

ORIGINAL

1 July 17, 1998  
2  
3 Mr. Clinton W. Dyer  
4 1833 They Drive  
5 Viera, FL 32940  
6 Property Owner, and customer of Florida Cities Water Company  
7 531 S. Dolphin Cir. Barefoot Bay, FL 32976  
8  
9 Tel. (407) 242-8805

10  
11 RE: Docket Number 971663-WS

12  
13 Susan F. Clark, Commissioner  
14 Florida Public Service Commission  
15 2540 Shumard Oak Boulevard  
16 Tallahassee, FL 32399-0852

17  
18 Dear Commissioner Clark:

19  
20 At the Barefoot Bay Division Customer Service Hearing, July 14, 1998, I offered to furnish you with  
21 documented evidence of the PSC Staff's propensity to arbitrarily apply rates, that neither ensure good  
22 service, or fair rates.

23  
24 **I asked STAFF, is there a rule that establishes the base rate?** Marshall Willis replied , No!

25 *But, his explanation, to me, is the problem.*

26 *Staff does not understand, that when sales decline, profits decline. Gas Station Owners*  
27 *who fail to sell sufficient gas to make a profit, would be entitled to a profit, like monopolies,*  
28 *using Staff's philosophy, by getting some money from customers who don't always stop there for*  
29 *gas. Why not, Staff reasons, after all they did make an investment.*

30  
31 **I then asked the Commissioners if they would accept arbitrary figures?**

32 *I perceived, that you would not. However, confusion arose between Base Rate, and Rate Base,*  
33 *and the issue became obscure. I offer the following to clarify the issue, as promised..*

34  
35 STAFF's response; ORDER NO. PSC-96-1147-FOF-WS, DOCKET NO. 951258-WS

36 **PAGE 47** Revenue Allocation We find that there are benefits of  
37 reuse to the water customers of Barefoot Bay and these benefits must be recognized in the water  
38 rates. Witness Chase testified that the level of the water rates, the magnitude of the wastewater  
39 revenue increase, the average usage of the customer and the need to send a stronger price signal  
40 to achieve water conservation should be considered when determining whether and how much of  
41 the reuse costs to allocate to its customers. We agree. We note that the utility has suggested that  
42 an investigation into the appropriate criteria for an allocation be initiated. Although we do not  
43 believe that a docket for such an investigation needs to be established, we do find that an  
44 informal investigation as to the method of allocation may be warranted. **Until we are able to**  
45 **establish firm criteria, we find that it more appropriate for this issue to be handled on a**  
46 **case by case basis.**

WCK \_\_\_\_\_  
WFA 1 43  
WPP \_\_\_\_\_  
WAF \_\_\_\_\_  
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WAS 1  
WTH \_\_\_\_\_

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FPSC-RECORDS/REPORTING

48 **My observation is, Staff has no basis in law to defy established principles and practices of**  
49 **accounting.**

50 **For example: <sup>1</sup> Intermediate Accounting: The Matching Process**

51 *One of the most important duties of the accountant is to act as historian. It is his*  
52 *function to record, classify, and summarize business activities so that the data can be used in*  
53 *evaluating the past as well as planning the future.*

54 Both costs and revenues are expressed in the matching process in terms of the  
55 homogeneous qualitative element common to both - a money price. The price for the business  
56 effort, or cost, is found in the amount paid for the goods and services at the time these were  
57 originally acquired. The price that is assigned to the business accomplishment, or revenue, is the  
58 bargained amount arrived at between buyer and seller. These costs may be marshaled into  
59 different combinations where the business unit unites different acquisitions in the development of  
60 its services or products. Ultimately such costs, individually or as regrouped, are assigned to the  
61 revenue that they have produced.

62 **The use of historical cost in the matching process is commonly referred to as application of**  
63 **the cost principle.**

64  
65 Kindly note, accounting principles do not mention, "the need to send a stronger price signal to achieve  
66 water conservation." **What legal principle does the PSC Staff apply to impose its will upon the**  
67 **people?** And, accounting principles do not state, "we find that it more appropriate for this issue to be  
68 handled on a case by case basis." **And, what legal principle permits the PSC Staff to experiment at**  
69 **the customers expense?**

70  
71 **STAFF is the problem.**

72  
73 Kindly refer to - ORDER NO. PSC-96-1147-FOF-WS - DOCKET NO. 951258-WS  
74 **PAGE 48, and 49** **RATES AND RATE STRUCTURE**

75  
76 **Revenue Allocation Between Base Facility and Gallonage Charges**

77 **(Second Paragraph)**

78 We have traditionally allocated fixed costs to the base facility charge and variable costs to the  
79 gallonage charge. We find this method most appropriate in determining the proper rate structure.  
80 Furthermore, when establishing the rate structure, we must also consider the effects on conservation and  
81 the previous allocation from prior rate cases to assure continuity in rates.

82 Further, *Melinda G. Pace's letter 1/18/96 to Mr. & Mrs. John Bickel, stated that, "There is no*  
83 *profit built into the base facility charge. All profit is built into the gallonage charge."*

84  
85 *Now, there are two sets of rules, one on fixed and gallonage charges, and one with exceptions to*  
86 *those charges. We also have a contradiction to those statements.*

87 *Kindly refer to: FCWC Rate Filing - Docket No. 951258-WS*  
88 *Common Equity is included in the 'Adjusted Capital Structure' (Page 126, Col.7) which is shown on Page*  
89 *10, and 12 - \$1,148,521 (Water,) and \$7,519,843 (Sewer.) which \$2,654,417 is Common Equity. 8.75%*  
90 *Return on equity is \$232,261, and is in the rate base for water and sewer, Pages 51, and 75. The METER*  
91 *CHARGES VS USAGE CHARGES line chart,<sup>2</sup> and the FIXED (BASE) RATE VS GALLONAGE*  
92 *(VOLUME) bar chart,<sup>3</sup> enclosed, substantiate that both Melinda Pace's letter, and the statement made by*  
93 *STAFF is untrue. One wonders if they know how serious this problem is? How difficult it is for an*  
94 *ordinary citizen to uncover the fact that the information given by STAFF, is not true.*

<sup>1</sup> Intermediate Accounting, KARRENBROCK AND SIMON, THIRD EDITION - SOUTH-WESTERN PUBLISHING COMPANY.....Chapter 1, Pages 6 & 7.

<sup>2</sup> Attached: METER CHARGES VS USAGE CHARGES - LINE CHART

<sup>3</sup> Attached: FIXED (BASE) RATE VS GALLONAGE (VOLUME) - BAR CHART

95 **STAFF is the problem.**

96 **(Third paragraph)**

97 When the shift in revenue allocation goes more towards the base facility charge, which promotes revenue  
98 stability for the utility, we become concerned that it will promote usage.....Based on this  
99 adjustment and the effects it could have on conservation, we find it appropriate to allocate 58  
100 percent of the revenue to the base facility charge and 42 percent to the gallonage charge for  
101 water. This will essentially maintain the current revenue allocation for water. For wastewater,  
102 we find that allocation of 62 percent of the revenue to the base facility charge and 38 percent to  
103 the gallonage charge is appropriate.

104 Staff said, " Although the Commission has no rules on allocating revenue requirement to the base facility  
105 charge or gallonage charge...."<sup>4</sup>

106  
107 **Staff would have you believe, that there are no guiding accounting practices and principles,**  
108 **so they have developed one. With the multitude of Public Service Commissions throughout the**  
109 **Country, what have they learned about fixed rates?**

110 **We hope the Commissioners will exact a definitive rule that addresses only the application**  
111 **of matching costs.**

112  
113 **STAFF is the problem.**

114  
115 The PSC Staff, ought to make certain, that the facts and figures presented to the PSC by the Utility  
116 Company, is a factual representation of the costs incurred, and that they are reported in accordance with  
117 generally accepted practices and principles of accounting, and that the service meets the need of the  
118 customers, and analysis of the figures, and activities reflect good service at a fair rate.

119  
120 **But, STAFF marches to a different drummer.** Conservation can be found in Utility Company programs,  
121 that reduce water losses, and water intrusion. Customer conservation programs are either voluntary, or  
122 forced. Some customer conservation programs are directed at equipment, that limit water consumption,  
123 i.e. water restricting devices, and low water consumption toilets (recently discovered to create more  
124 problems than they solve.) However. PSC STAFF's philosophy is to force conservation by raising the  
125 price. The market price controls access, and that's legal. But, regulated monopolies apply only the real  
126 costs, to establish a fair return. Everything else, is a figment of STAFF's imagination.

127 **First and foremost forced conservation, is rationing, and must be applied equally to all.**  
128 **Higher costs, punish the poor, and doesn't restrain the wealthy. That violates Amendment XIV, of**  
129 **the Constitution, "nor deny to any person within its jurisdiction the equal protection of the laws."**

130 **Second, if water conservation is a serious threat to the welfare of the people, appropriate**  
131 **legislative action must address the issue on purely scientific revelations, and the means to make life's**  
132 **necessities accessible to the people, even if some costs, must come from the general funds.**

133 **Third, STAFF must relegate conservation to what the company can do to reduce losses, and**  
134 **inflow. Staff, could provide helpful conservation information to customers, on a periodic basis,**  
135 **including statistical data on availability, purity, problems, projects, and funding of water supplies.**

136  
137 We suggest that the Florida Public Service Commissioners request STAFF to concentrate on accounting  
138 practices and principles, and good service at a fair price. I respect all the people involved, and the  
139 conflicting ideas, should facilitate better solutions. We cannot progress, without Staff's change in  
140 philosophy.

141  
142  

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<sup>4</sup> Staff's June 13, 1996 Memorandum, Page 87

143 Government agency action can be abusive, and arrogant. The testimony (Docket No. 951258-WS,  
144 FCWC Barefoot Bay Division - Hearing 4-1 & 2, 1996,) of Witness Blizzard, " DEP said, "We  
145 don't, those are your problems, deal with it. **We expect to see construction under the schedule**  
146 **in the Amended Consent Order regardless of the risks and the potential huge downside**  
147 **financially.**<sup>5</sup>  
148

149 We cannot emphasize too strongly such responses are intolerable, and reflect the attitude of the  
150 agency. Florida Cities Water Company too, can be perplexed by the arrogance of government  
151 agencies, and the agencies agenda. Staff, did nothing to reprimand the person, and the Agency  
152 for their disdain of Florida Cities Water Company's management, and the customers who  
153 ultimately pay the costs.  
154

155 I hope the Commissioners take a more solemn evaluation of all testimony, recognizing Staff, has no  
156 greater wisdom, and provides no better enlightenment, than other interested parties. Please work with our  
157 legislators, as Senator Patsy Kurth requested, so as to promote, more economical rules, and regulations.  
158 Hopefully, that may include giving private utility customers, the same tax relief enjoyed by public utility  
159 customers, or some financial help in providing communities an economical way of taking over private  
160 water and wastewater services.  
161

162 God Bless those in government service who directly affect peoples lives, and God Bless those on the  
163 receiving end. I do not know who needs it more.  
164

165 Very truly yours,

166   
167 Clinton W. Dyer  
168

169 CC: Julia L. Johnson, Commissioner, Florida Public Service Commission, 2540 Shumard Oak Blvd  
170 Tallahassee, FL 32399-0852  
171

172 J. Terry Deason, Commissioner, Florida Public Service Commission, 2540 Shumard Oak Blvd  
173 Tallahassee, FL 32399-0852  
174

175 Joe Garcia, Commissioner, Florida Public Service Commission, 2540 Shumard Oak Blvd Tallahassee,  
176 FL 32399-0852  
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178 E. Leon Jacobs, Jr. Commissioner, Florida Public Service Commission, 2540 Shumard Oak Blvd  
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181 Marshall Willis, Division Water and Wastewater, Florida Public Service Commission, 2540 Shumard  
182 Oak Blvd Tallahassee, FL 32399-0850  
183

184 Tim Vaccaro, Esq. - Division of Legal Services, Public Service Commission, 2540 Shumard Oak  
185 Blvd. Tallahassee, FL 32399-0850  
186

187 Harold Mclean, Assistant Public Counsel, C/O The Florida Legislature, 111 West Madison Street,  
188 Room812, Tallahassee, FL 32399-1400  
189

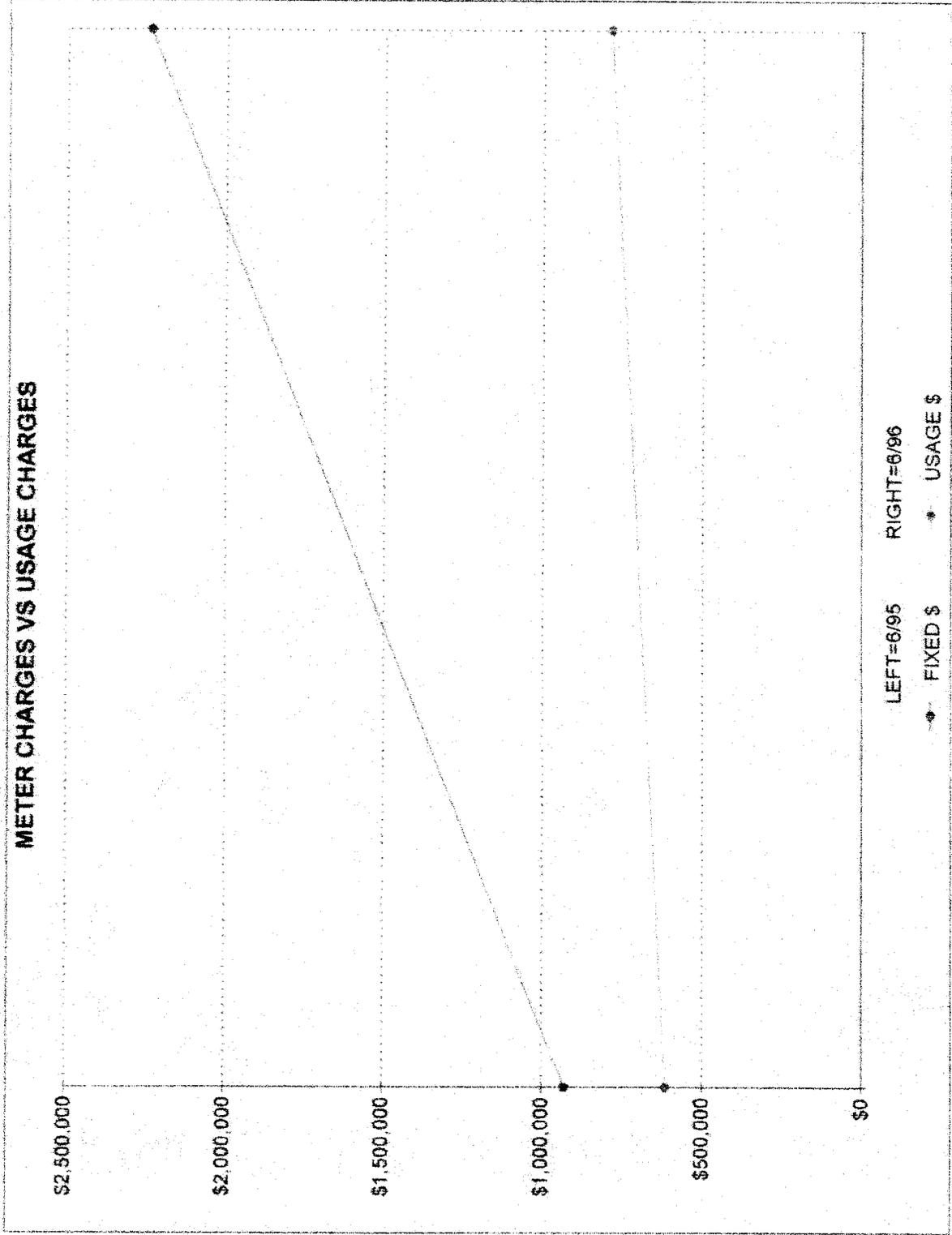
190 Kenneth Gatlin, Esq. Gatlin, Woods and Carlson, 1709-D Mahan Drive, Tallahassee, FL 32308  
191

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<sup>5</sup> Attached: Docket No. 951258-WS Barefoot Bay Div. Hearing, April 1 & 2, 1996, Page 356, 357

192 Chris Riesenbeck, President, Barefoot Bay Homeowners Association, 808 Sapodilla, Barefoot Bay, FL  
193 32976  
194  
195 Benjamin Krom, President, Barefoot Bay Recreation District, 1324 N. Oleander, Barefoot Bay, FL  
196 32976  
197  
198 Rany O'Brien, Commissioner District 2, Brevard County Board of Commissioners  
199 , Merritt Island Service Complex, 2575 N. Courtenay Pkwy, Merritt Island, FL 32953  
200  
201 Nancy Higgs, Commissioner District 3, Brevard County Board of Commissioners, 1311 E. New  
202 Haven Ave. Melbourne, FL 32901  
203  
204 Mark Cook, Commissioner District 4, Brevard County Board of Commissioners, 2725 St. John's St.,  
205 Bldg. C, Melbourne, FL 32940  
206  
207 Helen Volz, Commissioner District 5, Brevard County Board of Commissioners, 1515 Sarno Road,  
208 Building B, Melbourne, FL 32935  
209  
210 Truman Scarborough, Jr. Commissioner District 1, Brevard County Board of Commissioners, 400  
211 South Street, Titusville, FL 32780  
212  
213 ✓ Blanca S. Bayo, Director, FPSC, Division of Records and Reporting, Florida Public Service  
214 Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850  
215  
216 Senator Patsy Ann Kurth, Florida State Senator, District 15, 2174 Harris Ave. NE - Suite 1-B,  
217 Palm Bay, FL 32905

METER CHARGES VS USAGE CHARGES



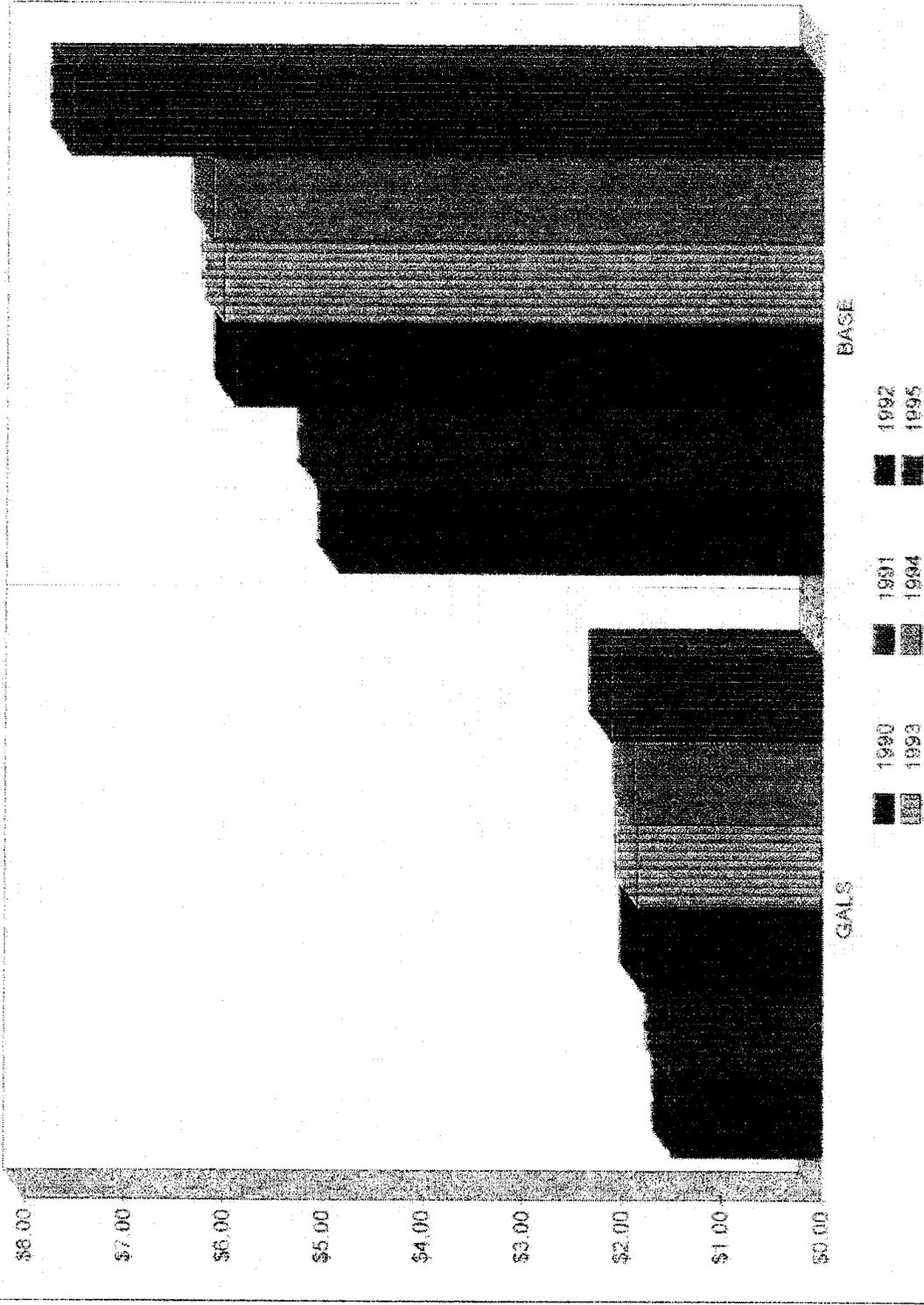
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• FIXED \$ • USAGE \$

FIXED \$/METER--USAGE \$/CONSUMPTION



### FIXED (BASE) RATE VS GALLONAGE (VOLUME) SINGLE FAMILY RESIDENTS



ANNUAL BASE & GALLONAGE RATES

| YEAR  | END OF YEAR SFYR NO. | COMM' NO. | TOTAL METERS | PG | R2                   | R3                  | R4                   | R5                  | R6                             | C2                | C3               | C4                | C6                          |
|-------|----------------------|-----------|--------------|----|----------------------|---------------------|----------------------|---------------------|--------------------------------|-------------------|------------------|-------------------|-----------------------------|
|       |                      |           |              |    | RESIDENT WATER (000) | RESIDENT WATER BASE | RESIDENT SEWER (000) | RESIDENT SEWER BASE | RESIDENT SEWER FACILITY CHARGE | COMM' WATER (000) | COMM' WATER BASE | COMM' SEWER (000) | COMM' SEWER FACILITY CHARGE |
| 1987  | 3764                 | 30        | 3784         |    | \$1.55               | \$5.07              | \$1.83               | \$4.84              | \$4.13                         | \$12.65           | \$25.29          | \$38.77           | \$77.55                     |
| 1988  | 3978                 | 31        | 4009         |    | \$1.57               | \$5.22              | \$1.84               | \$4.97              |                                | \$12.65           | \$25.29          | \$38.77           | \$77.55                     |
| 1989  | 4138                 | 32        | 4182         |    | \$1.51               | \$5.82              | \$1.81               | \$4.98              |                                | \$14.50           | \$28.90          | \$47.35           | \$94.72                     |
| 1990  | 4246                 | 33        | 4279         |    | \$1.85               | \$6.54              | \$1.85               | \$7.49              |                                | \$16.11           | \$30.21          | \$48.34           | \$96.68                     |
| 1991  | 4287                 | 34        | 4331         |    | \$1.88               | \$6.16              | \$1.85               | \$7.69              |                                | \$16.39           | \$30.74          | \$48.26           | \$96.60                     |
| 1992  | 4388                 | 34        | 4403         |    | \$2.12               | \$7.89              | \$1.85               | \$7.83              |                                | \$18.76           | \$35.13          | \$60.63           | \$121.27                    |
| 1993  | 4424                 | 38        | 4480         |    | \$2.27               | \$9.17              | \$2.49               | \$7.37              |                                | \$19.76           | \$35.13          | \$60.63           | \$121.27                    |
| 1994  | 4415                 | 44        | 4488         |    | \$2.27               | \$9.17              | \$2.49               | \$7.37              |                                | \$19.76           | \$35.13          | \$60.63           | \$121.27                    |
| 1995  | 4406                 | 45        | 4480         |    | \$2.27               | \$9.17              | \$2.49               | \$7.37              |                                | \$19.76           | \$35.13          | \$60.63           | \$121.27                    |
| 1996  | 4397                 | 51        | 4480         |    | \$2.27               | \$9.17              | \$2.49               | \$7.37              |                                | \$19.76           | \$35.13          | \$60.63           | \$121.27                    |
| TOTAL | 36017                | 319       | 39356        |    |                      |                     |                      |                     |                                |                   |                  |                   |                             |

| PG    | WATER   | SEWER  |
|-------|---------|--------|---------|--------|---------|--------|---------|--------|---------|--------|---------|--------|---------|--------|
|       | BASE    | %      |
| 34    | \$1.55  | 4.73%  | \$1.83  | 4.84%  | \$1.81  | 4.81%  | \$1.85  | 4.98%  | \$1.85  | 4.98%  | \$1.85  | 4.98%  | \$1.85  | 4.98%  |
| 51    | \$2.27  | 6.77%  | \$2.49  | 6.77%  | \$2.49  | 6.77%  | \$2.49  | 6.77%  | \$2.49  | 6.77%  | \$2.49  | 6.77%  | \$2.49  | 6.77%  |
| TOTAL | \$12.65 | 38.33% | \$12.65 | 38.33% | \$14.50 | 43.83% | \$16.11 | 48.33% | \$16.39 | 48.33% | \$18.76 | 55.33% | \$19.76 | 58.33% |

| WATER   | SEWER   |
|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 1990    | 1991    | 1992    | 1993    | 1994    | 1995    | 1996    | 1997    | 1998    | 1999    | 2000    | 2001    | 2002    | 2003    |
| \$12.65 | \$12.65 | \$14.50 | \$16.11 | \$16.39 | \$18.76 | \$19.76 | \$21.27 | \$22.78 | \$24.29 | \$25.80 | \$27.31 | \$28.82 | \$30.33 |
| 38.33%  | 38.33%  | 43.83%  | 48.33%  | 48.33%  | 55.33%  | 55.33%  | 60.83%  | 60.83%  | 66.33%  | 66.33%  | 71.83%  | 71.83%  | 77.33%  |

| WATER   | SEWER   |
|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 1990    | 1991    | 1992    | 1993    | 1994    | 1995    | 1996    | 1997    | 1998    | 1999    |
| \$12.65 | \$12.65 | \$14.50 | \$16.11 | \$16.39 | \$18.76 | \$19.76 | \$21.27 | \$22.78 | \$24.29 |
| 38.33%  | 38.33%  | 43.83%  | 48.33%  | 48.33%  | 55.33%  | 55.33%  | 60.83%  | 60.83%  | 66.33%  |

| WATER   | SEWER   | WATER   | SEWER   | WATER   | SEWER   | WATER   | SEWER   |
|---------|---------|---------|---------|---------|---------|---------|---------|
| 1990    | 1991    | 1992    | 1993    | 1994    | 1995    | 1996    | 1997    |
| \$12.65 | \$12.65 | \$14.50 | \$16.11 | \$16.39 | \$18.76 | \$19.76 | \$21.27 |
| 38.33%  | 38.33%  | 43.83%  | 48.33%  | 48.33%  | 55.33%  | 55.33%  | 60.83%  |

1. MAINTENANCE EXPENSE HAS BEEN DECLINING  
 2. THE MAJOR WORK REPAIRING SEWER MAINS IS CAPITALIZED.  
 3. DEPRECIATION, CIRC AMORTIZATION SHOW NO SIGNIFICANT INCREASE.  
 4. AMORTIZATION SHOW NO SIGNIFICANT INCREASE.

1 Q Now referring generally to that as the  
2 advanced wastewater treatment scenario, if you will  
3 permit that generalization, what was its status in  
4 late August/early September of 1992?

5 A Well, the DEP had tolled the construction  
6 schedules in the Amended Consent Order during the  
7 administrative hearing proceedings --

8 Q Now I'm referring to --

9 A -- and I'm answering your question. And as  
10 a result of that specific tolling, we inquired or  
11 Florida Cities inquired with DEP that the intention  
12 was that the tolling would continue for the appeal  
13 period. And DEP indicated that it was DEP's intention  
14 to go forward -- that Florida Cities go forward  
15 regardless of the appeal and construct the spray  
16 field. And that the tolling was stopped.

17 Q So it is your testimony that there was a  
18 pending appeal of the spray field permit and DEP says,  
19 "There's no stay, you must go forward."

20 A That's correct. DEP said regardless of the  
21 fact that during the -- that the permits are subject  
22 to invalidation if the appeal is lost; and regardless  
23 of the fact it was questionable whether eminent domain  
24 proceedings would be successful, considering the fact  
25 that there were no certain permits in hand to support

1 a public purpose for eminent domain, DEP said, "We  
2 don't, those are your problems, deal with it. We  
3 expect to see construction under the schedule in the  
4 Amended Consent Order regardless of the risks and the  
5 potential huge downside financially."

6 Q Did any party seriously assert that a public  
7 wastewater utility effluent disposal facility was not  
8 a public purpose?

9 A One without a permit might be.

10 Q Okay. How about one with a permit?

11 A One with a permit under appeal might not be.

12 Q How about one with a permit in hand?

13 A A permit under appeal in hand.

14 Q Yes.

15 A Yes. Well, now I'm lost. What's the  
16 question?

17 Q Your point that you attempted there for a  
18 moment was to suggest that the condemnation was less  
19 likely because public purpose was at issue. I'm  
20 asking you, was public purpose seriously at issue at  
21 any time?

22 A That's an opinion that should be rendered by  
23 an attorney with an expertise in eminent domain and I  
24 provided my opinion based on the opinion by eminent  
25 domain counsel who did provide such an opinion.