

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: October 16, 2008

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Hudson, Bulecza-Banks, Fletcher, Daniel) *SH* *CRB* *BS* *PD*
Office of the General Counsel (Klancke) *CMC* *19*

RE: Docket No. 080104-SU – Application for staff-assisted rate case in Brevard County by Colony Park Utility, Inc. *ASB*

AGENDA: 10/28/08 – Regular Agenda – Proposed Agency Action Except for Issues 9, 10, and 11 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Skop

CRITICAL DATES: 07/17/09 (15-Month Effective Date (SARC))

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\080104.RCM.DOC

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Case Background

Colony Park Utilities, Inc. (Colony Park or Utility) is a Class C utility providing wastewater service in Brevard County to approximately 300 customers in Colony Park Mobile Home Park Community (Community). Colony Park Mobile Home Village (Village) is a mobile home rental area within the Community. Water service and the Utility's wastewater billings are provided by the City of Cocoa. Colony Park is located in the St. Johns River Water Management District, all of which is considered a water use caution area. The Utility's 2007 annual report reflects gross revenues of \$32,755 with a net loss of \$44,700. Colony Park was granted Certificate No. 137-S by Order No. 6365, issued December 2, 1974.¹ The certificate was subsequently transferred three times.²

The Commission has the authority to consider this rate case pursuant to Section 367.0814, Florida Statutes (F.S.)

¹ See Docket No. 73391-S, In Re: Application of Mobile Home Investors, Inc., for a certificate to operate an existing sewer utility in Brevard County, Florida.

² See Order No. 7296, issued June 28, 1976, in Docket No. 750664-S, Application of Mobile Home Investors, Inc. and Colony Park Utilities, Inc., for approval of the transfer of assets and Certificate No. 137-S from the former to the latter; Order No. PSC-03-0320-FOF-SU, issued March 6, 2003, in Docket No. 020930-SU, In Re: Application for transfer of majority organizational control of Colony Park Utilities, Inc. holder of Certificate No. 137-S in Brevard County, from Robert Warren, Lenore Warren, William Warren, and Carol Kendall to Eileen Rogow, Arthur Rogow, and Philip Young; and Order No. PSC-07-420-FOF-SU, issued May 14, 2007, in Docket No. 060636-SU, In Re: Application for transfer of majority organizational control of Colony Park Utilities, Inc., holder of Certificate No. 137-S in Brevard County from Eileen Rogow to Michael Abramowitz.

Discussion of Issues

Issue 1: Is the quality of service provided by Colony Park Utilities, Inc. considered satisfactory?

Recommendation: Yes. The overall quality of service provided by Colony Park Utilities, Inc. should be considered satisfactory. (Daniel)

Staff Analysis: Pursuant to Rule 25-30.433(1), Florida Administrative Code (F.A.C.), the Commission determines the overall quality of service provided by a utility by evaluating the quality of the utility's product, the operating condition of the utility's plant and facilities, and the utility's attempts to address customer satisfaction. A staff field investigation was conducted on May 27-28, 2008. The investigation included a visual inspection of the wastewater treatment facilities and the Utility's service area. In addition, Colony Park's files and rate application were reviewed. The Department of Environmental Protection (DEP) conducted an inspection of the Utility's wastewater treatment facilities on February 26, 2008, and the system was found to be in compliance with regulatory standards; therefore, it appears that the quality of the finished product and the operating condition of the plant are satisfactory.

A customer meeting was scheduled for August 21, 2008; however, Colony Park failed to provide appropriate notice to its customers. Therefore, the customer meeting was rescheduled for September 10, 2008, to obtain input from customers regarding the Utility's quality of service. Four customers attended the meeting and two customers spoke. A customer of the Utility for four years said that his property is adjacent to the treatment plant and he is very satisfied with the plant operation. He knows the plant operator on a first name basis. He noted that a security light at the plant would be a benefit, and suggested installation of such a security. A second resident, who has been a customer of the Utility for nine years, indicated that she also lives near the treatment plant and notices an offensive odor periodically. She stated that after tropical storm Fay, there was an odor problem. She believes that if the service is deficient, there should be no rate increase. Staff explained that Colony Park plans to install security lighting and that it is normal for an odor to be present periodically near a wastewater treatment plant.

No complaints regarding the Utility have been reported to the Commission during the past three years. In addition, the DEP has indicated that Colony Park is in compliance with environmental standards. Based on the above information, staff recommends that the Utility's overall quality of service is satisfactory.

Issue 2: What portions of the Utility's wastewater facilities are used and useful?

Recommendation: Colony Park's wastewater treatment plant and collection system should be considered 100 percent used and useful. (Daniel)

Staff Analysis: The Utility's wastewater collection system is composed of vitrified clay pipe and PVC, with two lift stations located in the service area. The two lift stations transfer the influent by force mains to the wastewater treatment plant. The wastewater treatment plant is permitted by the DEP at 70,000 gallons per day (gpd) based on the average annual daily flow (AADF). The plant is a concrete Marolf extended aeration plant with two side tanks. Liquid chlorine disinfection is applied prior to the wastewater effluent being deposited into percolation ponds.

Pursuant to Rule 25-30.432, F.A.C., the used and useful percentage of a wastewater treatment plant is calculated by taking the demand based on the permitted capacity, plus a growth allowance, minus excessive inflow and infiltration, and dividing the sum by the permitted capacity of the plant. Colony Park's test year AADF was 21,479 gpd for the 12 months ending December 30, 2007. There has been no growth in the service area since the Utility's last rate case, and there does not appear to be excessive infiltration or inflow at this time. The wastewater treatment plant's permitted capacity is 70,000 gpd. Based on the above information, the wastewater treatment plant is 30.68 percent used and useful. However, Colony Park's service territory is built out, and there is no apparent potential for expansion. Therefore, staff recommends that the wastewater treatment plant and collection system be considered 100 percent used and useful.

Issue 3: What is the appropriate average test year rate base for Colony Park?

Recommendation: The appropriate average test year rate base for Colony Park should be \$76,940. (Hudson)

Staff Analysis: The Utility's rate base was last established in 1996.³ Staff has selected a test year ended December 30, 2007, for this rate case. Rate base components established in Order No. PSC-96-1083-FOF-SU have been updated through December 31, 2007, using information obtained from staff's audit and engineering reports. A summary of each component and adjustment follows:

Utility Plant in Service (UPIS): The Utility recorded a balance of \$197,663 for UPIS. Per Audit Finding No. 2, Colony Park was unable to provided invoices for plant additions made in 1996 and 1997. The Utility also incorrectly recorded an addition to pumping equipment, and it did not retire the replaced pump. Based on the above, staff has made the following adjustments to UPIS.

1.	To remove unsupported plant from Acct. No. 354	(\$22,281)
2.	To remove unsupported plant from Acct. No. 371	(1,838)
3.	To remove unsupported plant from Acct. No. 393	(3,652)
4.	To correct an incorrectly recorded invoice	(464)
5.	To retire plant in the composite account	(2,652)

Colony Park has requested pro forma plant additions for a blower and flapper in the amounts of \$1,550 and \$1,400, respectively. Staff believes these requested pro forma plant items are reasonable; therefore, staff has increased UPIS by those amounts to reflect the pro forma plant additions. Also, staff has decreased UPIS by \$1,475 to reflect a pro forma averaging adjustment. Staff's net adjustment to UPIS is a decrease of \$29,412. Staff's recommended UPIS balance is \$168,251.

Non-used and Useful Plant: As discussed in Issue No. 2, Colony Park's wastewater treatment facilities and collection system should be considered 100 percent used and useful. Therefore, a used and useful adjustment is unnecessary.

Accumulated Depreciation: The Utility recorded a balance for accumulated depreciation of \$140,238 for the test year. Staff has calculated accumulated depreciation using the prescribed rates set forth in Rule 25-30.140, F.A.C. As a result, staff has decreased this account by \$9,687 to reflect depreciation calculated per staff. Staff has increased this account by \$78 to reflect accumulated depreciation for the pro forma plant additions. Staff has decreased this account by \$2,356 to reflect an averaging adjustment. These adjustments result in average accumulated depreciation of \$128,273.

Working Capital Allowance: Working capital is defined as the investor-supplied funds necessary to meet operating expenses or going-concern requirements of the utility. Consistent

³ See Order No. PSC-96-1083-FOF-SU, issued August 22, 1996, in Docket No. 951591-SU, In Re: Application for a staff assisted rate case in Brevard County by Colony Park Utilities, Inc.

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with Rule 25-30.433(2), F.A.C., staff used the one-eighth of the operation and maintenance (O&M) expense formula approach for calculating working capital allowance. Applying this formula, staff recommends a working capital allowance of \$6,483 (based on O&M of \$51,867). Working capital has been increased by \$6,483 to reflect one-eighth of staff's recommended O&M expenses.

Rate Base Summary: Based on the forgoing, staff recommends that the appropriate test year average rate base is \$76,940. Rate base is shown on Schedule No. 1-A and staff's adjustments are shown on Schedule No. 1-B.

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

Recommendation: The appropriate return on equity is 12.01 percent with a range of 11.01 percent - 13.01 percent. The appropriate overall rate of return is 5.50 percent. (Hudson)

Staff Analysis: Colony Park's capital structure for the test year consists solely of long-term debt in the amount of \$1,500,000 with a cost rate of 5.50 percent. The appropriate rate of return on equity is 12.01 percent using the most recent Commission-approved leverage formula.⁴ The Utility's capital structure has been reconciled with staff's recommended rate base. Staff recommends a return on equity of 12.01 percent with a range of 11.01 percent – 13.01 percent, and an overall rate of return of 5.50 percent. The return on equity and overall rate of return are shown on Schedule No. 2.

⁴ See Order No. PSC-07-0472-PAA-WS, issued June 1, 2007, in Docket No. 070006-WS, In Re: Water and Wastewater Industry Annual Reestablishment of Authorized Range of Return on Common Equity for Water and Wastewater Utilities Pursuant to Section 367.081(4)(f), Florida Statutes.

Issue 5: What are the appropriate amount of test year revenues?

Recommendation: The appropriate test year revenue for this Utility is \$41,499. (Hudson)

Staff Analysis: The Utility provides wastewater service to the Community, as well as to customers outside the mobile home park. Colony Park is contracted with the City of Cocoa (City) for the billing of the Utility's customers. The City bills the wastewater charges, collects the revenue, withholds a fee, and remits a check to Colony Park. Staff auditors requested the Utility provide information with regard to its customers, revenues, and billing issues. Colony Park was unable to provide the information.

Staff auditor contacted the City and requested billing information for the calendar year ending December 31, 2007. The City provided the staff auditor with the billing data for the customers outside of the mobile home park. The mobile home park is not billed for wastewater by the City or the Utility. However, the City provides the mobile home park with water services, and it provided the staff auditor with the water consumption for the mobile home park. Based on the information provided by the City, staff auditor was able to calculate test year revenues. Therefore, pursuant to Audit Finding No. 4, the Utility's test year revenues should be \$41,499. Test year revenue is shown on Schedule No. 3-A. The related adjustments are shown on Schedule No. 3-B.

Issue 6: What are the appropriate operating expenses?

Recommendation: The appropriate amount of operating expenses for Colony Park is \$60,046. (Hudson)

Staff Analysis: Colony Park recorded operating expenses of \$93,330 during the test year ending December 31, 2007. The test year O&M expenses have been reviewed, and invoices, canceled checks and other supporting documentation have been examined. Staff made several adjustments to the Utility's operating expenses as summarized below:

Salaries and Wages – Officers (710) – Colony Park recorded \$0 to this account during the test year. The Utility is requesting a pro forma increase for the officer's salary. Colony Park indicated that the Utility owner, Mr. Abramowitz, spends an average of five hours per week in the office on Utility business. He meets with the plant operator two times per month and spends three additional hours per month picking up equipment, writing checks, and handling customer complaints. Staff has determined the Utility owner spends approximately 6.19 hours per week (322 hours per year) on utility business. Staff believes a \$30.00 per hour officer's salary is reasonable. Staff's recommended salary is within range of a previous authorized officer's salary approved in 1998 for Crooked Lake Sewerage Company.⁵ Staff has adjusted the salary for inflation and determined an hourly salary of \$36.37. Therefore, staff recommends a salary of \$11,713 (322 x \$36.37) for the Utility owner. Staff recommends salaries and wages-officers for the test year of \$11,713.

Sludge Removal Expense – (711) – Colony Park recorded \$2,473 to this account during the test year. Pursuant to Audit Finding No. 5, the Utility was only able to provide receipts totaling \$2,373. Therefore, staff has reduced this account by \$100 (\$2,473 - \$2,373) to reflect the removal of an undocumented expense. Colony Park is requesting a pro forma increase in sludge removal of \$2,000. The staff engineer believes this amount is reasonable. Therefore, staff has increased this account by \$2,000. Staff recommends sludge removal expense for the test year of \$4,373.

Purchased Power – (715) – The Utility recorded \$11,865 to this account during the test year. Based on the power bills supplied for the two lift stations and the wastewater plant, Colony Park's purchased power expense for 2007 should be \$7,306. Therefore, the expense should be reduced by \$4,559. Staff recommends purchased power for the test year of \$7,306.

Chemicals – (718) – The Utility recorded \$1,095 to this account during the test year. Pursuant to Audit Finding No. 5, Colony Park was only able to provide invoices totaling \$772. Therefore, staff has reduced this account by \$323 (\$1,095 - \$772) to reflect the removal of undocumented expense. Staff recommends chemical expense for the test year of \$772.

Material and Supplies – (720) – Colony Park recorded \$1,014 to this account during the test year. Per Audit Finding No. 5, the staff auditor reviewed invoices and the amounts invoiced through the plant operator and determined material and supplies expense to be \$1,755. Therefore, staff

⁵ See Order No. PSC-99-2116-PAA-SU, issued October 25, 1999, in Docket No. 980778-SU, In Re: Application for staff-assisted rate case in Polk County by Crooked Lake Park Sewerage Company.

has increased this account by \$741. The Utility has also requested pro forma increases totaling \$1,450 for the following: bracket repair on lines at \$450; DEP-required back-up chlorine pump at \$350; back-up pump for the plant's irrigation well at \$350; and plant security lighting at \$300. Staff believes these amounts are reasonable. Staff recommends material and supplies for the test year of \$3,205.

Contractual Services – Billing – (730) – The Utility recorded \$0 to this account during the test year. The Utility did not write any checks for billing services. However, the City of Cocoa provides billing and collecting services for Colony Park at 93 cent per bill. Therefore, the expense should reflect \$1,672. Staff recommends Contractual Services - Billing for the test year of \$7,306.

Contractual Services – Professional – (731) – The Utility recorded \$24,839 to this account during the test year. Colony Park included in this account amounts paid to the plant operator and attorney fees for a court case against the prior owners. The plant operator's monthly fee is \$500. Staff believes this amount is reasonable for the plant operator. Therefore, the plant operator's fee should be reflected as \$6,000 ($\500×12) in this account. The Utility did not provide sufficient documentation for the attorney fees. Therefore, the attorney fees should be removed. Staff has decreased this account by \$18,839 to reflect the appropriate plant operator's monthly fee. Staff recommends Contractual Services – Professional for the test year of \$6,000.

Contractual Services – Testing – (735) – Colony Park recorded \$875 to this account during the test year. According to the Utility's plant operator, the testing expense should be \$1,275. The staff engineer believes this amount is reasonable in order to reflect the appropriate DEP-required testing. Therefore, staff has increased this account by \$400 to reflect the appropriate testing. Staff recommends Contractual Services - Testing for the test year of \$1,275.

Contractual Services – Other – (736) – Colony Park recorded \$24,138 to this account during the test year. Pursuant to Audit Finding No. 5, the Utility included amounts paid to maintain the wastewater ponds and to maintain the lawn for the mobile home park and wastewater plant site. The staff auditor allocated the lawn maintenance based on the acreage of the park and the plant site. Based on the allocation plus the cost of the pond maintenance, the total this in the account should be \$5,920. Thus, staff has decreased this account by \$18,218 to reflect the appropriate expense for maintaining the lawn and wastewater plant. Colony Park has requested a pro forma increase of \$2,000 for draining and cleaning Percolation Pond No. 1. The staff engineer believes this amount is reasonable and should be amortized over three years. Therefore, staff has increased this account by \$667 ($\$2,000/3$). Staff recommends Contractual Services - Other for the test year of \$6,587.

Insurance – (755) – The Utility recorded \$8,436 to this account during the test year. The amount in this account included payments for property insurance and auto insurance. Per Audit Finding No. 5, the staff auditor allocated the property insurance based on the value of the wastewater plant compared to the policy value. Staff used its recommended net rate base for the wastewater plant value and determined the percentage to be 14.25 percent of the policy value. Therefore, staff has allocated \$1,309 of the \$9,188 property insurance premium to the Utility. The auto insurance premium was allocated based on the time spent by the maintenance man on Utility

business. Staff auditor determined that 12.5 percent of the maintenance man's time is spent on Utility business. Thus, Colony Park should be allocated \$85 of the \$679 auto insurance premium. Based on the above, the Utility's total insurance expense should be \$1,394. Staff has decreased this account by \$7,042. Staff recommends insurance for the test year of \$1,394.

Regulatory Commission Expense – (765) – The Utility recorded \$0 in this account during the test year. Pursuant to Section 367.0816, F.S., rate case expense is amortized over a 4-year period. Colony Park paid a \$1,000 rate case filing fee for wastewater. The Utility is required by Rule 25-22.0407(9)(b), F.A.C., to mail notices of the customer meeting to its customers. Staff has estimated noticing expense for water of \$127 postage expense, \$106 printing expense, and \$15 for envelopes. The above results in a total rate case expense for noticing of \$248. Staff recommends regulatory commission expense for the test year of \$312 ($(\$1,000 + \$248) / 4$).

Miscellaneous Expense – (775) – Colony Park recorded \$8,759 in this account for the test year. Per Audit Disclosure No. 5, the Utility provided invoices for a cell phone used by maintenance personnel. Also, Colony Park provided information regarding other park expenses which should be shared between the mobile home park and the Utility (i.e. office manager, bookkeeper, maintenance men, auto usage, rent and electricity). The cell phone and shared expenses have been allocated based on the average number of hours spent on utility business. Based on the above, staff has determined the appropriate miscellaneous expense to be \$7,258. Therefore, staff had decreased this account by \$1,501. Staff recommends miscellaneous expense for the test year of \$7,258.

Operation and Maintenance Expense (O&M Summary) – Based on the above adjustments, O&M should be decreased by \$31,627. Staff's recommended O&M expenses of \$51,867 are shown on Schedule 3-C.

Depreciation Expense (Net of Amortization of CIAC) – Colony Park recorded \$7,248 for wastewater depreciation expense during the test year. Staff calculated test year depreciation expense using the rates prescribed in Rule 25-30.140, F.A.C. Staff's calculated test year depreciation expense is \$4,867 for wastewater; therefore, staff has decreased this account by \$2,381 ($\$7,248 - \$4,867$) for wastewater. Staff recommends net depreciation expense of \$4,867.

Taxes Other Than Income (TOTI) – The Utility recorded taxes other than income of \$2,588 for wastewater. Staff has increased this account by \$896 to reflect payroll taxes on staff's recommended salary. Pursuant to Audit Finding No. 6, based on staff's calculated test year revenue, Colony Park's regulatory assessment fees (RAFs) should be \$1,867. The Utility paid \$1,985 in RAFs for 2007. Therefore, this account should be reduced by \$118 to reflect the appropriate test year RAFs. In Audit Exception 6, the staff auditor discovered that the Utility did not take advantage of the property tax discount for payments made in November. It is Commission practice to only include the lowest property tax amount in expenses so the rate payers do not pay for the Utility's decision to pay late. Therefore, staff has decreased this account by \$54. Staff's net adjustment to this account is an increase of \$724.

Income Tax – The Utility recorded income tax of \$0 for water. Colony Park is an 1120 C corporation; however, the Utility has a large amount of loss carry forwards based on its current

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income tax return. These loss carry forwards will continue over the next couple of years. Therefore, staff has not made an adjustment to this account.

Operating Expenses Summary – The application of staff’s recommended adjustments to the audited test year operating expenses results in staff’s calculated operating expenses of \$60,046. Operating expenses are shown on Schedule No. 3-A. The related adjustments are shown on Schedule No. 3-B.

Issue 7: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement is \$65,351 for wastewater. (Hudson)

Staff Analysis: The Utility should be allowed an annual increase of \$23,852 (57.48 percent) for wastewater. This will allow Colony Park the opportunity to recover its expenses and earn a 5.50 percent return on its investment. The calculation is as follows:

	<u>Wastewater</u>
Adjusted Rate Base	\$76,940
Rate of Return	x .0550
Return on Rate Base	<u>\$ 4,232</u>
Adjusted O & M expense	51,867
Depreciation expense (Net)	4,867
Amortization	\$0
Taxes Other Than Income	3,312
Income Taxes	<u>\$0</u>
Revenue Requirement	\$65,351
Less Test Year Revenues	<u>41,499</u>
Annual Increase	<u>\$23,852</u>
Percent Increase/(Decrease)	<u>57.48%</u>

The recommended revenue requirement is shown on Schedule No. 3-A.

Issue 8: What are the appropriate rates for this Utility?

Recommendation: The appropriate monthly wastewater rates are shown on Schedule No. 4-A. Excluding miscellaneous service revenues, the recommended wastewater rates are designed to produce revenues of \$65,351. Colony Park should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date the notice was given no less than 10 days after the date of the notice. (Hudson)

Staff Analysis: Excluding miscellaneous service revenues, the recommended wastewater rates are designed to produce revenues of \$65,351. The recommended rates are shown on Schedule No. 4-A. Approximately 54 percent (or \$35,094) of the wastewater monthly service revenues is recovered through the base facility charges, while approximately 46 percent (or \$30,256) represents revenue recovery through the consumption charges. Based on Colony Park's billing data, the 6,000 gallon consumption level accounts for approximately 80 percent of the bills. Therefore, the Utility's gallonage cap has been changed from 10,000 gallons to 6,000 gallons.

Colony Park should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-40.475(1), F.A.C. The rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 9: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

Recommendation: The water rates should be reduced as shown on Schedule No. 4, to remove rate case expense grossed-up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. Colony Park should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense. (Hudson)

Staff Analysis: Section 367.0816, F.S., requires that the rates be reduced immediately following the expiration of the four-year period by the amount of the rate case expense previously included in the rates. The reduction will reflect the removal of revenues associated with the amortization of rate case expense and the gross-up for RAFs which is \$327 for wastewater. Using Colony Park's current revenues, expenses, capital structure, and customer base, the reduction in revenues will result in the rate decreases as shown on Schedule No. 4.

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

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

Issue 10: 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 Colony Park?

Recommendation: Yes. Pursuant to Section 367.0814(7), F.S., 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, Colony Park should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the Utility should 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(6), F.A.C., Colony Park should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund. (Hudson)

Staff Analysis: This recommendation proposes an increase in wastewater 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), F.S., in the event of a protest filed by a party other than Colony Park, staff recommends that the recommended rates be approved as temporary rates. The recommended rates collected by the Utility should be subject to the refund provisions discussed below.

Colony Park should be authorized to collect the temporary rates upon the staff's approval of appropriate security for the potential refund and the proposed customer notice. Security should be in the form of a bond or letter of credit in the amount of \$16,161. Alternatively, the Utility could establish an escrow agreement with an independent financial institution.

If Colony Park 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, and.
- 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 the express approval of the Commission;
- 2) The escrow account shall be an interest bearing account;
- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers;
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the Utility;
- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times;
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt;
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments; and
- 8) The Commission Clerk must be a signatory to the escrow agreement.
- 9) The account must specify by whom and on whose behalf such monies were paid.

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 Colony Park, an account of all monies received as a result of the rate increase should be maintained by the Utility. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

Colony Park 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(6), F.A.C., the Utility should file reports with the Commission Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

Issue 11: Should Colony Park Utility, Inc. be ordered to show cause within 21 days why it should not be fined for its apparent violation of Rule 25-30.115, F.A.C., for 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, Colony Park Utility, Inc. should be ordered to maintain its books and records in conformance with the 1996 NARUC USOA. (Klancke)

Staff Analysis: During the staff audit, the auditors discovered that the Utility does not maintain a set of double entry accounting records and Colony Park does not attempt to track expenses, revenues, assets, and liabilities. These accounting irregularities are an apparent violation of Rule 25-30.115, F.A.C., "Uniform System of Accounts for Water and Wastewater Utilities," which provides that, "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."

Utilities are charged with the knowledge of the Commission's orders, rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). Section 367.161(1), F.S., authorizes the Commission to assess a penalty of not more than \$5,000 for each offense if a utility is found to have knowingly refused to comply with, or to have willfully violated, any provision of Chapter 367, F.S., or any lawful order of the Commission. 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, F.S. In Commission Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., the Commission, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "willful" implies an intent to do an act, and this is distinct from an intent to violate a statute or rule. Id. at 6.

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, F.A.C., staff believes that a show cause proceeding is not warranted and should not be initiated at this time. Despite the state of Colony Park's books and records, staff was able to perform the audit.

Based on the foregoing, staff does not believe that the apparent violation of Rule 25-30.115, F.A.C., 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.

Issue 12: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action issues files a protest within 21 days of the issuance of the order, a Consummating Order should be issued. However, the docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. When the PAA issues are final and the tariff and notice actions are complete, this docket may be closed administratively. (Klancke)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action issues files a protest within 21 days of the issuance of the order, a Consummating Order should be issued. However, the docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. When the PAA issues are final and the tariff and notice actions are complete, this docket may be closed administratively.

COLONY PARK UTILITIES, INC TEST YEAR ENDING 12/31/2007 SCHEDULE OF WASTEWATER RATE BASE		SCHEDULE NO. 1-A DOCKET NO. 080104-SU	
DESCRIPTION	BALANCE PER UTILITY	STAFF ADJUST. TO UTIL. BAL.	BALANCE PER STAFF
1. UTILITY PLANT IN SERVICE	\$ 197,663	\$ (29,412)	\$ 168,251
2. LAND & LAND RIGHTS	30,479	0	30,479
3. NON-USED AND USEFUL COMPONENTS	0	0	0
4. CIAC	(23,500)	0	(23,500)
5. ACCUMULATED DEPRECIATION	(140,238)	11,965	(128,273)
6. AMORTIZATION OF CIAC	23,500	0	23,500
7. WORKING CAPITAL ALLOWANCE	<u>0</u>	<u>6,483</u>	<u>6,483</u>
8. WASTEWATER RATE BASE	<u>\$ 87,904</u>	<u>\$ (10,964)</u>	<u>\$ 76,940</u>

COLONY PARK UTILITIES, INC TEST YEAR ENDING 12/31/2007 ADJUSTMENTS TO RATE BASE	SCHEDULE NO. 1-B DOCKET NO. 080104-SU
	<u>WASTEWATER</u>
<u>UTILITY PLANT IN SERVICE</u>	
1. To remove unsupported plant from Acct No. 354	(\$22,281)
2. To remove unsupported plant from Acct No. 371	(1,838)
3. To remove unsupported plant from Acct No. 393	(3,652)
4. To correct invoice	(464)
5. To retire plant in the composite account	(2,652)
6. To include pro forma plant to Acct. No. 380	1,550
7. To include pro forma plant to Acct. No. 360	1,400
8. To include pro forma averaging adjustment	(1,475)
Total	<u>(\$29,412)</u>
<u>ACCUMULATED DEPRECIATION</u>	
1. To reflect accumulated depreciation per Rule 25-30.0140, FAC	\$9,687
2. To include pro forma accumulated depreciation	(\$78)
3. Averaging adjustment	<u>2,356</u>
Total	<u>\$11,965</u>
<u>WORKING CAPITAL ALLOWANCE</u>	
To reflect 1/8 of test year O & M expenses.	<u>\$6,483</u>

COLONY PARK UTILITIES, INC
TEST YEAR ENDING 12/31/2007
SCHEDULE OF CAPITAL STRUCTURE

SCHEDULE NO. 2
DOCKET NO. 080104-SU

CAPITAL COMPONENT	PER UTILITY	SPECIFIC ADJUSTMENTS	BALANCE BEFORE PRO RATA ADJUSTMENTS	PRO RATA ADJUSTMENTS	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	0	0					
4. OTHER COMMON EQUITY	<u>0</u>	<u>0</u>	<u>0</u>					
TOTAL COMMON EQUITY	\$0	\$0	\$0	\$0	\$0	0.00%	12.01%	0.00%
5. LONG TERM DEBT	<u>\$1,500,000</u>	<u>\$0</u>	<u>\$1,500,000</u>	<u>(\$1,423,060)</u>	<u>\$76,940</u>	<u>100.00%</u>	5.50%	5.50%
8. CUSTOMER DEPOSITS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>0.00%</u>	0.00%	<u>0.00%</u>
9. TOTAL	<u>\$1,500,000</u>	<u>\$0</u>	<u>\$1,500,000</u>	<u>(\$1,423,060)</u>	<u>\$76,940</u>	<u>100.00%</u>		<u>5.50%</u>
RANGE OF REASONABLENESS						<u>LOW</u>	<u>HIGH</u>	
RETURN ON EQUITY						<u>11.01%</u>	<u>13.01%</u>	
OVERALL RATE OF RETURN						<u>5.50%</u>	<u>5.50%</u>	

COLONY PARK UTILITIES, INC TEST YEAR ENDING 12/31/2007 SCHEDULE OF WASTEWATER OPERATING INCOME			SCHEDULE NO. 3-A DOCKET NO. 080104-SU		
	TEST YEAR PER UTILITY	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1. OPERATING REVENUES	<u>\$0</u>	<u>\$41,499</u>	<u>\$41,499</u>	<u>\$23,852</u> 57.48%	<u>\$65,351</u>
OPERATING EXPENSES:					
2. OPERATION & MAINTENANCE	\$83,494	(\$31,627)	\$51,867	\$0	\$51,867
3. DEPRECIATION (NET)	7,248	(2,381)	4,867	0	4,867
4. AMORTIZATION	0	0	0	0	0
5. TAXES OTHER THAN INCOME	2,588	724	3,312	1,073	4,385
6. INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7. TOTAL OPERATING EXPENSES	<u>\$93,330</u>	<u>(\$33,284)</u>	<u>\$60,046</u>	<u>\$1,073</u>	<u>\$61,119</u>
8. OPERATING INCOME/(LOSS)	<u>(\$93,330)</u>		<u>(\$18,547)</u>		<u>\$4,232</u>
9. WASTEWATER RATE BASE	<u>\$87,904</u>		<u>\$76,940</u>		<u>\$76,940</u>
10. RATE OF RETURN	<u>-106.17%</u>		<u>-24.11%</u>		<u>5.50%</u>

COLONY PARK UTILITIES, INC
TEST YEAR ENDING 12/31/2007
ADJUSTMENTS TO OPERATING INCOME

SCHEDULE NO. 3-B
DOCKET NO. 080104-SU
Page 1 of 2

WASTEWATER

OPERATING REVENUES

To adjust utility revenues to audited test year amount. \$41,499

OPERATION AND MAINTENANCE EXPENSES

1. Salaries & Wages - Officers
 - a. To reflect the appropriate employee salaries \$11,713
2. Sludge Removal Expense (711)
 - a. To reflect appropriate sludge removal expense per AF No. 5 (\$100)
 - b. To reflect pro forma increase in sludge removal 2,000
 - Total \$1,900
3. Purchased Power (715)
 - a. To reflect appropriate purchase power expense per AF No. 5 (\$4,559)
4. Chemicals (718)
 - a. To reflect appropriate chemical expense per AF No. 5 (\$323)
5. Material and Supplies (720)
 - a. To reflect appropriate material and supplies per AF No. 5 \$741
 - b. To reflect pro forma material and supplies 1,450
 - Total \$2,191
6. Contractual Services - Billing
 - a. To reflect appropriate billing expenses per AF No. 5 \$1,672
7. Contractual Services - Professional (731)
 - a. To unsupported court cost per AF No. 5 (\$18,839)
8. Contractual Services - Testing (735)
 - a. To reflect the appropriate DEP required testing \$400
9. Contractual Services - Other (736)
 - a. To reflect the appropriate contractual-other expense per AF No. 5 (\$18,218)
 - b. To reflect pro forma expense 667
 - Total (\$17,551)
10. Insurance Expenses (755)
 - a. To reflect insurance expense per AF No. 5 (\$7,042)

(O & M EXPENSES CONTINUED ON NEXT PAGE)

COLONY PARK UTILITIES, INC TEST YEAR ENDING 12/31/2007 ADJUSTMENTS TO OPERATING INCOME	SCHEDULE NO. 3-B DOCKET NO. 080104-SU Page 2 of 2
	<u>WASTEWATER</u>
11. Regulatory Expense (665/ 765)	
a. Amortize Rate Case Filing Fee over 4 years (\$1,000/4)	\$250
b. Include and amortize notice expense over 4 years (\$248/4)	<u>62</u>
Subtotal	<u>\$312</u>
12. Miscellaneous Expense (675/ 775)	
a. To reflect the appropriate miscellaneous expense per AF No. 5	<u>(\$1,501)</u>
TOTAL OPERATION & MAINTENANCE ADJUSTMENTS	<u>(\$31,627)</u>
DEPRECIATION EXPENSE	
1. To reflect test year depreciation calculated per 25-30.140, F.A.C.	(\$2,536)
2. To reflect pro forma depreciation expense	<u>155</u>
Total	<u>(\$2,381)</u>
TAXES OTHER THAN INCOME	
1. To reflect the appropriate payroll taxes	\$896
2. To reflect the appropriate test year RAFs	(118)
3. To reflect the appropriate property taxes	<u>(54)</u>
Total	<u>\$724</u>

COLONY PARK UTILITIES, INC	SCHEDULE NO. 3-C		
TEST YEAR ENDING 12/31/2007	DOCKET NO. 080104-SU		
ANALYSIS OF WASTEWATER OPERATION AND MAINTENANCE EXPENSE			
	TOTAL PER UTILITY	STAFF ADJUST- MENT	TOTAL PER STAFF
(701) SALARIES AND WAGES - EMPLOYEES	\$0	\$0	\$0
(703) SALARIES AND WAGES - OFFICERS	0	11,713	11,713
(704) EMPLOYEE PENSIONS AND BENEFITS	0	0	0
(710) PURCHASED SEWAGE TREATMENT	0	0	0
(711) SLUDGE REMOVAL EXPENSE	2,473	1,900	4,373
(715) PURCHASED POWER	11,865	(4,559)	7,306
(716) FUEL FOR POWER PRODUCTION	0	0	0
(718) CHEMICALS	1,095	(323)	772
(720) MATERIALS AND SUPPLIES	1,014	2,191	3,205
(730) CONTRACTUAL SERVICES - BILLING	0	1,672	1,672
(731) CONTRACTUAL SERVICES - PROFESSIONAL	24,839	(18,839)	6,000
(735) CONTRACTUAL SERVICES - TESTING	875	400	1,275
(736) CONTRACTUAL SERVICES - OTHER	24,138	(17,551)	6,587
(740) RENTS	0	0	0
(750) TRANSPORTATION EXPENSE	0	0	0
(755) INSURANCE EXPENSE	8,436	(7,042)	1,394
(765) REGULATORY COMMISSION EXPENSES	0	312	312
(770) BAD DEBT EXPENSE	0	0	0
(775) MISCELLANEOUS EXPENSES	<u>8,759</u>	<u>(1,501)</u>	<u>7,258</u>
	<u>\$83,494</u>	<u>(\$31,627)</u>	<u>\$51,867</u>

COLONY PARK UTILITIES, INC TEST YEAR ENDING 12/31/2007 MONTHLY WASTEWATER RATES		SCHEDULE NO. 4 DOCKET NO. 080104-SU	
	UTILITY'S EXISTING RATES	STAFF RECOMMENDED RATES	4-YEAR RATE REDUCTION
Residential and General Service			
Base Facility Charge by Meter Size:			
5/8"X3/4"	\$6.14		
3/4"	\$15.36		
1"	\$30.71		
1-1/2"	\$49.14		
2"	\$98.26		
3"	\$154.53		
4"	\$309.07		
6"			
Gallonge Charge			
Per 1,000 Gallons (10,000 gallon cap)			
Residential	\$1.80		
General Service	\$2.16		
Residential Service			
Base Facility Charge All Meter Sizes		\$10.80	\$0.05
Gallonge Charge			
Per 1,000 Gallons (6,000 gallon cap)		\$2.88	\$0.01
General Service			
Base Facility Charge by Meter Size:			
5/8"X3/4"		\$10.80	\$0.05
3/4"		\$16.20	\$0.08
1"		\$27.00	\$0.13
1-1/2"		\$54.00	\$0.27
2"		\$86.40	\$0.43
3"		\$172.79	\$0.86
4"		\$269.99	\$1.35
6"		\$539.98	\$2.70
Gallonge Charge per 1,000 gallons		\$3.46	\$0.02
Colony Park Mobile Home Park			
Base Facility Charge	\$921.22	\$1,295.95	\$6.48
Gallonge Charge per 1,000 (720,000 Gallon Cap)	\$1.80	\$3.46	\$0.02
Typical Residential 5/8" x 3/4" Meter Bill Comparison			
3,000 Gallons	\$11.54	\$19.44	
5,000 Gallons	\$15.14	\$25.20	
10,000 Gallons	\$24.14	\$28.08	