

State of Florida



Public Service Commission

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

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

DATE: August 6, 2009

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Deason, Bruce, Bulecza-Banks, Fletcher, Rieger)
Office of the General Counsel (Jaeger)

RE: Docket No. 080715-WU – Application for staff-assisted rate case in Lake County by CWS Communities LP.

AGENDA: 08/18/09 – Regular Agenda – Proposed Agency Action except for Issues 12, 13 and 14 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Argenziano

CRITICAL DATES: 3/24/10 (15-Month Effective Date (SARC))

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\080715.RCM.DOC

Case Background

CWS Communities LP (CWS or Utility) is a Class C water utility located in Lake County serving approximately 290 water customers in Haselton Village Mobile Home Park. CWS is located in the St. Johns River Water Management District (SJRWMD or District). The Utility's 2008 annual report reflects operating revenues of \$23,691 and an operating loss of \$9,316.

CWS has been under Commission jurisdiction since June 6, 1989. The Utility began operations in 1973. On July 11, 1988, CWS applied for original certificates to operate a water and wastewater utility in Lake County. Certificates No 518-W and 451-S were granted to CWS

in 1989.¹ Prior to that time, the Utility provided water and wastewater service solely to the rental community tenants as a part of the rent, and was therefore exempt from Commission regulation pursuant to Section 367.022(5), Florida Statutes (F.S.). After the wastewater system was interconnected with the city of Eustis, the Utility was found to be an exempt wastewater reseller, and Certificate No. 451-S was cancelled in 1996.² On December 19, 2008, CWS applied for a staff-assisted rate case (SARC). The Utility has not previously filed a request for a rate case.

Staff has audited the Utility's records for compliance with Commission rules and orders, and examined all components necessary for rate setting. A staff engineer has also conducted a field investigation, which included a visual inspection of the water facilities along with the service area. The Utility's operating expenses, maps, files, and rate application were also reviewed to determine reasonableness of maintenance expenses, regulatory compliance, plant in service, and quality of service. Staff has selected a historical test year ended December 31, 2008.

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

¹ Certificate No. 518-W was granted by Order No. 21342, issued June 6, 1989, in Docket No. 880936-WS, In Re: Application of Century Realty Funds, Inc. and Haselton Associates, Ltd. d/b/a Route 19A North Joint Venture for water and sewer certificates in Lake County, Florida.

² Certificate cancelled pursuant to Order No. PSC-1470-FOF-SU, issued December 3, 1996, in Docket No. 961146-SU, In Re: Request for change in regulatory status and cancellation of Certificate No. 451-S in Lake County by Route 19A North Joint Venture (Century Realty Funds/Haselton Associates).

Discussion of Issues

Issue 1: Is the quality of service provided by CWS Communities LP satisfactory?

Recommendation: The overall quality of service provided by CWS Communities LP is satisfactory. (Rieger)

Staff Analysis: Pursuant to Rule 25-30.433(1), Florida Administrative Code (F.A.C.), the Commission determines the overall quality of service provided by a utility by evaluating three separate components of water operations, including the quality of the utility's product, the operating condition of the utility's plants and facilities, and the utility's attempt to address customer satisfaction. Comments or complaints received by the Commission from customers are reviewed. The utility's current compliance with the Department of Environmental Protection (DEP) rules, regulations, and orders is also considered.

In Lake County, the water programs are regulated by the DEP Central District Office. CWS is current in all of the required chemical analyses, and the Utility has met all required standards. The quality of drinking water delivered to the customers is considered to be satisfactory by the DEP.

A field investigation of CWS was conducted on February 17, 2009. Staff found no apparent problems with the operations of the water treatment facility. The condition of this facility is currently in compliance with DEP rules and regulations. Based on review of the maintenance records and a physical inspection, the general condition of the facilities appeared to be adequate. Therefore, staff believes that the operating condition of the Utility's water plant is satisfactory.

A customer meeting was held on June 17, 2009, inside CWS's service territory at the Haselton Village Club House in Eustis, Florida. Approximately thirty-five customers attended the meeting, and seven customers spoke. Citing affordability concerns, the attendees were generally against the proposed rate increase. The customers were dissatisfied with the timing of the customer meeting. It was noted that the majority of the customers are away from the service area during the summer months, and were unable to attend the customer meeting to voice their opinions in person. Of the quality of service comments brought up at the customer meeting, there were several who expressed their unhappiness with the water odor, inadequate chlorination, and sediment. There was also one customer who took issue with the Utility's inability to control wasteful yard irrigation by some customers.

The Utility believes that the odor concern brought up at the customer meeting is caused by hydrogen sulfide which occurs naturally in the water pumped. To help ease this situation, the Utility flushes its mains regularly. Even though some levels of hydrogen sulfide are noticed by customers, the Utility believes that for the most part the problem is controlled through line flushing. However, given the sporadic water usage patterns of some seasonal customers, it is expected that various levels of hydrogen sulfide could still be experienced within the home. In reference to comments made about inadequate chlorination, sediment, and wasteful irrigation, the Utility maintains that it delivers good water quality to its customers and that these problems occur infrequently.

Docket No. 080715-WU

Date: August 6, 2009

Staff believes that the concerns brought out at the customer meeting are being adequately addressed by the Utility. In addition to the above, staff found no existing or prior complaints on the Commission's Complaint Tracking System. It appears that CWS's quality of product, operating condition of its water treatment plant and facilities, and its attempt to address customer satisfaction are satisfactory. Therefore, staff recommends that the overall quality of service provided by CWS, be found to be satisfactory.

Issue 2: What are the used and useful percentages of the Utility's water system?

Recommendation: The treatment plant and distribution system should be considered 100 percent used and useful. (Rieger)

Staff Analysis: The Utility serves 290 customers. The water treatment system has two wells rated at 500 gallons per minute (gpm) and 280 gpm. Raw water is treated with liquid chlorine for disinfection purposes. This facility has no storage capacity. There are ten fire hydrants located throughout the service area. There has been no prior rate case for this utility; therefore, used and useful has been not been previously established by the Commission. Information on the volume of water sold to customers is unavailable because there are no customer meters within the service area. Pursuant to Rule 25-30.4325, F.A.C., with only two lots remaining and no apparent potential for expansion, staff believes that the service territory the treatment plant and distribution system is designed to serve is built out. Therefore, it is recommended that the treatment plant and distribution system be considered 100 percent used and useful.

Issue 3: Should the 2009 pro forma adjustment for meter installations be included?

Recommendation: Yes, the 2009 pro forma adjustment of \$900 for meter installations should be included in the Utility's rate base. (Bruce, Deason, Reiger)

Staff Analysis: On July 23, 2007, the SJRWMD issued a five-year consumptive use permit (CUP) which required CWS to submeter only the clubhouse, office, pool, and the laundry facilities within two years of the permit issuance to allow the SJRWMD staff to conduct a water audit of the system. To date, the Utility has not installed the meters as required by its CUP. Staff has contacted the Utility regarding the meter installations. So far, CWS has obtained bids to install the meters, but the installations of the meters have yet to be completed. The Utility has assured staff that the meter installations will be completed as required by its CUP. Based on the bids supplied by the Utility, staff recommends a pro forma adjustment of \$900 (\$225 x 4 meters).

Issue 4: What is the appropriate average test year rate base for the Utility?

Recommendation: The appropriate average test year water rate base for the Utility is \$33,004. (Deason)

Staff Analysis: Staff selected a test year ended December 31, 2008, for this rate case. Rate base components have been updated through December 31, 2008, using information obtained from staff's audit and engineering reports. A summary of each component and the adjustments follows.

Utility Plant in Service (UPIS): The Utility recorded \$256,066 for UPIS for the test year ended December 31, 2008. CWS was able to provide an original cost study to substantiate its 2008 plant balances. As stated in the case background, the Utility has never had a rate case or had rate base established by this Commission since becoming jurisdictional. The staff engineer has verified that the original cost study is accurate and reflects the appropriate amount of plant in service for the test year ended December 31, 2008.

As discussed in Issue 3, CWS currently does not have meters at each customer's residence and, therefore, has a flat rate structure. The Utility, as required by its SJRWMD permit, intends to install meters for each of its general service customers. Staff has determined that the cost will be \$900. Staff has increased UPIS account Nos. 334 by \$900 to reflect the addition of pro forma meter installations. Therefore, the appropriate amount of test year plant in service is \$256,966.

Land & Land Rights: The Utility's records reflect a balance of \$2,500 in Acct No. 303 – Land and Land Rights, as of December 31, 2008. The National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA), Balance Sheet Acct. Nos. 303 – Land and Land Rights, states that the cost of land should be recorded at its original cost when it was first dedicated to utility service. Staff has verified the cost of the land has been recorded at its original cost; therefore, an adjustment is unnecessary for Acct No. 303 – Land and Land Rights.

Non-used and Useful Plant: As discussed in Issue 2 of this recommendation, the Utility's water treatment plant should be considered 100 percent used and useful. Therefore, a used and useful adjustment is unnecessary.

Contributions in Aid of Construction (CIAC): The Utility recorded CIAC of \$0 for the test year ended December 31, 2008. As discussed previously, CWS has never been subject to a rate case and, therefore, rate base has never been established. Pursuant to Audit Finding No. 2, the Commission audit relating to the Utility's transfer of majority organizational control in Docket No. 030998-WS, dated April 5, 2004, the staff auditor recommended CIAC of \$93,925. A review of the CWS' records indicated that no new customers have been added since that time. Therefore, CIAC should be increased by \$93,925.

Accumulated Depreciation: The Utility recorded a balance for accumulated depreciation of \$178,300 for the test year ended December 31, 2008. Staff has calculated accumulated depreciation using the prescribed rates set forth in Rule 25-30.140, F.A.C. As a result, staff has increased this account by \$502 to reflect depreciation calculated pursuant to the rule. Staff has

also decreased accumulated depreciation by \$3,487, to reflect an averaging adjustment. Additionally, as discussed in Issue 3, staff increased accumulated depreciation by \$45 to reflect the accumulated depreciation for the pro forma meter installations. These adjustment results in average accumulated depreciation of \$175,359.

Accumulated Amortization of CIAC: CWS recorded accumulated amortization of CIAC of \$0 for the test year ending December 31, 2008. Staff calculated amortization of CIAC using the composite rates prescribed in Rule 25-30.140, F.A.C. for the CIAC. Based on this calculation, staff increased accumulated amortization of CIAC by \$39,397. Staff has also decreased accumulated amortization of CIAC by \$640 to reflect an averaging adjustment. These adjustments result in total accumulated amortization of CIAC of \$38,757.

Working Capital Allowance: Working capital is defined as the investor-supplied funds necessary to meet operating expenses or going-concern requirements of the utility. Consistent with Rule 25-30.433(2), F.A.C., staff used the one-eighth of the Operation & Maintenance (O&M) expense formula approach for calculating working capital allowance. Applying this formula, staff recommends a working capital allowance of \$4,065 based on O&M of \$32,522. Working capital has been increased by \$4,065 to reflect one-eighth of staff's recommended O&M expenses.

Rate Base Summary: Based on the forgoing, staff recommends that the appropriate test year average water rate base is \$33,004. Rate base is shown on Schedule No. 1-A, and staff's adjustments are shown on Schedule No. 1-B.

Issue 5: What is the appropriate rate of return on equity and overall rate of return for this Utility?

Recommendation: The appropriate return on equity is 11.14 percent with a range of 10.14-12.14 percent. The appropriate overall rate of return is 7.90 percent. (Deason)

Staff Analysis: According to staff's audit, CWS recorded the following items in its capital structure: common equity of \$1,292,779,443; negative retained earnings of \$0; and paid-in-capital of \$0. The Utility's capital structure consists of long-term debt in the amount of \$1,753,785,919. All investor sources of capital are from the Utility's parent company, Hometown America. Using the most recent Commission-approved leverage formula³ and applying an equity ratio of 42.43 percent, the appropriate return on equity (ROE) is 11.14 percent. CWS' capital structure has been reconciled with staff's recommended rate base. Staff recommends an ROE of 11.14 percent with a range of 10.14-12.14 percent, and an overall rate of return of 7.90 percent. The ROE and overall rate of return are shown on Schedule No. 2.

³ See Order No. PSC-09-0430-PAA-WS, issued June 19, 2009, in Docket No. 090006-WS, In Re: Water and Wastewater Industry Annual Reestablishment of Authorized Range of Return on Common Equity for Water and Wastewater Utilities Pursuant to Section 367.081(4)(f), Florida Statutes.

Issue 6: What is the appropriate amount of test year revenues in this case?

Recommendation: The appropriate amount of test year revenues in this case is \$26,413.
(Deason)

Staff Analysis: CWS reported test year revenues of \$18,814. However, staff determined that the Utility did not bill approximately 21 customers with lifetime leases, thereby understating revenues. The customers who have a lifetime lease are not required to pay utility bills per their lease agreement with Hasleton Village Mobile Home Park. Based on detailed billing information obtained from CWS, staff recalculated test year revenues. Staff recommends revenue imputations of \$7,599. Based on the foregoing, staff recommends that the appropriate amount of test year revenues in this case are \$26,413.

Issue 7: What are the appropriate operating expenses?

Recommendation: The appropriate amount of operating expense for the Utility is \$38,543. (Deason)

Staff Analysis: The Utility recorded operating expenses of \$27,636 during the test year ended December 31, 2008. The test year O&M expenses have been reviewed, and invoices, canceled checks, and other supporting documentation have been examined. Staff made several adjustments to the Utility's operating expenses, as summarized below:

Salaries and Wages – Employees – (601) – CWS recorded a balance of \$11,504 in Account No. 601 for the test year. The Utility manager's monthly salary of \$1,141 is recorded each month in the general ledger. For the months of January and February 2008, no amount was recorded. To properly recognize 12 months of salary, an additional amount of \$2,282 ($\$1,142 \times 2$) should be recorded. No corresponding adjustment to payroll taxes is required because CWS included payroll taxes for the twelve months in the general ledger.

During the customer meeting held on June 17, 2009, the customers expressed concern over the manager's salary. The customers noted that the manager spent a considerable amount of time on duties and responsibilities in the community that do not relate to the water Utility. Staff sent a data request to the Utility in order to determine the extent of the manager's duties and responsibilities in relation to the water utility. CWS responded with the following breakdown of the manager's duties and responsibilities and the estimated amount of time spent on each task every month:

- Respond to customer complaints (2 hours per month)
- Respond to water plant issues when problems arise (6 hours per month)
- Respond to water distribution system problems and issues including line flushing, leak detection and exercising isolation valves (6 hours per month)
- Prepare billing adjustments for unoccupied sites (6 hours per month)
- Coordinate contractors/communication (10 hours per month)
- Prepare Utility capital/operating budgets (5 hours per month)
- Process Utility payments (3 hours per month)
- Responding to Regulatory Agencies (2 to 4 hours per month)
- Responding to Requests for Information (RFI) from Engineers (15 hours per month)
- Responding to RFI preparing Annual Report (8 hours per month)
- Filing correspondence/reports/records (5 hours per month)
- Processing contractor/vendor invoices for payment/coding (3 hours per month)
- Repairing broken water lines (2 to 8 hours per month)
- Replacing bad shut off valves (2 to 8 hours per month)
- Boil water notices when needed (1 hour per month, when needed)
- Running emergency generator at water plant (4 hours per month)

Based on the Utility's response, the manager spends approximately 80 to 96 hours a month on just the water utility. Staff compared the utility manager's salary with those found in the 2008 Water Utility Compensation Survey published by the American Water Works

Association. Staff determined the manager's hourly wage of \$14.26 (\$1,141/80 hours) is comparable to the industry average of \$17.43. Therefore, staff believes the manager is not being overcompensated for his time spent working on the water system. Staff recommends salaries and wages expense for the test year of \$13,786 (\$11,504 + \$2,282) for Acct. No. 601.

Purchased Power – (615) – The Utility recorded a balance of \$0 in Account No. 615 for the test year. The water plant has its own separate electric power meter, but no amount was recorded in the general ledger for purchased power. The audit staff reviewed the purchased power invoices for 2008 and determined the amount to be \$2,715. Staff recommends purchased power expense for the test year of \$2,715 for Acct. No. 615.

Fuel for Power Production – (616) – CWS recorded a balance of \$0 in Account No. 616 for the test year. An emergency generator is located at the water plant. In 2008, no fuel amount for the generator was included in the general ledger. The audit staff reviewed the fuel invoices for the generator and determined the amount to be \$980 for 2008. Staff recommends fuel for power production expense for the test year of \$980 for Acct. No. 616.

Chemicals – (618) – The Utility recorded a balance of \$2,821 in Account No. 618 for the test year. An amount of \$585 was a duplication recorded in Account No. 618 – Chemicals, and Account No. 636 – Contractual Services – Other. Per the invoice, the \$585 was for the monthly maintenance of the water plant. The amount should be recorded to Account No. 636 – Contractual Services – Other, and removed from Account No. 618 – Chemicals. Additionally, Customer Controls and Pumps, Inc. provides chemicals to CWS for its water plant treatment. Per a review of the invoices, the Utility did not record \$393 in purchased chemical for the water plant. Therefore, Account No. 618 – Chemicals, should be decreased by \$192 (\$393 - \$585). Staff recommends chemicals expense for the test year of \$2,629 (\$2,821 - \$192).

Contractual Services - Other – (636) – The Utility recorded \$10,785 in Account No. 636 for the test year. Pursuant to Audit Finding No. 3, staff has made several adjustments to Account No. 636. These adjustments include:

- Custom Controls and Pumps, Inc. provided a repair to the water plant that was invoiced at \$38 and was not recorded in the general ledger.
- CDR Excavating Corp. provided a repair to a water line at the Utility that was invoiced at \$1,200 and was not recorded in the general ledger.
- Florida Utility Group, LLC provided bacteriological water testing for the Utility but the amount of \$241 was not recorded in the general ledger.
- The Utility recorded \$1,075 in the general ledger in 2008 for annual rent increase computations for the residents of Haselton Village Mobile Home Park. This amount is non-utility related and should be removed.
- Manage America, LLC incorrectly charged CWS for meter reading and billing. Because CWS' customers have no water meters and are charged a flat rate, the \$210 should be

removed from expenses. The \$210 reflects one month of expense that was included in the general ledger for 2008.

- State and local authorities require several analyses be submitted in accordance with Chapter 62-550, F.A.C. Testing costs incurred during the test year did not include non-annual testing costs. For additional testing costs not incurred during the test year, staff recommends that an additional annualized expense of \$888 be included in Acct. 636. These tests are required by DEP every three or more years. Projected estimated costs include:

Primary Inorganics	\$229		
Volatile Organics	\$125		
Synthetic Organic Contaminants	\$1,000		
Secondaries	\$200		
Radiologicals	<u>\$561</u>		
Total 3 yr cost	= \$2,115	3 yr Annualized cost	= \$788
Disinfection Byproducts		Annualized cost	= <u>\$100</u>
		Total Annualized costs	= \$888

Based on the above adjustments, Contractual Services – Other should be increased by \$1,082 (\$38 + \$1,200 + \$241 - \$1,075 - \$210 + \$888) for the test year. Therefore, staff recommends Contractual Services – Other of \$11,867 (\$10,785 + \$1,082).

Regulatory Commission Expense – (665) – CWS recorded \$0 in Account No. 665 for the test year. Staff has made adjustments to include the costs associated with this rate case in Account No. 665. Staff has included the filing fee of \$200 which results in an increase of \$50 (\$200/4 years). Additionally, staff has included the costs associated with the notices for this rate case which result in an increase of \$119 (\$476/4) to Account No. 665. These adjustments result in a total increase of \$169 (\$50 + \$119) to Acct. No. 665.

Operation and Maintenance Expense (O&M Summary) – Based on the above adjustments, O&M should be increased by \$7,036 as shown on Schedule No. 3-B. Staff’s recommended O&M expenses of \$32,522 are shown on Schedule No. 3-C.

Depreciation Expense (Net of Amortization of CIAC) – The Utility recorded \$0 for depreciation expense. Staff calculated test year depreciation expense using the rates prescribed in Rule 25-30.140, F.A.C. Staff’s calculated test year net depreciation expense is \$3,692. Also, as discussed in Issue 3, staff has included pro forma depreciation expense of \$45. Therefore, staff recommends net depreciation expense of \$3,737 (\$3,692 + \$45).

Taxes Other Than Income (TOTI) - (408) – CWS’ records reflect a balance of \$2,150 for Acct. No. 408 – TOTI. The Utility recorded \$974 for Regulatory Assessment Fees (RAFs) for 2008. Pursuant to Audit Finding No. 5, staff recalculated the CWS’ RAFs to be \$1,066. Thus, the Utility’s RAF’s should be increased by \$92 (\$1,066 - \$974). Also, staff recalculated CWS’ property tax allocations based on the property tax invoices for Haselton Village Mobile Home Park. Total real estate property taxes for the Haselton Village Mobile Home Park for 2008 were \$58,886. Assessed values of individual structures were not available, so the total acreage of 36.18 was used to allocate the property taxes to CWS’ utility facility. Per the Utility, the estimated acreage for the water treatment plant is 0.026 acres. As such, the amount that should be allocated to CWS is \$42 $((0.026/36.18) \times \$58,886)$. Based on these adjustments, TOTI should be increased \$134 (\$92 + \$42). Therefore, staff recommends TOTI of \$2,284 (\$2,150 + \$134).

Income Tax – The Utility recorded income tax of \$0 for water. CWS is a limited partnership. The tax liability is passed on to the owner’s personal tax returns. Therefore, staff did not make an adjustment to this account.

Operating Expenses Summary – The application of staff’s recommended adjustments to the audited test year operating expenses results in staff’s calculated operating expenses of \$38,543. Operating expenses are shown on Schedule No. 3-A. The related adjustments are shown on Schedule No. 3-B.

Issue 8: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement is \$41,845 for water. (Deason)

Staff Analysis: The Utility should be allowed an annual increase of \$15,432 (58.42 percent) for water. This will allow CWS the opportunity to recover its expenses and earn a 7.90 percent return on its investment. The calculation is as follows:

	<u>Water</u>
Adjusted Rate Base	\$33,004
Rate of Return	x .0790
Return on Rate Base	<u>\$2,607</u>
Adjusted O & M expense	32,522
Depreciation expense (Net)	3,737
Amortization	0
Taxes Other Than Income	2,978
Income Taxes	<u>0</u>
Revenue Requirement	\$41,845
Less Test Year Revenues	<u>26,413</u>
Annual Increase	<u>\$15,432</u>
Percent Increase/(Decrease)	<u><u>58.42%</u></u>

Issue 9: Should the Utility's current rate structure be changed, and if so, what is the appropriate rate structure for the Utility's water system?

Recommendation: No. The Utility's current dual flat rate structure which includes rates for occupied and unoccupied residence should be continued for the water system's residential and non-residential class. (Bruce)

Staff Analysis: CWS provides residential water service to 290 unmetered customers which includes general service customers in Haselton Village Mobile Home Park (MHP). The wastewater system is interconnected with the City of Eustis. This community is age qualified for residents 55 years and over. The MHP features a clubhouse which includes an office, a pool, and a laundry facility.

As indicated in the Utility's current tariff, the rate structure consists of a dual flat rate charge. The flat rate is \$7.59 for the occupied residences and \$3.25 if a residence is unoccupied for at least 60 consecutive days. This current rate structure became effective in Order No. 21342, issued on June 6, 1989 when the utility was granted water and wastewater certificates. In Docket No. 020102-WU the Commission approved a continuation of the flat rates and charges until authorized to change by the Commission in a subsequent rate proceeding.

The MHP is located in Lake County in the SJRWMD. This entire area has been designated as a water use caution area (WUCA). However, on July 23, 2007, the District issued a five-year consumptive use permit (CUP) which required the Utility to submeter only the clubhouse, office, pool, and the laundry facility within two years of the permit issuance to allow District staff to conduct a water audit of the system.

Rule 25-30.255(1), F.A.C., requires that each utility measure water sold on the basis of metered volume sales unless the Commission approves a flat rate service arrangement. Staff sought to convert the Utility's flat rate structure to a conservation oriented rate structure. However, there is a lack of metered data and the District is requiring the Utility to meter only the general service connections. This is an indication that a flat rate structure may be appropriate for this case. Although staff is lacking consumption data, staff calculated the customer's average consumption of 3.5 kgals per month based on total number of gallons taken from the 2008 Monthly Operating Reports less 10 percent unaccounted-for-water, divided by the total number of bills. This number is relatively low for an unmetered customer base which indicates that there is virtually no discretionary usage. For this reason, District staff has indicated to staff there was no reason to require the Utility to individually meter the residential customers when they are already conserving. Therefore, staff recommends that the flat rate structure be continued. In the past, the Commission has implemented a flat rate structure when it is not possible to obtain accurate consumption data.⁴

⁴ See Order No. PSC-03-0740-PAA-WS, issued June 23, 2003, in Docket No. 021067-WS, In re: Application for staff-assisted rate case in Polk County by River Ranch Water Management, LLC.

Furthermore, as mentioned earlier, the Utility's current rate structure consists of a dual flat rate structure wherein a flat rate has been incorporated for residences that are unoccupied for at least 60 consecutive days. This rate is approximately one-half of the rate for the residence that are occupied year round. A customer meeting was held on June 17, 2009, and a few of the customers indicated that they were not pleased about staff's preliminary recommendation to eliminate the unoccupied rate. However, after careful consideration, staff re-evaluated the data and believes that a rate for the unoccupied residence is appropriate. This will allow the unoccupied residence to pay only for the fixed costs that are associated with the Utility, rather than pay a flat rate that includes variable costs.

The Utility has taken bids to install meters for the general service customers. Therefore, when the meters have been placed and there is at least 12 months of consumption data, staff will be able to implement BFC/gallage charge rate structure in a subsequent rate proceeding for the general service customers. This will be consistent with Commission policy and with the overall statewide goal of eliminating conservation-discouraging water rate structures.

Based on the foregoing, staff recommends that a dual flat rate structure which includes rates for the occupied and unoccupied residence is appropriate for the water system's residential and non-residential class.

Docket No. 080715-WU

Date: August 6, 2009

Issue 10: Is an adjustment to reflect repression of consumption appropriate at this time?

Recommendation: No, a repression adjustment is not appropriate at this time. (Bruce)

Staff Analysis: As discussed in Issue 9, staff is recommending that a flat rate structure be continued by the Utility at this time. Due to the fact that a flat rate structure does not allow customers to reduce their bills by reducing consumption, staff does not believe that a reduction in consumption will occur. Therefore, a repression adjustment is not appropriate at this time.

Issue 11: What are the appropriate rates for each system?

Recommendation: The appropriate monthly water rates are shown on Schedule No. 4-A. The recommended rates should be designed to produce revenues of \$41,845, excluding miscellaneous service charges. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice. (Bruce, Deason)

Staff Analysis: The appropriate revenue requirement is \$41,845 for the water system. Since the District is requiring the Utility to submeter the clubhouse, office, pool, and the laundry facility followed by the lack of metered data coupled with the customer's low average consumption, staff recommended a continuation of the Utility's current rate structure. This rate structure includes rates for the occupied and unoccupied residence for the water system's residential and non-residential class. However, the Utility has taken bids to install meters. Therefore, when the meters have been placed and there is 12 months of consumption data, staff will be able to implement BFC/gallonage charge rate structure in a subsequent rate proceeding.

Staff has calculated the occupied flat rate by dividing the water revenue requirement of \$41,845 by 3,480 factored ERCs. The unoccupied rate was derived based on staff's initial fixed cost percentage of 54.80 percent. This percentage was applied to the flat rate calculated for the occupied residence.

The Utility's current rates, rate structure, and staff's recommended rates and rate structures is provided on Schedule No. 4.

Issue 12: 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, Florida Statutes?

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

Staff Analysis: Section 367.0816, F.S., requires that rates be reduced immediately following the expiration of the four-year period by the amount of the rate case expense previously included in the rates. The reduction will reflect the removal of revenues associated with the amortization of rate case expense, the associated return included in working capital, and the gross-up for RAFs which is \$179 annually. Using the Utility's current revenues, expenses, capital structure and customer base the reduction in revenues will result in the rate decreases as shown on Schedule No. 4.

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

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

Issue 13: Should the recommended rates be approved for the Utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the Utility?

Recommendation: Yes. Pursuant to Section 367.0814(7), F.S., the recommended rates should be approved for the Utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the Utility. Prior to implementation of any temporary rates, the Utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the Utility should be subject to the refund provisions discussed below in the staff analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund. (Deason)

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

The Utility should be authorized to collect the temporary rates upon staff's approval of appropriate security for the potential refund and the proposed customer notice. Security should be in the form of a bond or letter of credit in the amount of \$10,435. Alternatively, the Utility could establish an escrow agreement with an independent financial institution.

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

- 1) The Commission approves the rate increase; or
- 2) If the Commission denies the increase, the Utility shall refund the amount collected that is attributable to the increase.

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

- 1) The letter of credit is irrevocable for the period it is in effect, and.
- 2) The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

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

- 1) No refunds in the escrow account may be withdrawn by the Utility without the express approval of the Commission;
- 2) The escrow account shall be an interest bearing account;
- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers;
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the Utility;
- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times;
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt;
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments; and
- 8) The Commission Clerk must be a signatory to the escrow agreement.
- 9) The account must specify by whom and on whose behalf such monies were paid.

In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the Utility. Irrespective of the form of security chosen by the Utility, an account of all monies received as a result of the rate increase should be maintained by the Utility. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

The Utility should maintain a record of the amount of the bond, and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

Issue 14: Should the Utility be required to provide proof, within 90 days of a final order finalizing this docket, that it has adjusted its books for all the applicable NARUC USOA primary accounts associated with the Commission approved adjustments?

Recommendation: Yes. To ensure that the Utility adjusts its books in accordance with the Commission's decision, CWS should 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. (Deason)

Staff Analysis: To ensure that the Utility adjusts its books in accordance with the Commission's decision, staff recommends that CWS 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.

Issue 15: Should this docket be closed?

Recommendation: No. The docket should remain open until a final order has been issued, staff has approved the revised tariffs sheets and customer notices, the Utility has sent the notices to its customers, staff has received proof that the customers have received notice within 10 days after the date of the notice, and the Utility has provided staff with proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. Once staff has verified all of the above actions are complete, this docket should be closed administratively. (Jaeger, Deason)

Staff Analysis: The docket should remain open until a final order has been issued, staff has approved the revised tariffs sheets and customer notices, the Utility has sent the notices to its customers, staff has received proof that the customers have received notice within 10 days after the date of the notice, and the Utility has provided staff with proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. Once staff has verified all of the above actions are complete, this docket should be closed administratively.

CWS COMMUNITIES LP		SCHEDULE NO. 1-A		
TEST YEAR ENDING 12/31/2008		DOCKET NO. 080715-WU		
SCHEDULE OF WATER RATE BASE				
DESCRIPTION	BALANCE PER UTILITY	STAFF ADJUST. TO UTIL. BAL.	BALANCE PER STAFF	
1. UTILITY PLANT IN SERVICE	\$256,066	\$900	\$256,966	
2. LAND & LAND RIGHTS	2,500	0	2,500	
3. NON-USED AND USEFUL COMPONENTS	0	0	0	
4. CIAC	0	(93,925)	(93,925)	
5. ACCUMULATED DEPRECIATION	(178,300)	2,941	(\$175,359)	
6. AMORTIZATION OF CIAC	0	38,757	38,757	
7. WORKING CAPITAL ALLOWANCE	<u>0</u>	<u>4,065</u>	<u>4,065</u>	
8. WATER RATE BASE	<u>\$80,266</u>	<u>\$47,262</u>	<u>\$33,004</u>	

CWS COMMUNITIES LP TEST YEAR ENDING 12/31/2008 ADJUSTMENTS TO RATE BASE	SCHEDULE NO. 1-B DOCKET NO. 080715-WU
	<u>WATER</u>
<u>UTILITY PLANT IN SERVICE</u>	<u>\$900</u>
To reflect pro forma meter installations	
<u>CIAC</u>	
To reflect appropriate CIAC	<u>(\$93,925)</u>
<u>ACCUMULATED DEPRECIATION</u>	
1. To reflect accumulated depreciation per rule	(\$502)
2. To reflect averaging adjustment	3,487
3. To reflect pro forma accumulated depreciation for meter installations	<u>(45)</u>
Total	<u>\$2,941</u>
<u>AMORTIZATION OF CIAC</u>	
1. To reflect appropriate accumulated amortization of CIAC	\$39,397
2. To reflect an averaging adjustment	<u>(640)</u>
Total	<u>\$38,757</u>
<u>WORKING CAPITAL ALLOWANCE</u>	
To reflect 1/8 of test year O & M expenses.	<u>\$4,065</u>

CWS COMMUNITIES LP							SCHEDULE NO. 2		
TEST YEAR ENDING 12/31/2008							DOCKET NO. 080715-WU		
SCHEDULE OF CAPITAL STRUCTURE									
CAPITAL COMPONENT	PER UTILITY	SPECIFIC ADJUSTMENTS	BALANCE BEFORE PRO RATA ADJUSTMENTS	PRO RATA ADJUSTMENTS	BALANCE PER STAFF	PERCENT OF TOTAL	COST	WEIGHTED COST	
1. COMMON EQUITY	\$0	\$0	\$0						
2. RETAINED EARNINGS	0	0	0						
3. PAID IN CAPITAL	0	0	0						
4. COMMON EQUITY	<u>1,292,779,443</u>	<u>0</u>	<u>1,292,779,443</u>						
5. TOTAL COMMON EQUITY	\$1,292,779,443	\$0	\$1,292,779,443	(\$1,292,744,438)	\$14,005	42.43%	11.14%	4.73%	
6. LONG TERM DEBT-Note	\$1,753,785,919	\$0	\$1,753,785,919	(\$1,753,739,920)	\$18,999	57.57%	5.51%	3.17%	
TOTAL LONG TERM DEBT	\$1,753,785,919	\$0	\$1,753,785,919	(\$1,753,739,920)	\$18,999	57.57%	5.51%	3.17%	
8. CUSTOMER DEPOSITS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>0.00%</u>	0.00%	<u>0.00%</u>	
9. TOTAL	<u>\$3,046,565,362</u>	<u>\$0</u>	<u>\$3,046,565,362</u>	<u>(\$3,046,532,358)</u>	<u>\$33,004</u>	<u>100.00%</u>		<u>7.90%</u>	
RANGE OF REASONABLENESS						<u>LOW</u>	<u>HIGH</u>		
RETURN ON EQUITY						<u>10.14%</u>	<u>12.14%</u>		
OVERALL RATE OF RETURN						<u>7.48%</u>	<u>8.32%</u>		

CWS COMMUNITIES LP TEST YEAR ENDING 12/31/2008 SCHEDULE OF WATER OPERATING INCOME				SCHEDULE NO. 3-A DOCKET NO. 080715-WU	
	TEST YEAR PER UTILITY	STAFF ADJ. PER UTILITY	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1. OPERATING REVENUES	<u>\$18,814</u>	<u>\$7,599</u>	<u>\$26,413</u>	<u>\$15,432</u> 58.42%	<u>\$41,845</u>
OPERATING EXPENSES:					
2. OPERATION & MAINTENANCE	25,486	7,036	32,522	0	32,522
3. DEPRECIATION (NET)	0	3,737	3,737	0	3,737
4. AMORTIZATION	0	0	0	0	0
5. TAXES OTHER THAN INCOME	2,150	134	2,284	694	2,978
6. INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7. TOTAL OPERATING EXPENSES	<u>\$27,636</u>	<u>\$10,907</u>	<u>\$38,543</u>	<u>\$694</u>	<u>\$39,238</u>
8. OPERATING INCOME/(LOSS)	<u>(\$8,822)</u>		<u>(\$12,130)</u>		<u>\$2,607</u>
9. WATER RATE BASE	<u>\$80,266</u>		<u>\$33,004</u>		<u>\$33,004</u>
10. RATE OF RETURN	<u>-10.99%</u>		<u>-36.75%</u>		<u>7.90%</u>

CWS COMMUNITIES LP	SCHEDULE NO. 3-B
TEST YEAR ENDING 12/31/2008	DOCKET NO. 080715-WU
ADJUSTMENTS TO OPERATING INCOME	
	<u>WATER</u>
OPERATING REVENUES	
To reflect the appropriate test year revenue	<u>\$7,599</u>
OPERATION AND MAINTENANCE EXPENSES	
1. Salaries and Wages - Employees (601)	
To reflect appropriate amount of salaries	<u>\$2,282</u>
2. Purchased Power Expense (615)	
To include Purchased Power	<u>\$2,715</u>
3. Fuel for Power Production (616)	
To include fuel for emergency generator	<u>\$980</u>
4. Chemicals (618)	
a. To remove duplicated chemical expense	(\$585)
b. To include purchased chemicals	<u>393</u>
Subtotal	<u>(\$192)</u>
5. Contractual Services - Other (636)	
a. To include repair to water plant	\$38
b. To include repair to water lines	1,200
c. To include water testing expense	241
d. To remove non-utility expense	(1,075)
e. To remove unnecessary customer meter reading expense	(210)
f. To include non-annual testing expense	<u>888</u>
Subtotal	<u>\$1,082</u>
6. Regulatory Commission Expense(665)	
To amortize rate case expense	<u>\$169</u>
TOTAL OPERATION & MAINTENANCE	<u>\$7,036</u>
ADJUSTMENTS	
DEPRECIATION EXPENSE	
1. To reflect net depreciation calculated per 25-30.140, FAC	\$3,692
2. To reflect pro form depreciation expense for meter installations	<u>\$45</u>
Total	<u>\$3,737</u>
TAXES OTHER THAN INCOME	
1. To increase RAFs per audit	\$92
2. To increase property taxes per audit	<u>42</u>
Total	<u>\$134</u>

CWS COMMUNITIES LP		SCHEDULE NO. 3-C	
TEST YEAR ENDING 12/31/2008		DOCKET NO. 080715-WU	
ANALYSIS OF WATER OPERATION AND MAINTENANCE EXPENSE			
	TOTAL PER UTILITY	STAFF PER ADJUST.	TOTAL PER STAFF
(601) SALARIES AND WAGES - EMPLOYEES	\$11,504	\$2,282	\$13,786
(603) SALARIES AND WAGES - OFFICERS	0	0	0
(604) EMPLOYEE PENSION & BENEFITS	91	0	91
(610) PURCHASED WATER	0	0	0
(615) PURCHASED POWER	0	2,715	2,715
(616) FUEL FOR POWER PRODUCTION	0	980	980
(618) CHEMICALS	2,821	(192)	2,629
(620) MATERIALS AND SUPPLIES	0	0	0
(630) CONTRACTUAL SERVICES - BILLING	0	0	0
(631) CONTRACTUAL SERVICES - PROFESSIONAL	284	0	284
(635) CONTRACTUAL SERVICES - TESTING	0	0	0
(636) CONTRACTUAL SERVICES - OTHER	10,785	1,082	11,867
(640) RENTS	0	0	0
(650) TRANSPORTATION EXPENSE	0	0	0
(655) INSURANCE EXPENSE	0	0	0
(665) REGULATORY COMMISSION EXPENSE	0	169	169
(670) BAD DEBT EXPENSE	0	0	0
(675) MISCELLANEOUS EXPENSES	<u>0</u>	<u>0</u>	<u>0</u>
	<u>\$25,486</u>	<u>\$7,036</u>	<u>\$32,522</u>

CWS COMMUNITIES LP TEST YEAR ENDING 12/31/2008 MONTHLY WATER RATES		SCHEDULE NO. 4 DOCKET NO. 080715-WU	
	UTILITY'S EXISTING RATES	STAFF RECOMMENDED RATES	4-YEAR RATE REDUCTION
<u>General and Residential Service</u>			
Unoccupied	\$3.25	\$6.64	\$0.03
Occupied	\$7.59	\$12.12	\$0.05
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>			
3,000 Gallons	\$7.59	\$12.12	
5,000 Gallons	\$7.59	\$12.12	
10,000 Gallons	\$7.59	\$12.12	