

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in  
Lake County by CWS Communities LP.

DOCKET NO. 080715-WU  
ORDER NO. PSC-09-0587-PAA-WU  
ISSUED: August 31, 2009

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman  
LISA POLAK EDGAR  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING INCREASE IN RATES AND CHARGES  
AND  
FINAL ORDER GRANTING TEMPORARY RATES IN THE EVENT OF A PROTEST

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that, except for the granting of temporary rates, subject to refund, in the event of a protest, reducing rates at the end of the four-year amortization period, and requiring books to be kept in accordance with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA), the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

I. BACKGROUND

CWS Communities LP (CWS or Utility) is a Class C water utility located in Lake County serving approximately 290 water customers in Haselton Village Mobile Home Park. CWS is located in the St. Johns River Water Management District (SJRWMD or District). The Utility's 2008 annual report reflects operating revenues of \$23,691 and an operating loss of \$9,316.

CWS has been under our jurisdiction since June 6, 1989. The Utility began operations in 1973. On July 11, 1988, CWS applied for original certificates to operate a water and wastewater utility in Lake County. Certificates No 518-W and 451-S were granted to CWS in 1989.<sup>1</sup> Prior

<sup>1</sup> Certificate No. 518-W was granted by Order No. 21342, issued June 6, 1989, in Docket No. 880936-WS, In Re: Application of Century Realty Funds, Inc. and Haselton Associates, Ltd. d/b/a Route 19A North Joint Venture for water and sewer certificates in Lake County, Florida.

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to that time, the Utility provided water and wastewater service solely to the rental community tenants as a part of the rent, and was therefore exempt from our regulation pursuant to Section 367.022(5), Florida Statutes (F.S.). After the wastewater system was interconnected with the city of Eustis, the Utility was found to be an exempt wastewater reseller, and Certificate No. 451-S was cancelled in 1996.<sup>2</sup> On December 18, 2008, CWS applied for a staff-assisted rate case (SARC). The Utility has not previously filed a request for a rate case.

Our staff audited the Utility's records for compliance with our rules and orders, and examined all components necessary for rate setting. A staff engineer also conducted a field investigation, which included a visual inspection of the water facilities along with the service area. The Utility's operating expenses, maps, files, and rate application were also reviewed to determine reasonableness of maintenance expenses, regulatory compliance, plant in service, and quality of service. We have used an historical test year ended December 31, 2008, to set rates.

We have the authority and jurisdiction to consider this rate case pursuant to Section 367.0814, F.S.

## II. QUALITY OF SERVICE

Pursuant to Rule 25-30.433(1), F.A.C., we determine the overall quality of service provided by a utility by evaluating three separate components of water operations, including the quality of the utility's product, the operating condition of the utility's plants and facilities, and the utility's attempt to address customer satisfaction. We also review comments or complaints filed with this Commission by customers. Finally, we also consider the utility's current compliance with the Department of Environmental Protection (DEP) rules, regulations, and orders.

In Lake County, the water programs are regulated by the DEP Central District Office. CWS is current in all of the required chemical analyses, and the Utility has met all required standards. The quality of drinking water delivered to the customers is considered to be satisfactory by the DEP.

A field investigation of CWS was conducted on February 17, 2009. Our staff found no apparent problems with the operations of the water treatment facility. The condition of this facility is currently in compliance with DEP rules and regulations. Based on review of the maintenance records and a physical inspection, the general condition of the facilities appeared to be adequate. Therefore, we find that the operating condition of the Utility's water plant is satisfactory.

A customer meeting was held on June 17, 2009, inside CWS' service territory at the Haselton Village Club House in Eustis, Florida. Approximately thirty-five customers attended the meeting, and seven customers spoke. Citing affordability concerns, the attendees were generally against the proposed rate increase. The customers were dissatisfied with the timing of

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<sup>2</sup> Certificate cancelled pursuant to Order No. PSC-1470-FOF-SU, issued December 3, 1996, in Docket No. 961146-SU, In Re: Request for change in regulatory status and cancellation of Certificate No. 451-S in Lake County by Route 19A North Joint Venture (Century Realty Funds/Haselton Associates).

the customer meeting because a majority of the customers are away from the service area during the summer months, and were unable to attend the customer meeting to voice their opinions in person. Of the quality of service comments brought up at the customer meeting, there were several who expressed their unhappiness with the water odor, inadequate chlorination, and sediment. There was also one customer who took issue with the Utility's inability to control wasteful yard irrigation by some customers.

The Utility believes that the odor concern brought up at the customer meeting is caused by hydrogen sulfide which occurs naturally in the water pumped. To help ease this situation, the Utility flushes its mains regularly. Even though some levels of hydrogen sulfide are noticed by customers, the Utility believes that for the most part the problem is controlled through line flushing. However, given the sporadic water usage patterns of some seasonal customers, it is expected that various levels of hydrogen sulfide could still be experienced within the home. In reference to comments made about inadequate chlorination, sediment, and wasteful irrigation, the Utility maintains that it delivers good water quality to its customers and that these problems occur infrequently.

It appears that the concerns brought out at the customer meeting are being adequately addressed by the Utility. In addition, there are no existing or prior complaints on our Complaint Tracking System.

Based on all the above, we find that CWS' quality of product, operating condition of its water treatment plant and facilities, and its attempt to address customer satisfaction are satisfactory. Therefore, we find that the overall quality of service provided by CWS is satisfactory.

### III. RATE BASE

Based on a test year ended December 31, 2008, and using information obtained from staff's audit and engineering reports, we calculate average test year rate base to be as follows:

#### A. Utility Plant in Service (UPIS)

The Utility recorded \$256,066 for UPIS for the test year ended December 31, 2008. CWS was able to provide an original cost study to substantiate its 2008 plant balances. Our staff engineer has verified that the original cost study is accurate and reflects the appropriate amount of plant in service for the test year ended December 31, 2008.

However, we note that, pursuant to the five-year consumptive use permit (CUP) issued by the SJRWMD on July 23, 2007, CWS is required to submeter the clubhouse, office, pool, and the laundry facilities within two years of the permit issuance to allow SJRWMD to conduct a water audit of the system. Although the Utility has not yet installed the meters, it has obtained bids for their installation at a total cost of \$900 (\$225 x 4 meters). The Utility has assured our staff that the meter installations will be completed as required by its CUP. Based on the bids supplied by the Utility, we find a pro forma adjustment of \$900 to UPIS (Account No. 334) shall

be included in rate base. Therefore, we calculate UPIS to be \$256,966 ( $\$256,066 + \$900 = \$256,966$ ).

#### B. Land & Land Rights

The Utility's records reflect a balance of \$2,500 in Account No. 303 – Land and Land Rights, as of December 31, 2008. The NARUC USOA Balance Sheet Account No. 303 – Land and Land Rights, states that the cost of land shall be recorded at its original cost when it was first dedicated to utility service. We have verified that the cost of the land has been recorded at its original cost; therefore, an adjustment is unnecessary for Account No. 303 – Land and Land Rights.

#### C. Used and Useful Percentages

There has been no prior rate case for this Utility; therefore, we have not previously established a used and useful percentage. The water treatment system has two wells rated at 500 gallons per minute (gpm) and 280 gpm, and serves 290 customers. Raw water is treated with liquid chlorine for disinfection purposes, and there is no storage capacity. There are ten fire hydrants located throughout the service area. Because there are only two lots remaining in the service area, and no apparent potential for expansion, we find the service territory that the treatment plant and distribution system are designed to serve is built out. Therefore, pursuant to Rule 25-30.4325, F.A.C., the treatment plant and distribution system shall be considered 100 percent used and useful.

#### D. Contributions in Aid of Construction (CIAC)

The Utility recorded CIAC of \$0 for the test year ended December 31, 2008. As discussed above, CWS has never been subject to a rate case and, therefore, rate base has never been established. Pursuant to Audit Finding No. 2, in the Commission audit relating to the Utility's transfer of majority organizational control in Docket No. 030998-WS, dated April 5, 2004, the staff auditor recommended CIAC of \$93,925. A review of CWS' records indicated that no new customers have been added since that time. Therefore, CIAC shall be increased by \$93,925.

#### E. Accumulated Depreciation

The Utility recorded a balance for accumulated depreciation of \$178,300 for the test year ended December 31, 2008. Using the prescribed rates set forth in Rule 25-30.140, F.A.C., we calculate that this account shall be increased by \$502 to reflect the appropriate accumulated depreciation. We have also decreased accumulated depreciation by \$3,487 to reflect an averaging adjustment. Additionally, to reflect the accumulated depreciation for the pro forma meter installations, we have increased accumulated depreciation by \$45. These adjustments result in average accumulated depreciation of \$175,359.

#### F. Accumulated Amortization of CIAC

CWS recorded accumulated amortization of CIAC of \$0 for the test year ending December 31, 2008. Using the composite rates prescribed in Rule 25-30.140, F.A.C., we have calculated accumulated amortization of CIAC to be \$39,397. To reflect an averaging adjustment, accumulated amortization of CIAC shall be reduced by \$640. Based on these calculations and adjustments, we find total accumulated amortization of CIAC to be \$38,757 (\$39,397 - \$640).

#### G. Working Capital Allowance

Working capital is defined as the investor-supplied funds necessary to meet operating expenses or going-concern requirements of a utility. Consistent with Rule 25-30.433(2), F.A.C., we have used the one-eighth of the Operation & Maintenance (O&M) expense formula approach for calculating working capital allowance. Applying this formula, and based on O&M expenses of \$32,522, we calculate working capital to be \$4,065.

#### H. Rate Base Summary

Based on the forgoing, we find that the appropriate test year average water rate base is \$33,004. Our calculation of rate base is shown on Schedule No. 1-A, and our adjustments are shown on Schedule No. 1-B.

### IV. COST OF CAPITAL

According to our staff's audit, CWS recorded the following items in its capital structure: common equity of \$1,292,779,443; negative retained earnings of \$0; and paid-in-capital of \$0. The Utility's capital structure consists of long-term debt in the amount of \$1,753,785,919. All investor sources of capital are from the Utility's parent company, Hometown America. Reconciling CWS' capital structure with the approved rate base, we calculate an equity ratio of 42.43 percent. Using our most recent leverage formula,<sup>3</sup> we calculate the appropriate return on equity (ROE) to be 11.14 percent, with a range of 10.14-12.14 percent, and an overall rate of return of 7.90 percent. Our calculations of the appropriate ROE and overall rate of return are shown on Schedule No. 2.

### V. NET OPERATING INCOME

#### A. Test Year Revenues

CWS reported test year revenues of \$18,814. However, the Utility did not bill approximately 21 customers with lifetime leases, thereby understating revenues. The customers who have a lifetime lease are not required to pay utility bills per their lease agreement with Haselton Village Mobile Home Park. Based on detailed billing information obtained from CWS,

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<sup>3</sup> See Order No. PSC-09-0430-PAA-WS, issued June 19, 2009, in Docket No. 090006-WS, In Re: Water and Wastewater Industry Annual Reestablishment of Authorized Range of Return on Common Equity for Water and Wastewater Utilities Pursuant to Section 367.081(4)(f), Florida Statutes.

we have recalculated test year revenues to include imputation of additional revenue of \$7,599. Based on the foregoing, we find the appropriate amount of test year revenues in this case to be \$26,413.

## B. Operating Expenses

The Utility recorded operating expenses of \$27,636 during the test year ended December 31, 2008. The test year O&M expenses have been reviewed, and invoices, canceled checks, and other supporting documentation have been examined. Our adjustments to the Utility's operating expenses are summarized below:

### 1. Operation and Maintenance Expenses

#### a. Salaries and Wages – Employees – (601):

CWS recorded a balance of \$11,504 in Account No. 601 for the test year. The Utility manager's monthly salary of \$1,141 is recorded each month in the general ledger. For the months of January and February 2008, no amount was recorded. To properly recognize 12 months of salary, an additional amount of \$2,282 ( $\$1,142 \times 2$ ) shall be recorded. No corresponding adjustment to payroll taxes is required because CWS included payroll taxes for the twelve months in the general ledger.

During the customer meeting held on June 17, 2009, the customers expressed concern over the manager's salary. The customers noted that the manager spent a considerable amount of time on duties and responsibilities in the community that do not relate to the water Utility. Our staff sent a data request to the Utility in order to determine the extent of the manager's duties and responsibilities in relation to the water Utility. CWS responded with a breakdown of the manager's duties and responsibilities and the estimated amount of time spent on each task every month. Based on the Utility's response, the manager spends approximately 80 to 96 hours a month on just the water Utility. The manager's hourly wage of \$14.26 ( $\$1,141/80$  hours), when compared to the industry average of \$17.43 found in the 2008 Water Utility Compensation Survey published by the American Water Works Association, appears to be reasonable. Therefore, we find the manager is not being overcompensated for his time spent working on the water system, and we further find that the correct salaries and wages expense for the test year is \$13,786 ( $\$11,504 + \$2,282$ ) for Account No. 601.

#### b. Purchased Power – (615):

The Utility recorded a balance of \$0 in Account No. 615 for the test year. The water plant has its own separate electric power meter, but no amount was recorded in the general ledger for purchased power. Our audit staff reviewed the purchased power invoices for 2008 and determined the amount to be \$2,715. Therefore, purchased power expense for the test year shall be corrected to show \$2,715 for Account No. 615.

c. Fuel for Power Production – (616):

CWS recorded a balance of \$0 in Account No. 616 for the test year. An emergency generator is located at the water plant. In 2008, no fuel amount for the generator was included in the general ledger. Our audit staff reviewed the fuel invoices for the generator and determined the amount to be \$980 for 2008. Therefore, the fuel for power production expense for the test year shall be corrected to show \$980 for Account No. 616.

d. Chemicals – (618):

The Utility recorded a balance of \$2,821 in Account No. 618 for the test year. An amount of \$585 was a duplication recorded in Account No. 618 – Chemicals, and Account No. 636 – Contractual Services – Other. Per the invoice, the \$585 was for the monthly maintenance of the water plant. The amount shall be recorded to Account No. 636 – Contractual Services – Other, and removed from Account No. 618 – Chemicals. Additionally, Customer Controls and Pumps, Inc. provides chemicals to CWS for its water plant treatment. Per a review of the invoices, the Utility did not record \$393 in purchased chemical for the water plant. Therefore, Account No. 618 – Chemicals, shall be decreased by \$192 (\$393 - \$585), for a test year expense for chemicals of \$2,629 (\$2,821 - \$192).

e. Contractual Services - Other – (636):

The Utility recorded \$10,785 in Account No. 636 for the test year. Pursuant to Audit Finding No. 3, several adjustments to Account No. 636 need to be made. These adjustments are:

- Custom Controls and Pumps, Inc. provided a repair to the water plant that was invoiced at \$38 and was not recorded in the general ledger.
- CDR Excavating Corp. provided a repair to a water line at the Utility that was invoiced at \$1,200 and was not recorded in the general ledger.
- Florida Utility Group, LLC provided bacteriological water testing for the Utility but the amount of \$241 was not recorded in the general ledger.
- The Utility recorded \$1,075 in the general ledger in 2008 for annual rent increase computations for the residents of Haselton Village Mobile Home Park. This amount is non-utility related and shall be removed.
- Manage America, LLC incorrectly charged CWS for meter reading and billing. Because CWS' customers have no water meters and are charged a flat rate, the \$210 shall be removed from expenses. The \$210 reflects one month of expense that was included in the general ledger for 2008.

- State and local authorities require several analyses be submitted in accordance with Chapter 62-550, F.A.C. Testing costs incurred during the test year did not include non-annual testing costs. For additional testing costs not incurred during the test year, an additional annualized expense of \$888 shall be included in Account 636. These tests are required by DEP every three or more years.

Projected estimated costs include:

|                                |              |                          |              |
|--------------------------------|--------------|--------------------------|--------------|
| Primary Inorganics             | \$229        |                          |              |
| Volatile Organics              | \$125        |                          |              |
| Synthetic Organic Contaminants | \$1,000      |                          |              |
| Secondaries                    | \$200        |                          |              |
| Radiologicals                  | <u>\$561</u> |                          |              |
| Total 3 yr cost                | = \$2,115    | 3 year Annualized cost = | \$788        |
| Disinfection Byproducts        |              | Annualized cost =        | <u>\$100</u> |
|                                |              | Total Annualized costs = | \$888        |

Based on the above adjustments, Contractual Services – Other shall be increased by \$1,082 (\$38 + \$1,200 + \$241 - \$1,075 - \$210 + \$888) for the test year. Therefore, we find that the expense for the test year for Contractual Services – Other is \$11,867 (\$10,785 + \$1,082).

f. Regulatory Commission Expense – (665):

CWS recorded \$0 in Account No. 665 for the test year. This did not include the costs associated with this rate case in Account No. 665. The costs associated with filing this rate case are: (1) filing fee of \$200 which results in an increase of \$50 (\$200/4 years); and (2) the costs associated with the notices for this rate case which result in an increase of \$119 (\$476/4) to Account No. 665. These adjustments result in a total expense of \$169 (\$50 + \$119) for Account No. 665.

g. Operation and Maintenance Expense (O&M Summary):

Based on the above adjustments, O&M expenses shall be increased by \$7,036, for a total O&M expense of \$32,522 as shown on Schedule No. 3-C.



## 2. Depreciation Expense (Net of Amortization of CIAC)

The Utility recorded \$0 for depreciation expense. Using the rates prescribed in Rule 25-30.140, F.A.C., we calculate test year net depreciation expense to be \$3,692. Also, as discussed above, we have included pro forma depreciation expense of \$45. Therefore, net depreciation expense is \$3,737 ( $\$3,692 + \$45$ ).

## 3. Taxes Other Than Income (TOTI) - (408)

CWS' records reflect a balance of \$2,150 for Account No. 408 – TOTI. Of that balance, the Utility recorded \$974 for Regulatory Assessment Fees (RAFs) for 2008. Pursuant to Audit Finding No. 5, the CWS' RAFs should have been \$1,066. Thus, the Utility's RAFs shall be increased by \$92 ( $\$1,066 - \$974$ ). Also, we recalculated CWS' property tax allocations based on the property tax invoices for Haselton Village Mobile Home Park. Total real estate property taxes for the Haselton Village Mobile Home Park for 2008 were \$58,886. Assessed values of individual structures were not available, so the total acreage of 36.18 was used to allocate the property taxes to CWS' utility facility. The Utility estimates the acreage for the water treatment plant to be 0.026 acres. As such, the amount that shall be allocated to CWS is \$42 ( $(0.026/36.18) \times \$58,886$ ). Based on these adjustments, TOTI shall be increased by \$134 ( $\$92 + \$42$ ) to \$2,284 ( $\$2,150 + \$134$ ).

## 4. Income Tax

The Utility recorded income tax of \$0 for water. CWS is a limited partnership, and the tax liability is passed on to the owner's personal tax returns. Therefore, no adjustment is warranted for this account.

## 5. Operating Expenses Summary

Based on the above, we calculate operating expenses to be \$38,543. Our calculation of operating expenses is shown on Schedule No. 3-A. The related adjustments are shown on Schedule No. 3-B.

## VI. REVENUE REQUIREMENT

We calculate the Utility's revenue requirement to be as follows:

|                             | <u>Water</u>  |
|-----------------------------|---------------|
| Adjusted Rate Base          | \$33,004      |
| Rate of Return              | x .0790       |
| Return on Rate Base         | \$2,607       |
| Adjusted O & M expense      | \$32,522      |
| Depreciation expense (Net)  | \$3,737       |
| Amortization                | 0             |
| Taxes Other Than Income     | \$2,978       |
| Income Taxes                | 0             |
| Revenue Requirement         | \$41,845      |
| Less Test Year Revenues     | \$26,413      |
| Annual Increase             | \$15,432      |
| Percent Increase/(Decrease) | <u>58.42%</u> |

Based on the above, CWS shall be allowed an annual increase in revenues of \$15,432 (58.42 percent) for total water revenues of \$41,845. This will give CWS the opportunity to recover its expenses and earn a 7.90 percent overall rate of return on its investment.

## VII. RATES AND RATE STRUCTURE

### A. Rate Structure

CWS provides residential water service to 290 unmetered customers which includes general service customers in Haselton Village Mobile Home Park (MHP). The MHP features a clubhouse which includes an office, a pool, and a laundry facility.

As indicated in the Utility's current tariff, the rate structure consists of a dual flat rate charge. The current flat rate is \$7.59 for the occupied residences and \$3.25 if a residence is unoccupied for at least 60 consecutive days. This current rate structure was approved in Order No. 21342, issued June 6, 1989, when we first granted the Utility water and wastewater certificates. In Docket No. 020102-WU, we approved a continuation of the flat rates and charges until authorized to change by us in a subsequent rate proceeding.

The MHP is located in Lake County in the SJRWMD. This entire area has been designated as a water use caution area (WUCA). However, on July 23, 2007, the District issued

a five-year CUP which required the Utility to submeter only the clubhouse, office, pool, and the laundry facility within two years of the permit issuance to allow District staff to conduct a water audit of the system.

Rule 25-30.255(1), F.A.C., requires that each utility measure water sold on the basis of metered volume sales unless we approve a flat rate service arrangement. Originally, our staff considered whether the Utility's flat rate structure should be converted to a conservation oriented rate structure. However, there is a lack of individual metered data and the District is requiring the Utility to meter only the general service connections. This is an indication that a flat rate structure may be appropriate for this case. Although individual consumption data is not available, our staff calculated the average consumption per customer to be 3.5 thousand gallons per month based on total number of gallons taken from the 2008 Monthly Operating Reports less 10 percent unaccounted-for-water, divided by the total number of bills. This number is relatively low for an unmetered customer base and indicates that there is virtually no discretionary usage. For this reason, District staff has indicated there was no reason to require the Utility to individually meter the residential customers when they are already conserving. Therefore, based on the above and the lack of accurate consumption data,<sup>4</sup> we find that the flat rate structure shall be continued.

We note that the Utility's current rate structure consists of a dual flat rate structure wherein a flat rate has been incorporated for residences that are unoccupied for at least 60 consecutive days. This rate is approximately one-half of the rate for an occupied residence. A customer meeting was held on June 17, 2009, and a few of the customers indicated that they were not pleased about our staff's preliminary indication to eliminate the unoccupied rate. However, after careful consideration, our staff re-evaluated the data and recommended that a rate for the unoccupied residences be continued appropriate. This will allow the unoccupied residence to pay only for the fixed costs that are associated with the Utility, rather than pay a flat rate that includes variable costs.

The Utility has taken bids to install meters for the general service customers. Therefore, when the meters have been placed and there is at least 12 months of consumption data, our staff will be able to calculate an appropriate base facility charge (BFC)/gallonage charge rate structure in a subsequent rate proceeding for the general service customers. This will be consistent with our policy and with the overall statewide goal of eliminating conservation-discouraging water rate structures.

Based on the foregoing, the Utility shall be allowed to continue with its dual flat rate structure which includes rates for the occupied and unoccupied residences.

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<sup>4</sup> See Order No. PSC-03-0740-PAA-WS, issued June 23, 2003, in Docket No. 021067-WS, In re: Application for staff-assisted rate case in Polk County by River Ranch Water Management, LLC.

### B. Repression Adjustment

Because we are allowing the Utility to continue with its flat rate structure, the customers cannot reduce their bills by reducing consumption. Therefore, we find that a repression adjustment is not appropriate at this time.

### C. Rates

The approved rates shall be designed to produce revenues of \$41,845, excluding miscellaneous service charges. Also, as noted above, the residential rates shall be divided into an occupied flat rate and an unoccupied flat rate. We have calculated the occupied flat rate by dividing the water revenue requirement of \$41,845 by 3,480 factored equivalent residential connections (ERCs), for an occupied rate of \$12.12 per month. The unoccupied rate was derived based on the fact that the initial fixed cost percentage was 54.80 percent. This percentage was applied to the flat rate calculated for the occupied residence to derive the appropriate unoccupied rate of \$6.64.

The Utility's current rates and our approved rates are set out on Schedule No. 4.

### D. Statutory Four-Year Rate Reduction

Section 367.0816, F.S., requires that rates be reduced immediately following the expiration of the four-year period by the amount of the rate case expense previously included in the rates. The reduction will reflect the removal of revenues associated with the amortization of rate case expense, the associated return included in working capital, and the gross-up for RAFs which is \$179 annually. The decrease in rates shall become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. Using the Utility's current revenues, expenses, capital structure, and customer base, the reduction in revenues will result in the rate decreases as shown on Schedule No. 4.

The Utility shall file revised tariff sheets no later than one month prior to the actual date of the required rate reduction. The Utility shall also file a proposed customer notice setting forth the lower rates and the reason for the reduction.

If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

### E. Temporary Rates In The Event Of A Protest

This Order proposes an increase in water rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the Utility. Therefore, pursuant to Section 367.0814(7), F.S., in the event of a protest filed by a party other than the Utility, the proposed rates shall be approved as temporary rates. Any collection of temporary rates by the Utility shall be subject to the refund provisions discussed below.

The Utility shall be authorized to collect the temporary rates upon our staff's approval of appropriate security for the potential refund and the proposed customer notice. Security shall be in the form of a bond or letter of credit in the amount of \$10,435. Alternatively, the Utility could establish an escrow agreement with an independent financial institution.

If the Utility chooses a bond as security, the bond shall contain wording to the effect that it will be terminated only under the following conditions:

- 1) The Commission approves the rate increase; or
- 2) If the Commission denies the increase, the Utility shall refund the amount collected that is attributable to the increase.

If the Utility chooses a letter of credit as a security, it shall contain the following conditions:

- 1) The letter of credit is irrevocable for the period it is in effect, and.
- 2) The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

If security is provided through an escrow agreement, the following conditions shall be part of the agreement:

- 1) No refunds in the escrow account may be withdrawn by the Utility without the express approval of the Commission;
- 2) The escrow account shall be an interest bearing account;
- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers;
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the Utility;
- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times;
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt;
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments; and

- 8) The Commission Clerk must be a signatory to the escrow agreement.
- 9) The account must specify by whom and on whose behalf such monies were paid.

In no instance shall the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and shall be borne by, the Utility. Irrespective of the form of security chosen by the Utility, an account of all monies received as a result of the rate increase shall be maintained by the Utility. If a refund is ultimately required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

The Utility shall maintain a record of the amount of the bond, and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility shall file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed shall also indicate the status of the security being used to guarantee repayment of any potential refund.

#### VIII. PROOF OF ADJUSTMENT OF BOOKS FOR ALL THE APPLICABLE NARUC USOA PRIMARY ACCOUNTS

To ensure that the Utility adjusts its books in accordance with our decisions in this Order, CWS shall provide proof within 90 days of the final order issued in this docket that the appropriate adjustments for all the applicable NARUC USOA primary accounts have been made.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that CWS Communities LP's application for a staff assisted rate case is hereby approved as set forth in the body of this Order. It is further

ORDERED that each of the findings made in the body of this Order are hereby approved in every respect. It is further

ORDERED that all matters contained in the attachments and schedules appended hereto are incorporated herein by reference. It is further

ORDERED that CWS Communities LP shall file revised tariff sheets and the proposed customer notices to reflect the approved rates. It is further

ORDERED that the approved rates shall not be implemented until our staff has approved the proposed customer notices. The Utility shall provide our staff with proof of the date each notice was given within 10 days after the date of the notice. It is further

ORDERED that the approved rates shall not be implemented until our staff has approved the proposed customer notice and the notice has been received by the customers. It is further

ORDERED that the Utility shall provide proof of the date notice was given no less than 10 days after the date of the notice. It is further

ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. The tariff sheets shall be approved upon our staff's verification that the tariffs are consistent with this Order and that the customer notices are adequate. It is further

ORDERED that the rates shall be reduced at the end of the four-year rate case expense amortization period as set forth in the body of this Order and Schedule No. 4. It is further

ORDERED that the decrease in rates shall become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. It is further

ORDERED that the Utility shall file revised tariff sheets and a proposed customer notice setting forth the lower rates and the reason for the reductions no later than one month prior to the actual date of the required rate reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease, and for the reduction in rates due to the amortized rate case expense. It is further

ORDERED that pursuant to Section 367.0814(7), F.S., the rates approved herein shall be approved for the Utility on a temporary basis, subject to the refund provisions set forth in the body of this Order, in the event of a protest filed by a party other than the Utility. It is further

ORDERED that after the increased rates are in effect on a temporary basis, pursuant to Rule 25-30.360(6), F.A.C., CWS Communities LP shall file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed shall also indicate the status of the security being used to guarantee repayment of any potential refund. It is further

ORDERED that prior to implementation of any temporary rates, CWS Communities LP shall provide the proposed customer notices and appropriate security for the potential refund. Security shall be in the form of a bond or letter of credit in the amount of \$10,435. Alternatively, the Utility may establish an escrow agreement with an independent financial institution. It is further

ORDERED that irrespective of the form of security chosen by the Utility, an account of all monies received as a result of the rate increase shall be maintained by the Utility. If a refund is ultimately required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C. It is further

ORDERED that CWS Communities LP shall provide proof within 90 days of the final order issued in this docket that the appropriate adjustments for all the applicable NARUC USOA primary accounts have been made. It is further

ORDERED that, except for the granting of temporary rates, subject to refund, in the event of a protest, reducing rates at the end of the four-year amortization period, and requiring books to be kept in accordance with the NARUC USOA which are final agency action, the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, F.A.C., is received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that this docket shall remain open until a Consummating Order or other final order has been issued, our staff has approved the revised tariff sheets and customer notices, the Utility has sent the notices to its customers, our staff has received proof that the customers have received notice, and the Utility has provided our staff with proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. It is further

ORDERED that once our staff has verified all of the above actions are complete, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 31st day of August, 2009.

ANN COLE  
Commission Clerk

By: Dorothy E. Menasco  
Dorothy E. Menasco  
Chief Deputy Commission Clerk

( S E A L )

RRJ



NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Except for the granting of temporary rates, subject to refund, in the event of a protest, reducing rates at the end of the four-year amortization period, and requiring books to be kept in accordance with the NARUC USOA, which are final agency action, our actions identified in the body of this order are preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 21, 2009.

If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

Any party adversely affected by the Commission's final action in this matter may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Office of Commission Clerk and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

| CWS COMMUNITIES LP<br>TEST YEAR ENDING 12/31/2008<br>SCHEDULE OF WATER RATE BASE |                           | SCHEDULE NO. 1-A<br>DOCKET NO. 080715-WU |                              |  |
|--|---------------------------|--|------------------------------|--|
| DESCRIPTION  | BALANCE<br>PER<br>UTILITY | COMMISSION<br>ADJUST.<br>TO UTIL. BAL.   | BALANCE<br>PER<br>COMMISSION |  |
| 1. UTILITY PLANT IN SERVICE  | \$256,066                 | \$900                                    | \$256,966                    |  |
| 2. LAND & LAND RIGHTS  | 2,500                     | 0  | 2,500                        |  |
| 3. NON-USED AND USEFUL<br>COMPONENTS   | 0                         | 0  | 0                            |  |
| 4. CIAC  | 0                         | (93,925)                                 | (93,925)                     |  |
| 5. ACCUMULATED DEPRECIATION  | (178,300)                 | 2,941                                    | (\$175,359)                  |  |
| 6. AMORTIZATION OF CIAC  | 0                         | 38,757                                   | 38,757                       |  |
| 7. WORKING CAPITAL ALLOWANCE   | <u>0</u>                  | <u>4,065</u>                             | <u>4,065</u>                 |  |
| 8. WATER RATE BASE   | <u>\$80,266</u>           | <u>\$47,262</u>                          | <u>\$33,004</u>              |  |

| <b>CWS COMMUNITIES LP</b>          |   | <b>SCHEDULE NO. 1-B</b>     |
|------------------------------------|---|-----------------------------|
| <b>TEST YEAR ENDING 12/31/2008</b> |   | <b>DOCKET NO. 080715-WU</b> |
| <b>ADJUSTMENTS TO RATE BASE</b>    |   |                             |
|                                    |   | <b><u>WATER</u></b>         |
|                                    |   | <b><u>\$900</u></b>         |
|                                    | <b><u>UTILITY PLANT IN SERVICE</u></b>                                |                             |
|                                    | To reflect pro forma meter installations                              |                             |
|                                    | <b><u>CIAC</u></b>  |                             |
|                                    | To reflect appropriate CIAC   | <b><u>(\$93,925)</u></b>    |
|                                    | <b><u>ACCUMULATED DEPRECIATION</u></b>                                |                             |
| 1.                                 | To reflect accumulated depreciation per rule                          | (\$502)                     |
| 2.                                 | To reflect averaging adjustment                                       | 3,487                       |
| 3.                                 | To reflect pro forma accumulated depreciation for meter installations | <u>(45)</u>                 |
|                                    | Total   | <b><u>\$2,941</u></b>       |
|                                    | <b><u>AMORTIZATION OF CIAC</u></b>                                    |                             |
| 1.                                 | To reflect appropriate accumulated amortization of CIAC               | \$39,397                    |
| 2.                                 | To reflect an averaging adjustment                                    | <u>(640)</u>                |
|                                    | Total   | <b><u>\$38,757</u></b>      |
|                                    | <b><u>WORKING CAPITAL ALLOWANCE</u></b>                               |                             |
|                                    | To reflect 1/8 of test year O & M expenses.                           | <b><u>\$4,065</u></b>       |

CWS COMMUNITIES LP  
TEST YEAR ENDING 12/31/2008  
SCHEDULE OF CAPITAL STRUCTURE

| CAPITAL COMPONENT              | PER UTILITY            | SPECIFIC ADJUSTMENTS | BALANCE BEFORE PRO RATA ADJUSTMENTS | PRO RATA ADJUSTMENTS     | BALANCE PER COMMISSION | PERCENT OF TOTAL  | COST               | WEIGHTED COST |
|--------------------------------|------------------------|----------------------|-------------------------------------|--------------------------|------------------------|-------------------|--------------------|---------------|
| 1. COMMON EQUITY               | \$0                    | \$0                  | \$0                                 |                          |                        |                   |                    |               |
| 2. RETAINED EARNINGS           | 0                      | 0                    | 0                                   |                          |                        |                   |                    |               |
| 3. PAID IN CAPITAL             | 0                      | 0                    | 0                                   |                          |                        |                   |                    |               |
| 4. COMMON EQUITY               | <u>1,292,779,443</u>   | <u>0</u>             | <u>1,292,779,443</u>                |                          |                        |                   |                    |               |
| 5. TOTAL COMMON EQUITY         | \$1,292,779,443        | \$0                  | \$1,292,779,443                     | (\$1,292,744,438)        | \$14,005               | 42.43%            | 11.14%             | 4.73%         |
| 6. LONG TERM DEBT-Note         | \$1,753,785,919        | \$0                  | \$1,753,785,919                     | (\$1,753,739,920)        | \$18,999               | 57.57%            | 5.51%              | 3.17%         |
| TOTAL LONG TERM DEBT           | \$1,753,785,919        | \$0                  | \$1,753,785,919                     | (\$1,753,739,920)        | \$18,999               | 57.57%            | 5.51%              | 3.17%         |
| 8. CUSTOMER DEPOSITS           | <u>\$0</u>             | <u>\$0</u>           | <u>\$0</u>                          | <u>\$0</u>               | <u>\$0</u>             | <u>0.00%</u>      | 0.00%              | <u>0.00%</u>  |
| 9. TOTAL                       | <u>\$3,046,565,362</u> | <u>\$0</u>           | <u>\$3,046,565,362</u>              | <u>(\$3,046,532,358)</u> | <u>\$33,004</u>        | <u>100.00%</u>    |                    | <u>7.90%</u>  |
| <b>RANGE OF REASONABLENESS</b> |                        |                      |                                     |                          |                        | <b><u>LOW</u></b> | <b><u>HIGH</u></b> |               |
| RETURN ON EQUITY               |                        |                      |                                     |                          |                        | <u>10.14%</u>     | <u>12.14%</u>      |               |
| OVERALL RATE OF RETURN         |                        |                      |                                     |                          |                        | <u>7.48%</u>      | <u>8.32%</u>       |               |

| <b>CWS COMMUNITIES LP</b>                 |                             | <b>SCHEDULE NO. 3-A</b>     |                                     |                            |                        |
|---|-----------------------------|-----------------------------|-------------------------------------|----------------------------|------------------------|
| <b>TEST YEAR ENDING 12/31/2008</b>        |                             | <b>DOCKET NO. 080715-WU</b> |                                     |                            |                        |
| <b>SCHEDULE OF WATER OPERATING INCOME</b> |                             |                             |                                     |                            |                        |
|   | TEST YEAR<br>PER<br>UTILITY | COMMISSION<br>ADJUSTMENT    | COMMISSION<br>ADJUSTED<br>TEST YEAR | ADJUST.<br>FOR<br>INCREASE | REVENUE<br>REQUIREMENT |
| 1. <b>OPERATING REVENUES</b>              | <u>\$18,814</u>             | <u>\$7,599</u>              | <u>\$26,413</u>                     | <u>\$15,432</u><br>58.42%  | <u>\$41,845</u>        |
| <b>OPERATING EXPENSES:</b>                |                             |                             |                                     |                            |                        |
| 2. OPERATION & MAINTENANCE                | 25,486                      | 7,036                       | 32,522                              | 0                          | 32,522                 |
| 3. DEPRECIATION (NET)                     | 0                           | 3,737                       | 3,737                               | 0                          | 3,737                  |
| 4. AMORTIZATION                           | 0                           | 0                           | 0                                   | 0                          | 0                      |
| 5. TAXES OTHER THAN INCOME                | 2,150                       | 134                         | 2,284                               | 694                        | 2,978                  |
| 6. INCOME TAXES                           | <u>0</u>                    | <u>0</u>                    | <u>0</u>                            | <u>0</u>                   | <u>0</u>               |
| 7. <b>TOTAL OPERATING EXPENSES</b>        | <u>\$27,636</u>             | <u>\$10,907</u>             | <u>\$38,543</u>                     | <u>\$694</u>               | <u>\$39,238</u>        |
| 8. <b>OPERATING INCOME/(LOSS)</b>         | <u>(\$8,822)</u>            |                             | <u>(\$12,130)</u>                   |                            | <u>\$2,607</u>         |
| 9. <b>WATER RATE BASE</b>                 | <u>\$80,266</u>             |                             | <u>\$33,004</u>                     |                            | <u>\$33,004</u>        |
| 10. <b>RATE OF RETURN</b>                 | <u>-10.99%</u>              |                             | <u>-36.75%</u>                      |                            | <u>7.90%</u>           |

| <b>CWS COMMUNITIES LP</b>                 |   | <b>SCHEDULE NO. 3-B</b>     |
|---|---|-----------------------------|
| <b>TEST YEAR ENDING 12/31/2008</b>        |   | <b>DOCKET NO. 080715-WU</b> |
| <b>ADJUSTMENTS TO OPERATING INCOME</b>    |   |                             |
|   |   | <u><b>WATER</b></u>         |
| <b>OPERATING REVENUES</b>                 |   |                             |
|   | To reflect the appropriate test year revenue                                      | <u>\$7,599</u>              |
| <b>OPERATION AND MAINTENANCE EXPENSES</b> |   |                             |
| 1.  | Salaries and Wages - Employees (601)<br>To reflect appropriate amount of salaries | <u>\$2,282</u>              |
| 2.  | Purchased Power Expense (615)<br>To include Purchased Power                       | <u>\$2,715</u>              |
| 3.  | Fuel for Power Production (616)<br>To include fuel for emergency generator        | <u>\$980</u>                |
| 4.  | Chemicals (618)   |                             |
|   | a. To remove duplicated chemical expense  | (\$585)                     |
|   | b. To include purchased chemicals   | <u>393</u>                  |
|   | Subtotal  | <u>(\$192)</u>              |
| 5.  | Contractual Services - Other (636)  |                             |
|   | a. To include repair to water plant   | \$38                        |
|   | b. To include repair to water lines   | 1,200                       |
|   | c. To include water testing expense   | 241                         |
|   | d. To remove non-utility expense  | (1,075)                     |
|   | e. To remove unnecessary customer meter reading expense                           | (210)                       |
|   | f. To include non-annual testing expense  | <u>888</u>                  |
|   | Subtotal  | <u>\$1,082</u>              |
| 6.  | Regulatory Commission Expense(665)<br>To amortize rate case expense               | <u>\$169</u>                |
| <b>TOTAL OPERATION &amp; MAINTENANCE</b>  |   | <u><b>\$7,036</b></u>       |
| <b>ADJUSTMENTS</b>                        |   |                             |
| <b>DEPRECIATION EXPENSE</b>               |   |                             |
| 1.  | To reflect net depreciation calculated per Rule 25-30.140, F.A.C.                 | \$3,692                     |
| 2.  | To reflect pro form depreciation expense for meter installations                  | <u>\$45</u>                 |
|   | Total   | <u><b>\$3,737</b></u>       |
| <b>TAXES OTHER THAN INCOME</b>            |   |                             |
| 1.  | To increase RAFs per audit  | \$92                        |
| 2.  | To increase property taxes per audit  | <u>42</u>                   |
|   | Total   | <u><b>\$134</b></u>         |

| CWS COMMUNITIES LP                                  | SCHEDULE NO. 3-C     |                       |                         |
|---|----------------------|-----------------------|-------------------------|
| TEST YEAR ENDING 12/31/2008                         | DOCKET NO. 080715-WU |                       |                         |
| ANALYSIS OF WATER OPERATION AND MAINTENANCE EXPENSE |                      |                       |                         |
|   | TOTAL PER<br>UTILITY | COMMISSION<br>ADJUST. | TOTAL PER<br>COMMISSION |
| (601) SALARIES AND WAGES - EMPLOYEES                | \$11,504             | \$2,282               | \$13,786                |
| (603) SALARIES AND WAGES - OFFICERS                 | 0                    | 0                     | 0                       |
| (604) EMPLOYEE PENSION & BENEFITS                   | 91                   | 0                     | 91                      |
| (610) PURCHASED WATER                               | 0                    | 0                     | 0                       |
| (615) PURCHASED POWER                               | 0                    | 2,715                 | 2,715                   |
| (616) FUEL FOR POWER PRODUCTION                     | 0                    | 980                   | 980                     |
| (618) CHEMICALS                                     | 2,821                | (192)                 | 2,629                   |
| (620) MATERIALS AND SUPPLIES                        | 0                    | 0                     | 0                       |
| (630) CONTRACTUAL SERVICES - BILLING                | 0                    | 0                     | 0                       |
| (631) CONTRACTUAL SERVICES - PROFESSIONAL           | 284                  | 0                     | 284                     |
| (635) CONTRACTUAL SERVICES - TESTING                | 0                    | 0                     | 0                       |
| (636) CONTRACTUAL SERVICES - OTHER                  | 10,785               | 1,082                 | 11,867                  |
| (640) RENTS   | 0                    | 0                     | 0                       |
| (650) TRANSPORTATION EXPENSE                        | 0                    | 0                     | 0                       |
| (655) INSURANCE EXPENSE                             | 0                    | 0                     | 0                       |
| (665) REGULATORY COMMISSION EXPENSE                 | 0                    | 169                   | 169                     |
| (670) BAD DEBT EXPENSE                              | 0                    | 0                     | 0                       |
| (675) MISCELLANEOUS EXPENSES                        | 0                    | 0                     | 0                       |
|   | <u>\$25,486</u>      | <u>\$7,036</u>        | <u>\$32,522</u>         |

**CWS COMMUNITIES LP**  
**TEST YEAR ENDING 12/31/2008**  
**MONTHLY WATER RATES**

**SCHEDULE NO. 4**  
**DOCKET NO. 080715-WU**

|   | <b>UTILITY'S<br/>EXISTING<br/>RATES</b> | <b>COMMISSION<br/>APPROVED<br/>RATES</b> | <b>4-YEAR<br/>RATE<br/>REDUCTION</b> |
|---|---|--|--------------------------------------|
| <b><u>General and Residential Service</u></b>                           |   |  |                                      |
| Unoccupied  | \$3.25                                  | \$6.64                                   | \$0.03                               |
| Occupied  | \$7.59                                  | \$12.12                                  | \$0.05                               |
| <b><u>Typical Residential 5/8" x 3/4" Meter Bill<br/>Comparison</u></b> |   |  |                                      |
| 3,000 Gallons   | \$7.59                                  | \$12.12                                  |                                      |
| 5,000 Gallons   | \$7.59                                  | \$12.12                                  |                                      |
| 10,000 Gallons  | \$7.59                                  | \$12.12                                  |                                      |