



MANAGEMENT AUDIT OF
**FOUR POINTS UTILITY
CORPORATION**
AND
**BIMINI BAY UTILITIES
CORPORATION**

J U N E 2 0 1 1

BY AUTHORITY OF
THE FLORIDA PUBLIC SERVICE COMMISSION
OFFICE OF AUDITING AND PERFORMANCE ANALYSIS

**MANAGEMENT AUDIT OF
FOUR POINTS UTILITY CORPORATION
AND BIMINI BAY UTILITIES CORPORATION**

JERRY HALLENSTEIN
GOVERNMENT ANALYST II
PROJECT MANAGER

KEVIN CARPENTER
REGULATORY ANALYST II

JUNE 2011

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THE STATE OF FLORIDA
PUBLIC SERVICE COMMISSION
OFFICE OF AUDITING AND PERFORMANCE ANALYSIS**

PA-10-10-002

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1.0 EXECUTIVE SUMMARY

1.1 INTRODUCTION

Four Points Utility (Four Points) and Bimini Bay Utilities Corporation (Bimini Bay) provide water and wastewater services to two separate townhome developments in Davenport, Florida (Polk County). Mr. David Meadows is president and sole officer of both utilities and is also the developer of the two subdivisions which the utilities serve. The Island Club West Resort and Spa development is served by Four Points and consists of 255 residential connections. The Bimini Bay development, served by Bimini Bay Utilities, consists of 212 connections.

Mr. Meadows served as president of Island Club West's Homeowners Association until 2005. In 2005, the Homeowners Association assumed control of all common areas in the development after a settlement agreement was reached between the Association and Mr. Meadows. Mr. Meadows currently serves as president of the homeowners association in Bimini Bay and personally owns and leases 29 of the units in that subdivision.

All of the utility employees are hired by Mr. Meadows and are responsible for performing all operational functions for the two utilities. These employees also perform work for non-utility businesses owned by Mr. Meadows. This work includes billing, collection, payment processing, and maintenance of common areas for the Bimini Bay Homeowners Association, the 29 Bimini Bay units owned by Mr. Meadows, and other business enterprises.

Below is a brief summary of recent Commission proceedings for both Four Points and Bimini Bay. For a complete case history of both utilities, please refer to **Appendix A**.

Four Points has been in existence since 2001. The utility was not brought to the Commission's attention until 2005 when the Commission received inquiries from customers regarding a variety of charges imposed by the utility. Four Points (formerly known as Island Club West Development) subsequently filed an application for a water and wastewater certificate on September 8, 2005. On April 2, 2007, the Commission granted Four Points a water and wastewater certificate.

Bimini Bay has been in existence since 2007. On August 31, 2009, Bimini Bay filed an application with the Commission for a certificate to provide water and wastewater service and for authority to change its rates and charges for water and wastewater services. The Commission opened Docket Number 090424-WS to acknowledge receipt and review of Bimini Bay's application, which is still pending.

The Commission conducted noticed customer meetings on November 18 and 19, 2010, at Island Club West Spa and Resort in Davenport, Florida. The purpose of the meetings was to provide customers with an opportunity to ask questions or offer comments regarding either Bimini Bay's application for certification or the quality of service provided by Bimini Bay and Four Points. At the customer meetings, the Commission heard from 30 customers who voiced their dissatisfaction with the services provided by both Four Points and Bimini Bay. Customer complaints alleged erroneous billing, inadequate customer service, untimely processing of customer payments, improper service disconnections, incorrect meter readings, poorly constructed water and wastewater facilities, and inept management. The customers also complained about several issues outside of the Commission's jurisdiction such as building code violations and improper homeowners association charges.

Commission staff initiated a compliance and management audit of Four Points Utility and Bimini Bay Utilities on November 22, 2010. The audit was triggered by a combination of the 30 complaints received at the November 2010 customer meetings, 54 other formal complaints received by the Commission since 2007, and numerous informal complaints.

On December 7, 2010, the Commission's Office of the General Counsel sent a letter to both Four Points and Bimini Bay to notify the utilities of apparent rule violations and referenced the Office of Auditing and Performance Analysis' intent to investigate.

1.2 AUDIT OBJECTIVES AND SCOPE

This report is the result of the compliance and management audit conducted by the Office of Auditing and Performance Analysis. As authorized by Chapter 350.117(2)(3), F.S., management audits are conducted by staff to assess utilities' performance and the adequacy of operations and controls:

(2) The commission may perform management and operation audits of any regulated company. The commission may consider the results of such audits in establishing rates; however, the company shall not be denied due process as a result of the use of any such management or operation audit.

(3) As used in this section, "management and operation audit" means an appraisal, by a public accountant or other professional person, of management performance, including a testing of adherence to governing policy and profit capability; adequacy of operating controls and operating procedures; and relations with employees, customers, the trade, and the public generally.

An objective of this audit was to assess Four Points' and Bimini Bay's compliance with Chapter 367, F.S., and Rule 25-30, F.A.C., of the Commission rules that govern water and wastewater utilities.

According to Mr. Meadows, Bimini Bay currently claims exemption from Commission regulation pursuant to Section 367.022(8), F.S., because the utility is not charging more than the cost of the purchased water and wastewater. For this audit, management audit staff assessed compliance of Bimini Bay's current processes and procedures since an application and a Commission ruling on that application are pending. Both companies operate using the same personnel, systems, processes, and procedures. As noted in the report, virtually all of the errors in billing, meter reading, and customer service made by Four Points are also made by Bimini Bay.

The following Commission rules were included in staff's review of both utilities: the results of staff's review of these rules is indicated in chapter 2.

- ◆ 25-30.110 Records and Reports; Annual Reports
- ◆ 25-30.120 Regulatory Assessment Fees
- ◆ 25-30.145 Audit Access to Records
- ◆ 25-30.130 Record of Complaints
- ◆ 25-30.355 Investigation of Complaints

- ◆ 25-22.032 Protection from Disconnection During the Complaint Process
- ◆ 25-30.261 Meter Readings
- ◆ 25-30.311 Customer Deposits
- ◆ 25-30.320 Refusal or Discontinuance of Service
- ◆ 25-30.335 Customer Billing
- ◆ 25-30.345 Customer Service Charges

Additionally, management audit staff evaluated Four Points and Bimini Bay's management and the appropriateness of their operational practices. The results of this review are in chapter 3 of this report.

Management audit staff made use of two prior Office of Performance Analysis audits that are directly relevant to this audit scope. A billing audit of Four Points was completed in August 2010, and a financial audit of Bimini Bay was completed in September 2010. Four Points was found to have violated Findings from both audits are cited within this report.

1.3 AUDIT METHODOLOGY

Information regarding Four Points' and Bimini Bays' business operations was gathered through responses to management audit staff document requests, on-site interviews with company personnel, analysis of customer complaints, and review of documentation provided to the Commission in Docket Numbers 050595-WS (Four Points) and 090424-WS (Bimini Bay). As noted in the report, management audit staff was hindered by the utilities' failure to fully and timely respond to management audit staff's document requests.

1.4 OVERALL OPINION

Traditionally, the success and viability of small water companies has been seen to depend on a few key elements: (1) financial capacity, (2) managerial capacity, (3) technical proficiency, and (4) infrastructure adequacy. Small companies must be adequately capitalized and supported by appropriate rates. They must be run by experienced and knowledgeable managers with a focus on efficiently and effectively providing quality service. Customer problems must be dealt with promptly and courteously to maintain good public relations. Operating personnel must be technically proficient in system operation and maintenance as well as in maintaining water quality. Finally, the system components must provide adequate capacity, be properly constructed, and receive adequate inspection and maintenance.

According to a 2008 National Regulatory Research Institute study, effective management of small water companies requires the following:¹

- ◆ Compliance with regulatory requirements
- ◆ Attracting and retaining quality personnel
- ◆ Providing effective employee training and education
- ◆ Providing excellent customer service
- ◆ Displaying good public relations
- ◆ Employing a strategic business plan

¹ The National Research Regulatory Institute identified the attributes and practices of successful small systems in a February 7, 2008, report titled "Small Water Systems: Challenges and Recommendations."

Management audit staff has found sufficient cause to believe that Four Points and Bimini Bay lack effective managerial controls. Just as significant, both utilities frequently disregard Commission rules in their current operations. Given management's disregard for regulatory compliance and that management has not established sufficient safeguards to protect customers from incurring inappropriate charges on their bills, it is apparent that maintaining good customer relations is not a priority. Both Four Points and Bimini Bay have issued customer bills that are fraught with improper billing amounts, incorrect rates, and incorrect bill amounts, despite customer efforts to report these problems and seek resolution.

Billing and payment processing problems and difficulty retaining quality personnel are the primary drivers of deficient customer service and poor public relations. Throughout the conduct of this audit, all stakeholders (customers, current company employees, former company employees, and company management) repeatedly referred to the issue and impact of employee turnover. Undeniably, this issue has a major role in billing errors, payment processing errors, billing dispute resolution, complaint resolution, disconnections in error, and meter reading errors. Multiple customers have mentioned that when a problem recurs, they must re-explain it to a new employee each time, who is then not able to take corrective action due to his or her unfamiliarity with company practices.

Both current and former employees have recounted that Four Points/Bimini Bay management does not provide a supportive and positive work environment that is conducive to providing excellent customer service. From on-site observation, the audit team witnessed a tense and volatile atmosphere that is not conducive to either performing quality work or to retaining quality personnel. The office staff appeared to be simply overwhelmed by the results of a large workload caused by poor management practices and unrealistic productivity expectations. Audit staff believes that the management's approach is unreasonably demanding and impatient. The lack of written procedures, proper training, and high turnover of employees eventually leads to poor customer service.

Though some strategic planning has been done, the design is not targeted specifically to the utilities' operations and service, but rather towards the overall management and expansion of the two subdivisions developed solely by Mr. Meadows. Even with the existence of a strategic development plan, it is not clear whether the utilities truly intend to ever take action on these expansion initiatives. As a real estate developer, Mr. Meadows' focus is not solely on the ownership and operations of the utilities.

Overall, staff believes that Four Points and Bimini Bay do not currently have the management capability to operate successfully as providers of water and wastewater services. Four Points is not in compliance with Rules 25-30.110, 25-30.120, 25-30.145, 25-30.130 25-30.355, 52-22.032, 25-30.311, 25-30.320, 25-30.335, 25-30.345, and 25-30.350, F.A.C. Additionally, Four Points has not demonstrated compliance with its November 2006 Settlement Agreement with the Island West Homeowners Association (Customers) as adopted in Commission Order No. PSC-07-0280-PAA-WS issued on April 2, 2007 in Docket No. 050595-WS.

Management audit staff's conclusions of Four Points' and Bimini Bay's compliance and operational deficiencies are summarized in Chapter 4.0.

2.0 OPERATIONAL ISSUES AND COMPLIANCE WITH COMMISSION RULES

2.1 ANNUAL REPORTS AND REGULATORY ASSESSMENT FEES

Are Four Points and Bimini Bay in compliance with Rules 25-30.110(3), F.A.C., Records and Reports; Annual Reports?

What is the standard?

Pursuant to Rule 25-30.110(3), F.A.C., Records and Reports; Annual Reports, each utility will furnish to the Commission annual reports on forms prescribed by the Commission. The obligation to file an annual report applies to any utility that has applied for or has been issued a certificate. The utility's annual report is to be filed with the Commission on or before March 31 for the preceding year ending December 31. The Commission may assess a penalty against any utility that fails to file an annual report on time. Per Section (3)(c), "a utility may file a written request for an extension of time with the Division of Economic Regulation no later than March 31."

What is happening?

In 2009, Four Points failed to submit its 2008 Annual Report on time and did not request an extension for a late filing. The Commission notified Four Points of the delinquency on April 16, 2009. The utility submitted the annual report on August 20, 2009, (142 days late) and remitted a late filing charge of \$426. Four Points filed its 2009 Annual Report six days late in 2010 and was penalized \$18. The utility's 2010 Annual Report is due March 31, 2011. To date, the utility has not provided the required report.

Bimini Bay has been in operation since 2007 and filed an application for a water and wastewater certificate in August 2009. The owner, David Meadows, claims the utility is operating as a reseller of water and wastewater and is exempt from Commission regulations pursuant to Section 367.022(8), F.S. However, since Bimini Bay has applied for a certificate, annual reports should have been filed by March 31, 2010, and by March 31, 2011. To date, the utility has not provided the required report.

What is management audit staff's conclusion?

Four Points and Bimini Bay have not demonstrated timely compliance with Rules 25-30.110(3) and (3)(c), F.A.C., Records and Reports; Annual Reports. Four Points and Bimini Bay have exhibited a history of disregard for regulatory compliance by filing annual reports late and not filing a written request with the Commission for an extension of time to file.

Are Four Points and Bimini Bay in compliance with Rule 25-30.120(1) and (2)(b), F.A.C., Regulatory Assessment Fees (RAFs)?

What is the standard?

Pursuant to Rule 25-30.120(1), F.A.C., Regulatory Assessment Fees (RAFs), each utility will pay a RAF in the amount of 4.5 percent of its gross revenue derived from intrastate business. Section (2)(b) requires small utilities with annual revenues of less than \$200,000, such as Four Points, to file RAFs with the Commission on or before March 31 for the preceding

calendar year. Section (7)(a) permits the Commission to assess a penalty against any utility that fails to pay its RAF on time.

What is happening?

Prior to the Commission granting Four Points a certificate in 2007, the utility claimed to be exempt from Commission regulation because it operated as a reseller of water and wastewater services. However, in 2006, Commission staff determined that Four Points was not operating as a reseller because the utility was in fact charging above the actual purchase price for the water and wastewater service that it was reselling. Consequently, Four Points was subjected to RAF payments beginning in 2005. The utility remitted its 2005 RAFs late and was subjected to a penalty and interest for failure to pay on time. The utility's 2006 and 2007 RAFs were remitted on time. However, the utility's 2008 RAFs were again remitted late, and the amount paid was based on incorrect operating revenues dollar amounts. The utility paid the adjusted RAFs along with a penalty and interest for filing late. In an April 21, 2010, letter, the Commission notified Four Points of its failure to pay RAFs for the year 2009. Payment was due on March 31, 2010. The utility has yet to remit payment and is over 365 days late. The utility's 2010 RAFs were due March 31, 2011.

What is the audit staff's conclusion?

Four Points has not demonstrated compliance with Rule 25-30.120, F.A.C., Regulatory Assessment Fees. The utility has failed to pay both its 2009 and 2010 RAFs which were due on March 31, 2010, and March 31, 2011, respectively. Four Points has a history of disregard for regulatory compliance by remitting its RAF payments late and paying incorrect RAFs.

As a reseller, Bimini Bay has not been required to pay RAFs. If the Commission grants a certificate to Bimini Bay, the utility would be required to file annual RAFs.

Are Four Points and Bimini Bay in compliance with Rule 25-30.145, F.A.C., Audit Access to Records?

What is the standard?

Pursuant to Rule 25-30.145, F.A.C., Audit Access to Records, Commission staff is to have reasonable access to utility and affiliate records for the purposes of management and financial audits. According to the rule, "reasonable access means that company responses to audit requests for access to records shall be fully provided within the time frame established by the auditor."

What is happening?

The utilities should inform Commission staff in the event the utilities do not retain or have records in response to Commission staff's data request. Although the utilities' management has indicated that it does have records in response to all data requests, the utilities have failed to provide documents for four data requests. These requests include completed customer complaint forms, customer complaint logs, customer bills, September 2010 disconnection notices, a September 2010 disconnection list for Four Points, and an October 2010 disconnection list for Bimini Bay. Audit staff made several attempts to obtain the information from the utilities' management without success.

Additionally, Four Points failed to respond to five audit requests during the August 2010 Four Points billing audit. Data Request numbers 25, 30, 33, 34, and 38 were requested between July 27, 2010, and August 12, 2010. These requests included complaints records,

2009 Annual Report explanations, RAF expected submission date, affiliate invoices, customer charges, and the status of certain credit card payments. A follow-up attempt was made to gather the data request responses on August 26, 2010, via e-mail. The company did not respond.

Bimini Bay also failed to respond to four data requests during the September 2010 Bimini Bay financial audit. Data Request numbers 4, 5, 7, and 8 were requested between September 30, 2010, and October 4, 2010. The requests included depreciation supporting documents, an explanation of a missing capital stock entry on the balance sheet, documentation and explanation of affiliate payments, and explanations of deductions on the corporate tax return and trial balances for a specified period.

What is the audit staff's opinion?

Four Points and Bimini Bay have not complied with Rule 25-30.145, F.A.C., Audit Access to Records. Failure to cooperate with audit requests, whether intentional or not, handicaps the Commission's effectiveness and efficiency.

2.2 CUSTOMER COMPLAINT RECORDS

Are Four Points and Bimini Bay in compliance with Rule 25-30.130, F.A.C., Record of Complaints?

What is the standard?

Pursuant to Rule 25-30.130, F.A.C., Record of Complaints, "each utility shall maintain a record of each signed, written complaint received by the utility from any of that utility's customers." By rule, the record is to include the name and address of the complainant, the nature of the complaint, the date received, the result of the investigation, the disposition of the complaint, and the date of the disposition.

What is happening?

The utilities' management acknowledged to audit staff that inadequate attention has been given to the recording of customer complaints. Management indicated that customer complaints are recorded in a complaint log that is filled out by utility personnel each day at 3:00 p.m. The log, referred to as the "3PM Report," is derived from customer complaints that were left on the utilities' voicemail systems. During management audit staff's December 2010 on-site visit, utility management indicated that the utilities had "recently implemented" a new process to record and track customer complaints. When filing a complaint with the utility, customers are now required to fill out a paper complaint form which allows for proper handling and resolution. The utilities intend to maintain copies of the completed complaint forms. In December 2010, audit staff requested copies of 3PM Report logs and copies of all customer complaints received and recorded on the new complaint forms. Management has yet to provide copies of these records.

What is the audit staff's conclusion?

It appears that Four Points has not demonstrated compliance with Rule 25-30.130, F.A.C., Record of Complaints. Regardless of management's indication that a new complaint-tracking process has been implemented, audit staff strongly believes that Four Points has not demonstrated implementation of an effective formal process for recording and maintaining customer complaints.

If the Commission grants a certificate to Bimini Bay, the utility would also be required to maintain a record of customer complaints.

Are Four Points and Bimini Bay in compliance with Rule 25-30.355, F.A.C., Complaints?

What is the standard?

Pursuant to Rule 25-30.355, F.A.C., regarding investigation of complaints, “a utility shall make a full and prompt acknowledgement and investigation of all customer complaints and shall respond fully and promptly to all customer requests.” The rule also requires the utility to file a response to inquiries by the Commission within 15 days from the date of the inquiry.

What is happening?

Four Points and Bimini Bay have no formal process for investigating and resolving customer complaints received directly by the utilities. The utilities’ management acknowledges that a minimal amount of time is provided to employees to resolve customer complaints each day.

According to the job descriptions for Four Points and Bimini Bay employees, the manager for both Four Points and Bimini Bay is responsible for handling customer complaints and should spend an average of 20 minutes per complaint. However, numerous customers have reported to Commission staff that days often pass before calls regarding complaints are returned, if at all. This situation has led to an unusual degree of customer distrust and animosity toward the utilities.

EXHIBIT 1 is a breakdown of the five water and wastewater utilities that received the most Commission complaints in 2010. To ensure comparability among the utilities of differing size, management audit staff calculated the number of complaints received per 100 customers served. For Four Points, the Commission received 13.73 complaints per 100 customers. For Bimini Bay, the Commission received 8.49 complaints per 100 customers. An examination of the complaints shows that on a per-customer basis, Four Points and Bimini Bay had far more complaints than any other regulated water and wastewater utility. As evidenced by the extremely high number of complaints received by the Commission, management audit staff believes that the utilities’ process for handling and responding to customer complaints is severely inadequate.

WATER AND WASTEWATER COMPANIES NUMBER OF COMPLAINTS PER 100 CUSTOMERS 2010			
Utility	Complaints Received	Number of Customers	Complaints Per 100 Customers
Four Points	35	255	13.73
Bimini Bay	18	212	8.49
Pluris Wedgefield	28	1,569	1.78
Aqua Utilities Florida, Inc	99	16,000	0.62
NI Florida, LLC	11	3,480	0.32

EXHIBIT 1

Source: FPSC Consumer Activity Report December 2010.

Of the 35 Four Points complaints received in 2010, 12 were related to service issues and 23 to billing issues. For Bimini Bay, three of the 18 complaints were related to service issues and 15 to billing issues. In addition to the complaints, the Commission’s Bureau of Complaints

logged eight information requests from Four Points and Bimini Bay customers during 2010. Typically, information requests are not related to a specific service or billing issue. The eight information requests issues logged for Four Points and Bimini Bay appear to be non-jurisdictional concerns regarding the operations, management, and professionalism of the company in general.

Appendix B shows the volume and status of complaints received and recorded via the Commission's complaint tracking process from 2007 through June 1, 2011. For Four Points, the Commission received 66 complaints over the period. Of the 66, the Commission has closed 54. In 26 of the closed complaints, the utility failed to provide a response within the 15 days allowed by the Commission. As of June 1, 2011, the utility has 12 complaints that currently remain open with the Commission for resolution. The utility has failed to provide a timely and adequate response to all 12 complaints.

For Bimini Bay, the Commission received 21 complaints over the 2007 to June 1, 2011 period. Of the 21, the Commission closed ten. However, for eight of the closed complaints, the utility failed to provide a response within the 15 days allowed by the Commission. As of June 1, 2011 the utility has 10 complaints that currently remain open with the Commission for resolution. The utility has failed to provide a timely response to all 10 complaints.

What is management audit staff's conclusion?

Four Points and Bimini Bay have not demonstrated compliance with Rule 25-30.355, F.A.C., Complaints. The utilities are failing to make full and prompt investigations of all customer complaints. Additionally, the utilities are consistently failing to provide a response within 15 days for all customer complaints filed with the Commission.

Are Four Points and Bimini Bay in compliance with Rule 25-22.032(3), F.A.C., Customer Complaints?

What is the standard?

Pursuant to Rule 25-22.032(3), "a company shall not discontinue service to a customer because of any unpaid disputed amount until the complaint is closed by Commission staff. However, the company may require the customer to pay that part of a bill which is not in dispute. If the company and the customer cannot agree on the amount in dispute, Commission staff will make a reasonable estimate to establish an interim disputed amount until the complaint is closed by Commission staff."

What is happening?

The Commission is in receipt of complaints in which the customer has been disconnected, yet the complaint filed with the Commission has not been resolved and closed. Management audit staff performed an analysis that compared open complaints to the limited number of disconnect lists that were provided and found the following examples:

- ◆ A Four Points customer filed complaint with the Commission on March 24, 2010, regarding the following concerns: billing, additional deposit, and refund of deposit. Customer was subsequently disconnected on April 20, 2010 while the complaint was still pending resolution and closure before the Commission. The complaint was closed on May 16, 2011. Four Points was found to have violated Rule 25-30.130, F.A.C., Record of Complaints, for exceeding the 15 days allowed to file a response with the Commission (CATS 0933190W).

- ◆ Customer filed complaint on February 23, 2010, regarding the utility's request for an additional deposit. According to the disconnect list provided to management audit staff, the customer was subsequently disconnected in July, August, and October 2010 while the complaint was still pending resolution and closure before the Commission. The complaint has yet to be closed by the Commission (CATS 0926738W).
- ◆ Customer filed complaint on February 23, 2010, regarding the utility's request for an additional deposit. According to the disconnect list provided to management audit staff, the customer was subsequently disconnected in October 2010 while the complaint was still pending resolution and closure before the Commission. The complaint has yet to be closed by the Commission (CATS 0927647).

What is audit staff's conclusion?

It appears that Four Points and Bimini Bay have not demonstrated compliance with Rule 25-22.032(3), F.A.C., Customer Complaints. The utilities have not provided adequate evidence to management audit staff that they avoid or try to avoid disconnecting a customer who has a pending complaint with the Commission.

2.3 CUSTOMER DEPOSITS

Are Four Points and Bimini Bay in compliance with Rule 25-30.311(1),(2), and (3), F.A.C., Deposit Required, Receipt for Deposit, and Record of Deposits?

What is the standard?

Pursuant to Rule 25-30.311(1), F.A.C., regarding customer deposits, a utility can require customers to establish credit in the form of initial deposits. For certificated utilities, the rule requires that "each company's tariff shall contain their specific criteria for determining the amount of initial deposit." Four Points' tariff states, "the amount of the customer's initial deposit should be two times the average bill for water and wastewater services." According to the utilities' management, the current policy of both utilities is to require an initial customer deposit of \$120 for water and wastewater services.

Per Rule 25-30.311(2), F.A.C., the utilities are also required to provide customers with receipts for their deposits. The rule states, "a non-transferrable certificate of deposit shall be issued to each customer and means provided so that the customer may claim the deposit if the certificate is lost."

In accordance with Rule 25-30.311(3), F.A.C., each utility is required to maintain a record of customer deposits that shows:

- ◆ The name of each customer making the deposit.
- ◆ The premises occupied by the customer when the deposit was made.
- ◆ The date and amount of deposit.
- ◆ A record of each transaction concerning such deposit.

What is happening?

Management audit staff requested a record of all customer deposits and customer deposits that had been refunded as of December 2010 for both Four Points and Bimini Bay. The utilities provided a record of customer deposits and refunds that were obtained from the

utilities' billing system (QuickBooks Accounting Software). The record of customer deposits contains the customer's name, address, date, and amount of deposit.

However, audit staff believes the record of deposits is incomplete, inaccurate and, as a result, unreliable. Four Points has been in existence since 2001, yet the earliest transaction dates shown in the utility's record of deposits and refund of deposits occurred in 2004. Similarly, Bimini Bay has been in existence since 2007, yet the earliest transactions dates shown are in 2008.

Four Points and Bimini Bay provided management audit staff with their procedures for collecting customer deposits. Staff observed that what was provided more closely resemble a checklist of "to-do" items. At a minimum, Four Points and Bimini Bay should have written procedures that provide internal controls and segregation of duties. Management audit staff's observations support the following finding in the Commission's August 2010 billing audit of Four Points:

Our analysis of Customer Deposit Transactions revealed that customers were initially charged a \$50 deposit beginning in September 2003. Some customers paid \$35 beginning in May 2009. Starting in May 2009, the deposit increased to \$81. Starting in February 2010, various amounts were collected from customers. Some of the amounts collected increased the existing deposit to \$81. Other amounts collected differed from the authorized deposit amounts and ranged from \$68 to \$197. Effective February 2010, new customers were charged \$120 for deposits.

What is audit staff's conclusion?

It appears that Four Points has complied with Rule 25-30.311, Sections (2) and (3), F.A.C., regarding providing customer receipts for deposits and maintaining a record of customer deposits. However, audit staff questions the adequacy of the deposit records maintained by Four Points. Also, Four Points may not be complying with Rule 25-30.311(1), F.A.C., regarding the determination of initial deposits. Four Points' current practice of requiring \$120 as an initial deposit is not the specific criteria stated in the utility's tariff.

If the Commission grants a certificate to Bimini Bay, the utility must maintain an adequate record of deposits and both file and adhere to its tariff for determining the amount for initial deposits.

Are Four Points and Bimini Bay in compliance with Rule 25-30.311(4)(a)(b), F.A.C., Interest on Deposits?

What is the standard?

Pursuant to Rule 25-30.311(4)(a), "Each public utility which requires deposits to be made by its customers shall pay a minimum interest on such deposits of 6 percent annum." Section (4)(b) of the rule requires the utility to pay their customers the interest on deposits annually, either in cash or by credit on the current bill.

What is happening?

Upon review of customer deposits, audit staff found no entries that recorded interest on deposits and, subsequently, no annual interest payments to customers. During the audit staff's on-site interviews, the utilities' management acknowledged that interest on deposits have not been accrued.

What is audit staff's conclusion?

It appears that Four Points has not demonstrated compliance with Rule 25-30.311(4)(a)(b), F.A.C., Interest on deposits. Audit staff found no entries that recorded interest on deposits and, subsequently, no annual interest payments to customers.

If the Commission grants a certificate to Bimini Bay, the utility would also be required to pay their customers interest on deposits.

Are Four Points and Bimini Bay in compliance with Rule 25-30.311(5) and (6), F.A.C., Refund of Deposits?

What is the standard?

Pursuant to Rule 25-30.311(5), F.A.C., Refund of Deposits, the utilities are required to refund customer deposits with accrued interest of six percent per annum after a customer has established a satisfactory payment record and has had continuous service for a period of 23 months. Per Section (6) of the rule, "upon termination of service, the deposit and accrued interest may be credited against the final account and the balance, if any, shall be returned promptly to the customer but in no event later than 15 days after service is discontinued."

What is happening?

During audit staff's on-site interviews with company personnel, the utilities' management acknowledged that interest is not being accrued and deposits are not consistently being refunded to customers after 23 months of satisfactory payment. As a result of the utilities' billing system being plagued with errors, management audit staff believes the utilities cannot reliably establish whether a customer has a satisfactory payment history. Specific errors that occur in the utilities' billing system include using incorrect formulas to calculate customer bills, assigning incorrect due dates on bills, and failing to post or timely post customer payments. More importantly, customers often experience difficulty in contacting utility representatives to dispute or pay a bill, a situation which, in turn, results in a customer's service being disconnected in error.

Audit staff requested records of all customer deposits on hand greater than 23 months where the customer had a good payment history. Four Points' records as of December 2010 show 83 customers that are currently entitled to a deposit refund that had not been given. Bimini Bay's December 2010 records show 13 customers that were due a refund. Of the 83 Four Points' customers entitled to a refund, over three-quarters of them should have received a refund in 2009 or earlier. Some should have been refunded as early as 2006 and 2007.

The deficient process for refunding customer deposits was also documented in the Commission's August 2010 billing audit of Four Points. The billing audit contained schedules of customer deposits on hand as of December 31, 2008, and identified the following deposit-handling deficiencies and errors:

- ◆ Some deposits were returned to customers, but were returned after the 23-month period.
- ◆ Some deposits have not been returned to customers who have maintained utility service for over 23 months.
- ◆ Some customers had terminated their service and had their deposit refunded even though there were outstanding balances in their account.
- ◆ The utility does not accrue interest on its deposits or pay interest upon return of the deposit.

The Commission's August 2010 billing audit recommended that the utility comply with all provisions of Rule 25-30.311, F.A.C., including the requirement to refund customer deposits and to pay interest on outstanding deposits at the authorized rate. The utility indicated in December 2010 that it was still working to implement procedures to comply with Commission rules. As of the publication date of this report, audit staff believes little to no action has been taken. Staff notes that the Commission continues to receive customer complaints from customers who appear to be eligible to receive a refund of their deposits. Below are examples:

- ◆ Complainant rented a townhome in Bimini Bay Resort and Spa and moved out in August 2010. Complainant contacted utility management in October 2010 regarding refund of deposit. On February 10, 2011, the utility informed the Commission that a refund will be mailed to the customer. Complainant received a deposit refund on April 22, 2011. However, the complainant has since filed another complaint with the Commission regarding a bill received for \$300, yet the complainant no longer resides in Bimini Bay Resort and Spa. (CATS 0987876W, 1007727W).
- ◆ Complainant requested disconnection of service in May 2010, and further requested Four Points to deduct any outstanding balance from their deposit. Customer continued to receive bills in error through September 2010. The complaint was closed on May 31, 2011. Four Points was found to have violated Rule 25-30.130, F.A.C., Record of Complaints, for exceeding the 15 days allowed to file a response with the Commission for failure to respond to the complaint within the 15 days allowed by the Commission (CATS 0983158W).
- ◆ Complainant provided Four Points with a \$200 deposit in 2005. As of January 2011, the customer had yet to receive refund of deposit. The utility has yet to respond to the complaint and has exceeded the 15 days allowed to file a response with the Commission (CATS 0926738W).
- ◆ Complainant provided Four Points with a deposit in 2005 (amount unknown). As of January 2011, customer had yet to receive a refund of the deposit. The utility has yet to respond to the complaint and has exceeded the 15 days allowed to file a response with the Commission (CATS 0927647W).

What is audit staff's conclusion?

It appears that Four Points has not demonstrated compliance with Rule 25-30.311 Sections (5) and (6), Refund of deposits, F.A.C. The utilities have no formal policies and

procedures that govern the process of refunding customer deposits and Four Points has failed to refund deposits and pay customers a minimum of six percent interest per year.

If the Commission grants a certificate to Bimini Bay, the utility would also be required to refund customer deposits with accrued interest.

Are Four Points and Bimini Bay in compliance with Rule 25-30.311(7), F.A.C., New or Additional Deposits?

What is the standard?

While the utilities have the right to request an additional deposit, this extra amount should be required only if a customer established a poor payment history or if high usage indicates the company is not adequately protected against nonpayment. Pursuant to Rule 25-30.311(7), F.A.C., New or Additional Deposits:

A utility may require, upon reasonable written notice of not less than 30 days, such request or notice being separate and apart from any bill for service, a new deposit, where previously waived or returned, or an additional deposit, in order to secure payment of current bills.

What is happening?

An analysis of customer complaints shows that Four Points and Bimini Bay have requested additional deposits from existing customers. In most cases, the utilities specified that the additional deposit was due upon receipt of the invoice. Below are examples of customer complaints regarding the utilities' request for an additional deposit.

- ◆ Complainant paid an initial deposit of \$200 in 2005, then was billed for (and paid) an additional deposit of \$86 in February 2010. Four Points provided no explanation as to why the additional deposit was required. Four Points subsequently credited the customer's account after the customer filed a complaint with the Commission (CATS 0932946W).
- ◆ Complainant bought a townhome in 2005 and paid an initial deposit (amount unknown). The customer was billed for an additional deposit of \$115 in February 2010. Four Points provided no explanation as to why the additional deposit was required. The additional deposit was due upon receipt of the invoice, February 16, 2010. The utility has yet to respond to the complaint and has exceeded the 15 days allowed to file a response with the Commission (CATS 0927647W).
- ◆ Complainant paid an initial deposit of \$200 in 2005, and was later billed for an additional deposit of \$100 in February 2010. Four Points informed the customer that it has a policy of maintaining a deposit which is equal to 1.5 times the average of three months of service (This statement is contrary to Four Points tariff which states that initial deposits should be two times the average bill for water and wastewater services). Four Points claimed to have reviewed the customer's records and determined that there was a shortfall in the initial deposit amount. However, Four Points provided no specific explanation as to the deposit shortfall. The additional deposit was due upon receipt of the invoice. The utility has yet to respond to the complaint and has exceeded the 15 days allowed to file a response with the Commission (CATS 0926738W).

- ◆ Complainant paid an initial deposit of \$35 in 2008, yet the customer was later billed for an additional deposit of \$74. Four Points informed the customer that they have a policy of maintaining a deposit which is equal to 1.5 times the average of three months of service (This statement is contrary to Four Points tariff which states that initial deposits should be two times the average bill for water and wastewater services). Four Points claimed to have reviewed the customer's records and determined that there was a shortfall in the initial deposit amount. However, Four Points provided no specific explanation as to the deposit shortfall. The additional deposit was due upon receipt of the invoice. Management audit staff's examination of Four Point's customer balance report reveals an apparent retroactive credit to the customer's account to remove the additional deposit charge (CATS 0932946W).

What is audit staff's conclusion?

It appears that Four Points has not demonstrated compliance with Rule 25-30.311(7), F.A.C., new or Additional Deposits. Four Points has not provided required notice and justification to customers for payment of additional deposits. Audit staff believes that company management has implemented seemingly arbitrary policies of requiring additional deposits from customers regardless of the customers' deposit and payment history.

If the Commission grants a certificate to Bimini Bay, the utility would also be required to provide required notice and justification to customers for payment of additional deposits.

2.4 METER READINGS

Are Four Points and Bimini Bay in compliance with Rule 25-30.261(1), F.A.C., Meter Readings?

What is the standard?

Pursuant to Rule 25-30.261(1), F.A.C., Meter Readings, "the utility shall read its service meters at regular intervals and, insofar as practicable within regularly scheduled work days on the corresponding day of each meter reading period." Additionally, the utility "shall read the register of each meter in the same units that the utility uses for billing purposes."

What is happening?

Currently, Four Points and Bimini Bay employ two meter readers responsible for conducting readings on the same day once a month for approximately 467 water meters that serve residents of Island Club West and Bimini Bay Resort and Spa. These employees also perform all connecting and disconnecting of water service and maintenance of the property and grounds of Bimini Bay Resort and Spa.

The meter readers manually record the current month's readings in a pre-printed log that contains the townhome unit number and the previous month's readings. If the meter reader records an entry that exceeds the prior month's usage by 10,000 gallons or more, the meter readers are instructed to re-read the meter for possible errors. The meter readers are also provided a list of customers to disconnect for non-payment at the same time they are reading meters. According to the meter readers' job descriptions, the employees are given 2.5 hours to read meters at Island Club West Resort and Spa and 1.5 hours at Bimini Bay Resort and Spa. This time allotment averages out to completing one meter reading approximately every 30 seconds.

After the meter readers complete the monthly readings, the logs are provided to the accounting personnel, who manually input them into the billing system. According to the utilities' management, the billing system has built-in parameters or checkpoints to detect possible erroneous meter readings. If a customer's usage is more than 10,000 gallons in any given month, the billing system will flag the customer's account for investigation. Similarly, a customer's account is flagged if monthly usage is negative (i.e., less than the previous month's reading). When an account is flagged for investigation, the utilities' Operations Manager is instructed to check the customer's account for any abnormalities.

The Commission has received complaints from customers regarding huge spikes in water usage, which the customers believe stem from misreading. These customers usually contend that their usage is consistent from one month to another and there is no increase to their number of occupants. In these cases, the utilities' normal practice is to assert that the bill amount is correct.

Management audit staff examined Four Points' and Bimini Bay's meter reading logs and found several instances of abnormally high meter readings. According to the United States Environmental Protection Agency, the average family of four can use up to 12,000 gallons in a month.² However, management audit staff found ten instances where readings indicate customers of Bimini Bay used in excess of 25,000 gallons from July through October 2010. One entry showed a customer using more than 139,000 gallons of water in a month.

Similarly, six Four Points customers were shown to have exceeded a monthly usage of 25,000 gallons. Three customers were reported by the meter readers to have used 136,000, 145,000, and 160,000 gallons of water.

Meter reading is fairly simple, yet the number of and type of customer complaints regarding meter readings indicates to audit staff that the utilities meter reading operations are problematic. In addition to actual meter readings being recorded incorrectly, it appears that customers are often billed for the wrong meter usage. Below are examples of complaints regarding the utilities' meter reading operations:

- ◆ Complainant (a former employee of the utilities) asserts that meter readers are given an impossible amount of time – just two hours – to read hundreds of meters. As a result, meter readers are submitting inaccurate readings (CATS 0989479C).
- ◆ Complainant asserts meter was read incorrectly. Bimini Bay acknowledged an incorrect meter reading in a month where bill showed no usage. The complaint was closed on June 1, 2011. Bimini Bay was found to have violated Rule 25-30.130, F.A.C., Record of Complaints, for exceeding the 15 days allowed to file a response with the Commission (CATS 0983188W).
- ◆ Complainants' bills indicate the wrong meter serial numbers for their addresses. The utility has yet to respond to the complaint and has exceeded the 15 days allowed to file a response with the Commission (CATS 0978380W, and 0975087W).
- ◆ Complainant received six bills for over 12 months with the wrong meter serial number. The complaint was closed on November 15, 2010. Four Points was found

² Approximately 70 percent of the 12,000 gallons used by the family of four is estimated to be used indoors.

to have violated Rule 25-30.130, F.A.C., Record of Complaints, for exceeding the 15 days allowed to file a response with the Commission (CATS 0955586W).

- ◆ Complainant was unable to match her observed actual meter reading to the reading the company reported on the bill. The complaint was closed on May 16, 2011. The utility was found to have violated Rule 25-30.130, F.A.C., Record of Complaints, for exceeding the 15 days allowed to file a response with the Commission (CATS 0983197W).
- ◆ Complainant has different meter serial numbers on bills and further asserts that the water meter is obstructed with dirt and has not been read by the meter readers. The utility has yet to respond to the complaint and has exceeded the 15 days allowed to file a response with the Commission (CATS 0986218W).
- ◆ Complainant contends that the utility is "curb reading," driving by and writing down estimated consumption. In response to the complaint, the company admitted to misreading the customer's meter (CATS 0983140W).

In addition to customer complaints, the Commission's August 2010 billing audit of Four Points revealed significant data integrity issues related to record keeping when uploading meter readings from meter logs into the billing system (QuickBooks). The staff auditor was unable to reconcile the total monthly usage obtained from the meter reading logs to the total monthly usage generated from the billing system. Four Points informed the auditor that some of the meter reading logs were corrupt. Additionally, the billing audit revealed 26 instances of negative readings (i.e., a meter reading *lower than* the prior month's reading) that occurred during the period January 1, 2009, through June 30, 2010. Four Points attributed 25 of the readings to be meter reading errors. The billing audit recommended that Four Points incorporate the following:

Stricter control procedures when posting its readings to its customer accounts, use more diligence when transferring and reporting actual meter readings from the prior month to QuickBooks, and maintain accurate supporting documentation for reports being prepared.

In response to the billing audit's recommendation, the utility states it has implemented processes to maintain original reports, and electronic files of the billing records that are imported into QuickBooks and is performing daily backups of the server to reduce the probability of records being lost. Although the utility has addressed the issue of retaining supporting documentation, management audit staff believes that Four Points and Bimini Bay continue to fail to use due diligence when transferring meter readings into the utilities' billing system. A sample review comparing the July through September 2010 meter reader logs of both Four Points and Bimini Bay to the readings as manually entered into the billing system revealed 12 instances where the accounting personnel transposed numbers from the meter reading logs. Management audit staff attempted to obtain more recent months of meter reading logs to perform further analysis of the accuracy of meter reading entries to the billing system. The company failed to provide these logs.

What is audit staff's conclusion?

It appears that Four Points is complying with the meter reading procedures as stated in Rule 25-30.261, F.A.C., by reading the meters monthly. However, management audit staff questions the accuracy of meter reading done by both utilities. Management audit staff believes accuracy in meter reading is a reasonable expectation for customers. The utilities' management

has problems retaining and training quality meter reading personnel, and providing adequate time for meter readers and accounting personnel to record readings.

If the Commission grants a certificate to Bimini Bay, the utility would also be required to comply with meter reading procedures.

Is Four Points in compliance with the meter reading provisions per the November 2006 Settlement Agreement with Island West Homeowners Association (Customers)?

What is the standard?

Per Order No. PSC-07-0280-PAA-WS in Docket No. 050595-WS, issued on April 2, 2007, the Commission approved a Settlement Agreement between Four Points and the 16 customers who objected to the utility's application for certificate. The order granted Four Points an operating certificate with the understanding that Four Points would adhere to key conditions under the Settlement Agreement. One such condition states:

The utility's meter reader is trained and instructed to take into account historic usage patterns when reading a meter. Where a meter reading shows abnormally high usage levels, the utility's meter reader will re-read the meter, and, if it is correct, a note will be left at the customer's residence and also mailed to the customer instructing the customer to check for possible leaks within the unit.

What is happening?

According to the job description for Four Points and Bimini Bay employees, meter readers are given allowed a maximum amount of time of 2 to 2.5 hours to conduct 450 or more monthly readings. Management audit staff believes the utilities' meter readers are rushed and are not re-reading meters for abnormally high usage. Furthermore, audit staff saw no evidence that indicated meter readers leave a note on the customer's residence or that a notice was mailed to the customer.

Additionally, it appears that the utilities' Operations Manager is not adequately investigating accounts flagged for investigation if a customer's usage is more than 10,000 gallons. From July through October 2010, Bimini Bay and Four Points had 59 meter readings that showed customer usage between 15,000 and 20,000 gallons and 46 readings in excess of 20,000 gallons. None of the customers' bills were adjusted prior to being mailed. Many were subsequently challenged as incorrect by customers.

What is audit staff's conclusion?

It appears that Four Points has not demonstrated compliance with the meter reading provision in the November 2006 Settlement Agreement with the Island West Homeowners Association (Customers) as adopted in Commission Order No. PSC-07-0280-PAA-WS issued on April 2, 2007 in Docket No. 050595-WS. Audit staff saw no evidence that indicated meter readers leave a note on the customer's residence or that a notice was mailed to the customer.

2.5 CUSTOMER BILLING

Are Four Points and Bimini Bay in compliance with Rule 25-30.335(7), F.A.C., Customer Billing?

What is the standard?

According to Rule 25-30.335(7), F.A.C., Customer Billing, the utility shall maintain a record of each customer's account for the most current two years so as to permit reproduction of the customer's bills during the time that the utility provided service to that customer.

Customers rightfully expect their water bills to correctly reflect the actual current charges and outstanding balances, and be free from computational errors. Chapter 367.081 (1),(2)(a)1 authorizes companies to charge approved rates that are just and reasonable and not unfairly discriminatory.

What is happening?

Audit staff requested copies of customer bills for each month from March 2010 through July 2010. Each customer bill indicates the current month's charges and any outstanding balances from prior months. For the month's requested, the utility was unable to accurately reproduce bills with the correct outstanding balances. Significantly, audit staff observed that every bill generated for Bimini Bay customers for each month March through July 2010 contained incorrect bill calculations.

The incorrect bills contained computational inaccuracies due to miscalculations of charges for units of usage. Audit staff analyzed all Bimini Bay customer bills for the July 2010 billing cycle. Staff found that 199 bills were generated by the utility for customers and hydrants/facilities during this billing cycle, and 45 of these bills had no current charges. All of the remaining 154 bills with current charges greater than \$0.00 had incorrect bill amount calculations. These 154 bills resulted in excess revenues of \$3,208.93 to the utility through net overcharges to customers. Of the 154 bills with incorrect bill amount calculations, 9 customer bills had undercharged bill amounts by a range of \$0.20 to \$16.70, and 145 customer bills had overcharged bill amounts by a range of \$2.29 to \$179.53. While audit staff did not observe mathematical inaccuracies in Four Points' bills, the billing procedure for Four Points matches that of Bimini Bay; therefore, the possibility of error exists for Four Points bills.

A variety of issues combine to produce a high degree of errors in customer billing. The meter readers can mis-read meters. The use of the Excel spreadsheet is problematic; billing clerks have not been properly trained when first using the spreadsheet and are not properly supervised, resulting in erroneous billings. The high turnover of employees makes matters worse.

The utilities' process of generating a bill begins with collecting usage data. The billing clerk creates blank meter reading logs from an Excel spreadsheet and prints out hard copies of these logs for the meter readers to use in the field. The meters are read by the two maintenance staff employees. Once the logs are completed and returned, the billing clerk inputs the results into the Excel spreadsheet and follows a checklist of steps for creating a file for uploading the data into QuickBooks Accounting Software for generating the bills.

The possibility of data input errors into the spreadsheet by the billing clerk can also cause erroneous billings. Failure to peer review bills that are produced may result in erroneous bills sent to customers. For example, a reading given to the billing clerk by the meter readers for a particular address served by Four Points in September 2010, was shown as 391,230. This reading should have been 301,230. The customer at this address was billed for 93,350 gallons, instead of the correct 3,350 gallons. Again, these problems relate to employee turnover, lack of training, and lack of job proficiency. The impact of billing problems is magnified by

management's failure to devote adequate resources to customer service and complaint resolution.

The Commission's August 2010 Four Points billing audit recommended that the utility incorporate stricter control procedures when posting meter readings to customer accounts, use more diligence when transferring and reporting actual meter readings from the prior month to QuickBooks, and maintain accurate supporting documentation for reports. The August 2010 billing audit recommended that the utility incorporate tighter internal controls over its cash processing, that the monthly bank reconciliation be expanded to provide more detailed reporting for credit card payments, and that monies collected by entities other than the utility be immediately deposited into the utilities bank account upon processing by the credit card company. Management audit staff concurs with these recommendations.

What is audit staff's conclusion?

It appears that Four Points is not in compliance with Rule 25-30.335(7), F.A.C., Customer Billing. Staff believes customer billing controls and procedures are inadequate to produce reliable bills, and this inadequacy contributes to the poor relationship with customers. If the utility is unable to generate reliable bills, it cannot be certain that it is charging just and reasonable rates as required by Chapter 367.081 (1),(2)(a)1.

Management audit staff recommends that Four Points provide additional account information on the bill, listing amounts paid during the past month and the date paid.

If the Commission grants a certificate to Bimini Bay, the utility would also be required to accurately reproduce customer bills with the correct balance due for a particular month.

Are Four Points and Bimini Bay in compliance with Rule 25-30.335(4), F.A.C., Customer Billing?

What is the standard?

Under Rule 25-30.335(4), F.A.C., a utility may not consider a customer delinquent in paying his or her bill until the 21st day after the utility has mailed or presented the bill for payment.

What is happening?

All Four Points and Bimini Bay customer payments are to be received by the receptionist/deposit clerk. Received payments are recorded in the QuickBooks accounting system. The deposit clerk prepares the deposit and posts the payments to the customer accounts. Appropriately, she does not perform bank reconciliations or billing as part of her duties; these duties are performed by other staff. Management states that in addition to processing cash and checks, the clerk is to record credit card receipts on a daily basis. Throughout the day the clerk also performs various other tasks related to Mr. Meadows' non-utility business enterprises.

Utility management claims to have improved control over the posting of payments in response to the Commission's August 2010 billing audit. However, during on-site observations and interviews, management audit staff observed a problem with respect to credit card payments not being timely posted in QuickBooks. A batch of credit card payments had been misplaced for several days. Therefore, these payments were not posted timely since the company failed to properly update the accounts. QuickBooks triggered 'Notice of Disconnect'

letters that were sent to customers in error. If this error had not been detected, these customers may have been disconnected despite being current.

The Commission has also received numerous customer complaints regarding payments being made, but not showing as credits against the customer's account. Almost all of the 84 complaints received by the Commission provided in **Appendix B** include reference to improper billings. Below are some specific examples recently received regarding accuracy and failure to post bill payments:

- ◆ Complainant states that his account is constantly credited incorrectly (mixed up with another customer with the same last name), bills are difficult to read, and bills don't show a credit for payments received. Additionally, the complainant had also paid their bill with the pay-by-phone credit card feature; however, the utility denied receipt of payment. The utility has yet to respond to the complaint and has exceeded the 15 days allowed to file a response with the Commission (CATS 0983146W).
- ◆ Complainant states that utility informed her that bill was unpaid. Complainant went to utility's office and reviewed account information with office staff member. Staff member found one payment that was not credited. Additionally, the office staff member indicated to the complainant that the mail had not been checked in three weeks. After checking mail, another payment was found. In response to the complaint the utility stated that the mail is checked daily, but did not deny mistakes in crediting the customer's account (CATS 0983157W).
- ◆ Complainant states that the utility has numerous billing issues, including incorrect meter readings, gross overbillings, and timing. Complainant receives disconnection notices despite having made payments. The complaint was closed on June 1, 2011. The utility was found to have violated Rule 25-30.130, F.A.C., Record of Complaints, for exceeding the 15 days allowed to file a response with the Commission (CATS 0983188W).
- ◆ Complainant states that his utility bill is paid on time every month and can prove it with bank statements, yet still has been cut off twice in six months for nonpayment. The utility has yet to respond to the complaint and has exceeded the 15 days allowed to file a response with the Commission (CATS 0975087W).
- ◆ Complainant states that the utility sent notices to customers regarding money owed from five to six years ago and is threatening to disconnect if not paid. Complainant spoke with utility employees who claimed the notices were a computer mistake. According to the complainant, some customer have paid for fear of disconnection. The utility has yet to respond to the complaint and has exceeded the 15 days allowed to file a response with the Commission (CATS 0985658W).
- ◆ Complainant states that her initial utility bill was in excess of \$200. Utility informed complainant that bill was for a prior tenant and the amount would be removed from her account. The complainant was told by the utility to hold off payment until the bill is corrected. The utility failed to contact the complainant to inform them of bill correction. Complainant was billed again for \$190 and paid the bill; however, the complainant received a disconnection notice for nonpayment. In response to the complaint, the utility indicated that it was unable to find a billing for service over \$200.00 (CATS 0983192W).

What is audit staff's conclusion?

Audit staff believes that a utility should have in place, basic internal control procedures for accounts receivable and related revenues. These procedures should ensure that all payments received (i.e., cash, checks, and credit card payments) are promptly and accurately recorded.

It appears that the Four Points has not demonstrated compliance with Rule 25-30.335(4), F.A.C., Customer Billing. Four Points does not have adequate controls to ensure that all cash receipts (payments received) are promptly and accurately recorded. Personnel are rushed by management to produce their work products.

If the Commission grants a certificate to Bimini Bay, the utility would also be required to have in place, basic internal control procedures for accounts receivable and related revenues.

2.6 SERVICE DISCONNECTIONS

Are Four Points and Bimini Bay in compliance with Rule 25-30.320(2)(a)-(j), F.A.C., Refusal or Discontinuance of Service?

What is the standard?

Pursuant to Rule 30.320, F.A.C., Refusal or Discontinuance of Service, Sections (2)(a) through (2)(j), a utility has the right to refuse or discontinue a customer's service under the following specified conditions:

- a. For noncompliance with or violation of any state or municipal law.
- b. For failure of the customer to correct any deficiencies or defects in his piping or equipment.
- c. For the use of utility service for any other property or purpose than that described in the application.
- d. For failure to provide adequate space for the meter or service equipment of the utility.
- e. For failure to provide the utility with a deposit to insure payment of bills.
- f. For refusal to provide reasonable access to the utility for the purpose of reading meters.
- g. For nonpayment of bills.
- h. Without notice in the event of condition known to the utility to be hazardous.
- i. Without notice in the event of tampering with facilities owed by the utility.
- j. Without notice in the event of unauthorized or fraudulent use of service.

To give customers a reasonable amount of time to resolve the issue at hand, when a customer is delinquent in paying a bill, the utility is required to give written notice, separate and apart from the bill, five working days in advance of discontinuance of service.

What is happening?

According to Four Points and Bimini Bay management, disconnect notices for nonpayment are generated and mailed to customers the day after the due date indicated on the customer invoices. Customers are given five days from the date of the disconnect notice to pay their current charges to avoid disconnection of services. In accordance with Four Points' tariff, customers who pay their bill late are assessed a \$5 late fee. Additionally, if service is disconnected, payment of a \$20 service reconnection fee is required. The utilities' management

informed the audit staff that the majority of Bimini Bay customers are lower income families and some customers are manually turning their water service back on after disconnection to avoid paying their bill. During audit management staffs onsite visit in December 2010, the utilities' operations manager stated that Bimini Bay is no longer assessing a \$5 late fee nor a \$20 service reconnection fee. These fees were removed to encourage customers to pay their bill.

Despite the utilities' attempt to implement disconnection procedures that comply with Commission rules, the audit staff believes numerous customers are disconnected in error each month as a result of a variety of problems that occur in the utilities' meter reading, customer billing, and customer payment processing operations. Specific errors that occur include reading meters incorrectly, inputting incorrect meter readings into the billing system, using incorrect formulas to calculate customer bills, assigning incorrect due dates on bills, and failing to post or timely post customer payments. Additionally, customers often experience difficulty in contacting utility representatives to dispute or pay a bill. Due to the meter reading, billing, and customer payment processes being incorrect, the utilities' disconnection process is inevitably incorrect.

Disconnection notices to customers are triggered from the billing system's accounts receivable aging reports. If the accounts receivable data is unreliable, it cannot be relied on to generate correct disconnect notices. Management audit staff requested copies of disconnect notices sent to both Four Points and Bimini Bay customers and list of actual disconnects for each month July through December 2010. **Exhibit 2** below depicts the number of disconnect notices sent and the subsequent number of disconnects that occurred. As shown, the utilities were unable to find records of disconnect notices and disconnections for numerous months.

FOUR POINTS AND BIMINI BAY DISCONNECT NOTICES AND SERVICE DISCONNECTIONS				
Month/Yr	Four Points (255 customers)		Bimini Bay (173 customers) ¹	
	Disconnect Notices Sent	Disconnections	Disconnect Notices Sent	Disconnections
Jul 2010	96	80	87	67
Aug 2010	105	47	67	28
Sep 2010	No Record Found	No Record Found	No Record Found	38
Oct 2010	104	108	49	No Record Found
Nov 2010	80	No Record Found	59	No Record Found
Dec 2010	121	No Record Found	68	No Record Found
Jan 2011	80	No Record Found	No Record Found	No Record Found

1. Excludes 39 units personally owned by Four Points/Bimini Bay owner. Water and wastewater utilities for these residents are included in monthly rent.

EXHIBIT 2

Source: Staff DR 1-4

The available data shows an extremely high delinquency rate among the residents of both Bimini Bay and Island Club West (Four Points). Four Points sent out an average of 105 disconnect notices to its customers during July through December 2010. This figure represents 41 percent of the 255 meters located in the Island Club West subdivision. Four Points disconnected an average of 78 meters a month, or 31 percent of the total number of meters in just six months. An example of the flaws in the utilities' operations can be seen in the month of October. Four Points sent 104 disconnect notices to customers, yet they disconnected 108 customers.

Bimini Bay sent out an average of 68 disconnect notices during July through December 2010, which represents 39 percent of the 173 meters located in Bimini Bay Resort and Spa who

are billed for water and wastewater service. Bimini Bay disconnected an average of 44 meters a month, or 25 percent of the total number of meters.

The 2010 billing audit of Four Points report noted a small number of customers who were disconnected for nonpayment from January 2009 through March 2010. No more than 28 customers were disconnected in any given month: however, beginning in April 2010, the number of monthly disconnects jumped significantly. For the months of April, May, and June 2010, Four Points disconnected 76, 86, and 114 customers, respectively.

Upon examination of numerous customer complaints filed with the Commission regarding wrongful disconnection of service, management audit staff believes Four Points and Bimini Bay have inadequate internal controls to provide reasonable assurance that the utilities' disconnect operations are effective and efficient. Customers are often not given required notice of at least five working days, separate and apart from any bill of service. Also customers are disconnected who are not delinquent on their bills. Below are specific examples from customer complaints regarding the utilities' negligence in handling service disconnections.

- ◆ Complainant states that service was disconnected twice in six months, yet he paid his bill on time every month and can prove it with bank statements. The utility has yet to respond to the complaint and has exceeded the 15 days allowed to file a response with the Commission (CATS 0975087W).
- ◆ Complainant states that service was wrongly disconnected for non-payment after customer attempted to resolve the situation with the utility. The utility provided the customer with three different amounts to pay. In a December 28, 2010, response to the complaint, the utility alleged that the complainant, who is a property manager, must have the "property confused." On January 19, 2011, the Commission requested that the utility provide a supplemental response indicating that the customer has been contacted. The complaint was closed on May 16, 2011. The utility was found to have violated Rule 25-30.130, F.A.C., Record of Complaints, for exceeding the 15 days allowed to file a response with the Commission (CATS 0983201W).
- ◆ Complainant states that service was wrongly disconnected because she was being billed for the wrong meter. The complaint was closed on May 31, 2011. The utility was found to have violated Rule 25-30.130, F.A.C., Record of Complaints, for exceeding the 15 days allowed to file a response with the Commission (CATS 0983172W).
- ◆ Complainant states that service was wrongly disconnected within two weeks of paying the first month's water fee plus a deposit. In response to the complaint, the company admitted to the improper disconnection (CATS 0930297W).
- ◆ Complainant states that service was disconnected despite the fact that bills are paid on time, including a credit to their account. Four Points admitted to the improper disconnection due to an error on the customer's bill (CATS 0740417W).
- ◆ Complainant states that service was disconnected for nonpayment of a prior tenant's bill. Four Points admitted to the improper disconnection due to an error on the customer's bill (CATS 0764038W).

- ◆ Complainant states that service was disconnected in error as a result of wrong meter being shut-off. The complaint was closed on May 16, 2011. Four Points was found to have violated Rule 25-30.130, F.A.C., Record of Complaints, for exceeding the 15 days allowed to file a response with the Commission (CATS 0983198W).
- ◆ Complainant states that service was repeatedly disconnected for nonpayment without customers having received a bill. The utility has yet to respond to the complaint and has exceeded the 15 days allowed to file a response with the Commission (CATS 0975089W).
- ◆ Complainant states that service was disconnected without notice either by mail or door posting. The complaint was closed on November 16, 2007. The utility was found to have violated Rule 25-30.130, F.A.C., Record of Complaints, for exceeding the 15 days allowed to file a response with the Commission (CATS 0750846W).
- ◆ Complainant states that service was disconnected over a bill still in dispute with the company. The complaint was closed on September 8, 2010. The utility was found to have violated Rule 25-30.130, F.A.C., Record of Complaints, for exceeding the 15 days allowed to file a response with the Commission (CATS 0957294W).
- ◆ Complainant states that service was disconnected and was unable to reach a utility representative to reestablish service during and after office hours. The complaint was closed on May 16, 2011. The utility was found to have violated Rule 25-30.130, F.A.C., Record of Complaints, for exceeding the 15 days allowed to file a response with the Commission (CATS 0983201W).
- ◆ Complainant states that service was disconnected on the due date of their invoice. The utility has yet to respond to the complaint and has exceeded the 15 days allowed to file a response with the Commission (CATS 0975089W).

What is audit staff's conclusion?

It appears that Four Points has not demonstrated compliance with Rule 25-30.320, F.A.C., Refusal and Discontinuance of Service.

If the Commission grants a certificate to Bimini Bay, the utility would also be required to give customers a written notice of disconnection, separate and apart from the bill, five working days in advance of discontinuance of service.

3.0 MANAGEMENT ISSUES

3.1 EFFECTIVE WATER UTILITY MANAGEMENT

According to a July 2008 National Regulatory Research Institute (NRRI) study,³ effective management of small water companies requires the following:

- ◆ Compliance with regulatory requirements
- ◆ Attracting and retaining quality personnel
- ◆ Providing effective employee training and education
- ◆ Providing excellent customer service
- ◆ Displaying good public relations
- ◆ Employing a strategic business plan

Another NRRI study dated February 2008, *Small Water Systems: Challenges and Recommendations*, identified the attributes and practices of successful small systems. By definition small water utilities have fewer customers over which to spread fixed cost. Challenges of small utilities typically include deteriorating infrastructure, increasing regulatory requirements, deficient customer service, inadequately trained management, poor accounting principles, and lack of financial resources. This NRRI paper suggests that state commissions should assess the proficiency of small utilities whenever they have interaction, whether it is a call to staff for advice or assistance, an application for approval of a certification, or a rate case. At such time the commission should ask the questions identified in **Appendix C**. Management audit staff believes the answers to these questions for Bimini Bay and Four Points paint a distressing picture.

The National Association of Water Companies (NAWC) Utility Management Steering Committee has also identified measures of an effectively managed water utility. These measures include customer satisfaction, employee motivation and commitment, and operational optimization.⁴

The measures developed by the NAWC Utility Management Steering Committee can be categorized into three sets of attributes, reflecting the three elements of the capacity development provisions of the Safe Drinking Water Act (SDWA): (1) managerial, (2) infrastructure and technical, and (3) financial. The three categories of attributes are interconnected; success in one category cannot be achieved without success in the other two.

This audit has focused solely on the managerial capability attribute. Managerial capacity concerns the management structure and its effectiveness. Key elements include ownership; owner involvement and accountability; adequacy of staffing and staff deployment; and effective linkages with customers, regulators, and other stakeholders. According to the NRRI's study *Small Water Systems: Challenges and Recommendations*, small systems are more likely to succeed when providing customers with drinking water is the owner's primary or only business focus. Where the water system is not the owner's top priority, there is risk that problems will go unnoticed and necessary maintenance will be deferred. Most successful small systems have an owner with a passion for the business, one who recognizes and values the utility's public

³ Certification Requirements As a Path to Improve Small Water Utility Operations: The Issues Facing Regulatory Commissions by David Denig-Chakroff. July 8, 2008, page 6.

⁴ P. Cook, "Preliminary Measures of Effective Management, from the Utility Management Steering Committee," November 2006.

interest obligation. These systems also employ a licensed system operator who ensures drinking water safety, maintain adequate staff training, respond to customer concerns, work closely with the community and stakeholders, and nurture good public relations.

This chapter addresses whether or not Four Point and Bimini Bay management have adequate management attributes in place in order to be effective.

3.2 COMPLIANCE WITH REGULATORY REQUIREMENTS

Do Four Points and Bimini Bay have a history of compliance with applicable statutes and regulations?

What is the standard?

Over time utilities regulated by the Commission develop a track record or history of compliance (or non-compliance) with applicable regulations. That history should include compliance with the applicable rules and statutes described in detail in Chapter 2 of this report. Water utilities should also meet deadlines for water quality monitoring and reporting and for distributing annual water quality (consumer confidence) reports to customers.

What is happening?

Four Points

Four Points (formerly known as Island Club West Development) has been in operation since 2001. From the beginning of its operations, serious compliance issues arose. Four Points operated for four years without having filed an application for a water and wastewater certificate. Only in September 2005, after the Commission contacted the utility about inquiries from customers with service quality and billing issues⁵ did Four Points ownership appear to be aware of the need to be certificated by the FPSC. Sixteen customers filed letters with the Commission in objection to Four Points application for certificate.

As noted previously, on April 2, 2007, in Docket No. 050595-PSS-WS, the Commission issued Order No. PSC-07-0280-PAA-WS that approved a Settlement Agreement between Four Points and its customers to resolve all the issues between them. In the Order, the Commission also granted Four Points Utility a water and wastewater certificate.

On April 20, 2009, Four Points filed for a staff-assisted rate case (SARC); however, the company failed to pay its filing fee. In a May 14, 2009 letter, the Commission staff informed Four Points of the delinquency, but Four Points failed to pay the filing fee by the requested date of June 17, 2009. Subsequently, on August 11, 2009, Commission staff sent a letter to Four Points denying its application for a SARC.

During 2010, numerous customer complaints again led to the discovery of non-compliance with key regulations. As detailed in Chapter 2, the company appears to have not attempted to comply with rules regarding the handling of customer complaints and customer deposits. In 2010, the company accumulated the worst record in terms of customer complaints of all 68 currently regulated water utilities receiving complaints. Routinely the company fails to respond within the required 15 day period, and when responses are received they are often incomplete.

⁵ In FPSC Order No. PSC-06-0753-SC-WS, issued September 6, 2006, the Commission ordered Four Points to show cause why the utility should not be fined \$5,000 for failure to obtain certificates of authorization and approval of rates and charges prior to providing service to customers. The utility paid the fine in lieu of filing a response to the show cause order and the Commission temporarily authorized the utility to charge rates, with revenues held subject to refund, pending approval of final rates.

Chapter 2 of this report includes descriptions of compliance issues raised by customers through formal complaints filed with the Commission. The customer impact of these actual and potential violations appears to be large. The questionable practices usually result in a financial benefit to Four Points and Bimini Bay at the customers' expense.

Bimini Bay

Bimini Bay has been in operation since August 2007. Although Bimini Bay charges for water and wastewater services, the utility currently claims exemption from Commission regulation because the utility contends that it has been operating as a reseller. As a reseller, the company may not set rates or charges that exceed the actual purchase price of the water and wastewater Bimini Bay receives from Polk County Utilities. In order to recover additional expenses incurred in the provision of water and wastewater service, an exempt utility must apply for certificates and become regulated by the Commission.

On August 31, 2009, Bimini Bay filed an application with the Commission for a certificate to provide water and wastewater service and for authority to change its rates and charges for water and wastewater services. The Commission opened Docket Number 090424-W5 to acknowledge receipt and review of Bimini Bay Utilities' application.⁶ After reviewing the Bimini Bay application and the current operations of Four Points, Commission staff issued a letter on September 25, 2009, to Bimini Bay and Four Points noting apparent violations of Commission rules and Florida Statutes. The letter also warned of possible implementation of show cause proceedings. Potential violations by Four Points included untimely submission of annual reports, insufficient payment of regulatory assessment fees (RAF), unauthorized charges on customer bills, and assessing inappropriate liens on customers' property. Apparent violations by Bimini Bay include operating without a water and wastewater certificate since 2007, failure to file annual reports, and failure to pay RAFs. In an October 7, 2009, letter filed in response to the Commission staff's letter, the utilities (as one entity) claimed, with the exception of an annual report fine and RAF issues, there is nothing to be fixed that has not already been fixed.

Though Bimini Bay is not certificated and is not presently subject to Commission rules, for purposes of this audit, staff has assessed the degree of compliance currently evident in Bimini Bay's operations. Management audit staff believes this assessment may have value in determining whether the company can successfully operate under the applicable rules if granted a certificate.

Numerous Bimini Bay potential violations of statutes and rules are noted in Chapter 2 of this management audit. Also, Commission staff's 2010 financial audit of Bimini Bay found that the utility is not in conformity with NARUC uniform system of accounts.

What is audit staff's conclusion?

Audit staff believes Four Points and Bimini Bay have a poor record of complying with applicable statutes and rules under FPSC jurisdiction. Company management has either been unaware of key rules and statutes or has chosen to ignore them completely. The number of customer complaints is extremely high, particularly in light of the fact that combined, the companies serve fewer than 500 customers. Responses to customer complaints are poorly done, if attempted at all. The utilities' owner appears to be unmotivated to take the actions necessary to make regulatory compliance a priority.

⁶ In a September 2009 letter to Bimini Bay Utilities, Commission staff identified eight deficiencies in the utility's application and further requested ten additional pieces of information needed to complete the application process.

3.3 QUALITY PERSONNEL

Do Four Points and Bimini Bay attract and retain quality personnel?

What is the standard?

According to the July 2008 NRRI study, a small water utility should be able to attract and retain well-qualified personnel.⁷ It should provide competitive salary and benefits packages. Managers should create a productive, respectful work environment with effective communication throughout the organization.

What is happening?

During the audit, five former employees of the companies sought out opportunities to inform staff of concerns about either their treatment by the owner and management or about potentially improper practices by the owner and management. From on-site observation, the audit team observed a tense and volatile atmosphere that is not conducive to either performing quality work or to retaining quality personnel. The office staff observed appeared to be simply overwhelmed by the results of a large workload caused by poor management practices and unrealistic productivity expectations. It has been apparent for some time that Four Points and Bimini Bay suffer from a high rate of employee turnover. In fact, during the few months of this audit engagement, one employee was terminated and all other office personnel besides the operations manager have left the company.

In early 2011, the owner offered the position of Treasurer/Controller to a candidate who declined due to concerns over improper management practices, a poor work environment, and poor treatment of existing employees. This candidate's assessment was based upon having spent one month employed as a consultant. This situation indicates management's inability to attract competent professionals to key positions.

Numerous customer complaints include references to difficulties caused by the constant turnover of office personnel. Turnover impedes the timely resolution of disputes and results in the "ball being dropped" by company personnel.

What is audit staff's conclusion?

It appears that Four Points' and Bimini Bay's management have not created a proper work atmosphere that promotes effective work performance or employee satisfaction. Instead, staff believes the currently stressful work atmosphere created by management contributes to high employee turnover.

3.4 EMPLOYEE TRAINING

Do Four Points and Bimini Bay management provide effective employee training and education?

What is the standard?

Additionally, a utility should provide effective employee training and continuing education programs.⁸ Employees should be well trained for the skills they are asked to perform. They should also have the opportunity to train for higher level positions in the organization to be

⁷ National Regulatory Research Institute, *Certification Requirements As a Path to Improve Small Water Utility Operations*, July 8, 2008.

⁸ *Ibid.*

qualified for advancement. All employees must have frequent and regular safety training for the positions they hold.

What is happening?

The company does not engage in a training program per se, which is somewhat understandable for a small company. On-the-job training is relied upon; however, due to the high turnover rate, those providing the training may be new themselves. Employees report that their training is brief and they feel largely unprepared as they begin working. Audit staff noted that company procedures largely consist of to-do lists, or work aids, and in most cases do not provide the guidance that detailed procedures should.

What is management audit staff's conclusion?

It appears that employee training is inadequate, even considering the small size of the utilities. Particularly in light of the high employee turnover, additional attention to thorough training is all the more needed. This lack of training and written procedures appears to contribute significantly to errors in billing, payment processing, meter reading, and disconnections.

3.5 QUALITY OF SERVICE

Do Four Points and Bimini Bay provide excellent quality service?

What is the standard?

A utility should have a reputation of providing excellent customer service.⁹ The company should have a history of satisfied customers as measured by low numbers of customer complaints and prompt attention to complaints.

What is happening?

As noted, the companies' large number of customer complaints provide an indication of poor customer service. Of course, not all complaints are valid or result from a violation at all.

Many of the problems discussed in this report such as billing system deficiencies and improper handling of deposits have been known to ownership and management for some time, without appropriate action being taken. The recommendations for improvement from staff's August 2010 billing audit of Four Points are not yet implemented eight months later.

As noted in Chapter 2, section 2.5, for the months March through July 2010, management audit staff found that *all* Bimini Bay customer bills contained errors. Disconnections of customers current on their bills can only be categorized as extremely poor service. Failure to refund deposits, inadequate attention to high bill inquiries, and limited access to utility staff for resolution of disputes all indicate a disregard for excellent customer service.

Audit staff believes the utilities' management's focus on speed is due at least in part to the desire to have the staff spend time on their duties related to the owner's non-utility businesses. For example, the employee job descriptions provided indicate that management expects just five minutes to be dedicated to the important task of inputting each month's meter readings. Management estimates that twenty minutes are actually spent on this activity.

⁹ *Ibid.*

The operations manager frequently does attend to customer problems, making some attempts to resolve them. However, ultimately he is hampered by the directions and priorities of the owner from making the proper corrections to customer problems as evidenced in the informal and formal customer complaints filed with the Commission.

What is audit staff's conclusion?

It appears that customer service is not a priority for Four Points' and Bimini Bay's owner and management. This is evidenced by the inadequate allocation of time for utility related job duties. Haste is encouraged, and pressure is high on employees to quickly complete their tasks.

3.6 PUBLIC RELATIONS

Do Four Points and Bimini Bay display good public relations?

What is the standard?

According to the July 2008 NRRI study, a utility should have a reputation of working cooperatively with the community it serves. The company should provide timely, accurate information about service outages, water quality issues, watering restrictions, and other matters that affect the community. The company must maintain good working relationships and frequent communications with local media and local government.¹⁰

What is happening?

As evidence in the November 2010 customer service hearings, many customers openly question the honesty and integrity of the companies' owner and management. Conflicts with customers date back to disputes over the Homeowners Association at Four Points, where the homeowners took legal action against the owners to obtain ownership and control of the clubhouse and recreational facilities.

What is audit staff's conclusion?

Based upon the handling of customer complaints, it appears little value is placed on public relations, and the utilities' record in this area is poor. Management audit staff noted a high degree of animosity toward the utilities from the conversations with customers and its review of past complaints. This ill will results in part from the lack of prompt attention, or any attention at all, given to complaints or even inquiries.

3.7 STRATEGIC BUSINESS PLANNING

Do Four Points and Bimini Bay employ a strategic business plan?

What is the standard?

A utility should conduct and maintain a strategic business plan. It should assess the utility's performance and make recommendations for improvement.¹¹ A strategic plan seeks to identify risks, challenges, and opportunities and develop appropriate plans for proactively dealing with them. Appropriate planning takes into account future needs for plant maintenance and expansion, maintains an awareness of changes in regulatory compliance, and maintains a focus on customer needs.

¹⁰ *Ibid.*

¹¹ *Ibid.*

What is happening?

In response to an audit request, management audit staff received what was labeled a strategic plan for both companies. However, these strategic plans are focused entirely upon expansion of the developments and enhancing the desirability of the properties to potential buyers or renters. The strategic plan focuses on construction of additional townhome units or a water park that had originally been planned for the properties. No mention is made at all about planning for providing adequate water and wastewater service.

What is audit staff's conclusion?

The content of the strategic plan provided by the utilities appears to reveal a lack of focus or concern by the companies' owner in providing adequate water and wastewater service to customers. It also signals that the utilities' owner and management are not proactively planning for the future of the utilities and the challenges they face.

3.8 NON-JURISDICTIONAL ISSUES

Are there any other Issues which demonstrate Management Competency?

What is the standard?

The Commission has jurisdiction over regulated utilities. During the course of the customer meeting and the review of customer complaints, staff became aware of many issues which need attention from other agencies or authorities. While these issues are not within Commission jurisdiction, they do demonstrate the management competency of the utility and development owner.

What is happening?

During the course of this audit, staff reviewed many complaints regarding potentially valid issues outside of Florida Public Service Commission jurisdiction.

These issues include poor construction quality, liens improperly placed against owner properties, unethical real estate practices, failure to comply with home owners association statutes, water quality issues, environmental and health issues, and failure to pay property taxes. While these issues are outside of the Commission jurisdiction, management audit staff felt it necessary to bring these to the Commission's attention. A spreadsheet of non-jurisdictional items was created for the Commission's General Counsel's office to refer to other agencies.

The following allegations fall outside of the Commission's jurisdiction:

- ◆ **Water Quality Issues:** Staff received several complaints of sand present in water to the extent that it clogged filters, shower heads, etc. An allegation of coli forms being detected in drinking water was also made by a resident. An environmental specialist with the Department of Environmental Protection informed staff that their office had received a call regarding a spill at Bimini Bay on January 12, 2011. Polk County staff responded to this report on January 14, 2011, and found a broken "Hydrant blow off valve (curb stop)" creating a big puddle of water. On January 19, 2011, Polk County received a similar report from the EPA Regional Office. Polk County staff visited the site, inspected the sewage lift station, and spoke to the property manager about the two spill reports. At the time of the inspection, the inspector found no visible signs of sewage or odors but found some operational issues with the lift station. The inspector discussed the matter with the property manager and was told that the

utility's staff was working on improving the maintenance program for the pumping station.

- ◆ Environmental and Health Issues: A former employee alleged that water being used for irrigation at Bimini Bay is contaminated with sewage.
- ◆ Failure to pay Property Tax: The Polk County Tax Collector shows delinquent property tax assessments for 2008, 2009, and 2010 tax years on numerous Island Club Resort Development, Hunter Development Inc., and Harbour Bend LLC properties; these being owned by David Meadows. The amount of these delinquencies is in the tens of thousands of dollars.
- ◆ Home Construction: Complaints regarding poor construction of homes at Bimini Bay have been reported by several owners. These complaints include incorrectly-connected plumbing to the extent that toilet water tank sources were found to be hot water, instead of cold; walls that are not plumb/square; kitchen cabinets falling off the wall, etc. Complaints have alleged that water lines from some addresses are erroneously connected to meters at different addresses. If true, this could explain some of the numerous complaints regarding unexplained high or low usage. The only way to prove this complaint would be for the homeowner to expose the pipes leading into the home and behind the walls. This is a costly endeavor which could arguably be seen as the responsibility of the developer. The utility owner and the developer of Four Points and Bimini Bay are one in the same.
- ◆ Liens: Complaints regarding liens filed against owners' properties over failure to pay improperly assessed Home Owners Association charges are alleged. Customer complaints describe liens which include incorrect charges for HOA dues and fines for various violations of covenants and restrictions. In years past, liens have been filed for non-payment of water and wastewater charges. However, according to Four Points and Bimini Bay management, no liens have been obtained for non-payment of water and wastewater services within the last year.
- ◆ Failure to Comply with Home Owners Association Statutes: Florida Statutes, Chapter 720.303 requires that financial reports be provided to owners. Customer complaints allege that repeated requests by owners for financial reports for Bimini Bay Owners Association have been ignored. These complaints also allege that fees and penalties are inconsistently or unfairly charged. These allegations have also been made by former employees.

What is audit staff's conclusion?

Audit staff believes that the multitude of non-jurisdictional issues give further evidence to audit staff's concern of the competency regarding the utilities' management.

4.0 CONCLUSION

As evidenced throughout this report, management audit staff has found sufficient cause to believe that Four Points and Bimini Bay lack effective managerial controls. Just as significant, both utilities frequently disregard Commission rules in their current operations. Given management's disregard for regulatory compliance and that management has not established sufficient safeguards to protect customers from incurring inappropriate charges on their bills, it is apparent that maintaining good customer relations is not a priority. Overall, staff believes that Four Points and Bimini Bay do not currently have the management capability to operate successfully as providers of water and wastewater services. The following are audit management staff's conclusions of Four Points' and Bimini Bay's compliance and operational deficiencies:

1. It appears that Four Points and Bimini Bay have not demonstrated timely compliance with Rules 25-30.110(3) and (3)(c), F.A.C., Records and Reports; Annual Reports. Four Points and Bimini Bay have exhibited a history of disregard for regulatory compliance by filing Annual Reports late and not filing a written request with the Commission for an extension of time to file.
2. It appears that Four Points has not demonstrated compliance with Rule 25-30.120, F.A.C., Regulatory Assessment Fees. The utility has failed to pay both its 2009 and 2010 RAFs which were due on March 31, 2010, and March 31, 2011, respectively. Four Points has a history of disregard for regulatory compliance by remitting its RAF payments late and paying incorrect RAFs. As a reseller, Bimini Bay has not been required to pay RAFs. If the Commission grants a certificate to Bimini Bay, the utility would be required to file annual RAFs.
3. It appears that Four Points and Bimini Bay have not complied with Rule 25-30.145, F.A.C., Audit Access to Records. Failure to cooperate with audit requests, whether intentional or not, handicaps the Commission's effectiveness and efficiency.
4. It appears that Four Points has not demonstrated compliance with Rule 25-30.130, F.A.C., Record of Complaints. Regardless of management's indication that a new complaint-tracking process has been put into place, audit staff strongly believes that Four Points has not demonstrated implementation of an effective formal process for recording and maintaining customer complaints. If the Commission grants a certificate to Bimini Bay, the utility would also be required to maintain a record of customer complaints.
5. It appears that Four Points and Bimini Bay have not demonstrated compliance with Rule 25-22.032(3), F.A.C., Customer Complaints. The utilities have not provided adequate evidence to management audit staff that it avoids or tries to avoid disconnecting a customer who has a pending complaint with the Commission.
6. It appears that Four Points and Bimini Bay have not demonstrated compliance with Rule 25-30.355, F.A.C., Complaints. The utilities are failing to make full and prompt investigations of all customer complaints. Additionally, the utilities are consistently

failing to provide a response within 15 days for all customer complaints filed with the Commission.

7. It appears that Four Points and Bimini Bay have not demonstrated compliance with Rule 25-22.032(3), F.A.C., Customer Complaints. The utilities have not provided adequate evidence to management audit staff that they avoid or try to avoid disconnecting a customer who has a pending complaint with the Commission.
8. It appears that Four Points has complied with Rule 25-30.311, Sections (2) and (3), F.A.C., regarding providing customer receipts for deposits and maintaining a record of customer deposits. However, management audit staff questions the adequacy of the deposit records maintained by Four Points. Also, Four Points may not be complying with Rule 25-30.311(1), F.A.C., regarding the determination of initial deposits. Four Points' current practice of requiring \$120 as an initial deposit is not the specific criteria stated in the utility's tariff. If the Commission grants a certificate to Bimini Bay, the utility must maintain an adequate record of deposits and both file and adhere to its tariff for determining the amount for initial deposits.
9. It appears that Four Points has not demonstrated compliance with Rule 25-30.311(4)(a)(b), F.A.C., Interest on Deposits. Audit staff found no entries that recorded interest on deposits and, subsequently, no annual interest payments to customers. If the Commission grants a certificate to Bimini Bay, the utility would also be required to pay their customers interests on deposits.
10. It appears that Four Points has not demonstrated compliance with Rule 25-30.311 Sections (5) and (6), Refund of Deposits, F.A.C. The utilities have no formal policies and procedures that govern the process of refunding customer deposits and Four Points has failed to refund deposits and pay customers a minimum of six percent interest per year. If the Commission grants a certificate to Bimini Bay, the utility would also be required to refund customer deposits with accrued interest.
11. It appears that Four Points has not demonstrated compliance with Rule 25-30.311(7), F.A.C., New or Additional Deposits. Four Points has not provided required notice and justification to customers for payment of additional deposits. Management audit staff believes that company management has implemented seemingly arbitrary policies of requiring additional deposits from customers regardless of the customers' deposit and payment history. If the Commission grants a certificate to Bimini Bay, the utility would also be required to provide required notice and justification to customers for payment of additional deposits.
12. It appears that Four Points is complying with the meter reading procedures as stated in Rule 25-30.261, F.A.C., by reading the meters monthly. However, management audit staff questions the accuracy of meter reading done by both utilities. Management audit staff believes accuracy in meter reading is a reasonable expectation for customers. The utilities' management has problems retaining and training quality meter reading personnel, and providing adequate time for meter readers and accounting personnel to record readings. If the Commission grants a certificate to Bimini Bay, the utility would also be required to comply with meter reading procedures.

13. It appears that Four Points has not demonstrated compliance with the meter reading provision in the November 2006 Settlement Agreement with the Island West Homeowners Association (Customers) as adopted in Commission Order No. PSC-07-0280-PAA-WS issued on April 2, 2007 in Docket No. 050595-WS. Audit staff saw no evidence that indicated meter readers leave a note on the customer's residence or that a notice was mailed to the customer.
14. It appears that Four Points is not in compliance with Rule 25-30.335(7), F.A.C., Customer Billing. Staff believes customer billing controls and procedures are inadequate to produce reliable bills. This inadequacy contributes to the poor relationship with customers. If the utility is unable to generate reliable bills, the company cannot be certain that it is charging just and reasonable rates as required by Chapter 367.081 (1),(2)(a)1. Management audit staff recommends that Four Points provide additional account information on the bill, listing amounts paid during the past month, and the date paid. If the Commission grants a certificate to Bimini Bay, the utility would also be required to accurately reproduce customer bills with the correct balance due for a particular month.
15. It appears that the Four Points has not demonstrated compliance with Rule 25-30.335(4), F.A.C., Customer Billing. Four Points does not have adequate controls to ensure that all cash receipts (payments received) are promptly and accurately recorded. If the Commission grants a certificate to Bimini Bay, the utility would also be required to have in place basic internal control procedures for accounts receivable and related revenues.
16. It appears that Four Points has not demonstrated compliance with Rule 25-30.320, F.A.C., Refusal and Discontinuance of Service. If the Commission grants a certificate to Bimini Bay, the utility would also be required to give customers a written notice of disconnection, separate and apart from the bill, five working days in advance of discontinuance of service.
17. Audit staff believes Four Points and Bimini Bay have a poor record of complying with applicable statutes and rules under FPSC jurisdiction. Company management has either been unaware of key rules and statutes or has chosen to ignore them completely. The numbers of customer complaints are extremely high, particularly in light of the fact that combined, the companies serve fewer than 500 customers. Responses to customer complaints are poorly done, if attempted at all. The utilities' owner appears to be unmotivated to take the actions necessary to make regulatory compliance a priority.
18. It appears that Four Points' and Bimini Bay's management have not created a proper work atmosphere that promotes effective work performance or employee satisfaction. Instead, staff believes the currently stressful work atmosphere created by management contributes to high employee turnover.
19. It appears that employee training is inadequate, even considering the small size of the utilities. Particularly in light of the high employee turnover, additional attention to thorough training is all the more needed. This lack of training and written procedures appears to contribute significantly to errors in billing, payment processing, meter reading, and disconnections.

20. It appears that customer service is not a priority for Four Points' and Bimini Bay's owner and management. This is evidenced by the inadequate allocation of time for utility related job duties. Haste is encouraged, and pressure is high on employees to quickly complete their tasks.
21. Based upon the handling of customer complaints, it appears little value is placed on public relations, and the utilities' record in this area is poor. Management audit staff noted a high degree of animosity toward the utilities from its conversations with customers and its review of past complaints. This results in part from the lack of prompt attention, or any attention at all, given to complaints or even inquiries.
22. The content of the strategic plan provided by the utilities appears to reveal a lack of focus or concern by the companies' owner in providing adequate water and wastewater service to customers. It also signals that the utilities' owner and management are not proactively planning for the future of the utilities and the challenges they face.
23. Audit staff believes that the multitude of non-jurisdictional issues give further evidence to audit staff's concern regarding the competency of the utilities' management.

APPENDICES

5.1 APPENDIX A

BACKGROUND AND CASE HISTORY

HISTORY OF FOUR POINTS UTILITY

Four Points is a Class C water and wastewater utility which is currently providing service to approximately 255 customers located in the Island Club West Resort and Spa townhome development in Davenport, Florida. Mr. David Meadows is the President and sole officer of Four Points. The utility has been in existence since 2001; however, the utility was not brought to the Commission's attention until 2005 when the Commission received inquiries from customers regarding a variety of charges imposed by the utility. Four Points was billing customers for electric, telephone, cable, county tax, state tax, and water and wastewater services. Four Points (formerly known as Island Club West Development) subsequently filed with the Commission an application for water and wastewater certificates on September 8, 2005. Sixteen customers filed letters with the Commission in objection to Four Points' application for certificate. Four Points application remained deficient until August 2006 when the utility provided information showing financial viability.

FPSC ORDER NO. PSC-06-0753-SC-WS

On September 6, 2006, in Docket No. 050595-WS, the Commission issued Order No. PSC-06-753-SC-WS. The Order required Four Points to show cause why the utility should not be fined \$5,000 for its failure to obtain a certificate prior to providing water and wastewater service to the public for compensation. The Order also determined that Four Points was not acting as a reseller because the utility was charging above the actual purchase price for water and wastewater service that it resells.¹² The utility paid the fine in lieu of filing a response to the show cause order, and the Commission temporarily authorized the utility to charge rates, with revenues held subject to refund, pending approval of final rates.

On April 2, 2007, in Docket No. 050595-WS, the Commission issued Order No. PSC-07-0280-PAA-WS. The Order granted Four Points water and wastewater certificates and approved a Settlement Agreement between Four Points and the 16 customers who objected to the utility's application for certificate. The Settlement Agreement set forth the following key conditions.

- ◆ Meters: The utility agrees to use meters that conform to the standards adopted by the American Water Works Association as required in Rule 25-30.255, F.A.C. The utility shall locate and install meters in accordance with the policies and regulations of the Commission, including Rule 25-30.260, F.A.C.
- ◆ Meter reading: The utility has established a formal reading and training protocol. Pursuant to the protocol, meters are now read on the day Polk County reads the utility's master meter (which is now done on the 17th of each month), and bills are sent to customers within 5 days of the meter reading.

¹² Pursuant to Section 367.022(8), Florida Statutes, persons who resell water or wastewater service at a rate or charge which does not exceed the actual purchase price of the water or wastewater are exempt from Commission regulation (reseller exemption).

- ◆ **Meter Testing:** The utility shall test its meters in accordance with the requirements of Commission including, without limitation, Rule 25-30.263, F.A.C. Prior to conducting meter tests, the utility shall notify the Chairman of the Homeowners Association and will allow a customer representative to monitor the test if the Association so desires.
- ◆ **Communications:** The utility has established and will continue to provide the customers with a telephone number (863-424-0130, ext 137 or 152) and an e-mail address (ICWHelp@islandhideaway.net) dedicated to customer service. The utility also shall establish a 24-hour telephone number for utility service emergencies no later than 14 days after execution of the Settlement Agreement.
- ◆ **Bill Format:** Pursuant to the Customer's request, the utility has redesigned the format of its bills so that each bill includes the serial number of the customer's meter and depicts the actual usage on the bill. In addition, the utility has retained the services of a utility consultant to ensure that the books and records of the utility are kept in accordance with the National Association of Regulatory Utility Commissioners, System of Accounts and to enhance the billing system.
- ◆ **Financial Stability:** The utility represents and warrants that it is financially able to provide safe, continuous, and reliable service to customers. The utility shall provide Mr. Jim Brett (customer representative) with a written history of payments made to Polk County for bulk water and wastewater service. In order to secure service from Polk County, the utility has placed a deposit with Polk County in the amount of \$4,200. The utility agrees to maintain that deposit at all times. The utility further agrees to provide the association each month with a copy of the invoice received from Polk County for bulk water and wastewater service along with a copy of the check to Polk County for payment for such services.

Per Order No. PSC-07-0280-PAA-WS, the Commission also found that Four Points erroneously increased its temporarily authorized rates from November 2006 to January 2007, to match an increase in Polk County's residential rates. Four Points failed to obtain Commission approval prior to increasing rates. The Commission ordered Four Points to credit each customer account for the unauthorized rates.

In spite of the Commission's Order approving the Settlement Agreement between Four Points and its customers, the Commission continued to receive complaints from customers regarding the utility's billing and meter reading practices. On May 28, 2009, Commission staff sent a letter to Four Points requesting copies of meter reading logs and bills in response to 15 customer complaints. Four Points never responded.

FOUR POINTS' REQUEST FOR A STAFF-ASSISTED RATE CASE

On April 20, 2009, Docket No. 090213-WS was opened in response to Four Points' request for a staff-assisted rate case (SARC). The company failed to pay its application filing fee. In a May 14, 2009, letter, Commission staff informed Four Points of the delinquency and requested the utility to pay the filing fee by June 17, 2009.

On May 18, 2009, Commission staff informed Four Points that a billing audit would be conducted as part of the SARC. In a phone conversation on June 12, 2009, with Commission staff, Four Points informed the Commission that its administration office caught on fire and burned to the ground. Four Points stated to Commission staff that it suffered a loss of all books

and records. According to the Polk County newspaper, *The Ledger*, an investigation by the State Fire Marshal deemed the fire to have been arson.

On June 15, 2009, Commission staff e-mailed Four Points a letter as a reminder of the due date to pay its filing fee for a SARC. Four Points failed to pay by the requested date of June 17, 2009. In an August 11, 2009, letter to Four Points, the Commission informed the utility that its application for a SARC was denied. On August 21, 2009, the Commission closed Docket No. 090213-WS.

On September 10, 2009, Four Points e-mailed Commission staff requesting that the SARC be resurrected. In an October 27, 2009, letter, the Commission informed Four Points that the SARC would not be resurrected. In the letter, the Commission noted the following:

- ◆ Four Points failed to pay its SARC filing fee after being given 55 days to pay. (FPSC Rule 25-30.455(9), F.A.C., allows for 30 days after acceptance of the utility's request for a SARC).
- ◆ Four Points owes \$426 in penalties for submitting its 2008 Annual Report 142 days late.
- ◆ Four Points owes \$7,505 in regulatory assessment fees plus interest.
- ◆ Four Points failed to provide Commission staff with sufficient responses to assist in the application for a SARC. (e.g., supporting documentation for plant in service, operation and maintenance expenses, salaries, customer bills, customer deposits, and federal tax returns).
- ◆ Four Points failed to provide the last 12-months' worth of operating revenue and expense data.

On September 25, 2009, Commission staff issued a letter to Four Points for apparent violations of Commission rules and Florida Statutes and possible implementation of a show cause proceeding. Apparent violations include continued billing and meter reading problems, failure to timely submit its 2008 Annual Report, failure to remit the appropriate RAFs for the year 2008, and assessing inappropriate liens on customers' property for failure to pay unauthorized billing for electricity.

In an October 7, 2009, letter, Four Points responded to the Commission staff's letter. Four Points admitted to its failure to timely file the 2008 Annual Report and remitting late filing charges for \$426. Four Points also admitted to failing to pay appropriate RAF. However, Four Points denied the Commission staff's allegations of unauthorized charges on customers bills, and assessing inappropriate liens in respect to unauthorized billing for electricity.

FPSC 2010 BILLING AUDIT OF FOUR POINTS

On July 15, 2010, Commission staff initiated an audit of Four Points billing and meter reading practices and account reporting practices for the period January 1, 2009 through June 30, 2010. The billing audit was completed on August 30, 2010 and included analyses of the following:

- ◆ Meter Reading Practices
- ◆ Water Purchased versus Water Sold

- ◆ Rates and Charges Billed to Customers
- ◆ Dollars in Trial Balance versus Invoice Detail Schedules
- ◆ Miscellaneous Charges
- ◆ Bank Deposits/Customer Collections
- ◆ Customer Deposits

Commission staff's billing audit revealed seven findings including meter reading data integrity issues, discrepancies in water gallons purchased versus sold, failure to refund customer deposits, and discrepancies between customer collections and bank deposits. The billing audit resulted in the following recommendations:

- ◆ Four Points should incorporate stricter control procedures when posting meter readings to customer accounts and maintain accurate supporting documentation for reports being prepared.
- ◆ Four Points should be required to provide dollar detail with an explanation for the difference between the current charge and the total amount due on its customer bills.
- ◆ Four Points should be required to file a report explaining discrepancies between payments made by customers to the utility and deposits made by the utility and included in the utility bank statement.
- ◆ Four Points should incorporate tighter internal controls over its cash processing.
- ◆ Four Points should expand its monthly bank reconciliation to provide more detail reporting for credit card payments.
- ◆ Four Points should immediately deposit into the utility bank account all credit card payments collected by entities other than the utility.
- ◆ Four Points should be required to return customer deposits and comply with all provisions of Rule 25-30.311, F.A.C, including paying interest on outstanding deposits at the authorized rate.
- ◆ Four Points should be required to collect Commission authorized charges from all utility customers who meet the criteria established for accessing miscellaneous charges.

On November 3, 2010, the Commission issued a notice to conduct customer meetings on November 18 and 19, 2010, at Island Club West Spa and Resort in Davenport, Florida. The purpose of the meetings was to provide customers with an opportunity to ask questions or offer comments regarding the quality of service provided by Four Points. As a result of the customer meetings, numerous complaints were filed with the Commission. These complaints are included in **Appendix B**.

HISTORY OF BIMINI BAY UTILITIES

Bimini Bay has been in operation since August 2007 and serves approximately 212 customers in the Bimini Bay Resort and Spa townhome development in Davenport, Florida. Mr. David Meadows is the President and sole officer of Bimini Bay. Mr. Meadows also owns and leases 39 of the units located in Bimini Bay Resort and Spa. The utility currently operates as a reseller of water and wastewater services and currently claims to be exempt from Commission regulation. Pursuant to Section 367.022(8), Florida Statutes, "persons who resell water or wastewater service at a rate or charge which does not exceed the actual purchase price of the water or wastewater are exempt from Commission regulation." In order for Bimini Bay to recover any additional expenses incurred in the provision of water and wastewater service, the utility must apply for certificates and become regulated by the Commission.

BIMINI BAY'S APPLICATION FOR CERTIFICATES

On August 31, 2009, Bimini Bay filed an application with the Commission for certificates to provide water and wastewater service and for authority to increase its rates and charges for water and wastewater services. The Commission opened Docket Number 090424-WS to acknowledge receipt and review of Bimini Bay's application.

In a September 24, 2009, letter, Commission staff informed Bimini Bay that its application for certificates was deficient and additional information was needed to complete the processing of the application. Deficiencies included failure to provide an application filing fee, failure to notify customers, governing bodies, and privately owned water and wastewater utilities regarding the utilities application for certificates, failure to provide the date the utility initially provided service, failure to provide an income statement using the NARUC uniform system of accounts, and failure to provide a territory description, system maps, cost studies, and a list of entities the utility relied on to provide funding as needed.

In a March 12, 2010, letter, Commission staff informed Bimini Bay that it reviewed recently submitted data to support its application for certificates; however, the application remained deficient and additional information was still needed.

On November 3, 2010, the Commission issued a notice to conduct customer meetings on November 18 and 19, 2010, at Island Club West Spa and Resort in Davenport, Florida. The purpose of the meetings was to provide customers with an opportunity to ask questions or offer comments regarding the quality of service provided by Bimini Bay. As a result of the customer meetings, numerous complaints were filed with the Commission and are included in **Appendix B**.

FPSC 2010 FINANCIAL AUDIT OF BIMINI BAY

On September 30, 2010, Commission staff concluded a financial audit of Bimini Bay for the 12 month period ending June 30, 2010 in support of Bimini Bay's application for certificates. The objective of the audit was to determine if Bimini Bay maintains its accounts and records in conformity with the NARUC uniform system of accounts. The financial audit concluded that Bimini Bay is not in conformity with NARUC uniform system of accounts (USoA) with respect to utility plant in service, accumulated depreciation, deferred income taxes, and contributions in aid of construction. The audit resulted in the following findings:

- ◆ The utility's rate base could not be substantiated due to the lack of detail records.

- ◆ The utility's operation and maintenance expenses accounts were overstated.
- ◆ The utility did not record capital stock on its balance sheet.

5.2 APPENDIX B

FOUR POINTS COMPLAINTS RECEIVED BY FPSC 2007 -JUNE 1, 2011

Date Received	Company	Case No.	Type	Description of Complaint	Company Response	Next Action	Close Out Type	Date Closed
2/20/07	FPU	0727537 W	B	Improper Billing	Bill corrected.	Closed	WB-49	3/29/07
2/28/07	FPU	0728484 W	B	Improper Billing	Company explained reading error had occurred and was corrected.	Closed	GI-05	4/23/07
6/14/07	FPU	0739451 W	B	Improper Billing	Bill corrected.	Closed	WB-49	8/23/07
6/20/07	FPU	0740144 W	S	Improper Disconnect	Service restored.	Closed	GI-28	7/27/07
6/20/07	FPU	0740161 W	S	Improper Disconnect	Service restored.	Closed	WS-49	8/23/07
6/21/07	FPU	0740355 W	S&B	Improper disconnect and improper billing.	Bill corrected	Closed	WS-49	10/4/07
6/21/07	FPU	0740322 W	B&S	Improper billing and a water leak reported to company, but never taken care of.	No response from company or customer in over 30 days .	Closed	GI-05	8/23/07
6/22/07	FPU	0740417 W	S&B	Improper disconnect and improper billing.	Service restored and bills corrected.	Closed	WS-49	8/23/07
7/16/07	FPU	0742995 W	B	Improper Billing	Bills corrected.	Closed	GI-25	8/20/07
8/1/07	FPU	0744997 W	B	Improper Billing	Bill corrected.	Closed	GI-05	9/18/07
8/3/07	FPU	0745417 W	B	Improper Billing	Bill corrected.	Closed	WB-51	11/20/07
8/22/07	FPU	0747701 W	B	Improper Billing	Bill corrected.	Closed	GI-05	5/15/08
9/14/07	FPU	0750846 W	B	Improper Disconnect	Service restored.	Closed	WS-49	11/16/07
9/25/07	FPU	0752307 W	B	Improper Billing	Bill corrected.	Closed	GI-25	2/11/08
9/26/07	FPU	0752434 W	B	Improper Billing	Bill corrected.	Closed	WB-50	11/14/07
10/3/07	FPU	0753316 W	B	Improper Billing	Bill corrected.	Closed	WB-49	12/4/07
1/7/08	FPU	0764038 W	B	Improper Billing	Bill corrected.	Closed	WB-49	3/21/08
4/21/08	FPU	0775796 W	B	Improper Billing	Bills corrected and meter replaced.	Closed	WB-49	9/19/08
5/5/08	FPU	0777330 W	B	Improper billing and 38% rate increase outrage.	Bill corrected.	Closed	GI-25	6/26/08
5/8/08	FPU	0777813 W	B	Improper billing and 38% Rate increase outrage.	Bills Corrected	Closed	GI-25	6/23/08
6/19/08	FPU	0782823 W	B	Improper Billing	No fault by company leak was customers fault.	Closed	GI-25	9/19/08
10/29/08	FPU	0805074 W	B	Improper Billing	Bill corrected.	Closed	WB-50	12/3/08
10/29/08	FPU	0805089 W	B	Improper Billing	Bill corrected.	Closed	GI-25	12/3/08
10/30/08	FPU	0805357 W	S & B	Improper Billing	Bill corrected.	Closed	GI-25	4/9/09
11/3/08	FPU	0805774	B	Improper Billing	Bill corrected.	Closed	GI-25	12/8/08

Date Received	Company	Case No.	Type	Description of Complaint	Company Response	Next Action	Close Out Type	Date Closed
		W						
10/29/08	FPU	0805092 W	B	Improper Billing	Bill corrected	Closed	GI-25	12/3/08
3/26/09	FPU	0846316 W	S	Improper Disconnect	Service restored.	Closed	GI-30	4/30/09
8/31/09	FPU	0883748 W	B	Improper billing of late fee.	Fee waived.	Closed	GI-25	10/6/09
1/12/10	FPU	0916819 W	S & B	Improper billing and sand in water.	Have not had an opportunity to look into it.	ECR		
1/25/10	FPU	0919708 W	B	Improper billing of late fee.	Waved the charges	Closed	GI-25	3/3/10
2/19/10	FPU	0926058 W	B	Quality of service no bills received in two months.	Have not had an opportunity to look into it.	ECR		
2/23/10	FPU	0926738 W	B	Additional deposit request.	Have not had an opportunity to look into it.	ECR		
2/26/10	FPU	0927647 W	B	Additional deposit request.	Have not had an opportunity to look into it.	ECR		
3/23/10	FPU	0932946 W	B	Additional deposit request.	Case closed per Commission staff.	Closed	WB-49	11/15/10
4/30/10	FPU	0940598 W	B	Improper Billing	Bill corrected.	Closed	GI-25	6/8/10
7/19/10	FPU	0955586 W	B	Improper Billing	Failure to respond. Closed per Commission staff.	Closed	WB-49	11/15/10
7/27/10	FPU	0957294 W	S	Improper Disconnect	Service restored.	Closed	WS-49	9/8/10
8/27/10	FPU	0964144 W	B	Payments not being credited to account.	Failure to respond.	GCL		
10/20/10	FPU	0975085 W	B	Improper billing and improper late fee.	Waived the charges.	Closed	WB-49	11/15/10
10/21/10	FPU	0975567 W	S	Improper disconnect and improper billing.	Failure to respond.	GCL		
11/1/10	FPU	0981878 W	B	Improper Billing	Combined with 0975567W same customer.	Closed	GI-25	12/22/10
11/4/10	FPU	0978380 W	B	Improper billing and wrong meter serial number on bill.	None to date/due on 11/30/10	GCL		
12/3/10	FPU	0983141 W	B	Improper Billing	Company response due 12/27/10.			
12/3/10	FPU	0983144 W	S	Construction Quality	E-mailed a response facility passed inspection. If there is a problem, it is on customer side of meter.		NJ-99	1/19/11
12/3/10	FPU	0983172 W	B & S	Improper billing wrong meter serial number on bills. Improper disconnect and dirt in water and poor customer service.	None to date/due on 12/27/10		WB-49	5/31/11
12/3/10	FPU	0983198 W	S & B	Sand in water and feels like poor construction and pipes crossed.	Company response received via e-mail.	1/28/11 Company response due	WS-51	5/16/11
12/3/10	FPU	0983155 W	B&S	Poor customer service and improper billing.	E-mailed a response that allegations were incorrect about poor customer service and would send separate response on billing issues.	1/14/11 Supplemental response required.		

Date Received	Company	Case No.	Type	Description of Complaint	Company Response	Next Action	Close Out Type	Date Closed
12/3/10	FPU	0983158 W	B	Improper Bills	Past Due 12/27/10. Company response on 1/21/11, via email will look into the issue as soon as they have time.		WB-49	5/31/11
12/3/10	FPU	0983177 W	B	Improper attempt by meter readers to disconnect, unprofessionalism of meter readers drinking on the job.	Response via e-mail denying any drinking by employees or incorrect disconnects. Asked for customer to contact if this is seen again.		PR-68	1/19/11
12/3/10	FPU	0983192 W	B & S	Improper bills, poor customer service and improper disconnect.	Company reviewed bills, contacted customer waived \$5 late fee if bill would be brought current.		WB-49	1/21/11
12/3/10	FPU	0983174 W	S	Grit in the water.	Response due on 12/27/10. Company emailed on 1/20/11 will respond as soon as they can.		WS-49	5/31/11
12/3/10	FPU	0983204 W	S&B	Sand in the water and water bacteria test failed. Improper Billing	Company responded they have proof of passing water sample testing. Customer may have a crack under their slab. Company has until 1/28/11 to show proof of contacting the customer	1/28/11 Company response due.	WB-51	5/16/11
12/3/10	FPU	0983197 W	S & B	Sand in water, improper bills, poor customer service, improper meter readings, failure to refund deposits on time, and water supply connected improperly to neighbors unit.	Past due 12/27/10 company response. On 1/20/11 company response; purchased water from Polk County; other issues will be investigated.	1/20/11 Company response due.	WS-49	5/16/11
12/3/10	FPU	0983132 W	S	Quality of service and concerns of crossed lines because of improper disconnect.	E-mailed a statement that allegations were incorrect. Went to units and found no problems and renters did not remember improper disconnect.		GI-30	1/19/11
12/3/10	FPU	0983193 W	S	Leak in yard, could not get help from the office, called PSC problem handled immediately.	E-mailed a statement the leak was on the customers side of the meter, but they fixed it anyway and within 48 hours of first call and not because of PSC involvement.		GI-11	1/19/11
12/3/10	FPU	0983196 W	S	Poor customer service and poor construction. Improper bills.	Waiting on past due 12/27/10 company response.		PR-68	1/19/11
12/3/10	FPU	0983190 W	B	Improper billing and bills confusing.	E-mailed a statement that customer needed to contact the office. In review of their account the company saw no billing errors.	Supplemental response due 1/28/11.	WB-51	5/16/11

Date Received	Company	Case No.	Type	Description of Complaint	Company Response	Next Action	Close Out Type	Date Closed
12/3/10	FPU	0983138 W	B	Improper billing, meter at home is buried. How can they read meter? Consumption to high for 3 people in home.	E-mailed a statement that allegations were incorrect. Have proof of reading meters each month. If contacted by customer will run test on meter.	Supplemental response due 1/28/11.	WB-51	5/16/11
12/3/10	FPU	0983146 W	B&S	Improper billing, poor water quality, poor customer service and improper disconnect.	Past due 12/27/10. Company e-mailed 1/20/11 they would respond as soon as they have time.			
12/3/10	FPU	0983140 W	B	Improper billing customer in NY turned water off himself. Still receiving bills.	Emailed a statement that meter was read incorrectly and would be crediting customer.		GI-25	1/19/11
12/3/10	FPU	0983201 W	S	Improper disconnect and customer service.	Responded via email that the customer must have properties confused. They did not disconnect improperly.	Supplemental response due 1/28/11.	WS-51	5/16/11
12/17/10	FPU	0985658 W	B	Improper Billing	Response past due on 1/11/11.			
12/22/10	FPU	0986218 W	B	Improper Billing, lien against unit, dirt in meter box and therefore feels no way they could read it. Letter from company that dirt in meter was customer's fault and would be billed if not cleaned up.	Company emailed PSC will handle as soon as they can 1/20/11.			
1/5/11	FPU	0987876 W	B	Improper billing the customer does not live there and still being billed. Deposit not refunded after several attempts to resolve with company.	2/10/11 Company stated refund of deposit on the way to customer. Case still open; customer has not received deposit.		WB-49	3/30/11
1/31/11	FPU	0992379 W	B & S	Improper billing and poor customer service.	Response due 2/21/11			
5/9/11	FPU	1007727 W	B	Improper Billing	Response due 5/31/11			

BIMINI BAY COMPLAINTS RECEIVED BY FPSC 2007 - JUNE 1, 2011

Date Received	Company	Case No.	Type	Description of Complaint	Company Response	Next Action	Close Out Type	Date Closed
1/27/10	BB	0920539W	B	Improper Billing	Bill corrected.	Closed	WB-49	7/7/10
3/10/10	BB	0930297W	B & S	Improper billing and customer service and improper disconnect.	Bill corrected and service restored.	Closed	WB-49	7/7/10
3/24/10	BB	0933190W	B & S	Improper billing and additional deposit request by company. Improper disconnect.	Failure to respond.	ECR		

Date Received	Company	Case No.	Type	Description of Complaint	Company Response	Next Action	Close Out Type	Date Closed
3/24/10	BB	0933208W	B	Improper billing and additional deposit requested.	Failure to respond.	ECR		
5/20/10	BB	0944546W	B	Improper billing and additional deposit requested.	Bill was corrected.	Closed	WB-49	7/7/10
7/13/10	BB	0954473W	B	Improper Billing/ Bills too high; asked for meter to be checked.	Failure to respond.	ECR		
8/5/10	BB	0959570W	B	Improper Billing	Bill was corrected.	Closed	WB-49	10/6/10
10/20/10	BB	0975087W	B & S	Improper billing, meter readings wrong and improper disconnects.	Failure to respond.	ECR		
10/20/10	BB	0975089W	B & S	Improper disconnects and customer not receiving bills.	Failure to respond.	GCL		
11/29/10	BB	0982114W	B	Improper billing	Response due 1/13/11	GCL		
12/3/10	BB	0983168W	B	Improper billing, eviction notices placed on wrong doors, and poor customer service.	Response due 12/27/10 Emailed PSC response on 1/20/11 contacted customer and matter was resolved.		WB-49	5/16/11
12/3/10	BB	0983188W	B & S	Improper bills, improper disconnect, and poor customer service.	Response due on 12/27/10 PSC contacted company past due with response due on 1/19/11.		WB-49	6/1/11
12/3/10	BB	0983157W	B & S	Poor customer service and improper billing. Eviction notices sent out.	Company emailed response 1/20/11 denying issues and stated the HOA rules cover the HOA fines.		WS-49	5/16/11
12/3/10	BB	0983186W	B	Improper billing	Response in email that they did meet with customer and checked meter and it is working correctly. Bills are correct.		GI-25	1/19/11
12/3/10	BB	0983142W	B	Improper billing and possible leak, bills way are too high.	Emailed a statement that the customer was not telling the truth and that the company helped him with a leak at no charge. Worked out payment plan for customer to pay bill.	Objection letter mailed from PSC to customer. 1/25/11	GI-25	3/25/11
12/3/10	BB	0983160W	B	Improper billing, facility poorly maintained	Waiting on past due 12/27/10. Company e-mailed response 1/21/11 They checked bills and meter readings and feel there are no errors		WB-49	5/16/11
12/9/10	BB	0984119W	B	Improper billing	Response from company quick books billing error will contact customer and fix problem response due 2/11/11.			

Date Received	Company	Case No.	Type	Description of Complaint	Company Response	Next Action	Close Out Type	Date Closed
12/17/10	BB	0985660W	S & B	Improper billing , street lights out, garbage piled up on streets, cannot get in touch with anyone in the office, hired her own attorney.	Response due On 1/11/11.	Non-Jurisdiction	NJ-99	1/19/11
1/31/11	BB	0992557W	B	Improper billing	Response due 2/21/11.			
1/31/11	BB	0992451W	B	Improper billing	Response past due notified company due 3/1/11			
5/11/11	BB	1008254W	S	Broken water meter.	Response due 6/2/11			

5.3 APPENDIX C

QUESTIONS A STATE COMMISSION SHOULD ASK TO ASSESS THE PROFICIENCY OF A SMALL WATER UTILITY¹³

1. Does the utility have the managerial attributes to succeed?
 - a. Is the owner or manager dedicated to the business of the utility?
 - b. Is the owner or manager accessing and using the tools available to lead, manage and operate the utility effectively?
 - c. Does the utility have a strategic business plan?
 - d. Does the utility maintain an up-to-date emergency response plan with annual training?
 - e. Does the utility have difficulty attracting or retaining qualified personnel, including licensed operators?
 - f. Does the utility have an effective training and continuous improvement and education program for its front-line staff, management staff, and members of its governing body?
 - g. Are employees motivated and committed to the success of the utility?
 - h. Does the utility meet its regulatory obligations and deadlines for monitoring and reporting?
 - i. Is there effective and frequent communication between utility management and its employees, regulatory agencies, customers and other stakeholders, and the general public?
2. Does the utility have the infrastructure and technical attributes needed to operate effectively and efficiently?
 - a. What is the condition of utility infrastructure (e.g., water mains, storage reservoirs, pumping stations, treatment plants)?
 - b. Is there sufficient infrastructure backup to meet normal peak demand situations, based on state standards or commission expectations?
 - c. Does the utility have written capital improvement and asset management plans?
 - d. Does the utility have effective safety and security plans and programs that are reviewed and updated annually?
 - e. Does the utility have effective, written standard operating procedures that are reviewed and updated annually?
 - f. Does the utility implement appropriate new technologies into all aspects its operations (e.g., business functions, communications, customer service, water quality, systems operation, field work)?
 - g. Does the utility meter all of its customers and maintain an adequate meter replacement program?
 - h. Does water quality consistently meet or exceed state and federal standards?
 - i. Does the utility have an adequate source of water supply for projected growth in demand?

¹³ Stanford, Melissa J., Small Water Systems: Challenges and Recommendations, February 7, 2008, 08-02, page 25-26.

- j. Are utility operations optimized as indicated by service disruption rates, unaccounted for water use, electric power use, and other common operational benchmarks?
3. Does the utility have the financial attributes to succeed?
- a. Does the utility maintain economies of scale sufficient to operate efficiently?
 - b. Does the utility have reasonable rates when compared with other utilities in the area?
 - c. Does the utility apply for rate cases at appropriate intervals to avoid large rate increases?
 - d. Does the utility have adequate financial resources, such as sufficient revenue, good credit, and access to financial markets?
 - e. Does the utility maintain good financial records and controls?
 - f. Does the utility purchase commodities and services at reasonable rates?
 - g. Does the utility have a low-income customer assistance program?
4. Are utility customers satisfied with the service they receive?