

SWAFFORD

DLS, WR
[Signature]

R. VANDIVER

FLORIDA PUBLIC SERVICE COMMISSION

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MEMORANDUM

April 9, 1992

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

**FROM : DIVISION OF WATER AND WASTEWATER (LINGO, RIEGER)
DIVISION OF RESEARCH AND REGULATORY REVIEW (D. VANDIVER)
DIVISION OF LEGAL SERVICES (FEIL)**

[Handwritten initials and signatures: Lingo, Rieger, D. Vandiver, Feil]

RE : UTILITY: SHADY OAKS MOBILE-MODULAR ESTATES, INC.

**DOCKET NO. 900025-WS
COUNTY: PASCO
CASE: STAFF-ASSISTED RATE CASE**

**AGENDA: APRIL 21, 1992 - CONTROVERSIAL - PROPOSED AGENCY ACTION
FOR ISSUES 4 AND 5 - PARTIES MAY PARTICIPATE ON ISSUES 1,
4 AND 5**

PANEL: FULL COMMISSION

CRITICAL DATES: NONE

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<u>ATTACHMENT</u>	<u>DESCRIPTION</u>
A	Staff's Letter to Sims (01/22/92)
B	Sims' Response to Staff's Letter (02/16/92)
C	Sample of Utility's Bill to its Customers
D	Shady Oaks Owners Association Letter to D. Vandiver re: Quality of Service (03/25/92)
E	Copy of a Customer Complaint Taken by Division of Consumer Affairs (01/14/92)
F	Shady Oaks Owners Association Letter to Commission re: Water Outage (03/25/92)
G	Copy of a Customer Complaint Taken by Division of Consumer Affairs (02/24/92)

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CASE BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) is a Class C water and wastewater utility located in Pasco County. It is a 242 lot mobile-modular home park developed in 1971. Its service area is approximately 1 1/2 miles south of the City of Zephyrhills.

On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. On February 8, 1991, the Commission issued PAA Order No. 24084, which approved a rate increase and required the utility to file or perform the following items:

- 1) File a request for acknowledgement of a restructure and a name change.
- 2) Bring the quality of service to a satisfactory level.
- 3) Spend at least 85% of the allowance for preventative maintenance, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance.
- 4) Install meters for all its customers.
- 5) Escrow a certain portion of the monthly rates.

In March 1991, the owners of the utility, Mr. and Mrs. Richard D. Sims, filed bankruptcy under Chapter 13 with the United States Bankruptcy Court for the Middle District of Florida - Tampa Division. On June 24, 1991, in response to a suit filed by the homeowners, Judge Lynn Tepper with the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida granted an emergency temporary injunction enjoining and restraining the utility from charging or attempting to collect the new utility rates.

On July 5, 1991, Judge Wayne L. Cobb with the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida issued an Order to Show Cause why Shady Oaks should not be punished for contempt of Court for willfully and deliberately violating a 1983 order of the Court. The July 5, 1991 order further enjoined the utility from collecting the utility rates established by this Commission and ordered that the \$25.00 per month service maintenance fee be tendered to the Clerk of the Circuit Court. In August, both injunctions were lifted and the utility was able to begin collecting revenues. However, the homeowners' lawsuit is still pending.

On July 8, 1991, in a case entitled State of Florida Department of Environmental Regulation v. Shady Oaks Mobile-Modular Estates, Inc., Judge Tepper signed a stipulation reached between

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the parties, whereby the utility agreed to remove its sewage treatment plant and divert all flows to Pasco County's sewage collection system within six months.

On November 4, 1991, the Commission issued Order No. 25296 which determined the utility's noncompliance with Order No. 24084. Order No. 25296 reiterated Order No. 24084 by requiring the utility to:

- 1) Submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name.
- 2) Immediately place in the escrow account all funds necessary to bring said account to its proper balance.
- 3) Install water meters for all its customers.
- 4) Improve the quality of service and interconnect with the Pasco County wastewater treatment system.

At this time, Staff believes the utility remains in substantial noncompliance with Orders Nos. 25296 and 24084. Therefore, Staff performed a review of the utility's revenues and expenses from March 1991 to February 1992. As a result, this recommendation discusses the items of noncompliance, as well as other matters that require the Commission's attention.

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SHOW CAUSE FOR NONCOMPLIANCE

ISSUE 1: Should the Commission order the utility to show cause in writing why it should not be fined up to \$5,000 per day per violation for each item of noncompliance with Orders Nos. 25296 and 24084, and if so, what are the specific items of noncompliance?

RECOMMENDATION: Yes, the Commission should order the utility to show cause in writing within 20 days of the date of the order why it should not be fined up to \$5,000 per day per violation for each item of noncompliance with Orders Nos. 25296 and 24084. Specific items of noncompliance are the utility's failure to: 1) submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name; 2) install water meters for all its customers; 3) spend at least 85% of its \$1,700 monthly allowance for preventative maintenance for that specified purpose, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance; 4) improve the quality of service and interconnect with the Pasco County wastewater treatment system; and 5) immediately place in the escrow account all funds necessary to bring said account to its proper balance. (D. VANDIVER, LINGO, RIEGER)

STAFF ANALYSIS: As discussed in the case background, Order No. 25296 determined the utility to be in noncompliance with Order No. 24084. However, due to the unusual circumstances in the case, the Commission allowed the utility additional time to complete the required items. A discussion of the specific items of noncompliance follows.

Name Change and Restructure

In August 1990, Mr. Sims transferred the title of the utility land from Shady Oaks Mobile-Modular Estates, Inc. to Richard D. and Caroline Sue Sims. Mr. Sims stated that the purpose of the transfer was to spin-off the utility from the mobile home park. However, this transfer was not approved by the Commission. Therefore, in Order No. 24084 the Commission ordered Shady Oaks to file within 60 days a request for acknowledgement of a name change and restructure.

On March 17, 1991, the Commission received a letter from Mr. Sims requesting that the Commission recognize the change in name from Shady Oaks Mobile-Modular Estates, Inc. to S & D Utility. The utility had begun billing the customers and operating under the name of S & D Utility. On April 1, 1991, Staff responded that certain information was needed before the name change could be recognized. This information included evidence that the utility

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and its assets were properly transferred and that the new utility name had been properly registered as a fictitious name. Specifically, Staff wanted the title to reflect that the land was owned by Mr. and Mrs. Sims d/b/a the utility.

Mr. Sims subsequently provided the evidence that the fictitious name had been registered. However, because Mr. and Mrs. Sims were in the midst of a bankruptcy filing, the title to the land could not be corrected to reflect the name of the utility. At the time of the last staff recommendation, Mr. Sims had entered into a payment plan under the bankruptcy proceeding and believed that he would be able to correct the name on the title.

By Order No. 25296, issued on November 4, 1991, the Commission allowed the utility additional time to complete the name change and restructure requirements. Specifically, the utility was ordered to submit within 60 days all necessary information for changing its certificated name, including evidence that the title to all the utility land and personal property has been properly transferred to S & D Utility, or revert to operating under its currently certificated name of Shady Oaks Mobile-Modular Estates, Inc.

By letter dated January 22, 1992, Staff restated to Mr. Sims what information was necessary to complete the name change. In the letter, questions asked of Mr. Sims were for specific information, such as whether a contract was drawn up transferring both the land and all other utility assets to the new entity called S & D Utility. Staff's letter is included in this recommendation as Attachment A, and Mr. Sims' response is included as Attachment B.

Not all of Staff's questions were answered by Mr. Sims, and Staff believes the answers provided by Mr. Sims were nonresponsive. For example, Mr. Sims' response to the name change question was that the original name change request had been made with the Commission, but the bankruptcy proceeding was the reason why the name change and restructure has not been completed. However, on November 14, 1991, (two months before Staff's January 22, 1992 letter to the utility), the Bankruptcy Judge issued an order dismissing the case. The Sims' filed a motion for reconsideration, and on December 17, 1991, the Bankruptcy Judge issued an order denying the motion for reconsideration or, in the alternative, conversion to Chapter 11. Based on the foregoing, the bankruptcy proceeding would not have prevented the utility from completing the restructure requirements once the related bankruptcy orders had been issued.

It is apparent that the utility is not in compliance with Orders Nos. 24084 and 25296 with regard to the name change and restructure requirements. Therefore, Staff recommends that the

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utility be ordered to show cause why it should not be fined up to \$5,000 per day for failing to complete the name change and restructure request.

Not only has the utility refused to complete the requirements for the name change, it has disregarded the Commission's order to revert to operating under its certificated name. Attachment C to this recommendation is a copy of a February customer bill under the heading of S & D Utility. In addition, Staff has verified that the utility makes deposits into and writes checks from a bank account in the name of S & D Utility. The Commission's Division of Consumer Affairs has also repeatedly called the utility's business phone and reports that the recorded message left on the answering machine is in the name S & D Utility.

Order No. 25296 allowed the utility 60 days to complete the name change and restructure requirements, or else revert to operating under the currently certificated name of Shady Oaks Mobile-Modular Estates, Inc. The 60 day period expired January 3, 1992. Since Staff has confirmed that the utility is operating under the name of S & D Utility, Staff recommends that the utility is in violation of Commission Order No. 25296 in this regard. Therefore, the utility should be ordered to show cause why it should not be fined up to \$5,000 per day for continuing to operate under a name other than its certificated name.

Installation of Water Meters

In Order No. 24084, the Commission determined that six months was sufficient time to install meters for the utility's 185 customers. During the six month installation period, the utility was authorized to charge a flat rate of \$14.70 for water service and \$28.28 for wastewater service, for a total of \$42.98 per month.

As stated in that order, if all water meters were installed within six months, the utility would then be allowed to charge all customers the base facility and gallonage charges approved in the order. As incentive for the utility to complete the installations within the prescribed time, the order further stated that if all of the water meters were not installed within six months, the utility would be required to bill the appropriate water and wastewater base facility charges of \$6.34 and \$12.50, respectively, (for a total of \$18.84) to all customers. However, the utility could bill the gallonage charges only to those customers who had a functioning water meter installed at the respective customer's service site. In this case, the base facility charges automatically went into effect on October 1, 1991.

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Pursuant to Commission Order No. 24084, the utility had begun the process of installing water meters for its customers. However, as a result of a dispute and ongoing litigation during most of 1991, the utility collected less than half of the revenues allowed in the rate case. The majority of customers withheld payment to the utility during a substantial portion of the year. Staff believes the arrearages resulting from the customers' nonpayment of utility services are in fact due and payable to the utility. Staff has conservatively calculated the arrearages to be over \$15,000. As of mid-September 1991, seven months after Order No. 24084 was issued, the utility had installed meters for only 31 out of 185 customers.

Staff's review of the utility's billing records indicated that by the end of 1991, the vast majority of the customers were paying the Commission-approved rates. In addition, in Order No. 25296 the Commission recognized that the likely cause of the utility's failure to install meters was its reduced revenues. Consequently, by Order No. 25296, the utility was given an additional five months in which to complete the meter installations. In addition, the utility was allowed to revert to the flat rates set forth in Order No. 24084 until the Commission reevaluated the case in five months. It was contemplated that the resulting increase in revenues associated with the flat rates (\$42.98 v. \$18.84) would further assist the utility in its efforts to comply with the meter installations requirement.

Staff's January 1992 letter requested the utility's plans for installing the water meters and a time schedule indicating the proposed dates and the number of meters for future installation. The utility's response simply stated it intended to install additional meters in February. As of the end of March 1992, the utility has only installed an additional 16 meters, which brings the total number of meter installations to 47. Because the utility has not completed the installation of the meters within the prescribed time frame and was not responsive to Staff's request for a time schedule, Staff recommends that the utility be ordered to show cause why it should not be fined up to \$5,000 per day for failing to install the water meters.

Preventative Maintenance

The rates approved in Order No. 24084 include a monthly allowance of \$1,700 for preventative maintenance. Commission Order No. 24084 further states that if at six months from the effective date of the order the utility has not expended at least 85% of the amount allowed (at least \$1,445 per month), the utility shall submit a written schedule to show what monthly maintenance will be adopted along with a statement of the reason such funds were not

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expended and a detailed statement of its future plans to maintain the system. The order continued that if the maintenance was not performed, the Commission would consider initiating a show cause proceeding to fine the utility for not performing the maintenance as ordered.

The utility did not spend the required maintenance allowance during the months of March through August of 1991. In Order No. 25296, the Commission determined that the utility's failure to spend the maintenance allowance was likely caused by decreased revenues. The utility was ordered to henceforth comply with the preventative maintenance aspect of Order No. 24084. This issue would be reviewed in five months' time.

Staff has reviewed the utility's expenditures for the months of September 1991 through February 1992. Staff's analysis indicates that the utility spent approximately \$3,300 during that period, compared to the ordered minimum expenditure of \$8,670 (\$1,700 x 85% x 6 months). The \$3,300 figure represents less than 40% of what the utility was ordered to spend. In addition, the utility has failed to submit to Staff the required statement of the reason such funds were not expended and a detailed statement of its future plans to maintain the system.

Based on Staff's review of the utility's expenditures, the utility has not complied with Order No. 25296 regarding the maintenance requirement. Therefore, the utility should be ordered to show cause why it should not be fined up to \$5,000 per day for failing to spend at least 85% of its \$1,700 monthly allowance for preventative maintenance on that specified purpose.

Quality of Service

Commission Order No. 24084 imposed a \$2,000 penalty on the utility for its unsatisfactory quality of service. However, the order stated that after six months, the Commission would reinspect the plant and assess the performance of the utility to determine the quality of service. If satisfactory, the Commission stated that it may suspend the fine permanently. The order further stated that to improve the quality of service, the utility should construct a new effluent disposal system, obtain the necessary permits, and operate the wastewater facilities within DER standards. The DER-required plant improvements were included in rate base as pro forma plant.

Staff visited the utility in September 1991 and found that the quality of service had not improved. In fact, the quality of service had deteriorated. The Commission recognized that the

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deficiencies were at least partially attributable to the low level of revenues collected by the utility.

Because the utility had entered into a settlement agreement with the DER, the requirement for the effluent disposal system was modified to require an interconnect of the utility's wastewater system with Pasco County within six months of the signed settlement with DER. Therefore, Order No. 25296 allowed the utility additional time to make quality of service improvements. The order restated the requirements for improving the quality of service, and modified Order No. 24084 to require the utility to interconnect with Pasco County within the prescribed time frame of January 8, 1992. To date, the utility has neither interconnected with the county, nor begun construction or design of the required interconnect facilities.

In addition, the Commission found that the quality of service regarding customer relations had reached an all-time low, and that in order to improve the quality of service the utility must improve customer relations.

Staff does not believe that the utility has improved customer relations. There are several attachments that relate to this issue. Attachment D is a statement from the Shady Oaks Owners Association regarding the quality of service provided by the utility. Attachment E is a copy of a customer complaint filed with the Commission's Division of Consumer Affairs. With regard to the customer complaint, while Mr. Sims denies that he used the profane language quoted in the letter, Staff believes that while the words may be in dispute, it is evident that the customer was insulted.

In addition, we received numerous complaints on January 22, 1992 regarding a service outage. The customers also claimed that the utility did not respond to their calls on the day the outage occurred. The customers' account of what happened is included with this recommendation as Attachment F. Service apparently was restored only when the guest of one of the customers climbed the fence at the plant and switched the breaker on. The customers are concerned that Mr. Sims did not respond timely to their calls. In addition, it is a long-distance call for customers to report any service outages or other trouble. In response to Staff's inquiry, Mr. Sims responded that he could not have responded any sooner, as he had been out of town on the day the outage occurred.

Also, on February 24, 1992, Staff received a complaint that Mr. Sims was installing several meters on one person's property. A copy of the complaint is included in this recommendation as Attachment G. Staff visited the utility and found that the utility was placing the individual meters as close to the water main as

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possible, even when that meant that the meter was on someone else's property. Staff directed the utility to place the water meters on the individual properties associated with the consumption. Rule 25-30.260 of the Florida Administrative code requires the "utility to locate meters at or near the customer's curb or property line (except) when it is impractical." In this instance, Staff believes that it is practical for the utility to place each meter on the respective property it serves.

It is evident to Staff that the utility has made no substantial improvement in the total quality of service. Therefore, as the utility is in violation of Commission Orders Nos. 24084 and 25296 in that regard, it should be ordered to show cause why it should not be fined up to \$5,000 per day for continuing to provide unsatisfactory quality of service.

Escrow Requirement

The utility's rate increase became effective on March 2, 1991. By Order No. 24084, the utility was required to place in escrow the portion of the rate increase related to the pro forma plant and the \$2,000 penalty. Specifically, the utility was required to escrow \$333.34 per month. However, as previously discussed, the utility collected substantially less revenues during 1991 than was allowed in Order No. 24084. By July 1991, the utility was receiving so few utility payments from customers that it unilaterally decided to discontinue placing money in escrow.

Although the Commission understood the utility's difficulty in escrowing the required amount, Order No. 25296 admonished the utility for ceasing to escrow without the Commission's approval. The utility was then ordered to immediately place enough money in the escrow account to bring the balance up to the proper level. The utility was warned that if it did not immediately correct the escrow deficiency or did not continue placing the appropriate portion of revenues in the escrow account, the Commission would take appropriate action.

The vast majority of the utility's customers are now paying their utility bills. Based on a review of the utility's cash collections from customers since the issuance of Order No. 25296 (December 1991 to February 1992), Staff has conservatively calculated an amount of \$5,600 as what the utility should have placed in escrow during that three month period. However, a review of the bank statements indicates only \$3,500 was deposited into the escrow account during the same period. In addition, the utility has failed to place enough money in the escrow account to correct the escrow deficiency that resulted from the utility's ceasing to place funds into the account.

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The utility has failed to comply with Orders Nos. 24084 and 25296 regarding the escrow requirements. Therefore, the utility should be ordered to show cause why it should not be fined up to \$5,000 per day for not maintaining the appropriate balance in the escrow account.

Summary of Noncompliance/Recommendation to Show Cause

Based on the foregoing discussion, the utility is in substantial noncompliance with Orders Nos. 25296 and 24084. Specifically, the utility has failed to: 1) submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name; 2) install water meters for all its customers; 3) spend at least 85% of its \$1,700 monthly allowance for preventative maintenance on that specified purpose, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance; 4) improve the quality of service and interconnect with the Pasco County wastewater treatment system; and 5) immediately place in the escrow account all funds necessary to bring said account to its proper balance. Therefore, the Commission should order the utility to show cause in writing within 20 days of the date of the order why it should not be fined up to \$5,000 per day per violation for each item of noncompliance with Orders Nos. 25296 and 24084.

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OTHER ISSUES

ISSUE 2: Should the Commission levy the \$2,000 fine that was imposed and suspended by Order No. 24084 for unsatisfactory quality of service?

RECOMMENDATION: Yes, the Commission should levy the \$2,000 fine that was imposed and suspended by Order No. 24084 for unsatisfactory quality of service. However, the utility should be ordered not to pay the fine from the escrow account, as the utility has failed to escrow sufficient monies to cover both a potential refund and the fine. (LINGO, D. VANDIVER, FEIL)

STAFF ANALYSIS: Commission Order No. 24084 imposed a \$2,000 fine for unsatisfactory quality of service, but suspended the fine for a nine-month period. By the end of this period the utility was expected to improve its quality of service, and the Commission would then dispose of the fine.

In Order No. 25296, the Commission found that the utility's quality of service remained unsatisfactory. Order No. 25296 required the utility to improve its quality of service within five months. Stated conditions for improving the quality of service were that the utility must both complete the interconnect with the Pasco County wastewater treatment system within the designated time and improve customer relations.

As further discussed in Order No. 25296, the Commission stated that it did not take lightly either the utility's continued unsatisfactory quality of service or its continued failure to comply with the other requirements of Order No. 24084. However, the decreased revenue situation made this a somewhat exceptional case. Therefore, Order No. 25296 extended the suspension of the fine for 45 days beyond the Pasco County interconnection date (February 21, 1992). A final review of the quality of service would begin at that time. In addition, Order No. 25296 reminded the utility that it was not relieved of its obligation to accumulate the fine in escrow as required in Order No. 24084.

As discussed in detail in Issue 1, the utility is in substantial noncompliance with Orders Nos. 24084 and 25296 regarding the areas of quality of service and the escrow account. Therefore, Staff recommends that the \$2,000 fine be levied.

Although the utility was ordered to place money in the escrow account in part to accumulate the fine, the appropriate balance of the escrow account is much greater than the actual balance in the account. In fact, in response to Staff's January 22, 1992 letter, Mr. Sims stated that, "... it is obvious that the fine certainly

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could not be placed in any type of an escrow account since the Utility is operating at a deficit monthly." (Please refer to Attachment B, page 1.) It is evident that should the Commission require a refund to the utility's customers, most if not all the money in the escrow account would be needed to satisfy the refund requirement. Therefore, since the utility has failed to escrow sufficient monies to cover both a potential refund and the fine, the utility should be ordered not to pay the fine from the escrow account.

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ISSUE 3: If the Commission assents to Staff's recommendation in Issue 2, should this Commission forward collection of the fine to the Comptroller's Office in the event the utility fails to respond to reasonable collection efforts by Commission Staff?

RECOMMENDATION: Yes, in the event that reasonable collection efforts are unsuccessful, the collection of the fine should be forwarded to the Comptroller's Office. (LINGO)

STAFF ANALYSIS: In 1988, Shady Oaks Mobile-Modular Estates, Inc. went through a reorganization under Chapter 11 of the Bankruptcy Code and a final judgement was issued on August 2, 1988. In addition, in March 1991, the utility owners filed for personal bankruptcy under Chapter 13. Although the Bankruptcy Judge issued orders both dismissing the case and denying the Sims' motion for reconsideration in the Chapter 13 filing, the fact that the utility owners felt the need to file for bankruptcy is of concern to Staff.

In view of the utility owners' history of bankruptcy filings and failing to comply with Commission Orders, Staff recommends that collection of the \$2,000 fine be referred to the Comptroller's Office for further collection efforts should the utility fail to respond to reasonable collection efforts by Commission Staff. Reasonable collection efforts shall constitute two certified letters requesting payment. The referral to the Comptroller's Office would be based on the conclusion that further collection efforts by the Commission would not be cost-effective.

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ISSUE 4: Should the rate structure be changed at this time?

RECOMMENDATION: Yes, the rate structure should revert back to the base facility and gallonage charge rate structure. The utility should submit revised tariff pages within seven days of the date of the order. The revised rates shall be effective for meter readings on or after thirty days from the stamped approval date on the revised tariff sheets. The tariff sheets will not be approved until Staff verifies that the tariffs are consistent with the Commission's decision, and that the customer notice is adequate.
(D. VANDIVER, LINGO)

STAFF ANALYSIS: By Order No. 24084, the utility was authorized to charge flat rates for water and wastewater service of \$14.70 and \$28.28, respectively. The utility was authorized to charge the flat rates for six months, at the end of which time the base facility charge (BFC) rate structure became effective. In this case, the BFC rates automatically became effective on October 1, 1991.

However, because numerous customers did not pay the utility bills during the court dispute over jurisdiction to set the utility's rates, Order No. 25296 allowed the utility to charge the flat rates for an additional five months. The Commission believed that the revenue deficiency was a significant factor that contributed to the meters not being installed on a timely basis.

Beginning in December 1991, the utility once again began charging the combined flat rate of \$42.98. Staff has reviewed the utility's records and found that the majority of customers have been paying the current portion of their bills on a timely basis. However, as discussed in Issue 1, the utility has not completed the installation of the water meters. Therefore, Staff believes now is an appropriate time to reconsider which rates the utility should be charging.

Staff recognizes that the utility must be allowed sufficient funds to operate. Staff believes the utility has in fact been allowed sufficient funds, but these funds have not been used to install the water meters. It appears that the customers were correct in their concern that the utility owner would need a strong incentive in order to install the water meters in a timely fashion. Therefore, Staff now believes that the utility should be ordered to revert to the base facility charge rate structure.

In addition, beginning in May of each year, a significant number of the utility's customers go on an extended vacation and request a disconnection or vacation rate. In fact, approximately 65 customers (or 35% of the customer base) are disconnected for

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each of the months of May through September. If the utility is on a flat rate, the tariff does not allow for a vacation rate, and the customers are not charged a minimum charge.

Based on the number of customers on vacation last year, Staff compared the monthly summer revenues using flat rates to revenues that would have been generated from the base facility charge rate structure. Assuming 65 customers are out of town, the utility would collect approximately \$5,000 from the remaining customers if the flat rate structure is utilized. Using the base facility charge rate structure, and assuming estimated average usage of 6,000 gallons per customer, the utility will collect approximately the same amount of revenues if 66 customers have meters installed so that the utility may also bill for the usage. The comparison is shown below:

	<u>Revenues Generated From Flat Rates</u>
Current customers	181
- Vacationing customers	<u>65</u>
= Customers subject to bill	116
x Combined flat rate	<u>\$ 42.98</u>
= Total monthly revenues	<u>\$ 4,986</u>

	<u>Revenues Generated From Base/Gallorage Rates</u>
Current customers	181
x Combined BFC	<u>\$ 18.84</u>
= Revenues derived from BFC	\$ 3,410
Customers with meters	66
x Combined gallonage charge	\$ 4.02
x Estimated usage (gals/customer)	6,000
/ 1,000 gallons	<u>1,000</u>
= Revenues derived from gallonage	\$ 1,592
+ Revenues derived from BFC	<u>3,410</u>
= Total monthly revenues	<u>\$ 5,002</u>

The utility has installed 47 meters, and has recently indicated that another 40 will be installed in April. Assuming most of the meters installed in April are for nonvacation residences, the

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utility should collect approximately the same amount of revenues using the base facility charge rate structure as would be collected using flat rates.

Therefore, Staff recommends that the utility revert to the base facility/gallongage charge rate structure. This means that the utility is required to bill all customers without water meters the water base charge of \$6.34 and the wastewater base charge of \$12.50. The utility may charge the gallongage rates to each customer who has an installed meter.

The utility should submit revised tariff pages within seven days of the date of the order. The revised rates shall be effective for meter readings on or after thirty days from the stamped approval date on the revised tariff sheets. The tariff sheets will not be approved until Staff verifies that the tariffs are consistent with the Commission's decision, and that the customer notice is adequate.

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ISSUE 5: Has the utility properly credited all customers who contributed to the payment of the utility's delinquent electric bill?

RECOMMENDATION: No, the utility has not credited all customers who contributed to the payment of its delinquent electric bill. The utility should be ordered to issue credits to those customers who have not yet received credits. The credits should be issued on the first bill subsequent to the date of the order. (LINGO)

STAFF ANALYSIS: During the time the injunction was in effect, Shady Oaks was unable to pay its electric bills for the months of May and June of 1991. On July 25, 1991, the Withlacoochee River Electric Cooperative discontinued electric service to the utility. All of the pertinent governmental agencies, including this Commission, were given prior notice. The Shady Oaks homeowners were without water and wastewater service as a result of the discontinuance of electric service.

With no opposition from the utility or this Commission, the Circuit Court issued an order which allowed the homeowners to pay the electric bill, provided that such payments would be credited to their water and wastewater bills. The homeowners paid the electric bill and Shady Oaks' power was restored.

The electric bill was paid by 114 homeowners. The utility was provided with a list of those homeowners' names so that the appropriate credit would be posted to their accounts. Although the Circuit Court order does not specify that only the homeowners who paid a portion of the delinquent electric bill would be entitled to a credit on their water and wastewater bills, Staff believes this is a reasonable approach. Even absent the Circuit Court order requiring customer credits, Staff believes the customer credits are appropriate.

The appropriate credit per contributing homeowner is \$9.59. As of mid-March of this year, the utility had issued the appropriate credits to 86 customers. However, there are still 28 homeowners who have yet to be credited the proper amount; the resulting outstanding credits total approximately \$270. Therefore, Staff recommends that the utility be ordered to issue the remaining 28 credits to those homeowners who contributed to paying the utility's delinquent electric bill. These credits should be issued on the first bill subsequent to the date of the order.

DOCKET NO. 900025-WS
APRIL 9, 1991

ISSUE 6: Should this docket be closed?

RECOMMENDATION: No, this docket should not be closed. (LINGO,
D. VANDIVER)

STAFF ANALYSIS: Staff has recommended that the utility be ordered to: 1) show cause why it should not be fined for being in substantial noncompliance with Commission Orders Nos. 24084 and 25296; 2) pay a \$2,000 fine; 3) revert to the base facility/gallonage charge rate structure; and 4) issue customer credits relating to the customers' payment of the utility's delinquent electric bill. Therefore, this docket should remain open pending further proceedings.

I:\PSC\WAW\WP\SOAKREC1.FJL

Commissioners:
THOMAS M. BEARD, CHAIRMAN
BETTY EASLEY
J. TERRY DEASON
SUSAN F. CLARK



DIVISION: ATTACHMENT A
WAS
CHAI Page 1
DIRECTOR
(904) 488-8482

Public Service Commission

January 22, 1992

Richard D. Sims
Shady Oaks Mobile-Modular Estates, Inc.
1315 Eckles Drive
Tampa, Florida 33612

Dear Mr. Sims:

On November 4, 1991, the Commission issued Order No. 25296 which determined your noncompliance with Commission Order No. 24084 and allowed additional time for compliance. Most of these actions were to be accomplished within five months of the effective date. However, certain of the actions were to be completed prior to this date and the deadline for the remaining actions is rapidly drawing to a close. Therefore, this letter reviews the requirements placed on the utility and requests additional information regarding the status of these requirements.

At this time, staff is preparing to draft a recommendation to the Commission regarding the continued violations. We plan to recommend that the previously suspended fine of \$2,000 for unsatisfactory quality of service be levied. In addition, we plan to recommend that Shady Oaks be show caused why it should not be fined up to \$5,000 per day for failure to comply with the items contained in Order No. 25296. Therefore, please respond to each of the following requests as fully as possible. Your complete response to this letter will enable staff to make a fully informed recommendation to the Commission regarding the disposition of the issues in this case.

- 1) Order No 24296 required Shady Oaks to file within sixty days a request for acknowledgement of a name change and restructure.

In order to acknowledge a name change and restructure, the Commission needs evidence that the utility and all of its assets are in the same name. What is the intended name of the utility? Is this a corporation or a sole proprietorship? In what name is the utility land recorded? Has the utility drawn up a contract selling or transferring the utility assets from Shady Oaks Mobile-Modular Estates, Inc. to the new name? Have these steps been put on hold due to the filing of the bankruptcy proceedings? Is it true that the bankruptcy proceedings were thrown out of court? Have any other proceedings affected the completion of this requirement? The order required that the utility revert to operating under the name Shady Oaks Mobile-Modular Estates, Inc. if the required information was not filed. Has the utility ceased operating under the name S & D Utility?

- 2) The approved rates include a monthly expense of \$1,700 for preventative maintenance. If the utility has not expended at least 85% of the amount allowed, the utility shall submit a written schedule to show what monthly maintenance will be adopted along with a statement of the reasons such funds were not expended.

Please list the monthly maintenance expenditures for September 1991 through January 1992. Provide copies of all invoices and checks supporting these expenditures. If the monthly amount is less than \$1,700 per month, please submit a schedule as required by the Order. This would include a written schedule to show what monthly maintenance will be adopted along with a statement of the reasons such funds were not expended.

- 3) The utility was ordered to place monies in an escrow account in order to accumulate a \$2,000 fine for unsatisfactory quality of service and to put aside the revenues associated with the pro forma plant. Order No. 25296 recognized that the utility had ceased placing money in escrow and ordered the utility to place sufficient money in the escrow account to bring the balance up to the proper level.

Staff has not received evidence of any of these deposits. Nor has staff received any monthly reports required by Order No. 24084 since May 1991. Please submit these reports for June 1991 through January 1992.

- 4) The order stated that the utility must install water meters for all customers within five months.

It does not appear that any water meters have been installed since the order was issued. What plans do you have for installing the remaining water meters? Please provide a time schedule indicating proposed dates of installation and the number of meters to be installed on each date.

- 5) The utility was ordered to escrow the portion of the increase related to the pro forma plant. After six months, the utility shall submit to the Commission copies of the invoices to verify the costs to complete the construction.

Considering the stipulation you reached with DER regarding the wastewater connection with Pasco county, the interconnection was to be completed January 8, 1992. Please explain what action DER is currently taking and what action you are taking?

- 6) The utility was also ordered to improve customer relations. Order No. 25296 suggested several steps that the utility could take to accomplish an improvement.

Mr. Richard D. Sims
January 22, 1992
Page 3 of 3

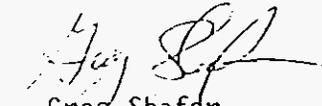
ATTACHMENT A

Page 3

Please provide a discussion of the steps you have taken to improve customer relations. Specifically address if you have implemented the three suggestions included in the Commission order.

The upcoming recommendation will address the penalty imposed in the last order, future utility actions which the commission should monitor, the disposition of the escrow account and whether the docket should be held open. The more information you are able to give us concerning these issues, the more informed recommendation staff can make to the Commissioners. Please submit the requested information no later than February 17, 1992 in order that staff can complete its recommendation.

Sincerely,



Greg Shafer
Bureau Chief

cc: Charles H. Hill
Hank Landis
Denise Vandiver

i:\psc\rrr\wp\simstr.dlv

S & D UTILITY
P. O. Box 280012
Tampa, Fla. 33682-0012

February 16, 1992

RECEIVED

FEB 21 1992

Fla. Public Service Commission
Division of Water and Sewer

Mr. Greg Shafer, Bureau Chief
Division of Water & Wastewater
Florida Public Service Commission
101 E. Gaines Street
Tallahassee, Florida 32399-0850

Dear Mr. Shafer:

Concerning your letter of 1-23-92, we were waiting for a letter from Tri-Community Council, which, as you know from our prior correspondence, we have had Nancy Bartek who represents S & D Utility. I talked to Mrs. Bartek, and it is our understanding that we have been approved by Tri-Community for a complete analysis of our water system. Subject to her letter, we understand that this will involve the following analysis; upgrading our water system, which would include an analysis of the electrical system and pumps and water storage facilities, any leakage in any lines, replacement of any cut-off valves, and installation of water meters. Anything that we can do to cut down the cost of providing top-notch service to our consumers. When we receive this letter from her, we will forward it to you. This analysis will be conducted by Florida State University. We wish to especially bring to your attention that upon completion of this analysis this will be a 50/50 proposition. Also we are waiting for a letter of confirmation from Mr. Vora, D.E.R. Wastewater Financial Assistance, concerning the financial assistance afforded by them. He is to contact David Thulman, Chief Legal Council, D.E.R..

Concerning your question # 1, name change was filed. Intended name of the Utility is now and has been S & D Utility, the Corporation cannot be a sole proprietorship at present. Utility name is recorded in the name of Richard D. Sims, these steps have been put on hold due to Bankruptcy proceedings. Concerning the Bankruptcy proceedings, a matter of record. The possibility of additional potential proceedings, the Utility will continue to operate under the name of S & D Utility. The name S & D Utility is recorded and the Federal Tax Number has been applied for and received, as this was recommended by your audit and we have done so.

Question # 2, it appears that since we became under your jurisdiction in 1985, the Utility is still operating under a deficit.

Question # 3, it is obvious that the fine certainly could not be placed in any type of an escrow account since the Utility is operating at a deficit monthly. We believe that you have received copies of the prior escrow account. Enclosed are the copies to bring this information up to date.

Mr. Greg Shafer

-2-

Page 2

This account will be brought up to date by an addition of \$100.00 a month from the General Operating account to be put in the escrow account, if possible. This has been done for February.

Question # 4, we intend to install additional water meters the latter part of this month.

Question # 5, extremely informative deposition with the D.E.R. on 1-8-92. They were completely astounded as to why the Utility could not shut off water for non-payment. I advised them that this was the Circuit Judges' decision and that your Mr. Feil was handling this with the Circuit Court. They did ask me a particular question, what would I do when these funds are released by the customers if the Judge states I can shut off water for non-payment. I told them that the largest majority of these funds would be used to install water meters and for the expansion of the sewer plant, to hook into the Pasco County Wastewater System. I do believe that you have prior correspondence regarding this. If you have any questions concerning this please contact Mr. David Thulman, Chief Legal Counsel, D.E.R., Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Fla., 32399-2400.

Question # 6, concerning question 6, number 5 answers it. Concerning customer relations, very shortly we will have all our billing stamped "It's our privilege to serve you, have a nice day." A total amount of 8 people visited the office during the month of January. There have been several people in the Park who have been ill, and the Utility has endeavored to express its compassion.

We have made application with a Mr. Gary Sica for a large loan to take care of the necessary problems with the D.E.R. and the P.S.C. His reaction has been extremely favorable.

Very truly yours,



R. D. Sims

RDS:ss

ATTACHMENT C

S & D UTILITY
P.O. BOX 280012
TAMPA, FLA 33682-0012



Mr. & Mrs. Robert Bird
38553 Monet Dr.
Zephyrnills, Fla.
33540-6526

© USPS 1991



2-1-92

Service from 2-1-92 to 2-29-92.

Residential flat rate - Water & Wastewater

\$42.98

Due within 20 days from the above date.

S&D UTILITY
P. O. Box 280012
Tampa, Fla. 31682-0012

14-1279
2/5

TO: Denise Vandiver, Regulatory Analyst
Florida Public Service Commission
Division of Water and Wastewater

FROM: Shady Oaks Owners Association *RVH*

RE: Docket No. 900025-WS, staff-assisted rate case
Shady Oaks Mobile-Modular Estates, Inc. (aka S&D Utility)

Page 1

STATEMENT OF CONCERN REGARDING QUALITY OF SERVICE
September, 1991 through March 25, 1992

DATE: March 25, 1992

We wish to address the following areas of concern with regard to the performance of the above-named utility in the five month period following Commission Order #25296 on November 4, 1991.

MAINTENANCE

The condition of the existing percolation pond and surrounding area gives no evidence that any maintenance has been performed in this period, nor have we observed any being done. The grass is very high and tree roots and grass grow into the water from the edges. The color of the water is a very bright green. Effluent overflow onto the surrounding areas is also evident.

We are concerned that construction of the interconnect to the county sewer line has not even been started. Commission ordered rates have been consistently paid by all of the residents of Shady Oaks since August 1, 1991 following court orders to do so.

Chlorination of the water system has been noticeably heavy on several occasions, the most recent being the past several days. It is almost undrinkable.

OPERATIONS

As we mentioned in our last report, we are concerned that the entire park is being shut down unnecessarily for work on one segment of the system. There are separate shut-off valves to various service loops in the system, and it is our feeling that installation of meters or repairs on any given section should only necessitate the shutdown of that section.

Meter installation seems to follow a very random pattern. While Block H's installation has now been completed, there have been some random meters installed for no apparent reason in other areas, one of which is on one of the vacant lots in an undeveloped area of the subdivision. Digging to find the lines has resulted in landscape being disturbed in several instances.

Statement of Concern
Shady Oaks
March 25, 1992
Page 2

CUSTOMER RELATIONS

We are still concerned about hours of access to the utility's office, whether for bill paying or other inquiries. Currently the office is scheduled to be open only two (2) hours per week, and these are not consistent - they change from month to month, and sometimes during the month. This inconsistency creates a difficulty in knowing when the office will be open, which we feel creates a hardship especially for the older residents of Shady Oaks.

Our greatest concern at this time is access to the utility in the event of an emergency situation. At present the only telephone number being provided is that of Mr. Sims' home in Tampa, which can be called collect, but not if being answered by machine. If a customer wishes to leave a message on the machine he must pay a toll charge. But even this is not of prime concern; in the event of emergency we need to talk to a human being. Can the utility not provide a 24 hour service for the customers immediate needs, whether it be by hired service or by personal beeper carried by the owner or his representative?

We would appreciate your attention to our concerns. We cannot apply elsewhere for service; we would like this utility to pay attention to our concerns.

Name SHADY OAKS OWNERS ASSOCIATION, INC.

Company SHADY OAKS MOBILE-MODULAR ESTATES,

Request No. 1365L

Address ROBERT W. LINDAHL

Attn. _____

By SMM Time 10:06 AM Date 01/14/99

P. O. BOX 1006

Consumer's _____

To _____ Time _____ Date / /

Telephone # _____

City/Zip CRYSTAL SPRINGS 33524 County PAS

Can Be _____

Complaint Type gi-99

Reached _____

Account Number _____

Note _____

Has consumer contacted company? Yes No _____ Who _____

Justification _____

Closed by _____ Date / /

Reply Received _____

See attached letter from Shady Oaks Owners Association, Inc. complaint about the behavior of utility owner of Shady Oaks Mobile-Modular Estates.

Per Denise Vandiver, Research, referred to her for her files.

(Hand carried to her)

CONSUMER REQUEST

FLORIDA

PUBLIC

SERVICE

COMMISSION



101 EAST GAINES STRE
TALLAHASSEE, FLORIDA

PLEASE RETURN THIS FI
WITH REPORT OF ACTION

Stella Maloy

DUE: / /

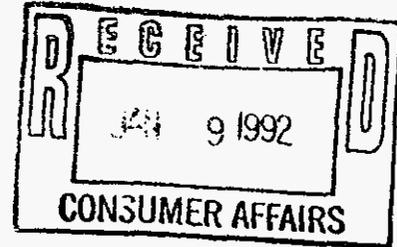
ATTACHMENT E
Page 1

SHADY OAKS OWNERS ASSOCIATION, INC.
P.O. BOX 1006
CRYSTAL SPRINGS, FLORIDA 33524

ATTACHMENT E
Page 2

January 3, 1992

Florida Public Service Commission
Division of Consumer Affairs
101 East Gaines Street
Tallahassee, Florida 32399-0867
Attention: George Hanna



Dear Sir:

We are writing to report the behavior of the owner of the utility serving Shady Oaks Mobile-Modular Estates, Mr. Richard Sims, towards Mr. Alvin Lachapelle, a Shady Oaks resident and customer of said utility.

As stated on the utility bill for December 1991, the last day to pay this bill without being delinquent was December 20. On Thursday, December 19, Mr. Lachapelle noticed Mr. Sims was in the subdivision and went to the office to pay his bill. Although the door was open, the payment drop box was not in evidence, and the hours posted on the door for December read: "Monday, 10 to 11 and Friday, 10 to 11". Mr. Lachapelle returned to the utility office on Friday at the posted time to find it closed. He then mailed his check, although he was somewhat upset about it now being delinquent.

Therefore, on Thursday morning, January 2, when Mr. Sims was again in the office, Mr. Lachapelle approached him to request a statement from the utility crediting the payment as having been made timely. After listening to Mr. Lachapelle, Mr. Sims proceeded to harangue him, using extremely profane and vulgar language. We are enclosing a copy of Mr. Lachapelle's account of the incident.

We have protested this type of behavior by Mr. Sims before. We believe that no one should be subjected to this kind of verbal assault from anyone, and certainly not from an individual who is providing a public utility service sanctioned by the state of Florida that we are required to patronize, having no other choice.

We thank you for your attention to this matter.

Sincerely yours,

Robert W. Lindahl
President

RWL/dkb

cc: Gregory Shafer, Chief/Special Assistance
Denise Vandiver, Staff Analyst
Gerald A. Figurski, Esquire
Alvin J. Lachapelle

This morning I saw Mr. Sims and asked for an amended copy of my delinquency account (his estimate). My check for the current payment was in transit (42.98) and that amount was added to the amount he claims I am in arrears. His answer to my request was "Alvin FUCK YOU". His parting shot as he walked away was Alvin I don't talk to white niggers.

Alvin J. Lachapelle

TO: Florida Public Service Commission
Division of Water and Wastewater

FROM: Shady Oaks Owners Association *Rus*

RE: Water Outage at Shady Oaks, Zephyrhills
January 22, 1992

DATE: March 25, 1992

Page 1

We would like to submit the following account of what occurred in Shady Oaks on January 22, 1992 (based on notes made by Dorothy Bird, community representative.)

At approximately 9:30 a.m. there was a water outage to the entire subdivision that lasted for the entire day. Mr. Sims had been seen in the park and on the utility premises shortly before the water outage occurred, but calls to his office in the park were not answered, except by answering machine. These were the first calls made, by several of the residents. When there was no response to the Shady Oaks office number (782-2686), customers then called the utility's Tampa number. (This incurs a long distance charge to the calling party, unless the call is made collect.) The collect calls were unable to be completed as the utility's phone, which is also the owner's home phone, was being answered by an automatic answering device. Several customers placed direct calls and left a message on the machine along with their name, and in most cases their telephone number. Among these were Association president Robert Lindahl, whose wife Gloria left a message with her name and number at approximately 10:20 a.m., and Dorothy Bird, who left word at the Zephyrhills number about 10 a.m. and a message at the Tampa number at 11:40. Calls were made by various customers throughout the day. A number of calls were also made to the PSC Consumer Affairs 800 number during the course of the day.

In the meantime, the clubhouse bulletin board had been checked thoroughly for notice of a shutdown; there was no notice posted. Presuming that electric service may have been cut off for some reason, a call was made to Withlacoochee River Electric Company. Their representative checked and found no problem with the electric service.

At noon, Mrs. Bird explained the situation to Neil Bethea, assistant to Greg Shafer, at the Water and Wastewater Division in Tallahassee. Mr. Bethea said he would look into it and call back. At 1:05 p.m. Mrs. Bird received a call from Hank Landis, the engineer handling Shady Oaks. Mr. Landis said he would try to locate either Mr. Sims or his certified operator to have the water restored. It was recommended that we contact the DER and the Health Department to see if any type of assistance was available.

The residents were of the opinion that the outage was probably caused by a tripped breaker and that if we could gain access to the pumphouse it would be easy to alleviate the situation. Since the pumphouse was locked, and due to the volatile nature of the situation at Shady Oaks, no one was willing to commit trespass.

At 3:53 p.m. Mr. Landis again contacted Mrs. Bird, after several unsuccessful attempts at reaching either Mr. Sims or Mike Dailey, the certified operator for Shady Oaks. Mr. Landis suggested we call the Sheriff's Department to request assistance in gaining access to the pump house. We did; Deputy Sanderson of the Sheriff's office told us they are not allowed to give authority to trespass and cannot assist or accompany anyone for that purpose.

Water was restored to Shady Oaks about 4:23 p.m. on January 22, but not by Mr. Sims or any employee or representative of the utility. A visitor to the park, who felt he was helping us out of a very inconvenient and unnecessary situation, somehow gained access to the premises and flipped a switch that restored power.

Mr. Sims did not return calls to anyone who had left their names and/or numbers on his answering machine. At approximately 7:30 p.m. a call was received by Mr. and Mrs. Clarence Kellnhofer (neither of whom had left their names) from Mr. Sims, who explained that he and his wife had been away for the day, his car broke down and he had just arrived home, and he would be out to fix the water. Mr. Kellnhofer told him the water was on. Mr. Sims did not come out to Shady Oaks.

At least one of our residents received a letter in late February from John Plescow, PSC Consumer Affairs representative, in which he stated that the PSC investigation showed that water was restored the same day, which was true although not by any efforts of the utility; and that the cause of the interruption in service was a burned out transformer and capacitor, according to information obtained from the utility. We dispute this finding, since service was able to be restored by a flip of a switch.

This water outage was a great inconvenience to all of the customers of this utility, but especially hazardous to those who have special needs due to advanced age or medical disabilities. There are several residents of Shady Oaks in their 90's and many in their 80's, and there are some who require special care for strokes and heart conditions. This situation would not have happened if proper provisions had been made by the utility to handle emergencies.

Note to Hank Landis: Re: telephone number to reach Mike Dailey - his car telephone number is 813-480-5435.

Name BRAIDWOOD, RONALD

Company SHADY OAKS MOBILE-MODULAR ESTATES,

Request No. 6992P

Address 3758 CASTLE DRIAVE

Attn. RICHARD SIMS

By SMM Time 4:40 PM Date 02/24/92

Consumer's Telephone # (813)-788-2835

To CO Time mail Date 02/25/92

City/zip ZEPHYRHILLS 33540 County PAS

Can Be Reached: (813)-788-2835

Complaint Type WS-50

Account Number _____

Note _____

Has consumer contacted company? Yes No _____ Who RICHARD SIMS

Justification _____

Closed by _____ Date 1/1

Reply Received _____

Co. is installing meters on 2-26. Mr. Braidwood says that co. is installing his meter in Mr. Chaney's back yard. This is apx. 75 feet from property line, two lots away. Upset because if he needs to read his meter he'll have to go to a neighbors. When approached Mr. Sims, he said "I'm a former drill instructor in the Marines & if you don't like where I'm installing the meters, call the Public Service Commission." Also water company cut TV cable. The Cable TV co. has repaired & says will send Mr. Braidwood a bill. Mr. Braidwood approached Mr. Sims about it & Mr. Sims just snickered. Mr. Braidwood wants water co. to pay the bill & water meter installed on his property.

CC: Hank Landis, W&WW

Denise Vandiver, RRR

CONSUMER REQUEST

FLORIDA

PUBLIC

SERVICE

COMMISSION



101 EAST GAINES STREET
TALLAHASSEE, FLORIDA

PLEASE RETURN THIS FC
WITH REPORT OF ACTION

Stella Maloy

DUE: 03/11/92

ATTACHMENT G

DOCKET NO. 900025-WS
APRIL 9, 1991

ISSUE AND RECOMMENDATION SUMMARY

SHOW CAUSE FOR NONCOMPLIANCE

ISSUE 1: Should the Commission order the utility to show cause in writing why it should not be fined up to \$5,000 per day per violation for each item of noncompliance with Orders Nos. 25296 and 24084, and if so, what are the specific items of noncompliance?

RECOMMENDATION: Yes, the Commission should order the utility to show cause in writing within 20 days of the date of the order why it should not be fined up to \$5,000 per day per violation for each item of noncompliance with Orders Nos. 25296 and 24084. Specific items of noncompliance are the utility's failure to: 1) submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name; 2) install water meters for all its customers; 3) spend at least 85% of its \$1,700 monthly allowance for preventative maintenance for that specified purpose, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance; 4) improve the quality of service and interconnect with the Pasco County wastewater treatment system; and 5) immediately place in the escrow account all funds necessary to bring said account to its proper balance. (D. VANDIVER, LINGO, RIEGER)

OTHER ISSUES

ISSUE 2: Should the Commission levy the \$2,000 fine that was imposed and suspended by Order No. 24084 for unsatisfactory quality of service?

RECOMMENDATION: Yes, the Commission should levy the \$2,000 fine that was imposed and suspended by Order No. 24084 for unsatisfactory quality of service. However, the utility should be ordered not to pay the fine from the escrow account, as the utility has failed to escrow sufficient monies to cover both a potential refund and the fine. (LINGO, D. VANDIVER, FEIL)

ISSUE 3: If the Commission assents to Staff's recommendation in Issue 2, should this Commission forward collection of the fine to the Comptroller's Office in the event the utility fails to respond to reasonable collection efforts by Commission Staff?

RECOMMENDATION: Yes, in the event that reasonable collection efforts are unsuccessful, the collection of the fine should be forwarded to the Comptroller's Office. (LINGO)

DOCKET NO. 900025-WS
APRIL 9, 1991

ISSUE 4: Should the rate structure be changed at this time?

RECOMMENDATION: Yes, the rate structure should revert back to the base facility and gallonage charge rate structure. The utility should submit revised tariff pages within seven days of the date of the order. The revised rates shall be effective for meter readings on or after thirty days from the stamped approval date on the revised tariff sheets. The tariff sheets will not be approved until Staff verifies that the tariffs are consistent with the Commission's decision, and that the customer notice is adequate. (D. VANDIVER, LINGO)

ISSUE 5: Has the utility properly credited all customers who contributed to the payment of the utility's delinquent electric bill?

RECOMMENDATION: No, the utility has not credited all customers who contributed to the payment of its delinquent electric bill. The utility should be ordered to issue credits to those customers who have not yet received credits. The credits should be issued on the first bill subsequent to the date of the order. (LINGO)

ISSUE 6: Should this docket be closed?

RECOMMENDATION: No, this docket should not be closed. (LINGO, D. VANDIVER)