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FILE COPY

June 10, 1996

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Case No. 950495-WS

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Post Hearing Statement. A diskette in IBM-compatible WordPerfect 5.1 is also submitted.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Charles J. Beck
Charles J. Beck
Deputy Public Counsel

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DOCUMENT NUMBER-DATE
06238 JUN 10 1996
FPSC-RECORDS/REPORTING

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate)
increase for Orange-Osceola)
Utilities, Inc. in Osceola County,)
and in Bradford, Brevard, Charlotte,)
Citrus, Clay, Collier, Duval,)
Highlands, Lake, Lee, Marion,)
Martin, Nassau, Orange, Osceola,)
Pasco, Putnam, Seminole, St. Johns,)
St. Lucie, Volusia, and Washington)
Counties by Southern States)
Utilities, Inc.)
_____)

Docket No. 950495-WS
Filed: June 10, 1995

CITIZENS' POST HEARING STATEMENT

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Public Counsel

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Tallahassee, FL 32399-1400

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Attorney for the Citizens
of the State of Florida

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CITIZENS' POST HEARING STATEMENT

The Citizens of Florida, by and through Jack Shreve, Public Counsel, file this post hearing statement. The Citizens adopt the positions stated in the Prehearing Order, order No. PSC-96-0549-PHO-WS, except as modified by this post hearing statement.

ISSUE 2: Is the value and quality of service provided by SSU at each of its water and wastewater facilities satisfactory?

Citizens' position: *The value and quality of SSU's service is unsatisfactory.*

The quality of service from Southern States Utilities gave rise to many complaints from the customers at the service hearings. The complaints included the following problems: 1) too much chlorine, 2) too much sulphur, 3) inadequate warnings of potential health or safety concerns, 4) the necessity of buying water purifying systems or bottled water due to the poor quality of the water, 5) SSU's unsatisfactory response to customers' service calls

or questions, 6) the water not being potable, 7) the water destroying and staining the fixtures in the house, or leaving sediment, sand or other foreign material in the system, 8) the pressure being unacceptably low, 9) no warning as to when construction or maintenance work in their areas may affect their service, 10) no emergency equipment available or operational to temporarily ameliorate equipment breakdown aggravations, such as no water or low pressure, 11) SSU's billing procedures are indifferent to the customers' needs, and 12) customer receiving water bills but does not see anyone reading the meter, which is sometimes covered with mud. Examples of the customers' concerns about each of these areas follow.

(1) The chlorine content in the water was described as "almost pure chlorine" (Donald Spiker, Sunny Hills, Sept. 14, 1995); it's high because his home is one of the first that gets the water after it's been treated (Barry Grover, New Port Richey, Sept. 28, 1995); they don't drink the water because its very highly chlorinated (Gary Heimann, Deltona, Volusia County system, Sanford hearing, Oct. 12, 1995); there is so much chlorine in it that she can smell the commode flush at the opposite end of the house (Frances McCarty, Deltona, Sanford hearing, Oct. 12, 1995); the chlorine level is out of control (Jonathan Dickel, Chuluota, Sanford hearing, Oct. 12, 1995); the water always has a high chlorine smell (Ileen Mulvihill, Sanford hearing, Jan. 30, 1996); the water has too much chlorine (Grace Morris, Stuart, Feb. 1,

1996), (Donald Spiker, B. L. Hill, Sunny Hills, Feb. 5, 1996); the chlorine levels vary too much (Robert Allard, Ocala, Jan. 25, 1996); the chlorine is so strong at times that they cannot take showers (Achilles Devita, Sebring, Feb. 7, 1996).

(2) There were complaints concerning the sulphur level also. Tony Costanzo of Kissimmee installed a filter system in his house because he found the water not consumable because of the sulfur pollution. (Tony Costanzo, Kissimmee, Sept. 19, 1995); the water smells and tastes like laundry left to sit in water for three or four days (Frances McCarty, Deltona, Sanford hearing, Oct. 12, 1995); the system is antiquated and put in by Fisher Lakes Utilities in 1975. It has never been revised or refurbished or anything. The water has a tremendous amount of hydrogen sulfide in it. He has purchased a filtering system for it. (Thomas Doyle, Sebring, Nov. 27, 1995); the system is primitive. The water is loaded with sulfites. It's black, it stinks. (Achilles DeVita, Sebring, Nov. 27, 1995); she has sand and sulfur in her water so she buys bottled water. (Betty Critcher, Stuart, Feb. 1, 1996); the water smells terrible from sulfur. (Phil Caldwell, Jacksonville, Jan. 25, 1996).

(3) SSU does not adequately alert the residents when there is a temporary potential safety or health problem with the water. Where is it published so residents can look and see whether the quality of the water is safe to drink? (Joe Dealy, Sunny Hills,

Sept. 14, 1995); within the last year there have been two breakdowns in the water plant. One time both pumps went out at one time and another there were electrical problems. Both times residents were without water. Some neighbors got sick after the water came back on because they were not told to boil the water or given any other directions. (Russell Thompson, Kissimmee, Sept. 19, 1995); every time the water is cut off, there is intrusion in the lines of foreign matter. So they boil the water, up to 48 hours. (David Morton, Fort Myers, Nov. 29, 1995); the customers were not told to boil their water for two days while construction was going on. (Anna Cowin, Mount Dora, Nov. 8, 1995); when asked about lead in the water in Valencia Terrace, SSU said, "maybe somebody put lead in there." (Anna Cowin, Mount Dora, Jan. 30, 1996); customers have become ill from the water in Valencia Terrace. (Anna Cowin, Mount Dora, Jan. 30, 1996); her neighbor is nine months pregnant and at the bottom of her water bill was a notice saying, "Your water may have a high level of lead." (Margaret Woodall, Mount Dora, Jan. 30, 1996); an independent water test indicated that there was lead in the water. (David Mynatt, Jacksonville, Jan. 25, 1996); there was a water main break on March 9, 1995. The information and assistance that SSU provided the people affected was horrible. (Richard Bergmann, Marco Island, Jan. 22, 1996).

(4) Residents have had to buy water purifying systems or bottled water due to the poor quality of the water. Some of the Sunny Hills residents have water purifying systems. (Joe Dealy,

Sunny Hills, Sept. 14, 1995); the water is undrinkable, so they have to buy water. It is yellow sometimes, and it stains the toilet. It leaves residue in your hair. He doesn't mind paying for quality, but this is not quality. (Jose P. Concel, Kissimmee, Sept. 19, 1995); the water stinks and tastes terrible. He had to buy a water softener. (Salvatore Cavalieri, New Port Richey, Sept. 28, 1995); he is using a water filter for drinking water. (John J. Nemethy, Sanford, Oct. 12, 1995); the taste of the water is terrible. (Betty Blazynski, Sanford, Oct. 12, 1995); taking a bath and doing dishes makes her skin itch. She buys bottled water. (Frances McCarty, Sanford, Oct. 12, 1995); there is sand and discoloration of the water, so they buy bottle water. (W. R. McGill, Sebring, Nov. 27, 1995); the water is atrocious and he has to buy his water. (William Gault, Sebring, Nov. 27, 1995); the water is so horrible that most people buy bottled water. (Myron Lewenthal, Sanford, Jan. 30, 1996); they have to use bottled water. (Ferrel Schrimsher, Sanford, Jan. 30, 1996); she has sand and sulfur in her water so she buys bottled water. (Betty Critcher, Stuart, Feb. 1, 1996); when she has company, she goes out and buys bottled water. (Jean Rozmus, New Port Richey, Jan. 31, 1996); she buys bottle water. (Elaine Colantuoni, New Port Richey, Jan. 31, 1996); they buy bottled water. (Ron Poneleit, Mount Dora, Jan. 30, 1996); he buys drinking water. (Garry Haralambou, Jacksonville, Jan. 25, 1996); he had to pay \$500 to put a large activated charcoal filter outside his home. (Bill McGill, Sebring, Feb. 7, 1996); other people in covered Bridge have sediment, sand and other

foreign objects in their water. (Bill McGill, Sebring, Feb. 7, 1996); he buys bottled water because his tap water stinks. He installed a house filter, but it was brown after a few months. (Paul Harbaugh, Sebring, Feb. 7, 1996); she has put in filters and a Culligan system for \$1200. (Jean Small, Sebring, Feb. 7, 1996); he buys bottled water to drink. (Cleatis Beaubien, Sebring, Feb. 7, 1996); even with the full filtration system they have had sand in the toilet tanks and ice cubes. (Maura Doyle, Sebring, Feb. 7, 1996); an SSU maintenance person suggested he put in an under the sink filter to go along with the one outside. He buys bottled water to drink. (Don Becker, Sebring, Feb. 7, 1996); he was getting yellow ice cubes. SSU told him to flush his system, which he did for four hours, but it didn't help. So he installed a \$2,000 Culligan unit which fixed the problem. (Anthony Klein, Marco Island, Jan. 22, 1996); he installed a filter under his sink that is supposed to last 12 months, but he has to change it every 6 months. (Arno Zeretzke, Marco Island, Jan. 22, 1996); he buys bottled water to drink. (Noel D. Gregg, Marco Island, Jan. 22, 1996); they have installed a water conditioner that cost them \$1,500 and \$6 or \$7 dollars to operate to make the water. (Heidi Deul, Inverness, Jan. 24, 1996).

(5) SSU's response to it's customers' service calls or questions is unsatisfactory. SSU broke his irrigation system riser pipe and when he asked them to fix it they would not do it. (Mark Douglas, Kissimmee, Sept. 19, 1995); an SSU person comes to Mr.

Grover's home and runs the water 10 minutes every morning to test the water for chlorine levels. (Barry Grover, New Port Richey, Sept. 28, 1995); sand and silt started coming into his house. SSU took a couple of days to come out and agree. Mr. Stanek asked SSU to test the water. It took over a month for them to do that. (James Stanek, Sanford, Oct. 12, 1995); SSU replaced the water meter at his parents house and broke the water line. SSU denied it. (Gary Heimann, Sanford, Oct. 12, 1995); about five years ago there was a water break at the end of the block. When they repaired it, sediment came into the irrigation system. She had to get a plumber then. When she complained to the water company, "Tough luck." They didn't reimburse her or have any sympathy for her. (Betty Blazynski, Sanford, Oct. 12, 1995); there are breaks in the main lines about once a month. Turn-offs of the system without being notified. (David Morton, Fort Myers, Nov. 29, 1995); he requested SSU's assistance when he received a bill for 59,000 gallons when he was not home and they way he was treated and handled broke his trust with SSU. He feels the answers were not forthcoming and doesn't feel he was handled in any shape or form as a customer should be. (Franklin Welch, Sanford, Jan. 30, 1996); every time there is excessive rain, the sewer runs out of the manhole in front of her driveway. (Pauline Rowe, Stuart, Feb. 1, 1996); the consumers don't feel like their being taken care of in view of the quality of service they receive. (Terry Coffinbarger, Stuart, Feb. 1, 1996); her water was cut off during the Oct. 17th storm. The septic lines burst and her home was flooded with water

and sewerage. She was very discouraged about the lack of help from SSU and felt they do not care about the consumers' problems. (Margaret Dampf, Stuart, Feb. 1, 1996); SSU was not responsive to the consumers' problems and complaints. (Gerrie Fossler, Stuart, Feb. 1, 1996); SSU told her that her water was bad because she was at the end of the system. (Elaine Colantuoni, New Port Richey, Jan. 31, 1996); he received a two month bill for 302,230 gallons of water and \$434. He complained to SSU but they refused to do anything to check it out and made him pay the bill. (Harry Thayer, Mount Dora, Jan. 30, 1996); SSU told him they would test the water but haven't done so yet. (David Mynatt, Jacksonville, Jan. 25, 1996); the residents are fed up with the decrease in service; when he called SSU to complain about the stench of the water he was told it was because of the high demand, even though the temperature was in the twenties. He requested \$75 from SSU to replace ruined clothes, which they paid but offered no explanation. (Glover Scott, Jacksonville, Jan. 25, 1996); she got a \$17 water bill, so she told SSU there was a problem. SSU fixed the meter, then said they would cut off her water if she didn't pay her past due amount (Letricia Stroup, Jacksonville, Jan. 25, 1996); she called SSU's 1-800 number to complain about the dirty water. They said there was nothing they could do about it. (Angie Futch, Jacksonville, Jan. 25, 1996); the service is poor (Ray Gabler, Jacksonville, Jan. 25, 1996); a resident of Lehigh asked to be hooked up to sewage and water when SSU ran lines past his house. SSU told him they couldn't do it. (Nick Ercolino, Fort Myers, Feb. 8, 1996); there was a water main

break on March 9, 1995. The information and assistance that SSU provided the people affected was horrible. (Richard Bergmann, Marco Island, Jan. 22, 1996); SSU had been overcharging him because of the wrong size meter. They're records indicated he had a one inch pipe meter when he had a five eights meter. Then SSU was slow to refund him and couldn't tell him how much they owed him. (Malcolm Ruhl, Marco Island Jan. 22, 1996); he was away in Canada for six months. The water and power were turned off. He received bills totalling approximately 46,000 gallons of water used. SSU told him that whatever went through the meter was his responsibility. (Karl Merkel, Marco Island, Jan. 22, 1996); he had an incident in years past where SSU charged him for 300,000 gallons of water. SSU told him, "tough, that's what the meter reads." Another time he was charged \$15 for turning off the water. When he questioned the SSU service person, he said the water was turned off for non-payment, although it was still on. (Gus Ehrman, Marco Island, Jan. 22, 1996); SSU has no compassion for its customers. The meter readers don't take appropriate action when they see a meter that is reading out of line with normal measurements. (Dick Lohrens, Marco Island, Jan. 22, 1996); over the past six years the Pine Ridge customers have suffered from low water pressure, poor water quality, and questionable service. At one time they were without water for over a day as the operator did not report the outage over a weekend. They tried for four years to correct these problems but got the runaround. (Carlette Max, Inverness, Jan. 24, 1996); they returned to Germany in the summer and left a deposit for SSU for

maintenance. SSU turned off the water for nonpayment even though it was a running toilet that was using the water, and hung a sign on the front door that said the water was shut off. This was a notice for potential thieves that the house was unoccupied! SSU did nothing to accommodate them. (Heidi Deul, Inverness, Jan. 24, 1996); for the year 1994, there were 538 customer complaints from Sugarmill Woods customers. (John Mahoney, Inverness, Jan. 24, 1996).

(6) The water is not potable. Mr. Douglas can't drink the water. (Mark Douglas, Kissimmee, Sept. 19, 1995); it leaves residue in your hair and stains the toilet. (Jose P. Concel, Kissimmee, Sept. 19, 1995); the water destroyed their hair. It actually fell apart in their hands when in the shower. (Jonathan Dickel, Sanford, Oct. 12, 1995); the water causes his ear to get inflamed and infected. (Richard Young, Sanford, Oct. 12, 1995); there is sand in the water. (Thomas Doyle, Sebring, Nov. 27, 1995); the water is not potable. (Burt Tischer, Sanford, Jan. 30, 1996); her doctor told her to stop drinking the water. (Ileen Mulvihill, Sanford, Jan. 30, 1996); the water is not potable (Grace Morris, Stuart, Feb. 1, 1996); she cannot drink the water nor give it to her pets, or they get dysentery. It is yellow. (Pauline Rowe, Stuart, Feb. 1, 1996); the water is terrible (John Fote, Stuart, Feb. 1, 1996); the water tastes terrible (Jennifer VanDien, Stuart, Feb. 1, 1996); there are consistent problems with the water quality. When the residents receive service from Martin County Utilities in 1992 the product

was usable. Now he has to buy bottle water. His pets won't drink the tap water. (Terry Coffinbarger, Stuart, Feb. 1, 1996); the quality of the water is lousy. (Achille Coretti, Sunny Hills, Feb. 5, 1996); the water has caused him health problems. (Ralph Brandon, Sunny Hills, Feb. 5, 1996); the water quality is not very good. (Jim Hall, Sunny Hills, Feb. 5, 1996); his son had an intestinal virus from the water and he spent 16 days in the hospital. (Baron Bartlett, Jacksonville, Jan. 25, 1996); her son got a stomach virus from the water and no longer drinks the water there. (Letricia Stroup, Jacksonville, Jan. 25, 1996); he uses bottled water to drink because he tested his swimming pool water once and it was almost pure lye. A recent test at his house indicated very low chlorine, so the bacteria would be high, and probably causing viruses. (Ray Gabler, Jacksonville, Jan. 25, 1996); he buys drinking water (Garry Haralambou, Jacksonville, Jan. 25, 1996); the water is neither palatable for drinking or good for showering and bathing. (Edwin C. Nieman, Ocala, Jan. 25, 1996); they went north in May for graduation. In six weeks they returned to black water and a smell so bad they had to leave the house. (Paul Harbaugh, Sebring, Feb. 7, 1996); she has stomach problems from the water. There are little black spots in her ice cubes. (Jean Small, Sebring, Feb. 7, 1996); She was having physical problems during the time she had been drinking SSU's water. Since she stopped drinking SSU's water, the health problems have gone away. (Jackie Harbaugh, Sebring, Feb. 7, 1996); the water from an unfiltered tap on Marco is green. (Karl Merkel, Marco Island, Jan. 22, 1996); the water is

green and bad tasting. (Arno Zeretzke, Marco Island, Jan. 22, 1996); she came from Germany with her husband as a snowbird to Florida. They both got heartburn when they drank SSU's water. The same for their 24 year old daughter when she came to visit. So now they drink bottled water from Publix and they feel fine. (Heidi Deul, Inverness, Jan. 24, 1996)

(7) The water destroys and stains the fixtures in the house or leaves sediment, sand or other foreign material in the system. The water destroys the tiles in the shower. They turn black and the pipes clog up on a yearly basis. The pipes under the sink develop an accumulation of minerals every year and clog up. (Mark Douglas, Kissimmee, Sept. 19, 1995); the biggest problem was the odor and the pipes rusting away and plugging. (Russell Thompson, Kissimmee, Sept. 19, 1995); the sulfur corrodes pipes and heating elements. (Tony Costanzo, Kissimmee, Sept. 19, 1995); the water is very corrosive to the water fixtures. He has been in his house, which is a new one, for a little over two years and has had to replace the plumbing and the tank in one of his bathrooms. The seal started leaking. (John J. Nemethy, Sanford, Oct. 12, 1995); another problem is the corrosion of the copper pipes. He has relatives on the other side of town who have been down here over 20 years and haven't had any problems. People in his development, which is only five years old, have had to replace pipes already. (James Stanek, Sanford, Oct. 12, 1995); his hot water heater element had scale, calcium buildup, all over it. It stopped the hot water heater from

working. (John Griffin, Sanford, Oct. 12, 1995); the dirt that got into the water one year devastated his solar hot water system, so he had to tear it out. Now he uses a regular hot water heater. (Bob Marchant, Sanford, Oct. 12, 1995); in August she had to pay a plumber \$50 to fix her toilet because of the scale that builds up. (Betty Blazynski, Sanford, Oct. 12, 1995); they had to replace the water heater element. There mud in the commode tanks. (Frances McCarty, Sanford, Oct. 12, 1995); she has corrosion, bad taste, and sediment in the water. (Danielle Trent, Sanford, Oct. 12, 1995); the paint in the bath is stained from the water. He has had to replace two chains in two years. (Jonathan Dickel, Sanford, Oct. 12, 1995); the toilets are stained beyond repair. (Gerrie Fossler, Stuart, Feb. 1, 1996); he has to throw his pots away every other year after boiling water in them. If the ice cubes in the refrigerator melt, the smell goes through the whole refrigerator. (Kenneth Berry, New Port Richey, Jan. 31, 1996); another petition states how the water has corroded the plumbing system components in the residences. (David Mynatt, Jacksonville, Jan. 25, 1996); he has had to replace his copper plumbing with plastic pipe. (Roger Tyndall, Jacksonville, Jan. 25, 1996); he has had to replace several plumbing components due to the water since 1991. His clothing is being stained by the water, even after he replaced the clothes washer and dryer. (Glover Scott, Jacksonville, Jan. 25, 1996); she can't use her ice maker anymore, as the ice turns gray. She just had her house repiped for \$3,400. They have had to replace their water heater. Their clothes are being ruined. (Angie.

Futch, Jacksonville, Jan. 25, 1996); he had to replace his hot water heater after five years. (Carl W. Christenson, Jacksonville, Jan. 25, 1996); his house in Maryland was 45 years old and still had the original copper pipes. His house in Jacksonville is nine years old and has had five slab leaks, replaced three water heaters and other elements. He bought a new refrigerator and had to replace the ice maker in the second year. (Ray Gabler, Jacksonville, Jan. 25, 1996); he bought a new house eight years ago. After five years it started springing water leaks. He has changed many heater elements. A load of wash was ruined when the chlorine was too strong. SSU sent him a check for \$50 after he complained but did not say what the money was for. He has seen his neighbors completely replacing their plumbing. (Garry Haralambou, Jacksonville, Jan. 25, 1996); he installed a filter on the refrigerator, but when you melt ice cubes in the sink, a white scum is left. Clothes had brown spots after being in the washer. He has to change his filters every three weeks. (Paul Harbaugh, Sebring, Feb. 7, 1996) he drained his hot water heater. It had rust, slime, and sediment in it. (Gus Ehrman, Marco Island, Jan. 22, 1996); he found small stones in the water line to his washing machine after it broke down. (Edward Slezak, Inverness, Jan. 24, 1996).

(8) The water pressure is unacceptable. (Russell Thompson, Kissimmee, Sept. 19, 1995); he has had many problems with the utility, such as high pressure that caused the toilet to explode. (Dale Danielsen, Ocala, Oct. 11, 1995); he has poor water pressure,

poor water quality. (Gary heimann, Sanford, Oct. 12, 1995); he has low water pressure when the neighbors water the lawn. (Bob Marchant, Sanford, Oct. 12, 1995); the water pressure is poor. (Jonathan Dickel, Sanford, Oct. 12, 1995); his water pressure at times exceeds 110 pounds. It burst the hose on the washing machine and burst the water filter under the kitchen sink. (George S. Mycock, Sanford, Jan. 30, 1996); he lives in Deep Creek and has low water pressure. (Joseph Hofrichter, Fort Myers, Feb. 8, 1996) she had water pressure of 9 psi. (Carlette Max, Inverness, Jan. 24, 1996).

(9) SSU does not inform the residents when construction or maintenance work in their area may affect their service. SSU has not notified the residents of Burnt Store when the water would be off. (John Zimmerman, Fort Myers, Nov. 29, 1995); there was a water main break on March 9, 1995. The information and assistance that SSU provided the people affected was horrible. (Richard Bergmann, Marco Island, Jan. 22, 1996).

(10) Emergency equipment was not available or operational to temporarily provide backup for equipment breakdown aggravation, such as no water or low pressure. Within the last year there have been two breakdowns in the water plant. One time both pumps went out at one time and another there were electrical problems. Both times residents were without water. (Russell Thompson, Kissimmee, Sept. 19, 1995); last year, a hole broke out in the water pipe in

the street. But they couldn't fix it, because the pumping equipment they were using was too antiquated. (Salvatore Cavalieri, New Port Richey, Sept. 28, 1995). They have breaks in the main lines about once a month. Turn-offs of the system without being notified. (David Morton, Fort Myers, Nov. 29, 1995).

(11) SSU's billing procedures are indifferent to customers' needs. Mr. Ciufo would like to not have a penalty if customers can't pay the bill one month; just add it to the following month's bill (Raymond Ciufo, Ocala, Oct. 11, 1995). She resents SSU turning off her water when she could not pay it on time. She went to SSU to explain her problem, but SSU didn't want to work with her. (Kerry Oranchak, Sanford, Oct. 12, 1995); they cut her water off when she was in the hospital in Orlando, despite her telling them of her problems. They charged her \$20.10 for two months with her water off. (Danielle Trent, Sanford, Oct. 12, 1995); he was up north last summer but the bills continued for thousands of gallons of water. When he called SSU for an explanation, they threatened to cutoff the water if he didn't pay the bill. After he threatened to call the PSC, SSU corrected the billing. (George A. Kahl, Sebring, Nov. 27, 1995); the mail wasn't forwarded to Canada so SSU was going to turn off their water for non-payment. (Loren B. Foote, Mount Dora, Nov. 8, 1995); he wants autodraft from SSU to take the monthly charges out of his bank account without him having to send in the money, but SSU said they are not capable of doing it. (Warren G. Weimer, Mount Dora, Nov. 8, 1995); he has called SSU

several times and requested bank drafting to pay his bills, especially when away for the summer. (Roger L. Harper, Mount Dora, Nov. 8, 1995); the company can't tell him when his last meter reading was. (Franklin Welch, Sanford, Jan. 30, 1996); SSU is not interested in the customers' billing problems. (Robert Barrows, Mount Dora, Jan. 30, 1996). Because of a move, he didn't receive his mail. He had a \$120 deposit at SSU and a \$40 utility bill that wasn't paid, they turned off his water. They are not interested in customer service. (Phil Caldwell, Jacksonville, Jan. 25, 1996); he was charged \$941 for 311,000 gallons of water for two weeks. He had been away for Thanksgiving also. SSU did not question the amount. (Wil Gross, Marco Island, Jan. 22, 1996); he discovered that the Sugarmill Woods Country Club has 16 connections and eight of them were being charged for sewer also, but were not on sewer. So SSU's record keeping is not very accurate. (James T. Sanders, Inverness, Jan. 24, 1996).

(12) The customer is receiving water bills but does not see anyone reading the meter, which is sometimes covered with mud. Her mother, who lives in Deltona, and her neighbors haven't seen anyone check their water meters either. (Valerie Grueninger, Sanford, Jan. 30, 1996); the company can't tell him when his last meter reading was. (Franklin Welch, Sanford, Jan. 30, 1996).

In addition to the testimony presented at service hearings, the Commission received four thousand seven hundred fifty four

letters from customers during the time period of June, 1995, through April 30, 1996, concerning this case. Pruitt, Tr. 3287. Consumer affairs does not do any analysis or keep any records about the topics raised in that correspondence from customers. Pruitt, Tr. 3288.

Many of the comments were sent to the Commission on a form approved by Commission order PSC-95-1453-FOF-WS issued November 28, 1995. The top of the form contains the statement "If you want to let the Public Service Commission know how you feel about this case, please fill out this comment form and return it by mail. It will be placed in the correspondence file of this docket."

Staff provided no evidence about the portion of these letters received by the Commission containing service complaints. The evidence about service complaints provided in the prefiled testimony of Nancy Pruitt excluded the service complaints included in those letters. Pruitt, Tr. 3289, 3290. Ms. Pruitt knew of no process in place at the Commission that informs Commissioners about the contents of those communications from customers. Pruitt, Tr. 3289. And the letters were not answered by the Commission. Pruitt, Tr. 3291. There would have been considerable additional evidence in the case about SSU's service had these letters been analyzed and the results of that analysis presented to the Commission.

ISSUE 3: What adjustments should be made and what corrective action should the Commission require for any facilities that are not currently meeting Department of Environmental Protection standards or have unsatisfactory quality of service?

Citizens' position: *The Commission should require corrective action for facilities not meeting DEP standards. See Issue 2 regarding quality of service.*

ISSUE 4: Based on the findings as to the value and quality of SSU's service, should the Commission reduce SSU's return on equity? If so, by how much?

Citizens' position: *Yes. Return on equity should be reduced by 100 basis points.*

Section 367.081(2)(a), Florida Statutes (1995) requires the Commission to consider the value and quality of the company's service when setting rates. As shown in the discussion provided in response to issue 2, the value and quality of the service provided by SSU has been wholly unsatisfactory. The Commission should respond by lowering the rate setting point the Commission would otherwise authorize. Gulf Power Co. v. Wilson, 597 So.2d 270 (Fla. 1992).

ISSUE 5: Has there been misconduct or mismanagement on the part of SSU, and, if so, what is the appropriate sanction or remedy?

Citizens' Position: *SSU tried to intimidate the Commission and deny parties due process by soliciting communications concerning the case from members of the executive and legislative branches of government. The company remains remorseless to this day. The case should be dismissed.*

I. Soliciting ex parte communications.

Tracy Smith, SSU's employee/lobbyist, brazenly told this Commission that his job included the responsibility to lobby legislators about matters pending before the Public Service Commission. Smith, Tr. 3162. This is probably the first time the Commission has had a regulated utility reveal that it employs a person for this purpose. While a lobbyist may be legitimately employed to affect legislative matters, the only purpose served by lobbying legislators about matters pending before the Commission is to influence the Commission's decisions outside of the hearing process.

Mr. Smith's handiwork is evident in a draft letter (exhibit 189) he provided to Senator Karen Johnson about uniform rates. His letter, prepared and delivered to Senator Johnson while this case was pending, would have told this Commission that the Commission acted without consideration for the public in going to modified stand-alone rates; that the Commission's actions were unthinkable and indefensible (sic) from a public policy standpoint. While Mr. Smith makes the implausible claim that Senator Johnson asked him to draft the letter, it is clear that she did not want the letter delivered by Mr. Smith because she refused to send it.

Mr. Smith contacted other legislators, including Representatives Couch and Kelly. His purpose, among other things, was to discuss pending issues in the rate case. Smith, Tr. 3169. He believes there is nothing wrong with soliciting a member of the

legislature to write the Chairman of the Commission about a pending rate case. Smith, Tr. 3184. SSU's attempts to bypass the decision making process based on evidence, and replace it with a decision making process based on SSU's ability to influence and intimidate the Commission, should be answered by dismissal of this case. Senator Johnson, like all Senators, votes on the confirmation of nominees to the Florida Public Service Commission. Had she chastised the Commission as requested by SSU, it would have had a particularly chilling effect on the Commission's ability to decide this case solely on the record.

While Mr. Smith was providing a draft letter to Senator Johnson, the chairman of Minnesota Power, Arend Sandbulte, was complaining to the Governor about an "inconsistent and problematical FPSC decision-making process." Exhibit 66. The Governor appoints members of the Florida Public Service Commission from those nominated by the Florida Public Service Commission Nominating Council. Section 350.031, Florida Statutes (1995).

In his letter dated November 21, 1995, Mr. Sandbulte told the Governor that he had a serious problem obtaining fair regulatory treatment from the FPSC. According to Mr. Sandbulte, the public-private partnership was not working and needed to be fixed. He complained about a loss of income and asked for advice from the Governor on how to "normalize the current unfortunate situation." In other words, he wanted the Governor to intercede on SSU's behalf at the Commission. He concluded his letter by stating "I hope to hear from you soon." Exhibit 66.

"Soon" apparently did not come soon enough for SSU. In a fax sent November 30, 1995 (9 days after the date of the Sandbulte letter), Jeff Sharkey, SSU's contract lobbyist, wrote SSU employees Tracy Smith and Ida Roberts that "the letter from Minnesota Power was good" and that he was "still waiting for the bullet sheet to distribute." Exhibit 85. He bragged about how he had talked to Buddy MacKay and Estis (sic) about the letter. In addition, he talked with Secretary Wetherell about the PSC issues, and "she was amazed." Id.

The "bullet sheet" Sharkey wished to distribute was prepared by Ida Roberts and sent to Sharkey on November 30, 1995. Sharkey, Tr. 599. Later, Sharkey sent the bullet sheet and the Sandbulte letter to the Lieutenant Governor's office on December 13, 1995 (exhibit 86). The letter sent by the Lieutenant Governor's office to the Chairman of the Commission on December 21, 1995, contained both the Sandbulte letter and the bullet sheet that had been provided by Sharkey and prepared by Ida Roberts (exhibit 66).

The bullet sheet contained some detail about SSU's claim of inadequate earnings. It stated that SSU projected a 1995 return of -0.43 percent; that SSU was losing money at current authorized rates; and that SSU incurred a year-to-date loss through October, 1995. The company's earnings, of course, is the central issue in this rate case.

Sharkey prepared drafts of letters that he asked the Lieutenant Governor and the Secretary of Commerce to send to the Commission. These letters were rife with matters pertaining to

this rate case. The draft letter provided to the Lieutenant Governor's office cited the current economic impact of recent Public Service Commission decisions on SSU; a claimed year-to-date loss of \$453,749; a claimed rate of return on investment of -.43; and a concern about placing SSU in serious financial jeopardy. Exhibit 86. A fax to the Secretary of Commerce declared that "the situation is critical." Sharkey, Tr. 614. The draft letter given to Secretary Dusseau complained about the claimed year-to-date loss; the claimed negative return on investment; concern about the company's "economic status;" a need to allow SSU to earn a reasonable rate of return on their investment; the overall economic impact of PSC decisions on SSU; and the overall economic and financial consequences facing SSU.

The purpose of these communications was to pressure the Commission into granting higher rates in this case. Sharkey attended the Commission's agenda conference in October when the Commission denied SSU's first request for interim rates. Sharkey, Tr. 658-659. While trying to get a letter from the Secretary of Commerce, Sharkey's office told the office of the Secretary of Commerce that the "deadline is January 3" -- the day before the Commission's vote on SSU's second request for interim rates. Deposition of Stephanie Smith, exhibit 184, pages 7-8. The Commission granted SSU an interim rate increase on January 4, 1996.

SSU ratified the actions taken by Sharkey on its behalf. Even as of the hearing, no one at SSU had ever told Sharkey that they disapproved of what he did, or had told him words to that effect.

Sharkey, Tr. 613. His firm is still retained by SSU, and his firm continues to receive a monthly check from SSU. Id.

SSU's efforts soliciting the Lieutenant Governor to contact the Commission in this case are tantamount to contacting the employers of jurors in a civil suit and asking the employers to influence the jurors. No circuit court judge would condone this sort of behavior, and neither should the Commission. Much more is at risk than just this rate case. The integrity of the entire PSC process is at risk. If the Commission does not dismiss this case, the Commission can expect more of the same behavior in the future from an unrepentant SSU.¹

II. Interference with notice to customers and representation by the Office of Public Counsel.

In order no. PSC-95-1453-FOF-WS issued November 28, 1995, the Commission expressed its concern that the initial customer notice provided to customers in this case did not fully outline the potential impact to customers. The Commission rescheduled service hearings and required SSU to send a supplemental notice. It required the revised notice to be sent sufficiently in advance of the new hearings so that customers would receive the revised notice at least fourteen days before the new hearing. Order at 7-8.

¹ The Citizens incorporate by reference all argument and citations contained in the motion to dismiss filed March 12, 1996.

SSU attempted to interfere with this notice by sending out a notice of its own just before each service hearing. SSU's notice made it appear that uniform rates was the only issue in the case. It characterized the rate case as a hearing concerning statewide uniform rate structure and asked customers if they were confused about all the literature they received about the upcoming FPSC hearing concerning a statewide uniform rate structure. Ocala service hearing, January 25, 1996, page 60. It suggested that customers attend a meeting with SSU. Many customers expressed anger at getting the post cards on the same day as the meeting. Berry, New Port Richey hearing, January 31, 1996, page 21; Wenz, Sanford hearing, January 30, 1996, page 42.

Information provided by the company at these meetings was even more misleading than the company's postcard notice. The meeting consisted of propaganda trying to sell uniform rates. Carr, Sanford service hearing, January 30, 1996, page 95; Blagoue, Kissimmee service hearing, January 29, 1996, page 86. At one meeting the SSU person giving the presentation made the statement that SSU will get their money and that the only thing to be decided was who was going to pay for it. Carr, Sanford service hearing, January 30, 1996, page 93. They gave customers the impression that a deal had been cut (Carr, Sanford service hearing, January 30, 1996, page 97); that they shouldn't worry about the rate increases (Mayhew, Kissimmee service hearing, January 29, 1996, page 101); and that they already knew how much money they were going to get (Cowin, Mt. Dora service hearing, January 30, 1996, page 37, 40,

41.)

At the Stuart private meeting with the company, Ms. Cherelstein asked a few questions about administrative costs and depreciation. She asked if anyone would represent customers. SSU representatives told her "I don't know" and made no mention of representation by the Office of Public Counsel. Cherelstein, Stuart service hearing, February 1, 1996, page 90.

The testimony given by customers concerning these meetings paints a consistent picture of what the company told customers at meeting after meeting across the state. SSU tried to make customers believe that the only important issue in the case was the issue of uniform rates. They led customers to believe that revenue requirements was unimportant; that they already knew how much money they were going to get. And when asked about representation on revenue requirement issues, they told customers that they didn't know who would represent them. These misrepresentations were designed to further deny customers due process in this case.

ISSUE 6: Are any adjustments to rate base necessary to reduce Lehigh land for Parcel 4, Tract D, as Plant Held for Future Use (Staff Audit Disclosure No. 2)?

Citizens' position: *Yes. With respect to the amount of \$10,480 which should be included in rate base as used and useful, the raw amount of the land value should be reduced by 60% to reflect the Commission's decision in Lehigh's last rate case concerning which entity should be attributed the discount book value associated with the acquisition of the Lehigh consortium of

companies. (K. Dismukes, Schedule 37)*

The Commission should reduce the value of the Lehigh land included in rate base by 60% consistent with its decision in Lehigh's last rate case, Docket No. 911188-WS. In that case the Commission essentially agreed with the utility that the difference between the purchase price of the consortium of Lehigh companies purchased and the book value of those companies should be attributed 100% to the unregulated operations, including the Lehigh Corporation, the entity that sold this property to SSU. The discount from book value represented by the purchase price was 60%. Accordingly, the land SSU purchased from Lehigh Corporation should be reduced by 60%, consistent with SSU's claims that it was the Lehigh group's non-utility investments that were valued at 60% below book value. The Commission should order SSU to write-down the remainder of the land purchased which is not included in rate base, but in land held for future use. This land should be written-down by \$229,558. Tr. 2780-2781; exhibit 175, schedule 32.

ISSUE 7: Are any adjustments to water rate base appropriate to reflect the original cost of the Collier property acquired for Marco Island?

Citizens' Position: *Yes. Adjustments should be made to reflect the actual cost and to remove overhead allocations. (Larkin/DeRonne schedule 11)*

SSU purchased the Collier land for \$8,000,000. In addition, the Company incurred \$436,845 in professional services fees, resulting in a total actual cost of \$8,436,845. This amount should

be the total actual cost for the land. However, in addition to this amount, SSU added \$1,683,411 of allocated overhead cost, including \$1,646,930 of allocated administrative and general overhead costs. Larkin/DeRonne, Tr. 2629-2630.

Since this transaction was a purchase of land, and not a construction of assets, it is inappropriate to allocate overheads to the purchase of the land. Id.

ISSUE 8: Should an adjustment be made to reclassify a portion of the Collier Property for Marco Island from rate base to non-utility property (Staff Audit Exception No. 2)?

Citizens' Position: *A portion of the purchase price should be allocated to non-utility property. Rate base should be reduced by \$5,833,617. (Larkin/DeRonne schedule 11)*

The Collier land purchased by SSU consisted of 56.29 acres of lakes, 71.28 acres of wetlands and 84.93 of uplands. The 84.93 acres of uplands will not be fully utilized in the provision of water service to SSU's customers. Since that land is not used and useful in the provision of water services, it should be excluded from ratebase. Larkin/DeRonne, Tr. 2631; Dodrill, Tr. 3208-3209.

ISSUE 9: Should the transfer of the Section 35 (160 Acres) property from plant held for future use to land be allowed for Marco Island?

Citizens' position: *No. Currently, it does not seem feasible that this facility will be put into service for the projected test year 1996 because no facilities have been constructed on the site. Therefore, the cost of the 160 acre new water supply site should be

eliminated from the rate base in this filing.*

ISSUE 10: Should an adjustment be made to disallow the company's proposed transfer of a Deltona site and Marco Island site from property held for future use?

Citizens' position: *Yes. The Deltona site and Marco Island site should remain classified as property held for future use. Rate base should be reduced by \$253,885. (Larkin/DeRonne schedule 13)*

SSU proposes to transfer four parcels of land from plant held for future use to plant in service. Citizens do not take exception to two of these four sites, the Citrus Springs site and the Marion Oaks site, because SSU anticipates the use of these sites to provide utility service by the end of the test year. However, two other sites, the Deltona site and the Marco Island site, should not be transferred from property held for future use. These sites will not be used and useful prior to the end of the test year. Accordingly, the proposed adjustment to transfer these sites into rate base, totaling \$253,885, should be disallowed. Larkin/DeRonne, Tr. 2639-2640.

ISSUE 11: Should Buenaventura Lakes' rate base be reduced to reflect adjustments made in Docket No. 941151-WS, pursuant to Order No. PSC-96-0413-S-WS, issued March 25, 1993, which approved the transfer?

Citizens' position: *Yes.*

Rate base should be reduced by \$298,190 for the water operations and by \$930,770 for the wastewater operations. Depreciation expense should also be reduced by \$2,261 for the water

operations and by \$22,173 for the wastewater operations, in accordance with adjustments reflected on exhibit 175, Schedule 39. Tr. 2786.

ISSUE 13: Are adjustments necessary to the utility's additions to plant, both historic and projected?

Citizens' position: *Yes. Adjustments should be made to plant in service accumulated depreciation and depreciation expense on account of project slippage. (Larkin/DeRonne schedules 6-9)*

An analysis comparing completed projects to forecasted projects shows significant slippage in project schedules by Southern States as of August 31, 1995. Larkin/DeRonne, Tr. 2623. At that date, only 107 of 176 budgeted projects projected to be in service were actually in service. On average, SSU was over two months behind schedule on its projects. The 69 overdue projects, when considered separately, were already on average 4.4 months behind schedule. Larkin/DeRonne, Tr. 2624-2625.

The rebuttal testimony offered by Southern States only confirms that SSU is late in completing projects when compared to its forecasts. Out of 164 projects offered by the rebuttal testimony of Mr. Westrick, 117 were completed after the projected in-service date. Exhibit 216; Westrick, Tr. 4525-4526. Evidence supported by other rebuttal witnesses shows the same pattern. Of those projects sponsored by witness Goucher, eight out of eighteen were placed in service after the projected in-service date (Exhibit 217); of those presented by witness Bailey, 31 of 44 were placed in service after the projected date (Exhibit 220; Bailey, Tr. 4601);

of those sponsored by witness Paster, 38 out of 53 were placed in service after the projected in-service date (Exhibit 221).

In addition, SSU's April 9, 1996 capital budget report shows that only a small portion of the direct spending authorized for 1996 had actually been spent by the end of the first quarter of 1996. For the company as a whole, only 12.2% of the authorized direct spending had been spent, even though 25%, or one quarter of the year, had already transpired. Exhibit 218. Although this capital budget report displays direct spending rather than plant-in-service, it nonetheless shows the company's delay in spending money on capital projects. Even if not actually plant-in-service, the proportions still show the delay in spending authorized money on capital projects.

The Citizens' proposal to reflect two months of project slippage was therefore a conservative proposal. Adjustments should be made to plant-in-service, along with associated depreciation, to reflect the delay in completing projects. Larkin/DeRonne, Tr. 2625-2627.

ISSUE 14: Are SSU's classifications of expenditures as to "growth", "regulatory", etc. well-founded and reasonable?

Citizens' position: *No, the classifications are neither well-founded nor reasonable.*

Southern States stretched the claim that it places plant-in-service to meet regulatory requirements to such an extreme that the claim is completely meaningless.

For example, Southern States claims that it has to rebuild

pumps and rehabilitate manholes because of regulatory requirements. The regulatory requirement, however, is nothing more than a generalized statement by the Department of Environmental Protection that all collection and transmission systems must be operated and maintained so as to provide uninterrupted service. Westrick, Tr. 4528-4529. SSU witness Westrick admitted that the company claims that anything they do to provide uninterrupted service is claimed to be a requirement of regulatory mandate. Westrick, Tr. 4530. Since Southern States has stretched the claim of regulatory mandate to such an extreme, the claim lacks any meaning.

ISSUE 16: Is the utility's methodology of converting ERCs to connected lots for calculating used and useful for transmission, distribution, and collection lines appropriate?

Citizens' position: *No. Actual connected lot numbers or customers should be used. (Bidby)*

The utility's methodology converts the number of meters to ERC's (typically the ERC number is greater than the meter number) and then converts ERC's back to lots projected to be connected at the end of 1997, with a margin reserve added. Tr. 1203-1206. With the use of this methodology the utility can increase the lots connected figure and thereby increase its used and useful percentage for transmission, distribution, and collection lines.

Staff counsel's cross-examination of Witness Bliss revealed that the Company's use of this methodology was so "successful" that for many systems the Company's projected lots connected figure was even greater than the total lots available. Tr. 1202. Such a

result helps debunk the validity of the Company's methodology. It is also interesting to note that SSU conceded that the methodology employed by the Company in this case differed from the one employed by the Company in its last rate case. Tr. 1203-1208.

In calculating the used and useful percentage for transmission, distribution, and collection lines the Commission should compare apples with apples or "actual" connect lots with "actual" lots available not "constructed" lots connect to "actual" lots available.

ISSUE 17: Should a margin reserve be included in the calculations of used and useful for each facility?

Citizens' position: *No. Reserve capacity needed to meet the demands of growth should be paid by growth. The cost of any prudently constructed reserve capacity should not be borne by current ratepayers through a margin reserve, but by future ratepayers through various forms of CIAC, AFPI and guaranteed revenues. (Biddy) (Dismukes)*

Witness Biddy testified that a well planned phased development of distribution and collection lines and phased treatment plant expansions can reduce or eventually eliminate the need for a margin reserve. Tr. 2498. It is feasible to build distribution and collection lines in phases that will be readily utilized, and to construct treatment plants that can accommodate phased capacity increases. Tr. 2498.

The cost to support prudently constructed reserve capacity should be paid for by future customers through various forms of

contributions-in-and-of-construction (CIAC), including but not limited to plant capacity charges, service availability charges, main extension charges, advances for construction and actual contribution of lines, paid upon connection or prepaid, and collection of allowance for funds prudently invested (AFPI) and guaranteed revenues. Tr. 2497-2499, 2520. It is unnecessary and unfair to input a margin reserve to be paid by current customers to support utility plant to meet the demands of growth.

ISSUE 18: If margin reserve is included in the calculation of used and useful, what is the appropriate margin reserve period?

Citizens' position: *Three years and five years of margin reserve should not be allowed in the used and useful calculations for water and wastewater treatment facilities, respectively. The Commission traditionally uses twelve months as margin reserve for water mains and sewer lines, and eighteen months as margin reserve for water and wastewater treatment facilities. (Biddy)*

The Company proposes that current ratepayers be forced to pay for additional water treatment capacity to serve 3 years of growth and additional wastewater treatment capacity to serve 5 years of growth. SSU proposes to collect this from current ratepayers by imputing a 3 year margin reserve for water treatment facilities and a 5 year margin reserve for wastewater treatment facilities.

To support this imputation the Company paraded a number of current and former officials of the Department of Environmental Protection (DEP) to testify that various DEP statutes and rules "mandated" the Commission to impose SSU's proposed margin reserve

requirement.

Specifically, witness Harvey (Former Director of the Water Facilities Division of DEP) and witness Sowerby (Engineer III with the Drinking Water Section of DEP) testified that DEP Rule 62-600.405, F.A.C., either mandates or implicitly requires the Commission to impose a 5 year margin reserve for wastewater treatment facilities. Tr. 3448, 3489, 3495 and 3829. However, under cross-examination Mr. Harvey admitted that Rule 62-600.405, F.A.C., did not expressly require a 5 year reserve capacity for wastewater treatment. Tr. 3489-3490. After extensive review of Rule 62-600.405, F.A.C., witness Harvey was unable to point out a requirement for even a 4 or 3 year minimum reserve capacity that must be maintained at all times. Tr. 3492-3500. Rule 62-600.405 merely requires utilities to submit capacity analysis reports (CAR) to DEP under various conditions. Tr. 2497. If the wastewater plant's permitted capacity will be equaled or exceeded within 5 years the utility must report that it has initiated planning and design for expansion. If the plant's capacity will be equaled or exceeded within 4 years the utility must report that plans and specifications for the needed expansion are being prepared. If the plant's capacity will be equaled or exceeded within 3 years the utility must report that it will submit a construction permit within 30 days of the report or provide an update of the report. Only after the plant's capacity will be equaled or exceeded within 6 months must the utility file an application for an operation permit. Tr. 3492-3500 and Exhibit 198. Between the 3 years and

the 6 months the plant expansion needs to be accomplished. Witness Harvey admitted that even after an application for a construction permit to expand plant capacity is filed it often takes one to one and-a-half years to get the permit to actually commence construction. Tr. 3500. Given these parameters it appears that Rule 62-600.405, F.A.C., contemplates that actual construction of wastewater plant expansions will often begin approximately 1 1/2 years before the plant equals or exceeds its permitted capacity.

Another major deficiency in SSU's case to support its requested 3 and 5 years of margin reserve is that the expert witnesses (former and current DEP officials), who claimed DEP rules mandated the requested margin reserves, did not even understand the term "margin reserve." Nor did these witnesses understand the alternative mechanisms available to the Commission to pay for prudently constructed reserve capacity. Tr. 3479-3488, 3821, 3824-3827. The DEP witnesses are simply not credible witnesses to advise this Commission concerning the imputation of any margin reserve period.

After witnessing the cross-examination of Mr. Harvey and Mr. Sowerby, DEP witness Hoofnagle conceded that there was nothing in DEP's rules which required current ratepayers rather than future ratepayers to pay for any plant expansions. Tr. 3578. He conceded that those were questions within the purview of this Commission. Tr. 3578. Mr. Hoofnagle also conceded that neither he nor the other DEP personnel concerned themselves or understood about allocating costs for plant expansions between current and future

customer groups. He also conceded that DEP personnel did not know about the different mechanisms available to the Commission to allocate these costs. Tr. 3578-3580.

Former and current DEP witnesses all conceded that Rule 62-600.405, F.A.C., did not address the issue of who should pay for prudently constructed reserve capacity. Tr. 3504-3506, 3822. DEP witness Hoofnagle conceded that DEP had no rule comparable to Rule 62-600.405 for water treatment plants. Tr. 3568, 3571 and 3581. In fact, for water treatment plants the only DEP requirement is that there be sufficient capacity to maintain 20 PSI pressure in the distribution lines. Tr. 3571. There is no requirement to maintain any particular reserve capacity for water treatment plants. Tr. 3568, 3581.

In his prefiled rebuttal testimony Mr. Harvey claimed that "while the term 'margin reserve' is not specifically used in the DEP rules, the concept is most conspicuously embodied in Rule 62-600.405." Tr. 3456. However, under cross-examination Mr. Harvey was unable to point to a single provision of Rule 62-600.405 which required current ratepayers rather than future ratepayers to bear the cost of any plant reserve capacity. Tr. 3503-3506.

The DEP witnesses professed to be sensitive about containing the cost of utility services for current ratepayers. However, under cross-examination witness Harvey hardly blinked an eye when he recommended the Commission should consider at least a 10 year margin reserve and in some instances a 15 or 20 year margin reserve that should be fully borne by current ratepayers. Tr. 3520-3521.

In July, 1992, Mr. Harvey wrote a letter to the Commission stating that the Commission's rule (concerning used and useful and margin reserve) "should allow utilities to recover investment for timely expansion of needed wastewater treatment facilities consistent with our rule requirements." Tr. 3517-3518. In Mr. Harvey's June 29, 1995 letter to the Commission he states that "We [DEP] strongly recommend that the Commission recognized at least a 5 year reserve capacity." Tr. 3519 This evolution of Mr. Harvey's opinion on the subject of margin reserve is particularly troubling when one discovers that SSU initiated this rate case in May, 1995 and Mr. Harvey had his first discussions to join Kimley-Horn and Associates, Inc. in September, 1995, and left the employ of DEP in December, 1995.

SSU has provided no credible evidence, presented by credible witnesses to cause this Commission to abandon its traditional 18 months margin reserve periods for water and wastewater treatment plants, if the Commission elects to maintain a margin reserve requirement for this case.

ISSUE 20: What is an acceptable level of unaccounted-for-water?

Citizens' position: *To achieve appropriate levels of unaccounted for water, PSC should allow no more than 10 percent of unaccounted for water for each water system. The Commission should not allow the 12.5 percent company-wide level of unaccounted for water requested by SSU. (Biddy)*

Each system should be individually evaluated and any

unaccounted-for-water in excess of 10% should not be allowed in the used and useful calculations. Tr. 2521. This type of evaluation, by system, will encourage low levels of unaccounted-for-water. Tr. 2522.

A company-wide unaccounted-for-water percentage can not represent actual unaccounted-for-water level of each system. Some systems with high levels of unaccounted-for-water, like Oak Forest, St. Johns Highlands, and Stone Mountain, are averaged out by large numbers of low unaccounted-for-water systems. Tr. 2501. Therefore, the company-wide approach provides a shelter to high unaccounted-for-water systems and does not encourage operation improvement. PSC should evaluate the level of unaccounted-for-water on an individual basis. To achieve low levels of unaccounted-for-water, PSC should allow no more than 10% for each water system. Tr. 2501. Proper adjustments have been made in Exhibit 170, TLB-3 for used and useful calculations, to account for excess unaccounted-for-water. Tr. 2501, Exhibit 170.

ISSUE 21: Do any water facilities have excessive unaccounted-for-water and, if so, what adjustments are necessary?

Citizens' position: *Yes. Test year expenses should be reduced by \$67,121 to adjust for chemical, purchased water, purchased wastewater, and purchased power expenses for excessive unaccounted-for-water. (Bidby, K. Dismukes)*

Mr. Bidby's review of the F-1 Schedules in the MFR's revealed the systems with unaccounted-for-water in excess of 10%. Based upon the 10% unaccounted-for-water recommendations of Mr. Bidby,

Ms. Dismukes calculated the amount by which expenses should be reduced. Ms. Dismukes determined that chemical, purchased power, and purchased water expenses should be reduced by \$67,122. Tr. 2774 and Exhibit 175, Schedules 31 and 32. However, under cross-examination by Staff counsel, Ms. Dismukes agreed that it would be appropriate to use the adjusted figures from Schedule B-5 of MFR Volume 12, Books 1 through 27 and Volume 3, Books 1 through 6, to calculate the amount of chemical, purchased power, and purchased water expenses that should be removed from test year expenses due to excessive unaccounted-for-water. Tr. 2934.

ISSUE 22: What is an acceptable level of infiltration and/or inflow?

Citizens' Position: *In the Recommended Standards for Wastewater Facilities, 200 gallons per inch of pipe diameter per mile per day is the recommended guideline. Without knowing the total sewer line footage of each system, engineers could use the 120 gpd guideline as SSU did. (Biddy)*

The amount of wastewater treated should not include any excessive inflow and infiltration. Engineering Schedules F-2(S) filed by SSU did not show the inflow and infiltration amount. Tr. 2515. The inflow/infiltration information should be presented to show the condition of collection system. Tr. 2515. Many guideline criteria are available and can be used for infiltration allowance on gravity sewers. In the **Recommended Standards for Wastewater Facilities**, 200 gallons per inch of pipe diameter per mile per day is the recommended guideline and that criteria is generally used by

the FDEP staff. Tr. 2515. EPA is more liberal and allows 120 gallons per capita per day. Tr. 2526.

In response to OPC Document Request No. 279, SSU indicated that eight out of forty WWTP's have excess inflow and infiltration (I&I) based upon the 120 gallons per capita per day EPA guidelines. Tr. 2515, 2526 and Exhibit 81. Mr. Biddy excluded the excessive I&I per the EPA standard from his used and useful calculations as presented in Exhibit 170. Tr. 2526.

ISSUE 23: Do any wastewater facilities have excessive infiltration and/or inflow and, if so, what adjustments are necessary?

Citizens' position: *Yes, excessive inflow and infiltration should be removed from wastewater influent prior to determining the used and useful percentages for the following wastewater plants: Amelia Island, Sunshine Parkway, South Forty, Florida Central Commerce Park, Lelani Heights, Beecher's Point and Marco Island. (Biddy)*

As stated above, the Citizen's excessive I&I adjustment is based upon SSU's response to OPC's Document Request No. 279. Under cross-examination by Staff counsel, Mr. Tererro stated that even SSU's 120 gallons per day per capita allowance for I&I presented in Exhibit 81 was based upon the estimate of 2.7 persons per unit or connection. Tr. 515. The Company claimed that the 2.7 persons per unit assumption was not high enough for certain systems and that this understatement of the system's population caused a false indication of excessive I&I. Tr. 516, Exhibit 81. However, Staff counsel's cross-examination of Mr. Tererro revealed that for many

systems the 2.7 persons per connection assumption might be unrealistically high and would tend to conceal excessive I&I. Tr. 521-525.

SSU never responded to requests to document any higher population figures for the systems identified in Exhibit 81. For this reason the Citizens maintain their recommendation to make an adjustment for excessive I&I based upon the information furnished in Exhibit 81, particularly given the likelihood that other systems not identified in Exhibit 81 actually have excessive I&I. This view is strengthened when considering the stringent and successful opposition interposed by SSU to the Commission's Staff's effort to receive a late-filed exhibit designed to help reveal potential additional excessive I&I. Tr. 4960-4965, 4967-4968.

ISSUE 24: Should the hydraulic analyses performed on the Citrus Springs, Marion Oaks, Pine Ridge, and Sunny Hills transmission and distribution lines be the basis for determining used and useful percentages for water transmission and distribution facilities at these four sites?

Citizen' position: *No. Hydraulic analysis modeling should not be used for water transmission and distribution used and useful calculations. Hydraulic analysis modeling unfairly shifts the majority of the cost burden to existing customers. Hydraulic analysis modeling is too complicated, time consuming, and can be manipulated to produce almost any desired result. (Bidby)*

It is not appropriate to use hydraulic analysis modeling to calculate the used and useful percentage for water transmission and distribution system. Tr. 2509. The hydraulic analysis method is

indeed a reliable design tool for designing water transmission and distribution systems. However, it does not follow that hydraulic analysis is also appropriate and applicable for the used and useful analysis in economic regulations. Tr. 2509-2510.

The used and useful analysis for a water transmission and distribution system is not a flow measurement or flow projection technique. Used and useful analysis is about allocating construction costs fairly to both existing and future customers. Tr. 2510. Hydraulic analysis modeling proposed by SSU unfairly shifts the majority of the cost burden to existing customers, especially in new or sparsely developed areas. In fact, SSU's witnesses conceded that the four systems were selected for the hydraulic analysis modeling because of their sparse development and high percentage of non-used and useful distribution and collection lines. Tr. 504, and 877-881.

It is the responsibility of developers and utility owners to prevent scattered development. Utility owners should bear the risk and costs of acquiring systems serving sparse developments. Tr. 2510. The Citizens explored this responsibility in their cross-examination of Mr. Hartman. Tr. 836-841. The responsibility for SSU to bear the carrying costs for utility lines that continue to be non-used and useful since the date they were purchased, was also explored by Mr. Twomey in his cross-examination of Mr. Edmunds. Tr. 1007-1009. However, the Citizens believe that it was Commissioner Garcia's questioning of Mr. Edmunds which best illustrated SSU's responsibility for the largely non-used and

useful utility lines located in these four systems. Tr. 993-996. It was the developer/utility serving its interests, that decided to lay all of the lines to serve massive undeveloped areas. It was the developer's mistake not the customers. Tr. 995. A mistake which was voluntarily inherited by SSU when it bought the developer's position.

The Commission's past pronouncements on this issue were revealed when Staff's counsel questioned Mr. Tererro about Commission Order No. 23307. Tr. 4770-4773 and 4797-4799. This Final Order was issued in 1989 in the docket which considered The Topeka Group's (SSU's sister company) purchase of the Deltona systems. Order No. 22307 stated that "We also find that the cost of all imprudent line extensions shall be borne by the Deltona Corporation." This is not a liability that now should be place in the laps of the current ratepayers.

The hydraulic analysis method unfairly allocates cost sharing between existing and future customers. Tr. 2511. In the filing SSU has requested a 28.09% used and useful on the Sunny Hills Well 5 transmission and distribution system. In that subdivision only four customers are connected to the system with a 491 lot capacity. Tr. 2511. Due to the inclusion of fire flow, those customers who represent less than one percent of the system, are responsible for 28.09% of the water mains cost. An economic regulatory agency like PSC should not accept such a disparity created by hydraulic analysis methods. If the PSC accepts hydraulic analysis for used and useful calculations, future development will be discouraged by

highly inflated rates. Tr. 2511.

Hydraulic analysis modeling is too complicated and time consuming to apply to water transmission and distribution used and useful analysis. Any change in high service pumps, distribution storage, customer demands and water main size will increase or decrease water flows in water pipes. Tr. 2511. For example, by using a larger size high service pump for build out conditions, more water will pass through the same water main. Therefore, a change in the system operating parameters will create a different hydraulic analysis result. The build out flows presented by SSU in the MFR's are not the ultimate capacities of the water mains, and they are subject to change. Tr. 2511-2512. For example, a lot of "dry" water mains in the original "Deltona" systems are not connected to existing distribution systems. Once the "dry" mains are connected, the build out flow of each main will be changed. If PSC accepts the use of hydraulic analysis, there will be numerous sets of used and useful percentages, and it can unduly complicate the used and useful analysis. Tr. 2512.

In addition, to validate the hydraulic analysis computer model for an existing distribution system, detailed calibrations are required, which includes comparing system pressures with computer output and checking the roughness coefficient of water mains. Tr. 2512. A slight change on the roughness coefficient can affect the results significantly. Calibrating a hydraulic model basically is a trail and error process until the model prediction is close to field measurements. Tr. 2512. Staff counsel in his cross-

examination of Mr. Edmonds explored a number of fallacies with the hydraulic model. Tr. 1020-1027. During this questioning it was learned that when the water supply increases the hydraulics change, and that the model's view of the distribution system did not consider increases to the water supply. Tr. 1020-1027. Staff counsel's cross-examination of Mr. Bliss revealed a number of other problems with the hydraulic model. There were no elevations input, so pressures which could be expected in the field were not output. Tr. 1175. The model assumes that calibration would have minimal impact. Tr. 1176. For the build-out runs the model maintains a demand per customer of .9 gpm, even though reality would dictate that those demands would go down as more customers came on line. Tr. 1176. An additional storage tank was not modeled in the case of Citrus Springs where it was known that a tank and high service pumping station was coming on line. Tr. 1176. Mr. Bliss admitted that if the storage tank and high service pumping station were added to the analysis the outputs would be affected. Tr. 1177.

Trying to adopt hydraulic modeling for used and useful analysis is not appropriate because of the complexity and time required to accomplish and critique the analysis. It is economically unfeasible for most utilities to perform hydraulic modeling for rate increase filings. Tr. 2512. It is also difficult if not impossible for customer groups to understand and critique these computer models. Due to numerous variables, the ability to manipulate the results, and the enormous staff time required to verify hydraulic analysis modeling, it represents an

unnecessary burden for the Commission and its Staff. For all of the reasons stated above the Commission should reject SSU's proposal to utilize a hydraulic analysis model to determine the used and useful percentages for the transmission and distribution lines for Citrus Springs, Marion Oaks, Pine Ridge and Sunny Hills.

ISSUE 25: Should adjustments be made to SSU's filing for its deep injection well on Marco Island?

Citizens' position: *Yes. The deep injection well on Marco Island is 37.24% used and useful and an adjustment of \$2,132,776 should be made, accordingly. (Bidly, Dismukes)*

According to the Late Filed Deposition Exhibits No. 4, 5, and 6 of Mr. Tererro and Response to OPC Document Request No. 289, the deep injection well on Marco Island is 37.42% used and useful. Tr. 2517. See TLB-4 in Exhibit 170 for the revised used and useful percentages, and TLB-4.1 in Exhibit 170 for the effluent disposal calculation summary. Tr. 2517.

ISSUE 26: Should an adjustment be made to the Burnt Store water plant capacity?

Citizens' position: *Yes. The capacity of the Burnt Store reverse osmosis water plant should be 380 gallons per minute (gpm) instead of 333 gpm. (Bidly)*

Mr. Bidly believes the capacity of the Burnt Store reverse osmosis water plant should be 380 gallons per minute (gpm) instead of 333 gpm. Tr. 2517. The SSU response to Staff Interrogatory No. 91 indicated that there are two membrane skids in service. Each

skid is rated for 167 gpm. Tr. 2517. However, this pure product water (167 gpm) is blended with ten percent (10%) of the 223 gpm feed water. Tr. 2517. Therefore, the whole plant output capacity should be as follows:

$$\text{Total Capacity} = 2 \times [167 \text{ gpm} + (10\% \times 223 \text{ gpm})] = 378.6 \text{ gpm}$$

However, at his deposition SSU witness Mr. Tererro confirmed that he considered each skid to have a capacity of 190 gpm, resulting in a total capacity of 380 gpm. Tr. 2517. Additionally, under cross-examination Mr. Tererro conceded that SSU reduced the total capacity of the Burnt Store water treatment plant for "maintenance procedures." Tr. 4730. When he was asked if the 10% reduction was based upon any supporting documents or manuals he indicated that it was not based upon any published authority, but on his personal experience with this type of plant. Tr. 4730-4731.

ISSUE 27: What is the correct wastewater treatment plant capacity to use for calculation of SSU's used and useful percentage at Sugarmill Woods?

Citizens' position: *Construction permit capacity should be used. (Biddy)*

When SSU originally filed its MFR's it claimed that Sugarmill Woods WWTP's capacity was 400,000 gpd, based upon a letter from an engineer. Marco Island Civic Association, et. al., disputed the figure. In the Prehearing Order SSU changed its position to 500,000 gpd, based upon the current operation permit D009-218511 on

page 661 of Volume XI, Book 15 of 17 of the MFRs. Marco Island Civic Association, et. al., who raised this issue, accepted SSU's modified position. While the Commission could impute the construction permit capacity of 700,000 gpd and impute the cost to raise the operating capacity to that level and then calculate the used and useful percentage, the Citizens did not advocate this position.

ISSUE 28: Should rate base include water mains laid in the ground but not connected to the existing distribution system?

Citizens' position: *No, any water mains constructed in place but which do not connect to the existing system should be considered non-used and useful and excluded from rate base. (Biddy)*

Any water mains constructed in place but which do not connect to the existing system should be considered non-used and useful. Tr. 2514. The "dry" mains are reserved for future customers. Any investment in these "dry" water mains should be removed from rate base. Tr. 2514. According to the Late-Filed Deposition Exhibit No. 8 of Mr. Bliss, the following dollar amounts should be removed from the rate base of each system: \$913,386.25 from Citrus Spring; \$204,309.60 from Marion Oaks; \$45,144.00 from Pine Ridge; and \$686,711.20 from Sunny Hills. Tr. 2514. Under cross-examination Mr. Bliss agreed that the dry mains should be considered non-used and useful plant-in-service. Tr. 1136-1137. Under cross-examination he also reconfirmed the validity of the dollar amounts invested in the non-used and useful dry mains as outlined in his

ISSUE 29: Should an adjustment be made to Buenaventura Lakes rate base to remove non-used and useful wetlands?

Citizens' position: *Yes. Rate base should be reduced by \$1,019,119. Depreciation expense should be reduced by \$15,707, in accordance with adjustments reflected on exhibit 175, schedule 40.*

The majority of the wetlands purchased as part of Buenaventura Lakes acquisition should be considered non-used and useful and removed from rate base. SSU knew of the non-used and useful nature of this property when it purchased Buenaventura Lakes and could have negotiated a lower price for the system. Ratepayers should not be required to provide a return on land which is not used and useful.

According to a due diligence study conducted by SSU,

On December 31, 1983, 207.72 acres of wetland[s] was transferred to OOU by Real Estate Corporation at a figure of \$9,230/acre. The sites were to be used as a segment of OOU's effluent disposal system. In OOU's 1985 rate case, the cost of the land was reduced to \$4,547 per acre [due] to the nature of the related property transaction. OOU later wrote the land cost down (in accordance with FPSC order) to \$717,854. Added to the land cost was \$816,614 of construction costs related to berms and piping, bringing the total wetlands cost on OOU's books to \$1,585,257. Only 39 acres of the wetland[s] have functioned effectively as a disposal system. The FPSC, in OOU's 1988 rate case No. 871134-WS indicated that of the wetlands only 15.2% [were] used and useful, allowing \$240,959 in rate base. Due diligence disclosed the upper wetlands have not been used since January 1989. It is recommended that the offering price for OOU be reduced by \$1,066,933 the net book value of the upper wetlands, and that REC should take

title to the 131 +/- wetland[s]. [Response to Citizens Document Request 168.] [Tr. 2786-2787, emphasis added.]

SSU's own documents show that the wetlands are non-used and useful. In addition, as Ms. Dismukes testified, notes from SSU's acquisition files also revealed the non-used and useful nature of most of these wetlands:

Reports indicate that the upper wetlands (130 acres) have not been used since 1989. This is bound to be an issue in the next rate case. (How long can you argue that they are drying out?) Tr. 2787-2788.

The Commission should remove this investment from SSU's rate base. Plant in service should be reduced by \$1,219,380, accumulated depreciation should be reduced by \$200,261, and depreciation expense should be reduced by \$15,707. Tr. 2788-2789; exhibit 175, schedule 40.]

ISSUE 30: Should the fire flow requirement be included in used and useful calculations?

Citizens' position: *Fire flow should be included in the used and useful calculation only if fire flow provision is proven by sufficient fire flow test records. (Biddy)*

Fire flow capacity should be included in the used and useful calculation only if fire flow provision is proven by sufficient fire flow test records. Tr. 2499. Mr. Hartman agreed that in order for a utility to be allowed a fire flow provision in the used and useful calculation there should be some means of actually

providing the fire flow. Tr. 913. In its filing SSU did not provide fire flow test results verifying the existence of the fire flow capacity for those systems it was requesting a fire flow provision. Tr. 2499. However, in the response to OPC Document Request No. 298, SSU provided fire flow test records for seven water systems. For this reason, appropriate fire flow allowance for these systems were included in Mr. Biddy's used and useful calculations in TLB-3, located in Exhibit 170. Tr. 2499. In TLB-3.1, also found in Exhibit 170, Mr. Biddy summarizes fire flow records and adjustments of the fire flow allowance. Tr. 2499.

Many components of a water distribution system dictate the delivery of fire flow. They include high service pumps, distribution storage tanks (elevated or ground) and water mains. Tr. 2499-2500. Because of economic concerns, many systems fire flows are provided partially by high service pumps and partially by storage. See TLB-1, found in Exhibit 170, for excerpts from AWWA M31 Manual for examples. Tr. 2500.

No fire flow should be applied to high service pumps, finished water storage or water supply wells without confirming the fire fighting capability of each system. Installing a fire hydrant in the distribution system does not guarantee the required fire flow. Tr. 2500. Under cross-examination Mr. Hartman conceded that engineering design criteria require treatment and supply sources to meet maximum day demands without any fire flow provision, when adequate storage exists. Tr. 794-795.

If a system is not designed or proved to provide required fire

flow, it is dangerous and unfair to assume the fire flow requirement in the used and useful analysis. Tr. 2500. Residents and business owners pay higher property insurance premiums if there is an inadequate fire fighting provision. It is not cost effective to use source of supply to meet instantaneous demands, such as peak hourly flows and fire flows. Tr. 2500. Normally a small water system without storage tanks does not have the capability for fire fighting. Tr. 2501. Under cross-examination by Staff counsel Mr. Bliss conceded that the three wells in Pine Ridge collectively have a capacity of 1150 gpm while the County's fire flow requirement is 1500 gpm. Tr. 1186.

In addition, AWWA Manual M31 Page 33 states "Generally, water system components are out of service for short periods of time, so the probability of a component being out of service when a fire occurs is low.Fortunately, fires that severely stress a distribution system occur only a few times a year in large systems and only once every few years in small systems. Therefore, the probability of a major fire occurring while more than one water system component is out of service is so low that the utility should not be expected to meet required fire flow at such times." Tr. 2500-2501.

ISSUE 31: Should a single maximum day flow be used in calculating the used and useful percentages for water facilities instead of the average of 5 maximum day flows?

Citizens' position: *No, the single maximum day flow should not be used in the used and useful calculations in this filing.

(Biddy)*

The single maximum day flow should not be used in used and useful calculations in this filing. The single maximum day flow may include undetected or unrecorded leaks, flushing and unusual usage, in addition to the PSC allowed unaccounted-for-water. Tr. 2501-2502. Normally, a water main leaks for days before detection and that amount of water loss is hard to keep track of. Main breaks and line flushing create similar situations because good records are hard to keep. Tr. 2502. In response to Citizens' questions, Mr. Hartman conceded that utilizing the average of the highest 5 days of the maximum month can hypothetically level out the effect for known or unknown water loss or breaks during the maximum day demands. Tr. 799-800.

When engineers review historic flow data and evaluate for maximum daily demands, any unusual and excessive uses of water should be excluded as provided by AWWA M31, **Distribution System Requirement for Fire Protection**, on Page 16. Tr. 2502. In this filing, SSU did not exclude any unusual and excessive water use for the single maximum day flow. Tr. 2502. In response to a question posed by the Citizens, Mr. Hartman conceded that when utilizing the single maximum day the Commission can't know that there are no unknown leaks included in the flow data. Tr. 855. Mr. Hartman also conceded that his statistical analysis of the Tampa Bay area revealed that utilization of an average of the highest 7 days produced a flow 82% of the single maximum day and that he could expect that percentage to be higher if an average of the highest 5

days were utilized. Tr. 801-802.

Therefore, an average of the five highest maximum daily flows in the maximum month is justified and should be used for all applicable used and useful engineering issues. Tr. 2502 and 2522. This has been the policy historically used by the Commission. Tr. 2502 and 2522. In response to a question posed by Mr. Twomey, Mr. Hartman conceded that the Commission has historically utilized the average of the highest 5 days of the maximum month rather than the single maximum day. Tr. 873.

ISSUE 32: Should the Commission use operating permit capacities instead of construction permit capacities for used and useful calculations?

Citizens' position: *No, the construction permit capacities should be used because they represent the actual capacities constructed. (Biddy)*

Normally the operation permit has the same capacity as the construction permit for each treatment facility. However, sometimes the same treatment facility has less permit capacity in its operation permit than its construction permit. Tr. 2502. For example, a one MGD contact stabilization type sewage treatment plant could be rated at 0.5 MGD for operating in extended aeration treatment. The Beacon Hills WWTP provides an actual example. According to FDEP permit number DO16-213087, that facility is permitted as a 0.835 MGD extended aeration WWTP, which can also be operated as a 1.78 MGD contact stabilization WWTP. Mr. Biddy has adjusted the used and useful calculation for the Beacon Hill

wastewater treatment plant to reflect its 1.78 MGD capacity in TLB-4, which is located in Exhibit 170. Adjustments would be appropriate for the other systems if their plant capacities are similarly understated. Tr. 2503. In response to a question posed by the Citizens, Mr. Bliss conceded that a change in the operating mode of a wastewater treatment plant can allow the same plant to operate at a higher capacity. Tr. 1129.

Therefore, construction permit capacities should be used unless the operation permit has permanently changed the original permit capacities. Tr. 2503. This question will not be an issue when SSU applies for permit renewals in the future. According to the NPDES permit delegation from the EPA, FDEP will combine the construction and operation permits into one permit application. Tr. 2503.

ISSUE 33: Should the "firm reliable capacities" be used in used and useful calculations for supply wells, high service pumps and water treatment facilities?

Citizens' position: *No, it is not justified to use firm reliable capacity on more than one component. (Biddy)*

It is not justified to use firm reliable capacity on more than one component. The firm reliable capacity is the total capacity of supply wells, high service pumps, filters, or other treatment plant facilities without the largest unit in operation. Tr. 2503. That largest unit is assumed to be out of service for routine maintenance or emergency repair. Tr. 2503.

Most of the time, facilities are scheduled in advance to be

out of service for maintenance or repair. It is very unlikely that two facility components will be scheduled for service at the same time. Tr. 2503. The chance of having two facility breakdowns, simultaneously, is slim. In response to a question posed by the Citizens, Mr. Hartman conceded that statistically there was only a remote possibility of having two components out of service at the same time a fire occurs. Tr. 857-858. Therefore, it is not economically justified to calculate used and useful percentages for supply wells, water treatment facilities and high service pumps all with "firm reliable capacity." Tr. 2504 Adjustments have been made in Mr. Biddy's used and useful calculations in TLB-3, found in Exhibit 170, based on the above discussion.

SSU used the so called "firm reliable capacity" in calculating the used and useful percentage for water supply wells. The firm reliable capacity excludes the largest well capacity by assuming it to be out of service. Tr. 2504. When there are more than ten wells, the largest two wells are assumed to be out of service. The combined capacity of the remaining supply wells is the "firm reliable capacity." If a system has only supply wells and no storage facilities or high service pumps, then the well pumps also serve as high service pumping facilities. For this type water system, the "firm reliable capacity" proposed by SSU is acceptable. Tr. 2504. However, when storage or high service pumping facilities are available, the "firm reliable capacity" method is not applicable. Tr. 2504. According to Section 3.2.1.1 **Source capacity of Recommended Standards for Water Works:**

"The total developed groundwater source capacity shall equal or exceed the design maximum day demand and equal or exceed the design average day demand with the largest producing well out of service." Tr. 2504.

This design criteria should be used to calculate the used and useful percentage for supply wells. For the above reasons, the "firm reliable capacity" method should not be applied to supply wells where the water system is also equipped with storage and high service pumping facilities. Tr. 2505. Adjustments have been made according to the above principles in TLB-3, located in Exhibit 170.

ISSUE 34: Should an emergency storage of 8 hours of average daily flow be allowed in used and useful calculations?

Citizens' position: *No emergency storage requested by SSU should be allowed because the utility was unable to confirm the emergency storage in the original plant designs. (Biddy)*

SSU requested an 8-hour emergency storage for large water systems, including, Amelia Island, Burnt Store, Citrus Springs, Deltona Lakes, Lehigh, Marco Shores, Marco Island, and Sugar Mill Country Club. Emergency storage is not a design criteria in the **Recommended Standards for Water Works**. Tr. 2506. Just as AWWA M32 stated, the amount of emergency storage is an owner option to be included within a particular water system. It depends on an assessment of risk and the desired degree of system dependability. Tr. 2506, 2523-2524. Emergency storage is seldom included in designs because of cost. Tr. 2506. SSU was unable to confirm the emergency storage in the original plant designs. Tr. 2506, 2524.

Therefore, no emergency storage was applied in Mr. Biddy's used and useful calculations. Tr. 2506.

ISSUE 35: What peaking factor should be allowed for peak domestic hour demands in finished water storage used and useful calculations?

Citizens' position: *AWWA M32, Distribution Network Analysis for Water Utilities, suggests a peak factor range of 1.3 to 2.0 for peak-hour demand to maximum-day demand. The minimum requirement 1.3 should be used. (Biddy)*

The peak hour domestic demands calculations proposed by SSU is unjustified without document support and clear explanation. Tr. 2505. SSU assumed the peak hour demand is two times of the maximum day demand and the peak hour demand is four hours long. AWWA M32, **Distribution Network Analysis for Water Utilities**, suggests a peak factor range of 1.3 to 2.0 for peak-hour demand to maximum-day demand. The Citizens believe 1.3 should be used because it is the minimum requirement. Tr. 2505, 2523.

ISSUE 36: Should 10% of the finished water storage be treated as dead storage?

Citizens' position: *No, it is not justified to assume 10% of the storage capacity is dead storage for every single storage tank. Dead storage should be allowed only if it is confirmed in as-built drawings. (Biddy)*

SSU requested ten percent of the total finished water storage to be "dead storage" because of floor suction and vortex effect. These concerns are not true for all storage facilities, especially

for elevated tanks. Tr. 2506, 2524. For ground storage facilities, as-built drawings should be able to reveal the minimum operating level. It is not justified to assume 10% of the storage capacity is dead storage for every single storage tank. Tr. 2506. Mr. Hartman conceded that ground storage does not always have 10% dead storage, but that he felt it was a good average figure. Tr. 868. In his prefiled rebuttal testimony, Mr. Hartman expressly admits that elevated storage has no dead storage at all. Tr. 734. In addition, SSU has used more than 10% dead storage in the used and useful calculations for most of the systems. Tr. 2506. Further, SSU provides no supporting explanation to justify dead storage allowance for each storage tank. Tr. 2506, 2524.

When designing storage tanks and high service pumps, engineers have to check the available net positive suction head (NPSH) and ensure that it is greater than the net required positive suction head to avoid cavitation problems. Tr. 2506. Therefore, the vortex situation is rare because high service pumps are always placed at a low grade to obtain the maximum NPSH. Full storage tank capacity was applied in Mr. Bidy's used and useful calculations, per TLB-2 and TLB-3 found in Exhibit 170.

ISSUE 37: For high service pumps used and useful calculations, should the maximum daily flows or peak hourly flows be used for peak demands?

Citizens' position: *When fire flow requirement is provided by high service pumps, only maximum daily flows should be added to the capacity requirement. If the system is not designed to provide

fire flow, then the high service pumps should be designed to meet peak hourly flows. (Biddy)*

High service pumps are normally designed to handle maximum daily flows. Any demands beyond maximum daily flows should be met by distribution storage tanks (AWWA M32 P.41). Tr. 2507. Distribution storage means elevated storage tanks or ground storage tanks with booster pumps in the distribution system. Distribution storage is a part of the finished water storage. Finished water storage usually means ground storage tanks that store finished water to be supplied to high service pumps which push the finished water to the distribution system. Tr. 2507. However, many water systems have elevated storage tanks in addition to the ground storage tanks to meet the system demands. According to SSU witness Mr. Bliss, Keystone Heights and Lehigh are the only two water systems in this rate filing that have elevated storage tanks. It is not cost effective to use high service pumps to handle peak hourly flows and fire flows. Tr. 2507. If the fire flows are provided by distribution storage, no fire flow should be included in high service pump used and useful calculations. However, SSU was unable to confirm whether fire flow is provided by elevated storage tanks in Keystone Heights and Lehigh. For that reason fire flow demands were applied to high service pumps only when fire flow provision is properly proven. Tr. 2507. A water system with no elevated distribution storage facilities is less cost effective because both high service pumps and on site finished water storage need to meet extra peak hourly demands above maximum daily flows or

fire flows. Tr. 2507. Without the capability of replenishing elevated storage, high service pumps need to operate in a higher and wider range of pumping head. Therefore, the capital costs are higher and less cost effective to operate, compared to water systems with elevated storage tanks. Tr. 2507-2508. During the peak demands, the elevated tank will first provide water to the system and high service pumps will provide the remaining excess water demands. For that reason a smaller high service pump can be used. Examples in TLB-1, located in Exhibit 170, clearly address these situations.

When distribution storage is not available, but the system is designed to provide fire flows, engineers will size up high service pumps for fire flow provision. However, the design flows used should be maximum day demands (average of 5 maximum days of maximum month) plus fire flows or peak hourly demands, whichever is greater. Tr. 2508. This design criteria is used in AWWA M31 because the chance of having a fire outbreak during peak hourly demands is very slim. Therefore, designing high service pumps to meet fire flows, plus peak hourly flows, is not economically justified. Tr. 2508. Adjustments have been made in Mr. Bidy's used and useful calculations in TLB-3, located in Exhibit 170. See Exhibit TLB-2, also located in Exhibit 170, for a calculation key summary.

ISSUE 38: Should facility lands, hydro tanks, and auxiliary power be considered 100% used and useful without analysis?

Citizens' position: *No. Calculations should be performed to

justify the 100% used and useful allocation for facility lands, hydro tanks, and auxiliary power. Without the information necessary to make those calculations, the Commission should assign to these three components the same percentages of used and useful given to related utility facilities. (Biddy)*

PSC should not grant 100% used and useful on facility lands, auxiliary power and hydro tanks without individual analysis. Every system has different sizes of facility lands, auxiliary power, and hydro tanks. The current demands and available capacities are also unique between systems. These factors all dictate the facility usage. Tr. 2508-2509. Therefore, a used and useful calculation is required for every facility land, auxiliary power, and hydro tank. Tr. 2509. Adjustments should be made to the used and useful percentages because all facility land, auxiliary power, and hydro tanks are part of the system, and they are designed to serve the whole system. The higher the existing demand, the higher the used and useful percentage. Tr. 2509.

From the response to OPC Interrogatory No. 341, SSU stated that 50 water and 11 wastewater systems have auxiliary power equipment. Tr. 2509. Unfortunately SSU cannot specify what facilities are supported by each auxiliary power equipment. Therefore, OPC has to assume that auxiliary power has the same used and useful percentage as supply wells or wastewater treatment plants. Tr. 2509. Adjustments to auxiliary power have been made in Exhibit TLB-3 and TLB-4, both located in Exhibit 170. See TLB-2, also located in Exhibit 170, for calculation key and rationale

summary. Marco Shores water system has no supply wells, and the used and useful percentage of high service pumps was used for auxiliary power equipment. Tr. 2509.

ISSUE 39: What is the appropriate flow data to use for calculating used and useful for wastewater treatment plant and effluent disposal?

Citizens' position: *Flow data in the used and useful calculation should be consistent with FDEP permits. Usually the permit flow requirement is in terms of annual daily flow or could be three month average daily flow. (Biddy)*

A plant's permit specifies the flow conditions the utility has to comply with. Flow data used in any used and useful calculation should be consistent with the flow conditions specified in the plant's operation or construction permit.

ISSUE 40: Should iron infiltration equipment be considered water treatment plant, and if so, what is the appropriate used and useful percentage?

Citizens' position: *Yes. See TLB-3, located in Exhibit 170, for used and useful percentages. (Biddy)*

Iron removal filters are considered a water treatment component. Tr. 2533. During cross-examination by Staff counsel, SSU witness Mr. Edmonds acknowledged that iron filtration was one of the classifications of water treatment. Tr. 1071-1072. See Mr. Biddy's TLB-3, located in Exhibit 170, for the used and useful percentages for these components of water treatment.

ISSUE 41: What is the appropriate method for determining used and useful percentage for water transmission and distribution mains and wastewater collection lines?

Citizens' position: *Existing lots connected compared to total lots available for water and wastewater services. (Biddy)*

The "lot count" method allocates the water main cost evenly to all customers, after engineers have properly designed the whole system. SSU witness Mr. Tererro acknowledged that engineers design utility systems without regard to the lot count methodology. Tr. 459. The lot count method assigns a fair share of the total construction cost to every customer. Tr. 2512-2513. The lot count method does not fail to recognize water main cost to accommodate fire flow and looped lines, because it allocates the total cost through used and useful percentages. SSU's witness Edmonds acknowledged that the lot count method applies to the total cost of all utility plant-in-service including main cost to accommodate fire flow and the cost of looped lines. Tr. 979. Existing customers do not get a free ride because the construction costs of fire flow accommodation and looped lines are included in the total cost. Tr. 2513.

Water transmission and distribution systems are designed for all existing and future customers. The hydraulic analysis method clearly tilts the burden to existing customers. Tr. 2513. The lot count method tends to give an equal cost share to all customers. Therefore, the lot count method will not discourage future development as opposed to the way hydraulic modeling will probably discourage future development. Tr. 2513. In some instances,

however, the lot count method still favors future customers. For example, without future development, engineers would design a smaller size system for existing customers. Also, increasing pumping capacity can increase a pipe's capacity beyond even build out conditions. Mr. Bliss conceded that build out flow is not necessarily the ultimate capacity of a pipe. Tr. 1130-1131. However, most of the time water transmission and distribution mains are oversized for existing customers to accommodate future phases of development. Tr. 2513. The lot count method does not reduce the used and useful percentage for existing customers for the oversized mains. Therefore, existing customers are carrying extra costs for laying larger sizes of water mains that will be connected for future development. The burden on future customers is therefore less than existing customers. Tr. 2513.

"Fill-in-lots" should not be a problem in the lot count method. When a system is reaching build out, fill-in lots probably will be sold at appreciated values and increase the used and useful percentages. Tr. 2513. Mr. Hartman conceded that fill-in lots that cannot be built on or for whatever reason won't ever be built on typically represents a small percentage of the total lots of a development. Tr. 824. Mr. Hartman also agreed that normally lots in a subdivision are developable and don't have zoning problems or else they wouldn't be platted lots. Tr. 823.

A mass development without proper phasing creates sparse development and scattered customers. Low used and useful percentages of the water transmission and distribution are apparent

and unavoidable. Developers and utility owners should bear the risk for not preventing sparse development from happening. See Commissioner Garcia's line of questioning on this issue. Tr. 993-996. Existing customers should not pay for the consequences of underutilized water distribution systems. SSU should recover the cost of unused water mains by collecting contributions from new customers. Adjustments have been made to appropriate systems in Mr. Biddy's TLB-3, located in Exhibit 170.

ISSUE 42: What wastewater plant components should be considered as reuse components? And if not 100 percent used and useful pursuant to Sections 367.0817 and 403.064, what are the appropriate used and useful percentages for such components?

Citizens' position: *Any additional facilities required to achieve public access reuse standards should be considered as reuse facilities. The appropriate used and useful percentages are dependent upon actual reuse demands and available reuse capacities.*

Though effluent reuse is encouraged by environmental regulatory agencies, and utilities are allowed to recover the cost of reuse facilities through rate structures, it does not automatically mean all effluent reuse facilities are 100% used and useful. Tr. 2516. Existing customers should not pay for extra reuse capacity, just as existing customers should not pay for excess capacities of wastewater treatment plants and percolation ponds. In addition, the effluent reuse customers also are paying costs for using the treated effluent. SSU should perform used and useful calculations on all systems that have reuse facilities:

Amelia Island, Deltona Lakes, Florida Central Commerce Park, Lehigh, Marco Island, Point O'Woods, and University Shores. Tr. 2516. It is unjustified to ask existing customers to pay for future customers. Currently no specific used and useful calculations have been made due to lack of effluent reuse flow data. Under this circumstance, the used and useful percentage of reuse facilities was assumed to be the same percentage as used for percolation ponds. Tr. 2516.

Some systems have two or more effluent disposal measures other than reuse. Tr. 2516. For example, the Marco Island wastewater system has golf course irrigation, percolation ponds, and deep injection well for its effluent disposal. Responding to questions posed by Commissioner Clark, Mr. Hartman outlined his opinion concerning the different categories of reuse. Tr. 811-816. Essentially the categories include: unlimited public access (includes golf course irrigation), limited public access (includes sod farms and spray fields), demand substitution (includes industrial cooling) and aquifer recharge (includes dual perc ponds at rapid infiltration basins. Tr. 811-816. The Citizens believe that the Legislature contemplated public access reuse standards when it enacted Chapters 367.0817, F.S., and 403.064, F.S. It is interesting to note that SSU is seeking 100% used and useful treatment only for those reuse assets that meet public access standards. Tr. 905.

Staff counsel engaged in a series of questions with Mr. Hartman where he explored Mr. Hartman's understanding of the term

"prudent" in the context of Chapters 367.0817, F.S., and 403.064, F.S., and their allowance for the full recovery of the "prudently incurred" costs of constructing reuse facilities. Tr. 923-925. At the conclusion of this questioning Mr. Hartman agreed that in enacting Chapter 367.0817, F.S., the Legislature has charged this Commission and its Staff with the responsibility to review the "prudence" of costs of reuse projects, prior to awarding recovery of those costs.

ISSUE 43: Should an adjustment be made to reflect non-used and useful lines constructed by Lehigh Acquisition Corporation?

Citizens' Position: *Yes. Rate base should be reduced by \$1,297,253. Depreciation expense should be reduced by \$40,706, in accordance with adjustments reflected on exhibit 175, schedule 38.*

In August 1994, SSU and Lehigh Corporation entered into a modified developers agreement. The terms of that agreement indicate that pursuant to modified escrow agreements with the states of Michigan and New York, Lehigh Corporation can withdraw funds from the escrow account to construct utility assets at Lehigh.

According to the Company's response to Citizens's interrogatory 241, as assets are constructed by Lehigh Corporation, they will be subject to the Modified Developers Agreement which requires SSU to record the assets with an offsetting refundable advance to Lehigh Corporation. As future customers connect, SSU will repay Lehigh Corporation for the cash received in the form of connection charges.

As Ms. Dismukes testified, a review of the Company's responses

to Citizens's interrogatories and the depositions of SSU's witnesses indicates that the arrangement should work such that any non-used and useful assets that are constructed by Lehigh Corporation would be offset by refundable advances until such time as customers actually connect. While in theory the agreement sounds reasonable, SSU's application of it in the instant case is not. The Company has included substantial amounts of non-used and useful assets constructed by Lehigh Corporation in rate base without the offsetting refundable advances.

The Company's 1995 and 1996 rate base includes \$1,602,000 and \$220,000 of water transmission and distribution mains associated with Lehigh Corporation and the Escrow Agreement. Likewise, its wastewater rate base includes \$905,000 and \$451,000 assets constructed by Lehigh Corporation in 1995 and 1996, respectively. According to the Company's response to Citizens's document request 196, of these amounts only a small portion of these assets are related to customers that have connected to the system. These amounts are represented on exhibit 175, schedule 38, as contractor payments. In 1995 the non-used and useful amount of these water assets was \$1,476,540 and in 1996 it was \$42,000, for a total of \$1,518,540. Similarly, for wastewater, the amount of non-used and useful assets was \$661,460 in 1995 and \$93,750 in 1996, for a total of \$755,210.

A review of the company's F schedules show that from 1994 to 1996, the non-used and useful percentage of transmission, distribution, and collection lines decreased, they did not

increase. While this might be expected, since the Company projects customer growth between 1994 and 1996, the Company failed to add to the denominator of the used and useful calculation the additional lots represented by the addition of these transmission, distribution, and collection lines. From 1994 to 1996, the number of available lots remained unchanged for Lehigh's water system at 7,789. Similarly, from 1994 to 1996 the number of wastewater lots remained unchanged at 5,270. Clearly, since the Company added substantial amounts of transmission, distribution, and collection plant to plant in service, the number of available lots should have increased from 1994 to 1996. If the Company had correctly increased the number of lots, then it is possible that the application of the non-used and useful percentages would have correctly removed these plant additions. This, however, was not done. Tr. 2781-2784. This fact was conceded by Ms. Kimball in her rebuttal testimony. But, Ms. Kimball suggested that the used and useful percentage of the transmission, distribution, and collection system is a fall-out number to ultimately be determined by the Commission. The Company provided no evidence concerning how many additional lots would be added as a result of the transmission, distribution, and collection mains being constructed by Lehigh Corporation. Tr. 5052-5053. The Commission can not adjust the used and useful calculations in the manner suggested by Ms. Kimball because transmission, distribution and collection lines because the correct used and useful percentages are not in evidence. The used and useful percentage in evidence do not include the additional

lines constructed by Lehigh Corporation. The Commission should adopt the methodology recommended by Ms. Dismukes. This is the only method that will ensure that non-used and useful assets included in SSU's rate base are not funded by current ratepayers.

The Commission should adopt the methodology set forth in the testimony of Ms. Dismukes and reduce the Company's water plant in service by \$1,172,095 for non-used and useful plant constructed by Lehigh Corporation and not properly reflected in the Company's treatment of these assets. Likewise, wastewater plant should be reduced by \$667,015. Accumulated depreciation should be reduced by \$279,673 for water and \$196,177 for wastewater. CIAC should be reduced by \$36,757 for water and \$34,021 for wastewater. Accumulated amortization of CIAC should be reduced by \$2,268 for water and \$2,503 for wastewater. Likewise, depreciation expense should be reduced by \$26,454 for water and \$14,252 for wastewater. Tr. 2784-2786.

ISSUE 44: If the used and useful calculations in this rate proceeding result in used and useful percentages lower than those allowed in previous rate cases, which percentages should be used?

Citizens' position: *The Commission should not automatically assume that because it approved a used and useful percentage in a prior rate case that anything less than that previously approved should not be adopted in the instant rate case.*

A variety of factors could have contributed to the decline in used and useful percentages--including plant expansions. Furthermore, to the extent that the decline was caused by

conservation, this frees up capacity for future additions and customers. To ignore this fact is to suggest that current customers who have conserved -- if that is the cause -- should pay for plant capacity that is available for future customers. The company can still collect the carrying costs of this additional plant through the application of AFPI. Customers have no means of being compensated for conservation if the used and useful calculations do not reflect this conservation. The only instance where it might be appropriate to use a higher used and useful percentage than the one resulting from the application of the Commission's standards in the instant case would be for a system that is built out. However, for all other systems, the Commission should adopt the used and useful percentages determined in this rate proceeding based upon the evidence presented. It should not adhere to the used and useful percentage resulting from a prior case if it happens to be higher. The Company failed to demonstrate on a system by system basis the cause of any reduction to the used and useful percentage from the last rate case.

ISSUE 45: What are the appropriate used and useful percentages for each facility?

Citizens' position: *The appropriate used and useful percentages for the water and wastewater facilities are presented in Exhibit TLB-3 and Exhibit TLB-4, respectively. (Bidby)*

ISSUE 46: Should the utility's proposed adjustment to reverse depreciation taken on non-used and useful facilities be approved?

Citizens' position: *No. Southern States' proposal to adjust accumulated depreciation for non-used and useful mains is retroactive, going back to pre-1991 in some cases. It is inappropriate for determining going-forward rate base.*

Southern States' proposal should be disallowed by reducing rate base by \$592,634. This adjustment shows that SSU has gone back and reevaluated its position taken in past cases. In instances where SSU feels that it should have taken a different position in previous cases, it now seeks to retroactively reflect the impact those positions. In this instance it requests retroactive treatment for facts it overlooked in the past, in some cases going as far back as pre 1991. The adjustment should not be allowed. Larkin/DeRonne, Tr. 2640-2643.

ISSUE 47: Are any adjustments necessary to correct accumulated depreciation and amortization of CIAC related to guideline depreciation and amortization rates being booked prior to implementation of service rates (Response to FPSC Interrogatory 33)?

Citizens' position: *SSU should not be permitted to retroactively adjust its books for items it feels it has not fully recovered in rates in the past. Rate base should be reduced by \$527,690. (Larkin/DeRonne)*

In a prior rate case utilizing a 1991 test year, the Company's proposed depreciation expense was based on the average life rates then in effect. The new utility rates resulting from the next rate case did not go into effect until September, 1993. SSU takes the position that it was not proper to reflect the new depreciation

rates on its books until its new utility rates went into effect in September, 1993. Thus, SSU here proposes to restate accumulated depreciation for the period 1991 through August, 1993 to reflect the prior depreciation rates utilized by SSU. SSU should not be permitted to retroactively adjust its books for items that it feels it has not fully recovered in rates in the past. This amounts to retroactive ratemaking. The adjustment should be disallowed, and rate base decreased by \$527,690 as reflected in schedule 15 of exhibit 174. Larkin/DeRonne, Tr. 2643-2644.

ISSUE 48: If a margin reserve is approved, should CIAC be imputed on the ERCs included in the margin reserve?

Citizens' position: *Yes. (Larkin/DeRonne)*

If a margin of reserve is included in the used and useful calculations, then at the very least, to achieve proper matching, an amount of CIAC equivalent to the number of equivalent residential connections represented by the margin reserve should be reflected as a rate base offset. This would serve as a partial offset or mitigation of the impact on existing customers resulting from their inappropriately allocated responsibility to pay for plant that will be utilized to serve future customers. Larkin/DeRonne, Tr. 2619.

SSU believes that by imputing CIAC against the margin reserve, the Commission places the risk that connections will not occur on Southern States and its shareholders. Apparently, SSU would like to receive a full benefit, without risk, by including a margin reserve in its used and useful calculations representing the

estimated number of new ERCs it believes it will connect to its system in the future. However, SSU refuses to accept the risk that its estimated future ERCs are overestimated. SSU argument is inequitable to ratepayers and should be rejected. Larkin/DeRonne, Tr. 2620.

ISSUE 49: Should the Commission impute CIAC associated with assets constructed by Lehigh Corporation?

Citizens' position: *Yes. The Commission should impute CIAC in the amount of \$769,000.*

In 1994 Lehigh Corporation renegotiated some escrow agreements with the states of New York and Michigan and was allowed to access previously escrowed funds to construct utility assets in the Lehigh Community. The correspondence reviewed by Ms. Dismukes suggested that it was the intention of Lehigh Corporation to install lines in areas where it will increase the value of the lots held in the inventory of Lehigh Corporation. During this time period, the time period that the escrow agreements were being renegotiated, Southern States and Lehigh Corporation negotiated a modification to a developer's agreement whereby Lehigh Corporation would advance to SSU the funds used to construct the utility assets.

It is important for the Commission to consider the effects of the arrangement between Southern States and Lehigh Corporation. Lehigh Corporation is an affiliate of SSU. As such, the various transactions cannot be considered arm's length. Ms. Dismukes' evaluation of the various transactions indicated that they were carefully constructed such that there would be no benefit to the

customers of Southern States. All of the benefits will inure to the unregulated operations of Minnesota Power & Light. In 1994 Minnesota Power & Light recognized a windfall profit of \$4.5 million because of money contributed by future customers. In addition, Lehigh Corporation will construct and has constructed utility assets that will serve to increase the value of its lots. The affiliated developer will be reimbursed by SSU for water and wastewater facilities the developer constructed through CIAC collected from the interim customers. The developer has contributed nothing to increase the value of its lots. Normally, lines constructed by a developer are contributed to the utility. However, in the instant case, no such contribution is being made. Instead the money is advanced by future customers and then the assets are paid for by near term customers in the form of CIAC. Because of the complexities of this transaction and their affiliated nature, the Citizens recommend that the Commission impute CIAC associated with all facilities constructed by Lehigh Corporation in the amount of \$769,000. If it were not for the affiliated nature of these transactions, the lines constructed by Lehigh Corporation would be contributed to the utility. Accordingly, the Commission should require the company to impute \$769,000 associated with lines constructed by Lehigh Corporation to date, and all lines constructed in the future. To do otherwise would be to endorse a utility/developer affiliation which unjustly benefits the developer at the expense of ratepayers. Tr. 2789-2799; 2013-2016.

While the utility suggests that the recommendations of Ms. Dismukes would result in a double counting of CIAC, as Ms. Dismukes testified this could be easily resolved by recomputing the CIAC charges for the Lehigh system. Tr. 2862-2863. Furthermore, the Company's proposed CIAC charges are not based on actual costs or contributions, but on what the market will bear. Tr. 1489-1490. Hence there would be no double counting of CIAC as suggested by SSU.

ISSUE 50: Should an adjustment be made for non-used and useful offsets to plant capacity fees and line/main extension fees?

Citizens' position: *Plant capacity fees and line/main extensions should not be offset by a non-used and useful factor. Rate base should be reduced by \$2,315,994. (Larkin/DeRonne schedule 10)*

SSU applied average non-used and useful percentages on a service area by service area basis to its CIAC classifications. While it is appropriate to offset contributed lines and property by a non-used and useful factor, it is not appropriate for plant capacity fees and line/main extension fees. These fees typically consist of cash provided by a utility's customers. Cash contributions should not be offset by a non-used and useful factor. Larkin / DeRonne, Tr. 2627-2628.

ISSUE 51: Should CIAC be increased to reflect cost share funds for the Marco Island ASR project?

Citizens' position: *Yes. The Commission should increase CIAC

by \$225,100.*

Although the Company received \$225,100 of funding from the Big Cypress Basin for partial funding of the Marco Island ASR Project, the Company failed to include this contribution as an offset to rate base, despite the fact that it included in rate base the cost of ASR Project. The Commission should adopt the recommendations of Ms. Dismukes and include in rate base as CIAC the \$225,100 received from the Big Cypress Basin Board. Tr. 2778.

ISSUE 53: Should the Commission recognize any negative acquisition adjustment in rate base for facilities purchased at less than book value?

Citizens' position: *Yes. The Commission should recognize negative acquisition adjustments so that the company receives a return only on its actual investment. Rate base should be reduced by \$13,060,124 along with corresponding adjustments to accumulated amortization and amortization expense. (Larkin/DeRonne schedules 17 & 18)*

This case presents the perfect opportunity for the Commission to address the issue of negative acquisitions for Southern States on a comprehensive basis. Larkin/DeRonne, Tr. 2646.

Historically the Commission has ignored both positive and negative acquisition adjustments absent extraordinary circumstances. The Citizens, however, believe that the full Commission should take this opportunity to review all of the acquisitions of Southern States. Recognition of negative acquisition adjustments would result in a reduction of \$13,060,124

to rate base along with corresponding adjustments to accumulated amortization and amortization expense.

Southern States has had an opportunity to purchase a number of systems at far below the book value of the seller. The fact that the acquisition price for these systems was below the depreciated original cost may indicate that the depreciated original cost overstated the value of the acquired assets. Larkin/DeRonne, Tr. 2648. Since these were arms length transactions, the purchase price suggests that the true value of the assets acquired was less than net book value. Larkin/Deronne, Tr. 2649.

Most importantly, unless the negative acquisition adjustments are reflected in rate base, Southern States will earn an overall rate of return on assets which is not supported by their investment. Reflecting the negative acquisition adjustments is necessary to bring the rate base into line with Southern States' actual investment in utility assets. If this is not done, Southern States will continue to receive a windfall. It will continue to earn on assets in which it has no investment. It is simply unfair to require ratepayers to pay both a return on investment and depreciation expense on investment which was not even made by the company. Larkin/DeRonne, Tr. 2649.

An asset generally sells for less than its depreciated value for one of two reasons. First, the asset has generally deteriorated at a rate greater than the depreciation rate. Second, the asset has not been properly maintained because the primary motivation of the original owner was to sell real estate, not enter

the utility business. If the seller had not properly maintained the utility assets, ratepayers unfairly find themselves in a position where they have to make up the level of maintenance that was neglected by paying a rate of return and depreciation on deteriorated assets. Larkin/DeRonne, Tr. 2650-2651.

Recognizing negative acquisition adjustments in rate base will not discourage necessary system improvements and repairs. Necessary capital improvements and normal, recurring expenses, if prudently incurred, are recoverable under rate of return regulation. Larkin/DeRonne, Tr. 2651.

The purchase of two systems warrants special mention. With respect to the Deltona/United systems, there is a significant negative acquisition adjustment inherent in the purchase. The overall cost to Southern States for the purchase was \$52,000,000, reflecting an adjusted purchase price of \$22 million dollars and assumption of \$30 million dollars in debt. Larkin/DeRonne, Tr. 2655. However, the book value of the assets acquired totaled \$59,571,712. Therefore, a negative acquisition adjustment for the systems acquired should be recognized. The amount of the negative acquisition adjustment is \$7,571,712. Larkin/DeRonne, Tr. 2655.

With respect to the acquisition of the Lehigh system, Lehigh acquisition corporation purchased both the utility and other real estate for 40 million dollars from the Resolution Trust Corporation. The net book value of these assets was \$99,000,000, representing a discount of 59 million dollars, or approximately 60 percent. Dismukes, Tr. 2800-2801. In a prior case Southern States

persuaded the Commission to apply the entire discount to non-utility assets, based on a report by Raymond James & Associates. This report endorsed the allocation proposed by Lehigh Acquisition Corporation. It essentially agreed that the company would have paid book value for the assets of the utility, and that there were numerous uncertainties and contingencies associated with the non-utility assets of Lehigh Acquisition Corporation. Dismukes, Tr. 2801. The Commission apparently agreed that the devaluation applied totally to the non-utility assets.

However, information obtained in this case shows that these arguments contrast starkly with the way the acquisition was recorded on the books of Topeka Group. Information obtained from Topeka Group's income tax returns show that Topeka Group determined that the fair market value of Lehigh Acquisition Corporation was actually substantially greater than argued in the prior commission docket. Instead of a fair market value of 34 million dollars, the actual fair market value of non-utility assets was 96 million dollars. Dismukes, Tr. 2803.

Topeka recognized that the fair value of net assets acquired by Lehigh Acquisition Corporation exceeded the purchase price by approximately 62 million dollars. Accordingly, Topeka Group actually began recognizing the bargain purchase amount as income beginning in July 1, 1992, as principal payments on acquired receivables were received and cash funds were received from the sale of assets. During 1992, Topeka Group recognized seven million dollars of this bargain purchase differential as income. Dismukes,

Tr. 2804.

At least in part, the support for the Commission's decision in the previous docket was either not factually accurate or changed dramatically at about the time the decision was made in that docket. The Commission should reevaluate the issue of the negative acquisition adjustment for this system in particular, as well as the others of Southern States. Other water and waste water facilities can be purchased at about the same amount under book value as was Lehigh Utilities. For example, the purchase price of Lakeside Golf, Inc., was .41 times book value, while the purchase price of Lehigh Utilities, Inc., was .45 times book value. Dismukes, Tr. 2805.

ISSUE 62: Should deferred debits related to the attempts to obtain a water supply for Marco Island be allowed and if so, what is the appropriate amount and amortization period?

Citizens' position: *The use of deferred debits to defer these costs from 1990 through 1994 to the present case should not be allowed. Rate base should be reduced by \$1,319,227 and amortization expense should be reduced by \$293,162. (Larkin/DeRonne schedule 12)*

SSU undertook at least four separate efforts to obtain a raw water supply source for Marco Island. These efforts included (1) an attempt to renegotiate the Collier water lease, (2) an attempt to purchase the Dude Pit property, (3) an attempt to interconnect with the city of Naples water supply source, and (4) obtaining additional water supplies from an already existing SSU parcel of

land. Larkin/DeRonne, Tr. 2632. SSU transferred the costs of these four separate efforts into a deferred debit account and proposes to only now begin recognizing these expenses.

SSU should have recognized these expenses as they were incurred. SSU did not specifically seek or obtain permission from the Florida Public Service Commission to defer these costs. The company should not be permitted to arbitrarily defer costs for future recovery via rates. Some of the charges date back as far as June of 1990. The entire deferral of \$1,465,808 relates to charges that were invoiced to SSU over the period June, 1990, through November, 1994. Larkin/DeRonne, Tr. 2633-2639. Rate base should be reduced by \$1,319,227 to remove the deferred debit balance, and test years expenses should be reduced by \$293,162 to remove SSU's proposed amortization of the deferral. Larkin/DeRonne, Tr. 2638-2639.

ISSUE 65: Should any adjustments be made to the equity component of the Company's capital structure?

Citizens' position: *Yes. The Commission should reduce the equity component of the Company's capital structure by \$4,800,000. (K. Dismukes, Schedule 9). The Commission should also remove \$203,924 of non-utility investment in general plant from equity.*

If the Commission does not make an adjustment amortizing the gain on sale of water and wastewater systems, an adjustment should be made to the equity component of capital structure to account for gains on sale.

Three adjustments should be made to SSU capital structure.

First, if the Commission treats the gains on sale of utility assets as non-utility and does not pass them along to ratepayers above the line for ratemaking purposes, then the associated dollars should be removed from the equity component of SSU's capital structure. Assuming the Commission makes the determination that these funds are nonutility and thus belong to stockholders not ratepayers, then it is only appropriate that these funds be removed from equity. The Commission has historically determined that nonutility assets should be removed from the equity component of the capital structure. A determination that these funds should not be attributed to ratepayers is analogous to attributing them to nonutility functions. As such, SSU's equity should be reduced by \$8,940,411. This amount is net of the \$12.0 million SSU's paid to MPL in the form of dividends in 1994. Tr. 2740-2741.

Second, the Commission should adjust the equity component of SSU's capital structure to recognize the refund the Commission ordered SSU to make pursuant to Order No. PSC-95-1292-FOF-WS. In that Order the Commission ordered SSU to refund the difference between the statewide rates approved in Docket No. 920199-WS and the rates approved in Order No. PSC-95-1292-FOF-WS. As a result of this refund of approximately \$8.2 million, SSU will incur a reduction to its 1996 net operating income of approximately \$4.8 million or more, depending upon when SSU makes the refund. Accordingly, relative to the projected 1996 retained earnings included in SSU's capital structure, the amount will be reduced by \$4.8 million. Since SSU has elected to use a projected test year

ending in December 1996, the Commission should reduce SSU' equity by an additional \$4.8 million. Tr. 2741.

Third, the Commission should reduce SSU's equity ratio to remove the general plant allocated to its gas operations. SSU only removed the direct investment in its gas operations from the equity component of its capital structure. To be consistent with this adjustment, the Commission should also remove \$203,924 associated with the general plant that was allocated to the gas operations. Tr. 2741, 2745. The Company did not rebut this adjustment. The Staff, however, through their cross-examination of Ms. Dismukes suggested that the adjustment was not appropriate because the risk of the gas general plant was not greater than the general plant of the water and wastewater operations. While Ms. Dismukes agreed with this contention, she noted that if the gas operations were a stand alone entity, the general plant would be removed from the equity component of the capital structure. Tr. 2001. As such, the Commission should treat the gas operations as if they were a stand alone entity and reduce equity by \$203,924.

ISSUE 66: What is the appropriate cost of common equity?

Citizens' position: *A return on equity of 10.1% should be used. (Rothschild)*

Mr. Rothschild determined his cost of equity based upon the results of the DCF method. Consistent with the FPSC's policy for determining the cost of equity for water utilities in Florida, Mr. Rothschild applied the DCF method to both water utilities and gas

utilities. Tr. 2952. Additionally, he confirmed his DCF result by applying both the risk premium method and the Capital Asset Pricing Model (CAPM) method. Dr. Morin used an DCF method, risk premium method, and CAPM method to arrive at his cost of capital recommendation.

Mr. Rothschild presented both a simplified, or $D/P + g$ version of the DCF method as well as a two-stage version of the method. He found that these approaches to the DCF method produced an indicated cost of equity between 9.25% and 10.59% for water companies and 9.77% to 10.72% for gas distribution utilities. The risk premium method indicated a cost of equity of 9.76% for water utilities and 10.17% for gas utilities, while the CAPM method indicated a cost of equity of 8.12% for water utilities and 7.67% for gas utilities. Exhibit 183, Schedule JAR 2, pages 1 and 2. To obtain his recommended cost of equity of 10.10%, Mr. Rothschild added 0.10% to account for the higher financial risk associated with the lower level of common equity in the capital structure used by SSU, and averaged the results from the water utilities and the gas utilities. Exhibit 183, Schedules JAR 1 and JAR 2, pages 1 and 2.

Mr. Rothschild explains at Tr. 2953 how he implemented the constant growth version of the DCF model:

I implemented the constant growth DCF model by quantifying future sustainable growth based on " $b \times r$ " + " sv ", where " b " is the retention rate that is consistent with the dividend rate used to evaluate the dividend yield, and " r " is equal to the future return on book equity expected by investors. " sv " is added to this " $b \times r$ " growth in order to recognize that in addition to growth caused by " $b \times r$ ", growth is also caused by the sale of new common stock above book value.

And:

...a major advantage of the "b x r" approach is that if the method is applied properly, the majority of the inputs required to implement the model, such as stock price, dividend rate, and book value are subject to precise quantification. For most utility companies, the only critical input number that could have a material impact on the DCF computed cost of equity is the value chosen for "r", or the future expected return on equity. If the DCF method is properly applied, the retention rate "b" is directly derived from the value chosen for "r" and the dividend rate used to compute the dividend yield.

He then continues, at Tr. 2953-2954, to explain some of the inherent advantages of the "b x r" approach to computing growth in the DCF model:

The most important characteristic of any approach to determining a growth rate for use in the DCF method is that it incorporate the kind of growth that can reasonably be expected to occur for many years into the future. Textbooks generally explain that the appropriate method to quantify the future sustainable growth required for the simplified DCF model is to use the "b x r" method. The advantage of a properly applied "b x r" is that it computes a sustainable growth rate. Therefore, when applying the "b x r" method, the result will be accurate as long as the future return on book equity, "r" that is expected by investors and the retention rate "b" that is both consistent with the value used for "r" and the dividend rate, "D", is used to compute growth. With other methods to estimate future expected growth, extreme care must be taken to be sure that they are in a form that is applicable to the simplified, or constant growth version of the DCF model. In order to be at all useful, these alternative methods usually have to be adjusted so that the indicated growth rates are consistent with the financial realities necessary to develop a growth rate that has any realistic chance of being sustainable

At Tr.2954-2955, Mr. Rothschild notes that textbooks explain that the proper method to implement the DCF model is the "b x r" method, and that investment banking firms such as Morgan Stanley implement the DCF model by using the "b x r" approach.

In addition to applying the constant growth version of the DCF model, Mr. Rothschild also used a two-stage DCF. As he further explains in his testimony, the reason he presented a two-stage DCF are as follows:

I have presented a two-stage DCF model for several reasons: 1) FERC has recently begun relying upon a two-stage DCF model in recent cost of capital decisions; 2) a two-stage or even more complex than two-stage version of the DCF method is helpful because it provides a framework that will work even in special situations when future payout ratios, earned returns on equity, or market-to-book ratios change; 3) a two-stage or complex version of the DCF model serves as a check to show that the growth rate used in the simplified version is credible. For example, if an analyst forecasts an unrealistically high growth rate, the complex DCF method may show that the growth rate is improper. Tr. 2962.

He further explains how he implemented the two-stage DCF model:

The first stage of the model is based upon Value Line's estimates of dividends per share, earnings per share, and book value per share for 1995 through 1999. Value Line does not show a specific earnings and dividend projection for every year from 1995 to 1999. Projections for years skipped by Value Line were made by extrapolation from the available data.

I determined future earnings in the second stage of the complex DCF model by multiplying the future book value per share by the future expected earned return on book equity. For the purposes of this case, I used the same future expected return on book equity that I used in the simplified version of the DCF model. Projected book value equals the beginning book value plus the current year's earnings minus the current year's dividends. Book value growth projections also include the effect of sales of new common stock. The projections in the second stage of the DCF model were made up until 40 years into the future. Events longer than 40 years into the future have a minimal present value.

My projections have relied on a constant dividend payout ratio.

I derived the estimated future stock price from the projected book value estimating that the same market-to-book ratio would exist at the time of sale as exists today. The only cash outflow is the price paid for the stock. The complex version of the model uses both the spot stock price as of December 31, 1995, and the average stock price for the year ended December 31, 1995 to be representative of the price paid.

As summarized on Sch. JAR 2, P. 1 and 2, the two-stage complex version of the DCF model indicates a cost of equity between 10.21% and 10.59% for the Value Line water companies and between 10.29% and 10.72% for the gas distribution utilities. Tr. 2963-2964.

In addition to relying on the DCF model, Mr. Rothschild considered the results of a risk premium analysis:

Because there are many more electric utilities covered by Value Line than water utilities, I determined a risk premium based upon an analysis of the difference between the cost of debt and the cost of equity of electric companies. As shown on Sch. JAR 8, P. 1 and 2, the risk premium method based heavily on the data for electric utilities indicates a cost of equity of 9.76% to 10.17% on December 31, 1995. Tr 2966.

Mr. Rothschild also presented the results of a CAPM analysis. His findings and approach based upon the CAPM are explained:

Q. WHAT COST OF EQUITY IS INDICATED BY THE CAPM METHOD?

A. As shown on Sch. JAR 9, P. 1 and 2, the CAPM method is indicating a cost of equity of 8.12% for water utilities, and 7.67% for gas distribution utilities.

Q. HOW DID YOU IMPLEMENT THE CAPM METHOD?

A. I implemented the CAPM method by using the differential between the actual earned returns on common stocks and the actual earned returns on 30-year treasury bonds from 1926 through 1994. The difference between the actual returns was then first adjusted for the risk difference between the group of common stocks and the risk of an investment in 30 year treasury bonds. Tr. 2971-2972.

Thus Mr. Rothschild did not merely average the result of the CAPM with the findings of his DCF analysis. He was well aware of the shortcomings of the CAPM method, and therefore noted the following:

Q. IS THIS METHOD AS ACCURATE AS A PROPERLY APPLIED DCF METHOD?

A. While my approach to CAPM is substantially more accurate than the approach to the CAPM method presented by Dr. Morin, even my approach to the CAPM method is materially less accurate than a properly applied DCF method. I have presented the CAPM method because the Commission has expressed a desire to consider the results from this method. Therefore, I did not want the Commission to be left only with Dr. Morin's highly flawed approach to the CAPM from which to make its evaluation. However, I believe it is preferable to rely on the DCF method in preference to the CAPM method.

Q. WHY IS THE CAPM METHOD NOT AS ACCURATE AS A PROPERLY APPLIED DCF METHOD?

A. The CAPM method is highly dependent upon whether or not the earned differential between common stocks and long-term bonds is consistent with the spread difference that investors expect for the future. Additionally, the CAPM method shares all of the other problems that cause uncertainty in the "risk premium" method that are discussed in the previous section of this testimony. Tr 2971-2972.

The Citizens recommend that SSU be allowed the 10.10% equity cost rate recommended by Witness Rothschild. The record in this case shows that the equity costing methods as proposed by Mr. Rothschild is consistent with how the method is generally applied both in financial textbooks and as actually implemented by security analysts. Also important, it is consistent with the financial principles established by the U.S. Supreme Court in the Hope Natural Gas case. This is in contrast to Dr. Morin's approach to costing equity which violates the principles of the Hope decision

and is in direct contradiction to cost of equity methods as described in the very same financial textbooks that Dr. Morin himself lists as authoritative sources.

ISSUE 70: What is the appropriate overall cost of capital including the proper components, amounts, and cost rates?

Citizens' position: *The appropriate overall cost of capital including the proper components, amounts, and cost rates is set forth in the testimony of James Rothschild.*

ISSUE 73: Are any revenue or expense adjustments necessary to reflect the normalization of test year revenue for weather/rainfall?

Citizens' position: *Yes. The Commission should increase test year revenue by \$1,189,444 to reflect the abnormally high level of rainfall experienced during the test year and the period used by SSU to project test year revenue. Likewise the Commission should increase test year expenses to reflect the increased variable expenses associated with increased consumption.*

SSU suggests that the Commission should use of the historical four-year average from 1991 through 1994 to estimate billing determinates for the projected test year ending December 31, 1996. Tr. 2744-2745. As the witness for the Citizens testified, the Company's proposal is seriously flawed and overly simplistic. Tr. 2743. The primary flaw in the Company's methodology is that it failed to take into consideration the effects of weather, in particular rainfall. During 1994, SSU's billing units were seriously understated due to heavy amounts of rainfall. SSU's

management reports were replete with references to depressed 1994 revenue due to heavy rainfall. Similarly, the Company's MFRs contained several references to expenses being either higher or lower due to heavy rainfall experienced at several systems. Numerous references have been made to the abnormal level of rainfall experienced during 1994. Tr. 2744. The same was also true for the 1991. As shown on exhibit 175, Schedules 10 - 15, both 1991 and 1994 experienced significantly above average levels of rainfall. Tr. 2742-2747.

SSU realized the possibility that rainfall had a significant impact on its revenue and contacted Dr. Whitcomb to weather normalize projected test year billing units. Tr. 2243-2244. Dr. Whitcomb, however, informed SSU that the task was too difficult and it was not undertaken or abandoned. Tr. 2743. SSU's failure to either directly or indirectly account for the weather/rainfall on its billing units seriously undermines the veracity of its projected test year billing units and revenue.

The Company suggested through the rebuttal testimony of Mr. Bencini that because 1995 actual billing units were close to the Company's projections, that its methodology is appropriate. Tr. 5139-5140. The Commission should ignore any such suggestion because 1995 was even a wetter year than 1994. It was one of the wettest of the five-year period. Tr. 2932. To include 1995 in the projection averaging pot would further exacerbate the understatement of consumption due to abnormally high levels of rainfall. Tr. 2932.

The Company also attempted to support the use of its 1994 data because the Net Irrigation Requirement (NIR) calculated by Dr. Whitcomb was only 3% below normal. Tr. 5140. While an interesting statistic, the Commission should reject any conclusions drawn from it because the Company did not produce the information requested by the Citizens to evaluate Dr. Whitcomb's calculations. Tr. 2849. Furthermore, NIR measures how much irrigation is required, not how much customers actually irrigate.

For purposes of developing the billing units to project 1996 test year revenue, the Commission should adopt the recommendations of Ms. Dismukes and increase residential billing units by 1,227,876,000. The methodology employed by Ms. Dismukes was based upon a study conducted by the Company's witness, Dr. Whitcomb, which estimated 1994 weather normalized consumption for SSU's residential class. Tr. 2748. In the alternative, the Commission should adopt the alternative recommendation of Ms. Dismukes which uses the billing units for the years 1992 and 1993 to project 1996 billing units. Under this method, an increase in total consumption for all customer classes of 318,515,813 results. This amount should be adjusted to reflect actual 1995 bills. Tr. 2932, 2749.

In addition to adjustments to revenue and billing units the Commission should adjust variable expenses as well. Under Ms. Dismukes primary recommendations, variable expenses should be increased by \$515,000. Tr. 2751. If the Commission adopts Ms. Dismukes' alternative recommendation, test year variable expenses should be increased by \$130,000. Tr. 2932.

ISSUE 75: What are the appropriate projected number of water and wastewater bills and consumption to be used to calculate revenue for the 1996 projected test year and to calculate rates for service?

Citizens' position: *Growth in the number of customers should reflect actual growth for 1995. The appropriate test year gallons for residential customers is 9,501,263,000. These are the weather normalized gallons for the projected test year ending 1996.*

If the Commission does not adopt the Citizens' primary recommendation, the appropriate gallons for the projected test year for all customers is 12,122,034,117. The Commission should reject the Company's proposal to decrease billing determinates by 933,808,000 for the effects of repression.

Customer Growth

In developing the customer growth projections to develop 1996 bills, the Commission should incorporate the actual results for 1995. With this modification, the Citizens do not object to the method used by SSU. Tr. 2932.

Billing Determinates

Refer to the discussion under issue 73 for billing determinates to use for the 1996 projected test year.

Repression (Price Elasticity) Adjustment

In this proceeding, SSU has proposed to make a "price elasticity" or repression adjustment to its test year billing units to account for the decrease in quantity demanded which may arise

from its proposed rate increase. The Company estimated its repressed units through the use of the Waterate software program created by Dr. John Whitcomb. The software uses estimates of the price elasticity of demand from a water demand study conducted by Brown & Caldwell for the Southwest Florida Water Management District (SWFWMD).

The use of price elasticities for estimating stimulation or repression effects of rate changes is not new to the Commission. In telecommunications regulation, the Commission has routinely recognized the impacts that repression or stimulation can have in the ratemaking process.

The inclusion of repression and stimulation can significantly influence the estimate of the quantities demanded for a particular service, which, in turn, can markedly affect the revenue effect of a proposed price change. With rate of return regulation, repression and stimulation can materially affect the magnitude of rate changes needed in other services to attain the revenue requirement. Order No. PSC-93-0108-FOF-TL, p. 5.

While the Commission has recognized the use of price elasticities in telecommunications, the Company's proposals represent the first attempt by the regulated water industry in Florida to apply price elasticities to its projected billing units. Tr. 2259.

The Citizens' expert on this issue, Dr. David Dismukes, testified that there are a number of serious problems with the SWFWMD study and its use in this proceeding. Dr. Dismukes recommends that the Commission stick by three general criteria for

reviewing price elasticity estimates established in the telecommunications industry. First, regression adjustments should be based upon statistical models which use company-specific information whenever possible. Tr. 2274. Second, statistical models supporting regression estimates should be intuitive, straight forward, and consistent with existing methods. Tr. 2274. Third, statistical models supporting regression adjustments should exhibit some degree of reliability to minimize the uncertainty associated with adopting a particular set of estimates. Tr. 2275. Dr. Dismukes testified that the SWFWMD study -- and its application in this proceeding -- fails to meet all three of these standards. Tr. 2275.

The Company's witness sponsoring the price elasticity adjustment, Dr. John Whitcomb, stated that he believes the SWFWMD price elasticity study is appropriate to use in this proceeding because it is based upon a dataset which is "unparalleled" [Tr. 1767], "includes more utilities" [Ibid.], and includes "more variables over a larger range of prices than any other study conducted in any region by far." [Tr. 1767] Dr. Whitcomb, however, misses the point. The Citizens have not taken issue with the data collection methods used in the SWFWMD study. Rather, it is the application of the study to SSU's service territory, the sensitivity of the model to subtle changes in specification, and the lack of reliability of the SWFWMD water demand model which are of issue in this proceeding.

However, rather than addressing the substantive issues raised by the Citizens in this proceeding, the Company's rebuttal (through Dr. Whitcomb) proffers a series of unprofessional, personal insults questioning Dr. Dismukes' well established expertise in demand modeling as well as his purported personal inability to "listen more often to [his] wife." Tr. 1752. In addition, Dr. Whitcomb claims that Dr. Dismukes, "casts stones without doing his homework." Tr. 1737. Notwithstanding this poorly constructed mixed metaphor, the record is replete with examples of the Dr. Whitcomb's failure to do his own homework.

For instance, Dr. Whitcomb showed a complete lack of knowledge of the unique geographic, economic, and demographic characteristics of the state. Dr. Whitcomb never attempted to analyze the differences in property values between the SWFWMD and SSU's service territory [Tr. 1820], he had no idea where Nassau or Washington counties are located (which is surprising for someone with a Ph.D. in geography) [Tr. 1870], was unable to indicate exactly how many SSU systems were in the SWFWMD area [Tr. 1775] and outside some rather ad hoc inferences, he never bothered to support his claim that Florida has one of the most variable weather patterns in the country [Tr. 1918: 20-23]. Dr. Dismukes also pointed out to the Commission that the Company has not attempted to reconcile the demographic and usage characteristics between the SSU service territory with that of SWFWMD. Tr. 2260.

It should be noted that, in the past, the Commission has frowned upon the cavalier application of price elasticity estimates

from one geographic region to another without recognizing (or accounting for) economic and demographic similarities or differences. For instance, in reviewing a request by GTEFL to use residential access price elasticity estimates from Wisconsin in GTEFL's Florida service territory, the Commission ruled that:

We agree that residential access price elasticities from other geographic areas may be useful when it is not possible to develop a price elasticity estimate for the immediate geographic area. However, we find that the industry's range of residential price elasticities estimate (-0.01 to -0.06) is too wide to accept the premise that residential price elasticity is invariant across different geographies. The industry-accepted range of residential elasticities, as reported by the Company, is so wide that the choice of which such elasticities to use can have a substantial impact on GTEFL's access line forecasts and access line revenues. Moreover, the Company did not study the demographic or economic similarities and differences between the Wisconsin Bell service area and the GTEFL service area in determining its forecast. We find that such data is critical to calculating an accurate residential access price elasticity. Order PSC-93-0108-FOF-TL, p. 6, emphasis added.

While the above cite concerns a different industry, the import of the order is applicable in this proceeding. The Commission noted that industry-cited price elasticities varied to such a degree that it was difficult to surmise that estimates from one geographic region were applicable to another. Dr. Whitcomb's own published work in water demand modeling recognizes that "the lack of consensus on price elasticity has left policy makers with a range of plausible price elasticities that is so wide to offer little

direction." Tr. 2270. In addition, the Commission, in the GTEFL case, noted that the Company failed to provide any economic and/or demographic information to support the claim that the estimates from two different regions were comparable. Dr. Dismukes stated that the same lack of support is present in this case. Tr. 2260.

The Commission's dilemma in this proceeding is similar to that in the GTEFL case: a contestable range of industry-cited price elasticity estimates with no supporting analyses on why the results in one region (SWFWMD) should be considered as similar to those in another (SSU's service territory). In the GTEFL proceeding, the Commission opted to "err on the side of caution" by using a 0.0 price elasticity adjustment. The Citizens recommend that the Commission stick with this precedent and not make a price elasticity adjustment in this proceeding.

A significant shortcoming of the SWFWMD study is its sensitivity to minor adjustments in its specification. The SWFWMD price elasticity study was submitted by Dr. Whitcomb to a leading "authoritative" journal in scholarly water industry analysis on two different occasions. Tr. 1778. On both occasions, the article (based upon the SWFWMD water demand model) was rejected by the journal as being faulty. In fact, on the second submission of the article, the journal indicated that the model suffered from a "fatal flaw." Exhibit 136, p.2. This "fatal flaw" arose from the simple relaxation of the constraint which forced the price elasticity of demand to zero at prices of \$7.05/TG or higher. The journal declined to publish the article based upon this

shortcoming. Dr. Dismukes argued that this simple relaxation of one constraint raises serious questions about the accuracy and stability of the price elasticity estimates.

The Commission should reject the price elasticity estimates proposed in this proceeding because subtle variations in the model result in (1) an upwards sloping demand curve which is contrary to economic theory, and (2) price elasticity estimates which are over double the original set of estimates originally proposed by the Company. Tr. 2264, 2266. Dr. Dismukes notes that at a price of \$2.10/TG, the composite price elasticity proposed by the Company in this proceeding is -0.29. Tr. 2264. However a revised specification estimated by Dr. Whitcomb results in a price elasticity of -0.63 -- over double the original estimate. Tr. 2265. Surprisingly, Dr. Whitcomb claims that the revised specification with an upwards sloping demand curve is "superior" to the original specification filed in this proceeding. He also notes that the results from the "superior" specification are "in general, very, very similar" to the ones originally filed in this proceeding. Tr. 1794. A simple examination of the results from these two models, presented on schedule 2 of Exhibit 164, shows the very dissimilarity between the two results.

Dr. Whitcomb defends his analysis by noting that the "fatal flaw" criticism (e.g., an upwards sloping demand curve) is based upon a faulty inference. Tr.1831. He then goes on to offer an example of why this is a faulty inference by extrapolating the model on page 20 of Exhibit 135 (JBW-3). Tr. 1744. The Commission

should not be fooled by this incredibly misleading example. Dr. Whitcomb is trying to make a point with a model specification which he admits is improper. Tr. 1941-1942. For instance, Dr. Whitcomb explains to Commissioner Deason that the example on page 20 fails to account for differences in lot size, differences in property values, differences in weather, and differences in irrigation restrictions. [Ibid.] In effect, Dr. Whitcomb extrapolates an admittedly faulty model in an attempt to mislead the Commission into believing that Dr. Dismukes, as well as the other academic peer reviewers of his work, are out of touch with basic statistical inferences. Nowhere in his testimony does Dr. Whitcomb try to make a similar point using a published statistical model from the existing body of literature.

Another shortcoming with Dr. Whitcomb's SWFWMD model is that it is not based upon sound statistical approaches which are well recognized in the literature and by leading experts in the area of water demand modeling. Dr. Dismukes points out that statistical models used in regulatory proceedings should be based upon intuitive and relatively straightforward methods. Tr. 2263. Regulatory proceedings are no place to experiment with untried and questionable methods. Tr. 2263. Dr. Whitcomb admits that his methods are "innovative" and have not yet "been tried by other researchers." Tr. 1741. Yet an authoritative journal in water demand modeling found that Dr. Whitcomb's methods were unsuitable.

For instance, one of the peer reviewers of Dr. Whitcomb's work suggests that he "use a linear or log-log model and abandon your

strange model." Exhibit 136, p. 4, emphasis added. The reviewer additionally suggests that Dr. Whitcomb "abandon the use of the ramped prices" which Dr. Dismukes testifies has "no theoretic justification." Ibid.;Tr. 2263]. Another peer reviewer states that the "the specification of the demand function remains ad hoc." Exhibit 136, p. 3. Dr. Whitcomb explains that "ad hoc" means that there are "an infinite number of types of flexible forms" that could have fit the SWFWMD data. Tr. 1817. Dr. Whitcomb, therefore, would have the Commission accept the flexible form supporting the Company's recommendation even though it is one of an infinite number of functional forms that could have been used. Clearly an infinite number of functional forms would also lead to infinite number of estimated price elasticities. The Citizens would recommend that the Commission reject such a proposition.

Dr. Whitcomb goes on to hubristically defend the use of his proposed price elasticities by noting that the original cutting-edge nature of his work should not be grounds for rejection by the Commission, notwithstanding its rejection by a learned journal. Tr. 1956, 1957. The Citizens, however, recognize that often in utility regulation trade-offs exist between innovation (and the potential inaccuracies which can arise) and widely-accepted methodologies. The Commission has acknowledged this trade-off in the past and concluded that:

We find a simple, yet complete, approach to modeling demand is preferred to a more complex approach and that the more esoteric approaches to demand modeling, used in lieu of a simpler and more traditional approach, unnecessarily

removes many of the intuitive underpinnings of the modeling effort. Order PSC-93-0108-FOF-TL, p.10.

An additional concern with the use of the SWFWMD study in this proceeding surrounds the relationship between the study's "fatal flaw" and the interim rates currently in effect. Dr. Whitcomb testified that the Waterate model ignores price elasticity effects for systems with combined water and wastewater rates which are above \$7.05/TG. Rates above \$7.05/TG appear to have not been an issue in Dr. Whitcomb's original repression calculations since they were based on a move from the statewide average rates in effect from the last rate case (\$1.23/TG) to the proposed stand-alone rates in this proceeding (\$2.16/TG). Tr. 1888. However, SSU's ratepayers are not paying rates from the last case -- but are instead paying the currently approved interim stand alone rates. Dr. Whitcomb testified that his repression adjustments do not take into account these current stand-alone interim rates, and thus do not reflect "current reality." Tr. 1890. Many of these systems currently have combined water and wastewater rates which are above the \$7.05/TG Waterate threshold. In fact, a simple review of the Company's interim rates shows that 20 of the 40 combined water and wastewater facilities currently have combined rates which are above \$7.05/TG. These systems would not be eligible for a repression adjustment given the limitations in Dr. Whitcomb's faulty model.

In conclusion, the Citizens recommend that the Commission reject the Company's proposed repression (price elasticity) adjustments. The record is clear that the Company has: (1) failed

to support its claim that SWFWMD area and SSU's service territory are so similar that the use of elasticities in one region and appropriate in another; (2) failed to support a highly questionable water demand model based upon rate levels and rate structures which do not exist in SSU's service territory; and (3) failed to show that the SWFWMD water demand model is accurate, reliable, and based upon well recognized empirical modeling approaches. For these reasons, the Citizens believe that a repression adjustment is unsuitable at this time.

ISSUE 76: Should an adjustment to revenue be made for reuse revenue on Marco Island?

Citizens' position: *Yes. Test year water revenue should be increased by \$183,668 and test year wastewater should be reduced by \$13,688.*

SSU assumed that during the projected test year it would no longer be providing potable water to Hideaway Beach and the Tommy Barfield School, but instead would be providing effluent for reuse to these two customers. Accordingly, SSU reduced test year revenue by \$183,688 and increased wastewater revenue by \$13,668. As Ms. Dismukes testified and Mr. Ludsen confirmed neither of these customers have connected to be provided with reused water. Tr. 2751-2752 and 5202-5203. Accordingly, the Commission should increase test year water revenue by \$183,668 and reduce test year wastewater revenue by \$13,688.

ISSUE 77: Should the miscellaneous revenue adjustments proposed by Witness Dismukes for billing adjustments and non-utility income be made?

Citizens' position: *Yes. Test year revenue should be increased by \$57,595 and test year income should be increased by \$8,474.*

Test year wastewater revenue should be increased by \$50,595 for wastewater services provided free of charge or at a discount. These forgone revenues should be borne by stockholders not ratepayers. Tr. 2778. In addition, the Commission should increase test year revenue by \$7,000 for revenue recorded below the line, but associated with billing customers from electricity use. While a non-utility function, SSU's employees provide this service and the full cost of their salaries are included in test year expenses. Tr. 2775. Finally, the Commission should increase test year income by \$8,474 for several miscellaneous items recorded below the line for ratemaking purposes. These items are either related to the utility's operations, or provided by the employees of SSU. As such all of the associated income should be moved above the line for ratemaking purposes. Tr. 2777.

ISSUE 80: Should the Commission accept the projected wage increases of SSU regarding market equity, merit, licensure, and promotional adjustments?

Citizens' position: *SSU failed to justify its projected wage increase. Salary expenses should be reduced by \$1,027,052; payroll tax expense should be reduced by \$82,164. (Katz; Larkin/DeRonne schedules 19-21)*

SSU seeks all of the following salary adjustments to its salary expense: merit increases (3%), promotional Increases (1%), "license attainment" (.25%), "equity adjustments" (1.5%), and "market adjustment" (4.77%), totalling 10.27%. Locke, Tr. 1988.

SSU faces three hurdles that it must clear in order to justify the Commission's approval of these adjustments to its expenses in the projected test year. First, the company must demonstrate that its total salary expense, prior to any adjustments, is prudently incurred. Second, the company must demonstrate that its projected increases for merit, promotion, license attainment and equity, amounting to 5.25%, are correct, prudent and necessary. Third, the company must demonstrate that its projected market adjustment of 4.77% resulting from the Hewitt Study is correct, prudent and necessary.

SSU fails these tests. The company's analysis includes data from geographic locations where SSU does not do any business (Katz, Tr. 2501) and excludes data from operations that are directly comparable and competitive with SSU establishments (Locke, Tr. 2043). Since the company failed to meet its burden of proof, the Commission must deny any of the company's adjustments for additional salary expense. The Commission has no assurance that the company's existing salaries are prudent, much less the proposals to increase them.

Misuse of data permeates the company's case. The deficiencies are most evident in the following areas: (1) the company's claim that its study includes an "exact geographic match of the majority

of rural counties and cities in which SSU actually operates water and wastewater plants" (Locke Tr. 4311-4312), (2) the company's claim that its salaries are 17.3% below the market, and (3) the company's claim that its turnover rates are excessive and are due to low salaries.

(1) **Geographic match.** The Florida League of Cities Cooperative Survey includes salary data for three categories of cities and counties--Group I--Over 50,000 population (Exhibit # 143), Group II--10,000 to 50,000 population (Exhibit # 144) and Group III--under 10,000 population.(Exhibit # 145) The three studies were produced for SSU's perusal during cross examination of witness Locke, who was not aware of the existence of the third study. Locke, Tr. 2043. The parties stipulated that the effective date of all three studies was October 1993. Tr. 4228.

SSU witness Johnson, who was responsible for the Hewitt study, was never in possession of volume III, of the Florida League's study, which covered cities under 10,000 in population. Johnson, Tr. 4364. Johnson concluded that Katz ignored their activities taken to ensure comparability of job matches, labor market, etc. Johnson, however, did not have all of the data, while Katz did.

Exhibit 145 contains an excerpt from volume III of the Florida League's study. This excerpt, covering salaries for plant operators, included salaries for the cities of Mount Dora, Tavares, and Clermont, among others. These are all areas close to SSU plants, yet SSU disregarded such cities by failing to include this

volume from the Florida League of Cities salary survey when doing its own comparisons.

SSU witness Locke states in her rebuttal that Katz' conclusions regarding the use of the Florida League study by Hewitt "are ludicrous in that the Florida League of Cities Survey contains an exact geographic match of the majority of rural counties and cities in which SSU actually operates water and wastewater plants ... Mr. Katz falsely concluded that SSU did not use relevant local geographic comparisons." Tr. 4310-4311. She goes on to hammer home her point that "it would be irresponsible for SSU to ignore the single largest data base of pay rates for licensed Water and Wastewater Plant Operators and maintenance personnel in the State of Florida." Locke, Tr. 4311.

Unbelievably, SSU's top salary expert, the administrator of all of its salary programs, did not know that the annual Florida League of Cities Salary Survey contains three volumes. The company's own testimony extols the importance of this document. Yet she failed to provide all of the data to Hewitt (Tr. 2044), and she wasn't even aware that the third study existed. Locke stated "I cannot make any assumptions regarding this. I have not seen it. It was not used in this study." Locke, Tr. 2029.

In light of the failure of the company to be aware of and to provide all of the relevant data for use in the Hewitt study, the Commission should do exactly as the OPC witness Katz suggests by rejecting the company's study. However, the simple lack of data is

not the only weakness suggested by OPC witness Katz in his criticism of the SSU salary policies.

Even had the study included all relevant data, there is still an enormous gap between the concept proposed by the company in developing its salary plan versus the proposal of Citizens' witness Katz. The Hewitt Study compiled data throughout the state of Florida, the Southeast and the nation and used this data to establish a single market rate for each SSU job, no matter where the employee was located. Katz, on the other hand, suggests that the company should first determine its market area for a given job and then study those employers in that market area in order to develop competitive labor rates. Katz, Tr. 2295, 2301.

The company and Hewitt took data from the highest paying water companies throughout the state (Locke, Tr. 2029-2031), ignoring data from the lowest paying water companies throughout the state, (Locke, Tr. 2042), and determined that SSU employees are paid below market rates.

Citizens' witness Katz believes that competitive salaries for SSU's employees should be based on comparisons with employers in the specific service area where the employee works. SSU has not done this. Citizens' witness Katz also rejects use of data which includes areas where the company does not operate and excludes data from the third Florida League of Cities study that was not given to Hewitt for its study. The Commission should do likewise.

(2) **Market salaries.** The company's mathematical gymnastics ought not to be swallowed by the Commission. In her direct testimony, Locke states "Overall, SSU's pay rates for the job categories analyzed were found to be on average 17.3% below the surveyed market." Locke, Tr. 1989. And again, she states, "Excluding solely the rate department positions, the SSU company wide comparison number drops to 12.9% below the average pay." Locke, Tr. 1990. The company repeatedly relied on this percentage figure. Locke, Tr. 2014, 2015, 4322; Johnson, Tr. 4364, 4367-4369.

The problem with these references is that the 4.765% increase proposed by the company is 4.765% of the total salary budget for 1996, as stated above by Johnson, but the 17.3% total excludes executive salaries and refers to only 37 craft and management jobs within the company that the Hewitt study showed to be below the market. The company's math is highly misleading.

The source of the 17.3% average comes from exhibit 142, DGL-3, page 15. The company lists 50 jobs on this exhibit, 13 of which are overpaid and 37 of which are underpaid. Locke admitted that she knew the 17.3% was the simple average of only those 37 positions in the company that Hewitt claims are underpaid. It is a simple matter to calculate this data using the overpayments found in the additional 13 jobs as shown DGL-3, page 7. When you consider the excessive salaries for the 13 jobs shown on page 7 and included that into the calculation, then the appropriate number is 10.8%. If you then exclude the four rate positions, as is

suggested in Locke's testimony, then the Hewitt Study suggests that the company's average salary is 7.8% below the market. However, the study excludes executive compensation. Executive salaries for SSU are excessive. See Locke, Tr. 2048-2061.

Locke states that salaries within +/- 5% of the market are fully competitive. Locke, Tr. 1990. Therefore, even if we ignore excessive executive compensation, and assume for the sake of argument that the Hewitt Study is correct, the company is still within 2.7% of fully competitive salaries without any adjustments whatsoever.

The Commission does not have sufficient evidence to determine if the company is underpaying or overpaying its employees. Because SSU neither defined nor proved who their competitors for employees are, the data they use for such an undefined market should be rejected. Katz, Tr. 2301-2302.

(3) **Turnover rates.** Locke maintains that the company's turnover rates are high and are due to low salaries. However, the company's turnover data includes losses for such reasons as termination of temporary employees, layoffs, downsizing, and for employee losses that occurred within six months of the hiring date. Heavy losses by the company of newly-hired employees does not appear, at face value, to be the result of low salaries, since new employees are fully aware of their starting salaries. These losses may well be due to inadequate selection or inadequate training.

Turnover is the result of a wide variety of factors. Katz, Tr. 2314-2315.

ISSUE 82: Should the utility's proposed salary adjustment based on the Hewitt study be approved?

Citizens' position: *No. See discussion concerning issue 80.*

ISSUE 83: What adjustments are necessary to remove salaries and benefits associated with employee lobbying?

Citizens' position: *Yes. Test year expenses should be reduced by \$65,661 for salaries and \$15,626 for related expenses.*

The Commission should remove from test year expenses the salaries and benefits of SSU's public relations/governmental relations employee. As Ms. Dismukes testified, the Company did not record below the line any salaries related to lobbying. Mr. Smith's (SSU's in-house lobbyist) travel vouchers were replete with references to lobbying. Correspondence between Mr. Smith and SSU's lobbying consultant also confirms Mr. Smith's dominant role as a lobbyist for SSU. Mr. Smith is also a registered lobbyist for SSU. The Commission has historically not permitted the recovery of lobbying and public relations activities from ratepayers. Such efforts are for the benefit of stockholders not ratepayers. The Commission should adopt the recommendations of Ms. Dismukes and remove from test year expenses \$65,661 which is the 1996 budgeted salary and overhead for Mr. Smith. Tr. 2761-2764.

The Commission should also reduce test year expenses for related public relations, governmental relations, and image

enhancement expenses. The Commission has consistently found that such expenses do not benefit customers, but are for the benefit of stockholders. Order No. 7669, p. 10; order No. 11307; and order No. 24049, p. 28. The following expenses should be removed from test year expenses as recommended by Ms. Dismukes: \$375 associated with public relations association dues; \$5,000 related to Florida Leadership training; \$658 related to legal costs which are lobbying or public relations related; \$900 for public relations memberships; and \$13,250 associated with corporate image enhancement. The total adjustment for the FPSC systems is \$15,626. Tr. 2764-2765.

ISSUE 84: Should expenses be reduced to reflect salaries and expenses related to SSU's acquisition efforts?

Citizens' position: *Yes. Test year expenses should be reduced by \$175,928 for salaries and \$10,742 for related expenses.*

For purposes of developing its projected test year expenses, SSU failed to recognize the full amount of salaries and expenses related to SSU's acquisition efforts. Ms. Dismukes examined the salaries of each employee involved in this effort and applied the percentage of time spent on acquisitions in 1994 to the 1996 level of salaries, with three exceptions. The three exceptions involved the persons employed in the corporate development section of SSU. These employees spend almost 100% of their time on acquisitions. Ms. Dismukes allocated these employees salaries and benefits 90% to SSU's acquisition effort based upon the testimony of Mr. Sweat in his deposition. Mr. Sweat testified that he spent approximately 90% of his time on acquisitions. Accordingly, it would be

appropriate to allocate his time and his subordinates time 90% to SSU's acquisition efforts. Mr. Dismukes likewise determined that 90% of the non-salary expenses charged to the corporate development section of SSU should be allocated 90% to acquisitions and recorded below the line for ratemaking purposes. Accordingly, the Commission should reduce test year salaries by \$175,920 and related expenses by \$10,742. Tr. 2759-2761.

ISSUE 86(a): Should an adjustment be made to reflect Other Administrative Projects that will be amortized by the end of the test year?

Citizens' position: *Yes. Test year expenses should be reduced by \$93,452.*

SSU did not adjust its 1995 or 1996 test year expenses to remove Other Administrative Project expenses that will be amortized by year-end 1996. If the Commission does not adjust these expenses downward as shown on exhibit 175, schedule 33, SSU's going-forward level of expenses will be inflated. According the Commission should reduce test year expenses by \$93,452. Tr. 2774.

ISSUE 92: Should the Commission allow the Company's proposed conservation expenses?

Citizens' position: *No. The Commission should reduce the Company's conservation expenses by \$348,4734. If the Commission adopts the Citizens' adjustment, it should for consistency increase test year revenue by \$70,710 and reduce variable expenses by \$33,372.*

The Company failed to justify its proposed \$524,428 of conservation expenses included in the projected test year. The Company's support for its proposed conservation expenses was woefully inadequate and seriously deficient. Some deficiencies were highlighted by Ms. Dismukes in her summary:

The Company's requested expenses are substantially in excess of what it has spent in the past. For example, in 1994, the Company expended \$149,000 on conservation programs. I studied the Company's proposed expenses, past conservation efforts and the degree to which the Company evaluated the relative cost-effectiveness of its proposed programs. My examination indicated that the Company's programs were not evaluated for cost-effectiveness. This is in contrast with the recommendations of Brown & Caldwell and the St. Johns River Water Management District. Nor did the Company consider in its overall conservation plan the relationship between rate structure and its conservation programs. Likewise, it did not attempt to assess the degree to which capacity deferrals would result from its conservation program.

In addition, my review of the Company's past conservation efforts shows that some of the costs incurred were more for PR or for image enhancement than for conservation. I would like to quote from SSU's budget concerning one of the purposes associated with some of its conservation expenditures. The quote in its budget is, "to promote the image of SSU in its presence in the communities it serves." For these and a variety of other specific reasons I am recommending that the Commission disallow \$300,000 of the Company's proposed expenses. I will point out that my recommendation still allows a considerable sum of money for conservation, specifically \$170,000, for programs such as public education and the specific programs proposed for Marco Island. Tr. 2909-2910.

Ms. Dismukes pointed to a variety of other problems with the Company's proposed conservation expenses. They include spending \$60,180 on inexpensive retrofit kits which have a tendency to be removed by customers, spending \$20,850 for rebates for irrigation shut-off devices which have not been proven to be effective, spending substantial amounts of money on a marketing consultant where in the past these efforts were directed at image enhancement, not conservation ², spending \$20,000 on residential water audits, when past audits of residential customers were not well received, spending money on workshops when in the past the turn out for such workshops were dismal at best, and spending money on a survey, even when SSU's consultant indicated in the past that the survey results may not be useable. Tr. 2723-2729.

Perhaps one of the most disturbing aspects of the Company's proposed conservation plan and expenditures was Ms. Kowalsky's inability to answer simple questions concerning this subject. Ms. Kowalsky did not know how the Company choose the six communities targeted for SSU's enhanced conservation program. Tr. 2181-2183. Ms. Kowalsky did not know if rate structure was an important component of an overall conservation program. Tr. 4180. She did not know if image enhancement expenditures should be recovered from ratepayers. Tr. 4193. She did not know if Exhibit 208, memorandum from Image Marketing, excluded references to conservation. Tr.

² See also Tr. 4184-4199 where Ms. Kowalsky conceded that several of the efforts performed by Image Marketing were not conservation related, but more for public relations. Also refer to Exhibit 208 for copies of Image Marketing memorandum.

4199. Ms. Kowalsky testified that there was no money in the budget for the Christmas float on Marco Island. Tr. 4201-4202. Yet, Exhibit 155, SSU's conservation budget, contains \$10,000 in the 1996 budget for the Christmas float. She could not say if the six target communities and Marco Island would react the most positively to a conservation program. Tr. 4206-4207.

As proof of the effectiveness of its conservation program, the Company attempted to show that there was a significant decline in consumption for residential customers on Marco Island. Tr. 4160-4161. Ms. Kowalsky testified that residential consumption declined from 23,462 in 1991 to 14,928 in 1995. Ibid. Yet, Ms. Kowalsky did not know how these numbers were developed and she really did not know what they meant. Ms. Kowalsky was completely ignorant concerning how the consumption data presented on Exhibit 209 was developed or its implications. Tr. 4208-4214. Ms. Kowalsky could not even testify about the basic thrust of a question concerning Exhibit 209. Tr. 4216. Exhibit 209, the basic foundation for SSU's allegation that consumption had declined, is critical to a basic understanding of the effectiveness of the Marco Island pilot conservation program. Despite its significance, SSU conservation witness had no knowledge of the subject. A deficiency which is reflective of SSU entire conservation program.

Ms. Kowalsky's lack of knowledge of how the Marco Island consumption per customer data was developed or whether or not the numbers were correct is in complete agreement with Ms. Dismukes criticism of SSU's conservation program. SSU's primary

conservation witness did not understand the implications of the data used to suggest that the conservation program was working, or if the data was correct. The Commission must conclude that SSU does not understand its own conservation program. In fact, late-filed Exhibit 246 demonstrates that the data used by Ms. Kowalsky to support her conclusion that Marco Island customers had conserved were in error. Late-filed Exhibit 246 demonstrates that 164 large volume customers -- customers which used in excess of 100,000 gallons per month -- were reclassified from the residential class to the irrigation class. Exhibit 209 and 246. The 1991 consumption per customer figure of 23,462 used by Ms. Kowalsky included approximately 164 customers classified as residential customers which are large volume users. By reclassifying these customer to irrigation and taking them out of the residential class in years 1993 through 1995, the consumption per customer figure in 1995 is not comparable to the 1991 figure. The 1995 figures is woefully understated relative to the 1991 figure. The only appropriate way to compare the two years would be to add back the large consumption customers removed in the 1995 data. This information however, is not in evidence. Furthermore, in developing its conclusion that customers conserved in 1995 relative to 1991 or 1992, the Company did not consider the effects of rainfall. Ms. Dismukes testified that 1995 was the wettest of the five year period. Consequently, significant reductions in consumption in 1995 are likely the result on heaving rainfall, not conservation.

SSU has not done its homework. It did not study the cost effectiveness of its conservation program, despite the fact that Brown and Caldwell, a consultant relied upon by SSU to justify its rate design proposal, recommends that utilities prepare cost/benefit analyses of their conservation program. Exhibit 207, pp. 9-13. Ms. Kowalsky suggests that it must implement SSU's proposed conservation programs because of the requirements of the water management districts. Tr. 4171. Ms. Kowalsky conceded that the water management districts only required conservation programs that were cost-effective. Tr. 4171-4172. Yet, SSU conducted no cost-effectiveness tests of its conservation programs. [Tr. 2909.]

Ms. Kowalsky also conceded that if the Commission did not allow the expenses, it would be an indication to the water management districts that the programs were not cost justified. Tr. 4172. Rather than conduct its own cost effectiveness test, SSU suggests that because the City of Tampa and Hillsborough County have implemented a similar program, that SSU's program must be cost-effective. Tr. 4179. Yet, Mr. Farrell testified that his agency does not require cost-effective tests of conservation programs. Tr. 3770-3771. Conservation costs must be cost-effective and prudent to be allowed for ratemaking. The Commission can not conclude that SSU's conservation program is cost-effective, because there are no such requirements of the City of Tampa and Hillsborough County. Furthermore, Ms. Kowalsky could not answer basic questions about the relative relationship between the inclining block rate structure used by these two agencies and the

split between the gallonage charge and the base facility charge relative to SSU's proposed rate design in the instant case. Tr. 4173-4179 and Exhibit 207.

To help support its conservation expenditures, SSU sponsored the testimony of several water management district employees. However, these witnesses were particularly unfamiliar with the programs requested by SSU. For example, Mr. Adams testified the SSU conservation program at Marco Island was cost-effective. Tr. 3704. However, he did not conduct any cost/benefit analysis to demonstrate that the programs were cost-effective. Tr. 3705,3708. Mr. Adams also conceded that he did not review in detail the conservation expenses proposed by SSU. He likewise could not tell the Commission if SSU paid too much for a conservation program. Tr. 3710-3711. Yet, he acknowledged that a regulator such as the Commission should be assured that conservation programs are cost-effective before they are allowed in rates. Tr. 3707; See generally Dr. Beecher, Tr. 1665. Mr. Farrell, who endorsed SSU's 40/60 BFC/Gallonage split for rate design, did not know what the split was before the proposal in the instant case. Tr. 3761. Mr. Farrell, however, agreed with counsel for the Citizens that a 33/67 BFC/Gallonage split was more conservation oriented than SSU's proposed 40/60 split. He likewise agreed that a 30/70 split (which is close to Ms. Dismukes recommendation) would send a better conservation signal to customers than SSU's 40/60 split. Tr. 3764-3765. Although Mr. Farrell was familiar with the City of Tampa and Hillsborough conservation programs, which SSU suggests shows that

its programs are cost effective, Mr. Farrell indicated that his water management district did not look at cost-effectiveness -- only effectiveness. Tr. 3770-3771; 3778-3779. Mr. Farrell also agreed that the Commission should look at the programs to determine if they are cost-effective. Tr. 3771. Like Mr. Adams, Mr. Farrell did not examine the Company's proposed conservation expenditures in detail, he did not know if SSU paid too much for its conservation programs, and he did not examine the elements of the Marco Island water audit program . Tr. 3803-3804. Mr. Wilkening while endorsing SSU's water conservation program, did not do a cost-benefit analysis. Tr. 4020. Mr. Wilkening did not review the Marco Island water conservation program. Tr. 4035. With respect to the other programs, Mr. Wilkening did not review the detailed costs of those programs. Tr. 4035-4036. In conclusion, with respect to the water management district witnesses, while they all supported SSU's conservation programs, they did not have a detailed understanding of the programs, nor did they test them for cost-effectiveness. In short, their generalizations can not be relied upon by the Commission to support the reasonableness of SSU's proposed conservation expenditures.

In contrast to the testimony of Ms. Kowalsky and the water management district witnesses, Ms. Dismukes did a detailed analysis of SSU's proposed water conservation plans and expenses as well as the effectiveness of past expenditures and programs. As Ms. Dismukes testified, SSU can accomplish the same amount of conservation by merely adopting the rate design she proposes.

SSU's customers should not be asked to pay for something that can be achieved for nothing. The Commission should adopt the recommendations of Ms. Dismukes and disallow \$348,473 of the Company's proposed conservation expenses. Contrary to the testimony of several SSU witness, this still allows the Company considerable money for public education and specific projects on Marco Island. SSU has the burden of proving the reasonableness of these expenses -- a burden which it did not meet. Tr. 2729-2731.

ISSUE 93: What is the appropriate amount of current rate case expense associated with Docket No. 950495-WS?

Citizens' position: *Test year expense should be reduced.*

No amount should be granted for an appeal of this case, for such a request is premature. Further, no amount of attorney fees should be approved for firms in addition to the amount for the Rutledge Encenia firm. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it is not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. §120.58(1)(a), Florida Statutes (1995). All of the evidence concerning legal fees was hearsay, and the company produced no witness qualified to express an opinion about the reasonableness of attorney fees.

The Citizens will address the rate case expense for the instant case, as well as the expenses included in the current rate case expense for the statewide rate investigation.

The Citizens' witness made several recommendations concerning the Company's requested rate case expense for the instant case.

First, Ms. Dismukes increased rate case expense by \$30,481 to reflect the overtime included in the 1995 budget. This is more properly included in rate case expense than in recurred test year expenses. Second, Ms. Dismukes removed the rate case consulting fees for witnesses that have not prefiled direct testimony in this proceeding. SSU's rate case expense included \$30,000 for consulting fees for Mr. Gartzke and \$20,000 for Mr. Cresse. Since neither of these consultants have provided direct testimony in this proceeding, the associated expenses should be removed. Third, Ms. Dismukes removed the cost the Company estimated for its cost of capital consultant, Dr. Morin. In her opinion, the Commission should not allow this expenses or any additional costs incurred by SSU for cost of capital testimony. The Commission developed the leverage formula to estimate water and wastewater utilities' cost of equity. This was done to ease the burden on the Commission and ratepayers due to the significant time and effort typically expended on this issue in rate cases. If SSU chooses to use a witness for this subject, then its stockholders should bear the associated cost, because its stockholders will be the sole beneficiary to any increase in the cost of equity proposed by SSU over the leverage graph. Tr. 2768. Furthermore, the Commission should question the total amount of this expense. Dr. Morin charged SSU \$40,000 for his testimony--regardless of the number of hours devoted to the project. SSU did not even ask him how many hours he spent on the project. Tr. 1471. In addition, the all of the cost of capital witnesses were stipulated into the record in

this proceeding. This is further evidence that the costs associated for SSU's cost of capital witness should not be borne by customers. Ms. Dismukes also agreed with Staff counsel that the costs incurred by SSU to appeal the Commission's decision concerning interim rates should be disallowed. Tr. 2878-2879. Likewise, she agreed that the expenses for Tracy Smith included in rate case expense should be removed. Tr. 2878. Finally, Ms. Dismukes agreed with Staff counsel that the consulting fees for Mr. Broverman's stricken testimony should be removed from rate case expense.

Numerous other expenses should be disallowed as well. SSU expended money on "educating" or smoozing customers -- costs that were not required by the Commission. For example, SSU spent \$13,000 on postage for open house invitations -- meetings where the Commission and other parties were not present. Tr. 1459. Mr. Ludsen did not know why \$548 from Karen Shofter was charged to rate case expense, what \$200 for video services for rate case training related to, or why \$500 for editing, shooting, a "rate case" video was charged to rate case expense. Likewise, he did not why charges for beeper services and dues and subscriptions should be charged to rate case expense. Tr. 1462, 1469. The Company incurred expenses to fax a seven page new release to 47 papers. A cost not required by the Commission. Tr. 1465-1466. Other examples of SSU including everything but the kitchen sink in rate case expense include the cost of books for modeling used and useful analysis, effective expert witnessing, and conservation. Tr. 1467-

1468. These costs are clearly not specifically related to the rate case. They will provide a benefit to SSU outside the instant rate case and should not be included in rate case expense. The Company purchased weather information from NOAA, but it was not used by SSU in the instant case. Tr. 1468-1469.

Turning to the cost for the statewide uniform rate investigation, the Citizens recommend that the Commission disallow 80% of the costs incurred by SSU. The Citizens' recommendation is based upon the fact that SSU expended substantial sums of money in pursuit of uniform rates despite the fact that the issue was revenue neutral. The Company spared no expense in its advocacy of uniform rates, going so far as to petition for extraordinary review of the First DCA decision by the Florida Supreme Court. Indicative of its endeavor, SSU acquired the services of former Florida Supreme Court Justice Arthur England who charged SSU \$500.00 per hour, well in excess of the fees charged by counsel normally retained by SSU. Tr. 2770.

SSU incurred \$432,069 associated with the uniform rate investigation. Its costs include \$34,358 on a telemarketing consultant, \$95,285 on consultant testimony, \$4,587 on Image Marketing Associates (SSU suggests that this was for customer education), \$102,629 on legal services, \$104,804 on FPSC notices, transportation, and security, \$54,963 for "customer education mailings", \$1,574 for open houses, and the remainder, \$33,888, on miscellaneous travel, federal express, and the like. Tr. 2772-2773.

Several of these expense by their very nature should not be recovered from customers. These include expenses for a telemarketing consultant, expenses for Image Marketing--a P/R consultant, expenses for "customer education" mailings, and expenses for open houses. These expenses were incurred by SSU for the sole purposes of gaining customer support for uniform rates. Such expenses are analogous to lobbying expenses and public relations expenses which the Commission does not allow recovery from ratepayers. SSU initiated a strong campaign to gain customer support for uniform rates. Its efforts included such things as placing door hanger on customers' doors, various unneeded direct mailings to customers, and busing customers in support of uniform rates into areas where there was opposition. SSU has not provided a breakdown of the \$104,804 of expense associated with notices, transportation, and security, so Ms. Dismukes could not determined what portion of any of this expense is reasonable. Tr. 2773. Staff counsel questioned Ms. Dismukes about this during the hearing. Ms. Dismukes indicated that she attempted to further evaluate the costs included in the category for FPSC notices, transportation, and security, and it was not possible from the data submitted by SSU to determine what portion of that cost related to Commission "required" notices. Tr. 2938. It is SSU's burden to prove the reasonableness of the expenses incurred in pursuit of state-wide rates. If SSU did not provide a breakdown for the cost of Commission required notices -- as opposed to other types of mailings and notices sent to customers which are not required by

the Commission -- then SSU should bear the risk of not recovering the entire cost.

The cross-examination of Mr. Ludsen highlights the impropriety of the expenses SSU requests recovery of in the instant docket concerning the state-wide rate investigation. For example, the Company incurred \$20,867 for rate structure programming. Tr. 1432. While the Company included this as an expense for the state-wide rate investigation, Mr. Ludsen admitted that it would serve purposes other than that investigation. Tr. 1433. But would not concede that it served purposes outside of the instant rate case. Ibid. The Citizens disagree. SSU is a utility that will always have the need to rate structure analyses. The programming done by this firm will benefit SSU for years to come. Accordingly, this expense is not properly included in the costs for the state-wide rate investigations. Mr. Ludsen testified that expenses in the amount of \$34,358 for a telemarketer were not required by the Commission. Tr. 1434. Although they asked for recovery of \$4,587 for Image Marketing, Mr. Ludsen did not know why these costs were incurred, nor why they should be recovered from ratepayers. Tr. 1434-1435. Mr. Ludsen agreed that \$2,795 for legislative charges from Messer, Vickers should not be charged to rate payers. Tr. 1436. Mr. Ludsen did not know why a charge of \$468 from American Waterworks Associations, a charge of \$657 for videotapes, a charge of \$413 for cellular phones, a charge of \$903 for invitation post cards should be included in rate case expense. Tr. 1437-1438 and 1447. Mr. Ludsen testified that a charges of \$1,573.99 for open

houses and \$4,225 for transporting customers to customer hearings were not costs required by the Commission. Tr. 1438. Although SSU believes the costs of advertisements in papers advocating uniform rates should be recovered from ratepayers, Mr. Ludsen admitted that these advertisements were not required by the Commission, but ads that SSU elected to put in the papers. Tr. 1440-1441. Numerous expenses were incurred by SSU that were not required by the Commission: charges from Central Florida Mail Service, \$8,357.29 for an insert in customer bills advocating uniform rates, \$7,321 for another bill stuffer advocating uniform rates, and \$5,000 in postage for mailing brochures to customers. Tr. 1442-1443. Mr. Ludsen agreed that costs incurred by Mr. Hoffman's law firm associated with legislative matters should not be included in rate case expense. Tr. 1453-1454. It is important for the Commission to recognize that the above are merely examples of SSU's extravagant spending on the state-wide rate investigation. SSU barred no expense in attempting to persuade its customers and the Commission that state-wide rates were the best thing since sliced bread. While the Citizens do not object to SSU advising the Commission of its preference for statewide rates, the Citizens strenuously object to SSU's suggestion that such lavish expenses should be borne by customers. SSU should bear these expenses, not customers. The Commission should adopt the recommendation of Ms. Dismukes and disallow 80%, or \$345,671, of the expenses incurred for this investigation. This would permit SSU to recover \$86,398 associated with the state-wide rate investigation. It is

interesting that SSU spent approximately this amount on the jurisdictional investigation. In that case SSU's total expenditures were only \$95,000--further highlighting the unreasonableness of the request in the state-wide rate investigation. Tr. 5265.

ISSUE 95: Should the expense associated with Docket No. 930945-WS (Jurisdiction Docket) be considered Regulatory Commission Expense-Other, and if so, what is the appropriate treatment and amount?

Citizens' position: *Only that part of the identified expenses which were prudently incurred should be recovered. As to the methodology for recovery, where recovery is approved, agree with Staff.*

No amount of attorney fees should be approved for firms in addition to the amount for the Rutledge Encenia firm. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it is not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. §120.58(1)(a), Florida Statutes (1995). All of the evidence concerning legal fees was hearsay, and the company produced no witness qualified to express an opinion about the reasonableness of attorney fees. See the discussion on issue 93 regarding the reasonableness of other expenses.

ISSUE 96: What is the appropriate treatment for additional rate case expense incurred subsequent to the final order in Docket No. 920199-WS (Prior Rate Case)?

Citizens' position: *Much of the costs incurred subsequent to the amounts approved in Docket No. 920199-WS were associated with

legal expenses associated with the Company's advocacy of uniform rates. The Company has not justified or proved the reasonableness of these expenses or the expenses of multiple law firms.*

If the Commission should have any question about the reasons for SSU being such a high cost, high overhead company, it need look no further than the squandering of rate case expense by the company. SSU provided no credible justification whatsoever for its outrageous request of \$459,000 for the appeal of this case. It hired multiple firms, including Mr. Armstrong's prior employer in Brooklyn, New York charging up to \$290 per hour, as well as the Greenberg Traurig firm charging up to \$500 per hour, in addition to the Rutledge firm. If SSU wants to throw unlimited funds at this appeal, then it must do so at its shareholder's expense. Under no circumstance should the Commission grant any rate case expense in excess of the amounts charged solely by the Rutledge Encenia firm.

Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it is not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. §120.58(1)(a), Florida Statutes (1995). All of the evidence concerning legal fees was hearsay, and the company produced no witness qualified to express an opinion about the reasonableness of attorney fees. The Commission therefore can not grant the request for attorney fees for Mr. Armstrong's prior employer or the Greenberg Traurig firm.

ISSUE 97: Should an adjustment be made to administrative and general and customer expenses for SSU's inefficiency?

Citizens' position: *Yes. Test year expenses should be reduced for diseconomies of scale by \$243,773. (K. Dismukes, Schedule 23)*

Ms. Dismukes addressed the company's acquisition program and showed that with respect to at least the two recent and largest acquisitions made by Southern States, the cost of the newly acquired systems actually increased; they did not decrease. The company has continuously argued that its acquisition program is beneficial to customers and allows it to spread its fixed costs over a larger body of customers thereby reducing the costs per unit to the customers. Ms. Dismukes tested this theory by examining the Company's administrative and general expenses over the period 1991 to 1996. Her analysis showed that as SSU's size increased, so did the cost per customer. This is the opposite of what one would expect if economies of scale so often touted by SSU were true. Ms. Dismukes' analysis showed that the cost per customer of administrative and general expenses increased from \$54 to \$77 in 1996. The conclusion drawn by Ms. Dismukes was that SSU's larger size is not more efficient but less efficient. Tr. 2753-2759.

SSU attempted to gain support for its acquisition program through the testimony of Dr. Beecher. However, Dr. Beecher testified that an acquisition program is only beneficial if the utility can obtain economies of scale. Tr. 1659. As Ms. Dismukes testified, SSU has not been able to achieve such economies. It has achieved only diseconomies of scale. Accordingly, the Commission should impose a gross inefficiency, or diseconomies of sale

adjustment, of \$1.8 million on SSU. After considering the other adjustments proposed by Ms. Dismukes and other witnesses for the Citizens, the net adjustment is a reduction to expenses of \$243,773. Tr. 2753-2759.

ISSUE 98: Should an adjustment be made to corporate insurance expense?

Citizens' position: *Corporate insurance expense should be reduced by \$96,458. (Larkin/DeRonne schedule 22)*

ISSUE 99: Should a true-up budget adjustment be made to test year expenses?

Citizens' position: *Yes. Test year expenses should be reduced by \$496,035.*

Ms. Dismukes proposed a true-up budget adjustment of \$496,035. Ms. Dismukes analysis consisted of an examination of the year-ending September 1995 actual expenses compared to the year-ending September 1995 budgeted expenses. Her analysis showed that as of September 1995, the company's actual expenses were under budget by \$496,035, and that this amount should continue into the four quarter of 1995. The company provided no rebuttal to the analysis performed by Ms. Dismukes. Accordingly the Commission should reduce test year expenses by \$496,035. Tr. 2765-2766.

ISSUE 100: Should the miscellaneous adjustments for bad debt, excessive employee recognition and the Price Waterhouse audit proposed by Witness Dismukes be made?

Citizens' position: *Yes. Test year expenses should be reduced by \$61,296 for reductions to bad debt expense and excessive employee recognition expenses. The Citizens agree that the adjustment for Price Waterhouse should not be made.*

The company's budget included \$33,785 for employee recognition expenses. Ms. Dismukes testified that this amount was excessive and unjustified as the amounts spent in previous years were considerably less. In addition, the company inflated the amount of expense due to the extra demands of the rate case. Customers should not be required to pay for expenses that will only be incurred once by the Company. Furthermore, the company initiated the rate case, not customers. The Commission should adopt the recommendations of Ms. Dismukes and reduce test year expense by \$14,341. Tr. 2776-2777.

Ms. Dismukes also proposed an adjustment to bad debt expense for \$46,955. In March 1995 the company reduced its bad debt expense to reflect a lower reserve requirements. The Commission should likewise reduce bad debt expense by \$46,955. Tr. 2777.

ISSUE 102: Should a 1996 attrition factor of 2.49% be applied to 1995 expenses as opposed to the 1.95% used in the MFRs?

Citizens' position: *No.*

ISSUE 103: Should actual 1995 FASB 106 expenses be considered in the 1995 test year?

Citizens' position: *No. The Commission granted the Citizens' motion to strike the rebuttal testimony of Brian Broverman. Since his testimony was necessary to support the claimed 1995 FASB 106 expense, the expense should not be considered in the test year.*

ISSUE 105: Are adjustments appropriate to reflect gains or losses on the sale of SSU plants as above the line income?

Citizens' position: *Yes. Utility gains on sales should be included above the line for ratemaking purposes. The Commission should increase test year income by \$3,363,412.*

During the period 1991 through 1995 the Company sold utility assets of the Venice Garden Utility (VGU) system for a profit of \$19,088,063, the St. Augustine Shores system for a gain of \$4,200,000, .11 acres in Seminole County for a loss of \$115, the River Park System for a gain of \$33,726 and a sale of 6.11 acres in Spring Hill for a gain of \$201,908. Exhibit 175, Schedule 8 and Exhibit 178.

SSU claims that the that the proceeds from the gain on the sale of VGU and St. Augustine Shores do not belong to the customers regulated by the Florida Public Service Commission, since these system were not under the Commission's jurisdiction at the time of the sale. This however, contradicts the Commission's recent decision in Docket No. 930945-WS, where the Commission found:

...we find that SSU is a single system whose service transverses county boundaries. As such, this commission has exclusive

jurisdiction over SSU's existing facilities and land in the State of Florida.... Order No. 95-0894-FOF-WS.

The Company strongly advocated the position that the Commission had complete jurisdiction over all of its systems. Consequently, the gains on any system should be shared with the existing customers of SSU.

There are several reasons why these gains should be shared with ratepayers. First, in past proceedings this Commission has required utilities to share with ratepayers the gain on the sale of utility property. For example, in Docket No. 82007-EU the Commission stated:

In Docket Nos. 81002-EU (FPL) and 810136 (Gulf Power), we determined that gains or losses on the disposition of property devoted to, or formerly devoted to, public service should be recognized above-the-line. We consider it appropriate to treat this gain in the same manner Florida Public Service Commission, Docket No. 820007-EU, Order No. 11307, p. 26.

Second, the Commission has determined that all of SSU's systems are under its jurisdiction; as such, the gain on sale resulting from any system should be shared with all customers of SSU regulated by the Commission.

Third, in the past, under circumstances similar to the present case, the Commission has required customers to absorb the loss on the sale of an entire system. Specifically, in Order No. 17168 the Commission found:

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Subsequent to the test year, Southern States sold the Skyline Hills water system to the Town of Lady Lake. We believe the gain or loss on the sale of a system should be recognized in setting rates for the remaining systems. Based on the net investment in plant by the utility, closing costs, and the purchase price, the sale of the Skyline Hills system resulted in a loss of \$5,643. This loss should be amortized over a three-year period resulting in an annual expense of \$1,881. Order No. 17168, P. 9, emphasis added.

It would be patently unfair for the Commission in the above instance to require customers to absorb a loss after the sale of an entire system, but not to similarly allow them to share in any of the associated benefits. Unless the Commission consistently treats gains and losses the same, customers will be caught in a "catch 22"--if it's a loss, customers pay, but if it's a gain, customers get nothing.

Fourth, SSU anticipates selling other systems in the future. In his deposition, Mr. Sweat indicated that his recommendation to divest several additional systems was viewed favorably by SSU's management. It is evident from SSU's strategic plan that it anticipates sales in the future and that such sales will be a recurring item.

Fifth, with respect to the VGU system, costs of this system have been charged to the other systems of SSU. Hence, SSU can not legitimately argue that the system was stand alone and no costs from this system were borne by the other customers of SSU. Under SSU's theory---it is one system--there should be no distinction between one group of customers and the next--all should share in

the costs and all should share in the benefits, including gains on sales.

Sixth, while SSU claims that customers have no proprietary interest in SSU's assets, it requests that customers absorb the cost of abandoned projects. It would not be fair for customers to pay for the cost of abandoned projects and not receive the benefits of gains on sales of utility assets.

In conclusion, the Commission should adopt the recommendations of Ms. Dismukes, and include above the line for ratemaking purposes \$ 3,351,712 associated with gains on sales of utility assets and systems. Tr.2732-2740; 2843-44; Exhibits 175, Schedule 8 and Exhibit 178.

ISSUE 106: If gains on sale are to be amortized and shared by ratepayers, should the amount of the gain first be offset by an amount sufficient to increase the level of utility earnings during the historic period to a level equivalent to the applicable rate of return authorized by the Commission for each year during the historic period?

Citizens' position: *No. This would amount to retroactive ratemaking and deny customers the benefit of the gains on sale.*

ISSUE 108: Are adjustments necessary to property taxes for used and useful plant adjustments?

Citizens' position: *An adjustment should be made to property tax expense to reflect appropriate non-used and useful percentages. Property tax expense should be reduced by \$731,678. (Larkin/DeRonne schedules 23 & 24)*

Property tax expense should be recalculated to reflect the non-used and useful percentages used by the Commission. The adjustment of \$731,678 reflects the non-used and useful percentages recommended by the Citizens' witness Bidy. Larkin/DeRonne, Tr. 2660. In seven instances, the procedure used by SSU would have service areas responsible for more property tax expense than charged by the taxing authority. Under no circumstances should the company be permitted to collect in rates a level of property tax expense in excess of the amount the company will pay. Larkin/DeRonne, Tr. 2661-2662.

ISSUE 110: What is the proper amount of parent debt adjustment and the method of allocation to the individual plants?

Citizens' position: *The parent debt adjustment proposed by SSU is acceptable*

ISSUE 115: Should SSU's revenue requirement be calculated on a plant specific basis?

Citizens' position: *Yes.*

ISSUE 116: What are the revenue requirements in total and by plant?

Citizens' position: *SSU's overall revenue requirement should be reduced by \$10,360,891 per year*

ISSUE 118: Should the utility's proposed weather normalization clause be implemented?

Citizens' position: *No.*

The company's proposed "weather normalization" is not is not a weather normalization clause as the SSU suggests, but a revenue normalization clause or a decoupling proposal. SSU's proposal essentially shifts business risk from the company's stockholders to customers. It insulates SSU from all forms of revenue variability, including variations in weather, conservation, tourism, changes in the economy and all other factors that affect water consumption. Customers should not be put in a position of guaranteeing the company the collection of its proposed revenues, regardless of the circumstances. Stockholders are in a much better position to hedge this risk than ratepayers. This Commission, in fact, in considering a decoupling proposal of an electric utility, found that the revenue losses associated with an economic downturn should not be borne by customers, but they should be borne by the utility. Tr. 2806.

While Southern States suggests that its "weather normalization" clause is analogous to a fuel adjustment clause for an electric company and that it has risks associated with revenue variability similar to electric companies fuel variations, there are several differences that make the analogy inappropriate. First, fuel adjustment clauses were implemented as a result of the oil embargo and rising and unpredictable fuel costs. All factors which SSU suggests are unpredictable that affects its revenue have been in existence sine SSU began operations in the state. Tr.

2821. Second, fuel adjustment clauses do not allow the utility to collect 100% of changes in consumption--only changes in fuel costs. Tr. 2821-2824.

There are numerous other problems with SSU's proposed "weather normalization" clause. First, it is new and has never been used by any other water utility operating in the United States. Tr.2882 and 5266. Second, it will create significant customer confusion. Tr. 2705-06, 2883. Third, it will send conflicting signals to customers: if their usage goes down, their rates will go up. Tr.2884. Fourth, it fails to take into consideration that variable expenses will change with consumption changes. Tr. 2704-2705. Fifth, it may create perverse incentives related to quality of service issues. Tr. 2706 and 2883. Sixth, it does not provide SSU with the incentive to operate efficiently. Tr. 2883. Seventh, if statewide rates are not implemented in this case, the proposed "weather normalization clause would be difficult to administer. Tr. 1935. Eighth, it could be an administrative nightmare for the Commission. For example, what happens if SSU sells or acquires another system. Tr. 2884, 5263-5264.

If the Commission finds that some revenue stability over and above the revenue collected from the BFC should be granted to SSU (which the Citizens do not endorse), it should adopt either of the alternative recommendations of Ms. Dismukes or a revenue stabilization fund. Tr. 1930, 2707-2710.

The Citizens recommend that the Commission not approve SSU's proposed "weather normalization" clause. It is seriously flawed

and inappropriately shifts diversifiable risk from stockholders to ratepayers which can not diversify the risks associated with revenue variability.

ISSUE 126: Should the Commission adopt the rate structure of 40% of revenue collected from the BFC and 60% of revenue collected from the gallonage charge, as proposed by SSU?

Citizens' position:*No. The Commission should reject the company's proposal. The Commission should adopt a rate structure which consists of 25% of revenue collected from the BFC and 75% of revenue collected from the gallonage charge for all systems other than Marco Island. For Marco Island the Commission should adopt a rate structure which collects 20% from the BFC and 80% from the gallonage charge.*

SSU proposes to increase the percentage of revenue collected from the BFC and reduce the percentage of revenue collected from the gallonage charge. SSU's existing rates collect 33% of revenue from the BFC and 67% from the gallonage charge. SSU proposes to change this relationship with 40% coming from the BFC and 60% coming from the gallonage charge. According to Dr. Whitcomb, the rate structure proposed by SSU is a water conserving rate structure, using the criteria set forth in the Brown & Caldwell Study. Tr. 2710-2711.

Dr. Whitcomb prefers the 40/60 split to the 33/67 split because it produces a greater level of revenue stability for SSU. Unfortunately, the Company's proposal is inconsistent with conservation goals as admitted by Dr. Whitcomb.

Remember that one of the best ways to reduce water consumption is to shift cost recovery from the fixed charge to the quantity charge. You can lower meter charges and increase water price and still collect the same revenue. Tr. 2711-2712.

The company's proposal is directly opposite of the recommendation of Dr. Whitcomb concerning the best way to reduce water consumption. The company and Dr. Whitcomb apparently prefer revenue stability to water conservation. This is surprising, since the Company believes itself to be a leader in water conservation programs and proposes to charge ratepayers in excess of \$500,000 to enhance conservation. SSU would prefer to charge customers \$500,000 to conserve water as opposed to implementing a rate design proposal that would effectuate the same result and cost customers nothing. Tr. 2729-2730.

While SSU claims that its rate structure qualifies as a conservation rate structure, it certainly is not the most aggressive conservation rate structure. In fact, its proposal is less conservation oriented than its prior rate structure. Relative to a rate structure which collected 33% from the BFC and 67% from the gallonage charge, SSU's proposal reduces the cost per 1000 gallons of water, thereby providing less of a financial incentive for customers to reduce consumption. The 3.2 score of SSU's proposed rate design is the lowest possible score which can still be considered a water conserving rate structure. Tr. 2715 and 2835.

While moving from a 33/67 split between the BFC and gallonage charge to a 40/60 split allows SSU to stay within the score of 3.2, it is a move in the wrong direction. The Company, which apparently believes itself to be a water utility which promotes water conservation, should not move in a direction which gives customers less of a price signal to conserve water. SSU's proposal is illogical. Many of SSU's systems operate in water resource caution areas or proposed water resource caution areas. SSU's rate design is inconsistent with reducing consumption in these areas. Tr. 2716-2717.

In addition to its failure to properly account for water conservation goals, SSU's proposal unnecessarily shifts more risk for revenue collection from SSU's stockholders to its customers. Tr. 2714-2715.

The Citizens recommend that the Commission adopt the recommendations of Ms. Dismukes and approve a rate structure which collects 25% of SSU's revenues from the base facility charge and 75% from the gallonage charge. The Commission should continue the existing 20/80 split BFC/gallonage for Marco Island. Because the customers of this system consume an above average amount of water it would be appropriate to continue with the existing 20/80 rate structure. The 25/75 split between the BFC and the gallonage charge for SSU's other systems will move SSU to a more water conserving rate design. Ms. Dismukes developed the split between the BFC and the gallonage charge using the criteria set forth in the Brown & Caldwell study. The split she recommends will move SSU

up one notch under the cost allocation criterion set forth in the Brown & Caldwell study and will produce an overall score of 3.6. Inclusion of historical consumption information on SSU's customers' bills will boost SSU's overall score to 3.7. Tr. 2718.

The Commission might also want to consider an inverted block rate structure. Under such a rate structure, the gallonage charge would increase as customers consume more water. Typically, such rate structures are done in blocks, such that the first block recognizes the average or typical water consumption of a customer. Any consumption in excess of this typical level would be priced higher, recognizing the increased cost associated with producing this additional water. Tr. 2720.

ISSUE 129: What are the appropriate rates for SSU?

Citizens' position: *SSU's rates should be reduced by \$10,360,891 per year*

ISSUE 131: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund?

Citizens' position: *Since SSU's rates should be reduced, all interim rate increase revenues should be refunded.*

ISSUE 142: Should the utility be required to offer the option of electronic funds transfer for direct payment of customer bills?

Citizens' position: *Yes.*

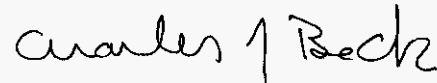
ISSUE 145: Do Sections 367.0817 and 403.064, Florida Statutes, require that reuse facilities be considered 100% used and useful?

Citizens' position: *No. For reuse facilities to be considered 100% used and useful, the construction of the facilities must be prudent and the facilities must be specifically designed and used for public access effluent reuse purposes.*

See discussion of Issue number 42.

Respectfully submitted,

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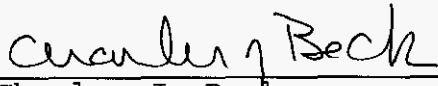
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