BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Florida Cities Water Company, Golden Gate Division, for a rate increase in Collier County)

DOCKET NO. 890509-WU
ORDER NO. 23660
ISSUED: 10-24-90

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD
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FINAL ORDER SETTING RATES AND REQUIRING REPORTS

BY THE COMMISSION:

CASE BACKGROUND

Florida Cities Water Company, Golden Gate Division, (Golden Gate or utility) provides water and wastewater service to a community adjacent to the eastern edge of Naples, Florida. As of December 31, 1989, the utility served approximately 2,000

residential water connections and 200 general service water connections for a total of about 3,300 ERCs. The utility is a division of Golden Gate, which is a class "A" utility.

On September 5, 1989, the utility filed an application for a rate increase in its water rates and its Minimum Filing Requirements (MFRs). There were deficiencies in the MFRs. On October 23, 1989, the utility filed its amended MFRs which corrected the deficiencies. That date became the official filing date. The utility contends the rate increase is required since the adjusted test year indicates that the return on a rate base of $4,075,207 will be 2.83%. The utility proposes to increase water revenues by $560,047, an increase of approximately 76%. The increase would result in a return of 11.19% for water. The Commission granted the utility's request to utilize a test year ending March 31, 1991.

The application was filed pursuant to Sections 367.081(2), .081(3), and .082, Florida Statutes. While the utility cited the interim rate section of the statute, it made no request for interim rates in its prayer for relief and made no prima facie showing for interim rates. Accordingly, interim rates were not granted. By Order No. 22270, issued December 6, 1989, the Commission suspended the applicant's requested rates. Service availability charges for water were recently approved by Order No. 21916, issued October 13, 1989, and will not be altered herein. Miscellaneous service charges also are not effected.

Order No. 22804, issued on April 12, 1990, as Proposed Agency Action (PAA), granted in part the utility's request for a rate increase. On May 3, 1990, the Office of Public Counsel (OPC) submitted a timely protest to the order and requested a hearing pursuant to Section 120.57, Florida Statutes. The hearing was held by the Commission at the Golden Gate Community Center in Golden Gate, Florida on July 18 and 19, 1990.

On June 18, 1990, the utility filed notice with the Commission of its placing rates into effect pursuant to Section 367.081(6), Florida Statutes. The utility submitted revised tariff sheets which reflected the rates approved in Order No. 22804. The utility received approval of a notice to be used to inform the customers of the rate increase, and a corporate undertaking insuring any possible refund was filed.

FINDINGS OF FACT, LAW, AND POLICY

Having heard the evidence presented at the formal hearing and having reviewed the recommendation of staff, as well as the briefs of the utility and OPC, we now enter our findings and conclusions.

MOTION TO DISMISS

Rule 25-22.037(2)(b), Florida Administrative Code, allows motions to be made orally at a hearing on the record. At the hearing OPC orally made a motion to dismiss and stated as grounds that the utility had failed "to file proper notice as required by the rules of the Florida Public Service Commission."

The utility argues in its brief that all noticing requirements were met, that no statute, regulation, or order requires filing of proof of notice, and that OPC presented no evidence that noticing requirements were not met.

We find that all the noticing requirements were met and that nothing on the record indicates otherwise. OPC, as the moving party, had the burden of production. The only evidence on the record concerning the provision of notice is uncontroverted.

Exhibits 2 and 13 contain noticing information. Specifically, Exhibit 13 contains a weighing and dispatch certificate issued by the postal service, stating that 2,312 pieces of mail were processed on December 15, 1989. No witness stated that this was the receipt for mailing customer notices, but there is nothing on the record indicating otherwise. It is reasonable to conclude that this is proof of the mailing of the customer notice required by Rule 25-22.0406(5), Florida Administrative Code. Exhibit 2 contains an affidavit of publication from a newspaper of general circulation dated January 2, 1989, as proof that the notice was published as required by Rule 25-22.0406(6), Florida Administrative Code. Exhibit 2 also contains another weighing and dispatch certificate from the postal service, stating that 2,577 pieces of mail were processed on June 27, 1990. No witness stated if in fact this was the receipt for mailing customer notices, but there is nothing on the record indicating otherwise. It is reasonable to conclude that this is proof that the customer notice required by Rule 25-22.0406(7), Florida Administrative Code, was mailed. OPC did not object to the admission of these exhibits, did not

cross-examine any witnesses concerning them, and offered no proof that the noticing requirements were not met.

All decisions of this Commission must be based upon a preponderance of the evidence in the record. We believe the record indicates that proper notice was undertaken. We therefore deny OPC's Motion to Dismiss.

STAND-ALONE BASIS RATE CASE

OPC argues that the utility should be required to file its case on a stand-alone basis. OPC contends that it is unable to make certain calculations because of the lack of stand-alone information. OPC witness Larkin's testimony on this point consists of only the statement that "if a division such as Golden Gate files a request for rate relief then it would only be appropriate that they be required to file financial information on a stand-alone basis."

The utility used the staff-proposed MFRs for its filing. Those MFRs have since been adopted as Rules 25-30.430 through .442, Florida Administrative Code. A utility includes a schedule reflecting its capital structure in its MFRs. This Commission has long utilized either the overall utility capital structure or a parent's capital structure, where the utility is a division or subsidiary of a larger entity. The latter was used in previous Florida Cities cases before this Commission, e.g., Order No. 20537, issued December 29, 1988, (for Golden Gate wastewater). A utility must also file certain information regarding allocated expenses from the parent company. Golden Gate has done this by its Schedule B-12 of the MFRs. Mr. Harrison stated in his rebuttal that Florida Cities already files its rate cases on a stand-alone basis, except for the capital structure.

Whether a utility files on a subsidiary or on a stand-alone basis is not necessarily a concern. The real issue is whether the revenues requested by the utility are based upon reasonable and prudent costs. No evidence on the record reveals that the corporate capital structure of this utility is unreasonable or imprudent. OPC has had ample opportunity to ask for additional information through discovery. The MFRs are just what they say they are--Minimum Filing Requirements. Nothing precludes the parties from asking for something in addition.

Golden Gate has met the MFRs for this case and, therefore, no further action need be taken regarding the stand-alone question.

STIPULATIONS

During the course of this proceeding, the utility, OPC, and Commission staff reached numerous proposed stipulations. We have reviewed the proposed stipulations, which are set forth below, and find them to be reasonable. Accordingly, they are approved.

1. A composite adjustment should be made to increase operation and maintenance expenses by $4,481 to reflect corrections as determined by staff.

2. A reduction in the amount of $4,571 should be made to the pro forma chemical expense.

3. The company should change to guideline depreciation rates per Rule 25-30.140, Florida Administrative Code. No further adjustments are necessary as a result of this change.

4. Regulatory assessment fees should be increased from 2.5% to 4.5% to reflect the change which became effective July 1, 1990.

5. The appropriate level of test year operating income is a fall-out number.

6. The total revenue requirement is a fall-out number.

7. The water rates for the utility are fall-out numbers.

QUALITY OF SERVICE

Based upon the evidence on the record, we considered three separate components of the utility's water operation in evaluating its utility's quality of service: (1) the quality of the utility's product, (2) the operational conditions of the utility's plant and facilities, and (3) customer satisfaction.

Mr. Robert Glenn, witness from the Florida Department of Environmental Regulation (DER), testified that the DER was satisfied with the utility's compliance with regulations. The utility is in compliance with its construction permit for the new treatment plant, and the water produced meets the state and federal

requirements for primary and secondary standards. Recent chemical analyses of the drinking water do not suggest the need for additional treatment in order to comply with standards, and no enforcement action is pending by the DER against the Golden Gate system. Mr. Glenn also stated that the plant is properly staffed by a sufficient number of certified operators as specified by the DER's rules. Maintenance of the utility's plant and distribution facilities is satisfactory. A cross-connection control program has been established and is being implemented. Mr. Glenn noted, however, that the utility had been blending water since 1985 to meet customer demand. This blending occurs as the need arises, provided, however, the utility meets the DER standards set forth in Section 17-550, Florida Administrative Code. Mr. Glenn also stated that blending would continue in the future as the need arose.

In support of the company's request utility witness Harrison testified that one of the reasons for the rate increase was improvement of water quality, specifically by the treatment plant addition. When questioned about what might happen if the plant addition were not built, Mr. Harrison said usage would have to be curtailed and blending would continue, but construction of a new treatment facility would eventually commence.

Utility witness Reeves stated that the company was in compliance with the requirements of the EPA and the DER from the beginning of the test year through the present. He acknowledged, however, that a recent DER sanitary survey contained a few deficiencies, one of which was the water's color exceeding maximum contaminant levels (MCLs). Mr. Reeves explained that increased lime feed with the new plant addition should result in better water quality. Since the new treatment unit went on line, the plant has not exceeded the MCL for color, he said, and color in the finished water has decreased with the new plant now in operation. Mr. Reeves expected that the water quality will remain similar to the quality provided during April, May, and June, 1990, as reflected in the monthly operating reports the utility submitted to the DER. Some variation will undoubtedly occur due to changes in the raw water hardness.

OPC argues that based upon the customer testimony, the quality of service is not satisfactory. Although the DER witness testified that the water met applicable standards, OPC argues, if the sole determinant of water quality was DER standards, there would be no need for customer testimony.

The customers who testified were generally dissatisfied with the water quality provided by the utility. They expressed dissatisfaction with the taste, color, and odor of the water. Some complained of encrustation or residue around fixtures. Several customers testified that they could not drink the water. A few mentioned occasional low pressure. Many of the customers installed filtering or treatment units in their homes to make the water more palatable. The customers were also dissatisfied with the amount of the rate increase, which they think is unreasonable.

One customer said she was treated with respect and in a courteous and businesslike fashion by the utility. Another stated that the utility's communication with its customers had been quite lax, but a new regional manager had recently come and introduced himself to the customers in an attempt to improve customer relations.

We find that while the water provided by the utility is technically satisfactory, improvements could be made to enhance the water and make it more acceptable to the customers. Some customers testified that the water quality provided by the City of Naples far exceeds that of Golden Gate. Witness Hasse, the Chairman of the Board of County Commissioners in Collier County, testified that the city of Naples and the County provided water far superior to that of the Golden Gate system. The wells for the city and the county are in Golden Gate Estates, where the wells for Golden Gate are also located. While we believe that compliance with DER standards is important, it is equally important that the customer who pays a bill every month receives a competitive product. Based upon the customer testimony, it does not appear that the water quality is comparable with the water in the surrounding communities.

In light of the need for treatment systems and filtering devices at individual homes and the water quality in Naples and Collier County exceeding the quality of Golden Gate, we require that the utility's representatives meet with the City and the County to review the raw water data, the treatment process, chemical dosages, and finished water results of each system. The utility should prepare a synopsis of this review, listing the raw water data, the chemical dosages, and the finished water results, as well as a discussion of the treatment processes and the differences between those processes, and submit it to the Commission within sixty days of this Order. In addition, Golden Gate shall contract with a state-certified independent laboratory

to collect raw water samples of plant influent for the City of Naples, Collier County, and Golden Gate systems. The laboratory should test these samples for pH, M.O. alkalinity, calcium, magnesium, chlorides, iron (as Fe), color, and turbidity, which are the parameters shown on Golden Gate's operation reports. Golden Gate shall submit these test results to the Commission within sixty days of the date of this Order. We will review the information submitted and determine the economic feasibility of Golden Gate's achieving finished water comparable to that of Naples and Collier County.

In consideration of the above, we find that the utility's quality of service is satisfactory.

RATE BASE

Our calculation of the appropriate rate base for the purpose of this proceeding is depicted on Schedule No. 1, and our adjustments are itemized on Schedule No. 1-A. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on those schedules without further discussion in the body of this Order. The major adjustments are discussed below.

Used and Useful

The water plant was expanded from a capacity of .720 million gallons per day (mgd) to 1.224 mgd. The expansion went on line in May, 1990. In April and May of 1990, the quantity of water being pumped and treated was exceeding 1.1 mgd. Witness Harrison testified that the required fire flow for the residential and general service customers was 1500 gpm. When fire flow is required for four hours, the fire flow gallonage accounts for some 360,000 gallons. When we add the 1.1 mgd demand with the fire flow, plant capacity is exceeded. The utility therefore, asserts that the treatment plant and distribution system are 100% used and useful.

In April, 1990, the plant addition was not on line. Witness Reeves testified that the existing plant, with a rated capacity of .720 mgd, could treat about .900 mgd, or 25% more than the design rating. Above .900 mgd, the plant would be blending chlorinated raw water with lime softened water.

Mr. Harrison testified that, "[W]ithout the additional investment in utility plant, the Company could not provide dependable water service at adequate service levels." This statement, however, is not adequate to justify the claim that the water treatment and other plant facilities are 100% used and useful. While there is no question that the utility's rate base is substantially used and useful, we cannot, on the other hand, agree with OPC's suggestion that the used and useful percentage should be 80%, especially since there is no evidence on the record to support OPC's figure.

OPC questioned the proposition that rate base could be 100% used and useful during the historic test year, and yet, after the company adds 70% more capacity, the plant remains 100% used and useful. Utility witness Harrison testified that the plant was operating above its rated capacity during the historic test year because the utility was blending water to meet customer demand. Witness Reeves explained that the utility's plant was capable of providing water quantities greater than the rated design capacity of the plant. If one takes this testimony literally, since the historic test year plant rated at .720 mgd but could treat .900 mgd without blending, the plant was 125% used and useful before the blending process was activated.

We are concerned with the implications which blending has upon the used and useful calculation. If the old plant were able to produce flows 25% greater than its rated capacity with full treatment, it could produce more than this 25% excess with blending. Although, blending did not occur on a daily basis, 4.8% of the total water produced during the test year was blended. Schedule F-3 of the MFRs shows that this 4.8% amounts to 14,300,000 gallons for the year. Through blending, then, the rated capacity of the plant becomes artificially higher than the design capacity. More customers can be served than the plant was initially designed and planned for. The DER witness testified that the utility had been blending water and would be doing so in the future as the need arose.

We do not think that the blending process should substitute for or be added to rated plant capacity. Proper engineering design criteria should be applied and adhered to when constructing and operating a treatment plant. Blending should only be used at a lime softening plant when the utility has failed to anticipate demand that exceeds the plant capacity and that demand occurs.

Based upon the above discussion for the purposes of this case, we will consider the water treatment plant to be 100% used and useful.

The distribution system requires a separate used and useful calculation. According to the map of the service area submitted with the MFRs, the distribution system is not installed to serve the entire Golden Gate subdivision. Additionally, some streets in Golden Gate have water lines installed, but the homeowners have their own wells and are not connected to the water system. In short, the distribution system in the ground has the capacity to serve more customers than those currently connected to the lines.

Witness Harrison testified on the subject of the utility's past and anticipated growth. In his rebuttal testimony, he asserted that the entire distribution grid is in place to serve all the existing customers and if one piece of it were to be eliminated, existing customers would suffer from inadequate water service. The utility contends that excluding the distribution mains attributable to unserved lots from rate base does not take into account appropriate distribution design criteria.

We agree that the system is in place to serve the existing customers and that excluding a small 5% portion of mains attributable to unserved lots does not comport with design criteria. However, we think that the existing customers should only pay a return on that portion of the plant which is required to serve them. For this reason, we are not persuaded by the utility's argument for a 100% used and useful allocation for the distribution system.

Schedule F-7 of the MFRs contains the utility's used and useful calculation for the distribution system. According to this schedule, the system currently serves 2,526 lots and would serve 2,394 customers at the end of the test year. The customers-to-lots-available-with-service ratio results in a 95% used and useful allocation. Rather than make a 5% reduction to the distribution system, we will impute contributions-in-aid-of-construction (CIAC) representing those connection fees that will be paid for by those additional 132 (the difference between 2,526 and 2,394) customers. With this imputation, the distribution system is treated as if it were 100% used and useful.

Margin Reserve

Margin reserve represents capacity that the utility must have available beyond that which is demanded by the test year's customers. The purpose of the margin reserve is to enable the utility to connect new customers during the next eighteen months or so--the normal construction time for building new plant--without plant expansion. A water company is required to provide service to customers within its service area when they are ready for service. This is why a margin reserve is so important; the alternative is an inefficient utility trapped in a cycle of perpetual construction so that it can add small increments of capacity required to connect new customers.

This Commission has established a policy of including margin reserve in the used and useful calculation for both treatment plants and for distribution and collection systems. We have taken administrative notice of Order No. 22843, issued on April 23, 1990, which addresses this policy. It states, "Section 367.111(1), Florida Statutes, requires each utility to provide service to the area described in its certificate within a reasonable time. The concept of margin reserve recognizes costs which the utility has incurred to provide service to customers in the near future." The margin reserve policy recognizes that companies experiencing growth will continue to add customers to the system. These customers will pay plant capacity fees and connection fees for the availability of water service. The service availability charges are paid as CIAC, and CIAC is included in the projected test year, which reduces the company's rate base. We must also then consider whether the inclusion of a margin reserve in rate base would cause the company to earn more revenue than it has requested. In this case, we find that the company will not earn more.

Mr. Harrison testified that he could not answer whether he would like the Commission to advocate a moratorium on new hook ups until additional capacity could be provided. Apparently Mr. Harrison was advocating regulatory treatment for the distribution system similar to that which he would have given to plant, that is, allowing a certain amount of growth or margin reserve for the lead time required for construction, without imputing CIAC on the margin reserve. The real issue, then, would appear to be the imputation of CIAC and not the margin reserve. Mr. Harrison agreed upon cross-examination that an evaluation for used and useful should include a review of the capability of the lines, the current

demand, and an allowance for growth. He agreed further that an allowance for growth should be recognized when growth is occurring.

Witness Harrison provided a significant amount of testimony relating to customer growth. He testified that the utility projected the addition of 288 customers for the two year period after 1989, or 144 customers per year. This projection appears on Schedule A-4 of the MFRs, pages 6, 7, and 8. We are unable to determine the basis for the 144 customer per year growth projection because the projection does not match or tie into the customer and equivalent residential connection (ERC) statistics shown on Schedule F-9 of the MFRs.

We consider that the better growth projection is based on ERCs, not on customers. A growth projection using customers as the unit of measurement is imprecise, as it does not account for differences in meter size or demand by a particular type of customer, like a school, apartment complex, or some other high-volume user. According to Schedule F-9, Column 8, the average ERC growth over the past five years for this company is 297 ERCs per year. Schedule F-9, Column 4, shows the average number of SFR (single family residential) customers from 1984 through 1988. The average SFR customers for the test year ending March 31, 1988, then, would be 1844, and this number is close to the customer count shown on Exhibit 5.

In consideration of the above, we will recognize as margin reserve for the test year 132 ERCs. This figure takes into consideration the limitations of the distribution system portrayed by the utility in Schedule F-7, albeit less than the annual growth testified to by Mr. Harrison and less than the annual growth shown on Schedule F-9. Even though we have concluded that the treatment plant is 100% used and useful, the utility has capacity available to serve the remaining 132 lots in its distribution system by operating the plant at greater than its rated capacity, whether treating all the water or blending some of it.

Imputation of CIAC on Margin Reserve

The amount of plant used and useful accounts for prospective customers who will be connected during the margin reserve period. Commission policy, as stated in Order No. 20434, issued December 8, 1988, is that only the utility's investment in the margin reserve should be recognized in rate base and that CIAC should be imputed

for the additional ERCs. Without an imputation of CIAC, the utility would earn a return on plant contributed by future customers. According to the policy, the imputation should not, however, reduce rate base further than if no margin reserve had been allowed.

OPC takes the position that the entire main extension charge of $1,500 per customer should be included as imputed CIAC. Under OPC's methodology, $197,992 would be imputed as CIAC, and $4,649 as CIAC amortization. OPC witness Larkin was asked on cross examination if he was familiar with Commission policy against imputing CIAC to the degree that it would reduce rate base further than if no margin reserve had been allowed. He replied, "Not really. But I think we've got a situation here that is uniquely burdensome and that the Commission ought to look for ways to reduce the customer's burden any way they can." According to Mr. Larkin, when the CIAC is collected, the utility will receive the benefit of the difference between the $1,500 and the actual cost of the plant.

Utility witness Harrison testified, "The Company has no problem with imputing CIAC for customer growth that will occur out through the projected March 31, 1991, test year. Going out past the test year is unreasonable, because it results in a mismatch of rate base, revenues, and expenses and denies the Company the ability to earn a fair return on utility plant dedicated to the public's use." He did not explain how the imputation of CIAC causes such problems. Although he contended that the plant is 100% used and useful, Mr. Harrison did admit on cross-examination that lines should be sized to allow for current demand and some growth, and he apparently did not disagree with the concept of margin reserve.

Mr. Harrison opposed the imputation of CIAC beyond the end of the test year, but he asserted that if an adjustment were to be made, it should be $98,596, not the $150,076 which our staff calculated. Mr. Harrison thought that the staff figure was inflated as the result of double-counting CIAC for 26% of the lots unsold at the end of the test year. Some of those lots had already been paid for through customer advances, Mr. Harrison claimed. Because 26% of the lots unserved at the end of the base year were paid up, one should assume that part of advances pertained to the 132 lots. However, when Mr. Harrison was asked again whether such prepaid CIAC was included in the MFRs, he answered, "No."

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We cannot look to OPC witness Larkin's testimony on this question with great reliance. Although he has testified in some thirteen water and wastewater cases before this Commission, he claimed to be unaware of the Commission's policy on CIAC imputation. He admitted that he did not look at Order No. 20434, which we had taken administrative notice of, even though he testified in an earlier case involving the same utility. Furthermore, Mr. Larkin failed to elaborate how this case was, as he said, "uniquely burdensome." Consequently, we have no basis upon which to accept his characterization. On the other hand, witness Harrison readily agreed that growth should be allowed for in the construction of lines, but he was unwilling to have CIAC imputed on the margin reserve represented by that growth. Further, we are unconvinced by Mr. Harrison's testimony that CIAC has been double-counted because of his statement that prepaid CIAC was not included in the MFRs.

We find that CIAC should be imputed on the margin reserve. As we stated in Order No. 20434, "Commission policy is that, when a margin reserve is allowed in rate base, the expected customer contributions over this same period should also be included. The imputation of CIAC should not, however, reduce rate base further than if no margin reserve had been allowed." Since that portion of plant to which the margin reserve applies is the distribution system, only the main extension charge should be considered. While the utility has an approved main extension charge of $1,500, the actual plant cost per lot is $1,137. We find that the approved charge should be used for the calculation. The total number of lots in the margin reserve is 132. Thus, the total imputed CIAC is $150,076.

In consideration of the foregoing, we find that CIAC of $150,076 shall be imputed on the margin reserve, with corresponding adjustments of $3,524 to accumulated amortization of CIAC and $3,524 to amortization expense.

Plant-in-Service/Allowance for Funds Used During Construction (AFUDC)

According to Rule 25-30.116(5), Florida Administrative Code,

> No utility may charge or change its AFUDC rate without prior Commission approval. The new AFUDC rate shall be effective the month following the end

> of the 12-month period used to establish that rate and may not be retroactively applied to a previous fiscal year unless authorized by the Commission.

The effective date of this Rule was August 11, 1986.

The utility accrued AFUDC on its books at the rate of 11.67% during 1986, at the rate of 13.27% from January 1 through June 30, 1987, and at the rate of 11.98% for the remainder of 1987. Utility witness Harrison admitted on cross-examination that the company booked some AFUDC and did not have the authorization from the Commission to book that rate. Mr. Harrison also stated that the utility was granted an AFUDC rate by Commission Order No. 19847, effective January 1, 1988, and that Order did not permit retroactive accrual of AFUDC. He further admitted that the utility never requested approval of an AFUDC rate for the period from August 11, 1986, to January 1, 1988. When referred to Exhibit 10, page 11, Witness Harrison agreed that the total column represented the amount of AFUDC which was booked without an approved rate, $63,193.13. He also agreed that there would be a change in the depreciation calculations if AFUDC were disallowed.

Exhibit 10, p. 11, shows total AFUDC booked without an authorized rate and related accumulated depreciation of $6,324.61 and depreciation expense for the twelve months ending March 31, 1991, of $2,116.97. Late-filed Exhibit 8 confirms Exhibit 10's AFUDC in plant, but only contains information for accumulated depreciation and depreciation expense through June, 1990, not to the end of the test year. The record is silent as to which of these utility schedules is more appropriate. We shall therefore rely on Exhibit 10 because it contains the accumulated depreciation and depreciation expense adjustments through the end of the test year.

Despite the utility's accrual of AFUDC without Commission approval, Mr. Harrison maintained that AFUDC during construction periods represents the investors' fair return for contributing to the building of necessary utility facilities. He stated that to erase these AFUDC accruals is a confiscation of investors' capital and a violation of their good faith trust in the regulatory process.

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OPC argues in its brief that "Golden Gates' rate base should be reduced to the extent necessary to remove any AFUDC accrued during the period August 11, 1986, through January 1, 1988, when an AFUDC rate was approved in Order No. 19847. Contrary to the company's assertions," OPC asserts, "correcting for a rule violation will not result in a confiscation of investor capital."

Although the utility received approval to charge AFUDC effective January 1, 1988, it neither requested nor received permission for retroactive application. The record is clear that the utility charged AFUDC from August 11, 1986, through December 31, 1987, without an approved rate. Because AFUDC charged during this time period was in violation of Rule 25-30.116(5), Florida Administrative Code, we will remove it.

We find no merit in the utility's argument that removing this AFUDC constitutes confiscation of capital. All utilities under this Commission's jurisdiction are charged with knowledge of our rules and have the responsibility of abiding by them. In consideration of the above, we find that the utility's plant-in-service will be reduced by $63,193, with a corresponding reduction of $6,325 to accumulated depreciation and $2,117 to depreciation expense to reflect removal of unauthorized AFUDC accruals.

Working Capital

The utility has used the formula approach to calculate the working capital allowance. By Order No. 21902, issued on September 18, 1989, the Commission approved the utility's request to use the formula approach to calculate working capital in this rate proceeding.

OPC maintains that working capital allowance should be zero. OPC witness Larkin testified that one cannot tell whether working capital should be included in rate base unless it is determined with a lead/lag study or with the balance sheet approach. He contended that with the one-eighth formula the utility will always have positive working capital, even if it would be negative when calculated using other methodologies. Mr. Larkin admitted that he was familiar with Order No. 21902, issued September 18, 1989, in which the Commission approved Golden Gate's request to use the formula method of calculating working capital in this case. Although Mr. Larkin argued that the Commission "probably shouldn't

do that anymore," he acknowledged that the utility proceeded in compliance with the order. OPC argued in its brief that given the adjustments it has advocated, the appropriate amount of working capital in rate base is $2,828,731.

Utility Witness Harrison explained support for the formula approach as follows:

> The Company incurs expenses in the operation of its business prior to when it bills and collects payments from its customers to fund the expenses. The upfront payment of the expenses is funded by investors in the company, and this investment is continually in the system providing working capital requirements of the company. 1/8th of O&M represents the approximate 45 days between when expenses are incurred and water bills are collected.

The parties are in agreement that the utility complied with Order No. 21902 in using the formula approach to calculate the working capital allowance. No compelling evidence was presented which showed that the Order should be disregarded. In consideration of the above, we find that it is appropriate for the utility to use the formula method for calculating a working capital allowance. We have made adjustments to Operating and Maintenance expenses, discussed later in this Order, which affect the calculation. We find that a working capital allowance of $53,357 is reasonable and hereby approve same.

Test Year Rate Base

Order No. 21902, issued September 18, 1989, in this docket granted the utility's request to use a beginning-and-end-of-year average rate base rather than a 13-month average. In its brief, OPC argues, essentially, that by allowing the utility to use a method of calculating rate base which was not the same as the method required by the then-existing rule, the Commission has exercised discretion which "is inconsistent with an agency rule." OPC contends the Commission lacks the authority to do this under Section 120.68(12)(b), Florida Statutes. OPC's witness, Mr. Larkin, conceded that the utility made its calculation in compliance with

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Order No. 21902 and only commented on the difference in accuracy between the two methods.

The utility argues in its brief that, "This issue has already been resolved. OPC had the opportunity to file an appeal of a non-final agency order but did not do so." Company witness Harrison testified to the merit of the simple average method and that the utility had Commission approval to use it.

The underlying assumption which OPC makes is that the rule which the Commission has deviated from is substantive. We think the rule is procedural in nature. The substance of the rule is that rate base needs to be calculated. The end result sought by the rule is a fair value for rate base. The method by which the number is calculated is just that, a method, a procedure. The Commission has authority to waive, enhance, or alter its procedural rules. See Hall v. Career Service Commission, 478 So.2d 1111 (Fla. 1st DCA 1985). In this instance the Commission made a procedural alteration, and the reasons for the alteration are set forth in Order No. 21902, issued September 18, 1989.

In consideration of the above, we find no error in the utility's using a simple average to calculate rate base in this case.

The utility employed the simple average method to calculate test year rate base in this rate proceeding, as it was allowed to by the above-stated Order. The utility argues in its brief that test year rate base should be $4,075,207, the same amount contained in its MFRs. However, this figure does not account for changes to working capital resulting from Stipulations 1 and 2 and does not account for the utility's updated rate case expense of $56,186.48, which is $6,186.48 more than the $50,000 contained in the MFRs.

Using the simple average method, we find that after making the adjustments shown herein, the utility's rate base is $3,868,002.

COST OF CAPITAL

Our calculation of the appropriate cost of capital is depicted on Schedule No. 2, and our adjustments appear on Schedule No. 2-A. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on that schedule without further discussion in the body of this Order.

Equity

The record shows that the company paid $1,968,049 in dividends in 1989, after the end of the base year that were not accounted for in the company's MFR projections. We agree with OPC that the equity in the capital structure should be reduced to adjust for this difference.

The utility argues that no adjustment should be made. Utility witness Harrison stated that our Staff choose this one item to "true-up" for actual experience while ignoring the actual experience for other items such as revenues and expenses. Mr. Harrison testified that "trueing-up" for only one item is unfair and detrimental to the utility. Nevertheless, he agreed that a $1,968,049 difference in equity existed, which he attributed to the payment of dividends, and he acknowledged that the utility pays dividends on a regular basis.

Since the utility pays dividends on a regular basis, we believe that it should have projected the 1989 dividend payment in its MFRs. The adjustment is not a "true-up" to actual, as argued by the utility, but a change in the assumptions used to project test year equity. The utility had reason to know that it would pay more dividends and should have included this information in its calculations. The amount of the dividend is undisputed. In consideration of the above, we find that common equity shall be reduced by $1,968,049.

Return on Equity

In its application, the utility requested a return on equity of 13.64%. Utility witness Harrison explained that the formula used in the MFRs was 10.65% plus 1.48 divided by the equity ratio, which is the leverage formula contained in Order No. 19718, issued on July 26, 1988. He stated that the MFRs were prepared before the issuance of Order No. 21775, which contained the leverage formula in effect at the time of hearing, and conceded that the MFRs were filed after that Order's effective date.

Mr. Harrison stated in his rebuttal testimony that "[G]iven the risk associated with this Company and the fact that it has underfiled in this rate proceeding warrants the full requested return." The utility, however, has in no way quantified the risk or underfiling which Mr. Harrison espouses, nor has it offered any

testimony addressing how these conditions, if they in fact exist, affect the return on equity. Indeed, no evidence on the record supports the utility's statement. Mr. Harrison admitted that he was aware that it is Commission policy to use the most current leverage formula in effect at the time of the Commission vote and agreed that it is a good policy.

OPC takes the position that the rate of return on equity contained in Order No. 21775, which was in effect at the time of the hearing, is the appropriate rate to use in this case.

Proposed Agency Action Order No. 23318, which contains the new leverage formula, was issued on August 8, 1990, and, thus, was final and effective at the time of our vote at the October 2, 1990, Agenda Conference. Since the utility witness concurred with our policy of using the most current leverage formula in establishing return on equity, we shall use the leverage formula contained in Order No. 23318 in this case.

Based upon the components of the adjusted capital structure shown on Schedule No. 2-A, the equity ratio for the utility is 48.24%. Using the leverage formula contained in Order No. 23318, we calculate that 12.94% is the appropriate return on equity for this utility. In accordance with our policy, the range for the utility's return on equity should be 11.94% to 13.94%. This return on equity requires that we also alter the cost rate of the investment tax credits reported by the utility from 11.19% to 11.82% when using the adjusted capital structure.

Series G Bonds

OPC raised the question of whether the debt between Florida Cities Water Company and its parent, Consolidated Water Company (Consolidated), was an arm's-length transaction. OPC witness Larkin stated in his direct testimony that the Series G first mortgage bonds contain restrictions on early retirement from the proceeds of borrowed funds having a lower interest rate, but that these restrictions do not apply to the utility's other long-term debt issues. He stated that because of the differences in the terms of these debt instruments, he questions whether the Series G bonds were issued on an arm's-length basis. He proposed that an interest rate of 12% would be more appropriate than the actual rate of 16.25%. He did not elaborate on how he arrived at that figure.

Mr. Larkin quoted what he believes to be the operative sentence in the bond indenture, "The notes are not refundable for 10 years after the date of the issue from the proceeds of borrowed funds having an interest rate less than that note . . . or an average life less than that remaining on the note." He argued that this provision does not mean the utility cannot redeem the bonds from internally-generated funds. He suggested that the bonds could be redeemed from retained earnings, for instance. The restriction was on the utility's floating a bond issue for the specific purpose of redeeming these notes. Mr. Larkin admitted that the Series G bonds were acknowledged by the Commission in Order No. 10335, issued October 14, 1981 and in Order No. 10335-A. Mr. Larkin argued that the matter must be revisited by the Commission.

The utility disagrees with OPC's position. Utility witness Harrison stated that Florida Cities sold Series A, D, F, G, H, I and J bonds. The market dictated whether a sinking fund would be established and what type of call provisions would be present. He testified that the Series G Bonds in question were issued to Consolidated in exchange for the proceeds of a large pooled bond issue sold by the parent company to outside investors. The credit terms Florida Cities was subject to were identical to those required by Consolidated's outside investors. Florida Cities was actually able to obtain financing at credit terms which were favorable at the time, Mr. Harrison asserted, and he emphasized that Consolidated makes no profit on this arrangement.

The utility's late-filed Exhibit 12 contains excerpts from Florida Cities' other bond indentures. This exhibit reveals that the other issues contain provisions similar to those of the Series G. For example, Series D has a provision that "the Bonds of Series D may not be redeemed at any time prior to February 1, 1981, directly or indirectly out of the proceeds of, or in anticipation of the creation of, indebtedness of the Company for borrowed money having an interest rate or effective interest cost to the Company of less than 9 1/2% per annum." The Series D bonds were issued on February 1, 1971, at 9 1/2%.

The Series G issue in question contains the provision that "the Bonds of Series G shall not be redeemable at the option of the Company . . . prior to September 15, 1991, as a part of, or in anticipation of, any refunding operation, by the application, directly or indirectly, of any borrowing or the issuance of any preferred stock by the Company or any Affiliate having a net

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interest or dividend rate or cost of less than 16 1/4% per annum or having a shorter average life to maturity than the remaining average life to maturity of the Bonds of Series G." The bonds were issued September 15, 1981, at 16 1/4%.

Series H, which was issued after Series G, contains the provision that "the Bonds of Series H shall not be redeemable at the option of the Company . . . prior to December 15, 1995, as a part of, or in anticipation of, any refunding operation, by the application, directly or indirectly, of any borrowing or the issuance of any preferred stock by the Company or any Affiliate having a net interest or dividend rate or cost of less than 11.55% per annum or having a shorter average life to maturity than the remaining average life to maturity of the Bonds of Series H." The Series H bonds were issued December 15, 1985, at 11.55%.

A comparison of the bond indentures above reveals that, regarding callability, the Series D bonds issued prior to the Series G bonds contain similar provisions, and the Series H bonds issued after the Series G bonds contain an identical provision. No bondholders other than the Series G bondholders are related to the utility. Thus, the basis for Mr. Larkin's contention that the bonds were not issued on an arm's-length basis would appear to be untrue. In addition, nothing on the record brings the prudence of the Series G issuance at 16.25% in 1981 into question. We are not persuaded by Mr. Larkin's testimony that the bonds could be paid off with retained earnings. The bond indenture states that the bonds may not be paid off indirectly through borrowing. This provision contradicts Mr. Larkin's comment that only bonds issued with the specific intention of paying off Series G was prohibited.

The Series G bonds issuance has the color of an arm's-length transaction, albeit that the transaction was between related parties. In consideration of the above, we find that the Series G bonds were issued on an arm's-length basis.

According to Schedule 4-A of the MFRs, the Series G bonds comprise only 7.13% of the utility's total long-term debt, and the overall cost of debt is 10.95%. OPC witness Larkin testified that because there is a question of whether the Series G bonds were issued on an arm's-length basis, he recalculated the interest on the Series G first mortgage bonds at a rate of 12%. The utility contends that the 16.25% rate is the appropriate rate.

As previously stated, the record does not support Mr. Larkin's contention that the bonds were not issued at arm's-length. In addition, the record contains no evidence that the issuance of these bonds was imprudent. We therefore find that 16.25% is the appropriate interest rate for the Series G Bonds for calculating the cost of capital.

Short-Term Debt Cost Rate

In its application, the utility claimed short-term debt at a cost of 10.00%. OPC has taken the position that short-term debt should have a zero cost for purposes of this rate case. OPC witness Larkin testified that the short-term debt should be considered cost-free capital since it is guaranteed by Consolidated. He also said that this debt would presumably be used as working capital for day-to-day operations, and since the rate base already provides for working capital, allowing recovery of short-term debt cost would constitute double recovery. On cross-examination, Mr. Larkin explained that under his characterization, short-term debt costs are capitalized as part of the plant costs; therefore, these costs should not be included in the capital structure as part of the carrying charge for plant-in-service as well. He concluded that a zero cost should therefore be assigned to short-term debt. OPC claims in its brief that its position that the short-term debt is not really an obligation of the utility because it is guaranteed by the parent company is unrebutted on the record.

In his rebuttal, utility witness Harrison stated that generally short-term debt is, in reality, permanent capital for water utilities because of on-going construction. Construction is typically funded through short-term debt until it reaches a level that makes permanent financing economically feasible. As for the contention that short-term debt should not be included in the capital structure because working capital is included in the rate base, Mr. Harrison stated, "The Office of Public Counsel's position would lead one to believe that all sources of capital should be eliminated because the assets financed by them are included in the rate base. Such a position could obviously not be taken seriously."

Upon consideration, we believe that the mere fact that an obligation is guaranteed by another party does not relieve the obligor of its obligation. OPC offered no testimony showing that the utility does not pay interest on its short-term debt, and Mr.

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Larkin failed to demonstrate how Consolidated's guarantee causes Golden Gate to have no cost.

OPC has not challenged the 10.00% cost rate itself; it stands undisputed on the record as the cost of the short-term debt. Disallowing this cost for the reasons set forth by OPC would produce an unreasonable result: the utility would be unable to recover its actual cost of debt simply because it is guaranteed by the parent company. In addition, we detect a certain amount of contradiction in Mr. Larkin's statement that short-term debt cost is recovered as working capital in rate base when he stated previously that working capital should be zero.

In consideration of the above, we find that the short-term debt cost of 10.00% is reasonable and hereby approve it.

Overall Rate of Return

The utility used the simple average method to calculate its test year capital structure and requested an overall rate of return of 11.19%. OPC believes that an overall rate of return of 10.07% is appropriate.

We have determined the appropriate overall rate of return using the adjustments to the capital structure discussed herein, with each item reconciled on a pro rata basis. Accordingly, we find that an overall rate of return of 10.84% with a range of 10.42% to 11.27% is reasonable and hereby approve it.

NET OPERATING INCOME

Our calculation of net operating income is depicted on Schedule No. 3, with our adjustments itemized on Schedule No. 3-A. Those adjustment which are self-explanatory or which are essentially mechanical in nature are reflected on those schedules without further discussion in the body of this Order. The major adjustments are discussed below.

Projections

OPC argues in its brief that the utility has not provided adequate record support to justify its projected expenses. The utility asserts that the expenses projected in its MFRs are adequately supported.

Witness Harrison testified that the utility projects growth of 288 customers for the two years from March 31, 1989, to March 31, 1991. Mr. Harrison explained that, based upon the trends, customer growth is 10.3% and that the increase in flows is 12.5%. The number of customers added per year is 144. The percentages he gave were for two years.

Mr. Harrison elaborated that most of the utility's O & M are expected to increase proportionally with the increase in customers and that a few items, such as power and chemicals, would more closely follow increases in flows. "The assumption is that anything that would not directly vary with sales or flows, customers would be a good basis for escalating those costs," Mr. Harrison said. "As customers go up, the operations of the company expand." For example, the 12.5% escalation factor was used for purchased power because the utility believes that purchased power expense varies directly with the company's production. "In other words, each gallon of water that's produced requires additional purchased power expense," Mr. Harrison explained. "And there's a direct correlation between production and power expense." Wages expense, on the other hand, was escalated by a 5.15% customer growth per year factor.

To test the utility's growth figures, we took the average of total active customers from late-filed Exhibit 5 for the year ending March 31, 1989. The 2,106 number there is in agreement with the number on Schedule B-3, MFRs. We then calculated the average of total active customers for the year ending March 31, 1990, to get 2,270. In its MFRs the utility projected that the average customers for the year ending March 31, 1991, would be 2,322. It is apparent from late-filed Exhibit 5 that the utility has underestimated its expenses because the average number of customers for April through June, 1990, was 2,367. If we add 144 customers per year to the 2,106, we get 2,394, and this number was used by the utility to calculate its rates in the MFRs. It figured that 28,736 bills divided by 12 months equals 2,395 average bills per month.

The higher number of projected customers is also supported by witness Harrison's testimony. He stated on redirect:

> The numbers on Schedule B-3, p. 3 of 4, are average numbers. The 2,106 at the bottom of the page is the average number of customers for the year 3-31-89.

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> Now, if you add 144 customers to the 2106, and then you add the 144 to that number, and you take an average of what your customers would be at 3-31-90 and 3-31-91, you will derive the 2,322.
>
> So what the Company has done is they have used end-of-year customers in making their revenue projections, and they have used average customers in developing the inflator for expenses. So it really works -- the way the Company has done it, it works to the ratepayer's benefit because the growth factor used in projecting expenses is lower than the growth factor we use for revenue.

Mr. Harrison answered that he was familiar with the Commission's use of the O&M benchmark but denied that the utility used the benchmark to project its expenses. He explained that in Schedule B-5 of the MFRs, the utility attempted to show that its increased expenses over a five-year period through the projected test year were reasonable, given the benchmark. He further testified that he did not see anything wrong with using the O&M benchmark as a sanity test used to expose expense increases beyond customer growth and the consumer price index. On a policy basis, Mr. Harrison agreed that it would be appropriate to use the benchmark as a means of testing the expenses and that expense increases beyond the benchmark would have to be specifically justified.

Upon review, we note that overall expenses do not exceed the benchmark. In consideration of the above, we find that the utility's expense projections are reasonable, except as otherwise stated herein.

Salaries and Pension and Benefit Expense

The utility projected its salaries expense to increase by a 5% raise per year for all employees, by a 5.15% customer growth factor per year, and by the cost of a new operator required by DER to staff the expanded water plant. Utility witness Harrison testified that while the 5% wage increase per year was based on known fact for the year following March 31, 1989, the 5% projected for 1991 was an

estimate. He said the growth factor was applied on the assumption that, with a growing company, new employees will be added at some point. The salary of an additional operator was a known cost resulting from regulation requirements.

While the inclusion of raises for the employees appears reasonable, we find no evidence to indicate that customer growth will impact salaries beyond the raises and the addition of the operator. The fact that the utility must add employees "at some point" does not mean that it will add them during the projected test year, particularly when the utility has already added an operator. We find that the portion of the increased salaries expense based on customer growth should be removed along with the 1990 raise for the new operator.

The salary for that new operator was increased twice, by two raises. The company expected to hire this employee in February, 1990; yet his salary was escalated for two years of raises. We find that since the new operator was not present during most of 1990, the raise for that year is inappropriate.

Given these adjustments, we find that the utility's salaries expense should be reduced by $13,883, with a corresponding reduction to payroll taxes of $910.

Pension and benefits expense, like salaries expense, was increased for customer growth and for the two raises discussed above. The utility estimated the cost of pension and benefits for the new operator at $3,200, which is 17.54% of the salary. His pension and benefits were further escalated to $3,849 due to the wage increases and customer growth factors.

Utility witness Harrison conceded that the total pension and benefit expense on Schedule B-3 was about 12.31% of salaries. When asked why the projected expense for the new employee was 17.54% of his $18,240 salary, Mr. Harrison explained that the discrepancy in the figures was due to some of the employees' working at the utility's wastewater portion of the plant. But immediately after making that statement, he admitted that no wastewater employees were listed on Schedule B-3.

At one point, Mr. Harrison agreed with OPC that the average pension and benefit expense per employee for thirteen employees was about $1,105. This statement may have caused some confusion as to

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how pension and benefit expense was calculated. Utility witness Reeves corrected his prefiled testimony that Golden Gate had eleven outside employees to read that it has a division manager, seven outside employees, and one office employee.

OPC witness Larkin pointed out that the 1988 audit report of Ernst & Whinney shows that the utility's pension costs were prepaid. He interpreted this to mean that no contributions were required in the test year and, therefore, no expense should be allowed. Mr. Harrison, on the other hand, stated that the company records its pension expense in accordance with the Financial Accounting Standards Board (FASB 87) and funds the pension program in accordance with the Federal Employee Retirement Insurance Security Act (ERISA) requirements.

We find no evidence in the record showing that the utility does not have to make any pension contributions in the test year. The utility's contention that it records its pension expense in accordance with FASB 87 and funds it in accordance with ERISA is undisputed on the record. OPC's proposition that the utility does not have any pension expense in the test year is unsupported.

OPC's suggested adjustment for the new employee's pension and benefit expense does not appear to be based on the correct number of employees. Given the confusion over the number of employees included in the pension and benefit expense calculation, we think that the 12.31% average agreed to by utility witness Harrison is a reliable standard to use to adjust the pension and benefit expense for the new operator. Therefore, we have made an adjustment to bring the new employee's pension and benefits to a level similar to that of the other employees and another adjustment to remove the customer growth factor from the pension and benefit expense on the whole. In consideration of the above, we find that pension and benefit expense should be reduced by $2,858.

Miscellaneous Expense/Temporary Help

OPC proposes that $10,557 should be deducted from miscellaneous expenses for temporary help. OPC witness Larkin stated that in his review of miscellaneous expenses for Florida Cities Water Company during the base year ending March 31, 1989, he identified 35 payments to Norrel Services, Inc., totaling $10,557.06 for temporary help, but that he could not determine what costs were

charged to the Golden Gate Division. He also raised a question as to whether this temporary help is doing the work that the new employee would perform. If the temporary help is not doing the new employee's work, the management fees should cover the cost of providing services not performed by Golden Gate employees, he argued. Under cross-examination, Mr. Larkin stated that he did not think it was unusual to utilize temporary help to fill work gaps, but the burden is on the utility to show it needs this help in addition to the new operator. He pointed out that labor costs increased about 59% from 1989 to the end of the test year. The inclusion of temporary help on top of such an increase, he stated, is unnecessarily burdensome.

The utility maintains that the temporary help is necessary and no adjustment should be made. Utility witness Harrison testified in rebuttal that because of the utility's constant expansion and growth, work requirement gaps must be filled with temporary help. The utility, however, offered no testimony as to why this temporary help would continue to be necessary after the addition of the new operator. In fact, we can find no indication of what kind of duties were performed by these temporary employees. The record does not indicate whether they are laborers or office helpers.

We agree with Mr. Larkin that the utility has not met its burden of proof to show that it will be necessary to retain temporary help after the addition of a new operator. Therefore, we find that $10,557 should be removed from O & M expenses for temporary help.

Rate Case Expense

The utility requested $50,000 in rate case expense in its MFRs. Exhibit 17, is the utility's updated rate case expense request of $63,220. While, at a minimum, the utility believes that the Commission should recognize $50,000 of rate case expense, in its brief it requested $56,186.48.

Utility witness Harrison testified that Consolidated Water Company provides accounting, financial, and rate case services to Florida Cities. Consolidated began assisting Florida Cities in preparing the MFRs when Mr. Harrison joined Consolidated but did not do so previously. Mr. Harrison testified that the estimated $8,000 allocated to Florida Cities was for his work and for attendance at three days of hearing, not including travel expenses. He further

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testified that Consolidated allocates expenses to Florida Cities for administrative services, but that during the March 31, 1989, base year, no expenses were allocated to Florida Cities for any regulatory affairs work. Prior to that, Florida Cities used a consultant in combination with its own personnel to prepare the MFRs. Mr. Harrison also testified that his rate would be less than what a consultant's would be.

Late-filed Exhibit 18 outlines the rate case expense for services performed by Consolidated Water Services. The exhibit lists 119 hours worked by Mr. Larry Coel. Mr. Harrison testified that certain Consolidated expenses are for the service of several people including Larry Coel from Sarasota. Sarasota is the location of Florida Cities' home office. When questioned about the location of Consolidated, Mr. Harrison said it was in Miami. One of the letters contained in Exhibit 10 is signed by Larry Coel, Rate Analyst, on Florida Cities' letterhead. We think it is clear from the record that Mr. Coel is a Florida Cities' employee, not a Consolidated employee.

Mr. Harrison also stated that his travel is covered in the $4,000 estimate for miscellaneous expenses, yet overhead expenses at 50% of the hourly rate for Consolidated are included. We do not know what this overhead expense includes. When asked on cross-examination about the charges for Consolidated, Mr. Harrison stated that the fees were based on an average hourly rate which he did not recall. He made no mention of overhead expenses at any time. For the reasons stated above, we find that it inappropriate to include the hours spent by Larry Coel and the charges for overhead in the expense estimate for Consolidated. Therefore, we have removed $5,099 from that estimate.

Mr. Harrison stated that $14,474.86 was paid as consultant fees to Mr. Keith Cardey, who retired in December, 1989. The MFRs were prepared by Florida Cities personnel with the assistance of Mr. Cardey. The consultant fees for Mr. Cardey were included in the rate case expense allowed in the PAA order and have not been challenged by OPC. It was initially expected that Mr. Cardey would testify in this case, but since he has retired, Mr. Harrison replaced him and had to review the MFRs prepared by others. Mr. Harrison stated that Mr. Cardey's fee would have more than offset the additional time Mr. Harrison had taken to become familiar with the case.

The record shows that Mr. Harrison was asked numerous questions about various components of the rate case expense which he was unable to answer. In a number of instances, his statements were vague, failing to clarify what might be included under certain expense categories. The utility claims in its brief that no rate case information in addition to late-filed Exhibit 18 was requested and that its recovery request was reasonable. However, we disagree with this claim given the inability of the utility witness to justify the utility positions at hearing.

The utility included $4,000 in miscellaneous expenses in its estimate, but the estimate is not detailed anywhere in the record. Witness Harrison testified that the $4,000 was just a broad-brush estimate to include travel expenses, meals and hotels for four people through three days of hearing. We find that since the hearing did not last three days, but ended after one and a half days, an adjustment should be made to miscellaneous expenses. The record is silent as to how much of the expenses related to day three. Since the miscellaneous expenses related to travel for four people, $250 a day for each person is reasonable. Therefore, we find that $1,000 should be removed from miscellaneous expenses to account for the actual length of the hearing.

The utility claimed $3,000 for data processing necessary for implementing the PAA rates pursuant to Section 367.081(6), Florida Statutes. Witness Harrison claimed that the $3,000 figure was supported by an estimate from Aqua Utility Consultants (Aqua), a related party. This item was not included in the utility's original rate case expense request. We have reviewed the record and have not found the referenced estimate or an invoice for work to be performed by Aqua. In sum, the utility has provided no evidence that the $3,000 data processing cost has been incurred. Since the $3,000 was not included in the utility's original filing and the utility has failed to support it, we have removed it from rate case expense.

Witness Harrison admitted that the $37,219.61 rate case expense contained in Exhibit 17, included $7,033.13 which actually pertained to another docket and, thus, should be removed. Mr. Harrison also agreed that a $200 room security charge which was refunded and a $100 room security charge incurred after the customer meeting should be removed from rate case expense. We have therefore removed these items.

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Utility witness Harrison testified that the $10,000 estimate for attorneys fees covered the attorney's hours, including attendance at the hearing, and the prehearing conference, her work, including writing the brief "and whatever else attorneys do for these things," and travel. However, Mr. Harrison did not know whether the estimate included work and travel for three days of hearing or work to be done on a motion for reconsideration. He emphasized that the amount was just an estimate.

Since the hearing did not last three days as initially expected, we think that an adjustment should be made to legal expenses. The record is silent as to how much of the expenses related to day three. However, we think that a three-day hearing would encompass approximately 28 hours of actual hearing time, 8 hours per day for three days with at least one night session of 4 hours. We have tallied the actual time spent at hearing using the times which the transcript lists for beginnings and adjournments and the hearing lasted about 10 hours. We have therefore removed the following from attorney's expense: 18 hours at hearing at the rate of $125 per hour, totalling $2,250, and $250 travel expense, covering hotel, meals, and car rental.

Mr. Harrison testified that the $1,000 estimated for special mailers notifying the customers of the final rates was necessary because the utility's regular bills were on post cards, so the notice could not be inserted in an envelope with a bill. We find that this $1,000 cost is acceptable in view of the fact that the utility bills by post card and must therefore separately mail the notice.

Mr. Harrison said that one of the reasons the utility's rate case expense exceeded the $50,000 originally estimated was the extra work the utility had to do to comply with MFR requirements. On cross-examination he admitted that the MFRs had to be revised because the Commission found deficiencies in the original filing. We do not think that the ratepayers should have to pay for the utility's mistake. The utility has the burden of filing its case correctly. The difference between the utility's initial $50,000 request for rate case expense and its revised request is $6,000. We find that since the utility has admitted that the difference is due in part due to the MFR deficiency, half of the difference, $3,000, should be removed.

OPC argues in its brief that Golden Gate has failed to demonstrate that all of its claimed rate case expense was prudently incurred. Therefore, it continues, no expenses beyond the PAA level should be allowed. While there may have been duplication of efforts because of Mr. Cardey's retirement and the resignation of the employee who along with Mr. Cardey prepared many of the MFR schedules, we conclude that such situations are beyond the control of the utility and do not, in and of themselves, indicate imprudence.

A summary of the rate case expense with adjustments follows:

Request Per Exhibit 17	$63,219
Less: Utility Adjustments	7,033
Revised Utility Request	$56,186
Less: Approved Adjustments	(14,899)
Approved Rate Case Expense	$41,287

In its MFRs, the utility used a four-year period to amortize rate case expense. OPC does not disagree with the amortization period and, since we find it to be reasonable, we shall use it. Rate case expense for the test year, then, is $10,332.

Taxes Other Than Income

The utility estimated $40,266 of tangible personal and real estate property taxes for the base year ending March 31, 1989. Utility witness Harrison agreed that property taxes allocated to the test year for 1988 should be $29,072, instead of the $31,266 actually included in the base year. He further agreed that the correction would be required because the utility accrues real property tax throughout the year and then "trues-up" the amount when the tax bill is actually paid in November. The base year real property taxes, he said, should be adjusted to remove a portion of that "true-up" pertaining to the three months outside of the base year. However, the actual taxes for 1989, $45,662, were higher than the $39,781 in proposed taxes of for that year. Witness Harrison stated that three-twelfths of the actual 1989 taxes, or $11,415, should be included in the base year. The total tax for the historical base year is as follows:

1988 Property Tax	$29,072
1989 Property Tax	11,415
Total	$40,487

Because the actual taxes are $281 higher than its estimate, Golden Gate argues that a $281 increase to taxes other than income is appropriate.

OPC argues that the adjustment contained in the PAA order reducing taxes other than income by $3,398 is not supported by the record. The record contains no testimony other than the utility's. The calculation in the PAA order was based on estimated taxes for 1989. While the utility erred in calculating the portion of base year taxes for 1988, the 1989 estimate of taxes allocable to the test year was too low. Therefore, we believe that OPC's position is inappropriate.

The utility projected taxes for the test year included the increased water plant. Mr. Harrison stated that the formula on revised Schedule B-15 of the MFRs was property tax for the base year divided by the plant at December 31, 1988. The resulting ratio of tax-to-plant was applied to the additional investment in the treatment facilities and other added plant. He agreed that this was the methodology used to project the property tax for the test year, and that a fair projection of the tax would result from this method with the above-mentioned adjustments. Because of the AFUDC adjustment discussed previously, the utility plant-in-service will be $63,193 lower. Using the adjusted plant and the utility's methodology, we calculate a projected tax of $56,293, which is $835 lower than the utility's estimate.

We agree with the proposition of including an additional $281 in property taxes for the base year. However, because of the impact of the AFUDC adjustment on the plant calculation, the utility's methodology, as stated above, produces a lower projected tax figure for the test year. Therefore, in consideration of the above, we find it reasonable to decrease taxes other than income by $835.

Income Tax

Golden Gate is a subsidiary of Consolidated Water Company. Consolidated is a subsidiary of Avatar Utilities. The ultimate parent is Avatar Holdings. Golden Gate participates in the consolidated tax return filed by Avatar Holdings. The tax for the Golden Gate Division is calculated on a total Golden Gate basis and

then allocated to the division on the basis of its pretax operating income.

Rule 25-14.004, Florida Administrative Code, requires the income tax expense of a regulated company to be "adjusted to reflect the income tax expense of the parent debt that may be invested in the equity of the subsidiary where a parent-subsidiary relationship exists and the parties to the relationship join in the filing of a consolidated income tax return." The rule goes on to state that "it shall be a rebuttable presumption that a parent's investment in any subsidiary or in its own operations shall be considered to have been made in the same ratios as exist in the parent's overall capital structure." When questioned about the parent debt adjustment calculation, Mr. Harrison testified that the adjustment was made using Consolidated as the parent. However, on redirect, Mr. Harrison stated that after reviewing the workpapers, he found that the parent used was Avatar Holdings.

The utility's tax calculation takes its positions from the various other issues of this case into account. OPC takes the position that the income tax expense is a fall-out number.

Since we have adjusted many of the numbers already, we must recalculate the tax. No change is needed for the parent debt adjustment. We have, however, made the following adjustments. We decreased the interest expense in the income tax calculation by $1,174 to reconcile it with the interest expense inherent in the approved capital structure. We decreased current income tax expense by $13,748 to account for the tax effects of other adjustments made to test year revenues and expenses, and we increased current income tax expenses by $1,157 to account for the effect of the projected revenue increase. The net adjustment comes to $147,655. We made no adjustments to deferred income tax expense, state or federal.

The utility requested an income tax expense of $123,949. However, based on the foregoing, we will allow a total income tax expense of $66,128.

Revenue Associated with Margin Reserve

OPC maintains that not recognizing revenue on the margin reserve creates a mismatch between revenues and expenses since the utility has already recognized expenses. OPC witness Larkin testified that the revenue requirement should be based on 100% of

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the revenue collectible from everything that could be on the system. He multiplied the 132 remaining lots by the average residential bill of $15.85, and that product by 12 months to arrive at additional revenue of $25,091 to be derived from the margin reserve. However, Mr. Larkin agreed that he would not impute any additional expenses attributable to margin reserve because he thought expenses were more than high enough to start with. Mr. Larkin admitted on cross-examination that he was aware of Commission policy not to impute revenue on the margin reserve.

Utility witness Harrison testified on rebuttal that OPC's position results in a complete mismatch of revenues, expenses, and rate base, particularly since such a proposal provides for no increase in operation expenses to serve additional customers.

The record contains no evidence showing that the utility recognized expenses for the remaining 132 customers to be added to the distribution system. Mr. Larkin conceded that he would not have added those expenses. Absent the additional expenses, we do not think that revenues and expenses would be mismatched. Based on the foregoing, we find that revenue associated with the margin reserve should not be imputed.

DEED OF RESTRICTIONS

At the hearing, one customer witness, Ms. Carlene M. Jordan, raised the question of why the utility was not enforcing a covenant contained in the Golden Gate Subdivision Deed of Restrictions. Without reading directly from the Deed of Restrictions, the witness stated that the Deed of Restrictions requires every customer to be hooked up in ninety days. The Deed of Restrictions itself was never admitted into evidence as an exhibit. However, we made further inquiry concerning this matter from another witness, Mr. Max Hasse, who is a County Commissioner for Collier County. Commissioner Hasse stated that the County had nothing to do with enforcement of the deed of restrictions. When Mr. Hasse was asked if it was up to the individual residents to take action on such a matter, he answered, "You're correct."

Nonetheless, OPC has taken the position in its brief that the Commission should order the utility to explain why it has not sought to enforce its interests in the Deed of Restrictions or to seek a declaratory judgment that it is empowered to do so. OPC cites Section 86.021, Florida Statutes, for the proposition that the

utility may seek a declaratory judgment to determine its rights under the Deed of Restrictions. However, a declaratory judgment cannot be had just because someone wants to know what his rights are. There must be a bona fide dispute between parties. Courts do not issue declaratory judgments based upon hypothetical facts. In order to invoke a court's jurisdiction there has to be a justiciable controversy, parties in conflict. There does not appear to be a justiciable controversy here.

The legal theory under which OPC asserts that the utility has an interest in the enforcement question is the third party beneficiary theory. Third party beneficiary theory is a contract theory, not a property theory. In contract law, a third party beneficiary receives a direct and immediate benefit from a contract; the breaching party has a duty to make reparation if the benefit is lost. Without compunction, we find that third party beneficiary theory is wholly incompatible with deed of restrictions enforcement.

Even if that legal theory were applied to the Deed of Restrictions in this case, the utility could not be a third party beneficiary under the theory. A third party beneficiary has to be intended by the contracting parties to be a beneficiary of the contract. It is unlikely that the utility here could have been an intended beneficiary of the developer. In our view, the future property owners of lots in the subdivision were the only intended beneficiaries. If anything, the utility might be considered an incidental beneficiary.

Finally, there is nothing in Chapters 350 or 367, Florida Statutes, which would empower the Commission to force utilities to enforce covenants in deeds of restrictions.

In sum, we shall not pursue OPC's suggestion since we know of no legal basis allowing the utility to enforce the Deed of Restrictions. This Commission shall leave to the homeowners the question of whether or not the quoted provision of the deed of restrictions is enforceable by them against the utility.

REVENUE REQUIREMENT

The permanent rates requested by the utility are designed to produce annual revenues of $1,294,835 for water. The requested

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revenue represents an annual increase of $560,047, or approximately 76%.

Based upon the adjustments discussed above, we find that the appropriate annual revenue requirement for this utility is $1,183,966. This revenue requirement represents an annual increase in revenue of $447,792 (60.93%). This revenue requirement will allow the utility to recover its expenses of $764,675 and allow it an opportunity to earn a 10.84% return on its investment.

RATES

We have established the appropriate annual revenue requirement for water as $1,183,966. The rates, which we find to be fair, just and reasonable, are designed to achieve this revenue requirement and use the base facility charge rate structure. The base facility charge structure is our preferred structure because of its ability to track costs and give the customers some control over their water and wastewater bills. Each customer pays his or her pro rata share of the related costs necessary to provide service through the base facility charge and the actual usage is paid for through the gallonage charge.

The revised tariff sheets will be approved upon the utility's filing thereof and Staff's verification that they accurately reflect our decision herein and upon the approval of the proposed customer notice. The approved rates will be effective for meter readings on or after thirty days from the stamped approval date on the revised tariff sheets.

The utility's present rates, the utility proposed rates, the utility-implemented rates (pursuant to Section 367.081(6), Florida Statutes), and our approved final rates are, for the purpose of comparison, set forth on Schedule No. 4.

Refund

Pursuant to Section 367.081(6), Florida Statutes, the utility implemented rates effective on June 25, 1990. These rates were based upon the $1,201,168 revenue determined in the PAA order, Order No. 22804. The revenue requirement approved herein is $1,183,966. The utility has collected, on an annual basis, $17,202 in excess revenue since implementing rates on June 25, 1990. The utility should apply a multiplier to each bill in order to determine

the actual excess revenue billed to the customer up to the time the rates approved herein are implemented. The multiplier is calculated as follows:

	Implemented (PAA)		Final Approved	
Total Revenue	$1,201,168		$1,183,966	
Miscellaneous Revenue	16,300		16,300	
Rate Revenue	$1,184,868		$1,167,666	
Multiplier	$1,167,666	-	$1,184,868	= 0.98548

The utility must make the refund, including interest, in accordance with Rule 25-30.360, Florida Administrative Code. Upon Staff's verification of the refund process, the utility's corporate undertaking may be released.

Customer Deposits

One of the customer witnesses questioned the utility's practice of not collecting customer deposits. Utility witness Reeves stated that a study had been made approximately twelve years ago which indicated that the costs associated with collecting deposits and paying the required interest would exceed the costs of not collecting a deposit. He went on to say that the existence of an aggressive disconnection and termination policy would obviate the necessity of collecting customer deposits.

According to the utility's MFRs, the bad debt expense for the period ending December 31, 1986, was $9,683, and the bad debt expense forecasted for the period ending March 31, 1991, was $5,642. The projection is that bad debt expense will halve while the customer base increases. Based upon the expected number of bills to be rendered at the end of the projected test year and the projected bad debt expense of $5,642, the per customer impact comes to approximately $0.13 per bill. The bad debt expense would account for approximately 0.4% of the requested revenues of $1,294,835.

Based upon these calculations, there does not appear to be a need for the utility to collect customer deposits unless it elects to do so.

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CONCLUSIONS OF LAW

1. The Commission has jurisdiction to determine the water and wastewater rates of Florida Cities Water Company, Golden Gate Division, pursuant to Sections 367.081 and 367.101, Florida Statutes.

2. As the applicant in this case, Florida Cities Water Company, Golden Gate Division had the burden of proof that its proposed rates are justified.

3. The rates approved herein are just, reasonable, compensatory, not unfairly discriminatory and in accordance with the requirements of Section 367.081(2), Florida Statutes, and other governing law.

4. Pursuant to Chapter 25-9.001(3), Florida Administrative Code, no rules and regulations, or schedules of rates and charges, or modifications or revisions of the same, shall be effective until filed with and approved by the Commission.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the application of Florida Cities Water Company, Golden Gate Division for an increase in its water rates in Collier County is approved to the extent set forth in the body of this Order. It is further

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

ORDERED that all matters contained in the body of this Order and in the schedules attached hereto are by reference incorporated herein. It is further

ORDERED that Florida Cities Water Company, Golden Gate Division is authorized to charge the new rates set forth in the body of this Order. It is further

ORDERED that the rates approved herein shall be effective for meter readings taken on or after thirty (30) days after the stamped approval date on the revised tariff pages. It is further

ORDERED that prior to its implementation of the rates approved herein, Florida Cities Water Company, Golden Gate Division shall submit and have approved revised tariff pages and a proposed notice to its customers of the increased rates and the reasons therefor. The revised tariff pages and the notice will be approved upon Staff's verification that they are consistent with our decision herein. It is further

ORDERED that Florida Cities Water Company, Golden Gate Division, shall within sixty (60) days of the issuance of this Order file with the Commission both the report and the independent laboratory test results required herein. It is further

ORDERED that Florida Cities Water Company, Golden Gate Division, shall, in accordance with Rule 25-30.360, Florida Administrative Code, refund with interest the excess revenue collected as a result of its implementing rates pursuant to Section 367.081(6), Florida Statutes. It is further

ORDERED that upon Staff's verification of the refund process, the corporate undertaking furnished by the utility shall be released. It is further

ORDERED that this docket shall be closed upon approval of the tariff sheets and proposed customer notice and the verification of the refund process.

By ORDER of the Florida Public Service Commission, this 24th of OCTOBER, 1990.

STEVE TRIBBLE, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

FLORIDA CITIES WATER COMPANY
SCHEDULE OF WATER RATE BASE
TEST YEAR ENDED MARCH 31, 1991

SCHEDULE NO. 1
DOCKET NO. 890509-WU

	COMPONENT	(A) AVERAGE TEST YEAR PER UTILITY	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) PRO FORMA ADJUSTMENTS	(E) PRO FORMA TEST YEAR
1	UTILITY					
2	-------					
3	UTILITY PLANT IN SERVICE	$ 6,788,128	$ 0	$ 6,788,128	$ 0	$ 6,788,128
4	LAND	136	0	136	0	136
5	NON-USED AND USEFUL COMPONENTS	0	0	0	0	0
6	C.I.A.C.	(2,266,106)	0	(2,266,106)	0	(2,266,106)
7	ACCUMULATED DEPRECIATION	(840,040)	0	(840,040)	0	(840,040)
8	AMORTIZATION OF C.I.A.C.	383,288	0	383,288	0	383,288
9	ADVANCES FOR CONSTRUCTION	(47,261)	0	(47,261)	0	(47,261)
10	WORKING CAPITAL ALLOWANCE	57,062	0	57,062	0	57,062
11						
12	RATE BASE	$ 4,075,207	$ 0	$ 4,075,207	$ 0	$ 4,075,207
13						
14	STAFF					
15	COMMISSION					
16	UTILITY PLANT IN SERVICE	$ 6,788,128	$ (63,193)	$ 6,724,935	$ 0	$ 6,724,935
17	LAND	136	0	136	0	136
18	NON-USED AND USEFUL COMPONENTS	0	0	0	0	0
19	C.I.A.C.	(2,266,106)	(150,076)	(2,416,182)	0	(2,416,182)
20	ACCUMULATED DEPRECIATION	(840,040)	6,235	(833,805)	0	(833,805)
21	AMORTIZATION OF C.I.A.C.	383,288	3,524	386,812	0	386,812
22	ADVANCES FOR CONSTRUCTION	(47,261)	0	(47,261)	0	(47,261)
23	WORKING CAPITAL ALLOWANCE	57,062	(3,696)	53,367	0	53,367
24						
25	RATE BASE	$ 4,075,207	$ (207,206)	$ 3,868,002	$ 0	$ 3,868,002
26						
27	CITIZENS					
28	--------					
29	UTILITY PLANT IN SERVICE	$ 6,788,128	$ (63,193)	$ 6,724,935	$ 0	$ 6,724,935
30	LAND	136	0	136	0	136
31	NON-USED AND USEFUL COMPONENTS	0	(1,344,987)	(1,344,987)	0	(1,344,987)
32	C.I.A.C.	(2,266,106)	285,244	(1,980,862)	0	(1,980,862)
33	ACCUMULATED DEPRECIATION	(840,040)	6,235	(833,805)	0	(833,805)
34	AMORTIZATION OF C.I.A.C.	383,288	(72,713)	310,575	0	310,575
35	ADVANCES FOR CONSTRUCTION	(47,261)	0	(47,261)	0	(47,261)
36	WORKING CAPITAL ALLOWANCE	57,062	(57,062)	0	0	0
37						
38	RATE BASE	$ 4,075,207	$ (1,246,476)	$ 2,828,731	$ 0	$ 2,828,731
39						

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FLORIDA CITIES WATER COMPANY
EXPLANATION OF THE ADJUSTMENTS TO
WATER RATE BASE

SCHEDULE 1-A
DOCKET NO. 890509-WU
PAGE 1 OF 2

	ADJUSTMENT	(A) UTILITY	(B) COMMISSION	(C) CITIZENS
1	UTILITY PLANT IN SERVICE			
2	----------			
3	CORRECTIVE ADJUSTMENTS			
4	----------			
5	A. To remove AFUDC charged without an			
6	approved rate.	$ 0	$ (63,193)	$ (63,193)
7				
8				
9	NON-USED AND USEFUL COMPONENTS			
10	----------			
11	CORRECTIVE ADJUSTMENTS			
12	----------			
13	A. To remove non-used and useful plant.	$ 0	$ 0	$ (1,344,987)
14				
15				
16	CIAC			
17	----			
18	CORRECTIVE ADJUSTMENTS			
19	----------			
20				
21	A. To impute CIAC on the margin reserve.	$ 0	$ (150,076)	$ (150,076)
22				
23	B. To impute additional CIAC on the margin reserve.	0	0	(47,916)
24				
25	C. To remove CIAC associated with			
26	non-used and useful plant.	0	0	483,236
27				
28	TOTAL CORRECTIVE ADJUSTMENTS	$ 0	$ (150,076)	$ 285,244
29				
30				
31	ACCUMULATED DEPRECIATION			
32	----------			
33	CORRECTIVE ADJUSTMENTS			
34	----------			
35	A. To remove accumulated depreciation associated			
36	with AFUDC charged without an approved rate.	$ 0	$ 6,235	$ 6,235
37				
38				
39	AMORTIZATION OF CIAC			
40	----------			
41	CORRECTIVE ADJUSTMENTS			
42	----------			
43	A. To include accumulated amortization of			
44	CIAC imputed on the margin reserve.	$ 0	$ 3,524	$ 3,524
45				
46	B. To remove additional amortization			
47	associated with margin reserve.	0	0	1125

FLORIDA CITIES WATER COMPANY
EXPLANATION OF THE ADJUSTMENTS TO
WATER RATE BASE

SCHEDULE 1-A
DOCKET NO. 890509-WU
PAGE 2 OF 2

	ADJUSTMENT	(A) UTILITY	(B) COMMISSION	(C) CITIZENS
1	AMORTIZATION OF CIAC (CONTINUED)			
2	---			
3	C. To remove accumulated amortization of			
4	CIAC associated with non-used and useful plant.	0	0	(77,362)
5				
6	TOTAL CORRECTIVE ADJUSTMENTS	$ 0	$ 3,524	$ (72,713)
7				
8				
9	WORKING CAPITAL ALLOWANCE			
10	---			
11	CORRECTIVE ADJUSTMENTS			
12	---			
13	A. To adjust the working capital allowance			
14	to reflect staff's calculation of O&M expenses.	$ 0	$ (3,696)	$ 0
15				
16	B. To reflect zero working capital.	0	0	(57,062)
17				
18	TOTAL CORRECTIVE ADJUSTMENTS	$ 0	$ (3,696)	$ (57,062)
19				

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FLORIDA CITIES WATER COMPANY
SCHEDULE OF CAPITAL STRUCTURE
TEST YEAR ENDED MARCH 31, 1991

SCHEDULE NO. 2
DOCKET NO. 890509-WU

	COMPONENT	BALANCE PER MFR	TEST YEAR ADJUSTMENTS	ADJUSTED TEST YEAR	PRO RATA ADJUSTMENTS	ADJUSTED BALANCE	WEIGHT	COST	WEIGHTED COST
1	UTILITY								
2	-------								
3	LONG-TERM DEBT	24,860,625	0	24,860,625	(23,359,511)	1,501,114	36.84%	10.95%	4.03%
4	SHORT-TERM DEBT	5,100,000	0	5,100,000	(4,792,056)	307,944	7.56%	10.00%	0.76%
5	CUSTOMER DEPOSITS	0	0	0	0	0	0.00%	8.00%	0.00%
6	COMMON EQUITY	29,891,475	0	29,891,475	(28,086,592)	1,804,883	44.29%	13.64%	6.04%
7	ITC'S	2,183,228	0	2,183,228	(2,051,402)	131,826	3.23%	11.19%	0.36%
8	DEFERRED INCOME TAXES	5,456,017	0	5,456,017	(5,126,576)	329,441	8.08%	0.00%	0.00%
9	OTHER CAPITAL	0	0	0	0	0	0.00%	0.00%	0.00%
10									
11	TOTAL	67,491,345	0	67,491,345	(63,416,138)	4,075,207	100.00%		11.19%
12									
13									
14	STAFF								
15	COMMISSION								
16	LONG-TERM DEBT	24,860,625	0	24,860,625	(23,393,043)	1,467,582	37.94%	10.95%	4.15%
17	SHORT-TERM DEBT	5,100,000	0	5,100,000	(4,798,935)	301,065	7.78%	10.00%	0.78%
18	CUSTOMER DEPOSITS	0	0	0	0	0	0.00%	8.00%	0.00%
19	COMMON EQUITY	29,891,475	(1,968,049)	27,923,426	(26,275,040)	1,648,386	42.62%	12.94%	5.51%
20	ITC'S	2,183,228	0	2,183,228	(2,054,347)	128,881	3.33%	11.62%	0.39%
21	DEFERRED INCOME TAXES	5,456,107	0	5,456,107	(5,134,020)	322,087	8.33%	0.00%	0.00%
22	OTHER CAPITAL	0	0	0	0	0	0.00%	16.75%	0.00%
23									
24	TOTAL	67,491,435	(1,968,049)	65,523,386	(61,655,385)	3,868,002	100.00%		10.84%
25									
26									
27				RANGE OF REASONABLENESS:		HIGH	LOW		
28									
29				EQUITY		13.94%	11.94%		
30									
31				OVERALL RATE OF RETURN		11.27%	10.42%		
32									
33									
34	CITIZENS								
35	--------								
36	LONG-TERM DEBT	24,860,625	0	24,860,625	(23,401,788)	1,458,837	38.17%	10.64%	4.06%
37	SHORT-TERM DEBT	5,100,000	0	5,100,000	(4,800,729)	299,271	7.83%	0.00%	0.00%
38	CUSTOMER DEPOSITS	0	0	0	0	0	0.00%	0.00%	0.00%
39	COMMON EQUITY	29,891,475	(1,968,049)	27,923,426	(26,307,703)	1,615,723	42.27%	13.35%	5.64%
40	ITC'S	2,183,228	0	2,183,228	(2,055,115)	128,113	3.35%	10.99%	0.37%
41	DEFERRED INCOME TAXES	5,456,017	0	5,456,017	(5,135,854)	320,163	8.38%	0.00%	0.00%
42	OTHER CAPITAL	0	0	0	0	0	0.00%	0.00%	0.00%
43									
44	TOTAL	67,491,345	(1,968,049)	65,523,296	(61,701,189)	3,822,107	100.00%		10.07%
45									

FLORIDA CITIES WATER COMPANY
EXPLANATION OF THE ADJUSTMENTS TO
CAPITAL STRUCTURE

SCHEDULE 2-A
DOCKET NO. 890509-WU
PAGE 1 OF 1

	ADJUSTMENT	(A) UTILITY	(B) COMMISSION	(C) CITIZENS
1	COMMON STOCK			
2				
3	CORRECTIVE ADJUSTMENTS			
4				
5	A. To remove dividends paid in 1989.	$ 0	$ (1,968,049)	$ (1,968,049)
6				

FLORIDA CITIES WATER COMPANY
STATEMENT OF WATER OPERATIONS
TEST YEAR ENDED MARCH 31, 1991

SCHEDULE NO. 3
DOCKET NO. 890509-WU

	DESCRIPTION	(A) AVERAGE TEST YEAR PER UTILITY	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) CONSTRUCTED ADJUSTMENTS	(E) CONSTRUCTED TEST YEAR
1	UTILITY					
2	-------					
3	OPERATING REVENUES	$ 734,788	$ 0	$ 734,788	$ 560,047	$ 1,294,835
4	OPERATING EXPENSES:					
5	OPERATION & MAINTENANCE	$ 456,498	$ 0	$ 456,498	$ 0	$ 456,498
6	DEPRECIATION/AMORTIZATION	158,940	0	158,940	0	158,940
7	TAXES OTHER THAN INCOME	85,431	0	85,431	14,001	99,432
8	INCOME TAXES	(81,527)	0	(81,527)	205,476	123,949
9						
10	TOTAL OPERATING EXPENSES	$ 619,342	$ 0	$ 619,342	$ 219,477	$ 838,819
11						
12	OPERATING INCOME	$ 115,446	$ 0	$ 115,446	$ 340,570	$ 456,016
13						
14	RATE OF RETURN	2.83%		2.83%		11.19%
15						
16	STAFF					
17	----------					
18	COMMISSION	$ 734,788	$ 0	$ 734,788	$ 449,178	$ 1,183,966
19	OPERATING EXPENSES:					
20	OPERATION & MAINTENANCE	$ 456,498	$ (29,566)	$ 426,932	$ 0	$ 426,932
21	DEPRECIATION/AMORTIZATION	158,940	(5,641)	153,299	0	153,299
22	TAXES OTHER THAN INCOME	85,431	12,672	98,103	20,213	118,316
23	INCOME TAXES	(81,527)	(12,591)	(94,118)	160,246	66,128
24						
25	TOTAL OPERATING EXPENSES	$ 619,342	$ (35,126)	$ 584,216	$ 180,459	$ 764,675
26						
27	OPERATING INCOME	$ 115,446	$ 35,126	$ 150,572	$ 268,719	$ 419,291
28						
29	RATE OF RETURN	2.83%		3.89%		10.84%
30						
31	CITIZENS					
32	--------					
33	OPERATING REVENUES	$ 734,788	$ 26,477	$ 761,265	$ 182,079	$ 943,344
34	OPERATING EXPENSES:					
35	OPERATION & MAINTENANCE	$ 456,498	$ (32,948)	$ 423,550	$ 0	$ 423,550
36	DEPRECIATION/AMORTIZATION	158,940	(35,176)	123,764	0	123,764
37	TAXES OTHER THAN INCOME	85,431	11,273	96,704	8,194	104,898
38	INCOME TAXES	(81,527)	22,373	(59,154)	65,433	6,279
39						
40	TOTAL OPERATING EXPENSES	$ 619,342	$ (34,478)	$ 584,864	$ 73,627	$ 658,491
41						
42	OPERATING INCOME	$ 115,446	$ 60,955	$ 176,401	$ 108,452	$ 284,853
43						
44	RATE OF RETURN	2.83%		6.24%		10.07%
45						

FLORIDA CITIES WATER COMPANY
EXPLANATION OF THE ADJUSTMENTS TO
WATER OPERATING STATEMENT

SCHEDULE 3-A
DOCKET NO. 890509-WU
PAGE 1 OF 3

	ADJUSTMENT	(A) UTILITY	(B) COMMISSION	(C) CITIZENS
1	OPERATING REVENUES			
2	----------			
3	CORRECTIVE ADJUSTMENTS			
4	----------			
5	A. To show calculation of annualized			
6	test year revenues.	$ 0	$ 0	$ 1,386
7				
8	B. To impute revenues for the 5%			
9	margin of reserve.	0	0	25,091
10				
11	NET ADJUSTMENT	$ 0	$ 0	$ 26,477
12				
13				
14	OPERATION AND MAINTENANCE			
15	----------			
16	CORRECTIVE ADJUSTMENTS			
17	----------			
18	A. To adjust O&M expenses to staff's			
19	calculation. STIPULATION*	$ 0	$ 4,481	$ 4,481
20				
21	B. To reduce chemical expense for bulk			
22	purchase. STIPULATION*	0	(4,571)	(4,571)
23				
24	C. To reduce salaries expense for incorrect			
25	projection methodology.	0	(13,883)	(13,883)
26				
27	D. To reduce pension and benefit expense for			
28	new operator to staff's calculation.	0	(2,858)	(2,858)
29				
30	E. To remove temporary help.	0	(10,557)	(10,557)
31				
32	PRO FORMA ADJUSTMENTS			
33	----------			
34	F. To adjust rate case expense.	0	(2,178)	(5,560)
35				
36	NET ADJUSTMENT	$ 0	$ (29,566)	$ (32,948)
37				

38 * Utility did not provide calculations
39 to include Stipulations.
40

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FLORIDA CITIES WATER COMPANY
EXPLANATION OF THE ADJUSTMENTS TO
WATER OPERATING STATEMENT

SCHEDULE 3-A
DOCKET NO. 890509-WU
PAGE 2 OF 3

	ADJUSTMENT	(A) UTILITY	(B) COMMISSION	(C) CITIZENS
1	DEPRECIATION			
2	----------			
3	CORRECTIVE ADJUSTMENTS			
4	----------			
5	A. To remove depreciation expense			
6	associated with AFUDC charged			
7	without an approved rate.	$ 0	$ (2,117)	$ (2,117)
8				
9	B. To include amortization expense			
10	for imputation of CIAC.	0	(3,524)	(2,399)
11				
12	C. To remove non-used and useful.	0	0	(30,660)
13				
14	NET ADJUSTMENT	$ 0	$ (5,641)	$ (35,176)
15				
16				
17	TAXES OTHER THAN INCOME			
18	----------			
19	CORRECTIVE ADJUSTMENTS			
20	----------			
21	A. To include regulatory assessment			
22	fees related to correction in revenue.	$ 0	$ 0	$ 35
23				
24	B. To remove payroll tax associated with			
25	staff's adjustment to salaries expense.	0	(910)	(910)
26				
27	C. To reduce property tax to reflect the			
28	amount paid by the utility.	0	(835)	(3,398)
29				
30	D. To increase regulatory assessment fees			
31	to 4.5%.	0	14,417	14,417
32				
33	E. Regulatory assessment fee on			
34	imputed revenue.	0	0	1,129
35				
36	NET ADJUSTMENT	$ 0	$ 12,672	$ 11,273
37				

FLORIDA CITIES WATER COMPANY
EXPLANATION OF THE ADJUSTMENTS TO
WATER OPERATING STATEMENT

SCHEDULE 3 - A
DOCKET NO. 890509-WU
PAGE 3 OF 3

	ADJUSTMENT	(A) UTILITY	(B) COMMISSION	(C) CITIZENS
1	INCOME TAXES			
2				
3	A. To include income tax associated with			
4	revenue figure and staff adjustments to			
5	expenses.	$ 0	$ (13,748)	$ 12,508
6				
7	B. To correct parent debt adjustment for			
8	changes in rate base and capital structure.	0	1,157	1,267
9				
10	C. State and Federal Income Tax on			
11	imputed revenue.	0	0	8,598
12				
13	NET ADJUSTMENT	$ 0	$ (12,591)	$ 22,373
14				
15				
16	OPERATING REVENUES			
17				
18	A. To reflect recommended increase			
19	to allow a fair rate of return.	$ 560,047	$ 449,178	$ 182,079
20				
21				
22	TAXES OTHER THAN INCOME			
23				
24	A. To reflect regulatory assessment			
25	fees on revenue change.	$ 14,001	$ 20,213	$ 8,194
26				
27				
28	INCOME TAXES			
29				
30	A. To reflect income taxes on revenue			
31	change.	$ 205,476	$ 160,246	$ 65,433
32				

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DOCKET NO. 890509-WU Schedule 4

RATE SCHEDULE

Schedule of Initial, Current, Requested and Commission Approved Rates

Monthly Rates

	Initial	Current (PAA)	Utility Requested	Comm. Approved
Residential				
Base Facility Charge:				
Meter Size:				
5/8"x3/4"	$ 6.23	$10.03	$10.08	$ 9.88
1"	15.59	25.08	25.20	24.72
1-1/2"	31.19	50.15	50.40	49.42
Gallonage Charge per 1,000 G.	$ 1.44	$ 2.81	$ 3.15	$ 2.77
General Service				
Base Facility Charge:				
Meter Size:				
5/8"x3/4"	$ 6.23	$ 10.03	$ 10.08	$ 9.88
1"	15.59	25.08	25.20	24.72
1-1/2"	31.19	50.15	50.40	49.42
2"	49.91	80.24	80.64	79.07
3"	99.82	175.53	151.20	172.98
4"	199.64	300.90	252.00	296.53
6"	399.29	626.88	504.00	617.78
8"	798.56	902.70	1,008.00	889.59
Gallonage Charge per 1,000 G.	$ 1.44	$ 2.81	$ 3.15	$ 2.77
Private Fire Protection Service				
Base Facility Charge:				
Line Size:				
1-1/2"	None	$ 16.72	$ 9.05	$ 16.48
2"	None	26.75	14.48	26.36
3"	None	58.51	28.96	57.66
4"	None	100.30	58.08	98.84
6"	None	208.96	116.13	205.93
8"	None	300.90	232.25	296.53

Note: Initial column shows the rates at the time case was filed. Current column shows rates implemented per PAA revenues set in Order No. 22804.