

ORIGINAL



JACK SHREVE
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STATE OF FLORIDA
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c/o The Florida Legislature
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RECORDS AND
REPORTING

March 8, 2000

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

RE: Docket No. 990080-WS

Dear Ms. Bayó:

Enclosed is an original and one copy of a Notice of Administrative Appeal directed to Florida Public Service Commission Order No. PSC-00-0259-PAA-WS, issued February 8, 2000. Pursuant to Florida Rule of Appellate Procedure 9.110(c), a second copy is being filed with the Clerk of the District Court of Appeal, First District.

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

Sincerely,

Stephen C. Burgess
Deputy Public Counsel

- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG _____
- MAS _____
- OPC _____
- RRR _____
- SEC _____ SCB/dsb
- WAW _____ Enclosures
- OTH _____

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03059 MAR-88
FPSC-RECORDS/REPORTING



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison St.
Room 812
Tallahassee, Florida 32399-1400
850-488-9330

March 8, 2000

Mr. Jon S. Wheeler, Clerk
District Court of Appeal
First District
301 Martin L. King, Jr., Blvd.
Tallahassee, FL 32399-1850

RE: Citizens of the State of Florida v. Joe Garcia,
etc., et al., Case No. _____

Dear Mr. Wheeler:

Enclosed please find, pursuant to Florida Rule of Appellate Procedure 9.110(c), a second copy of the Notice of Administrative Appeal directed to Florida Public Service Commission Order No. PSC-00-0259-PAA-WS.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen C. Burgess".

Stephen C. Burgess
Deputy Public Counsel

SCB/dsb
Enclosure

ORIGINAL

BEFORE THE FLORIDA
PUBLIC SERVICE COMMISSION


Docket No. 990080-WS

Citizens of the State of Florida,)
)
 Appellants,)
)
 v.)
)
 Joe Garcia, Chairman, Susan F. Clark,)
 J. Terry Deason, E. Leon Jacobs,)
 and Lila F. Jaber, Commissioners,)
 as and constituting the Florida Public)
 Service Commission, an agency of the)
 State of Florida,)
)
 Appellee,)
)

NOTICE OF ADMINISTRATIVE
APPEAL

NOTICE IS GIVEN that the Citizens of the State of Florida, through their attorney, Jack Shreve, Public Counsel, Appellants, appeals to the Court of Appeal, First District, Order No. PSC-00-0259-PAA-WS, issued February 8, 2000. The nature of Order No. PSC-00-0259-PAA-WS, is a final order regarding the issue brought in this appeal.

Respectfully submitted,



 STEPHEN C. BURGESS
 Deputy Public Counsel
 Florida Bar Number. 0286321

Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400

(850) 488-9330

Attorneys for the Citizens
of the State of Florida

DOCUMENT NUMBER-DATE

03059 MAR-88

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FPSC-RECORDS/REPORTING

**CERTIFICATE OF SERVICE
DOCKET NO. 990080-WS**

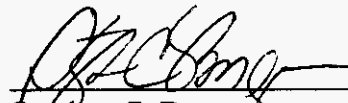
I HEREBY CERTIFY that a true and correct copy of the foregoing Notice Of Appeal has been furnished by U.S. Mail or *hand delivery to the following parties, this 8th day of March, 2000.

Timothy Vaccaro, Esquire*
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Martin S. Friedman, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

Linda J. McKenna
5 Tarkin Hill Road
Raymond, ME 04071

Shangri-La by the Lake Utilities, Inc.
11654 Long Lake Drive
Sparta, MI 49345



Stephen C. Burgess
Deputy Public Counsel

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint and request
for hearing by Linda J. McKenna
and 54 petitioners regarding
unfair rates and charges of
Shangri-La by the Lake
Utilities, Inc. in Lake County.

DOCKET NO. 990080-WS
ORDER NO. PSC-00-0259-PAA-WS
ISSUED: FEBRUARY 8, 2000

The following Commissioners participated in the disposition of
this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.

ORDER AUTHORIZING COLLECTION OF RATES IN THE EVENT OF A PROTEST
AND
NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING REQUEST FOR INJUNCTION, DENYING REQUEST FOR
REVOCAION OF CERTIFICATES, ADJUSTING RATES,
ESTABLISHING NEW CLASS OF SERVICE, AND AUTHORIZING COLLECTION OF
METER CHARGES FOR IRRIGATION

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action discussed herein, with the exception of
our finding regarding the original notice and the utility's
collection of rates in the event of a protest, is preliminary in
nature and will become final unless a person whose interests are
substantially affected files a petition for a formal proceeding,
pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Shangri-La by the Lake Utilities, Inc. (Shangri-La or utility)
is a Class C utility located in Lake County. The utility currently
provides water and wastewater service to approximately 129 mobile
homes and water service to five single family homes. According to
the utility's 1998 annual report, the utility's operating revenues
were \$15,002 for water and \$13,985 for wastewater. In 1998, the

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Public Counsel

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utility reported a net operating income of \$1,479 for the water system and a net operating loss of \$12,927 for the wastewater system.

The utility was established on April 21, 1983; however, we did not learn of its existence until approximately 1992. At that time, water and wastewater service was provided to the mobile home park tenants as part of their lot rent. If the tenants had been the only customers of the utility, it would have qualified for exemption from regulation pursuant to Section 367.022(5), Florida Statutes. However, the utility was also providing water service to five single family homes outside of the mobile home park, and thus, did not qualify for exemption from regulation. After being informed by our staff that it was subject to Commission jurisdiction and was operating in apparent violation of Section 367.031, Florida Statutes, the utility promptly filed an application for water and wastewater certificates.

By Order No. PSC-96-0062-FOF-WS, issued January 12, 1996, in Docket No. 940653-WS, we granted Shangri-La Certificates Nos. 567-W and 494-S. Also, by that Order, we established rate base, return on equity, rate of return, and rates and charges. No timely protests were received regarding the certificate application or proposed agency action (PAA) portion of the Order; therefore, our actions in that docket became final.

In the vast majority of certificate cases for a utility in existence, the utility is already charging rates, and we allow the utility to continue charging its existing rates. That proved to be difficult, however, in Shangri-La's case. The utility initially charged a flat rate of \$10 per month to the five single family homes, but discontinued the charge upon being informed that it was in apparent violation of Commission rules by doing so. Also, as discussed above, water and wastewater service was provided to the mobile home park tenants as part of their lot rent. Therefore, the utility did not have existing rates which could be applied uniformly to all of its customers.

Consequently, it became necessary for us to consider the calculation of rates within the utility's certificate docket in order to certificate the utility with rates to be used on a going-forward basis. The utility's application included proposed rates for the metered single family homes using the base facility charge rate structure, and flat rates for the un-metered mobile home park tenants. However, current Commission practice is to calculate rates using the base facility charge rate structure and avoid the

use of flat rates unless absolutely necessary. We have recognized the benefits of the base facility charge rate structure in promoting water conservation for many years. In keeping with current Commission practice, we did not find it appropriate to set flat rates for this utility. Further, during an audit of the utility's records, our audit staff determined that the utility had exceeded its consumptive use permit during the test year. That factor further supported the need for metered consumption and usage specific charges for this utility. Therefore, we approved rates for all customers using the base facility charge rate structure.

As discussed above, however, none of the mobile home park tenants were individually metered at that time, and therefore, could not be charged the new rates. We stated at page 10 of Order No. PSC-96-0062-FOF-WS, that "the preferable situation would be to meter the mobile home park at this time and begin charging all of the customers under the base facility charge rate structure." The utility owner, however, requested that we allow the utility additional time to pursue approval of the remaining meter installations through the Mobile Home Landlord Tenant Act procedure.

Because a significant portion of the excessive consumption was attributable to the single family homes, we ordered the utility to begin charging the new rates to those customers immediately. However, we also ordered that "the utility shall continue to charge the mobile home park tenants in the current manner until such time as the utility is able to install water meters in the mobile home park." Order No. PSC-96-0062-FOF-WS at page 10. In other words, the utility was required to continue providing water and wastewater service as part of the tenants' lot rent until the water meters were installed.

In late 1998, our staff began receiving inquiries from the residents in the mobile home park regarding the utility's plans to install water meters and begin charging them separately for water and wastewater service. On January 14, 1999, a number of customers discussed their concerns with us directly during the "Open Mike" session of the agenda conference. Subsequently, on January 19, 1999, Ms. Linda J. McKenna and 54 other customers filed the formal complaint which is the subject of this docket.

According to the complaint, the customers in the mobile home park did not receive the notice of the utility's application for certificates or the subsequently approved rates, and thus, could not file a timely objection. Also, the customers believe the rates

are unfair and inaccurate. Further, they assert that there should be a seasonal rate established for part-time residents. A major point of contention is that the mobile home park/utility owner is reducing the lot leases by an amount less than the anticipated future water and wastewater bills based upon the Commission approved rates. The customers also cited several quality of service concerns. Finally, there is concern that some customers are being metered and charged, while others are not.

The customers have requested a formal hearing, rate relief, establishment of a seasonal rate for customers not in residence, that the utility be disallowed from charging for service until the matter is addressed, and that the utility's certificate be revoked until a satisfactory resolution is reached between all concerned parties. Our staff met with the customers on January 28, 1999, to discuss their concerns in more detail.

On February 24, 1999, the utility filed a response to the complaint. The response states that pursuant to Rule 25-30.030, Florida Administrative Code, the notices of the application and of the subsequently approved rates were provided to all customers of the utility. At that time, however, the individual residents of the mobile home park were not customers of the utility. Also, the rate base, revenue requirement, and rates were established in accordance with Commission rules and sound regulatory principles. The utility asserts that the complainants have not provided sufficient justification for the time and expense of a rate investigation. Regarding the request for a seasonal rate, the utility states that in accordance with established Commission policy, the seasonal customers are required to pay the utility's base facility charges for the time of the year during which they reside elsewhere.

Further, regarding the issue of an appropriate rent reduction versus Commission approved rates, the utility's response states that this issue is governed by Chapter 723, Florida Statutes, which provides remedies for such disputes. Regarding the quality of service issues, the utility indicated that it would need specific factual information before being able to respond to those concerns. Finally, regarding the installation of meters, the utility acknowledges that not all of the water meters were installed at the same time. All residents of the mobile home park, however, are paying for water and wastewater service either through their lot rent or directly to the utility.

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During the course of our staff's investigation of this complaint, some customers raised additional questions and concerns that were not included in the formal complaint. Our staff has worked with the customers and utility to resolve these additional questions and concerns as they arose, and will continue to follow up on them as needed. Therefore, we have limited our decisions to the concerns raised and relief requested in the formal written complaint, and to those additional concerns that require our vote for resolution.

NOTICE OF ORIGINAL CERTIFICATE APPLICATION

The customers state that they did not receive notice of the utility's certificate application or approved rates and charges. Section 367.045(1), Florida Statutes, requires that the utility provide notice of its application for certificates, and an affidavit that notice was provided, as prescribed by Commission rule. Rule 25-30.030(6), Florida Administrative Code, requires that the utility provide notice to each customer of the utility being certificated. In accordance with this statute and rule, the utility provided affidavits that it had complied with the noticing requirements, including noticing of each customer of the utility. Likewise, following issuance of PAA Order No. PSC-96-0062-FOF-WS, which approved the utility's rates and charges, the utility submitted proof of noticing the customers of the approved rates and charges. No protests were received regarding the certificate application or rates, and our action regarding this certificate became final.

When our staff was first contacted by customers in late 1998, staff was informed that the customers in the mobile home park did not become aware of the utility's status as a regulated utility and its plans to charge them separately for water and wastewater service until they received a 90-day notice regarding the change to their leases. The 90-day notice is required by the Landlord Tenant Act (Chapter 723, Florida Statutes) prior to any change in their rent or lease. Our staff subsequently learned from the utility that the notices regarding the certificate application and rates were only sent to the customers in the five single family homes and the mobile home park office. Therefore, the individual tenants within the mobile home park were not noticed.

In its response to the complaint, the utility stated:

At the time that the utility was certificated, the mobile home park where the complainants reside was receiving

bulk service from the utility. The mobile home park did not bill residents for water and wastewater service, which was included in their lot rent. The notice required pursuant to Rule 25-30.030, Florida Administrative Code, was given to all customers of the utility. At that time, the individual residents of the mobile home park were not customers of the utility.

Rule 25-30.030(6), Florida Administrative Code, states in part that "the utility shall also provide a copy of the notice, by regular mail or personal service, to each customer, of the system to be certificated." Rule 25-30.210(1), Florida Administrative Code, specifies that the word "customer" shall mean any person, firm, association, corporation, governmental agency, or similar organization who has an agreement to receive service from the utility. At the time the certificate application was filed and rates were approved, the agreement for service was between the utility and the mobile home park, not each individual tenant within the mobile home park. Therefore, following the definition provided in Rule 25-30.210(1), Florida Administrative Code, the mobile home park was the official customer of record at that time. Based upon this definition, the utility believes it complied with the statute and rules regarding noticing. Therefore, we find that the utility did not violate the noticing rule, because by definition, the tenants of the mobile home park did not qualify as "customers" at the time of noticing. Based on the foregoing, we find that the utility properly noticed its application for water and wastewater certificates and rates approved in Docket No. 940653-WS, and that no further noticing shall be required regarding Docket No. 940653-WS.

REQUEST FOR INJUNCTION REGARDING COLLECTION OF RATES AND CHARGES

The customers have requested that we issue an injunction against the utility to cease and desist from charging for water and wastewater service, retroactive to January 1, 1999, until this petition can be heard and equitable relief provided. Rule 25-22.032(10), Florida Administrative Code, states:

During the pendency of the complaint proceedings, a utility shall not discontinue service to a customer because of an unpaid disputed bill. However, the utility may require the customer to pay that part of a bill which is not in dispute. If the parties cannot agree as to the amount in dispute, the staff member will make a reasonable estimate to establish an interim disputed

amount until the complaint is resolved. If the customer fails to pay the undisputed portion of the bill the utility may discontinue the customer's service pursuant to Commission rules.

The rule specifically allows the utility to continue assessing charges, but provides the customers with protection against disconnection of their service pending resolution of the complaint.

Our staff discussed the requirements of this rule with the utility in the early stages of our investigation. The utility owner indicated to our staff that the utility did not intend to disconnect any customers who refused to pay pending resolution of the complaint. Further, during its investigation of this complaint, our staff did not receive any complaints relating to disconnection of service for non-payment of a water and wastewater bill. Therefore, the protection provided by this rule is sufficient in this case, and no further action is needed regarding the utility's authority to bill customers during the pendency of this complaint. Therefore, the customers' request that we issue an injunction against the utility to cease and desist from charging for water and wastewater service is hereby denied.

REQUEST FOR REVOCATION OF UTILITY'S CERTIFICATE

The customers have requested that the utility's certificates be revoked until a satisfactory resolution is reached between all concerned parties. Although we have the power to initiate revocation proceedings, it is not our practice to revoke certificates pending a dispute resolution. Revocation of certificate proceedings are reserved for cases of severe violations of Commission rules. Fortunately, revocation of certificates is rarely necessary in the water and wastewater industry. Traditionally, revocation of a utility's certificates is only sought as a remedy after all other efforts to bring a utility into compliance with Commission rules have failed. It is only after we determine that the problem cannot be corrected, or that the utility is unwilling to cooperate with us to bring the utility into compliance, that we will pursue revocation of a utility's certificates.

The following are several examples of cases in which we have revoked a utility's certificates. We revoked a utility's certificate because that utility was unable to provide service, and had no known prospects of resuming service in the future. See Order No. 15638, issued February 7, 1986, in Docket No. 860033-WU

titled Revocation of Certificate No. 432-W for West Mobile Village Water System in Volusia County, Florida. Also, we have revoked a certificate for unsatisfactory quality of service. See Order No. 20781, issued February 20, 1989, in Docket No. 871308-WU titled Initiation of show cause proceedings against, and investigation into possible overearnings by, Sebring Country Estates Water Company in Highlands County. Additionally, a certificate may be revoked for abandonment of the utility without notice to this Commission. See Order 20884, issued March 13, 1989, in Docket No. 881075-SU titled Service investigation of Lanier Utility Commission in Pasco County. Finally, a certificate may be revoked for a utility's refusal to comply with Commission orders. See Order No. PSC-94-0976-FOF-WS, issued August 11, 1994, in Docket No. 930944-WS titled Revocation by Florida Public Service Commission of Certificates Nos. 451-W and 382-S Issued to Shady Oaks Mobile Modular Estates, Inc. in Pasco County, Pursuant to Section 367.111(1), F.S. In each instance, however, the utility was given ample opportunity to correct the deficiencies and bring the utility into compliance with Commission rules and regulations before we initiated revocation proceedings.

The issues raised in this complaint, while important, do not rise to the level that would invoke certificate revocation proceedings. And perhaps more importantly, revocation of the certificates is unnecessary for us to address the customers' concerns regarding this utility. Consequently, we do not find that the circumstances surrounding this case warrant the initiation of certificate revocation proceedings. Therefore, the customers' request that we revoke the utility's water and wastewater certificates is hereby denied.

UTILITY BILLING

Methodology

The customers have expressed concern that some residents of the mobile home park are now being billed based upon metered consumption, but some other residents continue to pay for water and wastewater service through their lot rent. Also, some customers were billed separately for water and wastewater service prior to installation of a water meter.

As discussed earlier, Order No. PSC-96-0062-FOF-WS, provided that "the utility shall continue to charge the mobile home park tenants in the current manner until such time as the utility is able to install water meters in the mobile home park." By that

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Order, however, we did not specify the procedure that should be used by the utility to install meters in the mobile home park and implement metered billing. The day-to-day details of how to accomplish the required meter installations were left to the discretion of the utility.

The utility has asserted that it cannot charge tenants separately for water and wastewater service until their leases are adjusted, and the leases can only be adjusted when they are up for renewal. Accordingly, the mobile home park has been informing the tenants of the change to their leases 90 days prior to lease renewal as required by Chapter 723, Florida Statutes. Because leases are up for renewal at different times throughout the year, modifying the tenants' leases to allow for separate billing of water and wastewater service has been a long process for the mobile home park. We were informed that all of the water meters for potable water service to the mobile homes and clubhouse were supposed to be installed by January of 2000. However, in the interim, some customers continued to pay for service through their lot rent, while others were billed separately based upon metered consumption. The utility indicated that as of October, 1999, there were approximately ten customers remaining for which the full meter installation had not yet been completed. In those instances, the meter boxes were in place, but the meters had not been set to begin registering water usage.

By Order No. PSC-96-0062-FOF-WS, we did not require that the utility install every meter prior to being allowed to bill any customers based upon metered consumption. Metering an existing community is not an immediate process. While we are sympathetic to the customers' belief that it is unfair for some residents to be billed based upon metered usage prior to others, we believe it would be unreasonable to prohibit the utility from billing tenants whose leases have already been modified and for whom a water meter has been installed, simply because every tenant's lease has not yet been modified. We find that the approach taken by the utility is reasonable and in compliance with the directives provided in Order No. PSC-96-0062-FOF-WS.

The customers also expressed concern that some customers were billed separately for water and wastewater service prior to installation of a water meter. Based upon information provided by the customers, it initially appeared that the utility was improperly billing its customers. On February 25, 1999, the customers provided our staff with a list of 47 customers who received a bill for water and wastewater service prior to

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installation of their water meters. It appears that much of the confusion surrounding this subject stems from a misunderstanding of the utility's billing process, and the billing methodologies that are accepted by this Commission.

Rule 25-30.335, Florida Administrative Code, provides guidelines for customer billing. We generally leave the specific details of the billing process up to the discretion of the utility. Rule 25-30.335(4), Florida Administrative Code, states that "a utility may not consider a customer delinquent in paying his or her bill until the 21st day after the utility has mailed or presented the bill for payment." The utility initially did not allow the required 20 days for payment. However, upon being notified of the rule requirement, the utility corrected the due date reflected on the monthly bills. Although we only require that customers be given 20 days to pay their bills, the utility has elected to allow the customers a full month to pay each bill. Specifically, the utility reads the water meters around the 15th day of each month. The exact meter reading date is included on each customer's bill. The bills are delivered to the customers around the 20th day of each month, and are due by the 20th day of the following month.

Also, the utility has elected to bill the base facility charge in advance and the gallonage portion of the bill in arrears. For example, if a customer received a bill on September 20, that bill was due on October 20. That bill represented that customer's base facility charges for the month of October, but reflected metered usage that occurred from mid-August to mid-September when the meter was last read. This methodology is used by other utilities regulated by us, and we consider this to be an acceptable billing methodology. We find this methodology is appropriate in cases such as this in which metered service is initiated in an existing community, for which the utility does not collect customer deposits. Although this does not provide as much protection to the utility as a customer deposit, the advanced billing of the base facility charge serves a similar function by helping the utility to minimize losses from any customers who might leave the service area without paying their final bill.

As discussed above, the utility does not begin charging customers separately for water and wastewater until the first month in which their new lease becomes effective. However, due to the utility's billing cycle, customers will actually receive their first bill in the month prior to the effective date of the new lease. That bill will represent the base facility charges for the month in which the new lease becomes effective, and will be due by

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the 20th day of the month in which the new lease becomes effective. Although the customer will receive the bill prior to the effective date of the new lease, the bill in fact represents the month in which the new lease becomes effective.

The first set of leases that were modified by the mobile home park to allow separate billing for water and wastewater service became effective January 1, 1999. Consequently, those customers received their first separate bill for water and wastewater service around December 20, 1998. That bill represented the customer's base facility charges for the month of January, 1999. In a number of cases, the utility was able to set the meter box and meter in place prior to the effective date of the new lease. However, because the new leases became effective January 1, 1999, the utility did not set the water meters to begin registering water usage until January 1, 1999 or later.

Provided that the billing period represented by that bill and payment due date are for the same month in which the meter is installed, this method of implementing metered billing for a specific customer is correct. This approach is fair to both the customers and utility. The mobile home park is reducing the tenants' lot rent by \$14.31 per month upon implementation of metered billing. The lot rent reduction and implementation of metered billing occur in the same month. Consequently, by using this approach, the utility has created a clean breaking point between customers paying for water and wastewater service through their lot rent and converting to metered billing.

Timing

We note, however, that the utility encountered some timing problems in implementing the metered billing for some customers in January and February. As stated above, the customers previously provided our staff with a list of customers who received a separate bill for water and wastewater service prior to installation of their water meter. The meter installations were accomplished for some of those customers during the first few days in January, 1999, but some others were not completed until two or three weeks later.

In order to resolve the customers' concerns over the initial bills, the utility proposed refunding the customers whose meters were installed later than originally planned the difference between what they previously paid through their lot rent and what they were billed separately for water and wastewater service. Specifically, the tenants lot rent previously included \$14.31, which represented

charges for water and wastewater service. Upon implementation of metered billing, the mobile home park is reducing the tenants' lot rent by \$14.31 per month. The total water and wastewater base facility charges equal \$23.91. The difference between the charge previously included in the lot rent and the Commission approved base facility charges is \$9.78. For the customers whose meters were not installed early enough in the month to allow a meter reading to be taken that month, the utility credited their water and wastewater account for the full \$23.91 base facility charges assessed the first month of separate billing. Then the utility recovered the previously assessed \$14.31 from the lot rent, with the net effect being a refund of \$9.78. We find this to be a reasonable solution to the problem, which complies with the intent of the billing instructions in Order No. PSC-96-0062-FOF-WS.

Although we did not order the refund, we have obtained documentation from the utility to verify that the refund was calculated correctly. On April 6, 1999, a representative of the utility provided a response to the customer list, indicating the months in which the customers' meters were installed. On July 1, 1999, the utility provided our staff with billing records to document which customers were given the refund or "credit rebate" as it was referenced on the utility's billing records. There were some discrepancies between the list of customers who were given the refund and those included on the two lists discussed above. Therefore, our staff requested additional documentation from the utility.

Based upon that information, we find that the utility processed the refunds correctly. Essentially, if the customer's water meter was not installed early in the month, thereby allowing a reading of that meter that month, that customer was issued a refund. The utility has issued credit rebates to 17 customers, two of whom were not on the customers' original list. One customer moved prior to the utility's issuance of the refund; therefore, that customer's refund was credited against her past due balance. The remaining customers' meters were installed early enough in the month to allow reading of the meter that month; therefore, the utility will not be providing them a refund. We find that no further action is necessary regarding the refunds. In consideration of the foregoing, we find that the utility properly billed its customers.

QUALITY OF SERVICE

Customer concerns about quality of service were identified in Ms. McKenna's complaint and in her January 19, 1999, letter. Ms. McKenna provided additional concerns in a January 20, 1999, letter. The petition and letters identify the following concerns: the lack of professional management; lack of the utility manager's technical qualifications and availability when emergencies occur; inadequate water outage notification and "boil water" instructions when outages occur; insufficient water pressure; over chlorination; impurities in the water; defective operational equipment (electrical and mechanical) at the water treatment plant and wastewater lift stations; improperly installed wastewater collection lines which cause backups; and problems with locating water shut off valves. In addition to the above concerns we have also received inquiries and complaints concerning recent service outages, meter installations, meter accuracy, high consumption, water line leaks, and wastewater backups.

During the January 28, 1999, meeting discussed earlier, our staff, accompanied by customer representatives, performed a field review of the service area. The biggest concern at that time was water treatment plant reliability.

The most recent unplanned water service outage occurred on February 3, 1999, and lasted several hours. The utility reported that a severe thunderstorm damaged a circuit breaker. The system was restored after repairs were made. We received several complaints about this outage; however, the utility responded properly to the outage.

Several months earlier, the hydropneumatic tank at the treatment plant failed. In order to restore service quickly, the utility temporarily installed a smaller substitute tank. This was necessary to allow time for a new tank to be ordered and installed. A suitably sized replacement tank was installed on February 24, 1999. Our staff was on site at that time to monitor the improvements. The utility also replaced the high service pumps, rewired the chlorination unit to operate in unison with the high service pumping, and cleaned a small reservoir. Although water service was discontinued for six to eight hours, the repairs were made in an efficient manner. With the rebuilding of the water treatment plant, the customers should see an increase in service reliability in areas of pressure, chlorination, and water quality.

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As to the customer concerns about notification of outages, notification was issued prior to the last planned shutdown, and an all clear signal was sent out after the required testing was made to assure that the water was safe to drink. The utility noticed the customers about the planned outage through door hangers and by word of mouth. The customers complained, however, that the utility's means of noticing was inadequate in that it may not have been timely enough to allow some residents to prepare for the event. Our staff has spoken with the utility about the importance of proper notifications for outages and boiling water, and we find no need at this time to take any action concerning this matter.

With the advent of meter installations, we received several complaints concerning the nature of the installations, meter accuracy, and high consumption. The customers were concerned that the meters being installed were purchased used and were inaccurate. The customers requested that an audit be conducted by a licensed meter technician to certify meter accuracy. In conjunction with the February 24, 1999, field visit to inspect the water treatment plant repairs, our staff investigated the concerns about the meters. Our staff determined that the installation of meters was being performed properly. Our staff also verified that the meters are new and that their accuracy is certified by the manufacturer. Our staff contacted several customers about their usage, and in every case staff found no indication that the high usage was due to meter inaccuracy. As these connections were not previously metered, it appears that a number of customers were unaware of the volume they were using for irrigation. Most of the yards in the service area have in-ground irrigation systems. If not properly adjusted and monitored, large volumes of water can be used. Complete water consumption figures will not be fully identified until all water usage sources are metered. The utility indicated that the metering of all connections should have been completed by January of 2000. Water lost through line breaks cannot be fully identified until completion of the installations. The utility has already noted a reduction in plant flow output, indicating that irrigation conservation is starting to take hold. Based on the foregoing, additional work to verify meter accuracy is unnecessary.

The customers have complained that the utility does not locate and use existing isolation valves. As a result, when the water is shutdown to meter one home, an entire block is affected. To limit the number of customers affected during meter installation, the utility has informed our staff that when possible, it does use valves to isolate areas. We encourage the utility to continue to do what it can to minimize the number of customers affected.

The customers are also concerned that the utility lacks professional and technically qualified management. We disagree. The water and wastewater treatment facilities are in compliance with the rules and regulations of the Department of Environmental Protection. The utility has contracted with a licenced operator to perform the necessary plant operational requirements. Utility personnel perform the necessary maintenance and are accessible during off hours to handle emergency needs. We have reviewed the utility's after business hours emergency contact procedures, and has found them to be satisfactory. The utility has access to the necessary technical expertise to properly operate and maintain the water and wastewater systems. The recent water plant repairs were efficiently organized in such a manner that customer inconvenience was kept to a minimum, the meter installation program is proceeding in an orderly fashion, and the utility has properly assisted our staff during the investigation in this case. Based on the foregoing information, we find that the utility has both the technical and professional expertise to provide adequate water and wastewater service to its customers.

Finally, the customers have indicated that there have been collection system problems such as sewage backups and slow flushing toilets. They suspect that when originally constructed, the lines were poorly installed, thereby resulting in inadequate line sloping, which could interfere with proper gravity disposal. Our staff interviewed two customers who had problems in the past, the most recent of which occurred over a year ago. Our staff found one of those problems to be an actual backup caused by a lift station malfunction that has since been repaired. We find no indication that lines were improperly installed.

Another concern that has been brought to our attention is a problem with slow flushing toilets. In this case, a customer complained that it takes three or four flushes to do the job. The customer had his system checked out by Roto Rooter, and the utility flushed and rodded its lines and found no obstruction. Recently, it was discovered that water flow through the toilets was obstructed. The problem has since been corrected to the customer's satisfaction.

We find that the quality of service concerns of the customers have been adequately addressed. No serious problems have been discovered. In addition, both the water and wastewater systems are in compliance with the rules and regulations of DEP and the Lake County Department of Health, with no outstanding complaints

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pending. Based on the foregoing, we find that the quality of service provided to the customers is satisfactory.

RATE BASE

The customers assert that the utility's rates are unfair and inaccurate. Some of the customers suggest that the utility facilities are not worth as much as reflected in the Commission established rate base. They allege that some of the components were purchased used rather than new.

As discussed earlier, although Docket No. 940653-WS was a certificate case for a utility in existence, we determined that it was necessary to establish rates in that docket. Additionally, in consideration of the time which was expended in obtaining and verifying the rate base information, we determined that it was appropriate to establish rate base in that docket as well. Pursuant to Order No. PSC-96-0062-FOF-WS, issued January 12, 1996, in Docket No. 940653-WS, rate base was established at \$62,185 for the water system and \$84,367 for the wastewater system.

In that docket, our Division of Auditing and Financial Analysis conducted an audit of the utility's books and records. As commonly occurs in this type of situation, the mobile home park did not maintain separate records for the utility operation at that time. Also, the utility did not have complete historical cost records relating to the utility's rate base. It has been our practice to utilize original cost study estimates in cases in which supporting documentation is not available. During the certificate proceeding, the utility contracted with a professional engineering firm to conduct an original cost study. We have reviewed that study and determined that it was reasonable.

Regarding the customers' concerns that some components of the utility's plant in service were purchased used, we have confirmed that the wastewater treatment plant was one year old when purchased. The plant, however, was refurbished at the time of purchase. The prior owner was not able to provide evidence of the purchase price, but believed it to be nearly twice as much as the value stated in the original cost study. As discussed above, in cases in which supporting documentation cannot be provided to substantiate the value of plant, we must rely on available engineering data to assess its value. Although the plant was not purchased new, the value shown in the original cost study is still a reasonable estimate of its value, and the depreciable life originally assigned to this asset is still appropriate. Therefore,

we find that no adjustment to rate base is necessary regarding this item. Further, we have not found any information to support that any of the other plant components were purchased used.

However, during the course of our review, we discovered an error in the original cost study. The original cost study indicated that it was based upon as-built plans, and as such, all of the utility facilities indicated on the utility's plans were included in the original cost study. We have determined, however, that those plans were not as-built plans. They were preliminary plans which included two additional phases of the development (Phase IIB and Phase IIIA) which to date have not been constructed. Consequently, the original cost study incorrectly included the water transmission and distribution system, and wastewater collection system for those two phases. The number of lots connected for service was correctly stated in the original cost study, but the value of the lines was significantly overstated. We have determined that the water transmission and distribution lines were overstated by \$15,046, and the wastewater collection system - including lines, manholes, and lift stations - was overstated by \$65,734.

Additionally, although this point was not specifically raised by the customers, we believe that the original assessment regarding the utility's used and useful status may be incorrect. During the certificate proceeding, it was determined that the utility's facilities were nearly built-out and thus no used and useful adjustments were made. We now believe that the utility's wastewater treatment plant may not be 100% used and useful.

We find it appropriate to adjust the utility's rate base to correct known errors that were made in the original calculations. Modification of the utility's approved rate base to remove the Phases IIB and IIIA lines is a simple correction that can be easily verified by all parties concerned. Assessment of the wastewater treatment plant's used and useful percentage, however, is not that simple. This assessment is further complicated by the fact that the utility does not yet have a full year of metered consumption data. The utility will not have a full year of metered consumption data until the year 2001. We believe that the level of review needed to properly assess the utility's used and useful status would be more appropriately handled in a rate case proceeding. Therefore, we find that the only adjustment that should be made to rate base at this time is an adjustment to remove the overstated lines.

Because the customers have reviewed and are already familiar with the schedules shown in Order No. PSC-96-0062-FOF-WS, we have incorporated our adjustments into the existing schedules that were used in that Order. The following is a discussion of our adjustments to rate base.

Utility Plant in Service: We find that the appropriate balance for utility plant in service is \$79,128 for water and \$86,331 for wastewater. In addition to the plant in service adjustments previously made in Docket No. 940653-WS, we have reduced the water account by (\$15,046) and the wastewater account by (\$65,734) to reflect the removal of the water transmission and distribution system and wastewater collection system for Phases IIB and IIIA that were incorrectly included in the original cost study. These adjustments are shown as A.6. on Schedule No. 1-B.

Accumulated Depreciation: We find that the appropriate balance for accumulated depreciation is (\$25,482) for water and (\$44,017) for wastewater. In addition to the accumulated depreciation adjustments previously made in Docket No. 940653-WS, we have adjusted the water account by \$5,210 and the wastewater account by \$26,825 to reflect the removal of the accumulated depreciation associated with the water transmission and distribution system and wastewater collection system for Phases IIB and IIIA that were removed above. These adjustments are shown as E.2. on Schedule No. 1-B.

Working Capital Allowance: As we will discuss further in this Order, the adjustments to rate base affect the utility's operating expenses. Additionally, the customers informed us of a mathematical error in our calculations which resulted in the exclusion of the utility's billing expense from the final rate calculations. Following current Commission practice and consistent with Rule 25-30.443, Florida Administrative Code (Form PSC/WAS 18), we used the one-eighth of operation and maintenance expense formula approach for calculating the working capital allowance in the utility's certificate case. Applying that formula, we find that the appropriate working capital allowance is \$2,965 for water and \$3,248 for wastewater. The slight increase over the previous working capital allowance of \$2,860 for water and \$3,143 for wastewater results from the correction of the spreadsheet formula that excluded the utility's billing expense.

Rate Base Summary: Our revised calculation of rate base is shown on Schedules Nos. 1 and 1-A for the water and wastewater systems, respectively. Adjustments to rate base are itemized on Schedule

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No. 1-B. Based on the adjustments set forth herein, we find that the appropriate rate base for Shangri-La is \$52,454 for water and \$45,563 for wastewater as of June 30, 1994.

Further, we have reconciled the utility's capital structure with our approved rate base. The revisions to rate base do not change the utility's return on equity and overall rate of return established by Order No. PSC-96-0062-FOF-WS. However, the return on equity and overall rate of return are shown on Schedule No. 2 for reference purposes.

RATES

Lot Reduction and Prior Lifetime leases

In addition to the rate base concerns addressed above, the customers allege that the operation and maintenance expenses used by us to establish rates are too high. As discussed earlier, when a tenant's lease is modified to allow separate billing for water and wastewater service, the lot rent is reduced by \$14.31 per month. The primary basis for the customers' belief that the Commission authorized expenses are too high is that the mobile home park only included a portion of those expenses in its determination of the lot rent reduction. Based upon our estimated average usage of 10,000 gallons per month, a customer's combined water and wastewater bill under the currently approved rates will be \$53.65. Due to the difference between the anticipated average water and wastewater bill and the lot rent reduction, some customers believe that the rent should either be reduced by a greater amount or that the approved rates should be lowered to reflect the expenses identified by the mobile home park as the basis for the rent reduction.

We have also been informed that approximately eight customers have lifetime leases which they believe prohibit modification of the lease to allow the utility to charge separately for water and wastewater service. Some of the customers are concerned that they will be required to pay the additional costs of the customers with the lifetime leases if the utility is not able to charge them separately.

The customers' leases and rent reduction are subject to regulation by Chapter 723, Florida Statutes. Section 367.011(2), Florida Statutes, states that "the Florida Public Service Commission shall have exclusive jurisdiction over each utility with respect to its authority, service, and rates." Additionally,

Section 367.011(4), Florida Statutes, states that "this chapter shall supersede all other laws on the same subject, and subsequent inconsistent laws shall supersede this chapter only to the extent that they do so by express reference." Shangri-La is a utility within our jurisdiction. As such, we are statutorily obligated to set fair, just, and reasonable rates and charges for Shangri-La as required by Section 367.081, Florida Statutes. For Chapter 723, Florida Statutes, to have any effect on our determination of appropriate rates and charges, the Legislature would had to have enacted it after Chapter 367, Florida Statutes, with express reference to supersede Chapter 367 Florida Statutes. No express reference exists in Chapter 723, Florida Statutes.

The issue of whether a contract takes precedence over our statutes has been considered by the Courts. In State of Florida Public Service Commission v. Lindhal, 613 So. 2d 63 (Fla. 2d DCA 1993), we sought review of a trial court injunction which prohibited Shady Oaks Mobile-Modular Estates (Shady Oaks) from charging its customers newly approved rates for water and wastewater service. The injunction was based upon a prior restrictive covenant between the customers and Shady Oaks, as mobile home park, which provided for an annual \$300 payment for water, sewage, cable television and a recreational center. On appeal, the Court "condemn[ed] the trial court's intrusion into the PSC's statutorily delegated responsibility to fix a 'just, reasonable, and compensatory' rate for service availability." Lindhal at 64. The Court, citing Cohee v. Crestridge Utilities Corp., 324 So. 2d 155 (Fla. 5th DCA 1975), stated that "the PSC's authority to raise or lower rates, even those established by a contract, is preemptive." Id.

In Cohee, customers brought a class action suit seeking damages from the utility for charging Commission approved rates in excess of rates provided in a prior contract with the customer's subdivision developer. In upholding the trial court's decision in favor of the utility, the Court stated that:

[d]espite the fact that Crestridge had a pre-existing contract concerning its rates, now that Crestridge is under the jurisdiction of the Public Service Commission, these rates may be ordered changed by that body. The Public Service Commission has authority to raise as well as lower rates established by a pre-existing contract when deemed necessary in the public interest. State v. Burr, 1920, 79 Fla. 290, 84 So. 61. Cohee at 157.

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The Court also stated, after setting out the full text of Section 367.081(2), Florida Statutes, that ". . . it would appear that the Commission would not even be authorized to take into consideration the pre-existing contract in its determination of reasonable rates." Cohee at 158

We have determined in similar situations that a pre-existing contract is not determinative in setting rates for a utility under its jurisdiction. We have the authority to charge rates which we find to be in the public interest, even if they are contrary to a contractual agreement. See Order No. PSC-94-0171-FOF-WS, issued February 10, 1994 in Docket No. 930133-WS (In re: application for water and wastewater Certificates in Lake County by Lake Yale Corporation d/b/a Lake Yale Utility Company). See also Order No. 21680, issued August 4, 1989 (In re: application of Continental Country Club, Inc., for an increase in water and wastewater rates in Sumter County).

Based on the foregoing, we do not find it appropriate to consider the lot rent reduction or lifetime leases in our determination of the utility's rates. The utility's currently approved rates were calculated in accordance with Commission practice, and designed to be recovered from all of the utility's customers once metered. Adjusting those rates based upon the lot rent reduction or lifetime lease provisions would be contrary to previously established precedent and Commission practice regarding ratesetting. Therefore, the utility's rates shall not be adjusted for consideration of the lot rent reduction or lease agreements. All of the utility's customers shall be billed based upon the utility's Commission approved rates.

Rate Reduction

While reviewing this complaint, we considered initiating a rate investigation to provide the level of detailed review that the customers are seeking. We do not believe, however, that a rate investigation is appropriate at this time. The completion of the metering process was not expected to be completed until January of 2000. Additionally, as discussed further in this Order, some customers have in-ground irrigation systems which may be metered during the year 2000. Therefore, the utility will not have a full year of consumption data, or a record of its operations with all customers metered, until the year 2001. Initiation of a rate investigation while the utility is still in a transitional phase will not provide any better indication of the utility's expected

consumption and expenses under full metered service than the information gathered in the certificate docket.

We have, however, modified the utility's rates to correct known errors. As discussed in earlier, we determined that the original cost study incorrectly included lines from Phases IIB and IIIA. Consequently, we removed those lines and the associated accumulated depreciation from the utility's rate base. We have made corresponding adjustments to the utility's expenses as well. We have recalculated the utility's depreciation expense to reflect removal of the Phases IIB and IIIA lines. Accordingly, we have reduced depreciation expense by (\$396) for water and (\$2,182) for wastewater. We have added this adjustment to the existing schedules that were used in the certificate case. This adjustment is shown as B.2. on Schedule No. 3-B.

Additionally, the customers discovered an error in a mathematical formula used in the original Schedule No. 3-B. Specifically, the water and wastewater subtotals for adjustment A.6. did not include the utility's authorized billing expense (line A.6.b.). Therefore, the approved rates did not include the utility's billing expense, although that expense was approved by us. Consequently, the approved rates were lower than they should have been. We have corrected the formula to include the authorized billing expense.

Our adjustments to rate base and the utility's expenses also trigger a recalculation of the utility's regulatory assessment fees and operating income. Our modified Schedule of Operations is shown on Schedules Nos. 3 and 3-A, for water and wastewater, respectively. Our adjustments are shown on Schedule No. 3-B.

Although the utility's capital structure was adjusted to reconcile with the utility's rate base, these adjustments did not alter the return on common equity or overall rate of return approved by Order No. PSC-96-0062-FOF-WS. The adjusted capital structure is shown on Schedule No. 2 for informational purposes.

The rates were recalculated based upon the revised revenue requirements of \$36,950 for water and \$39,715 for wastewater. The utility's existing rates and the revised rates are shown below, including a calculation of the typical residential bills at various usage levels:

WATER
Monthly Rates

<u>Residential and General Service</u>	<u>Existing</u>	<u>Commission</u>
<u>Base Facility Charge:</u>	<u>Rates</u>	<u>Approved</u>
<u>Meter Size:</u>	<u>Rates</u>	<u>Rates</u>
5/8 x 3/4"	\$ 12.86	\$ 12.87
3/4"	19.29	19.31
1"	32.15	32.19
1-1/2"	64.30	64.37
2"	102.88	103.00
3"	205.75	205.99
4"	321.49	321.87
6"	642.98	643.73
 Gallonage Charge		
per 1,000 gallons:	\$ 1.27	\$ 1.22

Typical Residential Water Bill

<u>5/8" x 3/4" meter:</u>		
3,000 gallons	\$ 16.67	\$ 16.53
5,000 gallons	\$ 19.21	\$ 18.97
6,000 gallons	\$ 20.48	\$ 20.19
10,000 gallons	\$ 25.56	\$ 25.07

WASTEWATER
Monthly Rates

<u>Residential</u>	<u>Existing</u>	<u>Commission</u>
<u>Base Facility Charge:</u>	<u>Rates</u>	<u>Approved</u>
<u>All Meter Sizes:</u>	<u>Rates</u>	<u>Rates</u>
	\$ 11.05	\$ 9.91
 Gallonage Charge per 1,000 gallons		
(maximum 6,000 gallons):	\$ 2.84	\$ 2.43

Typical Residential Wastewater Bill

<u>5/8" x 3/4" meter:</u>		
3,000 gallons	\$ 19.57	\$ 17.20
5,000 gallons	\$ 25.25	\$ 22.06
6,000 gallons	\$ 28.09	\$ 24.49
* 10,000 gallons	\$ 28.09	\$ 24.49

* Residential wastewater gallonage cap is 6,000 gallons per month

General Service

Base Facility Charge:

Meter Sizes:

5/8 x 3/4"	\$ 11.05	\$ 9.91
3/4"	16.58	14.87
1"	27.63	24.79
1-1/2"	55.27	49.57
2"	88.43	79.32
3"	176.86	158.63
4"	276.34	247.86
6"	552.67	495.73

Gallage Charge

per 1,000 gallons

\$ 3.41

\$ 2.92

The utility shall file revised tariff sheets reflecting the approved rates within thirty days of the effective date of this Order. The approved rates shall 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 may not be implemented until notice has been received by the customers. The utility shall provide proof of the date notice was given within 10 days after the date of the notice.

VACATION RATE

The customers have requested that we establish fair and equitable relief to seasonal customers who shut-off water and wastewater service when not in residence, and that we discontinue charges for such seasonal users. Rule 25-30.335(9), Florida Administrative Code, states that "if a utility utilizes the base facility and usage charge rate structure and does not have a Commission authorized vacation rate, the utility shall bill the customer the base facility charge regardless of whether there is any usage."

Although we have approved vacation rates for some utilities in the past, we have gradually moved away from this practice. Under the base facility charge rate structure, the base facility charge is designed to recover the fixed costs of the utility that occur regardless of the level of usage, such as salaries, office rent, and insurance. Consequently, those costs do not change even though a customer may be out of residence. Therefore, we generally require utilities to assess the base facility charges for water and

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wastewater service even when seasonal customers are not in residence.

The rates approved for this utility by Order No. PSC-96-0062-FOF-WS were calculated using the base facility charge rate structure, and as such, the base facility charges were designed to recover the fixed costs of the utility. The rates, as adjusted in this Order, still utilize the base facility charge rate structure. In keeping with current Commission practice, a vacation rate shall not be established for this utility.

NEW CLASS OF SERVICE

The majority of Shangri-La's customers have in-ground irrigation systems. Specifically, 107 of the utility's 134 customers have an in-ground irrigation system. As of July, 1999, 92 customers obtained their irrigation water from the utility, 12 obtained irrigation water from canals located behind their homes, two had disconnected their irrigation systems, and one obtained irrigation from a private well. During installation of the water meters in the mobile home park, it was discovered that of the 92 customers who obtain their irrigation water from the utility, 68 customers' irrigation systems are connected directly to the utility's water distribution main.

This presents two problems - a health hazard and a lack of metering for water usage. An irrigation system connected directly to a public water system without an appropriate backflow prevention device is considered a health hazard and is prohibited by the Florida Department of Environmental Protection (DEP). The utility has an obligation pursuant to DEP rules to remove the hazard once identified.

Further, Rule 25-30.255(1), Florida Administrative Code, states that "except as provided in subsection (2) of this rule, each utility shall measure water sold upon the basis of metered volume sales unless the Commission approved flat rate arrangements for that utility." We have not approved flat rates for this utility, nor do any of the exceptions in subsection (2) apply. Therefore, the utility is required to meter all water sold. At present, the 68 customers discussed above are not properly connected, and thus, their water consumption for irrigation purposes is not being metered or billed. In addition to being a violation of DEP rules and Rule 25-30.255(1), Florida Administrative Code, this situation is unequitable to the 24

customers who are connected properly and are being billed for all water usage.

Rule 25-30.320(2)(h), Florida Administrative Code, states that the utility may discontinue service "without notice in the event of a condition known to the utility to be hazardous." Accordingly, the utility is authorized to disconnect the improperly connected irrigation systems from its water distribution main without notifying the customers. The utility indicated, however, that it would be more appropriate to give the customers an opportunity to choose which method they preferred to use to correct the hazard.

Consequently, on July 8, 1999, the utility issued a notice to all of the customers with improperly connected irrigation systems. The customers were given three options to correct the cross-connection hazard. First, a customer may repipe his or her irrigation system to connect to the potable water line behind their existing water meter. The water meters installed by the utility contain a backflow prevention device. Therefore, disconnecting the irrigation system from the utility's main and reconnecting it behind the existing meter solves both the cross-connection hazard and lack of metering concern. Second, the customers may request that the utility install a separate water meter on the irrigation line. The utility's currently approved meter installation fee is \$125. The customers were informed that they would be required to pay the approved meter installation fee prior to installation of the separate water meter. Third, the customers may disconnect their irrigation system from the utility's main. The customers were also notified that if they failed to notify the utility of their desired course of action within 40 days, the utility would disconnect their irrigation system from its water distribution main.

The notice was met with great opposition from the customers, especially those who were out of residence at the time. Some of the customers requested that the utility postpone any action regarding this situation until they returned to Florida. We have been informed by both the customers and utility that approximately half of the customers are seasonal residents. A number of those customers, however, leave their irrigation systems running while they are out of the state. Therefore, the risk of contamination of the water supply exists even though some customers are out of residence. Because this situation presents a health hazard and is in violation of DEP and Commission rules, we believe that the utility should correct the situation as soon as possible. In an effort to accommodate the customers' requests, the utility

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postponed final resolution of this situation until the majority of the customers returned to the state.

As of the January 18, 2000, agenda conference, it was our understanding that approximately 20 customers still had not responded to the utility's notice. The utility plans to re-notice those customers early this year to give them another opportunity to decide how they choose to correct the cross-connection hazard. In addition to Rule 25-30.320(2)(h), Florida Administrative Code, cited above, Rule 25-30.320(2)(b), Florida Administrative Code, authorizes the utility to disconnect service "for failure or refusal of the customer to correct any deficiencies or defects in his piping or equipment which are reported to him by the utility." Accordingly, the utility is authorized to disconnect customers who refuse to correct the cross-connection hazard. The utility has informed us that in the event disconnection of a customer's irrigation system becomes necessary, the utility will notify us prior to the disconnection.

The utility has proposed charging its currently approved meter installation fee of \$125 to the customers who request to have a separate irrigation meter installed on their irrigation system. In the utility's certificate case, we ordered the utility to install the water meters in the mobile home park. We included the cost of those meters in the utility's rate base, thereby allowing the utility to earn a return on its investment in those meters. Additionally, we approved a meter installation fee to be applied to all new customers. Because neither the utility nor this Commission were aware that additional meters would be needed for the separately connected irrigation systems, the cost of those meters was not previously included in rate base.

The customers assert that the utility should be required to pay for the separate irrigation meters as well. We believe that this would result in an unequitable situation. We are charged with the responsibility to set rates and charges which are just, reasonable, compensatory, and not unfairly discriminatory. Inclusion of the cost of the initial water meters in the utility's rates meets this standard, because every customer will receive a meter and pay their fair share of that cost. In the case of the irrigation meters, however, not every customer will receive an irrigation meter. Therefore, it is not fair for every customer to bear that cost through the monthly service rates.

The customers who obtain a separate irrigation meter and use less than 6,000 gallons of water inside their homes will receive

the benefit of a lower wastewater bill, because they will not be assessed wastewater charges on the portion of their water usage which is strictly for irrigation purposes. The customers who do not obtain a separate irrigation meter will not receive that benefit. This factor further supports requiring the affected customers to pay for their irrigation meter rather than requiring all customers to share that cost through the rates.

Moreover, it has been argued that the customers should not be required to pay for the separate irrigation meters because they rent, rather than own, the lots in the mobile home park. However, our staff was informed by the utility, and this has been confirmed by several customers, that the customers installed their own irrigation systems. The developer of the mobile home park did not purchase or install the irrigation systems. Inasmuch as the customers made the decision to install in-ground irrigation systems, we believe that it is the responsibility of the customers to correct the cross-connection hazard. Therefore, we find it appropriate that the utility be authorized to charge its approved meter installation fee to customers who request installation of a separate irrigation meter.

Additionally, we find it appropriate to authorize a new class of service for the provision of residential irrigation service within the mobile home park. In most cases, we authorize utilities to assess both the water base facility charge and water gallonage charge for separate irrigation meters, as well as any applicable service availability charges. Depending on the size of the irrigation meter, the customer may place one or more additional equivalent residential connections (ERC) of demand on the utility's system through the use of a separate irrigation meter. This results in the utility incurring the same expenses to provide irrigation service as it does to provide service to the customer's home.

In this case, however, the separate irrigation meters are needed to correct a cross-connection hazard and properly meter all water consumption, rather than to obtain additional water capacity. Although the customers' usage levels are high for a retirement community, they do not appear to exceed one ERC per customer. Further, the customers' usage levels will likely decrease upon full implementation of metered rates. Therefore, we do not find that installation of separate irrigation meters in this case will result in customers placing additional demand on the utility's water system. Therefore, we find appropriate for the utility to assess only the water gallonage charge on water usage registered by the

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separate irrigation meters. Our staff has discussed this alternative with the utility, and the utility has agreed to this rate. Our determination in this case, however, does not preclude us from reevaluating the residential irrigation service in a future rate proceeding and establishing different rates.

Therefore, a new class of service for residential irrigation service for the mobile home park shall be established for this utility. The appropriate rate for this class of service shall be the utility's water gallonage charge. As discussed earlier, the utility's adjusted water gallonage charge is \$1.22 per 1,000 gallons. The utility shall file a tariff sheet reflecting the approved rate within thirty days of the effective date of the order. The approved rate shall 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 rate shall not be implemented until notice has been received by the customers. The utility shall provide proof of the date notice was given within 10 days after the date of the notice. The utility shall be allowed to notice the new class of service in conjunction with the required notice of rates discussed earlier. Additionally, utility shall be authorized to charge its approved meter installation fee to customers who request installation of a separate irrigation meter.

CLOSING OF DOCKET

Upon expiration of the protest period, this docket shall be closed if no person, whose interests are substantially affected by the proposed actions, files a protest within the 21 day protest period. In the event of a protest, however, Shangri-La shall continue collecting the rates authorized by Order No. PSC-96-0062-FOF-WS. Shangri-La shall collect the difference between those rates and the rates approved in this Order subject to refund. In the event of a protest, staff shall file a recommendation regarding the appropriate security for any potential refund

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that all matters contained herein, whether set forth in the body of this Order or in the schedules attached hereto, are incorporated herein by reference. It is further

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ORDERED that the customers' request that the Commission issue an injunction against Shangri-La by the Lake Utilities, Inc. to cease and desist from charging for water and wastewater service is hereby denied. It is further

ORDERED that the customers' request that we revoke Shangri-La by the Lake Utilities, Inc.'s water and wastewater certificates is hereby denied. It is further

ORDERED that in addition to the rates approved herein, a new class of service for residential irrigation service for the mobile home park shall be established. The rate for this class of service shall be the water gallonage charge approved herein. It is further

ORDERED that the rates approved herein, including the new class of service, shall be effective for service rendered on or after the stamped approval date on the revised tariff sheets, in accordance with Rule 25-30.475, Florida Administrative Code, provided the customers have received notice. It is further

ORDERED that, prior to its implementation of the rates approved herein, including the new class of service, Shangri-La by the Lake Utilities, Inc. shall submit and have approved a proposed customer notice of the rates and charges approved herein and the reasons therefor. The notice will be approved upon our staff's verification that it is consistent with our decision herein. It is further

ORDERED that the rates approved herein, including the new class of service, shall not be implemented until notice has been received by the customers. Shangri-La by the Lake Utilities, Inc. shall provide our staff proof of the date notice was given within 10 days after the date of the notice. It is further

ORDERED that, prior to its implementation of the rates approved herein, including the new class of service, Shangri-La by the Lake Utilities, Inc. shall submit and have approved revised tariff pages. The revised tariff pages shall be filed within 30 days of the effective date of this Order. The revised tariff pages will be approved upon our staff's verification that the pages are consistent with our decision herein, that the protest period has expired, and that the customer notice is adequate. It is further

ORDERED that Shangri-La by the Lake Utilities, Inc. shall be allowed to notice the new class of service in conjunction with the required notice of rates. It is further

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ORDERED that Shangri-La by the Lake Utilities, Inc. shall be authorized to charge its approved meter installation fee to customers who request installation of a separate irrigation meter. It is further

ORDERED that in the event of a protest, Shangri-La by the Lake Utilities, Inc. shall continue collecting the rates authorized by Order No. PSC-96-0062-FOF-WS. Shangri-La shall collect the difference between those rates and the rates approved in this Order subject to refund. In the event of a protest, our staff will file a recommendation regarding the appropriate security for any potential refund. It is further

ORDERED that the provisions of this Order, with the exception of our decision regarding the original notice and the utility's collection of rates in the event of a protest, are issued as proposed agency action and shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 8th day of February, 2000.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein, with the exception of our decision regarding the original notice and the utility's collection of rates in the event of a protest, is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on February 29, 2000.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

SHANGRI-LA BY THE LAKE UTILITIES, INC.
AS OF JUNE 30, 1994

SCHEDULE NO. 1
DOCKET NO. 990080-WS

SCHEDULE OF WATER RATE BASE

	<u>BALANCE PER UTILITY</u>	<u>COMM. ADJUST. TO UTIL. BAL.</u>	<u>BALANCE PER COMM.</u>
UTILITY PLANT IN SERVICE	\$0	\$79,128 A	\$79,128
LAND/NON-DEPRECIABLE ASSETS	0	0 B	0
PLANT HELD FOR FUTURE USE	0	0	0
NON-USED AND USEFUL PLANT	0	0 C	0
CWIP	0	0	0
CIAC	0	(4,520) D	(4,520)
ACCUMULATED DEPRECIATION	0	(25,482) E	(25,482)
AMORTIZATION OF ACQUISITION ADJUSTMENT	0	0	0
AMORTIZATION OF CIAC	0	363 F	363
WORKING CAPITAL ALLOWANCE	0	2,965 G	2,965
WATER RATE BASE	\$0	\$52,454	\$52,454

SHANGRI-LA BY THE LAKE UTILITIES, INC.
 AS OF JUNE 30, 1994

SCHEDULE NO. 1-A
 DOCKET NO. 990080-WS

SCHEDULE OF WASTEWATER RATE BASE

	<u>BALANCE PER UTILITY</u>	<u>COMM. ADJUST. TO UTIL. BAL.</u>		<u>BALANCE PER COMM.</u>
UTILITY PLANT IN SERVICE	\$0	\$86,331	A	\$86,331
LAND/NON-DEPRECIABLE ASSETS	0	0	B	0
PLANT HELD FOR FUTURE USE	0	0		0
NON-USED AND USEFUL PLANT (NET)	0	0	C	0
CWIP	0	0		0
CIAC	0	0	D	0
ACCUMULATED DEPRECIATION	0	(44,017)	E	(44,017)
AMORTIZATION OF ACQUISITION ADJUSTMENT	0	0		0
AMORTIZATION OF CIAC	0	0	F	0
WORKING CAPITAL ALLOWANCE	<u>0</u>	<u>3,248</u>	G	<u>3,248</u>
WASTEWATER RATE BASE	\$0	\$45,563		\$45,563

SHANGRI-LA BY THE LAKE UTILITIES, INC.
 AS OF JUNE 30, 1994

SCHEDULE NO. 1-B
 DOCKET NO. 990080-WS

ADJUSTMENTS TO RATE BASE

A. <u>UTILITY PLANT IN SERVICE</u>	<u>WATER</u>	<u>WASTEWATER</u>
1. To reflect original cost study	\$ 68,500	\$ 145,000
2. To reflect 1991 plant additions necessary to provide water service to five single family homes	4,845	0
3. To adjust for 1993 and 1994 plant additions per staff audit report	3,204	6,315
4. Proforma adjustment to reflect meters and meter installations for 135 existing mobile home lots	16,875	0
5. To reflect organization costs	750	750
6. To remove lines that were incorrectly included in the original cost study	(15,046)	(65,734)
	<u>\$ 79,128</u>	<u>\$ 86,331</u>
B. <u>LAND</u>		
1.	\$ 0	\$ 0
2.	0	0
	<u>\$ 0</u>	<u>\$ 0</u>
C. <u>NON-USED AND USEFUL PLANT</u>		
1.	<u>\$ 0</u>	<u>\$ 0</u>
D. <u>CIAC</u>		
1. To impute CIAC for water service provided to five single family homes	\$ (4,520)	\$ 0
2.	0	0
3.	0	0
4.	0	0
	<u>\$ (4,520)</u>	<u>\$ 0</u>
E. <u>ACCUMULATED DEPRECIATION</u>		
1. To reflect accumulated depreciation on plant in service	\$ (30,692)	\$ (70,842)
2. To remove accumulated depreciation for lines that were incorrectly included in the original cost study	5,210	26,825
3.	0	0
4.	0	0
5.	0	0
6.	0	0
	<u>\$ (25,482)</u>	<u>\$ (44,017)</u>
F. <u>AMORTIZATION OF CIAC</u>		
1. To reflect accumulated amortization of CIAC	\$ 363	\$ 0
2.	0	0
	<u>\$ 363</u>	<u>\$ 0</u>
G. <u>WORKING CAPITAL ALLOWANCE</u>		
1. To reflect 1/8 of test year O & M expenses	<u>\$ 2,965</u>	<u>\$ 3,248</u>

SHANGRI-LA BY THE LAKE UTILITIES, INC.
AS OF JUNE 30, 1994

SCHEDULE NO. 2
DOCKET NO. 990080-WS

SCHEDULE OF CAPITAL STRUCTURE

	<u>BALANCE PER UTILITY</u>	<u>COMM. ADJUST. TO UTIL. BAL.</u>	<u>BALANCE PER COMM.</u>	<u>PERCENT OF TOTAL</u>	<u>COST</u>	<u>WEIGHTED COST</u>
LONG-TERM DEBT	\$ 0	81,214	81,214	82.86%	10.59%	8.78%
EQUITY	<u>0</u>	<u>16,803</u>	<u>16,803</u>	<u>17.14%</u>	11.88%	<u>2.04%</u>
TOTAL	\$ 0	\$ 98,017	\$ 98,017	100.00%		10.82%
RATE BASE			98,017			

<u>RANGE OF REASONABLENESS</u>	<u>LOW</u>	<u>HIGH</u>
RETURN ON EQUITY	10.88%	12.88%
OVERALL RATE OF RETURN	10.64%	10.99%

SHANGRI-LA BY THE LAKE UTILITIES, INC.
AS OF JUNE 30, 1994

SCHEDULE NO. 3
DOCKET NO. 990080-WS

SCHEDULE OF WATER OPERATING INCOME

	<u>TEST YEAR PER UTILITY</u>	<u>COMM. ADJ. TO UTILITY</u>	<u>COMM. ADJUSTED TEST YEAR</u>	<u>ADJUST. FOR INCREASE</u>	<u>TOTAL PER COMM.</u>
OPERATING REVENUES	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>36,950 E</u>	\$ <u>36,950</u>
OPERATING EXPENSES					
OPERATION AND MAINTENANCE	0	23,720 A	23,720	0	23,720
DEPRECIATION	0	3,328 B	3,328	0	3,328
AMORTIZATION	0	121 C	121	0	121
TAXES OTHER THAN INCOME	0	2,445 D	2,445	1,663 F	4,108
INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL OPERATING EXPENSES	\$ <u>0</u>	\$ <u>29,614</u>	\$ <u>29,614</u>	\$ <u>1,663</u>	\$ <u>31,277</u>
OPERATING INCOME / (LOSS)	\$ <u>0</u>		\$ <u>(29,614)</u>		\$ <u>5,673</u>
WATER RATE BASE	\$ <u>0</u>		\$ <u>52,454</u>		\$ <u>52,454</u>
RATE OF RETURN	<u>N/A</u>		<u>-56.46%</u>		<u>10.82%</u>

SHANGRI-LA BY THE LAKE UTILITIES, INC.
AS OF JUNE 30, 1994

SCHEDULE NO. 3-A
DOCKET NO. 990080-WS

SCHEDULE OF WASTEWATER OPERATING INCOME

	<u>TEST YEAR PER UTILITY</u>	<u>COMM. ADJ. TO UTILITY</u>	<u>COMM. ADJUSTED TEST YEAR</u>	<u>ADJUST. FOR INCREASE</u>	<u>TOTAL PER COMM.</u>
OPERATING REVENUES	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>39,715 E</u>	\$ <u>39,715</u>
OPERATING EXPENSES					
OPERATION AND MAINTENANCE	0	25,987 A	25,987	0	25,987
DEPRECIATION	0	4,265 B	4,265	0	4,265
AMORTIZATION	0	0 C	0	0	0
TAXES OTHER THAN INCOME	0	2,748 D	2,748	1,787 F	4,535
INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL OPERATING EXPENSES	\$ <u>0</u>	\$ <u>33,000</u>	\$ <u>33,000</u>	\$ <u>1,787</u>	\$ <u>34,788</u>
OPERATING INCOME / (LOSS)	\$ <u>0</u>		\$ <u>(33,000)</u>		\$ <u>4,928</u>
WASTEWATER RATE BASE	\$ <u>0</u>		\$ <u>45,563</u>		\$ <u>45,563</u>
RATE OF RETURN	<u>N/A</u>		<u>-72.43%</u>		<u>10.82%</u>

SHANGRI-LA BY THE LAKE UTILITIES, INC.
AS OF JUNE 30, 1994

SCHEDULE NO. 3-B (Sheet 1 of 2)
DOCKET NO. 990080-WS

ADJUSTMENTS TO OPERATING INCOME

<u>REVENUE</u>	<u>WATER</u>	<u>WASTEWATER</u>
a.	0	0
b.	0	0
	<u>\$ 0</u>	<u>\$ 0</u>
A. <u>OPERATION AND MAINTENANCE EXPENSES</u>		
1. Salaries and Wages (Employees)		
a. To adjust per audit calculation	<u>\$ 2,497</u>	<u>\$ 2,497</u>
2. Salaries and Wages (Officers)		
a. To reflect officer's salary	<u>\$ 2,165</u>	<u>\$ 2,165</u>
3. Sludge Removal Expense		
a. To adjust per audit calculation	0	1,350
b.	0	0
	<u>\$ 0</u>	<u>\$ 1,350</u>
4. Purchased Power		
a. To adjust per audit calculation	3,002	4,129
	0	0
	<u>\$ 3,002</u>	<u>\$ 4,129</u>
5. Chemicals		
a. To adjust per audit calculation	0	410
b. To reflect appropriate chemical expense for water plant	495	0
	<u>\$ 495</u>	<u>\$ 410</u>
6. Materials and Supplies		
a. To adjust per audit calculation	495	997
b. To reflect utility billing expense	840	840
	<u>\$ 1,335</u>	<u>\$ 1,837</u>
7. Contractual Services		
a. To adjust engineering contractual services per audit calculation	3,150	3,763
b. To adjust legal contractual services per audit calculation	683	683
c. To reflect engineering contractual services for required DEP testing	2,500	1,000
d. To reflect accounting contractual services	2,100	2,100
e.	0	0
f.	0	0
g.	0	0
h.	0	0
i.	0	0
j.	0	0
	0	0
	<u>\$ 8,433</u>	<u>\$ 7,546</u>
8. Rents		
a. To reflect lease for utility land	3,750	3,750
b. To reflect rent for office space	600	600
c.	0	0
	<u>\$ 4,350</u>	<u>\$ 4,350</u>
9. Transportation Expenses		
a. To reflect transportation expense for use of truck owned by parent company	435	435
b.	0	0
	<u>\$ 435</u>	<u>\$ 435</u>
10. Insurance Expense		
a. To reflect insurance expense on utility facilities	289	638
b.	0	0
c.	0	0
d.	0	0
e.	0	0
	<u>\$ 289</u>	<u>\$ 638</u>

(Continued on Sheet 2)

SHANGRI-LA BY THE LAKE UTILITIES, INC.
AS OF JUNE 30, 1994

SCHEDULE NO. 3-B (Sheet 2 of 2)
DOCKET NO. 990080-WS

ADJUSTMENTS TO OPERATING INCOME

11. Regulatory Commission Expense		
a.	\$ <u>0</u>	\$ <u>0</u>
12. Miscellaneous Expenses		
a. To adjust per audit calculation	89	0
b. To allocate a portion of the office electric expense to the utility	72	72
c. To allocate a portion of the business phone service expense to the utility	353	353
d. To allocate a portion of the cellular phone service to the utility	205	205
e.	0	0
f.	0	0
g.	0	0
h.	0	0
i.	0	0
j.	0	0
k.	0	0
l.	0	0
m.	0	0
n.	0	0
	\$ <u>719</u>	\$ <u>630</u>
13. Unclassified disbursements		
a.	0	0
b.	0	0
c.	0	0
d.	0	0
	\$ <u>0</u>	\$ <u>0</u>
TOTAL O & M ADJUSTMENTS	\$ <u>23,720</u>	\$ <u>25,987</u>
B. DEPRECIATION EXPENSE		
1. To reflect annual depreciation expense	3,724	6,447
2. To remove depreciation expense for lines that were incorrectly included in the original cost study	(396)	(2,182)
3.	0	0
4.	0	0
5.	0	0
	\$ <u>3,328</u>	\$ <u>4,265</u>
C. AMORTIZATION EXPENSE		
1. To reflect annual amortization expense	\$ <u>121</u>	\$ <u>0</u>
D. TAXES OTHER THAN INCOME		
1. To adjust property taxes per audit calculation	1,667	1,970
2. To adjust payroll taxes per audit calculation	420	420
3. To reflect payroll taxes associated with officer's salary	358	358
4.	0	0
5.	0	0
6.	0	0
7.	0	0
	\$ <u>2,445</u>	\$ <u>2,748</u>
E. OPERATING REVENUES		
1. To reflect approved increase in revenue	\$ <u>36,950</u>	\$ <u>39,715</u>
F. TAXES OTHER THAN INCOME		
1. To reflect additional regulatory assessment fees associated with approved revenue requirement	\$ <u>1,663</u>	\$ <u>1,787</u>