary for the service of current customers, while at the same time indicating that the reserves should be calculated considering future growth. Mr. Larkin testified that this is inconsistent with his theory that there is an accounting mismatch between the addition of margin reserve to used and useful capacity and the calculation of imputed CIAC against the margin reserve. He testified: "We are dealing with hypothetical growth in the future when we add margin reserve to used and useful capacity; therefore, it is also appropriate to use hypothetical CIAC which will be received as a result of that capacity actually becoming used and useful." (TR 267)

Mr. Larkin also disagrees with Mr. Seidman's argument that if CIAC is imputed against margin reserve, then UI will not receive a return on its investments made. He testified that the utility has the authority to record an allowance for funds prudently invested (AFPI). According to Mr. Larkin, AFPI allows a carrying cost to be recorded on the non-used and useful plant until it is actually used to serve customers. AFPI also allows the utility to properly match the carrying cost with the customers that the plant will actually serve. He testified that to include a margin reserve which would be utilized to service future customers in current rates without offsetting that amount by CIAC would result in current customers subsidizing future customers who will receive service from the plant. He further testified that CIAC actually returns all or part of the utility's investment in plant to the utility. Future customers will make that contribution to the utility, not current customers. (TR 268)

Mr. Larkin further testified that the proper way to fund current investment that will be utilized in a future period is through AFPI, not through the creation of margin reserve and without the imputation of CIAC. (TR 268) He argues that Mid-County's approach is inequitable to current customers, because it shifts the risk of the plant not actually being utilized at any

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point in the future from UI to current customers. According to Mr. Larkin's testimony, the risk of determining what capacity plant should be constructed and when it will be utilized is a risk that should be borne by UI and its stockholders who earn a "risk premium" on their investment. He states that "to include any margin which causes current ratepayers to pay a rate of return on plant which is not utilized specifically for their own service results in current ratepayers bearing the risk of paying a cash return for plant which may not be utilized by future customers and for which they receive no service." (TR 269)

Staff witness Davis testified that the Commission should include an imputation of CIAC as a matching provision to the margin reserve calculation. However, as an averaging method, only fifty percent of the imputed CIAC should be recognized since the imputed amount will be collected over the life of the margin reserve period rather than all at the beginning of the period. In addition, Mr. Davis testified that the imputation should be limited to the amount of net plant included in the margin reserve because during the margin reserve period, CIAC will not be collected on day-one of the period, but evenly over the period. Mr. Davis maintains that since the actual collections are unknown, it is impossible to predict at what rate the growth will occur; however, it is reasonable to assume the growth will be spread across the period. (TR 362)

On cross examination, Mr. Larkin was questioned about the status of the imputation rule, since the rule had been invalidated by an administrative law judge. He admitted there wasn't a rule in place at the time the protest was filed. He was also presented with questions about the amendments to Chapter 367, Florida Statutes, regarding the imputation of CIAC. He testified that the amendment should have no bearing on this case. (TR 301)

In the utility's brief, the following argument was presented regarding the amendments to Section 367.081(1), Florida Statutes:

In deciding whether or not to impute CIAC on margin reserve in this case, the Commission should consider the state's new policy as established by Chapter 99-319, Laws of Florida. Under the amendments to Section 367.081(1), Florida Statutes, the Commission is prohibited from imputing prospective future contributions-in-aid-of-construction against the utility's investment in property used and useful in the public service. While this amendment does not bind the Commission with respect to

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cases pending on March 11, 1999, there is nothing which would prevent the Commission from declining to impute CIAC in this case. In particular:....if the Commission does impute CIAC, it will create an incentive for the utility to refile a limited proceeding or a full rate case to take advantage of the new provisions in Chapter 367, with the cost of that proceeding ultimately being borne by Mid-County's customers. (BR 23)

Staff believes that it is clear from the record that it has been the practice of this Commission to impute CIAC on the margin reserve. As explained in Issue 2, Chapter 120, Florida Statutes, requires that the Commission explain deviations from prior policy, and that such deviations be supported by the record. The record contains the necessary evidence to reduce rate base by only fifty percent of the imputed CIAC. However, there is also support for making no adjustment to impute CIAC on the margin reserve, and we do not believe that CIAC should be imputed on the margin reserve in this case.

Witness Davis testifies that the margin reserve reflects the utility's obligation to serve potential customers, and the utility invests in central plant to meet this service obligation. (TR 361) As such, staff agrees with witness Seidman that margin reserve plant is a component of plant that is used and useful in the public service; is necessary in order for the utility to meet its statutory obligation; and it should be included in rate base with the opportunity earn on it. (TR 454) Additionally, staff agrees with utility Witness Seidman testified that, if CIAC is imputed against Mid-County's margin reserve, the result will be that none of the utility's investment in margin reserve will be included in rate base. (TR 191) The amount of plant included in the margin reserve is less than the CIAC imputed on the margin, even at the 50 percent limit. Therefore, if CIAC were to be imputed, the utility would receive none of the margin reserve recommended in Issue 3.

Considering the forgoing circumstances, staff recommends that no adjustment be made to impute CIAC on the margin reserve.

Staff notes that secondarily, testimony in the record also indicates that newly enacted legislation allows a five year margin reserve for cases filed after March 11, 1999. (TR 212) Staff believes that since we are aware that the Florida Legislature has also amended Chapter 367.081(1), to disallow the imputation

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adjustment for cases filed after March 11, 1999, it should also be considered in our recommendation.

Since staff recommends a five year margin in Issue 3, and considering that as a result of newly enacted legislation, the norm for cases filed after March 11, 1999 would be a five year margin with no imputation of CIAC, we believe that consistent with the newly enacted legislation, no imputation of CIAC should be made on the margin reserve in this case. Staff realizes that the Commission is not bound by this amendment in this case. Still, the utility could refile under the new provisions of Chapter 367, which could cause rates to increase even more, since the utility would probably receive rate case expense for this filing.

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ISSUE 8: What is the appropriate rate base for the test year?

RECOMMENDATION: Based on staff's recommended adjustments and the use of a simple beginning and year-end-average, rate base is \$1,540,735. (MONIZ)

POSITION OF THE PARTIES

UTILITY: The appropriate rate base for the test year is \$1,801,604.

OPC: \$1,044,820

STAFF ANALYSIS: Based on staff's recommended adjustments and the use of a simple beginning and year-end-average, rate base is \$1,540,735. The rate base schedule is attached as Schedules No. 1-A. The schedule of adjustments to rate base is attached as Schedule No. 1-B.

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COST OF CAPITAL

ISSUE 9: DROPPED

ISSUE 10: DROPPED

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NET OPERATING INCOME

ISSUE 11: Should operation and maintenance (O&M) expense be reduced for life insurance policies for officers, directors and key employees?

RECOMMENDATION: Yes. Operation and maintenance expenses should be reduced by \$3,683. (MONIZ)

POSITION OF THE PARTIES

UTILITY: Yes, by \$1,636. However, no adjustment should be made for directors and officers liability insurance or for liability insurance related to UI's retirement plans.

OPC: Yes. O&M expenses should be reduced by \$3,983 because the purpose of the policies is to protect the company and does not demonstrate a clear benefit to the ratepayers. Further, the Uniform System of Accounts states that these expenses should be recorded as non-utility expenses.

STAFF ANALYSIS: Staff witness Sweeney filed testimony addressing the insurance costs allocated to Mid-County from the parent. Ms. Sweeney reported that the utility recorded an allocation from the parent company of \$3,983 for 1996 Insurance Expenses. (TR 317) The amounts by type of insurance are shown below: (EXH 15)

| Policy Description | Amount |
|----------------------------|-------------------|
| Keyman Life Insurance | \$928.94 |
| Life Insurance | \$706.94 |
| Director/Officer Liability | \$1,738.25 |
| ESOP & Pensions | \$309.53 |
| Accidental/Death Travel | \$299.38 |
| Total | \$3,982.83 |

The costs for the Keyman Life Insurance and the Life Insurance are for policies that cover the officers and key employees of the utility and Utilities, Inc. is the beneficiary. (TR 318) The National Association of Regulatory Utility Commissioners (NARUC)

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Uniform System of Accounts (USOA) requires all expenses, other than those related to utility operations and interest, be classified as non-utility expenses. Items to be included in this account are life insurance for officers and employees where the utility is the beneficiary. According to Ms. Sweeney's testimony, the purpose of the policies was to protect UI and does not demonstrate a clear benefit to the ratepayers. Therefore, the entire \$3,982.83 should be reclassified as non-utility expense. (TR 318)

In its brief, Mid-County agrees that operation and maintenance expenses should be reduced by \$1,636, which represents Mid-County's portion of the "Keyman Life Insurance" and "Life Insurance" premiums. The utility recognizes that under the NARUC USOA, amounts paid for life insurance are classified as non-utility expenses. However, it does not agree that the remaining insurance costs should be disallowed. Utility witness Wenz testified that under the NARUC USOA, life insurance is classified as a non-utility expense, but it does not require similar treatment for fiduciary liability policies. He argued that these policies protect the utility and ultimately the ratepayers from potential litigation costs and liabilities in the same manner as any other liability insurance. According to Mr. Wenz, since the policies provide a benefit to utility customers, the costs should be recoverable through rates. (TR 393)

Mr. Wenz, further testified that Accidental/Death and Travel insurance is UI's policy for business travel for which UI is not the beneficiary. (EXH 9, pg 6) The Director/Officer Liability is liability insurance for the directors and officers of UI. Pensions and ESOP is a fiduciary liability policy for the trustees of the Plans. (EXH 9, pg 6) As stated above, the NARUC USOA requires that the premiums paid for life insurance on officers and employees, where the utility is the beneficiary, to be classified as non-utility expenses. However, it does not require the same treatment for liability insurance. (TR 321) The utility believes that since there is nothing in the NARUC USOA that warrants treating these costs as anything other than an utility operating expense they should be allowed. (TR 393)

Mr. Larkin testified on behalf of OPC that:

Officers liability insurance is the type of insurance that [UI] pays to protect the officers of [UI] from being sued by the stockholders. There's no protection there for the ratepayer. If the stockholder is unhappy with

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the operation of [UI] because of something the officers did, if they sue the officers, they can't come to the ratepayer and say, "Our officers made a mistake. They ran this company into the ground. We're going to charge you." So there is no benefit to the ratepayer there. The same with the insurance that covers the pension plans, the ESOP plans. That's insurance to guarantee the fiduciary responsibility of those officers. If they don't treat those funds, or they waste or lose those funds -- the ratepayer is not responsible for replacing the pension funds. He's already made his contribution through his rates. If employees' pension funds go down the tube, then the people that are responsible are the officers, not the ratepayers. So the Staff correctly analyzed this, correctly took those dollar amounts out. To reargue this now is unfair to the ratepayer (TR 286-287)...

This is a policy that protects the Board of Directors from malfeasance in the operation of UI. (TR 303)

Staff agrees with the utility that the NARUC USOA does not prohibit recovery of costs for premiums for Director/Officer Liability Insurance and ESOP & Pension Insurance. However, it does not automatically mean that the expense would be allowed. (TR 325) Mr. Larkin makes a compelling argument as to reasons why this type of insurance should be disallowed, since it provides no benefit to the utility's ratepayers only protection for its stockholders. (TR 287) The utility did not provide any persuasive evidence to contradict Mr. Larkin's claim. It is the utility's burden to show that its requested expenses are reasonable. Florida Power Corporation v. Cresse, 413 So. 2d 1187, 1191 (1982). Therefore, staff does not believe the utility has proven the prudence of the costs related to the Director/Officer Liability insurance and the ESOP & Pensions insurance, since they appear only to provide a safety net for UI's shareholders and no primary benefit to the ratepayers. Staff recommends disallowing \$1,738 for Director/Officer Liability insurance and \$310 for ESOP & Pensions insurance.

According to utility witness Wenz, the Accidental/Death and Travel insurance policy is a life insurance policy provided to all employees for which UI is not the beneficiary. (TR 138) Staff witness Sweeney testified that if the employee, and not the utility, is the beneficiary of a life insurance policy, then it would be allowed under NARUC. (TR 321) Therefore, staff recommends

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that the \$299 included in the MFRs for the Accidental/Death and Travel insurance policy should be allowed.

Based on staff's recommended adjustments, operation and maintenance expenses should be reduced by \$3,683 for insurance policies for officers, directors and key employees.

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ISSUE 12: Are the allocations from Utilities, Inc. a reasonable distribution of the cost of the services provided to Mid-County?

RECOMMENDATION: No, the customer equivalent allocation method employed by Utilities, Inc. overstates the costs to Mid-County. These costs should be recalculated using ERCs. As recalculated, allocated operation and maintenance expenses in the MFRs should be reduced by \$96,821, allocated depreciation expense should be reduced by, \$11,063, and allocated payroll taxes generated by the allocated salaries should be reduced by \$1,832 for a total reduction in expense of \$109,717. (MONIZ)

POSITION OF THE PARTIES

UTILITY: Yes. The appropriate method to allocate common costs is based on customer equivalents as presented in the MFRs and in UI's testimony. This method results in a fair and reasonable allocation of common costs to Mid-County.

OPC: No. Common cost allocation should be based on an ERC basis.

STAFF ANALYSIS: In the PAA order, the Commission rejected the utility's use of customer equivalents as an appropriate allocation basis for distribution of common costs to Mid-County, even though it produced a reasonable allocation for Utilities Inc. systems other than Mid-County. The cost allocations were recalculated using equivalent residential connections and were based on the actual amounts treated by Mid-County.

Utility Witness Wenz testified that the appropriate method to allocate common costs from Water Services Corporation (WSC) to Mid-County is by customer equivalents, not the ERC method used by the Commission in the PAA order. (TR 131) He claims the allocation methodology employed by the Commission seriously understates the costs that should be borne by Mid-County customers. (TR 131-132)

Mr. Wenz testified that WSC is a subsidiary of Utilities Inc. It manages the operations for approximately 300 water and wastewater systems owned by Utilities, Inc. WSC allocates its common costs to all the systems, including Mid-County. The utility uses customer equivalents to allocate costs that cannot be directly identified. (TR 132-133, 366) The customer equivalent is determined by counting each residential living unit as one customer equivalent, "whether the unit is a separately metered detached single-family residence, a separately metered unit in a mobile home

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park, or a unit in a master-metered apartment, condominium or a mobile home park". (TR 132-133)

Utility witness Wenz also testified that the customer equivalent methodology has been used for all Utilities, Inc.'s subsidiary systems in Florida for many years and has consistently been accepted by the Commission for ratemaking purposes. (TR 133) He also testified that this methodology has been accepted by regulators in other states where Mid-County has sister companies. (TR 134) He further testified that it is the same methodology that was used in Mid-County's last rate case, but with one exception. In Mid-County's last rate case, WSC did not have the capability to isolate the billing costs from other administrative expenses; therefore, to avoid a double charge for billing costs to Mid-County, WSC reduced Mid-County's customer equivalents by one-third when making cost allocations. (TR 134) By the time this case was filed, WSC was able to isolate the billing costs. The costs were excluded and the full weight of the customer equivalents was applied to Mid-County for the allocated costs. (TR 134-135) Witness Wenz testified that Mid-County's allocated costs are higher than in the prior rate case: however, the allocation is more accurate. According to Mr. Wenz, the one-third weighting applied in the last rate case resulted in understating Mid-County's proper share of common costs, resulting in Mid-County's customers paying artificially low rates. He maintains that the utility's current methodology more properly allocates these common costs and results in Mid-County customers paying their fair share of the common costs. (TR 135)

Staff witness Davis testified that according to his research of past cases the allocation method itself had not been an issue and therefore, has not been litigated. (TR 368) He contends that while the Commission may have accepted the expenses in Mid-County's last rate case and other Utilities Inc.'s systems and found them to be reasonable, no further action was taken, nor was the issue of the allocation method raised. (TR 369)

Staff witness Davis explained that UI calculates its customer equivalent by going behind the meter and attempting to count the total number of dwelling units that the utility serves. For example, a master-metered apartment complex with one meter, would generate as many customer equivalents as the number of apartments in the complex. He testified that in the other Florida systems, using customer equivalents did not differ much from the standard measuring units as seen by the Commission. However, Mid-County's

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situation is different, since it has several master-metered apartment complexes and mobile home parks and counts each apartment or mobile home as one customer equivalent. For example, an apartment complex with 354 dwelling units, served by a six-inch master-meter, would be equal to 354 customer equivalents.

Witness Davis also testified that the average Mid-County single family residence customer consumed 16,408 gallons of water. The average multi-residential customer with a six-inch meter consumed 1,740,888 gallons of water per billing period, which is equivalent to 106 single family residences, not 354, as the customer equivalent indicates. Staff witness Davis testified that the utility's method causes Mid-County's operation to appear to be much larger than it is, and therefore, to appear to require more services from the parent than it actually does. (TR 367)

Mr. Davis further testified that UI allocated 6,112 customer equivalents to Mid-County for the purpose of this rate case, as compared to allocating 1,237 customer equivalents in its last rate case. For billing purposes, Mid-county only averaged 1,507 customers for the 1996 test year. He compared the total number of meters, using the AWWA factor, with the total number of bills and determined that Mid-County only averaged 2,255 equivalent customers, about one-third of the customer equivalents allocated for this case. (TR 367-368) Witness Davis urged the Commission to reject the utility's use of customer equivalents, as an appropriate allocation basis for distribution of common costs to Mid-County, even though it may produce reasonable allocations for other systems. He recommends that the cost allocations for Mid-County should be recalculated using equivalent residential connections (ERCs), which equates to the actual amounts treated by Mid-County.

Mr. Davis also proposed two additional ways to allocate costs to Mid-County. The first method proposes reducing the weighting of the master metered customers. This method allows UI to approximate the demand the master metered customers have on the system and gives a more reasonable approximation of Mid-County's size. His second method proposes that UI could allocate costs based on actual number of customers. (TR 369)

On rebuttal, utility witness Wenz testified that the Commission does not have a rule which specifies a particular allocation methodology to be used. He further maintained that "it is more logical regulatory policy to consistently apply a single reasonable methodology on a company-wide basis, than to seek, in

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every case, a methodology which minimizes the costs allocated to the customers of [a particular] system." (TR 396) He also argued that if the latter approach were adopted, UI would never be able to recover the full cost of providing service. (TR 397) He testified that the Commission should approve the utility's methodology because it results in reasonable allocations and has been consistently applied to all of the utility's operating companies in Florida and other states. (TR 398)

Staff agrees with Mr. Wenz that the Commission does not have a rule specifying a particular allocation methodology. However, as supported by Mr. Davis, the Commission normally sees established factors such as ERCs, customer usage factors or factored bills, that apply the American Waterworks Association (AWWA) factor to indicate relative utility size. (TR 365) By Order No. 17043, Docket No. 860325-WS, the Commission favored a customer measurement for allocation of common administrative and general expenses for Southern States Utilities, Inc. (TR 365) Conversely, Mid-County did not produce past orders in which the Commission specifically accepted its methodology, or any other documents to support its contention that its methodology had been accepted by this Commission or any other Commission.

Mr. Larkin testified that he does not agree with the utility that a problem exists by applying one methodology to one system and a different methodology to another system. He contends that there would never be a time that all costs would be allocated to all the systems. He explained that the only time you would have a 100 percent coverage for all allocated costs would be if rates were set on the same date and using the same data for every system. According to Mr. Larkin, this could never happen. (TR 295)

Staff disagrees that the utility's methodology is reasonable. The deficiency and inaccuracy of this method is that it makes no allowance for wide variations in average customer usage from one system to another. Normally, a utility parent with multiple discrete systems will adopt an allocation method which accounts for the possibility that average customer use for one system (or subsidiary) may far exceed the average for another system. The method proposed by Mr. Davis does take into consideration the size of the system. Further, it uses an established factor that has been accepted by this Commission.

The utility's term customer equivalent implies that each customer equivalent is equal to one customer. However, this is not

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correct. The utility is going beyond the meter to count units, which are not customers. In reality, each of these multi-residential units only represents one customer to the utility, since there is only one meter. For 1996, Mid-County only averaged 1,507 customers or 2,943 ERCs (TR 469), compared with 6,112 customer equivalents as calculated by the utility. (TR 367-368) Rule 25-30.210(1), Florida Administrative Code, defines a customer as: "any person, firm, association, corporation, governmental agency, or similar organization who has an agreement to receive service from the utility". By counting each unit as a customer, UI has substantially overstated the cost that Mid-County places on the overall Utilities, Inc. system. These units do not represent customers to the utility, as defined above, and the utility has not provided proof that they represent any real costs. Therefore, an allocation based on customers would be more reasonable than using customer equivalents. However, staff believes the size of the system should also be a consideration; but counting each unit behind the meter inflates the customer base. Historically the Commission has used AWWA meter factors to calculate the ERCs beyond the meter, to determine the relative customer base of the system, especially when the system is comprised of other than only single family residential customers. (TR 365-367) We therefore believe that the most appropriate allocation method to use in this case is the ERC methodology proposed by Mr. Davis. (TR 365, 367-369) Staff believes that the ERC methodology provides a more adequate measure of the relative size of the utility. In addition, as Mr. Davis testified, this method provides a result that "is closer to the distribution of the base facility charge in the rate design in both the last rate case and the current rate case." (TR 370)

Based on the discussions above, staff does not believe the utility's allocations from Utilities, Inc. are a reasonable distribution of the cost of the services provided to Mid-County. We further believe that these cost allocations should be recalculated using ERCs. Based on our calculations and using 2,943 ERCs (TR 469), operation and maintenance expenses should be reduced by \$96,821, allocated depreciation expense should be reduced by \$11,063, and allocated payroll taxes generated by the allocated salaries should be reduced by \$1,832, for a total reduction in expense of \$109,717.

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ISSUE 13: What is the appropriate amount of rate case expense?

RECOMMENDATION: Staff's recommended provision for rate case expense totals \$153,681. This results in an increase of \$27,465 to the utility's MFR requested amount. The four-year amortization results in test year rate case expense of \$38,421, which increases the MFR amortization amount by \$6,866. (MONIZ)

POSITION OF THE PARTIES

UTILITY: The appropriate rate case expense is \$171,707, consisting of \$126,954 of current rate case expense and \$44,753 from the prior rate case.

OPC: The PAA Order allowed the utility sufficient rate case expense.

STAFF ANALYSIS: The projected provision for rate case expense per the utility's MFRs was \$126,216, which consisted of \$47,706 in estimated current rate case expense and \$78,510 in prior unrecovered rate case expense from Docket No. 921293-SU. The current rate case expense projection consisted of estimates for filing fees, legal services, postage and printing, travel, and MFR preparation. The utility added the current and prior rate case expense together which resulted in annual rate case amortization expense of \$31,554. (EXH 4, Schedule B-10)

PRIOR RATE CASE EXPENSE

Pursuant to Order No. PSC-94-1042-FOF-SU, issued August 24, 1994, the Commission authorized Mid-County to recover rate case expense of \$110,000. It also authorized the utility to recover in its next rate case all prudent rate case expense in excess of the \$110,000 incurred in connection with the prior case in Docket No. 921293-SU.

In the PAA Order, the Commission found that the total amount of rate case expense for Docket No. 921293-SU, as audited by staff, was \$162,854. The accumulated amortization as of December 31, 1996, was \$84,344, leaving a \$78,510 balance of unamortized rate case expense from Docket No. 921293-SU. The \$78,510 was requested by the utility as an addition to current rate case expense and according to the terms pursuant to Order No. PSC-94-1042-FOF-SU. Staff calculated the amount of unrecovered rate case expense to be \$52,854, which was the total amount of the \$162,854 less \$110,000.

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Of that amount, \$8,101 was not allowed by Order No. PSC-94-1042-FOF-SU, leaving a balance of \$44,753 to be recovered in this case.

CURRENT RATE CASE EXPENSE

The PAA order also authorized the utility to recover \$50,206 in the current rate case. In his rebuttal testimony, utility witness Wenz increased the utility's request to \$63,293. (TR 400) At the hearing, Mr. Wenz filed updated information showing \$126,954 as the utility's revised estimate for rate case expense, which is \$76,748 greater than the amount granted in the PAA order. (EXH 24) The revised amount as compared to the amount approved in the PAA Order is shown below:

| DESCRIPTION | PAA ORDER | ACTUAL | ESTIMATED | TOTAL |
|-------------------------|-------------------|------------------|------------------|-------------------|
| Filing Fee | \$ 3,500 | \$ 0 | \$ 0 | \$ 3,500 |
| Legal | 11,135 | 22,370 | 15,050 | 48,555 |
| Postage, Printing | 6,806 | - | - | 6,806 |
| Travel | - | - | 1,485 | 1,485 |
| MFR Prep & Filing | 28,765 | | | 28,765 |
| Expert Witnesses | - | 4,418 | - | 12,883 |
| Discov, Test & Hear | - | 19,920 | 5,040 | 24,960 |
| Total Current | \$ 50,206 | \$ 46,708 | \$ 30,040 | \$ 126,954 |
| Prior RC Expense | \$44,753 | - | - | \$44,753 |
| Total Expense | \$ 94,959 | \$ 46,708 | \$ 30,040 | \$ 171,707 |
| Amort (Revised) | 23,740 | 11,677 | 7,510 | 42,927 |
| Amort (MFRs) | 31,241 | - | - | 31,241 |
| Adjustment | \$ (7,501) | \$11,677 | \$ 7,510 | \$11,686 |

It is OPC's belief that Mid-County should not be allowed to recover any rate case expense beyond that which was already approved in the PAA order. Its conclusion is based on witness Larkin's testimony that, since the utility seeks to reargue issues that the Commission has decided in the past, it should not be

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allowed to recover these costs from the ratepayers. (TR 276-278)

In response, utility witness Wenz testified that the issues related to the used and useful methodology have twice been remanded back to the Commission by the courts. He also testified that the issues regarding margin reserve and imputation of CIAC have been the subject of a rule challenge proceeding and also legislation. He concludes that these issues are clearly not settled by the Commission, and therefore the utility should be allowed rate case expense. (TR 399-400)

Staff believes that the utility has successfully defended the arguments presented by OPC for denial of rate case expense. However, based on our review of the supporting documentation filed by the utility, staff believes it is appropriate to make several adjustments to the utility's requested rate case expense. (EXH 24) Those adjustments and explanations are as follows:

During his deposition, utility witness Wenz was presented with questions regarding the support for the rate case expense described as "discovery, testimony & hearing". According to Mr. Wenz, the utility had not provided supporting documentation for \$15,258 in actual and \$5,040 in estimated costs. (EXH 9 pages 28-29) In its exhibit filed at the hearing, the actual amount was revised to be \$19,920, and the estimated costs remained at \$5,040. To support these costs, the utility filed time sheets for \$10,584 in actual charges. (EXH 24) However, the remaining \$9,366 in actual charges was not supported by time sheets, nor were explanations provided to support the \$5,040 in estimated charges. It is fully the utility's burden to justify its requested costs, with no exceptions made for rate case expense. Florida Power Corp. v. Cresse, 413 So. 2d 1187, 1191 (Fla. 1982). Further, it would constitute an abuse of discretion for the Commission to automatically award rate case expense without reference to the prudence of the costs incurred in the rate case proceedings. Meadowbrook Util. Sys., Inc. v. FPSC, 518 So. 2d 326, 327 (Fla. 1st DCA 1987), rehearing denied, 529 So. 2d 694 (Fla. 1988). Since the utility did not file adequate documentation to support the cost discussed above, staff was unable to determine the prudency of these costs. Therefore, staff recommends reducing the utility's request by \$14,376 for "discovery, testimony and hearing".

Staff also found that the utility included costs for two days of hearings for its attorney and its expert witness. Mr. Melson's estimated legal expenses included 20 hours for two days for the hearings, at an hourly rate of \$215, which equates to \$4,300. (EXH

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24 pg 48) Mr. Seidman's, estimate included \$3,000 for services to be performed in connection with the hearing. (EXH 24, pg 56). Since the record is clear that the hearing was concluded in one day, staff believes that both the legal charges and the expert witness charges should be reduced by one half. (TR 306) Therefore, we have reduced the above costs by \$2,150 and \$1,500, respectively.

CONCLUSION

Based on staff's above analysis of the record, we recommend that the Commission approve adjustments to decrease the requested rate case expense of \$171,707 by \$14,376 for the utility's insufficiently supported charges. We recommend that rate case expense should further be reduced by \$3,650 for estimated charges included for the second day of hearings. Accordingly, staff's recommended provision for rate case expense totals \$153,681. This results in an increase of \$27,465 to the MFR-requested amount of \$126,216. The four-year amortization results in test year rate case expense of \$38,421, which increases the MFR amortization amount by \$6,866.

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ISSUE 14: What is the appropriate net operating income for the test year?

RECOMMENDATION: The appropriate net operating income for the test year before any revenue increase is \$68,012. (MONIZ)

POSITION OF THE PARTIES

UTILITY: The appropriate amount of net operating income is approximately \$163,700. This is a fall-out from the above issues, coupled with the rulings in the PAA Order that were not protested.

OPC: The final amount is subject to the resolution of other issues as determined by the Commission.

STAFF ANALYSIS: Based on the adjustments discussed in previous issues, staff recommends that the test year operating income before any revenue increase should be \$68,012. The schedule showing the net operating income is attached as Schedule No. 3-A and the adjustments are shown on Schedule No. 3-B.

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REVENUE REQUIREMENT

ISSUE 15: What is the appropriate revenue requirement for the test year?

RECOMMENDATION: The following revenue requirement should be approved: (MONIZ)

| | <u>Total</u> | <u>Increase</u> | <u>Percentage Increase</u> |
|------------|--------------|-----------------|----------------------------|
| Wastewater | \$1,040,710 | \$127,117 | 13.91% |

POSITION OF THE PARTIES

UTILITY: The appropriate revenue requirement is \$1,225,899, which is the amount originally requested in Mid-County's application for rate increase. This amount is a fall-out of the above issues, coupled with the rulings in the PAA Order that were not protested.

OPC: The final amount is subject to the resolution of other issues as determined by the Commission.

STAFF: The revenue requirement is a summation measure that depends upon previously approved provisions for rate base, cost of capital, and operating expenses. Mid-County requested approval of final rates that were designed to generate annual revenues of \$1,225,899. Those revenues exceeded test year revenues by \$312,306 (34.18%). Based upon the stipulated adjustments from the PAA Order and staff's proposed recommendations, we recommend a revenue requirement of \$1,040,710.

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RATES

ISSUE 16: What are the appropriate wastewater rates for the test year?

RECOMMENDATION: The recommended wastewater rates should be designed to allow the utility the opportunity to generate annual operating revenues of \$1,039,326; the \$1,040,710 revenue requirement less \$1,384 in miscellaneous revenue. The utility should be required to file revised tariff sheets and proposed customer notice to reflect the appropriate rates pursuant to Rule 25-22.0407(10), Florida Administrative Code. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. The rates should not be implemented until proper notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice. (AUSTIN)

POSITION OF THE PARTIES

UTILITY: The appropriate rates are those designed to recover the revenue requirement established in Issue 15 through a rate structure that is consistent with the parties' stipulation.

OPC: The final amount is subject to the resolution of other issues as determined by the Commission.

STAFF ANALYSIS: The permanent wastewater rates requested by the utility are designed to produce annual operating revenues of \$1,225,899. The requested revenues represent an increase of \$312,306 (34.18%) for wastewater based on the year ending December 31, 1996.

Staff recommends that the final rates approved for the utility should be designed to produce annual operating revenues of \$1,039,326, excluding miscellaneous revenue, using the base facility usage charge rate design with bimonthly billing. When using the base facility rate design, the rates are first established with the 5/8" x 3/4" meter as the foundation. Generally, the base facility charge for the larger meter sizes is based on the AWWA meter equivalency factors. However, the Commission approved a stipulation at the outset of the hearing under which the meter equivalency factors to be used for

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determining rates are the hydraulic factors in the Clow pipe economy usage scale as set forth on hearing Exhibit 23. (EXH 23; TR 41-42; see Order No. PSC-99-1203-PHO-SU at 19-20)

Prior to this rate case, the utility's base facility rate design included a base facility and gallonage charge with a 20,000 gallon cap for residential customers. There is no cap for general service and multi-family customers. (TR 494-495) Neither party recommends any change in this general methodology. However, staff makes note that the rates in PAA Order No. PSC-98-0524-FOF-SU were inadvertently calculated without the 20,000 gallon cap for residential customers. The error has been corrected and the rates have been calculated using the 20,000 gallon cap for residential customers.

The utility should be required to file tariff sheets and a proposed customer notice to reflect the appropriate rates pursuant to Rule 25-22.0407(10), Florida Administrative Code. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. The rates should not be implemented until proper notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice.

A comparison of the utility's original rates, interim rates, requested rates, and staff's recommended rates is shown on Schedule No. 4.

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ISSUE 17: What is the appropriate amount of rate reduction in four years as required by Section 367.081(6), Florida Statutes?

RECOMMENDATION: The wastewater rates should be reduced as shown on Schedule No. 5 to remove \$40,231 for rate case expense grossed-up for regulatory assessment fees which are being 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 no later than one month prior to the actual date of the required rate reduction. (AUSTIN)

POSITION OF THE PARTIES

UTILITY: In determining the appropriate rate reduction, the Commission must consider both the amount of allowed rate case expense and the portion of that expense that will actually be recovered through the approved rates.

OPC: The final amount is subject to the resolution of other issues as determined by the Commission.

STAFF: Section 367.0816, Florida Statutes, requires that rate case expense be reduced immediately following the expiration of the four-year period by the amount of rate case expense previously authorized in the rates. The reduction should reflect the removal of revenues associated with the amortization of rate case expense and the gross-up for regulatory assessment fees, which is \$40,231 for wastewater. The removal of rate case expense grossed-up for regulatory assessment fees will result in the reduction of rates recommended by staff on Schedule No. 5.

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 no later than one month prior to the actual date of the required rate reduction.

If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease

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and the reduction in the rates due to the amortized rate case expense.

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ISSUE 18: What is the appropriate amount of the interim refund, if any?

RECOMMENDATION: The proper refund amount should be calculated by using the same data used to establish final rates, excluding rate case expense. This revised revenue requirement for the interim collection period should be compared to the amount of interim revenues granted. Based on this calculation, the utility should be required to refund 16.81% of wastewater revenues collected under interim rates. The refund should be made with interest in accordance with Rule 25-30.360(4), Florida Administrative Code. The utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), Florida Administrative Code. (AUSTIN)

POSITION OF THE PARTIES

UTILITY: No interim refund is required. This determination is a fall-out of the above issues.

OPC: The final amount is subject to the resolution of other issues, and the date by which the refund is to be accomplished.

STAFF ANALYSIS: In Order No. PSC-97-1608-PCO-SU, issued on December 22, 1997, the utility's proposed rates were suspended and interim wastewater rates were approved subject to refund, pursuant to Section 367.082, Florida Statutes. The approved interim revenue is shown below:

| | <u>Revenues</u> | <u>Increase</u> | <u>Percentage</u> |
|------------|-----------------|-----------------|-------------------|
| Wastewater | \$ 1,177,611 | \$ 264,009 | 28.90% |

According to Section 367.082, Florida Statutes, any refund should be calculated to reduce the rate of return of the utility during the pendency of the proceeding to the same level within the range of the newly authorized rate of return. Adjustments made in the rate case test period that do not relate to the period interim rates are in effect should be removed. Examples of these adjustments would be an attrition allowance or rate case expense, which are recovered only after final rates are established.

In this proceeding, the test period for establishment of interim and final rates was the twelve months ended December 31, 1996. The approved interim rates did not include any provisions for consideration of staff proposed adjustments in operating expenses or plant. The interim increase was designed to allow

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recovery of actual interest costs, and the floor of the last authorized range for equity earnings.

To establish the proper refund amount, we have calculated a revised interim revenue requirement utilizing the same data used to establish final rates. Rate case expense was excluded, because it was not an actual expense during the interim collection period.

Using the principles discussed above, staff has calculated the interim revenue requirement for the interim collection period to be \$979,615 for wastewater. This revenue level is less than the interim revenue which was granted in Order No. PSC-98-0524-FOF-SU. Therefore, staff recommends a refund of 16.81% of interim rates.

The utility should be required to refund 16.81% of wastewater revenues collected under interim rates. The refund should be made with interest in accordance with Rule 25-30.360(4), Florida Administrative Code. The utility should be required to submit proper refund reports pursuant to Rule 25-30.360(7). The utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), Florida Administrative Code.

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ISSUE 19: Should this docket be closed?

RECOMMENDATION: No. Upon expiration of the appeal period, if no party timely appeals the order, this docket should remain open pending staff's verification of refunds. The docket should be closed administratively upon verification that the refunds have been completed. (BRUBAKER, AUSTIN)

STAFF ANALYSIS: Upon expiration of the appeal period, if no party timely appeals the order, this docket should remain open pending completion and verification of the refunds. The docket should be closed administratively upon verification that the refunds have been made.

MID-COUNTY SERVICES, INC.
 SCHEDULE OF WASTEWATER RATE BASE
 TEST YEAR ENDED 12/31/96

SCHEDULE NO. 1-A
 DOCKET 971065-SU

| DESCRIPTION | TEST YEAR PER MFRS | UTILITY ADJUSTMENTS | ADJUSTED TEST YEAR PER MFRS | PAA STIP'S & STAFF ADJUSTMENTS | STAFF ADJUSTED TEST YEAR |
|----------------------------------|--------------------------|------------------------|-----------------------------------|--------------------------------------|--------------------------------|
| 1 UTILITY PLANT IN SERVICE | \$3,880,925 | (\$131,742) | \$3,749,183 | \$177,123 | \$3,926,306 |
| 2 LAND | \$18,403 | (\$18,403) | \$0 | \$0 | \$0 |
| 3 NON-USED & USEFUL COMPONENTS | \$0 | \$0 | \$0 | (\$148,396) | (\$148,396) |
| 4 ACCUMULATED DEPRECIATION | (\$1,004,622) | \$10,754 | (\$993,868) | \$6,132 | (\$987,736) |
| 5 CIAC | (\$2,174,889) | \$0 | (\$2,174,889) | \$0 | (\$2,174,889) |
| 6 AMORTIZATION OF CIAC | \$777,284 | \$2,697 | \$779,981 | \$0 | \$779,981 |
| 7 ACQUISITION ADJUSTMENTS - NET | \$0 | \$0 | \$0 | \$0 | \$0 |
| 8 ADVANCES FOR CONSTRUCTION | \$0 | \$0 | \$0 | \$0 | \$0 |
| 9 UNFUNDED POST-RETIRE. BENEFITS | \$0 | \$0 | \$0 | \$0 | \$0 |
| 10 CONSTRUCTION WORK IN PROGRES | \$0 | \$148,330 | \$148,330 | (\$148,330) | \$0 |
| 11 WORKING CAPITAL ALLOWANCE | \$103,144 | (\$2,048) | \$101,096 | (\$12,209) | \$88,887 |
| 12 OTHER - WATER SERVICE CORP. | \$0 | \$58,787 | \$58,787 | (\$2,205) | \$56,582 |
| RATE BASE | \$1,600,245 | \$68,375 | \$1,668,620 | (\$127,885) | \$1,540,735 |

MID-COUNTY SERVICES, INC.
 ADJUSTMENTS TO RATE BASE
 TEST YEAR ENDED 12/31/96

SCHEDULE NO. 1-B
 DOCKET 971065-SU

| EXPLANATION | WASTEWATER |
|---|--------------------|
| <u>PLANT IN SERVICE</u> | |
| 1 Capitalized Expenses (stipulated) | (\$6,073) |
| 2 Discounts Not Taken (stipulated) | (1,700) |
| 3 Retirements (stipulated) | (4,242) |
| 4 CWIP (Issue 1) | 189,138 |
| Total | <u>\$177,123</u> |
| <u>NON-USED AND USEFUL</u> | |
| 1 Non-Used and Useful Treatment Plant Facility (Issue 4) | (\$200,517) |
| 2 Non-Used and Useful Treatment Plant Facility Accumulated Depreciation (Issue 4) | 52,121 |
| 3 Imputed CIAC (Issue 6) | 0 |
| 4 Imputed Accumulated Amortization of CIAC (Issue 6) | 0 |
| Total | <u>(\$148,396)</u> |
| <u>ACCUMULATED DEPRECIATION</u> | |
| 1 Capitalized Expenses (stipulated) | 89 |
| 2 Discounts Not Taken (stipulated) | 29 |
| 3 Retirements (stipulated) | 4,242 |
| 4 CWIP (Issue 1) | 1,772 |
| Total | <u>\$6,132</u> |
| <u>CONSTRUCTION WORK IN PROGRESS</u> | |
| CWIP (Issue 1) | <u>(\$148,330)</u> |
| <u>WORKING CAPITAL</u> | |
| Working Capital (fall-out) | <u>(\$12,209)</u> |
| <u>OTHER - WATER SERVICE CORPORATION</u> | |
| Deferred Charges (stipulated) | <u>(\$2,205)</u> |

MID-COUNTY SERVICES, INC.
 CAPITAL STRUCTURE
 TEST YEAR ENDED 12/31/96

SCHEDULE NO. 2
 DOCKET 971065-SU

| DESCRIPTION | TOTAL CAPITAL | PAA STIPULATED ADJUSTMENTS | PRO RATA ADJUSTMENTS | CAPITAL RECONCILED TO RATE BASE | RATIO | COST RATE | WEIGHTED COST |
|--|--------------------|----------------------------------|-------------------------|--|----------------|---------------|------------------|
| PER UTILITY 1996 - 13-MONTH AVERAGE | | | | | | | |
| 1 LONG TERM DEBT | \$0 | \$0 | \$845,741 | \$845,741 | 50.13% | 9.18% | 4.60% |
| 2 SHORT-TERM DEBT | \$0 | \$0 | \$26,038 | \$26,038 | 1.54% | 9.74% | 0.15% |
| 3 PREFERRED STOCK | \$0 | \$0 | \$0 | \$0 | 0.00% | 0.00% | 0.00% |
| 4 COMMON EQUITY | \$1,633,121 | \$0 | (\$871,779) | \$761,342 | 45.13% | 10.22% | 4.62% |
| 5 CUSTOMER DEPOSITS | \$0 | \$0 | \$0 | \$0 | 0.00% | 6.00% | 0.00% |
| 6 DEFERRED INCOME TAXES | \$0 | \$0 | \$0 | \$0 | 0.00% | 0.00% | 0.00% |
| 7 DEFERRED ITC'S-ZERO COST | \$53,901 | \$0 | \$0 | \$53,901 | 3.20% | 0.00% | 0.00% |
| 8 DEFERRED ITC'S-WTD. COST | \$0 | \$0 | \$0 | \$0 | 0.00% | 0.00% | 0.00% |
| 9 OTHER | \$0 | \$0 | \$0 | \$0 | 0.00% | 0.00% | 0.00% |
| 10 TOTAL CAPITAL | <u>\$1,687,022</u> | <u>\$0</u> | <u>\$0</u> | <u>\$1,687,022</u> | <u>100.00%</u> | | <u>9.37%</u> |
| STIPULATED - 13-MONTH AVERAGE | | | | | | | |
| 11 LONG TERM DEBT | \$0 | \$845,741 | (\$73,337) | \$772,404 | 50.13% | 9.18% | 4.60% |
| 12 SHORT-TERM DEBT | \$0 | \$26,038 | (\$2,258) | \$23,780 | 1.54% | 9.74% | 0.15% |
| 13 PREFERRED STOCK | \$0 | \$0 | \$0 | \$0 | 0.00% | 0.00% | 0.00% |
| 14 COMMON EQUITY | \$1,633,121 | (\$871,779) | (\$66,018) | \$695,324 | 45.13% | 10.16% | 4.59% |
| 15 CUSTOMER DEPOSITS | \$0 | \$0 | \$0 | \$0 | 0.00% | 6.00% | 0.00% |
| 16 DEFERRED INCOME TAXES | \$0 | \$0 | \$0 | \$0 | 0.00% | 0.00% | 0.00% |
| 17 DEFERRED ITC'S-ZERO COST | \$53,901 | \$0 | (\$4,674) | \$49,227 | 3.20% | 0.00% | 0.00% |
| 18 DEFERRED ITC'S-WTD. COST | \$0 | \$0 | \$0 | \$0 | 0.00% | 0.00% | 0.00% |
| 19 OTHER | \$0 | \$0 | \$0 | \$0 | 0.00% | 0.00% | 0.00% |
| 17 TOTAL CAPITAL | <u>\$1,687,022</u> | <u>\$0</u> | <u>(\$146,287)</u> | <u>\$1,540,735</u> | <u>100.00%</u> | | <u>9.34%</u> |
| | | | | | LOW | HIGH | |
| | | | | RETURN ON EQUITY | <u>9.16%</u> | <u>11.16%</u> | |
| | | | | OVERALL RATE OF RETURN | <u>8.89%</u> | <u>9.79%</u> | |

MID-COUNTY SERVICES, INC.
 STATEMENT OF WASTEWATER OPERATIONS
 TEST YEAR ENDED 12/31/96

SCHEDULE NO. 3-A
 DOCKET 971065-SU

| DESCRIPTION | TEST YEAR PER MFRS | UTILITY ADJUSTMENTS | ADJUSTED TEST YEAR PER MFRS | PAA STIP'S AND STAFF ADJUSTMENTS | STAFF ADJUSTED TEST YEAR | REVENUE INCREASE | REVENUE REQUIREMENT |
|-----------------------------|--------------------------|------------------------|-----------------------------------|--|--------------------------------|---------------------|------------------------|
| 1 OPERATING REVENUES | \$883,000 | \$342,899 | \$1,225,899 | (\$312,306) | \$913,593 | \$127,117 13.91% | \$1,040,710 |
| OPERATING EXPENSES | | | | | | | |
| 2 OPERATION AND MAINTENANCE | \$825,155 | (\$16,385) | \$808,770 | (\$93,994) | \$711,093 | | \$711,093 |
| 3 DEPRECIATION | 63,126 | 3,236 | 66,362 | (21,048) | 45,314 | | 45,314 |
| 4 AMORTIZATION | 0 | 0 | 0 | 0 | 0 | | 0 |
| 5 TAXES OTHER THAN INCOME | 92,989 | 15,988 | 108,977 | (16,660) | 92,317 | \$5,720 | 98,038 |
| 6 INCOME TAXES | (64,608) | 148,302 | 83,694 | (86,838) | (3,144) | 45,500 | 42,356 |
| 7 TOTAL OPERATING EXPENSES | \$916,662 | \$151,141 | \$1,067,803 | (\$218,539) | \$845,581 | \$51,220 | \$896,801 |
| 8 OPERATING INCOME | (\$33,662) | \$191,758 | \$158,096 | (\$93,767) | \$68,012 | \$75,897 | \$143,909 |
| 9 RATE BASE | \$1,600,245 | | \$1,668,620 | | \$1,540,735 | | \$1,540,735 |
| 10 RATE OF RETURN | -2.10% | | 9.47% | | 4.41% | | 9.34% |

MID-COUNTY SERVICES, INC.
ADJUSTMENTS TO OPERATING INCOME
TEST YEAR ENDED 12/31/96

SCHEDULE NO. 3-B
DOCKET 971065-SU

| EXPLANATION | WASTEWATER |
|---|-------------------|
| <u>OPERATING REVENUES</u> | |
| Remove requested final revenue increase | (\$312,306) |
| <u>OPERATION & MAINTENANCE EXPENSE</u> | |
| Insurance Misclassifications (Issue 11) | (\$3,683) |
| Late Fees & Prior Period Adjustments (Stipulated) | (4,039) |
| WSC Allocations (Issue 12) | (96,821) |
| Rate Case Expense (Issue 13) | 6,866 |
| Total | <u>(\$93,994)</u> |
| <u>DEPRECIATION EXPENSE-NET</u> | |
| 1 Non-Used and Useful Depreciation (Issue 4) | (\$6,040) |
| 2 Imputed CIAC Amortization (Issue 7) | 0 |
| 3 Allocations (Issue 12) | (11,063) |
| 4 Capitalized Expenses (stipulated) | (178) |
| 5 Discounts Not Taken (stipulated) | (57) |
| 6 Retirements (stipulated) | (165) |
| 7 CWIP (Issue 1) | (3,544) |
| Total | <u>(\$21,048)</u> |
| <u>TAXES OTHER THAN INCOME</u> | |
| 1 RAFs on revenue adjustments above (fall-out) | (\$14,054) |
| 2 Non-Used and Useful Property Tax (Issue 4) | (1,528) |
| 3 Audit Adjustments (stipulated) | 755 |
| 4 Allocations (Issue 12) | (1,832) |
| Total | <u>(\$16,660)</u> |
| <u>INCOME TAXES</u> | |
| Adjust to test year income tax expense (fall-out) | <u>(\$86,838)</u> |

MID-COUNTY SERVICES, INC.
 WASTEWATER BI-MONTHLY SERVICE RATES - CLOW PIPE METER FACTORS
 TEST YEAR ENDED 12/31/96

SCHEDULE NO. 4A
 DOCKET 971065-SU

| Class | Rates Prior to Filing | Commission Approved Interim | Utility Requested Final | Commission Recomm. Final |
|-------|-----------------------------|-----------------------------------|-------------------------------|--------------------------------|
|-------|-----------------------------|-----------------------------------|-------------------------------|--------------------------------|

BI-MONTHLY RATES

Residential

| | | | | |
|--|---------|---------|---------|---------|
| Base Facility Charge: All meter siz | \$28.80 | \$36.98 | \$38.66 | \$23.26 |
| Gallorage Charge, per 1,000 Gallons (20,000 gallon cap) | \$1.51 | \$1.93 | \$2.03 | \$1.81 |

General Service

| | | | | |
|-------------------------------------|------------|------------|------------|----------|
| Base Facility Charge: Meter Size: | | | | |
| 5/8" x 3/4" | \$28.80 | \$36.98 | \$38.66 | \$23.26 |
| 1" | \$72.01 | \$92.44 | \$96.65 | \$33.64 |
| 1-1/2" | \$144.02 | \$184.87 | \$193.30 | \$59.68 |
| 2" | \$230.44 | \$295.79 | \$309.29 | \$134.28 |
| 3" | \$460.89 | \$591.59 | \$618.57 | \$238.73 |
| 4" | \$720.13 | \$924.13 | \$966.52 | \$537.28 |
| 6" | \$1,440.28 | \$1,848.74 | \$1,933.03 | \$954.90 |
| Gallorage Charge, per 1,000 Gallons | \$1.81 | \$2.32 | \$2.43 | \$2.17 |

Multi-Residential

| | | | | |
|-------------------------------------|------------|------------|------------|------------|
| Base Facility Charge: Meter Size: | | | | |
| 5/8" x 3/4" | \$28.80 | \$36.98 | \$38.66 | \$23.26 |
| 1" | \$72.01 | \$92.44 | \$96.65 | \$33.64 |
| 1-1/2" | \$144.02 | \$184.87 | \$193.30 | \$59.68 |
| 2" | \$230.44 | \$295.79 | \$309.29 | \$537.28 |
| 3" | \$460.89 | \$591.59 | \$618.57 | \$954.90 |
| 4" | \$720.13 | \$924.13 | \$966.52 | \$954.90 |
| 6" | \$1,440.28 | \$1,848.74 | \$1,933.03 | \$2,148.81 |
| Gallorage Charge, per 1,000 Gallons | \$1.81 | \$20.00 | \$2.43 | \$2.17 |

Flat Rate

| | | | | |
|------------------|------------|------------|------------|------------|
| Residential | \$50.67 | \$65.04 | \$68.01 | \$48.20 |
| Mobile Home Park | \$1,595.45 | \$2,047.92 | \$2,141.57 | \$1,482.63 |

Typical Residential Bi-Monthly Bills

| | | | | |
|---|---------|---------|---------|---------|
| 5/8" x 3/4" meter | | | | |
| 6,000 Gallons | \$37.86 | \$48.56 | \$50.82 | \$34.09 |
| 10,000 Gallons | \$43.90 | \$56.28 | \$58.93 | \$41.32 |
| 20,000 Gallons | \$59.00 | \$75.58 | \$79.20 | \$59.38 |
| (Wastewater Gallorage Cap - 20,000 Gallons) | | | | |

MID-COUNTY SERVICES, INC.
 SCHEDULE OF RATE DECREASE AFTER EXPIRATION OF
 AMORTIZATION PERIOD FOR RATE CASE EXPENSE
 TEST YEAR ENDED 12/31/96

SCHEDULE NO. 5
 Docket No. 971065-SU

| Class | Recommended Final Rates | Recomm. Decrease |
|-------|----------------------------|---------------------|
|-------|----------------------------|---------------------|

BI-MONTHLY RATES

Residential

| | | |
|---|---------|--------|
| Base Facility Charge: All meter size | \$23.26 | \$0.90 |
| Gallonage Charge - Per 1,000 gallons (20,000 gallon cap) | \$1.81 | \$0.07 |

General Service

| | | |
|-------------------------------------|----------|---------|
| Base Facility Charge: Meter Size: | | |
| 5/8" x 3/4" | \$23.26 | \$0.90 |
| 1" | \$33.64 | \$1.30 |
| 1-1/2" | \$59.68 | \$2.31 |
| 2" | \$134.28 | \$5.20 |
| 3" | \$238.73 | \$9.24 |
| 4" | \$537.28 | \$20.80 |
| 6" | \$954.90 | \$36.96 |
| Gallonage Charge, per 1,000 Gallons | \$2.17 | \$0.08 |

Multi-Residential

| | | |
|-------------------------------------|------------|---------|
| Base Facility Charge: Meter Size: | | |
| 5/8" x 3/4" | \$23.26 | \$0.90 |
| 1" | \$33.64 | \$1.30 |
| 1-1/2" | \$59.68 | \$2.31 |
| 2" | \$537.28 | \$20.80 |
| 3" | \$954.90 | \$36.96 |
| 4" | \$954.90 | \$36.96 |
| 6" | \$2,148.81 | \$83.18 |
| Gallonage Charge, per 1,000 Gallons | \$2.17 | \$0.08 |

Flat Rate

| | | |
|------------------|------------|---------|
| Residential | \$48.20 | \$1.87 |
| Mobile Home Park | \$1,482.63 | \$57.39 |