Dorothy Menasco

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Sent: Monday, September 20, 2010 4:35 PM
To: Filings@psc.state.fl.us
Cc: Erik Sayler; Gene Brown; Lisa C. Scoles; Ralph Jaeger
Subject: e-filing (Dkt. No. 100104-WS)
Attachments: 100104 OPC Final Prehearing Statement.sversion.doc

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 100104-WS

In re: Application for increase in water rates in Franklin County by Water Management Services, Inc.

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 16 pages.

e. The document attached for electronic filing is the Prehearing Statement of the Office of Public Counsel.sversion.doc)

Thank you for your attention and cooperation to this request.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Application for Increase in Water Rates in Franklin County by Water Management Services, Inc.	DOCKET No. 100104-WU FILED: September 20, 2010

PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to the Order Establishing Procedure in this docket, Order No. Order PSC-10-0449-PCO-WU, issued July 13, 2010, hereby submit this Prehearing Statement.

APPEARANCES:

Joseph A. McGlothlin
Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida.

1. WITNESSES:

The Citizens intend to call the following witnesses, who will address the issues indicated:

NAME	ISSUES
Donna Ramas, CPA	3-6, 9-15, 17-19, 21-30,32-34,36-37, 50
Andrew Woodcock, P.E.	1-2, 8-9, 21

2. EXHIBITS:

Through Donna Ramas, the Citizens intend to introduce the following exhibits, which can be identified on a composite basis:

Appendix I	Qualifications of Donna Ramas
DR-1	Revenue Requirement Calculations – Schedules A, B, B-1 – B-8, C, C-1 – C-5, D

DR-2	Listing of 2009 Cash Exchanges Between WMSI, Brown Management Group, Inc. and Gene D. Brown from WMSI General Ledger
DR-3	Listing of 2008 Cash Exchanges Between WMSI, Brown Management Group, Inc. and Gene D. Brown from WMSI General Ledger
DR-4	WMSI Investment in Associated Companies and Notes Receivable from Associated Companies
DR-5	Asset Sales
DR-6	LFE 21 – Salary Survey
DR-7	Executive Deferred Compensation Plan
DR-8	Backhoe Trailer Sales Booked
DR-9	LFE 5 – Backhoe Trailer Info
DR-10	POD 21 – Backhoe Sale to BMG
DR-11	POD 27 – 2007 Chevy Tahoe
DR-12	Transfer of Leasehold Interests
DR-13	Debt on 2007 Chevy Tahoe
DR-14	Bank Loan Commitment

Through Andrew T. Woodcock, the Citizens intend to introduce the following exhibits, which can be identified on a composite basis:

ATW-1	Resume of Andrew T. Woodcock
ATW-2	Excerpt from Executive Summary of PBS&J Engineering Report
ATW-3	Real Estate Data
ATW-4	Technical Memorandum 5 Excerpt from PBS&J Engineering Report
ATW-5	Comparison of Alternatives

3. STATEMENT OF BASIC POSITION

WMSI is requesting an annual increase of $641,000. OPC's expert witnesses will identify numerous expenses claimed by the company that should be disallowed for ratemaking purposes. These include adjustments for excessive salary increases and deferred compensation, key man life insurance that does not benefit the utility, and unwarranted engineering expenses. In addition, WMSI has proposed more than $2 million in capital projects that the utility has failed to support with adequately detailed engineering specifications and bids. Absent appropriate justification as to costs, the pro forma capital additions should be excluded from rate base in this case. The adjustments sponsored by OPC's expert witnesses would reduce the requested increase from $641,000 to $74,000.

Other adjustments, such as an adjustment to ensure customers benefit from a substantial gain on sale of utility-owned property, and other issues from the staff audit will be pursued in cross-examination. Especially troubling to OPC is the fact that over time WMSI's investments in "associated companies" owned and/or controlled by WMSI's president have grown from zero to more than $1.2 million. WMSI, as of June 30, 2010, had $1.2 million in investments in non-utility affiliates at a time when it has had difficulty paying its bills and asserts it cannot afford to make needed improvements to its utility system. It appears to OPC that such transactions with associated companies are made for the convenience of WMSI's president, and not to benefit WMSI's customers. Moreover, it appears to OPC that WMSI receives no interest for its investment in the affiliated companies. OPC submits the Commission should bar WMSI from making additional investments in associated companies and, for ratemaking purposes, should impute investment revenue of $88,368 to compensate WMSI for a return on its investment in affiliated companies during the test year. OPC will pursue this and other issues through cross-examination.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

QUALITY OF SERVICE

ISSUE 1: Is the quality of service provided by the Utility satisfactory?

OPC: No, because OPC's position on the quality of service is dependent upon the customers' testimony at the service hearing on October 5, 2010. (Woodcock)

USED & USEFUL

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

OPC: Using the lot-to-lot method recommended by OPC witness Woodcock, the WMSI's distribution system is 54.9% used and useful (1,817 divided by 3,311 lots). Non-used and useful plant in service and accumulated depreciation should be removed by $1,059,878 and $472,904, respectively, resulting in a net reduction to rate base of $586,975. Additionally, depreciation expense should be reduced by $16,912 to remove the non-used and useful portion. (Woodcock)

RATE BASE

ISSUE 3: Should any adjustments be made to rate base regarding affiliate assets?

OPC: Yes. Plant and accumulated depreciation should be reduced by $16,022 and $10,682, respectively, for a backhoe trailer that was sold to BMG. Depreciation expense should also be reduced by $2,670. (Ramas)

ISSUE 4: Should any adjustments be made to rate base for vehicles?

OPC: Yes. The company has not justified its position that 50% of the usage of the 2008 GMC Sierra pickup truck assigned to Mr. Brown and 2007 Chevrolet Tahoe used by Ms. Chase are utilized for WMSI work purposes. Plant and accumulated depreciation should be reduced by $20,935 and 7,560, for the 2008 GMC Sierra, and $15,207 and $2,112 for the Tahoe, respectively. Test year depreciation expense should be reduced by $3,489 and $2,535 for the GMC truck and Tahoe, respectively. Additionally, tires purchased for $1,265 and maintenance of $566 on the GMC Sierra should be removed from test year expenses as non-utility costs. Any other identified expenses such as insurance, debt, tag and title, maintenance and fuel associated with these vehicles should be removed as non-utility expenses. (Ramas)

ISSUE 5: Should any adjustments be made to offset plant improvements related to mains in the State Park as a result of WMSI's transfer of rental rights to the elevated tower? Possible Stipulation

OPC: Plant in service and accumulated depreciation should be reduced by $100,000 and $6,978, respectively. Additionally, test year depreciation expense should be reduced by $2,326. Alternately, the Commission could amortize the $100,000 associated with WMSI's sale of the rental income rights to ensure that the amounts are flowed to ratepayers over a future period of time as compensation for lost revenues associated with the leased property rights. (Ramas)

ISSUE 6: Should any further adjustments be made to test year plant-in-service balances?

OPC: Yes. OPC adjustments to plant are reflected in the issues below. Plant should be reduced by $2,138,094 to reflect a test year balance of $8,366,290. (Ramas)

ISSUE 7: Should any adjustments be made to test year land?

OPC: Yes. The test year land balance should be reduced by $3,400 for appraisal and surveying costs applicable to land purchased in 2006 and sold in 2007. (Staff Audit Finding 2)

ISSUE 8: What improvements, if any, has WMSI made to its water distribution system regarding fire flow that were addressed by the Commission in Orders Nos. PSC-04-0791-AS-WU, issued August 12, 2004, and PSC-05-1156-PAA-WU, issued November 21, 2005, in Docket No. 000694-WU? Do these improvements satisfy the requirements of the orders?

OPC: OPC sent out discovery to address the concerns raised by customers regarding the fire flow investments that were to be made pursuant to the above orders. While WMSI has responded to OPC's discovery, we have not yet received a full response to the questions asked. OPC will update our position as soon as the requested information is provided. (Woodcock)

ISSUE 9: Should the Utility's pro forma plant additions be approved for recovery? If so, in what manner should they be approved for recovery?

OPC: No. The proposed pro forma additions to rate base are planning level engineering estimates and do not have sufficient detail or accuracy for rate base purposes.

These proposed projects should not be included in rate base until they are supported by proper documentation such as invoices. Plant, accumulated depreciation, and depreciation expense should be reduced by $2,022,072, $151,325, and $51,934, respectively. Amortization of prudently retired plant and property taxes should be decreased by $12,879 and $5,787. The total revenue requirement impact of removing the proforma plant is a decrease of $149,033. Regardless, the pro forma new ground storage tank costs are overstated by at least $191,492 and the utility should reevaluate options to replace its on-site storage tank to determine the most cost effective alternative while providing quality service to the customers. Further, if the Commission considers any amortization of loss on retirement, the calculation should use the approved rate of return, and the utility should be required to provide sufficient justification that the early retirement was prudent given the short time frame of several of the requested plant retirements. (Woodcock, Ramas)

ISSUE 10: Should any adjustments be made to test year accumulated depreciation?

OPC: Yes. This is a fall out issue. As addressed in previous issues, accumulated depreciation should be reduced by $133,666 in total. (Ramas)

ISSUE 11: Should any adjustments be made to test year Advances for Construction?

OPC: Yes. Advances for Construction should be decreased by $9,257 for the stipulated prior Commission adjustment. Additionally, advances should be increased by the Commission ordered adjustment that the account be decreased (credited) by $65,000 to reflect funds received from a Homeowner's Association. The Company's argument that the Commission's order was wrong is untimely and inappropriate. (Ramas)

ISSUE 12: What is the appropriate working capital allowance?

OPC: The adjusted working capital allowance (WCA) should be $47,944. The Company's working capital request should be reduced by $133,213 for the following: (Ramas)

- Decrease WCA to remove the $35,603 average test year balance proposed deferred Wastewater Certificate Application cost should be rejected and these should have been written-off as non-utility costs on the Company's books.
- Decrease WCA to remove the average unamortized debt discount and expense balance of $112,034. These debt costs are included in the Company's capital structure and in the calculation of the long-term debt rate being applied in this case, and if left in WCA would result in double counting.

- Decrease WCA to remove the $17,983 balance of unamortized prior rate case expenses. The prior rate case expense is fully amortized and working capital should not include both the average costs that are projected for the current rate case and the unamortized balance during the test year of the cost of the prior rate case.
- Decrease WCA to remove deferred current rate case expense of $1,586. This is 50% of the $3,172 of proposed rate case expense associated with the preliminary evaluation of non-hired rate case consultants.
- Decrease WCA to remove the $6,008 estimated prepaid insurance amount from working capital associated with the requested Key Man Life Insurance policy. The estimated prepaid amount is 50% of the requested test year expense of $12,016, which OPC believes should be treated as non-utility costs.
- Increase WCA to remove the $40,000 balance in operating reserves. This liability is the average amount the Company would have recorded on its books for its proposed executive deferred compensation plan costs which OPC recommends should be disallowed.

ISSUE 13: What is the appropriate rate base for the December 31, 2009, test year?

OPC: The appropriate rate base should be $3,128,106. (Ramas)

COST OF CAPITAL

ISSUE 14: What is the appropriate amount of customer deposits to include in the capital structure?

OPC: The appropriate balance is $100,499. (Ramas)

ISSUE 15: What is the appropriate amount and cost rate for long-term debt for the test year?

OPC: The appropriate amount of long term debt should be $7,725,661 with a weighted cost of 3.78%. This reflects adjustments to remove the $15,711 Envision loan for a 2007 Chevrolet Tahoe owned by Ms. Chase, the $27,492 Capital City Bank loan for the 2009 GMC Sierra that was used by Gene Brown, and the projected $5 million loan at 6.5% from Citizens State Bank. An additional adjustment should be made to add back the $2,849,020 test year balance of the loan from Gulf State Bank at a rate of 4.25%. These adjustments are consistent with OPC recommended adjustments to plant. See Exhibit DR-1, Schedule D, page 2 of 2. (Ramas)

ISSUE 16: What is the appropriate return on equity (ROE) for the test year?

OPC: WMSI has no equity investment in the test year. For purposes of establishing a future return on equity if the Company does obtain an equity investment, the current leverage formula at a 40% equity ratio should be used. This results in a prospective mid-point ROE of 10.85%, with a range of 9.85% to 11.85%. See Order No. PSC-10-0401-PAA-WS, issued June 18, 2010, in Docket No. 100006-WS.

ISSUE 17: What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure for the December 31, 2009, test year?

OPC: The appropriate overall rate of return for WMSI of 3.81%. (Ramas)

NET OPERATING INCOME

ISSUE 18: Should any adjustments be made to salaries and wages expense?

OPC: Yes. The excessive percentage wage increases in salary for two positions granted in the test year should be reduced. First, Ms. Chase's 2009 base salary increased by $11,000 (18.6% per year). Second, the wages of WMSI's operations and office manager, Ms. Molsbee, received a $14,019 increase (30% per year). Such significant increases in salaries without adequate support or significant expansion of employee duties and responsibilities are inappropriate in this economic climate, especially given WMSI's apparent financial difficulties. Instead, 3% increases should be allowed, which result in a test year salary reduction of $21,870. Additionally, salaries should be reduced by 12.5% or $28,554 to reflect the allocation of Gene Brown, Sandra Chase and Bob Mitchell to affiliated operations. Given the extensive amount of transfers between the various cash accounts of these entities, it is not realistic to assume that only two hours per week are dedicated by the Company's vice president, controller and Mr. Brown associated with the Brown Management Group, or other non-regulated related operations. (Ramas)

ISSUE 19: Should any adjustments be made to employee pension and benefits?

OPC: Yes. The requested $80,000 increase in deferred compensation ($40,000 each for Mr. Brown and Ms. Chase) should be denied. This compensation plan, begun in 2009, is not nor will it be funded, and represents a significant increase in compensation for Mr. Brown and Ms. Chase. This more than double increase in employee benefit expense should be disallowed. Additionally, consistent with affiliate adjustment to salaries, employee benefits should be reduced by 12.5% or

$3,665 to reflect the allocation of Gene Brown, Sandra Chase and Bob Mitchell to affiliated operations. (Ramas)

ISSUE 20: Should any adjustments be made to materials and supplies expense?

OPC: No. The staff auditor's adjustment to miscellaneous expenses and materials and supplies along with several other accounts only represent a shifting between accounts and no further adjustments are necessary.

ISSUE 21: Should any adjustments be made to the requested level of Engineering Services Expense?

OPC: Yes. WMSI's proposed $48,000 annual engineering services expense should be reduced. This level has not been incurred historically, and the complete water system evaluation will not recur annually. Further, engineering costs and expenditures incurred by the Company on a regular basis would be capital in nature and capitalized, such as the pro forma projects proposed by the Company in this case. The 2009 test year non-recurring costs should be amortized over a 5-year period and the Company's proposed engineering expenses should be reduced by $42,500, allowing an annual expense of $5,500. (Ramas, Woodcock)

ISSUE 22: Should any adjustments be made to the requested level of accounting services expense?

OPC: Yes. The company's requested level of accounting fees of $18,000 is excessive, not representative of historical accounting service fees, not required and duplicates services already provided for by the in-house controller and office administrator. The new contract is based on a retainer basis, is charged whether services are provided or not, and is not paid on a regular basis. The test year accounting expenses should be reduced by $14,333 to reflect the five year average cost of $3,667 which is a reasonable level going forward. (Ramas)

ISSUE 23: Should any adjustments be made to the requested level of DEP refinancing costs?

OPC: Yes, $2,500 should be removed from test year expenses for DEP refinancing consulting costs. These costs are non-recurring and the customers should not be harmed from increased expenses as a result of the Company being unable to adequately manage its cash flow. (Ramas)

ISSUE 24: Should any adjustments be made to the requested level of Contract Labor Costs? (Possible Stipulation).

OPC: Yes. $1,250 of additional contractual service costs should be removed for a total of $7,250 for Hank Garrett charges during 2009 (on general ledger as management fees). (Ramas)

ISSUE 25: Should additional adjustments be made to remove out of period costs for annual report preparation fees?

OPC: Yes. Test year expenses should be reduced by $3,198 to reflect an annual level of costs associated with its annual report preparation. (Ramas)

ISSUE 26: Should any adjustments be made to rental of building/real property?

OPC: Consistent with OPC's recommendation that 12.5% of Mr. Brown, Ms. Chase and Mr. Mitchell's salaries being allocated to affiliated operations, 12.5% of the rent expense associated with the Tallahassee office should be allocated to affiliated entities. This results in a $2,250 reduction to test your rent expense. (Ramas)

ISSUE 27: Should any adjustment be made to transportation expense?

OPC: Yes. As addressed in Issue 4, transportation costs associated with Mr. Brown's and Ms. Chase's vehicles should be removed. (Ramas) Additional costs should also be removed including tires purchased for $1,265 and maintenance of $566 on the GMC Sierra. OPC agrees with the staff auditor's adjustments to remove $9,104 in transportation expenses that were unsupported. Any other identified expenses such as insurance, debt, tag and title, maintenance and fuel associated with these vehicles should be removed as non-utility expenses. Further, the Commission should prescribe specific instructions and a required level of detail that should be maintained in travel logs to document the business purpose of each trip used by employees with their personal vehicles in order to receive reimbursement by the utility.

ISSUE 28: Should the requested key man life insurance expense be approved?

OPC: No. OPC agrees with the staff auditor that the $12,015 expense for key man life insurance should be excluded from expenses. The policy provides for life insurance on Gene D. Brown totaling $800,000, and Ms. Chase, as trustee(s) of the WMSI Employee Benefit Trust is the beneficiary. The trust will be used to fund the 401(k) plan and deferred compensation plan to protect its employees, not to fund the ongoing utility operations upon Mr. Brown's death. (Ramas)

ISSUE 29: What is the appropriate amount of rate case expense?

OPC: Only prudently incurred rate case expense should be allowed. Several adjustments are appropriate. First, $12,688 in preliminary legal and consulting rate case costs from firms that were not hired should be disallowed. Second, unsupported, non-rate case costs of $4,556 from Sigma Project Solutions should be excluded. Third, to the degree that the Company's failure to provide a reasonable level of support for its pro forma plant additions result in higher rate case expenditures being required, ratepayers should not be harmed by this. Fourth, prior rate case expense of $24,184 associated with the last rate case should be removed. Fifth, OPC reserves the right to review the reasonableness of any additional discovery received or late filed exhibits regarding rate case expense. (Ramas)

ISSUE 30: Should any adjustments be made to employee training costs?

OPC: Yes. The amount of employee training costs recorded by the Company during the 2009 test year was significantly higher than the level of employee training costs incurred in prior years. The test year employee training costs should be normalized to reflect a three-year average of $1,070, which results in a $1,752 reduction to test year expenses. (Ramas)

ISSUE 31: Should any adjustments be made to miscellaneous expenses?

OPC: Yes. Several adjustments are necessary. First, the staff audit workpapers reflect $389.44 in non-utility and unsupported expense reductions. Second, consistent with Ms. Ramas adjustment to rate case expense, miscellaneous expenses should be reduced by $494.06 for travel costs associated with Mr. Brown's trip to meet with Mr. Bob Nixon, the rate case consultant that was not chosen to file this rate case. Third, WMSI should be required to explain why $1,960 in condo fees should be charged to the ratepayers for the Tallahassee office that is owned by Brown Management Group. Fourth, WMSI should be required to explain why it is prudent for utility customers to pay for interest on debt as well as almost $3,000 in banking and credit card fees.

ISSUE 32: Should any further adjustments be made to the Utility's pro forma expenses?

OPC: No position pending evidence adduced at hearing. (Ramas)

ISSUE 33: Should any adjustments be made to depreciation expense?

OPC: Yes. Depreciation expense as discussed in previous issues should be reduced by $79,865. This is a fall out issue. (Ramas)

ISSUE 34: Should the company's request to recover the costs associated with the withdrawn wastewater certificate application be approved?

OPC: No. These non-utility costs should be removed and not passed on to the Company's water customers. Mr. Brown's attempt to expand his operations to include wastewater service to St. George Island has nothing to do with WMSI's provision of water service to its customers. This risk should be borne by Mr. Brown, the investor, not the water utility. Accordingly, all costs associated with this failed attempt should be disallowed. The 2009 unamortized balance of $35,603 included in working capital should be removed as well as the requested amortization expense of $10,570. Any other test year costs that are identified that relate to this action should also be disallowed. (Ramas)

ISSUE 35: How should the gain on sale of land and other assets be treated?

OPC: A gain on sale of utility property that has been included in rate base should be amortized over a five year period.

ISSUE 36: What is the test year pre-repression water operating income or loss before any revenue increase?

OPC: The appropriate annual net operating income is $45,528. (Ramas)

ISSUE 37: What is the appropriate pre-repression revenue requirement for the December 31, 2009 test year?

OPC: The appropriate annual revenue requirement is $1,380,086. (Ramas)

RATES AND CHARGES

ISSUE 38: What are the appropriate test year billing determinants before repression?

OPC: No position.

ISSUE 39: What are the appropriate rate structures for this utility?

OPC: The current rate structure, approved by the Commission in Docket 000694-WU, WMSI's last limited proceeding, is reasonable and appropriately promotes water conservation. The Company's requested change to allocate 75% of revenues to the base facility charge and 25% to the gallonage charge (instead of the current 50%/50% allocation) should be rejected.

ISSUE 40: Is a repression adjustment appropriate in this case, and, if so, what is the appropriate adjustment to make for this utility?

OPC: No repression adjustment is necessary in this case.

ISSUE 41: What are the appropriate rates for this utility?

OPC: No position.

ISSUE 42: Should the Utility be authorized to revise its miscellaneous service charges, and, if so, what are the appropriate charges?

OPC: The miscellaneous service charges should be revised only to the extent that WMSI provides sufficient supporting documentation to support an increase in the current charges.

ISSUE 43: Are the procedures and charges imposed by WMSI when an existing customer disconnects and/or a new customer reconnects in an existing service location appropriate? If not, how should the tariff provisions governing these activities be modified?

OPC: No. The procedures and charges by WMSI under these circumstances are inappropriate. The utility does not have the authority to require the inspection of the interior of any dwelling, especially refusing to reconnect service until such inspection is granted. According to its tariff, the utility only has access to its property that extends to the meter. Anything beyond the meter belongs to the customer. Further, the utility does not have a tariff to charge $100 for a temporary connection and has no definitions and policies for temporary service as required by Rule 25-30.315, FAC. If the utility wishes to have temporary service charges, then it should be required to request a tariff revision and submit appropriate supporting documentation.

ISSUE 44: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

OPC: The interim refund should be calculated by taking out all pro forma plant and expense items. The refund amount is based on the Commission's final decision in this case.

ISSUE 45: 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.?

OPC: No position.

ISSUE 46: What are the appropriate service availability charges for WMSI?

OPC: WMSI's current service availability charges should remain in effect. The company's request to increase its service availability charges is based on its pro forma plant estimates which OPC has recommended not be allowed for rate recovery and the requested charges are not reasonable.

OTHER ISSUES

ISSUE 47: Should the Utility be required to provide proof that it has adjusted its books for all Commission approved adjustments?

OPC: Yes.

ISSUE 48: Has the Utility failed to return customer deposits in compliance with the refund procedures stated in Rule 25-30.311(5), Florida Administrative Code, and if so, what amount of customer deposits shall the Utility be required to refund?

OPC: If the record reflects that the Company has not properly refunded any of the customer deposits, those amounts should be refunded.

ISSUE 49: Did the Utility fail to maintain field employee travel records pursuant to Order No. PSC-94-1383-FOF-WU? If so, should the Utility be ordered to show cause why it failed to maintain field employee travel records pursuant to Order No. PSC-94-1383-FOF-WU, issued November 14, 1994?

OPC: Yes. The Utility failed to maintain field employee travel records pursuant to the Commission's order. The Utility should be ordered to show cause why it should not be fined.

ISSUE 50: Is it prudent for WMSI to maintain an investment of $1.2 million of customer-provided money in companies owned or controlled by WMSI's president? If the Commission deems it imprudent, what action should the Commission take?

OPC: No, it is not prudent for WMSI to maintain an investment in associated companies, particularly during a time of capital investment needs and during a period in which WMSI is facing cash constraints and unable to pay many of its outstanding obligations. The investment in associated companies recorded on WMSI's books increased from $0 at January 1, 2005 to $1,262,402 at June 30, 2010, a period of 5 1/2 years. From January 1, 2008 through June 30, 2010, the amount of investment in associated companies increased by $337,785. The transactions which increase the investment in associated companies appear to be for the convenience of WMSI's President, Gene Brown, and not designed to benefit WMSI's customers. WMSI's captive customers should not be financing the operations of other entities owned and/or operated by Gene Brown, such as Brown Management Group, Inc. (Ramas) There is no indication that WMSI is receiving any return or interest from its $1.2 million investment in associated companies in an above the line account. OPC's position is that the Commission should: (1) bar WMSI from any further investments in associated companies; (2) place WMSI on notice that the Commission will begin to assume, for ratemaking purposes, the return of WMSI's investment and its availability for use in funding WMSI operations and strengthening WMSI's financial position beginning in the next rate case; and, (3) for ratemaking purposes in the instant case, impute a return on the outstanding investment in associated companies with the imputed amount being reflected as investment income that is used to offset revenue requirement. An assumed rate of return 7%, as a minimum, for WMSI is appropriate. The appropriate investment revenue to impute is $88,368 for the test year ($1,262,402 x 7.0%).

ISSUE 51: Should this docket be closed?

OPC: No position.

5. STIPULATED ISSUES:

The parties have agreed that the staff witnesses need not be made available until after 11:00 a.m., on October 6, 2010, if the panel so agrees.

The parties agree that no used and useful adjustment for water plant facilities and storage is required.

6. PENDING MOTIONS:

None.

7. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:

None.

8. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

None at this time.

9. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 20th day of September, 2010.

Respectfully submitted,

J.R. Kelly
Public Counsel

s/Joseph A. McGlothlin
Joseph A. McGlothlin
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Attorneys for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE
DOCKET NO. 100107-WU

I HEREBY CERTIFY that a copy of the foregoing **PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL** has been furnished by electronic mail on the 20th day of September, 2010.

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