

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

MARCH 16, 1999

RE: DOCKET NO. 950387-SU - Application for a rate increase for North Ft. Myers Division in Lee County by Florida Cities Water Company - Lee County Division.

Issue 1: Should the Commission ignore average daily flow in the peak month in determining used and useful plant to be included in rate base?

Recommendation: No. However, where the utility's wastewater treatment plant is permitted by DEP in terms of average annual daily flow, it is appropriate to compute the used and useful percentage utilizing flows expressed in the same unit.

**APPROVED**

COMMISSIONERS ASSIGNED: GR DS JN

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

*Joe Garcia*  
*J. Terry Dean*

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REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

03427 MAR 17 89

FPSC-RECORDS/REPORTING

VOTE SHEET

MARCH 16, 1999

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Issue 2: Does a change in the wording of the DEP permit application so that the permit and application now indicate the time frame for design capacity, i.e. annual average daily flow, maximum monthly average daily flow or three-month average daily flow correspond to a real change in operating capacity?

Recommendation: No. A change in the wording of the DEP permit application so that the permit and application now indicate the time frame for design capacity does not correspond to a real change in operating capacity.

**APPROVED**

Issue 3: Where the DEP permits the wastewater treatment plant based on annual average daily flows, what flows should be used in the numerator of the used and useful equation to calculate used and useful plant?

Recommendation: The flows that should be used in the numerator of the used and useful equation for this utility should be expressed in annual average daily flow (AADF) as DEP has permitted. This corresponds with the design capacity as determined by the First DCA as being 1.25 MGD annual average flow (AADF). The resultant flow and design capacity as applied in the used and useful equation yields a 79 percent used and useful percentage for this utility.

**APPROVED**

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Issue 3A: In light of Southern States Utils., Inc. v. FPSC, 714 So. 2d 1046 (Fla. 1st DCA 1998), what action, if any, is necessary to correct the used-and-useful adjustments made to facilities designated as reuse? (This issue was not identified in the prehearing order.)

Recommendation: Pursuant to the holding in Southern States Utils., Inc. v. FPSC, 714 So. 2d 1046 (Fla. 1st DCA 1998), no used and useful adjustment should be made to reuse facilities. This increases the revenue requirement by \$8,106. This Issue should be proposed agency action.

**APPROVED**

Issue 4: What is the appropriate provision for rate case expense since the remand by the First District Court of Appeal?

Recommendation: The appropriate provision for rate case expense since the remand by the First District Court of Appeal is \$138,283. The total rate case expense that should be allowed is \$244,979. The \$244,979 is a summation of previously authorized rate case expense, of \$90,863, by Final Order No. PSC-96-1133-FOF-SU, rate case expense of \$138,283 since the remand, and appellate non-legal rate case expense (See Issue 5) of \$15,834. Amortized over four years, the resulting test year charge is \$61,246. This increases the total rate case expense since the appeal and remand by \$38,530.

**APPROVED**

Issue 5: What is the appropriate provision for appellate non-legal rate case expense?

Recommendation: The appropriate provision for appellate non-legal rate case expense is \$15,834.

**APPROVED**

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Issue 6: What is the appropriate revenue requirement?

Recommendation: The following revenue requirement should be approved:

|                     | <u>Total</u> | <u>Increase</u> | <u>% Change</u> |
|---------------------|--------------|-----------------|-----------------|
| Wastewater Division | \$2,229,293  | \$225,946       | 11.28%          |

**APPROVED**

Issue 7: What are the appropriate wastewater rates for Florida Cities Water Company - North Fort Myers Wastewater Division?

Recommendation: The recommended rates should be designed to allow the utility the opportunity to generate annual operating revenues in the amount of \$2,185,292 which excludes miscellaneous revenues, guaranteed revenues and reuse revenues. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. The rates should not be implemented until proper notice has been received by the customers. The utility should provide proof to staff of the date notice was given within 10 days after the date of notice.

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Issue 8: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense required by Section 367.0816, Florida Statutes?

Recommendation: The wastewater rates should be reduced as shown on Schedule No. 5 of staff's March 4, 1999 memorandum, to remove \$64,132 of rate case expense grossed-up for regulatory assessment fees which is being amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year recovery period pursuant to Section 367.0816, Florida Statutes. The established effective date should be December 13, 1995. The utility should be required to file revised tariff sheets and a proposed customer notice setting forth the lower rates and the reason for the reduction not later than one month prior to the actual date of the required rate reduction.

**APPROVED**

Issue 9: Should the utility be required to refund a portion of the revenues implemented pursuant to Order No. PSC-95-1360-FOF-SU, issued November 2, 1995?

Recommendation: Yes. The utility should be required to refund 10.92% of the revenues collected, from January 1, 1996 to December 31, 1996, through the implementation of rates established pursuant to Order No. PSC-95-1360-FOF-SU, Issued November 2, 1995. From January 1, 1997, to the effective date of the final rates, FCWC should refund 10.50% of the revenues collected through the implementation of rates established in the abovementioned order. These refunds should be made with interest as required by Rule 25-30.360(4). The utility should be required to submit proper refund reports pursuant to Rule 25-30.360(7), Florida Administrative Code. The utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), Florida Administrative Code.

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Issue 10: Should the utility's Motion to Make Rates Permanent be granted? (This issue was not identified in the prehearing order.)

Recommendation: The motion should be granted in part, and denied in part. Specifically, in the event the utility appeals the Commission's decision made at this agenda conference, the utility should be allowed to continue charging, subject to refund, the proposed agency action rates that it now has in effect. Further, the Commission should recognize that with the decision of the First District Court of Appeal and the issuance of Order No. PSC-98-0509-PCO-WS, the revenues associated with the plant capacity being 1.25 million gallons per day, as opposed to 1.5 million gallons per day, are no longer in dispute, and should not be a part of the revenues held subject to refund. Also, the Commission should recognize that the revenues associated with the use of annual average daily flows in the numerator is a minimum figure. Therefore, in the event of an appeal, the amount of annual revenues subject to refund is only \$300,539. The utility's current corporate undertaking in the amount of \$1,267,590.20 is sufficient security to protect revenues subject to refund up through June 15, 1999. Also, as was done in Order No. PSC-98-0762-PCO-SU, the utility, in the event of an appeal, should be required, without additional action by this Commission, to automatically increase its corporate undertaking starting on June 15, 1999, so as to protect the amount subject to refund for the next six months as shown on Schedule No. 6 of staff's memorandum. Further, pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should continue to provide a report by the twentieth of each month indicating the monthly and total revenue collected subject to refund. Finally, the corporate undertaking should state that it will remain in effect during the pendency of any appeal as stated in the utility's motions and will be released or terminated upon subsequent order of the Commission addressing the potential refund.

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Issue 11: Should the Commission approve staff's specific recommendations on Florida Cities' proposed findings of fact and conclusions of law?

Recommendation: Yes. The Commission should approve staff's specific recommendations on Florida Cities' proposed findings of fact and conclusions of law.

**APPROVED**

Issue 12: Should this docket be closed?

Recommendation: No. Upon expiration of the protest period for Issue 3A, and the appeals period for the rest of the order, this docket should remain open pending staff's verification of refunds. Staff should be given administrative authority to close the docket upon verification that the refunds have been completed, and there are no unclaimed refunds.

**APPROVED**