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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Interim and)
Permanent Rate Increase in)
Franklin County, Florida by)
ST. GEORGE ISLAND UTILITY)
COMPANY, LTD.)

DOCKET NO. 9
FILED: AUGUST 29, 1994

INTERVENOR'S POST HEARING BRIEF

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POST HEARING BRIEF
OF INTERVENOR
ST. GEORGE WATER SEWER DISTRICT

RATE BASE

ISSUE 2: Has St. George accurately stated the original cost of the water system?

ARGUMENT:

The original cost of the system of St. George Island Utility, Ltd. should be reduced by \$1,449,883 from the amount established in the previous rate case. The actual investment in the system as of the 1992 test year is established by adding the original cost as of July 1978 from the Bishop report (\$750,117) to the amounts listed for plant additions from the Utility's annual reports (OPC Exhibit #65). Four exhibits show that the 2.2 million dollar investment established in the previous rate case is erroneous.

1. RECONCILIATION OF 1978 BISHOP REPORT WITH SGI DEPRECIATION SCHEDULE (INTERVENOR'S EXHIBIT #73).

The 1978 study by William M. Bishop (Intervenor's Exhibit #6) is the best source available to determine the original cost of the system. In preparing this report, the engineer analyzed actual source documents such as contracts and invoices. Contractors were named and in many cases the amounts of the contracts were stated. Of the \$750,117 total cost, \$332,804, or 44%, was traced to actual contract amounts. In the absence of a contract, the engineer either consulted with the firms that constructed a part of the

system or used comparison costs, as explained on pages 3 and 5 of the report. Furthermore, in preparing its depreciation schedule, even the Utility used the 1978 Bishop report to allocate the purchase price of 3 million dollars to the assets that were listed in the Bishop report. (TR. Withers testimony, p. 1563 lines 19-23). The descriptions of assets are exactly the same on the Utility's depreciation schedule (Intervenor's Exhibit #72) as in the Bishop Report. Each figure was simply multiplied by a factor of 3.73 in order to increase \$803,684 to \$3,000,000.

Although Ms. Withers agreed with the methodology used in the Bishop report for determining original cost, (TR. Withers testimony, p. 1571, line 1), she continued to espouse the Utility's position that original cost of the system was 2.2 million dollars. To justify the discrepancy, she testified that "soft costs" may not have been included in the investment account of the water system. Yet on page 14 of the 1978 Bishop Report, items 5.0, "Engineering Services", and 6.0, "Owner Construction and Contract Administration", \$58,065 and \$46,200 respectively, were included by the Bishop firm.

The Utility did not include these "soft costs", as defined by Ms. Withers, in the opening depreciation schedule. The omission indicates that all "soft costs" were written off as expenses. (TR. Withers testimony, page 1581, lines 17-20). Accordingly, such costs, even if they could be determined, should not be included for rate base.

2. AUDITED FINANCIAL STATEMENT OF LEISURE PROPERTIES, LTD. AS OF DECEMBER 31, 1979 (OPC EXHIBIT #20).

A certified public accounting firm has stringent requirements imposed upon its auditing procedures. In order for a CPA firm to issue an unqualified opinion, as was done in the 1979 audit, the auditor must determine that the books and records are in conformity with generally accepted accounting principles that are applied on a consistent basis. To do so, the CPA firm would vouch or trace the cost of assets acquired during the year to source documents, or in absence of such documents, to communicate with the vendor or contractor from whom the fixed asset was acquired.

In the 1979 audit report, the investment in the water system is shown on page 4 as \$807,485. This amount is discussed in note 4 to the financial statements on pages 13 and 14, where it is explained that the cost of the system as of the audit date was \$830,145, less depreciation of \$22,660.

The difference between the original cost in the audited statement and the original cost in the Bishop Report is \$80,028. According to the annual report filed with the Public Service Commission for the year ending December 31, 1979, the Utility acquired \$69,243 in assets from the date of sale to December 31, 1979. When the \$69,243 additional assets are combined with the assets listed in the Bishop Report, the total is \$819,360 -- a difference of only \$10,785 from the 1979 Audit. The near agreement of these two figures compels the conclusion that both documents are credible sources to determine that the original cost of the system

as of December 31, 1979, was approximately \$820,000.

3. 1978 TAX RETURN OF LEISURE PROPERTIES, LTD. (OPC EXHIBIT #21).

The 1978 tax return of Leisure Properties, Ltd. shows on page 2, Section J an item described as "Construction in progress -- water system" in the amount of \$658,584. This was the last tax return that Leisure filed that had a balance sheet entry for the water system before the sale to the Utility. Gene Brown was a general partner at that time. The same CPA firm that performed the 1979 audit prepared the 1978 tax return. The CPA firm is exposed to preparer penalties by the IRS in the event that the tax return is wrong in any material respect or was prepared in a careless manner. Thus, the amount reported in the 1978 tax return is another reliable historic indicator of the investment in the system as of December 31, 1978, a figure that is far below the investment amount of \$1,412,482 attributed by Wayne Coloney in his 1987 report.

4. THE DEPOSITION OF GENE BROWN DATED FEBRUARY 9, 1981 (OPC EXHIBIT 64).

Gene Brown testified in a deposition under oath in 1981 in Case Number 78-195, Franklin County. In that lawsuit, Leisure Properties, Ltd. sued Franklin County for damages from detrimental reliance by Leisure. Leisure claimed that it would not have constructed the water system but for the County's zoning that permitted high residential density in the Musgrave Development. Brown admitted on cross-examination that it was in Leisure's best

interest to establish the cost of the water system as high as possible (TR. Brown testimony, p. 1392, Line 6).

In the deposition Brown discusses the 1978 Bishop Report and asserts that it is the best source of the actual cost of the water system (OPC Exhibit #64, pgs. 72, line 9; 73, line 16; 124, line 1; 125, line 6; and 126, line 10). Thus, this testimony further supports the reliability of the 1978 Bishop Report as the best evidence available to determine the original cost of the system.

In the deposition, Brown confirmed that the study was based on cost, and that Mr. Bishop went through Leisure's books, talked to Clayton Anderson, Leisure's engineer, and determined what was actually spent. In addition Brown stated that a calculation was performed, apparently by Leisure personnel, and a cost figure near \$700,000 was more or less directly related to the water system. The deposition testimony was close in time to the actual construction of the system, and Brown's recollection then should have been much better than it is today. As shown in District's Exhibit #73, the Bishop Report establishes original cost as \$750,117.

CONCLUSION

Three witnesses testified on behalf of the Utility that more costs were incurred than are reflected in the 1978 Bishop Report and the annual reports. (TR. Wayne Coloney, p. 215, line 11; Gene Brown, p. 1398, line 8; Barbara Withers, p. 1571, line 1). It may be that there is more plant than the amount that was capitalized by Leisure or the Utility; however, if these expenditures were not

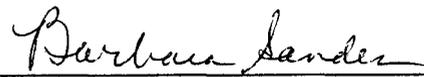
capitalized then they were probably either written off as expenses or added to the cost of land that was being developed. In turn, this land was sold and the water system expenditures became part of the cost of sales, and then were unknowingly donated to the Utility by the purchaser of the land. (TR. p. 1581, line 16). At best, this Commission could impute CIAC for some amount of the cost that is not reported by the Utility. In re: Petition for limited proceedings to increase rates by UTILITIES, INC. OF FLORIDA, Docket No. 920834-WS, Order No. PSC-93-0430-FOF-WS (March 22, 1993).

The Coloney original cost study, prepared for the previous rate case, shows that construction of the water system occurred in only three years: 1978, 1979, and 1985. Other documents such as tax returns and the annual reports do not support Mr. Coloney's conclusion. Mr. Coloney's study shows that \$1,412,482 of plant was constructed as of 1978, more than double the amount of original cost in the Bishop Report. One reason for the difference is the substantial difference in pricing by Mr. Coloney and the Bishop Report for the various components such as pipe and gate valves. District Exhibit #7. Mr. Coloney, however, agrees wholeheartedly with the methodology used in the 1978 Bishop Report, and further confirmed that the study was based on actual cost.

Although the Utility relied extensively on the IRS settlement to determine original cost, that settlement does not preclude the Commission from making an accurate determination based on the exhibits and testimony in this case. No one knows all of the issues that were negotiated in the settlement. But the IRS has a

mission far different from that of this Commission. The IRS is not concerned with original cost, but with tax basis, which changes any time there is a sale or with any number other transactions. This Commission, relying on the exhibits presented in this hearing, should find that the investment in the system as of the test year 1992 is \$750,117 plus the additions as reported by the Utility in its annual reports beginning in 1979. The rate base should be reduced and the Utility's customers should be given a refund.

Respectfully submitted,



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CERTIFICATE OF SERVICE

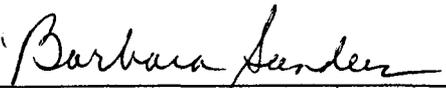
I HEREBY CERTIFY that a copy of Intervenor's Post Hearing Brief has been furnished to the following by U.S. Mail, this 29th day of August, 1994.

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