

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water rates in  
Lee County by Ni Florida, LLC.

DOCKET NO. 100149-WU  
ORDER NO. PSC-11-0199-PAA-WU  
ISSUED: April 22, 2011

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
LISA POLAK EDGAR  
RONALD A. BRISÉ  
EDUARDO E. BALBIS  
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION ORDER APPROVING IN PART REQUESTED  
WATER RATES AND CHARGES INCREASE AND REQUIRING PARTIAL REFUNDS

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that, except for the statutory four-year rate reduction and the requirement to adjust its books for all the applicable National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) primary accounts associated with our approved adjustments, which are final agency action, the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. BACKGROUND

Ni Florida, LLC (Ni Florida or Utility) is a Class A utility providing service to approximately 744 water customers in Lee County. Ni Florida is a wholly-owned subsidiary of Ni America. Water rates were last established for this Utility in its 1992 rate case.<sup>1</sup>

On June 22, 2010, Ni Florida filed its application for the rate increase at issue in the instant docket. The Utility requested that the application be processed using the proposed agency action (PAA) procedure and requested interim rates. Ni Florida had deficiencies in the Minimum Filing Requirements (MFRs). The deficiencies were corrected and July 28, 2010, was established as the official filing date. The test year established for interim and final rates is the 13-month average period ended December 31, 2009.

<sup>1</sup> See Order No. PSC-92-0807-FOF-WS, issued August 11, 1992, in Docket No. 910560-WS, In re: Application for Approval of rate increase in Lee County by Tamiami Village Utility, Inc.

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FPSC-COMMISSION CLERK

By Order No. PSC-10-0564-PCO-WU, we approved interim rates designed to generate annual water revenues of \$338,385, an increase of \$117,668 or approximately 53 percent.<sup>2</sup> The Utility requested final rates designed to generate annual water revenues of \$411,671, an increase of \$191,525 or approximately 87 percent.

We originally discussed the Utility's application at our January 25, 2011 Commission Conference. However, we deferred taking any action at that time to allow our staff to review the Utility's 2010 allocated overhead Operation and Maintenance (O&M) expenses for Ni America. To aid them in conducting this review, our staff sent out data requests dated January 27, 2011, and February 16, 2011. As a result of this review, the appropriate amount of current rate case expense and the appropriate amount of allocated overhead were revised and original Issue 10 (audited 2009 overhead) was rendered moot. Based on these revisions, the original Issue 10 was deleted, the remaining issues were renumbered, and all fall-out amounts were updated throughout all issues and the attached schedules.

This Order addresses Ni Florida's requested final rates. We have jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes (F.S.).

## II. QUALITY OF SERVICE

Pursuant to Rule 25-30.433(1), Florida Administrative Code (F.A.C.), we determine the overall quality of service provided by a utility by evaluating three separate components of water operations. These components are the quality of the utility's product, the operating condition of the utility's plant and facilities, and the utility's attempt to address customer satisfaction. Comments or complaints received by this Commission from customers are also reviewed. The Utility's compliance with the Lee County Health Department (LCHD) is also considered.

### A. Quality of Utility's Product and Operating Condition of Utility's Plant and Facilities

Ni Florida purchases all of the water it sells to customers from Lee County Utilities. The Utility maintains and operates the distribution system that delivers the treated water to its customers. Ni Florida files monthly operating reports with the LCHD. The LCHD also conducts periodic inspections of the water distribution system. The most recent inspection report from LCHD cited no deficiencies and stated that the Utility was in compliance with all regulations and requirements.

Our staff conducted a field investigation of the service area on September 30, 2010. The water distribution facilities appeared to be operating normally. The Utility recently installed isolation valves and replaced a majority of the water meters throughout the distribution system. This improvement project was included as a pro forma project in Ni Florida's filing, but at the time of the field investigation all of the associated work had been completed. These improvements are intended to help the Utility operate more efficiently by allowing portions of the distribution system to be isolated as needed, and by decreasing the amount of unaccounted

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<sup>2</sup> See Order No. PSC-10-0564-PCO-WU, issued September 15, 2010.

for water. Therefore, we find that the quality of drinking water delivered to the customers and the operating condition of the water distribution facilities shall be considered satisfactory.

#### B. Utility's Attempt to Address Customer Satisfaction

A customer meeting was held on September 29, 2010, in the Tamiami Village Clubhouse, in North Ft. Myers, Florida. Approximately 80 customers attended and 18 spoke. Representatives of the Utility and the Office of Public Counsel were also present. The customer comments dealt mainly with their opposition to the level of the rate increase and the burden it would place on the residents of the retirement community who live on fixed incomes. Our staff explained the ratemaking process to the customers and followed up on specific inquiries about cost allocation, rate of return, rate base calculations, and depreciation. One customer had concerns about the shut-off valve on his water meter. Our staff inspected the customer's meter and determined that there is a shut-off valve on both sides of the meter. Our staff informed the customer that the maintenance of the valve on the Utility side of the meter is Ni Florida's responsibility; however, the shut-off valve on the customer's side of the meter is the customer's responsibility and may be used by him to shut-off the flow of water into his residence.

A review of all customer complaints received on our complaint tracking system in the last three years revealed one complaint. This complaint related to a billing issue and was subsequently resolved. Our staff also reviewed customer complaints filed with the Utility. It appears that all 10 complaints filed with the Utility were resolved in a timely manner. In addition, there are approximately 28 letters in opposition to the proposed rate increase that have been filed in the correspondence side of the docket file.

#### C. Conclusion

In summary, Ni Florida meets all required testing and maintenance standards for the distribution system, the distribution system is operating normally, and the Utility appears to address customer complaints in a timely manner. Therefore, we find that the overall quality of service provided by Ni Florida is satisfactory.

### III. RATE BASE

#### A. Uncontested Audit Adjustments

In its response to our staff's audit report, Ni Florida agreed to the adjustment amounts listed below, and these adjustments shall be made

Audit Finding	Plant	Accum. Depr.	Accum. Amortiz. of CIAC	Amortiz. Expense	Depr. Expense	O&M Expense
No. 1	(\$5,512)	(\$69)	\$0	\$0	(\$138)	(\$981)
No. 2	(4,312)	4,312	0	0	(100)	0
No. 3	<u>0</u>	<u>(435)</u>	<u>(1,293)</u>	<u>861</u>	<u>1,251</u>	<u>0</u>
Total:	<u>(\$9,824)</u>	<u>\$3,808</u>	<u>(\$1,293)</u>	<u>\$861</u>	<u>\$1,013</u>	<u>(\$981)</u>

**B. Pro Forma Plant Additions And Associated Expenses**

Ni Florida included \$42,194 of pro forma plant in its MFRs associated with the installation of isolation valves. When the water needs to be shut off to one customer, isolation valves allow the Utility to shut-off water to a small section of the service territory and not the entire subdivision. The Utility provided documentation showing a total of \$53,726 for the installation of the isolation valves. Therefore, pro forma plant shall be increased by \$11,532 ( $53,726 - 42,194 = \$11,532$ ) and accumulated depreciation and depreciation expense shall be increased by \$269.

Ni Florida included \$173,478 of pro forma plant additions in its MFRs associated with new meters. The Utility installed the new meters in order to reduce the water loss the subdivision has experienced in recent years. Although the Utility included \$173,478 of pro forma plant improvements for meters, it only provided documentation showing a total of \$162,337 for the installation of meters. Therefore, the pro forma plant for the meters shall be decreased by \$11,141 ( $173,478 - 162,337 = \$11,141$ ), and the accumulated depreciation and depreciation expense shall be decreased by \$557.

In summary, based on our approving pro forma plant additions of \$216,063 as opposed to the \$215,672 shown in the Utility's MFRs, plant shall be increased by \$391 ( $216,063 - 215,672 = \$391$ ). Accordingly, accumulated depreciation and depreciation expense shall be decreased by \$288. Our approved pro forma plant and expenses are as follows:

Ni Florida, LLC Pro Forma Plant					
Pro Forma Plant		Comm'n Adjs. to Plant	Comm'n Adjusted Plant	Comm'n Adjs. to Accum. Depr.	Comm'n Adjs. to Depr. Exp.
<u>Adjs.</u>	<u>Per MFRs</u>				
Isolation Valves	\$42,194	\$11,532	\$53,726	\$269	\$269
Meters	<u>173,478</u>	<u>(11,141)</u>	<u>162,337</u>	<u>(557)</u>	<u>(557)</u>
Adjustment Totals	<u>\$215,672</u>	<u>\$391</u>	<u>\$216,063</u>	<u>(\$288)</u>	<u>(\$288)</u>

### C. Used And Useful (U&U) Percentage for the Water Distribution System

In the Utility's last rate case, there was a stipulation between the parties that the Utility's facilities would be considered 100 percent U&U.<sup>3</sup> The U&U calculation for the water distribution system is based on the number of customers connected to the system divided by the number of available lots in the service territory. Consideration is also given to growth. The Utility's distribution system currently serves approximately 96 percent of the total number of lots in the service territory. Also, the service territory is built out and has experienced no growth over the past five years. In fact, the customer base has remained relatively constant with no growth since the last rate case. Therefore, the water distribution system shall be considered 100 percent U&U.

The Utility's filing also indicates that there was 2.84 percent excessive unaccounted for water (UFW) during the test year. However, in March 2010, Ni Florida completed a meter replacement project that replaced the majority of the older water meters throughout the system with newer, more accurate meters. As a result, the amount of UFW decreased after April 2010 to within acceptable levels. Therefore, no adjustment shall be made to purchased water expense for UFW. However, as discussed below, we have adjusted test year billing determinants to increase the amount of accounted for water billed to customers.

### D. Working Capital Allowance

Rule 25-30.433(2), F.A.C., requires Class A utilities to use the balance sheet approach to calculate the working capital allowance. The balance sheet approach is essentially current assets less current liabilities. According to its filing, Ni Florida utilized the balance sheet approach and calculated a working capital allowance of \$76,744, which included a current asset of \$91,804 for unamortized rate case expense for this instant case. However, we have made certain adjustments to the figures used by the Utility.

As discussed below, we are approving total rate case expense of \$82,815. Based on our practice,<sup>4</sup> only one-half of the balance of rate case expense shall be included in working capital. To determine the appropriate amount of working capital, one-half of the total rate case expense of \$82,815 shall be subtracted from the 13-month average balance of Ni Florida's unamortized rate case expense of \$91,804. Thus, the balance of working capital proposed by the Utility shall be decreased by \$50,397 [ $\$91,804 - (\$82,815/2)$ ]. Therefore, the appropriate amount of working capital is \$26,347 ( $\$76,744 - \$50,397$ ).

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<sup>3</sup> See Order No. PSC-92-0807-FOF-WS, issued August 11, 1992, in Docket No. 021256-WU, In re: Application for approval of rate increase in Lee County by Tamiami Village Utility, Inc.

<sup>4</sup> See Order Nos. PSC-09-0057-FOF-SU, issued January 27, 2009, in Docket No. 070293-SU, In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.; and PSC-04-0369-AS-EI, issued April 6, 2004, in Docket No. 030438-EI, In re: Petition for rate increase by Florida Public Utilities Company; and PSC-01-0326-FOF-SU, issued February 6, 2001, in Docket No. 991643-SU, In re: Application for increase in wastewater rates in Seven Springs System in Pasco County by Aloha Utilities, Inc.

E. Total Rate Base for the December 31, 2009, Test Year

Consistent with our adjustments, the appropriate 13-month average rate base for the test year ended December 31, 2009, is \$277,597. Our calculations for rate base are shown on Schedule No. 1-A, and our adjustments are shown on Schedule No. 1-B.

IV. COST OF CAPITAL

The Utility has requested a rate of return of 8.81 percent. Based on the current leverage formula approved in Order No. PSC-10-0401-PAA-WS<sup>5</sup> and an equity ratio of 100 percent as a percentage of investor capital, we calculate the appropriate return on equity (ROE) to be 8.82 percent, with an allowed range of plus or minus 100 basis points for ratemaking purposes.

Based upon the proper components, amounts,<sup>6</sup> and cost rates associated with the capital structure for the test year ended December 31, 2009, we calculate the appropriate weighted average cost of capital to be 8.77 percent. This represents a four-basis point reduction from Ni Florida's requested overall cost of capital of 8.81 percent. Schedule No. 2 details our calculation of the overall cost of capital.

V. NET OPERATING INCOME

A. Rate Case Expense

The Utility included in its MFRs an estimate of \$92,604 for current rate case expense. Pursuant to request of our staff, on February 10, 2011, the Utility submitted a revised estimate of rate case expense through completion of the PAA process of \$83,503 with \$62,143 already incurred. The components of the estimated rate case expense are as follows:

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<sup>5</sup> See Order No. PSC-10-0401-PAA-WS, issued June 18, 2010, in Docket No. 100006-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, consummated by Order No. PSC-10-0446-CO-WS, issued July 13, 2010.

<sup>6</sup> See our adjustments to customer deposits.

	MFR <u>Estimated</u>	<u>Actual</u>	Additional <u>Estimated</u>	<u>Total</u>
Legal and Filing Fees	\$50,800	\$35,380	\$19,360	\$54,740
Tangibl, LLC	35,000	\$25,330	0	\$25,330
Key Engineering	0	421	0	421
Customer Mailings	<u>6,804</u>	<u>1,012</u>	<u>2,000</u>	<u>3,012</u>
Total Rate Case Expense	<u>\$92,604</u>	<u>\$62,143</u>	<u>\$21,360</u>	<u>\$83,503</u>

Pursuant to Section 367.081(7), F.S., we must determine the reasonableness of rate case expenses and shall disallow all rate case expenses determined to be unreasonable. Our staff has examined the requested actual expenses, supporting documentation, and estimated expenses as listed above for the current rate case. Based on this review, we find several adjustments are necessary to the revised rate case expense estimate.

The first adjustment relates to the Utility's legal fees. The Utility included in its MFRs \$50,800 in legal fees to complete the rate case. The Utility provided invoices through December 31, 2010, showing legal expenses associated with the rate case totaling \$35,380 plus an additional \$13,547 for unbilled legal fees for a total of \$48,927 invoiced legal fees. Additionally, the Utility also included an estimate of \$8,888 [\$7,682 (estimated legal fees) + \$1,206 (other miscellaneous expenses)] to complete the rate case through the PAA Order. According to the invoices, the law firm of Rose, Sundstrom & Bentley, LLP, billed the Utility 8.1 hours related to the correction of MFR deficiencies. Based on the law firm's hourly rate of \$305 per hour, the total amount billed to Ni Florida was \$2,471 (\$305 x 8.1). We have previously disallowed rate case expense associated with correcting MFR deficiencies because of duplicative filing costs.<sup>7</sup> Accordingly, \$2,471 shall be removed as duplicative and unreasonable rate case expense. Thus, the appropriate invoiced legal fees shall be \$46,456 (\$48,927 - \$2,471). Therefore, total legal fees included in rate case expense shall be \$55,345 [\$46,456 (invoiced legal fees) + \$8,888 (estimated legal fees and other miscellaneous expenses)].

The second adjustment relates to customer notices and postage. The Utility estimated \$6,804 for customer mailings. We estimate the postage cost for the interim notice, the combined initial and customer meeting notice, and the third notice of the final rate increase to be \$1,718. Therefore, rate case expense shall be decreased by \$5,086 (\$6,804 - \$1,718) for customer notices and postage costs.

In summary, we have reduced the Utility's revised rate case expense by \$688, for a total rate case expense of \$82,815. Our breakdown of rate case expense is as follows:

<sup>7</sup> See Order Nos. PSC-05-0624-PAA-WS, issued Jun 7, 2005, in Docket No. 040450-WS, In re: Application for rate increase in Martin County by Indiantown Company, Inc.; and PSC-01-0326-FOF-SU, issued February 6, 2001, in Docket No. 991643-SU, In re: Application for increase in wastewater rates in Seven Springs System in Pasco County by Aloha Utilities, Inc.

	Utility MFR Estimated	Revised Estimates	Commission Adjustments	Total
Legal Fees	\$50,800	\$54,740	\$605	\$55,345
Tangibl, LLC	35,000	25,330	0	25,330
Key Engineering	0	421	0	421
Customer Mailings	<u>6,804</u>	<u>3,012</u>	<u>(1,294)</u>	<u>1,718</u>
Total Rate Case Expense	<u>\$92,604</u>	<u>\$83,503</u>	<u>(\$688)</u>	<u>\$82,815</u>
Annual Amortization	<u>\$23,151</u>	<u>\$20,876</u>	<u>(\$172)</u>	<u>\$20,704</u>

In its MFRs, Ni Florida requested total rate case expense of \$92,604, which amortized over four years would be \$23,151. Based on our adjustments listed above, the requested annual rate case expense shall be \$20,704, a decrease of \$2,447 from the Utility’s MFR original estimate.

B. Bad Debt Expense

The Utility recorded bad debt expense of \$3,853 for the test year. Consistent with our practice, bad debt expense shall be based on a three-year average. We have previously approved the application of a three-year average to determine the appropriate level of bad debt expense in three electric cases,<sup>8</sup> two gas cases,<sup>9</sup> and one water and wastewater case.<sup>10</sup>

We approved a three-year average in these cases based on the premise that a three-year average fairly represented the expected bad debt expense. Overall, the basis for determining bad debt expense has been whether the amount is representative of the bad debt expense expected to be incurred by the utility. Based on this calculation, Ni Florida shall be entitled to bad debt expense of \$957, which we find is representative of Ni Florida’s bad debt expense. Based on the above, the Utility’s bad debt expense of \$3,853 shall be reduced by \$2,896.

<sup>8</sup> See Order Nos. PSC-94-0170-FOF-EI, issued February 10, 1994, in Docket No. 930400-EI, In re: Application for a rate increase for Marianna electric operations by Florida Public Utilities Company, at p. 20; PSC-93-0165-FOF-EI, issued February 2, 1993, in Docket No. 920324-EI, In re: application for a rate increase by Tampa Electric Company, at pp. 69-70; and PSC-92-1197-FOF-EI, issued October 22, 1992, in Docket No. 910890-EI, In re: Petition for a rate increase by Florida Power Corporation, at p. 48.

<sup>9</sup> See Order Nos. PSC-92-0924-FOF-GU, issued September 3, 1992, in Docket No. 911150-GU, In re: Application for a rate increase by Peoples Gas System, Inc., at p. 6; and PSC-92-0580-FOF-GU, issued June 29, 1992, in Docket No. 910778-GU, In re: Petition for a rate increase by West Florida Natural Gas Company, at pp. 30-31.

<sup>10</sup> See Order No. PSC-07-0505-SC-WS, issued June 13, 2007, in Docket No. 060253-WS, In re: Application for increase in water and wastewater rates in Marion, Orange, Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of Florida, at pp. 41-42.



C. Allocated Overhead

The Utility recorded allocated overhead of \$175,649 for the test year. The allocated overhead was recorded in the Utility's miscellaneous expense account. According to the staff audit, Ni America, the Utility's parent company, has an allocation policy that is based on two factors; equivalent residential connections (ERCs) and payroll charges allocable to the utilities. During the test year, Ni America estimated that 47.09 percent of parent company O&M expenses were allocable to the utilities.

According to the audit, Ni America had \$2,133,221 in O&M expenses in 2009. Ni America allocated \$1,004,534 ( $\$2,133,221 \times 0.4709$ ) to its various utility subsidiaries. Based on Ni Florida's total ERCs and the total test year ERCs for the various utilities owned by Ni America, Ni Florida's allocated share was \$175,649 or 17.49 percent of the total allocated overhead.

The Utility states that Ni America functions include:

- Accounting
- Annual Reporting Requirements
- Business Development
- Capital Improvements
- Cash Management
- Contract Administration
- Engineering Services
- Finance
- Financial Reporting
- Human Resources
- Income Tax Administration
- Legal Services
- Operations Management
- Payroll Administration
- Rate Case Administration
- Risk Management (Insurance)
- Treasury Management

In January 2010, Ni America purchased Palmetto Utilities located in South Carolina. The acquisition of Palmetto Utilities added over 15,000 additional ERCs to the approximately 4,700 existing ERCs used to allocate O&M expenses during the test year. Because this is a known and measurable change, our staff thought that we should take this increase in total ERCs into account for this rate case. We agree. Recalculating the allocated overhead using Ni America's average ERC count through September 2010, our staff calculated the Utility's share of allocated overhead to be 3.71 percent ( $753/20,283$ ) or \$37,287 ( $\$1,004,534 \times .0371$ ).

This was the amount presented to us at our January 25, 2011, Commission Conference. The Utility disagreed with the inclusion of Palmetto's ERCs, but said if we wished to include the

Palmetto ERCs, then the Ni America overhead from 2010 should be considered as well. In their presentation, representatives of Ni America provided a schedule which they argued supported allocated overhead of approximately \$87,000 for the Utility based on 2010 parent company expenses. As stated above, we voted to defer any action on this case to allow our staff to review and evaluate the 2010 O&M expenses for Ni America. As a part of this review, by data requests dated January 27, 2011 and February 16, 2011, our staff requested the information for the 2010 O&M expenses for Ni America.

According to Ni America's response to staff's January 27, 2011 data request, it had \$3,093,638 in O&M expenses for 2010. Ni America allocated \$2,725,030 [ $\$3,093,638 - \$39,357$  (utility excluded overhead)  $\times 0.8954$ ]<sup>11</sup> to its various subsidiaries. Ni Florida's allocated share was \$101,826 or 3.73 percent of the total allocated overhead.

However, on March 14, 2011, Ni America revised its estimate of O&M expenses for 2010 that should be allocated to utilities to \$2,522,256 [ $\$2,866,039$ <sup>12</sup>  $- \$39,357$  (utility excluded overhead)  $\times 0.8954$ ]. The Utility's allocated share as proposed by Ni America was \$94,276, or 3.73 percent of the total allocated overhead. Based on review of the documentation provided by the Utility, we find several adjustments shall be made to Ni America's allocated overhead.

The first adjustment relates to the equity sponsor fee. According to Ni America, it pays 0.5 percent to have access to funds from a private equity fund. The Utility states that the equity sponsor fee is the interest it pays to have access to funds for investment. However, according to the Utility's capital structure, it has no debt. The capital structure that we have approved earlier in this Order includes an ROE of 8.82 percent, and we find that the Utility's share of this equity sponsor fee is recovered through the approved ROE. Therefore, the entire \$315,000 equity sponsor fee shall be removed.

The second adjustment relates to due diligence expenses for Ni America. According to Ni America's general ledger, it appears that Ni America recorded \$379,169 for due diligence expenses related to various successful and potential acquisitions. It is our practice that the costs incurred for acquisitions or transfers not related to the jurisdictional utility be recorded as below-the-line costs of the shareholder.<sup>13</sup> Therefore, these due diligence expenses shall be recorded below-the-line, and the entire \$379,169 in due diligence expenses shall be removed.

The third adjustment relates to various expenses that shall not be recovered in the Utility's rates from its customers. The Ni America general ledger included various expenses that were not related to the Utility or were non-recurring. These expenses include travel to utilities in other states, shipping expenses to utilities in other states, gifts for employees, and legal expenses relating to utilities in other states. Also, there were several non-recurring expenses, such as background checks, apartment fees, travel for interviews, and CPA study materials. Based on a

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<sup>11</sup> Ni America changed its allocation percentage from 47.09 percent to 89.54 percent.

<sup>12</sup> Ni America discovered that the appropriate amount to be allocated was \$2,866,039 and not \$3,093,638.

<sup>13</sup> See Order No. PSC-93-1819-FOF-WS, p. 5, issued December 22, 1993, in Docket No. 930204-WS, In re: Application for amendment of certificates nos. 236-W and 179-S and for a limited proceeding to adjust rates in St. Johns County by Jacksonville Suburban Utilities Corporation.

review of the Ni America general ledger, we find that an additional \$141,785 shall be removed as non-utility related or non-recurring expenses. Based on the above adjustments, we find that \$1,990,728 [\$2,866,039 – \$315,000 – \$379,169 – \$39,357 (utility excluded overhead) – \$141,785] is a more reasonable amount to allocate from Ni America.

Additionally, we find an adjustment is necessary to the allocation percentage the Utility proposed for 2010. In order to determine the allocation percentage, Ni America estimates the amount of time each employee spends on utility operation-related matters versus time spent on utility acquisitions. As stated above, Ni America estimated that its employees spent 47.09 percent of their time on utility operation related matters in 2009. In 2010, Ni America estimated that its employees spent 89.54 percent of their time on utility operation-related matters. We are concerned by the dramatic change in the allocation percentage.

From review of the Ni America general ledger, it is apparent that Ni America is still spending considerable time and incurring expenses on various potential utility acquisitions. In its February 16, 2011 data request, our staff requested that Ni America identify the number and size of potential acquisitions through December 31, 2013. In response, the Utility stated:

Although Ni America seeks additional acquisitions, it is unsure whether such acquisitions would develop. Ni America does have one additional potential acquisition for which it has signed a non-binding letter of intent. However, there have been many potential acquisitions at this stage in the past which have not been acquired. Since its inception in March 2007, Ni America has looked at many potential acquisitions, being successful in acquiring a small number of systems to date. Therefore, it is impossible to forecast what the pipeline would look like for the period ending December 31, 2013.

Based on the wide variance in estimated time spent on utility operations from 2009 to 2010, we find that 89.54 percent is not appropriate on a prospective basis. As stated above, the Utility could not provide an estimate for the acquisition activity for Ni America for the next two years. Based on review of the past two years of allocated overhead and our staff's review of the job descriptions for Ni America's employees, we find several adjustments shall be made to the Utility's overhead allocation percentage.

First, several employees are based in South Carolina, not at the corporate offices in Texas. After reviewing their job descriptions, it appears that three employees work entirely for the South Carolina systems, and, therefore, their allocation percentage shall be zero. An additional employee is based in South Carolina but has duties that involve other utility systems outside South Carolina. Therefore, we find this employee's allocation percentage shall be decreased from 75 percent to 50 percent.

Second, our staff has identified several employees who have worked on acquisitions for Ni America over the past two years. As stated above, the Utility provided very little clarity regarding future acquisition activity. Therefore, we find that it is appropriate to take a two-year average of these employees' allocation percentage.

The final adjustment relates to the allocated time of the Ni America's Chief Financial Officer (CFO). Ni America estimates that the CFO allocation percentage is 100 percent related to utility operations. We find it is not reasonable to assume the CFO spends his entire time on utility operations and no time on utility acquisitions, and decrease the CFO's allocation percentage from 100 percent to 90 percent.

Below is a breakdown of our adjustments to the Utility's allocation percentages:

<u>Employee</u>	<u>% per Ni America</u>	<u>2010 Salaries</u>	<u>Amt. per Ni America</u>	<u>% per Comm'n</u>	<u>2010 Salaries</u>	<u>Amt. per Comm'n</u>
VP	90.00%	\$103,000	\$92,700	70.00%	\$103,000	\$72,100
Associate	75.00%	\$31,224	\$23,418	50.00%	\$31,224	\$15,612
VP	100.00%	\$103,000	\$103,000	100.00%	\$103,000	\$103,000
Associate	100.00%	\$56,458	\$56,458	62.50%	\$56,458	\$35,286
Manager	100.00%	\$10,585	\$10,585	75.00%	\$10,585	\$7,939
Controller	100.00%	\$56,052	\$56,052	0.00%	\$56,052	\$0.00
President	90.00%	\$190,035	\$171,032	70.00%	\$190,035	\$133,025
Manager	100.00%	\$37,957	\$37,957	100.00%	\$37,957	\$37,957
Manager	100.00%	\$25,000	\$25,000	0.00%	\$25,000	\$0.00
President	100.00%	\$174,583	\$174,583	0.00%	\$174,583	\$0.00
CFO	100.00%	\$45,481	\$45,481	90.00%	\$45,481	\$40,933
VP	25.00%	\$100,000	\$25,000	25.00%	\$100,000	\$25,000
VP	100.00%	\$137,247	\$137,247	62.50%	\$137,247	\$85,780
Associate	100.00%	\$8,750	\$8,750	100.00%	\$8,750	\$8,750
Associate	75.00%	\$79,181	\$59,386	75.00%	\$79,181	\$59,386
VP	<u>100.00%</u>	<u>\$103,000</u>	<u>\$103,000</u>	<u>62.50%</u>	<u>\$103,000</u>	<u>\$64,375</u>
Total/Average	<u>89.54%</u>	<u>\$1,261,555</u>	<u>\$1,129,650</u>	<u>54.63%</u>	<u>\$1,261,555</u>	<u>\$689,142</u>

Based on our calculated allocation percentage of 54.63 percent set out above, we find the total O&M overhead that shall be allocated to Ni America’s various utility systems is \$1,087,463 (\$1,990,728 x .5463). Ni Florida’s share of the total O&M overhead allocated to Ni America’s various utility systems based on ERCs is 3.73 percent, which is \$40,605 (\$1,087,463 x .0373).

The last adjustment relates to specific expenses our staff identified in Ni America’s general ledger that shall be allocated to the Utility only. The specific expenses included regulatory legal expenses, travel to Tamiami Village, and shipping expenses to Florida. These expenses totaled \$2,984. This amount shall be added to the Utility’s \$40,605 share of O&M overhead allocated from Ni America. Therefore, we calculate the Utility’s allocated overhead to be \$43,589 (\$40,605 + \$2,984).

Below is a breakdown of our adjustments to the Utility’s allocated overhead:

Total Allocated Overhead per General Ledger:	\$2,866,039
Removal of Equity Sponsor Fee:	(315,000)
Removal of Due Diligence Expenses:	(379,169)
Utility Excluded Overhead:	(39,357)
Comm’n Excluded Overhead:	<u>(141,785)</u>
Allocated Overhead after Exclusions:	<u>\$1,990,728</u>
Percent Allocated per Comm’n:	<u>54.63%</u>
Total Allocated to Ni America’s systems:	<u>\$1,087,463</u>
Percent Allocated to the Utility:	<u>3.73%</u>
The Utility’s share of Allocated Overhead	<u>\$40,604</u>
Specific expenses related to the Utility	<u>2,984</u>
Total Corporate Overhead	<u>\$43,589</u>

Based on the above, the Utility shall be entitled to recover allocated overhead of \$43,589 (\$40,605 + \$2,984). As a result, the Utility’s allocated overhead in its MFRs of \$175,649 shall be reduced by \$132,060 (\$175,649 - \$43,589).

D. Test Year Operating Income

As shown on Schedule No. 3-A, the Utility's net operating loss is \$16,633 after applying our adjustments. Our adjustments to operating income are shown on Schedule No. 3-B.

VI. REVENUE REQUIREMENT

Ni Florida requested an annual revenue requirement of \$411,671. This requested revenue requirement would be a revenue increase of \$191,525 or approximately 87 percent. Consistent with our adjustments concerning the underlying rate base, cost of capital, and operating income issues, we find rates shall be designed to generate a revenue requirement of \$263,051 shown as follows:

	<u>Test</u> <u>Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue</u> <u>Requirement</u>	<u>% Increase</u>
Water	\$220,146	\$42,905	\$263,051	19.49%

The approved water revenue requirement exceeds adjusted test year revenues by \$42,905, or by 19.49 percent. This pre-repression revenue requirement will allow the Utility the opportunity to recover its expenses and earn an 8.77 percent return on its investment in rate base.

VII. RATES AND CHARGES

A. Rate Structure

The Utility's current water system rate structure for the residential and general service classes consists of a base facility charge (BFC) and a uniform gallonage charge. The current BFC for 5/8" x 3/4" meter customers is \$13.61 per month and the gallonage charge is \$3.36 per kgals.<sup>14</sup>

In 1991, we entered into a Memorandum of Understanding (MOU) with the state's five Water Management Districts (WMDs), in which the agencies recognized that it is in the public interest to engage in a joint goal to ensure the efficient and conservative utilization of water resources in Florida, and that a joint cooperative effort is necessary to implement an effective, state-wide water conservation policy. The WMDs also have a policy that recommends not recovering more than 40 percent of revenues through the BFC. We try to support this policy whenever possible.

Ni Florida is located in Lee County within the South Florida Water Management District (SFWMD or District). The entire District has a designated year-round Landscape Irrigation Rule. Within these areas, the existing and reasonably anticipated sources of water and water

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<sup>14</sup> Kgals stands for thousand gallons.

conservation efforts may not be adequate to supply water for all existing legal uses and anticipated future needs, or to sustain the water resources and related natural systems.<sup>15</sup>

As discussed above, the Utility's filing indicated that there was excessive unaccounted for water during the test year. However, in March 2010, Ni Florida completed a meter replacement project that replaced the majority of the older water meters throughout the system with newer, more accurate meters. As a result, the amount of unaccounted for water decreased after April 2010 to within acceptable levels. In order to be consistent with our decision that no adjustment for unaccounted for water be made, we adjusted test year billing determinants to increase the amount of accounted for water billed to customers.

Our staff performed a detailed analysis of the Utility's billing data in order to evaluate various BFC cost recovery percentages, usage blocks, and usage block rate factors for the residential rate class. The goal of the evaluation was to select the rate design parameters that: (1) allow the Utility to recover its revenue requirement; (2) equitably distribute cost recovery among the Utility's customers; and (3) implement where appropriate water conserving rate structures consistent with our MOU with the state's Water Management Districts.

The Utility's service area contains a 243 unit, highly seasonal RV park. The RV park's current rate is based on a settlement between the Utility and Tamiami Master Association, Inc., whereby they agreed that the estimated number of ERCs for the RV park should be 104.76.<sup>16</sup> The Utility states that there are now 243 units in the RV park, with the vast majority of residents being seasonal in nature. The estimated number of ERCs for the RV park, divided by the number of units in the park, equates to approximately 0.43 ERC per unit. We believe this number is reasonable because: a) the units are RVs, which use less water than homes; b) the customer base is seasonal; and c) the Utility did not request a change in the number of ERCs assigned to the RV park.

During the 2009 test year, about 50 percent of residential bills were at 1 kgal or less and average residential consumption was 1.9 kgal/month. These factors are indicative of a very seasonal customer base. When approving rates for a very seasonal customer base, it is not unusual to approve a BFC greater than 40 percent. This is typically done to not only address the seasonal nature of the customer base but to better meet the cash flow needs that arise due to a seasonal customer base. Therefore, in order to address the seasonality of the Utility's customer base, we find that the entire increase in water system revenue requirements shall be allocated to the gallonage charge, and that the BFC shall remain unchanged at \$13.61 for a 5/8" x 3/4" meter customer. This results in a BFC allocation of 54.80 percent. Although this BFC cost recovery allocation does not comply with the WMD's policy that no more than 40 percent of revenues be recovered through the BFC, in this instance, due to the extreme seasonality of the customer base and the accompanying cash flow concerns, we find the BFC shall not be reduced.

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<sup>15</sup> See [www.sfwmd.gov](http://www.sfwmd.gov), "Water Shortage Watch."

<sup>16</sup> See Order No. PSC-06-0338-AS-WU, issued April 24, 2006, in Docket No. 050819-WU, In re: Request to establish new class of service for RV park in Lee County, by Tamiami Village Water Company, Inc.

The traditional BFC/uniform gallonage charge rate structure has been our water rate structure of choice for nonresidential customer classes. The uniform gallonage charge shall be calculated by dividing the total revenues to be recovered through the gallonage charge by the total number of gallons attributable to all rate classes and shall be used to determine the general service gallonage charge in this case. With this methodology, the general service customers would continue to pay their fair share of the cost of service. The appropriate rate structure for the water system's nonresidential classes is a continuation of its BFC/uniform gallonage charge rate structure as shown on Schedule No. 4.

We find that the appropriate rate structure for the water system's residential class is a three-tier inclining-block rate structure. As our discussions on repression set out below show, a two-tiered inclining block rate-structure of: a) 0-6 kgal in the first usage block; and b) all usage in excess of 6 kgal in the second usage block would not adequately address non-discretionary usage. To address this non-discretionary usage, we find an additional tier is necessary for non-discretionary usage below 3 kgal per month. This results in a three-tier rate structure for monthly consumption with usage blocks of: a) 0-3 kgal; b) 3.001-6 kgal; and c) all usage in excess of 6 kgal in the third usage block, and usage block rate factors of 0.91, 1.0, and 1.5 respectively. The BFC cost recovery percentage for the water system shall be set at 54.80 percent. The approved residential rates shall be as follows and as shown on Schedule No. 4:

<b>NI FLORIDA, LLC</b>			
<b>APPROVED RATE STRUCTURE AND TYPICAL BILLS FOR</b>			
<b>RESIDENTIAL CUSTOMERS ON 5/8" x 3/4" METERS</b>			
<b>POST-REPRESSION ANALYSIS</b>			
<b>Current Rate Structure and Rates</b>		<b>Approved Rate Structure and Rates</b>	
BFC/uniform gallonage charge rate structure		Three-tiered inclining-blocks – consumption of 0-3 kgal, 3-6 kgal and 6+ kgal; rate factors at 0.91, 1.0, and 1.50; BFC = 54.80 percent	
BFC	\$13.61	BFC	\$13.61
Gallonage Charge, all kgal	\$3.36	0-3 kgal (no repression adjustment)	\$4.78
		3.001-6 kgal	\$5.23
		In excess of 6 kgal	\$7.84
<b>Typical Monthly Bills</b>		<b>Typical Monthly Bills</b>	
Cons (kgal)		Cons (kgal)	
0	\$13.61	0	\$13.61
1	\$16.97	1	\$18.39
3	\$23.69	3	\$27.96
5	\$30.41	5	\$38.42
10	\$47.21	10	\$75.02
15	\$64.01	15	\$114.24
20	\$80.81	20	\$153.46
25	\$97.61	25	\$192.68
30	\$114.41	30	\$231.90



### B. Repression Adjustment

Our staff conducted a detailed analysis of the consumption patterns of the Utility's residential customers as well as the increase in residential bills resulting from the increase in revenue requirements. This analysis showed that about 50 percent of the residential bills rendered during the test year were for consumption levels below 1 kgal per month. This indicates that the bulk of the customer base of the Utility are seasonal residents. This analysis also showed that average residential consumption per customer was 1.9 kgal per month.

Using the database of utilities that have previously had repression adjustments made, our staff calculated a repression adjustment for this Utility based upon the increase in revenue requirements in this case, and the historically observed response rates of consumption to changes in price. This is the same methodology for calculating repression adjustments that we have approved in prior cases.<sup>17</sup> This methodology also restricts any price changes due to repression from being applied to non-discretionary consumption (consumption less than 3 kgals per month), and allocates all cost recovery due to repression to discretionary levels of consumption (consumption above 3 kgals per month).

Therefore, based on this methodology, our staff calculated that test year residential consumption for this Utility should be reduced by 506 kgal, and concomitantly, purchased water expense shall be reduced by \$1,830, and regulatory assessment fees (RAFs) shall be reduced by \$86. We agree. Based on these adjustments, the final post-repression revenue requirement is calculated to be \$260,140. In order to monitor the effect of the rate changes, the Utility shall file reports detailing the number of bills rendered, the consumption billed, and the revenues billed on a monthly basis. In addition, the reports shall be prepared by customer class, usage block, and meter size. The reports shall be filed with our staff, on a semi-annual basis, for a period of two years beginning with the first billing period after the approved rates go into effect. To the extent the Utility makes adjustments to consumption in any month during the reporting period, the Utility shall file a revised monthly report for that month within 30 days of any revision.

### C. Monthly Water Rates

The appropriate post-repression revenue requirement, excluding miscellaneous service charges, is \$260,140. As discussed above, we have approved a three-tiered rate structure for monthly consumption for residential customers and the traditional BFC/uniform gallonage charge rate structure for all nonresidential rate classes. Further, we have found that a repression adjustment is appropriate. Applying these rate designs and repression adjustments to the pre-

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<sup>17</sup> See Order No. PSC-10-0400-PAA-WS, issued June 18, 2010, in Docket No. 090392-WS, In re: Application for increase in water and wastewater rates in Lake County by Utilities Inc. of Pennbrooke; Order No. PSC-10-0423-PAA-WS, issued July 1, 2010, in Docket 090402-WS, In re: Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corporation; Order No. PSC-10-0117-PAA-WU, issued February 26, 2010, in Docket No. 080695-WU, In re: Application for general rate increase by Peoples Water Service Company of Florida, Inc.; Order No. PSC-09-0623-PAA-WS, issued September 15, 2009, in Docket No. 080597-WS, In re: Application for general rate increase in water and wastewater systems in Lake County by Southlake Utilities, Inc.

repression revenue requirements results in the final rates contained in Schedule No. 4. These rates are designed to recover a post-repression revenue requirement of \$260,140.

D. Miscellaneous Service Charges

The Utility believes that its miscellaneous service charges should be updated to reflect current costs. We agree. Ni Florida provided the following cost estimates for the expenses associated with initial connection, normal reconnection, and violation reconnection fees during business hours and after hours:

<u>Business Hours</u>		<u>After Hours</u>	
<u>Item:</u>	<u>Cost:</u>	<u>Item:</u>	<u>Cost:</u>
Labor (\$32.00/hr. x 0.7 hours)	\$22.40	Labor (\$48.00/hr. x 0.7 hours) <sup>18</sup>	\$33.60
Transportation	<u>5.00</u>	Transportation	<u>6.00</u>
Total	<u>\$27.40</u>	Total	<u>\$39.60</u>

However, in response to a staff data request, the Utility stated that Florida Utility Group, the Utility’s contract operator, charges during normal business hours an hourly rate of \$27.50. As this service is provided by a contract operator, we find that the labor charge per hour, during business hours, shall be \$27.50. Further, we find that the transportation charges shall be consistent.

Based on the above, we calculate the estimated expenses for miscellaneous service charges to be as follows:

<u>Business Hours</u>		<u>After Hours</u>	
<u>Item:</u>	<u>Cost:</u>	<u>Item:</u>	<u>Cost:</u>
Labor (\$27.50/hr. x 0.7 hours)	\$19.25	Labor (\$41.25/hr. x 0.7 hours) <sup>19</sup>	\$28.86
Transportation	<u>5.00</u>	Transportation	<u>5.00</u>
Total	<u>\$24.25</u>	Total	<u>\$33.86</u>

The charges shown above are cost based, reasonable, and similar to fees we have approved for other utilities.<sup>20</sup>

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<sup>18</sup> Represents time-and-a-half wage.  
<sup>19</sup> Represents time-and-a-half wage.

However, for premises visit fees, the Utility requested fees lower than the requested initial connection, normal reconnection fees, and violation reconnection fees. Reduced activities are required for this function. As a result, we find the Utility’s requested premises visit fees of \$18 and \$27 for business hours and after hours, respectively, are cost-based and appropriate.

Because the above fees appear to be cost-based, reasonable, and similar to the labor costs approved in our prior decisions,<sup>21</sup> Ni Florida shall be allowed to implement initial connection, normal reconnection fees, and violation reconnection fees for work performed during business hours and after business hours of \$24 and \$34, respectively. Also, Ni Florida shall implement a premises visit fee for work performed during business hours of \$18 and a premises visit fee for work performed after business hours of \$27. Ni Florida shall file a proposed customer notice to reflect our approved charges. The approved charges shall be effective for service rendered on or after the stamped approval date of the revised tariff, pursuant to Rule 25-30.475(1), F.A.C., provided the notice has been approved by our staff. Within ten days of the date the order is final, the Utility shall provide notice of the tariff changes to all customers. Ni Florida shall provide proof the customers have received notice within ten days after the date the notice was sent. Below is a breakdown of the Utility’s current and our approved miscellaneous service charges:

	<u>Current Charges</u>		<u>Comm’n Approved</u>	
	<u>Normal Hrs</u>	<u>After Hrs</u>	<u>Normal Hrs</u>	<u>After Hrs</u>
Initial Connection	\$15	\$15	\$24	\$34
Normal Reconnection	\$15	\$15	\$24	\$34
Violation Reconnection	Actual Cost	Actual Cost	\$24	\$34
Premises Visit	\$10	\$10	\$18	\$27

E. Late Fees

Section 367.091, F.S., authorizes us to establish, increase, or change a rate or charge other than monthly rates or service availability charges. Ni Florida has requested a \$5 late fee. The Utility's request for a late fee was accompanied by its reason for requesting the fee, as well as the cost justification required by Section 367.091, F.S. Ni Florida's cost analysis breakdown for its proposed late fee is shown below:

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<sup>20</sup> See Order Nos. PSC-08-0827-PAA-WS, issued December 22, 2008, in Docket No. 070694-WS, In re: Application for increase in water and wastewater rates in Orange County by Wedgefield Utilities, Inc.; PSC-08-0812-PAA-WS, issued December 16, 2008, in Docket No. 070695-WS, In re: Application for increase in water and wastewater rates in Martin County by Miles Grant Water and Sewer Company; and PSC-10-0735-TRF-WS, issued December 20, 2010, in Docket No. 100381-WS, In re: Request for approval of tariff amendment to include a late payment fee of \$5.25 and establish miscellaneous service charges associated with connection, reconnection, and premises visits for its wastewater operation in Orange County by Pluris Wedgefield, Inc.

<sup>21</sup> Ibid.

Business Hours

<u>Item:</u>	<u>Cost:</u>
Office Clerk Labor (\$22.50/hr. x 0.20 hours)	\$4.50
Postage/Printing Envelope	<u>0.50</u>
Total	<u>\$5.00</u>

This cost is comprised of one-fifth of an hour of employee time at \$22.50 per hour to research and verify that the payment is late, process the bill and assess the late payment fee, or \$4.50 (\$22.50/5). In addition, the \$5.00 fee also recognizes the cost of an envelope, printer and printing supplies, and postage to send the notice to the customer, totaling approximately \$0.50.

The late payment fee is designed to encourage customers to pay their bills on time to ensure that the cost associated with late payment is not passed onto customers who do pay on time. The Utility's justification for the late fee is to place the burden of these costs on the cost causer rather than the general body of ratepayers. We find the estimated cost provided by the Utility to be reasonable, and the proposed late fee of \$5 shall be approved.

This fee shall be effective on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates shall not be implemented until our staff has approved the proposed customer notice. The Utility shall provide proof of the date the notice was given within ten days after the date of the notice. This notice may be combined with the notices required above.

F. Non-Sufficient Funds Fee (NSF)

Section 367.091, F.S., requires that rates, charges, and customer service policies be approved by us. We have authority to establish, increase, or change a rate or charge. Ni Florida has requested an NSF fee in accordance with the Section 832.08(5), F.S.

We find that this type of fee is appropriate and consistent with our prior decisions.<sup>22</sup> Furthermore, as discussed in our prior orders, an NSF fee places the cost on the cost-causer, rather than requiring that the costs associated with the return of the NSF checks be spread across the general body of ratepayers. The NSF fee shall be established consistent with Section 68.065, F.S., which allows for the assessment of charges for the collection of worthless checks, drafts, or orders of payment. Further, as currently set forth in Section 832.08(5), F.S., the following fees may be assessed:

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<sup>22</sup> See Order Nos. PSC-10-0364-TRF-WS, issued June 7, 2010, in Docket No. 100170-WS, In re: Application for authority to collect non-sufficient funds charges, pursuant to Sections 68.065 and 832.08(5), F.S., by Pluris Wedgefield Inc., and PSC-10-0168-PAA-SU, issued March 23, 2010, in Docket No. 090182-SU, In re: Application for increase in wastewater rates in Pasco County by Ni Florida, LLC.

- 1) \$25, if the face value does not exceed \$50;
- 2) \$30, if the face value exceeds \$50 but does not exceed \$300;
- 3) \$40, if the face value exceeds \$300; or
- 4) five percent of the face amount of the check, whichever is greater.

Therefore, Ni Florida's proposed tariff for an NSF fee shall be approved and its tariff revised to reflect the charges set by Sections 68.065 and 832.08(5), F.S., as set out above. The fee shall be effective on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the fees shall not be implemented until our staff has approved the proposed customer notice. The Utility shall provide proof of the date the notice was given no less than ten days after the date of the notice. This notice may be combined with the notices required above.

### VIII. OTHER ISSUES

#### A. Refund of Interim Rates

By Order No. PSC-10-0564-PCO-WU, we authorized the collection of interim rates, subject to refund, pursuant to Section 367.082, F.S. The approved interim revenue requirement was \$338,385, which represented an increase of \$117,668 or approximately 53 percent. This interim increase was effective for service rendered after September 30, 2010, and was protected by an escrow account.

According to Section 367.082, F.S., any refund shall be calculated to reduce the rate of return of the Utility during the pendency of the proceeding to the same level within the range of the newly authorized rate of return. Adjustments made in the rate case test period that do not relate to the period interim rates are in effect shall be removed. Rate case expense is an example of an adjustment which is recovered only after final rates are established.

In this proceeding, the test period for establishment of interim and final rates is the 12-month period ended December 31, 2009. Ni Florida's approved interim rates did not include any provisions for pro forma or projected operating expenses or plant. The interim increase was designed to allow recovery of actual interest costs, and the floor of the last authorized range of return on equity.

To establish the proper refund amount, we calculate a revised interim revenue requirement utilizing the same data used to establish final rates. Rate case expense was excluded because this item is prospective in nature and did not occur during the interim collection period.

Using the principles discussed above, the \$338,385 revenue requirement granted in Order No. PSC-10-0564-PCO-WU for the interim test year is greater than the revenue requirement for the interim collection period of \$241,372. This results in a refund of 28.75 percent. The refund shall be made with interest in accordance with Rule 25-30.360(4), F.A.C. The Utility shall be required to submit proper refund reports pursuant to Rule 25-30.360(7), F.A.C. The Utility shall

treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C. Further, the escrow account shall be released upon our staff's verification that the required refunds have been made.

B. Statutory Four-Year Rate Reduction

Section 367.0816, F.S., requires rates to be reduced immediately following the expiration of the four-year amortization 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, the associated return included in working capital, and the gross-up for RAFs which is \$25,482. The decreased revenue will result in the rate reductions shown on Schedule No. 4.

The Utility shall file revised tariff sheets and a proposed customer notice to reflect the approved reduction in rates. The approved rates shall 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 shall not be implemented until our staff has approved the proposed customer notice. Ni Florida shall provide proof of the date notice was given within ten days of the date of the notice.

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

C. Adjustment of Utility's Books for All the Applicable National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) Primary Accounts

To ensure that the Utility adjusts its books in accordance with our decisions, Ni Florida shall provide proof, within 90 days of the final order issued in this docket, that the adjustments for all the applicable NARUC USOA primary accounts have been made.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Ni Florida, LLC's application for increased water rates and charges is granted in part and denied in part as set forth in the body of this Order. It is further

ORDERED that each of the findings made in the body of this Order are hereby approved in every respect. It is further

ORDERED that all matters contained in the attachments and schedules appended hereto are incorporated herein by reference. It is further

ORDERED that Ni Florida, LLC shall file revised tariff sheets and the proposed customer notices to reflect the approved rates as shown on Schedule No. 4. In addition, the

approved rates shall not be implemented until our staff has approved the proposed customer notice and the notice has been received by the customers. It is further

ORDERED that the Utility shall provide proof of the date notice was given no less than 10 days after the date of the notice. It is further

ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. The tariff sheets shall be approved upon our staff's verification that the tariffs are consistent with this Order and that the customer notices are adequate. It is further

ORDERED that Ni Florida, LLC shall file revised tariff sheets and the proposed customer notices to reflect the approved Miscellaneous Service Charges, Non-Sufficient Funds Fees, and Late Fee as set forth in the body of this Order. In addition, the approved charges and fees shall not be implemented until our staff has approved the proposed customer notice and the notice has been received by the customers. It is further

ORDERED that the Utility shall provide proof of the date notice for the Miscellaneous Service Charges, Non-Sufficient Funds Fee, and Late Fee was given no less than 10 days after the date of the notice. It is further

ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. The tariff sheets shall be approved upon our staff's verification that the tariffs are consistent with this Order and that the customer notices are adequate. It is further

ORDERED that Ni Florida may combine these notices with other notices required in this Order. It is further

ORDERED that to allow our staff to monitor the effect of the rate changes, the Utility shall file reports detailing the number of bills rendered, the consumption billed, and the revenues billed on a monthly basis. It is further

ORDERED that the reports shall be prepared by customer class, usage block, and meter size and shall be filed with our staff, on a semi-annual basis, for a period of two years beginning with the first billing period after the approved rates go into effect. It is further

ORDERED that to the extent the Utility makes adjustments to consumption in any month during the reporting period, the Utility shall file a revised monthly report for that month within 30 days of any revision. It is further

ORDERED that Ni Florida, LLC shall make refunds as set out in the body of this Order. It is further

ORDERED that the refunds shall be made with interest in accordance with Rule 25-30.360(4), F.A.C. It is further

ORDERED that the Utility shall submit proper refund reports pursuant to Rule 25-30.360(7), F.A.C. It is further

ORDERED that the Utility shall treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C., and the escrow account shall be released upon our staff's verification that the required refunds have been made. It is further

ORDERED that the rates shall be reduced at the end of the four-year rate case expense amortization period to remove rate case expense grossed-up for RAFs and amortized over a four-year period as set forth in the body of this Order and Schedule No. 4. It is further

ORDERED that the decrease in rates shall become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. It is further

ORDERED that the Utility shall file revised tariff sheets and a proposed customer notice setting forth the lower rates and the reason for the reductions 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 shall be filed for the price index and/or pass-through increase or decrease, and for the reduction in rates due to the amortized rate case expense. It is further

ORDERED that Ni Florida, LLC shall provide proof within 90 days of the final order issued in this docket that the appropriate adjustments for all the applicable NARUC USOA primary accounts have been made. It is further

ORDERED that, except for reducing rates at the end of the four-year amortization period, and requiring books to be kept in accordance with the NARUC USOA which are final agency action, the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, F.A.C., is received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if no person whose substantial interests are affected by the proposed agency action (PAA) files a protest within 21 days of the issuance of this PAA Order, a Consummating Order will be issued. It is further

ORDERED that this docket shall remain open after issuance of the Consummating Order for our staff's verification that the revised tariff sheets and customer notices have been filed by the Utility and approved by our staff, that the Utility has sent the notices to its customers, our staff has received proof that the customers have received notice within 10 days after the date of



the notice, that the interim refund has been completed and verified by our staff, and that the Utility has provided our staff with proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. It is further

ORDERED that once our staff has verified all of the above actions are complete, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 22nd day of April, 2011.



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ANN COLE  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

( S E A L )

RRJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

As identified in the body of this order, our action, except for reducing rates at the end of the four-year amortization period, and requiring books to be kept in accordance with the NARUC USOA which are final agency action, is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 13, 2011. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not

affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

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

Any party adversely affected by the Commission's final action concerning reduction of rates at the end of the four-year amortization period, and requiring books to be kept in accordance with the NARUC USOA in this matter may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Office of Commission Clerk and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

NI Florida, LLC Schedule of Water Rate Base Test Year Ended 12/31/09			Schedule No. 1-A Docket No. 100149-WU		
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Comm'n Adjust- ments	Comm'n Adjusted Test Year
1 Plant in Service	\$292,084	\$173,478	\$465,562	(\$9,433)	\$456,129
2 Land and Land Rights	0	0	0	0	0
3 Non-used and Useful Components	0	0	0	0	0
4 Accumulated Depreciation	(203,862)	0	(203,862)	4,096	(199,766)
5 CIAC	(110,779)	0	(110,779)	0	(110,779)
6 Amortization of CIAC	106,959	0	106,959	(1,293)	105,666
7 Net Debit Deferred Income Taxes	0	0	0	0	0
8 Acquisition Adjustment	713,630	(713,630)	0	0	0
9 Working Capital Allowance	<u>76,744</u>	<u>0</u>	<u>76,744</u>	<u>(50,397)</u>	<u>26,347</u>
<b>Rate Base</b>	<b><u>\$874,776</u></b>	<b><u>(\$540,152)</u></b>	<b><u>\$334,624</u></b>	<b><u>(\$57,027)</u></b>	<b><u>\$277,597</u></b>

NI Florida, LLC Adjustments to Rate Base Test Year Ended 12/31/09		Schedule No. 1-B Docket No. 100149-WU
Explanation		Water
<u>Plant In Service</u>		
1	Reflect Agreed-Upon Audit Adjustments.	(\$9,824)
2	Reflect Appropriate Pro Forma Plant.	391
	Total	<u>(\$9,433)</u>
<u>Accumulated Depreciation</u>		
1	Reflect Agreed-Upon Audit Adjustments.	\$3,808
2	Reflect Appropriate Pro Forma Accum. Depr.	288
	Total	<u>\$4,096</u>
<u>Accumulated Amortization of CIAC</u>		
	Reflect Agreed-Upon Audit Adjustments.	<u>(\$1,293)</u>
<u>Working Capital</u>		
	Reflect Appropriate Working Capital Allowance.	<u>(\$50,397)</u>

NI Florida, LLC Capital Structure-Simple Average Test Year Ended 12/31/09		Schedule No. 2 Docket No. 100149-WU							
Description	Total Capital	Specific Adjust-Ments	Subtotal Adjusted Capital	Prorata Adjust-ments	Capital Reconciled to Rate Base	Ratio	Cost Rate	Weighted Cost	
Per Utility									
1 Long-term Debt	\$0	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%	
2 Short-term Debt	0	0	0	0	0	0.00%	0.00%	0.00%	
3 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%	
4 Common Equity	713,563	(381,111)	332,452	0	332,452	99.35%	8.82%	8.77%	
5 Customer Deposits	4,660	(2,489)	2,171	0	2,171	0.65%	6.00%	0.04%	
6 Tax Credits-Zero Cost	0	0	0	0	0	0.00%	0.00%	0.00%	
7 Tax Credits-Weighted Costs	0	0	0	0	0	0.00%	0.00%	0.00%	
8 Deferred Income Taxes	0	0	0	0	0	0.00%	0.00%	0.00%	
9 Total Capital	<u>\$718,223</u>	<u>(\$383,600)</u>	<u>\$334,623</u>	<u>\$0</u>	<u>\$334,623</u>	<u>100.00%</u>		<u>8.81%</u>	
Per Commission									
10 Long-term Debt	\$0	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%	
11 Short-term Debt	0	0	0	0	0	0.00%	0.00%	0.00%	
12 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%	
13 Common Equity	713,563	0	713,563	(440,626)	272,937	98.32%	8.82%	8.67%	
14 Customer Deposits	4,660	0	4,660	0	4,660	1.68%	6.00%	0.10%	
15 Tax Credits-Zero Cost	0	0	0	0	0	0.00%	0.00%	0.00%	
16 Tax Credits-Weighted Costs	0	0	0	0	0	0.00%	0.00%	0.00%	
17 Deferred Income Taxes	0	0	0	0	0	0.00%	0.00%	0.00%	
18 Total Capital	<u>\$718,223</u>	<u>\$0</u>	<u>\$718,223</u>	<u>(\$440,626)</u>	<u>\$277,597</u>	<u>100.00%</u>		<u>8.77%</u>	
						<u>LOW</u>	<u>HIGH</u>		
RETURN ON EQUITY						<u>7.82%</u>	<u>9.82%</u>		
OVERALL RATE OF RETURN						<u>7.79%</u>	<u>9.75%</u>		

NI Florida, LLC Statement of Water Operations Test Year Ended 12/31/09						Schedule No. 3-A Docket No. 100149-WU	
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Comm'n Adjust- ments	Comm'n Adjusted Test Year	Revenue Increase	Revenue Requirement
1 Operating Revenues:	<u>\$220,146</u>	<u>\$191,525</u>	<u>\$411,671</u>	<u>(\$191,525)</u>	<u>\$220,146</u>	<u>\$42,905</u> 19.49%	<u>\$263,051</u>
Operating Expenses							
2 Operation & Maintenance	<u>\$314,908</u>	<u>\$36,696</u>	<u>\$351,604</u>	<u>(\$138,385)</u>	<u>\$213,219</u>	0	<u>\$213,219</u>
3 Depreciation	1,911	10,200	12,111	724	12,835	0	12,835
4 Amortization	0	0	0	861	861	0	861
5 Taxes Other Than Income	9,863	8,619	18,482	(8,619)	9,863	1,931	11,794
6 Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7 Total Operating Expense	<u>\$326,682</u>	<u>\$55,515</u>	<u>\$382,197</u>	<u>(\$145,418)</u>	<u>\$236,779</u>	<u>\$1,931</u>	<u>\$238,709</u>
8 Operating Income	<u>(\$106,536)</u>	<u>\$136,010</u>	<u>\$29,474</u>	<u>(\$46,107)</u>	<u>(\$16,633)</u>	<u>\$40,974</u>	<u>\$24,342</u>
9 Rate Base	<u>\$874,776</u>		<u>\$334,624</u>		<u>\$277,597</u>		<u>\$277,597</u>
10 Rate of Return	<u>(12.18%)</u>		<u>8.81%</u>		<u>(5.99%)</u>		<u>8.77%</u>

<b>NI Florida, LLC</b>		<b>Schedule No. 3-B</b>
<b>Adjustment to Operating Income</b>		<b>Docket No. 100149-WU</b>
<b>Test Year Ended 12/31/09</b>		
<b>Explanation</b>	<b>Water</b>	
<u>Operating Revenues</u>		
To remove Utility's requested final revenue increase.		<u>(\$191,525)</u>
<u>Operation and Maintenance Expense</u>		
1 Reflect Agreed-Upon Audit Adjustments.		(\$981)
2 Reflect the appropriate amount of rate case expense.		(2,447)
3 Reflect the appropriate amount of bad debt expense.		(2,896)
4 Reflect the appropriate amount of allocated overhead.		(132,060)
Total		<u>(\$132,060)</u>
<u>Depreciation Expense - Net</u>		
1 Reflect Agreed-Upon Audit Adjustments.		\$1,013
2 Reflect Appropriate Pro Forma Depreciation Expense.		(288)
Total		<u>\$724</u>
<u>Amortization – Other Expense</u>		
Reflect Agreed-Upon Audit Adjustments.		<u>\$861</u>
<u>Taxes Other Than Income</u>		
RAFs on revenue adjustments above.		<u>(\$8,619)</u>

NI Florida, LLC Water Monthly Service Rates Test Year Ended 12/31/09					Schedule No. 4 Docket No. 100149-WU
	Rates Prior to Filing	Commission Approved Interim	Utility Requested Final	Comm'n Approved Final	4-Year Rate Reduction
<b><u>Residential Service</u></b>					
All meter sizes	\$13.61	\$20.90	\$25.39	\$13.61	\$1.32
<b><u>Gallonage Charge, per 1,000 gallons</u></b>					
RS - Gallonage Charge, per 1,000 gallons	\$3.36	\$5.16	\$6.27	-	-
RS - Gallonage Charge, 0-3,000 gallons*	\$0.00	\$0.00	\$0.00	\$4.78*	\$0.46
RS - Gallonage Charge, 3,000-6,000 gallons*	\$0.00	\$0.00	\$0.00	\$5.23*	\$0.51
RS - Gallonage Charge, over 6,000 gallons*	\$0.00	\$0.00	\$0.00	\$7.84*	\$0.76
* per 1,000 gallons					
<b><u>General Service</u></b>					
Base Facility Charge by Meter Size:					
5/8" x 3/4"	\$11.13	\$17.09	\$20.76	\$13.61	\$1.32
1"	\$27.89	\$42.83	\$52.02	\$20.42	\$1.98
1-1/2"	\$55.76	\$85.62	\$104.01	\$34.03	\$3.30
2"	\$89.21	\$136.98	\$166.40	\$68.05	\$6.59
3"	\$195.18	\$299.71	\$364.07	\$108.88	\$10.55
4"	\$278.82	\$428.14	\$520.08	\$217.76	\$21.09
6"	\$0.00	\$0.00	\$0.00	\$340.25	\$32.96
8"	\$0.00	\$0.00	\$0.00	\$680.50	\$65.92
<b><u>Gallonage Charge, per 1,000 gallons</u></b>					
GS-Gallonage Charge, per 1,000 Gallons	\$3.36	\$5.16	-	\$5.01	\$0.49
<b><u>General Service</u></b>					
Base Facility Charge by Meter Size:					
3"	\$1,425.53	\$2,188.95	\$2,659.04	\$1,425.53	\$138.09
<b><u>Gallonage Charge, per 1,000 Gallons</u></b>					
GS-Gallonage Charge	\$3.54	\$5.44	\$6.60	\$5.01	\$0.49
<b><u>Typical Residential Bills 5/8" x 3/4" Meter</u></b>					
3,000 Gallons	\$23.69	\$36.38	\$44.20	\$27.95	
5,000 Gallons	\$30.41	\$46.70	\$56.74	\$38.41	
10,000 Gallons	\$47.21	\$72.49	\$88.09	\$75.00	