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ST. GEORGE ISLAND UTILITY COMPANY, LTD.

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
REGARDING THE APPLICATION FOR INCREASED RATES FOR
ST. GEORGE ISLAND UTILITY COMPANY, LTD.**

IN FRANKLIN COUNTY

DOCKET NO. ~~92100000~~

REBUTTAL TESTIMONY OF

BARBARA S. WITHERS

DOCUMENT IDENTIFICATION

06776 JUL-78

FPSC-REG. & REPORTING

1 REBUTTAL TESTIMONY OF BARBARA S. WITHERS
2 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
3 REGARDING THE APPLICATION FOR INCREASED RATES FOR
4 ST. GEORGE ISLAND UTILITY COMPANY, LTD
5 IN FRANKLIN COUNTY
6 DOCKET NO. 940109-WU
7

8 Q. Please state your name, profession and address.

9 A. My name is Barbara S. Withers. I am a CPA and sole
10 proprietor of Barbara Sheehan Withers, CPA., 2608
11 Bantry Bay Drive, Tallahassee, Florida 32308.

12

13 Q. On whose behalf are you testifying in this
14 proceeding?

15 A. On behalf of the applicant, St. George Island
16 Utility Company, LTD (SGI).

17

18 Q. Have you previously presented expert accounting
19 testimony before this Commission?

20 A. Yes. I testified in Docket No. 871177-WU, SGI's last
21 rate case. I testified at the initial hearings in
22 January, 1989 regarding reconciliation of tax
23 returns and financial statements. I also testified
24 in December, 1991 regarding the maintenance of the
25 books and records of SGI in compliance with the

1 instructions in the Uniform System of Accounts
2 (USOA).

3

4 Q. What is the purpose of your rebuttal testimony in
5 this proceeding?

6 A. To respond to the prefiled testimony of staff
7 witness Gaffney and OPC witness Dismukes.

8

9 Q. At page 3 of her prefiled testimony, Ms. Gaffney
10 discusses Staff Audit Exception Nos. 1 and 2,
11 regarding the condition of the company's books and
12 records. She concludes that SGI's books and records
13 are not kept on a monthly basis, that they are kept
14 on a cash rather than accrual basis, and infers that
15 they may not be in compliance with the NARUC USOA.
16 Do you agree?

17 A. No. The company has fully responded to these
18 allegations in its responses to Exception Nos. 1 and
19 2. Those responses are Schedule 5 of Mr. Seidman's
20 Exhibit _____. As the responses point out, SGI
21 maintains its books on a monthly basis as required
22 by the Commission. The books are closed by the 10th
23 of the following month, cash is balanced to the
24 books and bank statements are reconciled by the
25 15th. The audit staff has taken the position that

1 if the ledger accounts are not "posted" monthly,
2 this violates the USOA instructions to keep books
3 on a monthly basis. This is the same argument the
4 staff made in the December, 1991 hearing and the
5 same position which the Commission ruled against in
6 Order No. 92-0122. In that order, the Commission
7 ruled that SGI's books were in substantial
8 compliance with its rules. As Ms. Gaffney points out
9 in her opinion regarding Exception No. 2, the books
10 are in better condition in 1992 than they were in
11 1991, when the Commission ruled they were in
12 substantial compliance.

13

14 In addition, I would like to point out that SGI's
15 books are kept on an accrual basis. Monthly journal
16 entries are made for depreciation, amortization,
17 real estate taxes, interest on debt, payables,
18 receivables, revenues and extraordinary
19 transactions.

20

21 **Q. In your opinion, are SGI's books and records in**
22 **substantial compliance with the NARUC USOA?**

23 **A. Yes.**

24

1 Q. I would now like you to address portions of the
2 testimony of OPC witness Dismukes. On pages 60
3 through 64 of her prefiled testimony she discusses
4 the original cost of the water system at December
5 31, 1987. In her discussion she refers to an
6 affidavit you gave in Docket No. 871177-WU and
7 alleges certain conclusions. Have you read her
8 testimony in this regard?
9 A. Yes.
10
11 Q. What is your understanding of how Ms. Dismukes
12 reaches an original cost at December, 1987?
13 A. It appears that she has taken portions of my
14 affidavit out of context, taken a plant balance from
15 a financial statement of Leisure Properties, LTD and
16 added to it plant additions on the books of SGI to
17 arrive at a plant cost of the water system on SGI's
18 books.
19
20 Q. Is that an acceptable accounting procedure?
21 A. No.
22
23 Q. Why not?
24 A. This is best explained by referring to my Affidavit,
25 which I have included as Exhibit _____). First, my

1 affidavit is an explanation of the book/tax
2 reconciliation of Leisure Properties and SGI. My
3 affidavit points out that Leisure Properties and SGI
4 are two separate and distinct entities. Numbers from
5 one cannot just be combined with numbers from the
6 other. They are, however, reconcilable, and that is
7 what my affidavit shows. My affidavit points out
8 that the tax returns of both entities were
9 simultaneously audited by the IRS, and as result of
10 this simultaneous audit, a tax basis for the water
11 system was determined. Ms. Dismukes ignores this
12 process and ties two unreconciled numbers together
13 to reach an inappropriate conclusion.

14
15 Ms. Dismukes uses a Leisure Properties balance as
16 a starting point and adds SGI improvements. But she
17 ignores the statement in my affidavit that explains
18 the context of the SGI additions. Quoting from
19 Paragraph No. 4 of my affidavit:

20
21 4. Referring to the information filed with the
22 Public Service Commission on December 21, 1988
23 and particularly the attached reconciliation
24 (attached as Exhibit 1) prepared by me on
25 December 16, 1988, you will see that, from 1979

1 through December 1987, the total additions to
2 the system by St. George Island Utility Co.,
3 Ltd. were \$612,948. When these additions are
4 added to the IRS tax basis settlement of
5 \$2,212,482, the result is \$2,825,430, which
6 represents the tax basis of the utility system
7 for purposes of depreciation as of December 31,
8 1987; (emphasis added)

9

10 Q. Why is it important to consider the \$612,948
11 additions in the context of the entire statement?

12 A. Because these are SGI additions only, added to an
13 IRS determined tax basis. That is the officially
14 determined amount of depreciable plant that includes
15 all plant turned over to SGI by Leisure Properties.

16

17 Q. Is any of this information new to the Commission?

18 A. No. This was all part of the record in Docket No.
19 871177-WU.

20

21 Q. To refresh the Commission's memory, how does the
22 \$2,825,430 tax basis at December, 1987, compare to
23 the original cost at that date, determined by the
24 Coloney study?

1 A. The Coloney study determined original cost at
2 December, 1987 to be \$2,657,212 compared to the tax
3 basis of \$2,825,430. And according to Order No.
4 21122, in Docket No. 871177-WU, the OPC witness
5 determined original cost to be \$2,296,850.

6

7 **Q. Does that conclude your rebuttal testimony?**

8 A. Yes it does.

Witness: B. S. Withers
Docket No. 940109-WU
Exhibit No. _____

Affidavit of Barbara S. Withers
including attachments

March 16, 1989
Docket No. 871177-WU

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of ST. GEORGE ISLAND)	
UTILITY COMPANY, LTD., for increased)	
rates and service availability charges)	DOCKET NO. 871177-WU
for water service in Franklin County.)	
)	

AFFIDAVIT OF BARBARA S. WITHERS

STATE OF FLORIDA
COUNTY OF LEON

Before me, the undersigned authority, personally appeared BARBARA S. WITHERS, who being first duly sworn deposes and says:

1. I am the same Barbara S. Withers who testified at the public hearing held in this cause on January 12 and 13, 1989. Having reviewed the 1979 Leisure Properties, Ltd. tax return and audited statement, I hereby reaffirm my testimony and offer the following explanation regarding the relationship between these additional documents filed by public counsel and the tax returns and other documents admitted into evidence at the hearing, including my reconciliation, a copy of which is attached as Exhibit 1.

2. The documents filed by public counsel ratify and support the fact that Leisure Properties, Ltd. did not deduct the cost of the system in its tax returns or in its financial statements. Please refer to the circled item on page 4 of the Leisure 1979 tax return, Schedule M, Column e. entitled "Losses not included in column c, plus unallowable deductions" with the amount \$1,785,004. Then refer to the schedule identifying the

items included in this figure, of which \$707,555 relates to the water distribution system. This means that the tax basis of the water system on Leisure's books at 12/31/79 was \$707,555 and that that amount was not deducted in its 1979 tax return.

Then, referring to page 4 of the Financial Statements, Balance Sheet, there is a circled item of \$807,485 which is labeled "Investment in water system" and represents the financial cost basis Leisure had in the water system at 12/31/79 according to its audited financial statements, confirming the fact that this cost was not deducted in its 1979 financial statements.

3. It is important to understand that, for Federal Income Tax purposes, there are two separate and distinct entities: Leisure Properties, Ltd., a Florida limited partnership; and St. George Island Utility Company, Ltd., a Florida limited partnership. Both of these entities have been required to file Form 1065, U.S. Partnership Return of Income annually with the IRS since 1979. Both Leisure's returns and the utility company's returns were audited simultaneously by the IRS for tax years 1979 through 1982 and settlement reached on behalf of both entities before trial in the U.S. Tax Court. The IRS prepared a comprehensive 30 page appraisal of the system as of 12/31/79, concluding that its actual value was only \$1,550,000 as compared

with the utility company's reported cost value of \$3,000,000. Attached as Exhibit 2 is the summary page from the IRS valuation showing both values as of 12/31/79. Prior to trial, the IRS and the utility company entered into a settlement under which a tax basis of \$2,212,482 was established for the St. George Island Utility system as of 12/31/79. Attached as exhibit 3 is a depreciation schedule prepared by Arthur Young, CPA's (formerly May Zima) which represents the settlement with the IRS based upon an established tax basis of \$2,212,482 as of 12/31/79.

4. Referring to the information filed with the Public Service Commission on December 21, 1988 and particularly the attached reconciliation (attached as Exhibit 1) prepared by me on December 16, 1988, you will see that, from 1979 through December 1987, the total additions to the system by St. George Island Utility Co., Ltd. were \$612,948. When these additions are added to the IRS tax basis settlement of \$2,212,482, the result is \$2,825,430, which represents the tax basis of the utility system for purposes of depreciation as of December 31, 1987; the balance of \$787,518 represents an IRS agreed upon non-depreciable asset of the utility company, for a total of \$3,612,948. No deduction has been taken by Leisure or by St. George Island Utility Company, Ltd. for the capital costs of the water system other

than through depreciation. When the IRS settled tax basis cost of \$2,212,482 as of 12/31/79 is brought forward to 12/31/87 and adjusted for depreciation, the result is a total net book value of \$2,624,183, as shown by the documents already with the Commission.

5. Leisure did not use any cost in computing the gain on the sale of the water system in its tax returns, and uses the installment basis of reporting the income from the sale. Therefore, the deferred gain (1979 \$2,796,058 as shown on schedule attached to Leisure's 1979 tax return) continues to be deferred and gain recognition only as principal collections are received on the \$2.8 Million note receivable from the utility company. During the years 1973-1978 Leisure sold land on St. George Island to the State of Florida and on its tax returns for those years took the position that the sale was an involuntary conversion and therefore it deferred the gain and intended to reinvest the proceeds of such sale; however, Leisure (with the approval of John Stocks) agreed, in its overall settlement with the IRS not to treat the sales to the State of Florida as involuntarily converted property and, therefore, the reinvestment of proceeds question became a moot point at the time the 1973-78 tax years were settled. Therefore, the

the references to reinvestment of proceeds in Leisure's 1979 tax return were superceded by the settlement reached with the IRS, which was finalized several years after the 1979 Leisure tax return was filed.

Further the affiant sayeth not.

Barbara S. Withers
BARBARA S. WITHERS

Sworn to and subscribed before me this 16th day of March, 1989.

Sandra M. Chase
NOTARY PUBLIC

FILED	NO	12/16/82
CHECKED	BY	
APPROVED	BY	

St. George Island Utility Co Ltd
 TAX Reconciliation - Audit Disclosure No 4
 Plant Balance + Accum Depn. Balance TAX RETURN / BOOKS

		PLANT BALANCE Per TAX Return	Plant Balance Per BOOKS		Accum Depn. Per tax Return	Accum Depn. Per Book
12-31-79		3069 243	3 000 000 69 243 3 069 243		316 455	316 455
12-31-80		3072 306	3 000 000 72 306 3 072 306		596 259	596 259
12-31-81		3 145 375	3 000 000 145 375 3 145 375		847 069	847 069
12-31-82	orig filed Amended	3 218 857 2454 537 787 570 3 242 057	3 200 000 218 857 3 218 857 ADD 43 200 3 242 057		1076 572 381 808	1076 572 11-71 (586 709) 12 (108 055) 381 808
12-31-83		3 344 304 787 570 3 344 304	3 000 000 317 674 5 321 104 ADD 23 200 3 344 304		505 479	11-71 (586 709) 12 (108 055) 13 (88 740) 505 479
12-31-84		2 677 375 787 570 3 464 845	3 000 000 438 215 3 441 645 ADD 23 200 3 464 845		629 445	1 487 887 11-71 (586 709) 12 (108 055) 13 (88 740) 629 445
12-31-85		2 710 921 787 570 3 498 441	3 026 630 471 811 3 498 441		751 987	751 987
12-31-86		2 815 516 787 570 3 603 036	2 815 516 787 570 3 603 036		872 111	872 111
12-31-87		2 875 478 757 570 3 612 948	2 820 897 4537 787 570 3 612 948		988 765	988 765

-1-

INTERNAL REVENUE SERVICE
 OFFICE OF DISTRICT DIRECTOR
 JACKSONVILLE DISTRICT

Engineering and Valuation Report

11:309:WLV

Jacksonville, Florida
 February 22, 1983

In Re: St. George Island
 Utility Company, Ltd.

Years: 1979, 1980, 1981

Issues: Valuation
 Investment Tax Credit
 Depreciation

Summary of Recommendations

Depreciation

<u>Return Year</u>	<u>Claimed on Return</u>	<u>Recommended</u>	<u>Difference</u>
1979	\$ 316,455	\$ 11,852	\$ 304,603
1980	279,804	76,426	203,378
1981	250,810	76,378	174,432

Valuation of Depreciable Assets

1979	\$ 3,000,000 (including land)	\$ 1,550,000	\$ 1,450,000
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Investment Tax Credit

1979	\$ 369,243	\$ 16,924	\$ 352,319
1980	306	306	0

2/15/15

GEORGE ISLAND UTILITY CO., LTD.
DEPRECIATION ANALYSIS
SECTION VIII

ASSET	YRS LIFE	1981	1982	1981			1981	1982
				1981	1982	1983		
TURBINE PUMP	12	1112	19,570	273	2,154	1,543	15,060	167
CONTROLS AND VALVES	20	10.00	12,595	227	1,337	1,203	10,878	101
RAN WATER TRANSFER LINES (INCLUDING BRIDGE CROSSINGS)	28	7.16	257,241	2,503	21,755	11,032	252,481	180
ELECTRICAL WIRING IN PUMPING STATION	27	6.70	33,353	525	2,357	3,068	31,366	27
DISTRIBUTION SYSTEM	35	5.72	250,610	1,176	22,824	24,719	572,971	327
PRODUCTION WELL	35	5.72	26,530	253	1,500	1,417	2,3237	13
BRIDGE CROSSINGS	45	4.46	631,219	4,735	27,398	28,684	6,02,810	269
WATER STORAGE RESERVOIR	60	2.34	279,455	1,503	8,865	8,866	2,51,321	83
PUMPING STATION	38	5.78	77,117	685	4,076	2,954	6,8497	36
WATER LINES - INFEED	28	7.16	77,500	939	5,568	5,182	6,5,530	47
OFFICE & 15000	38	5.28	75,282	648	2,984	2,684	6,3745	36
DISTRIBUTION SYSTEM	28	5.78	37,240	420	5,625	3,641	5,9177	21

3,077,306

18	11.12	2,063	350	310	2403	2
15	5.7	1,335	79	1325	(107)	1
15	5.7	71,674	2,584	6,8070	(107)	71

2,357,855	20,371	122,911	110,389	2,095,191	115
2,357,857	12,910	119,385	2,071,191		

Non-Depreciable Assets: (Excess Pump) 771,518

Depreciation on Tax (1981-1982)

316,453.0 271,803.5 252,122.0

1982	ADDITIONS	367
1983		
1984		
1985		

From 9.322