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July 23, 1999

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 971065-SU

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of the Citizens' Post-Hearing Statement for filing in the above referenced file.

Also enclosed is a 3.5 inch diskette containing the Citizens' Post-Hearing Statement in WordPerfect for Windows 6.1. Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

Stephen C. Burgess
Deputy Public Counsel

SCB/dsb
Enclosures

AFA 1
APP
CAF
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LEG 1
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for rate increase in Pinellas County by Mid-County Services, Inc.	)))	Docket No. 971065-SU Filed: July 23, 1999

CITIZENS' POST-HEARING STATEMENT

The Citizens of the State of Florida, through their attorney, the Public Counsel, pursuant to Order No. PSC-99-1203-PHO-SU, hereby file this Post-Hearing Statement for the above-referenced docket.

ISSUES AND POSITIONS

ISSUE 1: How should construction work in progress (CWIP) be treated?

OPC: *This should not be a legitimate issue because the PAA gave Mid-County everything it sought in its original filing. Even if the PSC entertains Mid-County's additional request, it should not allow 1997 year-end (it is a 1996 test year) CWIP.*

RATIONALE:

The Commission should not grant Mid-County this extraordinarily liberal interpretation of the statutory term "in dispute." To fully appreciate the amount of mental gymnastics necessary to reach this interpretation, the Commission should consider the full context of the PAA order.

On this particular issue, the PAA order merely granted the utility the entire amount of the revenue increase it sought. The PAA order simply acted as a conduit allowing the amount that Mid-County certified was the proper amount of CWIP in rate base. In that sense, then, Mid-County disputes no one except Mid-County. To classify a dispute with its own filing as being "in dispute" for purposes of applying the APA stretches the term beyond any reasonable limit.

The statutory language of Section 120.80(13), F.S., allows the Commission hearing to address only those issues which are "in dispute." This provision is relatively new and has not been subjected to appellate interpretation. Consequently, the Commission has considerable latitude to interpret the provision for its most sensible application.

The point is that the Commission can interpret "in dispute" in any one of several alternative ways that would almost certainly survive legal challenge. That is precisely why the Citizens did not choose to challenge the Commission's legal authority to entertain this issue. The Citizens believe that if the Commission chooses to interpret §120.80(13) such as to disallow the CWIP issue that choice would survive appellate challenge. If, on the other hand, the Commission chooses not to entertain Mid-County's dispute against itself, that choice would likewise be a legally acceptable interpretation.

It is the Commission's choice. There are no legal prohibitions that prevent the Commission from ruling either way. The Citizens ask merely for fairness. In the context of fairness, the Citizens ask the Commission and Staff to consider their position on Issue A of this case.

Issue A centered on the same statutory language that is being applied in Issue 1. Because that language has not been interpreted by appellate courts, the Commission had the same wide latitude to select a reasonable interpretation as it does for Issue 1. The Commission could have chosen either interpretation and withstood appellate challenge. The Commission would have withstood challenge had it chosen to interpret "in dispute" to allow the Citizens to raise issues in the same way issues are brought into dispute in 120.57, F.S., hearings. The Commission instead chose the very narrow

interpretation of "in dispute" which prevented the Citizens from presenting important relevant evidence demonstrating that Mid-County's used and useful ratio is significantly overstated.

Given that the Commission has chosen a narrow interpretation of "in dispute" that prevented the Citizens from raising certain issues even once, it seems particularly one-sided to suddenly broaden the interpretation in order to allow the utility to raise an issue for a second time.

Because this term "in dispute" is open to considerable interpretation, the Commission is free to choose the interpretation which yields the most reasonable results. The Citizens also are aware that the Commission can interpret "in dispute" narrowly for Issue A (favoring the utility) and broadly for Issue 1 (also favoring the utility). Rationale can be given to support that approach, just as rationale could be given for a broader interpretation for Issue A (favoring Citizens) and a narrow interpretation of "in dispute" for Issue 1 (also favoring Citizens).

The Citizens hope the Commission chooses interpretations which value the customers' due process as much as the utility's. The Citizens ask the Commission to consider if it makes procedural sense to allow Mid-County two opportunities by disputing its own filing, then interpret the same statutory language to deny the Citizens an opportunity to present evidence even once.

Mid-County now claims that seeking the average balance was merely an oversight - a mistake which it should be allowed to correct. This average balance, however, is no mere mistake. It first was incorporated in the MFR by a professional accountant employee of Utilities, Inc. (T-143) It was reviewed by his supervisor and then by Carl Wenz, the vice-president in charge of the Utilities, Inc.'s regulatory affairs for its operations in many different states. (T-144) It was reviewed by Richard Melson, expert counsel in utility filings with almost twenty years of practice before the PSC. During the PAA process, the utility was in close communication with the PSC staff, as staff

audited the utility and examined each MFR entry. Throughout this entire process, the utility surely should have noticed such an obvious mistake.

The time to correct any inadvertent errors in the initial filing has long past. It is a procedural absurdity to allow the utility to change its method of filing during a protest of a PAA which simply approves the utility's own initial filing.

Even should the Commission feel compelled to allow Mid-County this extraordinary second bite at the apple, it should reject Mid-County's proposed treatment. Allowing post test year CWIP into rate base is a generous regulatory treatment. Because of the unique nature of CWIP, it is often excluded from rate base (and allowed AFUDC) even when it actually occurs during the test year. Thus, by receiving both 1996 and 1997 CWIP in an otherwise average balance 1996 test year, the utility benefitted from an already liberal regulatory construction.

To allow an ending balance 1997 CWIP into an otherwise average balance 1996 test year is a fundamental regulatory mismatch. The Citizens, for instance, may want to use year-end 1997 revenues with an otherwise average 1996 test year. The Citizens recognize that would be totally unfair to the utility's interests. Likewise, it is improper to allow ending balance 1997 CWIP with an otherwise average 1996 test year.

The Commission should also be aware of and control two peripheral impacts. First, the Commission should disallow the proportionate amount of rate case expense associated with the re-filing of this issue. The customers should not be required to pay the double expense incurred for filing twice on the same issue. The customers have already paid the cost of the utility presenting this issue in its initial filing. They should not be forced to pay the cost a second time simply because the utility now has chosen a different regulatory philosophy.

The second peripheral impact that should be avoided is the effect on interim rates. If the Commission grants any part of Mid-County's request on this issue, it should not allow it to affect the interim rate refund. Generally, the final approved rates will affect the amount of interim rates to be refunded. Since the interim rates and the PAA permanent rates were based on the utility's initial filings, it would be totally unfair to allow the utility to reduce the interim refund by "disputing" the method it chose to make in its own initial filing.

ISSUE 1A: Did the PAA grant the entire revenue requirement associated with the CWIP sought by Mid-County in its original filing?

OPC: *Yes, the PAA granted Mid-County its 1997 average balance CWIP in the 1996 average balance test year, just as the utility requested.*

ISSUE 2: What is the appropriate methodology for calculating used and useful for wastewater treatment plants?

OPC: *It is axiomatic that, as in any meaningful ratio, the basis used to measure the denominator must also be used to measure the numerator. Since Mid-County chose AADF for its DER permit, the PSC should use AADF as the system demand.*

RATIONALE:

The starting point in determining the proper amount of used and useful plant is an accurate ratio of demand to capacity. There may be several subsequent issues to address, such as how much margin is necessary for growth and various contingencies. Those additional issues are meaningfully addressed, however, within the context of the central ratio of demand to capacity.

The only way to create a meaningful ratio of demand to capacity is to measure each component on the same basis. Mid-County's proposal to use the average annual daily flow for the

denominator and the MMADF for the numerator is a self-serving mismatch. That approach is no more fair than the reverse. As Mr. Larkin points out:

> Suppose, for example, the Commission reversed the mismatch and based the numerator on the average annual flow, but based the denominator on the maximum daily flow. Such a mismatch would unfairly and inaccurately understate the used and useful ratio, and the utility would justifiably complain. (T-262)

Just as the utility would have a valid complaint if the numerator were artificially understated, so also the customers should not be burdened with an artificially overstated numerator.

Mr. Crouch also agreed that the numerator and denominator must be measured on an equal basis. He stated:

> [Y]ou cannot divide the average daily flows treated by a wastewater treatment plant in the maximum month by the permitted annual average daily flow and get a valid percentage of used and useful capacity. It is imperative that terms or time periods under consideration be the same for both the numerator and the denominator of a legitimate equation. This is only logical. (T-336, 337)

Mr. Crouch also provides two very useful analogies which clearly demonstrate the need to use the same flow basis for the numerator as for the denominator. Mr. Crouch points out:

> As a mathematical example. 12 feet divided by 4 feet equals 3 feet, but 12 feet divided by 4 yards does not equal 3 feet. Similarly, $4,000 in revenue in maximum month divided by $1,000 in annual average monthly expenses does not equal 400% profit. (T-336)

It would be absurd, to as well as financially disastrous, to conclude that $1,000 average monthly expenses with a $4,000 maximum month revenue yields 400% profit. It is equally absurd to contend, as does Mid-County, that a MMDF demand measure divided by a AADF capacity measure will yield any meaningful information.

Mr. Biddy likewise stresses the need to measure the numerator on consistent terms with the denominator. He states:

> If the plant capacity is permitted or designed on the basis of AADF, then the test year AADF should be used for the numerator. On the other hand, if the plant capacity is permitted or designed on the basis of ADFMM, then the test year average daily flow of maximum month (ADFMM) should be used. Generally, the FDEP permitted capacity is the same as the original designed capacity. (T-226)

Mr. Biddy then gives the unassailable rationale for this approach:

> This method will insure that both numerator and denominator are arrived at from the same basis, i.e. apples to apples or oranges to oranges. To compute the used and useful percentage as Mid-County suggests would be to mix comparisons of ADFMM to AADF and would yield a percentage with no meaning, as would comparing apples to oranges. (T-226)

To assure that the used and useful ratio compares "apples to apples," the Commission must measure the demand on the same basis as the capacity.

During cross-examination of Mr. Crouch, Mr. Melson analogized the used and useful calculation to the use of miles per hour as a measure of speed. (T-354) Interestingly, the utilities own choice of analogy clearly demonstrates the absurdity of its position.

Suppose one knows the average speed necessary to make a certain trip on time (e.g., 40 miles per hour for 2 days) as well as the maximum speed necessary (e.g., 72 MPH) in order to achieve the average for the two-day trip. And one also knows that a particular automobile can average 50 MPH over the route of the trip, and can achieve a maximum speed of 90 MPH. It is then a very easy exercise to determine if that particular automobile has the capacity for the trip, as well as the amount of excess capacity of the automobile.

Eighty percent (80%) of the capacity of the car must be used in order to meet the demand of the trip. This can be determined by dividing the 40 daily average MPH demand by the 50 daily average MPH capacity. Alternatively, it can be determined by dividing the 72 maximum MPH demand by the 90 maximum MPH capacity.

Mid-County's approach, however, would be to compare the 72 MPH maximum demand with the 50 MPH average capacity, and thus conclude that the automobile cannot complete the trip on time.

Miles per hour does indeed measure speed. One must, however, apply logic and reason to assure a reasonable conclusion. Since Mid-County chose to obtain its DEP permit on the basis of AADF, the Commission should evaluate the system demand on the basis of AADF.

ISSUE 3: Should the utility be granted a margin reserve, and if so, what is the appropriate amount which should be used?

OPC: *The Citizens continue to believe that current customers should bear only the plant costs necessary to meet their current demand. In this case, however, the Citizens are willing to accept the eighteen month margin reserve adjusted for 50% of the CIAC to be collected during the margin period.*

RATIONALE:

As Mr. Larkin states, it is the continuing position of the Office of the Public Counsel that it is not appropriate to add a margin reserve component to the capacity requirement. (T-264) In this particular case, however, the Citizens are not seeking to change the PAA on this issue. Rather, the Citizens recommend the Commission retain the eighteen-month margin reserve adopted in the PAA, along with a 50% CIAC imputation.

Mid-County seeks the Commission to change the PAA and adopt a five-year margin. The utility position relies heavily on FDEP Rule 62-600.405(8)(a), Florida Administrative Code. For two reasons, however, the utility has completely misplaced its reliance. First, Mr. Biddy points out:

> The rationale used for the 5-year time period is from the FDEP rules Chapter 62-600.405(8)(a), F.A.C. The purpose of this rule is to ensure that the utilities will make timely planning, design and construction of needed expansion. However, the only requirement is to have a professional engineer registered in Florida to sign and seal a statement that "planning and preliminary design of the necessary expansion have been initiated" when the permitted capacity will be equaled or exceeded within the next five years. It is not justified to require existing customers to pay for the future 5-year plant capacity just based on that statement. (T-236, 237)

The second error in Mid-County's reliance on FDEP rules is its failure to understand the proper respective roles of the FDEP and the PSC. The FDEP requires utility compliance with Florida environmental law. This compliance often requires expenditures to be made by a utility. Once a utility expenditure is made, it is the exclusive responsibility of the PSC to determine how it is charged through rates. The FDEP has no authority in this area. Responding to Mid-County's position on this issue, Mr. Larkin points out:

> [T]his misses the entire point of the Commission's jurisdiction. The Commission is charged with the responsibility of assuring that reasonably incurred costs are equitably distributed among the various customers for whom those costs are incurred. An eighteen month margin reserve does not prevent a utility from earning a return on plant held for customers who will be added after the eighteen month period; rather, it merely allots a fair portion of the cost to those specific customers for whom the plant is being held. The utility will receive a return on, and a return of, its entire investment. (T-265)

The definitive case law on this issue also repudiates Mid-County's argument in its entirety. In the recent Florida Cities Water Company v. State of Florida, Public Service Commission, 705

So.2d 620 (Fla. 1st DCA 1998), the court made it abundantly clear that the PSC, not environmental agencies, has the authority to determine which expenditures are included in a utility's rates. The court stated:

> To require the PSC to add to the rate base any and all expenditures another governmental agency's regulations require a utility to make, without regard to whether the expenditures are "used and useful" for current customers, would in effect transfer rate making authority from the PSC to the governmental agency requiring the expenditures.
>
> Id. at 623.

And:

> Even when another governmental agency has required a utility to make a capital expenditure, the PSC must decide what portion of the expenditure (if any) belongs in the utility's rate base.
>
> Id. at 623, 624.

The FDEP rules, then, simply cannot require that any particular rate treatment be instituted by the PSC.

The Commission should allow Mid-County a margin reserve period of no more than the eighteen months already granted by the PAA.

ISSUE 4: What is the appropriate used and useful percentage of the wastewater treatment facility?

OPC: *The wastewater treatment plant should be considered to be 65.54% used and useful, based on the utility's own stated design flow of 1.1 MGD. The Commission should not allow the utility to manipulate this calculation by merely removing one very inexpensive component.*

RATIONALE:

According to Mid-County's own consulting engineers, the plant design flow is 1.1 million gallons per day (MGD). (T-232) This figure clearly reflects the capacity of the plant.

After several months to respond to Mr. Biddy's statement that the 1.1 MGD design capacity should be used, Mid-County witnesses were able to come up with one self-imposed limitation as the only reason that the plant cannot operate at the 1.1 MGD design capacity. Mr. Seidman stated that the plant could not maintain 1.1 MGD "without an additional expenditure of capital." (T-428) Mr. Seidman then identifies the capital asset as being "increase in blower capacity." (T-429) This condition resulted because the utility shifted certain blowers out of the aeration blower bank into other uses. (T-460)

Mr. Seidman was asked by Commissioner Deason if he knew of anything else that prevented the plant from operating at 1.1 MGD. (T-462) He did not. (T-463) Nor did Mr. Seidman have any idea of the cost of the additional blower necessary to bring the system up to 1.1 MGD with the necessary safety factor for aeration. (T-463)

Mr. Biddy, who has designed many wastewater facilities, testified that the approximate cost of adding the blower(s) necessary to bring the plant to 1.1 MGD would be $1,000 - $1,500. (T-502) So with a $1,000 - $1,500 investment the plant could treat 1.1 MGD with a 1.5 safety factor for aeration. (T-501)

The Commission should not allow the utility to make a travesty out of the used and useful calculation. If a utility is able to raise its used and useful percentage by simply removing an inexpensive portable item, then the entire calculation has become a sham. A utility can always

remove any minor part, rendering some sub-process less than full capacity. The current customers should not be burdened with higher rates as a result of such a sham.

The PAA used .9 MGD capacity because that was the existing permitted capacity. The permitted capacity, however, does not reflect the actual plant capacity because it is artificially lower for the aeration limitation discussed earlier. The Commission's decision on this issue should reflect the true capacity, 1.1 MGD. (T-232)

ISSUE 7: Should Contributions in Aid of Construction (CIAC) be imputed on the margin reserve, and if so, what amount?

OPC: *Yes. The Commission should impute CIAC to the margin reserve that is allowed. Generally, the Citizens believe that the entire CIAC balance should be imputed. In this case, however, the Citizens support the 50% CIAC imputation already imposed by the PAA.*

RATIONALE:

There are several reasons that at least 50% of the CIAC should be imputed to the margin reserve. None is more compelling than the fact that if CIAC is not imputed, Mid-County will earn higher than its authorized return during the time rates will be in effect. A quick look at the numbers will verify this fact beyond challenge.

The PAA margin reserve of eighteen months would add $50,733 to rate base. Based on the same growth rate, Mid-County will collect $135,220 of CIAC during that same eighteen months. (T-270) If the growth is incurred ratably over the eighteen months, Mid-County will have covered the entire margin reserve investment within the first seven months. At that point, as Mr. Larkin explains:

> After that point, every new customer added decreases the Company's investment, as determined by the Commission during the test year. The utility is still earning at the level that the Commission established seven months earlier, but its investment is decreasing each and every month after, so it is earning in excess of the authorized rate of return in each accounting period after the first seven months. If rates are never reestablished, the Company continues to over-earn because the investment is overstated by the amount in excess of margin reserve. Consequently, Mr. Seidman's statement that the utility will be denied the opportunity to ever earn a return on its investment is blatantly incorrect. In fact, it will over earn based on the test period on which rates are established. The ratepayer will never receive credit for the additional CIAC until the next rate case. That additional CIAC will always flow to the benefit of the Company and its stockholders. (T-270)

The rate setting process must assure that during the pendency of the established rates, a utility does not collect a return on investment that exceeds the established rate base. Mid-County's proposal would violate this fundamental concept. Mid-County proposes that the Commission grant current rates to cover $50,733 of investment for future customers, but totally ignore the $135,220 which will be collected from these very same customers. Mid-County recommends a ratesetting process that totally ignores CIAC collections which are nearly triple the investment for which it is collected to subsidize (and which investment is included in rate base).

The egregious unfairness of Mid-County's proposal is self-apparent. The Commission should impute 50% of the CIAC that will be collected during the margin reserve period.

In addition to the clear equity on the issue, applicable law fully supports an imputation of CIAC to margin reserve. In Rolling Oaks Utilities v. Florida PSC, 533 So. 2d 770 (Fla. 1st DCA 1988), the Court not only approved the Commission's authority to impute CIAC, it implied that it would be improper for the Commission to do otherwise:

> Through imputation of CIAC to the margin reserve, the Commission recognizes that a part of the utility's cost for maintaining reserve capacity will be offset by the connector fees to be paid by the customers for whom the reserve capacity was kept available.
> Id.

And:

> By imputing CIAC to margin reserve, the Commission requires the utility and future users of the utility's services to bear a part of the cost of making future services readily available. Absent this policy, existing customers would bear all of the cost of making services available to future customers.
> Id.

And further:

> The margin reserve policy is a reflection of the Commission's effort to recognize the cost to a utility of having future plant need readily available, and to allocate a portion of that cost to those future customers who will benefit from the ready availability of the services.
> Id.

Thus, current applicable case law, as well as simple ratesetting fairness, compels the imputation of CIAC to margin reserve. Mid-County's margin reserve should be reduced by 50% of the CIAC, up to the limit of the margin reserve itself.

ISSUE 8: What is the appropriate rate base for the test year?

OPC: *$1,044,820.*

ISSUE 11: Should operation and maintenance (O&M) expense be reduced for life insurance policies for officers, directors and key employees?

OPC: *Yes. O&M expenses should be reduced by $3,983 because the purpose of the policies is to protect the company and does not demonstrate a clear benefit to the

ratepayers. Further, the Uniform System of Accounts states that these expenses should be recorded as non-utility expenses.*

RATIONALE:

In its MFRs, the utility included $3,983 for premiums on insurance policies for which the utility is the beneficiary. According to the Uniform System of Accounts, such premiums should be removed from a utility's O&M expenses for the purpose of establishing rates. (T-318) PSC Staff auditor, Hillary Sweeney, propounded to Mid-County a document request seeking a list of the beneficiaries for the policies in question. Ms. Sweeney stated:

> In my document request -- and it's included in my exhibit -- where I asked the company where -- who was the beneficiary, the only one that was stated as the company not being listed as the beneficiary was disability insurance.
>
> And if you look at Page 4 of thirteen in HYS-2, the very bottom line shows disability insurance, and that was not disallowed. (T-320)

Based on the information supplied by the utility itself, Ms. Sweeney concluded that $3,983 of premiums were charged for policies on which the utility is the beneficiary. These premiums should not be borne by the ratepayers.

ISSUE 12: Are the allocations from Utilities, Inc. a reasonable distribution of the cost of the services provided to Mid-County?

OPC: *No. Common cost allocation should be based on an ERC basis.*

RATIONALE:

The utility's method for allocating costs from Utilities, Inc. to Mid-County overstates the proper costs. This problem was identified by PSC staff through an examination of the cause for an extraordinary increase in a number of O&M expenses. As an example, officer salaries had increased

by more than 1,600% since the last rate case. (T-364) This was particularly troublesome in light of the fact that Mid-County had received a 53% rate increase just four years previously. (T-364)

In response to the Staff inquiries, Mid-County responded that the increases were primarily a result of a "change in method of allocating indirect costs." (T-364)

Many costs are of a nature such that they can be directly attributable to subsidiaries. Billing costs and rate case expense fit into this direct allocation category. Indirect costs, however, require some reasoned allocation method. For its indirect costs, Mid-County had changed to a method based on what it calls the customer equivalent method. The customer equivalent method "goes behind the meter and attempts to count the total number of dwelling units that the utility serves." (T-365) As an example of its application, Mr. Davis explained that "a master-metered apartment complex with one meter would generate as many customer equivalents as there are apartments in the complex." [Id.]

The deficiency and inaccuracy of this method is that it makes no allowance for wide variations in average customer usage from one system to another. Normally, a utility parent with multiple discrete systems will adopt an allocation method which accounts for the possibility that average customer use for one system (or subsidiary) may far exceed the average for another system. The common method to properly account for possible variances is the use of equivalent residential connections in the allocation factor. Mr. Davis cited to numerous utility systems which adopted, with Commission approval, the AWWA or some other established factor for meter size in the allocation method. (T-365, 366)

Often the variance in average customer size or usage is such that a sizing factor might not be of great significance. In the case of Mid-County, however, the difference is of great consequence and therefore must be taken into account. Mr. Davis explained the reason:

> In the other Utilities, Inc. Florida systems, using customer equivalents does not differ much from the standard measuring units seen by the Commission. Mid-County, however, has several master-metered apartment complexes and mobile home parks as customers. As an example, an aprtment complex with 354 dwelling units, served by a six-inch master-meter, would be 354 customer equivalents. Using standard meter ratings, this customer would be equivalent to only 50 single family dwellings and since it is master-metered, it would only represent one customer. The average Mid-County single family residence consumed 16,408 gallons of water per billing period. The average multi-residential customer with a six inch meter consumed 1,740,888 gallons of water per billing period, the equivalent of 106 single family residences, not 354 as the customer equivalent would indicate. By counting apartments as one full customer, the utility's number of customer equivalents for Mid-County is greatly inflated and indicates that the Mid-County operation is much larger than it is, and as such, appears to require more services from the parent than it actually does. (T-367)

By counting each of these many low-usage customers as having the same impact as an average single family residence, Mid-County substantially overstates the cost that it places on the overall Utilities, Inc. system.

The Commission must correct Mid-County's allocation method to prevent its customers from bearing an unreasonable proportion of indirect costs. The Commission should adopt an allocation method based on equivalent residential connections, as recommended by staff and approved in the PAA.

ISSUE 13: What is the appropriate amount of rate case expense?

OPC: *The PAA Order allowed the utility sufficient rate case expense.*

RATIONALE:

The Commission should not allow Mid-County any rate case expense beyond that which was already approved in the PAA. The entirety of the rate case expense incurred since the PAA has been imprudent and should not be borne by the customers.

Mid-County has not raised a single issue for which rate case expense can be justified. Consider the central controversy of each issue in turn:

(1) CWIP. Even if the Commission should decide to grant additional CWIP, the utility itself admits that its own error resulted in the need to seek further relief. Surely the Commission will not grant the rate case expense for Mid-County to litigate this dispute with its own initial filing.

(2) Used and useful. The utility is seeking to obtain a used and useful ratio that measures a peak month customer demand against an annual average plant capacity. The customers should not be required to fund the utility's effort to bring such a self-apparently inequitable treatment to bear against the customers.

(3) Insurance policies. The total difference in the parties respective positions is about $2,000. The Staff and OPC positions are based on the information supplied by the utility in response to Staff request. That information led the Staff auditor to the proper decision that certain expenses should be classified into Account 426. (T-318) Mid-County literally has had years to correct any mistaken impression that its own information may have created. The customers should not be forced to fund Mid-County's cost to prepare for a hearing on this issue.

(4) Indirect expense allocation. Mid-County customers should not be required to fund the utility's effort to convince the PSC to impose an enormous O&M increase based on Mid-County's

change to an allocation method which ignores the huge variation in average customer demand from one system to another.

(5) Public Counsel Issues and Positions. The Public Counsel did not protest the PAA. OPC raised issues and took positions only because a hearing process was initiated by Mid-County. Had Mid-County not protested, OPC would have no issues or positions to raise. Had Mid-County withdrawn its protest, OPC could not have proceeded further. OPC participation, therefore, was made possible only because Mid-County insisted on bringing its own ill-advised issues to a hearing before the Commission. It has been demonstrated that the customers should not bear the rate case expense for Mid-County to present its own issues. Accordingly, neither should the customers pay for Mid-County to defend against OPC positions that would not have existed but for the invalid case pursued by Mid-County.

ISSUE 14: What is the appropriate net operating income for the test year?

OPC: *The final amount is subject to the resolution of other issues as determined by the Commission.*

ISSUE 15: What is the appropriate revenue requirement for the test year?

OPC: *The final amount is subject to the resolution of other issues as determined by the Commission.*

ISSUE 16: What are the appropriate wastewater rates for the test year?

OPC: *The final amount is subject to the resolution of other issues as determined by the Commission.*

ISSUE 17: What is the appropriate amount of rate reduction in four years as required by Section 367.081(6), Florida Statutes?

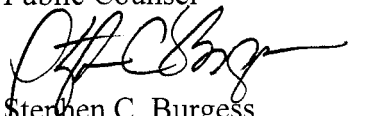
OPC: *The final amount is subject to the resolution of other issues as determined by the Commission.*

ISSUE 18: What is the appropriate amount of the interim refund, if any?

OPC: *The final amount is subject to the resolution of other issues, and the date by which the refund is to be accomplished.*

Respectfully submitted,

Jack Shreve
Public Counsel



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Attorneys for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE
DOCKET NO. 971065-SU

I HEREBY CERTIFY that a true and correct copy of the foregoing Citizens' Post-Hearing Statement has been furnished by hand delivery to the following parties, this 23rd day of July, 1999.

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