FLORIDA PUBLIC SERVICE COMMISSION
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M E M O R A N D U M

MARCH 23, 2000

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

FROM: DIVISION OF WATER & WASTEWATER (DEWBERRY, GOLDEN, RIEGER, WILLIAMS)
DIVISION OF LEGAL SERVICES (FUDGE)

RE: DOCKET NO. 991290-WU - APPLICATION FOR STAFF ASSISTED RATE CASE BY BRENDENWOOD WATER SYSTEM
COUNTY: LAKE

AGENDA: APRIL 4, 2000 - REGULAR AGENDA - PROPOSED AGENCY ACTION EXCEPT ISSUES 15, 16, AND 17 - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: 15-MONTH STATUTORY DEADLINE EXPIRES 01/27/01

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\WAW\WP\991290.RCM

Case Background

Brendenwood Water System (Brendenwood or utility) is a Class C utility located in Lake County. Lake County became jurisdictional June 13, 1972. Brendenwood was built in 1981 and the Commission granted its operating Certificate No. 339-W by Order No. 10184, issued August 5, 1981.

Originally, Brendenwood was a division of Brentwood Development, a partnership composed of Paul Day, Bob Hanks, Jerry Rogers and Daniel Judy. By Order No. 16134, issued May 21, 1986, in Docket No. 830584-WU, the Commission approved a rate increase for the utility. By Order No. 22425, issued January 7, 1990, the Commission approved transfer of majority organization control to Paul Day, the current owner of the utility.

On September 2, 1999, the utility applied for a staff assisted rate case (SARC) and paid the appropriate filing fee. Staff has selected a historical test year ended June 30, 1999. Staff has audited the utility's records for compliance with Commission rules and orders and determined all components necessary for rate setting. The staff engineer has also conducted a field investigation of the utility's plant and service area. A review of the utility's operation expenses, maps, files and rate application was also performed to obtain information about the physical plant operating costs.

Brendenwood's customer base includes 54 residential customers and one general service customer. The utility's test year revenue and operating expenses are understated. Therefore, the adjusted revenues and expenses have been used to determine the utility's financial position for the test year. The utility's adjusted revenue is $24,259, its adjusted operating expenses are $28,654, which results in an adjusted operating loss of $4,395.

In this case, staff is recommending that the operating ratio methodology be used for calculating the revenue requirement. The Commission has approved this methodology in two prior rate cases, by Orders Nos. PSC-96-0357-FOF-WU in Docket No. 950641-WU and PSC-97-0130-FOF-SU in Docket No. 960561-WU.

The Commission has a memorandum of understanding with the Florida Water Management Districts. This memorandum recognizes a joint cooperative effort is necessary to implement an effective, state-wide water conservation policy. Water use in the utility's

service area is under the jurisdiction of the St. Johns River Water Management District (SJRWMD or District). The SJRWMD recently renewed the utility's consumptive use permit (CUP). Staff has been informed by a representative of the SJRWMD that the District is requiring implementation of a conservation rate structure as a condition of the utility's new CUP. Further, the SJRWMD has instructed the utility to seek approval of a conservation rate structure within this rate proceeding.

On February 23, 2000, a customer meeting was held at the City of Eustis Recreation Complex's Garden Room, 2214 East Bates Avenue, Eustis, Florida. The purpose of this meeting was to allow customers to address the quality of service being provided by the utility and the current rate case proceeding. Twenty-eight customers attended the meeting and several customers addressed concerns about the quality of service and the proposed rate increase.

The major concern addressed by customers include low water pressure, sediment in the water, excessive chlorine and high bills based on faulty meter readings. In addition, customers stated that the proposed rates were too high. All quality of service concerns are addressed in Issue 1.

QUALITY OF SERVICE

ISSUE 1: What is the quality of service rendered to the customers of the utility?

RECOMMENDATION: The quality of service provided to the customers should be considered satisfactory. (RIEGER)

STAFF ANALYSIS: A quality of service determination is derived by evaluating the quality of utility product, the operational condition of the treatment facility and distribution system, and customer satisfaction. A compliance review of the Department of Environmental Protection (DEP) and SJRWMD records show no water quality compliance problems. Also, staff's on-site investigation found the operational condition of the treatment facility and distribution system to be functioning properly. In reference to customer satisfaction, there are no recent or active complaints on file with the Commission.

As stated previously, approximately 28 customers attended the customer meeting held at the Eustis Recreation Complex Center. Of that number, eight addressed the Commission staff mainly about the impact of the proposed rate increase. The majority of the comments centered around water used for irrigation purposes and the effect of the proposed "tiered" rate structure designed to promote water conservation. The customers believe that the water they use for irrigation is necessary in order for them to maintain their yards. In general, they believe the proposed rate structure is punitive in nature and should not be applied to them. It was explained at the meeting that as a requirement of the recently renewed District CUP, the utility must develop and adopt a water conserving rate structure. Believing that they were already conserving as much as possible, the customers appeared concerned about this and expressed frustration towards this requirement. If the customers are supplied with the appropriate information, staff believes that additional water conservation can be achieved without detrimental effect to the lawns and landscape. Staff has contacted SJRWMD and, brochures concerning water conservation have been sent to the utility for distribution. If requested, the SJRWMD is also available to conduct conservation education workshops. It will be up to the customers to pursue additional education if they desire.

In addition to the irrigation concerns, other quality of service problems brought up at the customer meeting were mainly about water quality, water pressure, and meter accuracy. As

previously noted, a compliance review of the DEP and SJRWMD records show no water quality compliance problems. However, two customers voiced concerns over water quality in the form of excessive chlorine taste and floating debris in the water. These two employ the use of water filters at their homes. Staff's review has found that the utility is doing what is necessary to provide a reliable water source. Chlorination is necessary for disinfection purposes, and although some taste may be noticed, staff does not consider it excessive. The floating debris problem is not readily identifiable. It appears to not be wide spread or consistent. Staff has been unable to identify the source. Additional improvements to further enhance the water quality leaving the treatment facility would in this case be expensive and unnecessary.

Water pressure provided by the utility appears to be adequate. The minimum pressure necessary to protect the health and safety of the consumer is maintained by the utility. However, there were customer concerns over the reduction of pressure inside the home during times when outside irrigation is in progress. Increasing the pressure appears unlikely given the limited pumping capability of the existing treatment facility. Costly plant improvements would be necessary to further improve the situation. Staff believes that this is more of an inconvenience rather than a health and safety concern. Since the minimum pressure needs are being met by the utility, further review on this subject is not recommended.

Finally, one customer expressed concern about the accuracy of her meter. The utility has recently field tested the meter and found it within tolerable limits. However, having knowledge in meters and meter testing, the customer performed a similar test and found indications that the meter was registering high. Believing that she is being over billed, the customer, as allowed for in the Meter Test By Request Rule 25-30.266 Florida Administrative Code, requested that a more reliable "bench test" be performed. Staff is presently working with the utility and the customer to arrange for this test. The outcome of this complaint will not have any bearing on the present rate case, and the complaint can be resolved independently from the SARC. This situation will be pursued to its resolution. Since this investigation is ongoing, no adjustment is recommended at this time.

Given the results of the above service review, staff believes that the quality of service provided by the utility is satisfactory. Therefore, no adjustments are recommended.

RATE BASE

ISSUE 2: What are the appropriate used and useful percentages for the water treatment plant and water distribution system?

RECOMMENDATION: The water treatment plant and water distribution systems should be considered 100% used and useful. (RIEGER)

STAFF ANALYSIS: Used and useful for this utility has not been previously determined by the Commission.

Water Treatment Plant - The water treatment plant has a pumping capacity of 160 gallons per minute from a single well. There is no onsite storage capacity or high service pumping capabilities. The plant itself is considered to be at the minimum size necessary to supply the existing needs of the customers. With the utility's service area basically at build out, the water treatment plant is fully utilized. Therefore, the water treatment plant is considered 100% used and useful. Review of the amount of water produced versus water consumed by the utility's customers during the test year, shows the unaccounted for water to be at 8%. Anything below 10% is considered reasonable. No adjustment is recommended.

Water Distribution System - The water distribution system is at capacity. Therefore, it is recommended that the water distribution system be considered 100% used and useful.

ISSUE 3: Does the utility own the land on which its water facilities are located, and, if so, what is the appropriate land value to be included in rate base?

RECOMMENDATION: No, the utility does not own the land on which its water facilities are located. The land is owned by the owner of the utility and is leased to the utility for 99 years. The appropriate land value to be included in rate base is zero. (DEWBERRY)

STAFF ANALYSIS: Based on a warranty deed provided in the staff audit, the utility's owner, Mr. Day, owns the land on which the utility's water facilities are located.

By letter dated December 13, 1999, staff informed Mr. Day that Section 367.1213, Florida Statutes, and Rule 25-30.035(6), Florida Administrative Code require a utility to own the land upon which its treatment facilities are located, or submit an agreement which provides for the continued use of the land, such as a 99-year lease.

On December 21, 1999, staff received a land lease from the utility's owner dated December 15, 1999, leasing the land on which the water facilities are located to the utility for 99 years.

The National Association of Regulatory Utility Commissioner's (NARUC) instructions states that leases shall be accounted for by the utility as described in Statement of Financial Accounting Standards (FAS).

FAS 13 lists the criteria for classifying leases. Paragraph 25 of this document states that when land is the sole item of property leased, the following criteria must be met to qualify for a capital lease:

a. The lease transfers ownership of the property to the lessee by the end of the lease term; and

b. The lease contains a bargain purchase option.

If the listed criteria are not met, then the lease is an operating lease. The lease submitted by the utility does not meet the criteria for a capital lease. It is an operating lease and is included in operation and maintenance expense (O&M) and addressed in Issue 7. Therefore, the appropriate land value to be included

in rate base is zero.

ISSUE 4: What is the appropriate average test year rate base for Brendenwood Water System?

RECOMMENDATION: The appropriate average test year rate base for Brendenwood Water System is $7,430. (DEWBERRY)

STAFF ANALYSIS: Brendenwood Water System began operations August 1981. The utility was a division of Brentwood Development, a partnership. There were four partners, one being Mr. Day, the current owner of the utility. Based on the staff audit for Docket No. 830584-WU, the primary activity of the partnership was construction and sales of homes on the land the partnership purchased and developed.

By Order No. 14787, issued August 28, 1985, in Docket No. 830584-WU, a staff assisted rate case, the Commission approved a rate increase for Brendenwood for the test period ended December 31, 1984. In that rate case, the Commission determined that the utility's plant costs were allocated to the cost of each lot and home sold and was written off to cost of goods sold. Therefore, rate base was set at zero at December 31, 1984.

On July 6, 1988, Mr. Day acquired the other partners' interest in the utility. By Order No. 22425, issued January 17, 1990, in Docket No. 891121-WU, the Commission approved transfer of majority organizational control to Mr. Day, the utility's current owner.

On September 2, 1999, the utility applied for this SARC. Staff has selected a test year ended June 30, 1999, for this rate case. Based on the staff audit, staff used the utility owner's income tax records, invoices and canceled checks to determine plant values for the period July 1, 1998 through June 30, 1999.

Utility Plant in Service (UPIS): The utility recorded $5,291 in UPIS. Audit Exception No. 2 states that year-end plant on June 30, 1999 is $8,615. This amount is net of a retirement of a pump valued at $2,488. Therefore plant investment before the retirement is $11,103.

UPIS has been increased by $5,812 to reflect plant investment on June 30, 1999, prior to the adjustment for the pump retirement. It has been decreased by $2,488 to reflect the retirement of a pump and it has been decreased by $1,139 to reflect the averaging adjustment. Average UPIS is $7,476.

Land: As addressed in Issue 3, the utility does not own the land on which its water facilities are located. The land has been leased to the utility for 99 years and the cost is included in O&M expense. Therefore, the value for land to be included in rate base is zero.

Contributions-In-Aid-Of-Construction (CIAC): Audit Exception No. 3 states that the utility collected its authorized base facility charge (BFC) from a developer for lots under construction for the period 1990 through June 30, 1999. The BFC collected was recorded as revenue. The utility initially billed the developer at the start of construction on a lot although water service was not available. Upon installation of the meter, and when water service was available, the utility began to bill its new customer, the home owner.

The utility's existing tariff does not authorize the utility to collect any charges from anyone outside of customers of record. Therefore, the BFC collected from the developer was unauthorized. The utility paid regulatory assessment fees on charges collected and recorded the charges as revenue. Staff believes that the utility did not knowingly charge unauthorized charges and recommends that the charges collected from the developer for the period 1990 through June 30, 1999 be recognized as CIAC as done by Order No. PSC-92-0123-FOF-WS, issued March 31, 1992, in Docket No. 910637-WS.

Based on the staff audit the utility collected $1,577 from the developer for the period 1990 through June 30, 1999. The utility did not record any CIAC. This account has been increased by $1,577 to reflect the staff recommended CIAC balance on June 30, 1999. It has been decreased by $82 to reflect the averaging adjustment. Average CIAC is $1,495.

Accumulated Depreciation: The utility did not record accumulated depreciation on its books during the test year. Consistent with Commission practice, staff has calculated accumulated depreciation using the prescribed rates in Rule 25-30.140, Florida Administrative Code. Staff's calculated accumulated depreciation on June 30, 1999, is $2,722. This account has been increased by $2,722 to reflect year-end accumulated depreciation. It has been decreased by $879 to remove accumulated depreciation on the retired pump. It has also been increased by $248 to reflect the averaging adjustment. Average accumulated depreciation is $2,091.

Amortization of CIAC: Amortization of CIAC has been calculated using composite depreciation rates. Staff's calculated year-end amortization of CIAC is $380. The utility did not record any amortization of CIAC. This account has been increased by $380 to reflect year-end amortization. It has also been decreased by $46 to reflect the averaging adjustment. Average amortization of CIAC is $334.

Working Capital Allowance: Consistent with Rule 25-30.443, Florida Administrative Code, staff recommends that the one-eighth of operation and maintenance expense formula approach be used for calculating working capital allowance. Applying that formula, staff recommends a working capital allowance of $3,206 (based on O&M of $25,649). The utility did not record a working capital allowance. Working capital has been increased by $3,206 to reflect one-eighth of staff's recommended O&M expenses.

Rate Base Summary: Based on the foregoing, staff recommends that the appropriate balance for average test year rate base is $7,430.

Rate base is shown on Schedule No. 1. Related adjustments are shown on Schedule No. 1-A.

COST OF CAPITAL

ISSUE 5: What is the appropriate rate of return on equity and the appropriate overall rate of return for the utility?

RECOMMENDATION: The appropriate return on equity and the appropriate overall rate of return for the utility is 8.93% with a range of 7.93% - 9.93%. (DEWBERRY)

STAFF ANALYSIS: Audit Exception No. 1 states that the utility's general ledger and annual reports shows no amount for proprietary capital. However, plant improvements have been traced to invoices and the utility owner's income tax returns verifying that plant has been funded by the owner. There is no record of debt. Therefore, the utility's capital structure is 100% equity.

Using the current leverage formula approved by Order No. PSC-99-1224-PAA-WS, issued June 21, 1999, in Docket No. 990006-WS, the appropriate rate of return on equity is 8.93%. Since the utility's capital structure is 100% equity, the overall rate of return is 8.93%. The range is 7.93% - 9.93%.

The utility's capital structure has been reconciled with staff's recommended rate base. Even though staff is not recommending the rate base methodology for calculating rates, staff believes that the rate of return on equity should be determined in this proceeding to be used in future cases. Staff recommends a return on equity and an overall rate of return of 8.93% with a range of 7.93% - 9.93%.

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

NET OPERATING INCOME

ISSUE 6: What is the appropriate test year revenue for the utility?

RECOMMENDATION: The appropriate test year revenue for the utility is $24,259. (DEWBERRY)

STAFF ANALYSIS: The utility recorded test year revenue of $23,553. As addressed in Issue 4, the utility collected its BFC from a developer for the period 1990 through June 30, 1999, and recorded the monies collected as revenue. The developer was not a customer of record and the funds collected have been recognized as CIAC. Audit Exception No. 4 states that the utility's recorded revenue should be decreased by $164 to remove that portion of the BFC collected from the developer, which has been recognized as CIAC.

Audit Exception No. 4 also states that the utility's owner is a customer of the utility. The utility's billing register reflected the owner's monthly consumption, but did not reflect a charge for usage. Revenue has been increased by $580 to reflect revenue that should have been charged to the utility owner.

The utility's existing rates became effective August 9, 1998. The utility's test year includes the period July 1, 1998 through June 30, 1999. Staff has calculated annualized revenue using existing rates times the number of bills and consumption provided in the billing analysis. Test year revenue has been increased by $290 to reflect annualized revenue based on existing rates. The total adjustment for test year revenue is an increase of $706.

Test year revenue is shown on Schedule No. 3. The related adjustments are shown on Schedule No. 3-A.

ISSUE 7: What is the appropriate amount for operating expenses for this utility?

RECOMMENDATION: The appropriate amount for operating expenses for this utility is $28,029. (DEWBERRY, RIEGER)

STAFF ANALYSIS: The utility recorded operating expenses of $17,589. This amount includes $16,037 for operation and maintenance expense and taxes other than income of $1,552. Based on the staff audit, the utility's recorded operating expenses are understated. Staff has made adjustments to reflect the appropriate annual operating expenses that are required for the utility operations on a going forward basis.

Operation and Maintenance Expenses (O&M)

Salaries and Wages - Employees (601) - Audit Disclosure No. 1 states that the utility's bookkeeper did not receive payment for services provided to the utility. Based on a schedule provided in the audit workpapers and prepared by the utility, the bookkeeper handles meter reading, billing, assists with the preparation of the annual report, filing price indexes and permit renewals and correspondence for all regulatory matters. In addition, the bookkeeper assists with the maintenance of the utility's books and records and cusotmer service.

The schedule provided in the audit workpapers listed the requested cost for each service provided. The bookeeper also informed staff that she spends approximately 4 hours per week or 208 hours annually conducting utility business. Staff reviewed the duties and the requested cost for each service, determined the costs reasonable and, recommended an annual salary of $3,310 for the bookkeeper in the calculation of preliminary rates.

At the customer meeting held on February 23, 2000, customers addressed dissatisfaction with the proposed rate increase, whereupon the bookkeeper stated that she did not want a salary and indicated that she was told to request a salary. As stated earlier, the recommended salary was requested by the utility. When processing a SARC, it is staff's responsibility to make utilities aware of allowable expenses that are necessary for day to day operations. It was not staff's intent to force the utility to request a bookkeeper's salary. However, since the bookkeeper's duties are an integral part of required services for day to day operations, staff believes that an allowance for bookkeeping should

be included in the calculation of rates.

After the customer meeting, staff requested that the utility submit its decision in writing stating whether the utility wanted a salary for the bookkeeper included in the calculation of rates for this rate case. By letter dated March 1, 2000, the utility requested a $100 per month (or $1,200 annual) reduction in the original requested salary of $3,310. The utility stated that the requested reduction is an effort to show the utility's sensitivity to the customers' personal financial concerns. As requested by the utility, the bookkeeper's original requested salary has been reduced by $1,200 allowing $2,110 annually. This expense has been increased by $2,110 to reflect the requested bookkeeper's salary.

Contractual Services - Professional (631) - The utility recorded $230 in this expense. This amount covers the cost for income tax preparation by a certified public accountant (CPA). Per the staff audit, the utility's books are not in conformity with the National Association of Regulatory Commission (NARUC) Uniform System of Accounts (USOA). The recorded contractual accounting expense will not provide the services needed to set up and maintain the books to conform with the NARUC USOA.

Using costs approved by the Commission for a similar sized utility, staff has estimated a one-time cost of $2,800 for converting the utility's books and records to conform with NARUC USOA and for reconciling the utility's books with the Commission's Order in this case. This amount has been amortized over five years allowing the recovery of $560 annually. Further, staff has estimated an annual allowance of $504 for the preparation of annual reports, regulatory assessment fee forms, preparation of payroll returns and monthly accounting duties. The total adjustment for this expense is an increase of $1,064.

Contractual Services - Testing (635) - Each utility must adhere to specific testing conditions prescribed within its operating permit. These testing requirements are tailored to each utility as required by the Florida Administrative Code and enforced by DEP. The tests and the frequency at which those tests must be repeated for this utility are:

Description	Frequency	Annual Cost
Microbiological	monthly	$ 360
Primary Inorganics	3 years	$ 49
Secondary Inorganics	3 years	$ 29

Description	Frequency	Annual Cost
Asbestos	9 years	$ 35
Nitrate & Nitrite	annual	$ 40
VOC's	3 years	$ 110
Pesticides & PCB's w/Dioxin	3 years	$ 146
Radionuclides	3 years	$ 292
UOC's	3 years	$ 213
Lead & Copper	biannual	$ 300
	Total	$1,574

The utility recorded $695 in contractual testing expense. This expense has been increased by $879 to reflect the annual DEP required testing expense.

Contractual Services - Other (636) - The utility recorded $5,362 in this expense. Audit Exception No. 5 addresses adjustments for this expense. Per the audit, this expense has been increased by $274 to reflect unrecorded telephone expense; it has been decreased by $100 to remove a non-utility expense and decreased by $106 to reflect 50% of lawn mower repair expense that is shared by the owner.

The utility's owner has requested a management fee of $475 per month or $5,700 annually. The management duties include coordinating and planning all activities associated with operating the utility. In addition, he is on call 24 hours a day to provide customer assistance when needed. The utility's recorded expense included $2,850 for contractual management service. This expense has been increased by $2,850 to reflect an annual management allowance of $5,700.

The utility's recorded expense included an operator allowance of $540. The staff engineer determined that the appropriate annual allowance for operator service is $2,580 for a utility this size. This expense has been increased by $2,040 to reflect the appropriate annual allowance for an operator. The total adjustment for contractual services - other is an increase of $4,958.

Rents (640) - The utility recorded $1,632 in this expense. The utility's office is located in the utility owner's home. The monthly rental expense including overhead is $181 per month or $2,172 annually. Staff believes this amount is reasonable and recommends an annual rent allowance of $2,172. This expense has been increased by $540 to reflect the recommended allowance.

The utility's owner owns the land on which the utility's facilities are located. As addressed in Issue 3, the land has been leased to the utility for 99 years. Staff has determined that the lease is an operating lease and the annual lease expense should be included in O&M expenses. The utility requested Commission staff to assist in determining the appropriate annual lease cost.

In Docket No. 830584-WU, a staff assisted rate case for this utility, an audit was done. From the audit work papers, staff has determined that the original cost of 47 lots that was purchased when the utility was first organized was $149,232 which equates to $3,175 per lot. The utility's water facility is situated on one lot. Staff believes that the maximum lease amount should be the annual return, based on the utility's current capital structure, times $3,175. This equates to $284 annually. This expense has been increased by $284 to reflect staff's recommended land lease cost. The total adjustment for rent is $824.

Transportation Expense (650) - Audit Exception No. 5 states that the utility claimed 100% of transportation expenses on a truck and van. Per a discussion with the utility owner the utility's usage is 80% for the truck and 30% for the van. The utility recorded $3,187 in this expense. This expense has been decreased by $479 to reflect 80% and 30% utility use of the truck and van, respectively.

Insurance Expense (655) - The utility recorded $1,244 in this expense. This expense has been decreased by $512 to reflect 80% and 30% of the utility's use of the truck and van, respectively.

The utility submitted a copy of the liability insurance policy for protection of the utility assets and requested that the cost be included in this rate case. The cost of the insurance is $698 annually. This expense has been increased by $698 to reflect the annual expense for liability insurance. The total adjustment for this expense is an increase of $186.

Regulatory Commission Expense (665) - The utility paid a filing fee of $200 for this rate case. This amount has been amortized over 4 years allowing the recovery of $50 annually. This expense has been increased by $50.

Miscellaneous Expense (675) - The utility recorded $83 in this expense. This expense has been increased by $100 to reflect a reclassification of a consumptive permit cost from taxes other than income. This permit is due for renewal in five years. Therefore,

this cost has been amortized over five years. This expense has been decreased by $80 to reflect the appropriate allowance. The total adjustment for this expense is an increase of $20.

Operation and Maintenance Expenses (O&M) Summary - Total operation and maintenance adjustments are an increase of $9,612. Staff's recommended O&M expense is $25,649. O&M expense is shown on Schedule No. 3-B.

Depreciation Expense (Net of Related Amortization of CIAC) - The utility did not record a depreciation expense. Depreciation expense has been calculated using the prescribed rates in Rule 25-30.140, Florida Administrative Code. Staff's calculated depreciation is $519. Staff's calculated amortization of CIAC is $95. This expense has been increased by $519 and it has been decreased by $95 to reflect the net depreciation expense of $424.

Amortization - In August, 1998, the utility had to replace a pump. The retired pump was installed in 1992 and had a service life of 17 years. Therefore, the pump was retired prior to the end of its depreciable life. The original cost of the pump was $2,488, accumulated depreciation at August, 1998 was $879, therefore, the net loss is $1,609. Following the guidelines of Rule 25-30.433(9), Florida Administrative Code, the net loss should be amortized over 5.53 years allowing the recovery of $291 annually. This expense has been increased by $291.

Taxes Other Than Income - The utility recorded $1,552 in this expense. This expense has been increased by $62 to reflect the appropriate amount of regulatory assessment fees on test year annualized revenue. It has been decreased by $272 to remove real estate taxes since the utility does not own the land on which the utility's facilities are located. It has also been increased by $288 to reflect payroll taxes on the recommended salary for the bookkeeper.

In addition, decreases have been made of $150 to remove a non-utility expense and of $100 to reflect a reclassification to miscellaneous expense. The total adjustment for this expense is $172.

Operating Revenues - Revenues have been increased by $6,335 to reflect the increase in revenue required to cover expenses and allow a 10% operation margin on recommended O&M expenses.

Taxes Other Than Income - This expense has been increased by $285 to reflect the regulatory assessment fee of 4.5% on the increase in revenue.

Operating Expenses Summary - The application of staff's recommended adjustments to the utility's recorded test year operating expenses results in staff's operating expenses of $28,029.

Operating expenses are shown on Schedule No. 3 and adjustments are shown on Schedule No. 3-A.

METHODOLOGY FOR CALCULATING REVENUE REQUIREMENT

ISSUE 8: Should the Commission utilize the operating ratio methodology as an alternative means to calculate the revenue requirement for Brendenwood water system and, if so, what is the appropriate margin?

RECOMMENDATION: Yes, the Commission should utilize the operating ratio methodology for calculating the revenue requirement for the Brendenwood water system. The margin should be 10% of operation and maintenance expenses. (DEWBERRY, FUDGE)

STAFF ANALYSIS: Section 367.0814(9), Florida Statutes, provides that the Commission may, by rule, establish standards and procedures for setting rates and charges of small utilities using criteria other than those set forth in Sections 367.081(1), (2)(a) and (3), Florida Statutes. Rule 25-30.456, Florida Administrative Code, provides, in part, as an alternative to a staff assisted rate case as described in Rule 25-30.455, Florida Administrative Code, utilities whose total gross annual operating revenues are $150,000 or less per system, may petition the Commission for staff assistance in alternative rate setting.

Although, the utility did not petition the Commission for alternative rate setting under the aforementioned rule, staff believes that the Commission should exercise its discretion to employ the operating ratio methodology as an alternative means to set rates in this case.

By Order No. PSC-96-0357-FOF-WU, issued March 13, 1996, in Docket No. 950641-WU, the Commission, for the first time, utilized the operating ratio methodology as an alternative means for setting rates. This order also established criteria to determine the use of the operating ratio methodology and a guideline margin of 10% of operation and maintenance expense.

In addition, by Order No. PSC-97-0130-FOF-SU, issued February 10, 1997, in Docket No. 960561-WU, the Commission utilized the operating ratio methodology for setting rates. The same criteria and 10% margin of operation and maintenance expense was approved as in Order No. PSC-96-0357-FOF-WU.

In Order No. PSC-96-0357-FOF-WU, the Commission established criteria to determine whether to utilize the operating ratio methodology for those utilities with low or nonexistent rate base.

The following discusses the qualifying criteria established by Order No. PSC-96-0357-FOF-WU, and how they apply to Brendenwood.

1) Whether utility's operation and maintenance expense exceed rate base. In the instant case, the rate base is substantially lower than the level of operation and maintenance expense. Based on the staff audit, the adjusted rate base for the test year is $7,430, while adjusted operation and maintenance expenses are $25,649.

2) Whether the utility is expected to become a Class B in the foreseeable future. According to Chapter 367.0814(9), Florida Statutes, the alternative forms of regulation being considered in this case only apply to small utilities whose gross annual revenues are $150,000 or less. Brendenwood is a Class C utility and the recommended revenue requirement of $30,594 is substantially below the threshold level for Class B status ($200,000 per system). The utility's service area has two lots left for development and is essentially built out. The utility does not have additional capacity for expansion and the surrounding areas are being served by the City of Eustis. Therefore, the utility will not become a Class B utility in the foreseeable future.

OTHER FACTORS

3) Quality of service and condition of plant. A review of the DEP records shows no compliance problems. The quality of service appears satisfactory.

4) Whether the utility is developer owned. The current utility owner is not a developer, the service territory is not in the early stages of growth and the customer growth rate is very slow.

5) Whether the utility operates treatment facilities or is simply a distribution and/or collection system. Brendenwood operates a water treatment plant and a water distribution system.

MARGIN PERCENTAGE

By Orders Nos. PSC-96-0357-FOF-WS and PSC-97-0130-FOF-WU, the Commission determined that a margin of 10% shall be used unless unique circumstances justify the use of a greater or lesser margin. The Commission settled on the 10% margin due to lack of economic guidance on developing an operating ratio method rate of return. The Commission believed that it would be a futile and unwarranted

exercise to try to establish a precise return applicable to all small utilities. The important question was not what the return percentage should be, but what level of operating margin will allow the utility to provide safe and reliable service and remain a viable entity. The answer to this question requires a great deal of judgement based upon the particular circumstances of the utility.

Several factors must be considered in determining the reasonableness of a margin. First, the margin must provide sufficient revenues for the utility to cover its interest expense. Brendenwood's capital structure is 100% equity and has no interest expense.

Second, use of the operating ratio methodolgy rests on the contention that the principal risk to the utility resides in operating cost rather than in capital cost of the plant. The fair return on a small rate base may not adequately compensate the utility owner for incurring the risk associated with covering the much larger operating cost. Therefore, the margin should adequately compensate the utility owner for that risk. Under the rate base method, the return to Brendenwood's owner amounts to only $664, which is enough to cover only a 2.59% variance in O&M expenses. Given this utility's circumstances, staff believes $664 is too little of a cushion.

Third, if the return on rate base method were applied, a normal return would generate such a small level of revenues that in the event staff estimates revenues or expenses incorrectly, the utility could be left with insufficient funds to cover operating expenses. Therefore, the margin should provide adequate revenues to protect against potential variability in revenues and expenses. Since the utility's capital structure is 100% equity, the return on rate base method would provide Brendenwood only $664 in operating income to cover revenue and expense variances. If the utility's operating expenses increase, the utility would not have the funds required for day to day operations.

In conclusion, staff believes the above factors show that the utility needs a higher margin of revenues over operating expenses than the traditional return on rate base method would allow. Therefore, in order to provide the utility adequate cash flow to satisfy environmental requirements and to provide some assurance of safe and reliable service, staff recommends application of the operating ratio methodology at a margin of 10% of operation and

maintenance expenses.

ISSUE 9: What is the appropriate revenue requirement?

RECOMMENDATION: The appropriate revenue requirement using the operating ratio methodology for calculating the revenue requirement is $30,594. (DEWBERRY)

STAFF ANALYSIS: Using the operating ratio method for calculating the revenue requirement, the utility should be allowed an annual increase in revenue of $6,335 (26.11%). This will allow the utility the opportunity to recover its expenses and earn a 10% operating margin on its adjusted operation and maintenance expense. The calculations are as follows:

		Water
Adjusted Operation & Maintenance Expense		$25,649
Rate of Return (ORM)		x .10
Operating Margin		$ 2,565
Adjusted Operation and Maintenance Expense		$25,649
Depreciation Expense (Net)		424
Amortization		291
Taxes Other Than Income		288
		$29,217
Gross up for RAFs	(divided by)	.955
Revenue Requirement		$30,594
Adjusted Test Year Revenue		(24,259)
Revenue Increase		$ 6,335
Percentage Increase in Revenue		26.11%

RATES AND CHARGES

ISSUE 10: Should the utility's base facility charge for residential customers be calculated consistent with Commission Order No. 16134.

RECOMMENDATION: Yes, the utility's base facility charge for residential customers should be calculated consistent with Commission Order No. 16134. However, future meter change outs for residential 1" meters should be replaced with a 5/8" x 3/4" meter or charged the appropriate rate for a 1" meter. (DEWBERRY)

STAFF ANALYSIS: During the test year the utility provided water service to approximately 54 residential customers and one general service customer (a post office). Five of the residential customers are served through a 1" meter and the remaining customers, including the post office, are served through a 5/8" x 3/4" meter. In the utility's prior rate case under Docket No. 830584-WU, by Order No. 16134, issued May 21, 1986, the Commission authorized the utility to charge all residential customers the same base facility and gallonage charge irrespective of the meter size. Staff recommends that the base facility charge for residential customers be calculated consistent with Order No. 16134 in this case. However, staff recommends that future meter change outs for residential 1" meters should be replaced with a 5/8" x 3/4" meter or should be charged the appropriate base facility and gallonage charge rate for a 1" meter.

ISSUE 11: What is the appropriate conservation rate structure for this utility?

RECOMMENDATION: The appropriate conservation rate structure for this utility is the inclining-block rate structure as detailed in the staff analysis. (GOLDEN, RIEGER, WILLIAMS)

STAFF ANALYSIS: Brendenwood is located in a Priority Water Resource Caution Area within the SJRWMD. The SJRWMD recently renewed the utility's consumption use permit (CUP). Staff has been informed by a representative of the SJRWMD that the District is requiring implementation of a conservation rate structure as a condition of the utility's new CUP. Further, the SJRWMD has instructed the utility to seek approval of a conservation rate structure within this rate proceeding.

Brendenwood provides water service to 54 residential customers and one general service customer. The utility's current rate structure consists of a base facility charge and uniform gallonage charge. The average residential consumption is 22,418 gallons per month (gpm). This usage level exceeds the 10,000 gpm threshold that is used by staff to determine if a more aggressive conservation-oriented rate structure should be considered. Also, a review of the test year consumption data revealed that over 60% of the total residential consumption was in excess of 10,000 gpm. Further, over 75% of the total bills issued during the test year were for consumption in excess of 10,000 gpm.

In consideration of the SJRWMD directives, the high average residential consumption, and significant number of customers using in excess of 10,000 gpm, staff believes a more aggressive conservation rate structure should be implemented for this utility to discourage high water usage and to promote conservation. Staff is recommending that the inclining-block rate structure be implemented for this utility. An inclining-block rate structure is comprised of two or more usage blocks, with the price per unit increasing in each block. Under staff's recommended rate structure, water users with low monthly usage would benefit, while water users with high monthly usage would pay increasingly higher rates. Thus, the high water users have a greater incentive to conserve.

Staff believes a two-tiered inclining block rate structure is appropriate as a first step towards promoting water conservation in this case. During our analysis of this case, staff considered the

use of both two-tiered and three-tiered inclining block rate structures. Based upon the usage characteristics of Brendenwood's customers, staff believes that an argument could be made in favor of a three-tiered inclining-block rate structure. However, in general, it has been staff practice to implement conservation incentives a step at a time. For example, utilities with flat rates are first converted to the traditional base facility and gallonage charge rate structure. If additional conservation incentives are needed in future cases, staff would consider the use of a conservation adjustment, in which a portion of the revenue typically recovered from the base facility charge would be shifted to the gallonage charge, or the implementation of inclining-block rates. Following that same philosophy, staff believes it may be more appropriate in this case to implement a two-tiered inclining block rate structure as the next step in promoting water conservation. In the event that this rate structure does not produce sufficient water conservation, the Commission should consider implementing additional tiers in the utility's next rate proceeding.

Further, at the February 23, 2000, customer meeting, a number of customers expressed concern about the level of staff's preliminary rates. Many of Brendenwood's customers have in-ground irrigation systems. Several customers discussed actions that they were currently taking to reduce their water consumption, such as reducing the number of days and/or length of time they water their lawns. Some customers questioned why the Commission could not promote water conservation through consumer education first, before implementing the inclining-block rate structure. Based upon conversations with customers and a visit to the service area, staff believes that conservation education would be helpful in promoting water conservation in this area. The SJRWMD has a number of brochures covering various water conservation topics. A SJRWMD representative had planned to attend the February 23, 2000, customer meeting, but was not able to attend due to illness. Consequently, a SJRWMD representative has agreed to send water conservation information to the utility to be distributed to the customers. Although staff believes that some water conservation may result from consumer education, staff believes that implementation of the inclining-block rate structure is still appropriate in keeping with the requirements of the SJRWMD.

After determining the number of tiers to be used, the next step is determining the appropriate breakpoint for the tiers. According to Rule 25-30.515(8)(a), Florida Administrative Code, an

equivalent residential connection (ERC) equals 350 gallons per day. This is based upon the DEP's standard of normal usage at a level of 100 gallons per person per day for an average of 3.5 people per household. This equates to approximately 10,500 gallons of total usage per month per ERC. In retirement communities in which only one or two people reside in each household, applying this same 100 gallon per person per day standard equates to an expected usage level of 6,000 gpm.

Brendenwood serves a mix of retirement and family residents. Consequently, applying the DEP standard, normal usage for this community could range between 6,000 to 10,000 gpm. Usage below 100 gallons per person per day is generally viewed as non discretionary. Therefore, conservation incentives should be aimed at usage above the 100 gallon per person per day level. Because Brendenwood serves both retirement and family residences, staff believes it is more appropriate to set the inclining-block rate structure breakpoint at the 10,000 gpm level. While it is true that this breakpoint allows residences with only one or two occupants to use more water before incurring the higher block rate, staff believes this is preferable to the alternative. Establishing a breakpoint below 10,000 gpm would result in larger households being assessed the higher block rate on non discretionary usage. Therefore, staff believes the appropriate breakpoint is 10,000 gpm.

Since usage below 10,000 gpm is relatively nondiscretionary, the rate in this usage block should be kept as low as possible. However, in order to promote water conservation at the higher usage levels and send the proper conservation signal, the rate for the second tier must be sufficiently higher than the rate for the first tier. In staff's preliminary rates presented at the customer meeting, staff used a rate tier factor of 2.0. In other words, the rate for the second tier was two times the rate in the first tier. However, upon further review, staff does not believe a rate tier factor of 2.0 is practical in this case.

For the purpose of calculating conservation rates, any gallonage over the 10,000 gpm breakpoint should be adjusted to reflect the reduced consumption level which is expected to occur following the implementation of conservation rates. This is necessary in order to calculate rates which will achieve the revenue requirement. As will be discussed in Issue 12, the reduction in consumption that can be expected in this case is relatively low. This factor combined with the monetary level of the revenue requirement increase makes it impractical to establish

a rate tier factor as high as 2.0 in this case. Given these constraints, staff is recommending a rate factor of 1.43 in this case.

As mentioned above, another tool that is available to us in promoting water conservation is the conservation adjustment. By reallocating a portion of the revenue requirement that is typically recovered through the base facility charge to the gallonage charge, we can increase the level of the gallonage charge thereby providing additional incentives to conserve water. Staff considered that option in this case to help increase the rate tier factor; however, staff believes a conservation adjustment is not appropriate in this case. Staff's initial rate calculation results in approximately 21% of the total revenue requirement being recovered through the base facility charge, with the remaining 79% recovered through the gallonage charge. In consideration of the relative low level of revenue that is currently being recovered through the base facility charge, shifting any additional revenue from the base facility charge could have a negative impact on the revenue stability of this utility. Additionally, even if a portion of the revenue recovery is shifted from the base facility charge to the gallonage charge, the increase to the gallonage charge is minimal. Therefore, staff believes that a conservation adjustment is not appropriate in this case.

The following is a comparison of the utility's existing rates and staff's recommended inclining-block rates for residential customers:

Residential Service: Base Facility Charge Meter Size	Existing Monthly Rate	Preliminary Monthly Rate
5/8" x 3/4"	$6.89	$ 9.89
1"	$6.89	$ 9.89
Gallonage Charge per 1,000 Gallons		
0 - 10,000 Gallons	$1.36	$ 1.40
Over 10,000 Gallons	$1.36	$ 2.00

As discussed in Issue 10, the Commission previously authorized the utility to charge the same base facility charge to the customers with 5/8" x 3/4" meters and with 1" meters.

A comparison of average residential bills under the utility's existing rates and staff's recommended inclining-block rates follows:

Consumption Level	Existing Monthly Rates	Staff's Recommended Monthly Rates	Increase in Average Monthly Bill	Percentage Increase Experienced at Each Consumption Level
10,000 gpm	$ 20.49	$ 23.89	$ 3.40	16.59%
20,000 gpm	$ 34.09	$ 43.89	$ 9.80	28.75%
30,000 gpm	$ 47.69	$ 63.89	$ 16.20	33.97%

It is difficult to establish conservation rates for general service customers because these customers are not a homogeneous group. Further, in this case, the one general service customer is a post office which typically uses only 1,000 gallons per month, and thus, does not pose a conservation concern. Therefore, in keeping with past Commission practice, staff believes the inclining-block rates should only be applied to the residential customers. Staff believes the appropriate gallonage charge for the general service customer is the traditional single gallonage charge that would be applied to all customers if the conservation rate structure were not implemented. In this manner, the general service customer is still paying their fair pro rata share of the cost of service.

In consideration of the above, staff recommends that the appropriate conservation rate structure for this utility is the inclining-block rate structure.

ISSUE 12: Is a repression adjustment to consumption appropriate for this utility, and if so, what is the appropriate adjustment?

RECOMMENDATION: Yes, a repression adjustment of 693,680 gallons to water consumption is appropriate. In order to monitor the effect of the rate increase and rate structure change on consumption, the utility should be ordered to file, on a quarterly basis, reports detailing the number of bills rendered, the number of gallons billed and the total revenues billed for each month during the quarter. This information should be provided for each customer class, meter size and usage block. These reports should be required for a period of two years, beginning the first quarter after the revised rates go into effect. (GOLDEN, WILLIAMS)

STAFF ANALYSIS: In an attempt to quantify the relationship between revenue increases and consumption impacts, staff has created a database of all water utilities that were granted rate increases or decreases (excluding indexes and pass-throughs) between January 1, 1990 and December 31, 1995. This database contains utility-specific information from the applicable orders, tariff pages and the utilities' annual reports for the years 1989 - 1995. Staff has reviewed the database and determined that there are no utilities in the database that closely match Brendenwood's price increase and rate structure change. However, based upon our analysis of utilities in the database, we do know that for utilities that did not experience a change in rate structure, an average price increase of approximately 30% resulted in an approximate 6.5% reduction in consumption. In addition, when a price change is coupled with a change in rate structure, the repression tends to be greater than when considering price changes with no rate structure changes.

As discussed in Issue 9, staff's recommended revenue requirement increase is $6,335 (26.11%) for the water system. This represents a monthly increase of $9.63 per ERC. Under staff's recommended inclining-block rate structure, customers will experience price increases ranging from 16% to over 40% depending on their level of usage, with the average being 30.36% based upon the average residential consumption of 22,418 gpm. Applying our ratio of a 30% increase leading to 6.5% reduction, we could expect to see an average reduction between approximately 3.5% to 8.5%, without a change in rate structure. The percentage reductions could likely be even greater considering the conversion to the inclining-block rate structure.

In consideration of our limited data regarding this level of price increase and rate structure change, staff believes it is appropriate to err on the side of caution when considering the magnitude of our recommended adjustments. Staff believes a conservative prediction of Brendenwoods's anticipated consumption reduction is 8%. Further, staff believes that this adjustment should only be applied to consumption over the 10,000 gallon breakpoint, as this is the segment of consumption that will be most greatly impacted by the implementation of the inclining-block rate structure.

Therefore, staff recommends a repression adjustment of 693,680 gallons to water consumption. Further, staff believes it will be beneficial in future cases to monitor the effects of this rate increase on consumption. Therefore, the utility should be ordered to file, on a quarterly basis, reports detailing the number of bills rendered, the number of gallons billed and the total revenues billed for each month during the quarter. This information should be provided for each customer class, meter size and usage block. These reports should be required for a period of two years, beginning the first quarter after the revised rates go into effect.

ISSUE 13: What are the recommended rates for this utility?

RECOMMENDATION: The recommended rates should be designed to produce revenue of $30,594 using the inclining-block rate structure. 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 may 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. (DEWBERRY, GOLDEN)

STAFF ANALYSIS: During the test year the utility's customer base included 54 residential customers and one general service customer. As addressed in Issue 10, five of the residential customers are served through a 1" meter and the remaining customers including the general service customer are served through a 5/8" x 3/4" meter. Consistent with Order No. 16134, rates for residential customers having a 1" meter have been calculated to be the same rate for a 5/8" x 3/4" meter.

Rates have been calculated using the number of bills and consumption provided by the staff audit minus water usage for flushing. As addressed in Issue 11, an inclining-block rate structure is recommended, and a repression adjustment has been made. A schedule of the utility's existing rates and staff's preliminary rates are as follows:

MONTHLY WATER RATES
RESIDENTIAL

Base Facility Charge Meter Size	Existing Rates	Staff's Recommended Rates
5/8" x 3/4"	$ 6.89	$ 9.89
3/4"	N/A	14.84
1"	6.89	9.89*
1"	N/A	24.73
1 1/2"	N/A	49.45
2"	N/A	79.13
3"	N/A	158.25
4"	N/A	247.27
6"	N/A	494.54

Gallonage Charge			
Per 1,000 gallons	$ 1.36		N/A
0 - 10,000 gallons	N/A	$	1.40
over 10,000 gallons	N/A		2.00

*This rate should be charged to existing residential customers having a 1" meter until the 1" meter is replaced, then the appropriate rate should be charged based on meter size. The utility should notify the customer of the change in the rate in writing prior to the meter replacement.

GENERAL SERVICE

Base Facility Charge Meter Size	Existing Rates	Staff's Recommended Rates
5/8" x 3/4"	$6.89	$ 9.89
3/4"	N/A	14.84
1"	N/A	24.73
1 ½"	N/A	49.45
2"	N/A	79.13
3"	N/A	158.25
4"	N/A	247.27
6"	N/A	494.54
Gallonage Charge Per 1,000 gallons	$1.36	$ 1.66

The recommended rates are designed to produce revenue of $30,594 using the inclining-block rate structure. 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 may 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.

ISSUE 14: Should the utility be authorized to collect miscellaneous charges, and if so, what are the appropriate charges?

RECOMMENDATION: Yes, the utility should be authorized to collect miscellaneous service charges as recommended in the staff analysis. The utility should file revised tariff sheets which are consistent with the Commission's vote. Staff should be given administrative authority to approve the tariffs upon verification that the tariff sheets are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the miscellaneous service charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets. (DEWBERRY)

STAFF ANALYSIS: The utility's existing tariff does not provide Commission approved miscellaneous service charges. Staff recommends that the utility be authorized to collect charges consistent with Rule 25-30.460, Florida Administrative Code, and past Commission practice. The recommended charges are designed to defray the costs associated with each service and place the responsibility of the cost on the person creating it rather than on the rate paying body as a whole. A schedule of staff's recommended charges follows:

Water

Description	Staff's Recommended Charges
Initial Connection	$ 15.00
Normal Reconnection	$ 15.00
Violation Reconnection	$ 15.00
Premises Visit (in lieu of disconnection)	$ 10.00

Definition of each charge is provided for clarification:

Initial Connection - this charge would be levied for service initiation at a location where service did not exist previously.

Normal Reconnection - this charge would be levied for transfer of service to a new customer account, a previously served location or reconnection of service subsequent to a customer requested disconnection.

Violation Reconnection - this charge would be levied prior to reconnection of an existing customer after disconnection of service

for cause according to Rule 25-30.320(2), Florida Administrative Code, including a delinquency in bill payment.

Premises Visit Charge (in lieu of disconnection) - this charge would be levied when a service representative visits a premises for the purpose of discontinuing service for non-payment of a due and collectible bill and does not discontinue service, because the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill.

The utility should file revised tariff sheets which are consistent with the Commission's vote. Staff should be given administrative authority to approve the revised tariff sheets upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the miscellaneous service charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets.

ISSUE 15: Should the recommended rates be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility?

RECOMMENDATION: Yes. Pursuant to Section 367.0814(7), Florida Statues, the recommended rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the utility shall be subject to the refund provisions discussed below in the staff analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(7), Florida Administrative Code, the utility should file reports with the Division of Water and Wastewater no later than 20 days after each monthly billing. These reports should indicate the amount of revenue collected under the increased rates subject to refund. (DEWBERRY, FUDGE)

STAFF ANALYSIS: This recommendation proposes an increase in water rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the utility. Therefore, pursuant to Section 367.0814(7), Florida Statutes, in the event of a protest filed by a party other than the utility, staff recommends that the recommended rates be approved as temporary rates. The recommended rates collected by the utility shall be subject to the refund provisions discussed below.

The utility should be authorized to collect the temporary rates upon the staff's approval of an appropriate security for both the potential refund and a copy of the proposed customer notice. The security should be in the form of a bond or letter of credit in the amount of $4,384. Alternatively, the utility could establish an escrow agreement with an independent financial institution.

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

1) The Commission approves the rate increase; or

2) If the Commission denies the increase, the utility shall refund the amount

collected that is attributable to the increase.

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

1) The letter of credit is irrevocable for the period it is in effect.

2) The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

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

1) No refunds in the escrow account may be withdrawn by the utility without express approval of the Commission.

2) The escrow account shall be an interest bearing account.

3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers.

4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility.

5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.

6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt.

7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth

in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.

8) The Director of Records and Reporting must be a signatory to the escrow agreement.

In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the utility. Irrespective of the form of security chosen by the utility, an account of all monies received as result of the rate increase should be maintained by the utility. This account must specify by whom and on whose behalf such monies were paid. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code. The utility should maintain a record of the amount of the bond, and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(7), Florida Administrative Code, the utility should file reports with the Division of Water and Wastewater no later than 20 days after each monthly billing. These reports should indicate the amount of revenue collected under the increased rates subject to refund.

ISSUE 16: Should the utility be required to show cause, in writing within 21 days, why it should not be fined up to $5,000 per day for its apparent violation of Rule 25-30.115, Florida Administrative Code, for its failure to maintain its books and records in conformance with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA)?

RECOMMENDATION: No. A show cause proceeding should not be initiated. However, the utility should be ordered to maintain its books and records in conformance with the 1996 NARUC USOA and submit a statement from its accountant by March 31, 2001 along with its 2000 annual report, stating that its books are in conformance with the NARUC USOA and have been reconciled with the Commission Order. (FUDGE, DEWBERRY)

STAFF ANALYSIS: During the staff audit, the auditors discovered that although the utility's books are well kept and thorough, the utility did not maintain its accounts and records in conformity with the NARUC USOA. Despite the state of the utility's books and records, staff was able to perform the audit. The errors determined by the auditors constitute apparent violations of Rule 25-30.115, Florida Administrative Code, "Uniform System of Accounts for Water and Wastewater Utilities," which provides:

> Water and wastewater utilities shall, effective January 1, 1998, maintain their accounts and records in conformity with the 1996 NARUC Uniform System of Accounts adopted by the National Association of Regulatory Utility Commissioners.

Section 367.161, Florida Statutes, authorizes the Commission to assess a penalty of not more than $5,000 for each offense, if a utility is found to have knowingly refused to comply with, or have willfully violated any Commission rule, order, or provision of Chapter 367, Florida Statutes. In failing to maintain its books and records in conformance with the USOA, the utility's act was "willful" in the sense intended by Section 367.161, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, titled In Re: Investigation Into The Proper Application of Rule 25-14.003, Florida Administrative Code, Relating To Tax Savings Refund For 1988 and 1989 For GTE Florida, Inc., the Commission having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "[i]n our view, 'willful' implies an intent to do an act, and this is distinct from

an intent to violate a statute or rule." Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

Although the utility's failure to keep its books and records in conformance with the NARUC USOA is an apparent violation of Rule 25-30.115, Florida Administrative Code, staff believes that a show cause proceeding is not warranted and should not be initiated at this time. The utility has been operating at a loss and the existing rates do not provide an allowance for accounting services. Therefore, staff believes that the utility should be given time and an accounting allowance for setting up the utility's books to conform with the NARUC USOA and to reconcile the utility's books with the Commission's Order.

Staff has recommended an estimated annual accounting allowance of $1,064. This wil provide funds to set up the utility's books in compliance with the Commission's Order, and will provide for all other accounting services.

Based on the foregoing, staff does not believe that the apparent violation of Rule 25-30.115, Florida Administrative Code, under these circumstances rises to the level that warrants the initiation of a show cause proceeding. Therefore, staff recommends that the Commission not order the utility to show cause for failing to keep its books and records in conformance with the NARUC USOA. However, the utility should be ordered to maintain its books and records in conformance with the 1996 NARUC USOA and submit a statement from its accountant by March 31, 2001, along with its 2000 annual report, stating that its books are in conformance with the NARUC USOA and have been reconciled with the Commission Order.

ISSUE 17: Should the utility be ordered to show cause, in writing, within 21 days, why it should not be fined for its apparent violation Section 367.091(4), Florida Statutes?

RECOMMENDATION: No, a show cause proceeding should not be initiated. (FUDGE, DEWBERRY)

STAFF ANALYSIS: As stated in Issue 4, the utility collected charges from the developer in apparent violation of Section 367.091(4), Florida Statutes, which states that "[a] utility may only impose and collect those rates and charges approved by the commission for the particlaur class of service involved."

Section 367.161, Florida Statutes, authorizes the Commission to assess a penalty of not more than $5,000 for each offense, if a utility is found to have knowingly refused to comply with, or have willfully violated any Commission rule, order, or provision of Chapter 367, Florida Statutes. By collecting charges from the developer without a tariff approved for that particular class of service, the utility's act was "willful" in the sense intended by Section 367.161, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, titled In Re: Investigation Into The Proper Application of Rule 25-14.003, Florida Administrative Code, Relating To Tax Savings Refund For 1988 and 1989 For GTE Florida, Inc., the Commission having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "[i]n our view, 'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

However, in this case, the charges collected by the utility have been recognized as CIAC, which reduces the utility's investment and benefits the customers. Accordingly, staff does not believe that the apparent violation of Section 367.091(4), Florida Statutes, rises in these circumstances to the level which warrants the initiation of a show cause proceeding. Therefore, staff recommends that the Commission not order Brendenwood to show cause for collecting charges from a class of service not approved by the Commission.

ISSUE 18: Should this docket be closed?

RECOMMENDATION: If no timely protest is received upon expiration of the protest period, the Order should become final and effective upon the issuance of a Consummating Order and this docket should be closed administratively. If a protest is filed within 21 days of the issuance of the Order, the Commission-approved temporary rates should become effective pending resolution of the protest. (DEWBERRY, RIEGER, FUDGE)

STAFF ANALYSIS: If no timely protest is received upon the expiration of the protest period, the Order should become final and effective upon the issuance of a Consummating Order and this docket should be closed administratively. If a protest is filed within 21 days of the issuance of the Order, the Commission-approved temporary rates should become effective pending resolution of the protest.

BRENDENWOOD WATER SYSTEM
TEST YEAR ENDING JUNE 30, 1999
SCHEDULE OF WATER RATE BASE

SCHEDULE NO. 1
DOCKET NO. 991290-WU

DESCRIPTION	BALANCE PER UTILITY		STAFF ADJUST. TO UTIL. BAL.	BALANCE PER STAFF
1. UTILITY PLANT IN SERVICE	$5,291	A	$2,185	$7,476
2. LAND & LAND RIGHTS	0		0	0
3. NON-USED AND USEFUL COMPONENTS	0		0	0
4. CIAC	0	B	(1,495)	(1,495)
5. ACCUMULATED DEPRECIATION	0	C	(2,091)	(2,091)
6. AMORTIZATION OF CIAC	0	D	334	334
7. WORKING CAPITAL ALLOWANCE	0	E	3,206	3,206
8. WATER RATE BASE	$5,291		$2,139	$7,430

BRENDENWOOD WATER SYSTEM TEST YEAR ENDING JUNE 30, 1999 ADJUSTMENTS TO RATE BASE	SCHEDULE NO. 1-A DOCKET NO. 991290-WU
	WATER
UTILITY PLANT IN SERVICE	
1. To reflect year plant at 6/30/99.	$5,812
2. To reflect retirement of tank.	(2,488)
3. To reflect averaging adjustment.	(1,139)
Total	$2,185
CIAC	
1 To reflect year end CIAC of 6/30/99	($1,577)
2 To reflect averaging adjustment	$82
Total	($1,495)
ACCUMULATED DEPRECIATION	
1 To reflect year end Accumulated Depreciation	($2,722)
2 To reflect depreciation on retirement of plant	$879
3 To reflect averaging adjustment	($248)
Total	($2,091)
AMORTIZATION OF CIAC	
1. To reflect year end Amortization of CIAC	$380
2. To reflect averaging adjustment	(46)
Total	$334
WORKING CAPITAL ALLOWANCE	
1 To reflect 1/8 of operation and maintenance expense	$3,206

BRENDENWOOD WATER SYSTEM
TEST YEAR ENDING JUNE 30, 1999
SCHEDULE OF CAPITAL STRUCTURE

SCHEDULE NO. 2
DOCKET NO. 991290-WU

CAPITAL COMPONENT	PER AUDIT	SPECIFIC ADJUST-MENTS	BALANCE BEFORE PRO RATA ADJUSTMENTS	PRO RATA ADJUST-MENTS	BALANCE PER STAFF	PERCENT OF TOTAL	COST	WEIGHTED COST
1. COMMON STOCK	$0	$0	$0					
2. RETAINED EARNINGS	0	0	0					
3. PAID IN CAPITAL	0	7,430	7,430	0	7,430	100.00%	8.93%	8.93%
4. OTHER COMMON EQUITY	0	0	0	0		0.00%	0.00%	0.00%
5. TOTAL COMMON EQUITY	$0	$7,430	7,430	0	7,430	100.00%	8.93%	8.93%
6. LONG TERM DEBT	0	0	0	0	0	0.00%	0.00%	0.00%
7. LONG TERM DEBT (Pro Forma)	0	0	0	0	0	0.00%	0.00%	0.00%
8. CUSTOMER DEPOSITS	0	0	0	0	0	0.00%	0.00%	0.00%
9. TOTAL	$0	$7,430	$7,430	$0	$7,430	100.00%		8.93%

RANGE OF REASONABLENESS	LOW	HIGH
RETURN ON EQUITY	7.93%	9.93%
OVERALL RATE OF RETURN	7.93%	9.93%

BRENDENWOOD WATER SYSTEM — **SCHEDULE NO. 3**
TEST YEAR ENDING JUNE 30, 1999 — **DOCKET NO. 991290-WU**
SCHEDULE OF WATER OPERATING INCOME

	Operating Ratio Method	TEST YEAR PER AUDIT	STAFF ADJ. TO AUDIT	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1.	**OPERATING REVENUES**	$23,553	$706	$24,259	$6,335 26.11%	$30,594
	OPERATING EXPENSES:					
2.	OPERATION & MAINTENANCE	16,037	9,612	25,649	0	25,649
3.	DEPRECIATION (NET)	0	424	424	0	424
4.	AMORTIZATION	0	291	291	0	291
5.	TAXES OTHER THAN INCOME	1,552	(172)	1,380	285	1,665
6.	INCOME TAXES	0	0	0	0	0
7.	**TOTAL OPERATING EXPENSES**	$17,589	$10,155	$27,744	$285	$28,029
8.	**OPERATING MARGIN**	$5,964		($3,485)		$2,565
9.	**WATER RATE BASE**	$5,291		$7,430		$7,430
10.	**OPERATING RATIO**	37.19%		-13.59%		10.00%

BRENDENWOOD WATER SYSTEM
TEST YEAR ENDING JUNE 30, 1999
ADJUSTMENTS TO OPERATING INCOME

SCHEDULE NO. 3-A
DOCKET NO. 991290-WU
PAGE 1 OF 2

	WATER
OPERATING REVENUES	
1. To remove BFC collected from developer and recognized as CIAC.	($164)
2. To reflect water service charges to the owner.	580
3. To reflect annualized revenue.	290
	$706
OPERATION AND MAINTENANCE EXPENSES	
1. Salaries and Wages - Employees	
a. To reflect staff's recommended salary for bookkeeper.	$2,110
2. Contractual Services-Professional	
a. To reflect one-time accounting expense amort. over 5 yrs.	$560
b. To reflect annual accounting allowance	504
	$1,064
3. Contractual Services - Testing	
a. To reflect annual DEP required testing expense.	$879
4. Contractual Services - Other	
a. To reflect unrecorded telephone expense.	274
b. To remove non-utility expense.	($100)
c. To reflect 50% of lawn mower repair expense.	($106)
d. To reflect annual management fee.	$2,850
e. To reflect annual operator allowance.	$2,040
	$4,958
5. Rents	
a.To reflect annual rent for office space and utilities.	$540
b. To reflect annual land lease cost.	284
	$824
6. Transportation Expense	
a. To reflect 80% and 30% allocation for transportation expenses for the truck & van respectively.	($479)
7. Insurance Expense	
a. To reflect 80% and 30% allocation for insurance expenses for the truck & van respectively.	($512)
b. To reflect annual liability insurance	$698
	$186
8. Regulatory Commission Expense	
To reflect rate case filing fee amortized over four years.	$50

BRENDENWOOD WATER SYSTEM
TEST YEAR ENDING JUNE 30, 1999

SCHEDULE NO. 3-A
DOCKET NO. 991290-WU
PAGE 2 OF 2

	WATER
OPERATION AND MAINTENANCE EXPENSES (Cont'd)	
9. Miscellaneous Expenses	
a. To reflect reclassification of consumptive permit cost from taxes other than income.	$100
b. To reflect permit cost amortized over five years.	($80)
	$20
TOTAL OPERATION & MAINTENANCE ADJUSTMENTS	**$9,612**
DEPRECIATION EXPENSE	
1. To reflect test year depreciation calculated per 25-30.140, F.A.C.	$519
2. To reflect test year CIAC amortization expense.	(95)
Total	$424
AMORTIZATION	
To reflect loss on retirement of pump	$291
TAXES OTHER THAN INCOME	
1. To include regulatory assessment fees on test year revenue.	$62
2. To remove real estate taxes	(272)
3. To adjust payroll tax for recommended salaries.	288
4. To remove non-utility expense	(150)
5. To reflect reclassification of consumptive use permit cost to miscellaneous expense.	(100)
Total	($172)
OPERATING REVENUES	
To reflect recommended revenue increase	$6,335
TAXES OTHER THAN INCOME	
To reflect regulatory assessment fees on increase in revenue	$285

BRENDENWOOD WATER SYSTEM
TEST YEAR ENDING JUNE 30, 1999
ANALYSIS OF WATER OPERATION AND MAINTENANCE EXPENSE

SCHEDULE NO. 3-B
DOCKET NO. 991290-WU

	TOTAL PER PER AUDIT	STAFF PER ADJUST.		TOTAL PER PER STAFF
(601) SALARIES AND WAGES - EMPLOYEES	0	2,110	[1]	2,110
(603) SALARIES AND WAGES - OFFICERS	0	0		0
(604) EMPLOYEE PENSIONS AND BENEFITS	0	0		0
(610) PURCHASED WATER	0	0		0
(615) PURCHASED POWER	2,035	0		2,035
(616) FUEL FOR POWER PRODUCTION	0	0		0
(618) CHEMICALS	74	0		74
(620) MATERIALS AND SUPPLIES	1,495	0		1,495
(630) CONTRACTUAL SERVICES - BILLING	0			0
(631) CONTRACTUAL SERVICES - PROFESSIONAL	230	1,064	[2]	1,294
(635) CONTRACTUAL SERVICES - TESTING	695	879	[3]	1,574
(636) CONTRACTUAL SERVICES - OTHER	5,362	4,958	[4]	10,320
(640) RENTS	1,632	824	[5]	2,456
(650) TRANSPORTATION EXPENSE	3,187	(479)	[6]	2,708
(655) INSURANCE EXPENSE	1,244	186	[7]	1,430
(655) REGULATORY COMMISSION EXPENSE	0	50	[8]	50
(670) BAD DEBT EXPENSE	0	0		0
(675) MISCELLANEOUS EXPENSES	83	20	[9]	103
	16,037	9,612		25,649