



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: November 15, 1998
TO: Division of Records and Reporting (Moses)
FROM: Division of Legal Services (Ferguson) *CF*
RE: Docket No. 980307-WS - Application for certificate to provide water and wastewater services in Orange County by Zellwood Station Co-Op, Inc.

Please file the attached letters dated November 3, 6, and 9, 1998 in the docket file for the above-referenced docket.

cc: Division of Water and Wastewater (Messer, Redemann, Walker)
Division of Legal Services (Brubaker)

1:ZLDKTFL CF

- ACK _____
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- APP _____
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DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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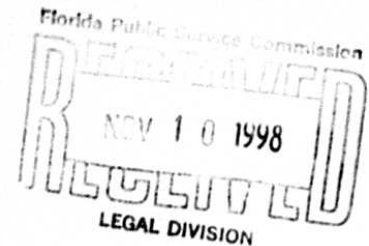
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November 9, 1998

Via Federal Express - Overnight Delivery

Cleveland Ferguson, III, Esquire
Staff Attorney
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Our File No: 40195-2



Re: Regulatory Assessment Fee Start Date Table and Orders

Dear Cleveland:

Enclosed is a table I developed regarding the relationship of the regulatory assessment fee start date to other dates. I am also enclosing copies of the orders I found. I thought you might find this information helpful.

Sincerely yours,



Thomas A. Cloud, Esquire
GRAY, HARRIS & ROBINSON, P.A.

Enclosures

REGULATORY ASSESSMENT FEE START DATE

	UTILITY NAME	COUNTY	HOW DISCOVERED	JURIS DATE	CERT. DATE	CERT. APP. DATE	RAF START DATE	ORDER DATE	WHEN & HOW ACQUIRED
1.	Lake Alto	Alachua	Knowing purchaser ¹ filed staff-assisted case	1992	10/21/93	9/14/94	1992 (0) ²	11/29/94	Abandonment (1992)
2.	Port Buena Vista	Putnam	Knowing purchaser ¹ filed staff-assisted case	1993	6/29/94	9/14/94	1993 (0)	11/29/94	Abandonment (1993)
3.	Shangri-LA	Lake	By Staff	1983	1/12/96	6/17/94	1994 (11)	1/12/96	Purchase (1992)
4.	Forest Hills	Citrus	By Staff	1973	5/6/96	12/15/94	1995 (22)	5/6/96	Purchase (1990)
5.	Sky Acres	Pasco	Tried to double rates w/out notice	1982	1/2/97	10/5/95	1995 (13)	1/2/97	N/A
6.	Floridana	Manatee	Filed after failed exemption; couldn't grandfather	1995	2/24/97	10/11/96	1995 (0)	2/24/97	N/A
7.	Holmes Utilities	Highlands	By Staff ³	1987	5/20/97	2/27/96	1995 (8)	5/20/97	Purchase (1995)
8.	Morningside Utilities	Osceola	By Staff ⁴	1983	10/7/97	5/28/97	1996 (13)	10/7/97	Purchase (1988)
9.	East Marion	Marion	N/A ⁵	1991	?	?	1995	6/1/98	Purchase (1995)
10.	Zellwood	Orange	Call from Utility	?	12/1/98 ⁶	2/1/98	12/1/98 ⁶	12/1/98 ⁶	Purchase (1993)

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¹Appointed Receiver and purchased system.

²Difference in years between Regulatory Assessment Fee (RAF) Date and Date of Initial Jurisdiction.

³Customer reported the Utility.

⁴FDEP reported the Utility.

⁵Waiver request on Annual Report Requirements granted.

⁶Estimate.

Chairman Deason and Commissioner Clark dissented without opinion on the matter of the reinstatement of the suspended fine for failure to meet the requirements of Order No. PSC-94-0449-FOF-WS.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a staff-
assisted rate case in Alachua County
by LANDIS ENTERPRISES, INC.

DOCKET NO. 940973-WU

In Re: Application for a staff-
assisted rate case in Putnam County
by LANDIS ENTERPRISES, INC.

DOCKET NO. 940974-WU
ORDER NO. PSC-94-1464-FOF-WU
ISSUED: November 29, 1994

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

**ORDER ESTABLISHING PAYMENT SCHEDULE FOR
APPLICATION FILING FEES AND
DELINQUENT REGULATORY ASSESSMENT FEES,
INCLUDING PENALTIES AND INTEREST**

BY THE COMMISSION:

On September 14, 1994, Water Spectrum, Inc. (WSI) filed staff assisted rate cases for Landis Enterprises, Inc. (Lake Alto Water System) in Docket No. 940973-WU (Lake Alto or utility), and Landis Enterprises, Inc. (Port Buena Vista Water System) in Docket No. 940974-WU (PBV or utility). WSI and Landis Enterprises, Inc. are affiliated through a common owner and president, Hank Landis.

Lake Alto is a Class C water utility operating in Alachua County. Mr. Landis became the appointed receiver of Lake Alto on June 30, 1992, and subsequently purchased the system on March 8, 1993. The Commission granted Lake Alto a certificate by Order No. PSC-93-1550-FOF-WU, issued October 21, 1993. Lake Alto reported revenues of \$10,749 and an operating loss of \$24,126 in its 1993 annual report.

PBV is a Class C water utility operating in Putnam County. Mr. Landis became the appointed receiver of PBV in 1993 and subsequently purchased the system on June 3, 1993. The Commission granted PBV a certificate by Order No. PSC-94-0804-FOF-WU,

issued June 29, 1994. PBV reported revenues of \$14,299 and an operating loss of \$16,816 in its 1993 annual report.

On September 16, 1994, we received WSI's request for a payment plan for the staff assisted rate case application filing fees and delinquent regulatory assessment fees. WSI also requested a waiver of all penalties and interest associated with the delinquent payment of the regulatory assessment fees. Specifically, WSI requested a twelve month period within which to pay the delinquent regulatory assessment fees. In support of its request, WSI emphasized the poor condition of Lake Alto and PBV, which required a substantial amount of WSI's capital resources and resulted in depletion of these resources. WSI has made efforts and expenditures that demonstrate its good faith in attempting to turn around these troubled systems. Without an authorized payment schedule for application fees and regulatory assessment fees, Lake Alto and PBV would likely be abandoned, resulting in further deterioration of utility plant and quality of service.

We find that WSI's request for a payment plan for the staff assisted rate case application filing fees, which amount to \$200 for each utility, is appropriate, notwithstanding the provisions of Rule 25-30.455(9), Florida Administrative Code. We find that a payment schedule of eight (8) monthly installments of \$25 for each utility is appropriate. The first payment shall be due on December 8, 1994. The following seven (7) payments shall be due on the first working day of each month. Final rates shall not be implemented until the entire filing fee for each utility is paid. If WSI fails to make a monthly payment by the first working day of the month, the docket for the utility failing to make payment shall be closed.

We find that WSI's request to pay delinquent regulatory assessment fees within a twelve month period from the date of request should be denied. However, a payment plan with a different time span is appropriate, notwithstanding the provisions of Rule 25-30.120, Florida Administrative Code. We find that the twelve month period for paying delinquent regulatory assessment fees should begin from the date the regulatory assessment fees were due, which was March 31, 1994, and not from the date of the request. Therefore, Lake Alto and PBV shall have all delinquent regulatory assessment fees paid by March 31, 1995. The delinquent 1993 regulatory assessment fees for Lake Alto amount to \$643.32 with penalty and interest. The delinquent 1992 and 1993 regulatory assessment fees for PBV amount to \$1,788.88 with penalty and interest. The total of delinquent regulatory assessment fees for both utilities is \$2,432.20. Therefore, we find that a payment schedule of four (4) monthly payments of \$608.05 is appropriate. The first payment shall be due on December 8, 1994. The following payments shall be due on the first working day of each month. If WSI fails to make a monthly payment by the first working day of the month, the docket for the utility failing to make payment shall be closed.

We must deny WSI's request to waive all penalties and interest for delinquent payment of regulatory assessment fees. Pursuant to Sections 350.113(4) and (5), and Section 367.161, Florida Statutes, and Rule 25-30.120(5), Florida Administrative Code, we are required to collect interest, penalties and collection costs from a delinquent regulatory company. Neither the Florida Statutes nor the Commission Rules provide us with discretion to waive fees, penalties and interest. Since the penalties and interest due for delinquent payment of regulatory assessment fees cannot be waived, we find that WSI must pay the penalties and interest associated with all past due regulatory assessment fees.

It is, therefore,

ORDERED by the Florida Public Service Commission that Water Spectrum, Inc.'s request for implementation of a payment plan for staff assisted rate case application fees is granted. It is further

ORDERED that Landis Enterprises, Inc., shall pay the staff assisted rate case application filing fees in accordance with the payment schedule set forth in the body of this Order. It is further

ORDERED that Landis Enterprises, Inc., shall pay the delinquent regulatory assessment fees for Lake Alto Water System and Port Buena Vista Water System in accordance with the payment schedule set forth in the body of this Order. It is further

ORDERED that Water Spectrum, Inc. shall pay all penalties and interest for delinquent payment of regulatory assessment fees. It is further

ORDERED that these dockets shall remain open pending payment of the fees as set forth in the body of this Order. If Water Spectrum Inc. does not make a payment in accordance with the schedules set forth in the body of this Order, the docket for the utility failing to make payment shall be closed.

By ORDER of the Florida Public Service Commission, this 29th day of November, 1994.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

Commissioner Kiesling dissented without opinion on the issue of the payment plan for staff assisted rate case application filing fees.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for transfer of
Certificates Nos. 414-W and 347-S
and facilities from Lake Placid
Utilities in Highlands County to
LAKE PLACID UTILITIES, INC.

DOCKET NO. 930570-WS
ORDER NO. PSC-94-1465-FOF-WS
ISSUED: November 29, 1994

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JOE GARCIA
JULIA L. JOHNSON

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein regarding our establishing rate base, return on equity, rate of return, and rates and charges 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.

BACKGROUND

Shangri-La by the Lake Utilities, Inc. (Shangri-La or utility) is an existing utility in Lake County, which currently provides water and wastewater service to 135 mobile homes and water service to five single family homes. At full capacity, the utility anticipates providing water and wastewater service to a total of 263 mobile homes and water service to eleven single family homes. The utility's requested service territory includes the additional territory which is not yet being served.

The operating revenue of the utility at full capacity with our approved rates, granted herein, will be approximately \$68,700 for water and \$78,400 for wastewater at these rates, making this a Class C utility. The current operating revenue based upon our approved rates will be \$37,587 for water and \$45,515 for wastewater. The current net operating income of the utility is based on the approved rates will be \$6,725 for water and \$9,124 for wastewater.

On June 17, 1994, Shangri-La filed an application for certificates to provide water and wastewater service in Lake County. The utility's application was found to be deficient. The utility corrected the deficiencies on February 15, 1995.

This utility was established on April 21, 1983. The utility's facilities consist of one water treatment plant, one water transmission and distribution system, one wastewater treatment plant, and one wastewater collection system. According to the application, the entire project was initially developed as a rental mobile home park which included water and wastewater service in the monthly lot rental fees. It was the understanding of the prior owner that a Public Service Commission (PSC) certificate was not required since the fees for water and wastewater service were included in the monthly lot rental fees. On February 28, 1992, the owner converted a portion of the project into a sales plat by recording the plat of Shangri-La Estates. The sales plat contained a total of 8 lots with water meters. The owner again investigated the need for a PSC certificate and understood that he still did not need a PSC certificate.

On October 7, 1992, Mr. William E. Werner entered into an agreement with Shangri-La by the Lake, Inc. to purchase Shangri-La by the Lake Mobile Home Park for the sum of \$1,750,000. The purchase included the mobile home park's water and wastewater facilities. After being informed by our staff that the utility was subject to PSC jurisdiction and was operating in violation of Section 367.031, Florida Statutes, the utility promptly filed this application for water and wastewater certificates.

NO SHOW CAUSE REQUIRED

As previously noted, Shangri-La was established on April 21, 1983. In 1994, we first discovered that this utility was serving metered customers. Our staff immediately informed the utility that it needed water and wastewater certificates. On June 17, 1994, the utility filed an application for certificates to provide water and wastewater service.

Section 367.031, Florida Statutes, states that "each utility subject to the jurisdiction of the Commission must obtain from the Commission a certificate of authorization to provide water or wastewater service or an order recognizing that the system is exempt from regulation as provided by s. 367.022." Section 367.161(1), Florida Statutes, authorizes the Commission to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated, any provision of Chapter 367, Florida Statutes.

Utilities are charged with the knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). Thus, any intentional act, such as the utility's failure to obtain antecedent Commission approval to transfer the majority organizational control of its corporate grandparent, would meet the standard for a "willful violation." In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., the Commission, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id. at 6.

Operating a utility without obtaining certificates of authorization to provide water and/or wastewater service is an apparent violation of Section 367.031, Florida Statutes. However, the utility understood, that from 1983 until mid-1994, it did not need water and wastewater certificates. It was only after Mr. Werner purchased Shangri-La, that it was informed that it was in violation of Section 367.031, Florida Statutes, and needed certificates of authorization. Immediately after being informed, the utility filed an application for water and wastewater certificates. Since the utility cooperated in promptly filing its application, we do not find that this utility's apparent violation of Section 367.031, Florida Statutes, rises to the level of warranting that a show cause order be issued. Therefore, Shangri-La shall not be ordered to show cause.

APPLICATION

Except as previously discussed, the application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for original certificates for an existing utility currently charging for service. The application contains a check in the amount of \$1,500, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code.

The applicant provided evidence that the utility has a 99-year lease for use of the land upon which the utility's facilities are located as required by Rule 25-30.034(1)(e), Florida Administrative Code. The application contained a copy of a warranty deed which indicates that the land is owned by Werner and Werner, Inc. According to the utility's lease, Werner and Werner, Inc. agreed to lease the land to the utility for a term of 99 years for the sum of \$625 per month.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.034(1)(h),(i) and (j), Florida Administrative Code. A copy of the description of the territory is appended to this Order.

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code, including notice to the customers in the proposed territory. We received no objections to the notice of application.

Regarding the applicant's financial ability, a representative of the utility stated that Mr. Werner owns Shangri-La by the Lake Mobile Home Park which is valued at approximately \$2,000,000. The mobile home park is the primary customer of the utility. Thus, we have the added assurance that Mr. Werner will provide the necessary financial assistance to the utility since the utility is necessary to protect his investment in the mobile home park. The water and wastewater service provided to the mobile home park is included in the monthly lot rental fees. Shangri-La's expenses are currently being paid out of the mobile home park's revenue. The utility has been operated in this manner since it was established in 1983. We reviewed Mr. Werner's personal financial statements and find that he has the financial ability to continue operating the utility.

Regarding the applicant's technical ability, the application states that the utility's contract operators and field employees have the technical ability to operate this utility pursuant to the rules and regulations of the Department of Environmental Protection (DEP). We contacted DEP and learned that the utility's water and wastewater facilities are in satisfactory condition and there are no outstanding violations.

Additionally, the utility's requested territory includes an area which is not currently being served. The owner is planning to develop a second mobile home park and approximately six single family homes on adjacent properties. Shangri-La will be providing the water and wastewater service to these additional customers. We believe there will be a need for service when the additional territory is developed and it is reasonable for this utility to serve that area.

Based on the foregoing, we find it is in the public interest to grant the application for original certificates. Accordingly, we hereby grant Shangri-La by the Lake Utilities, Inc. Water Certificate No. 567-W and Wastewater Certificate No. 494-S to serve the territory described in Attachment A.

BOOKS AND RECORDS

Rule 25-30.115, Florida Administrative Code, requires that water and wastewater utilities maintain their accounts and records in conformity with the 1984 NARUC Uniform System of Accounts adopted by the National Association of Regulatory Utility

Commissioners. After we conducted an audit of the utility's books and records, it was determined that the utility does not maintain a system of books and records.

During our investigation, we found that either the prior utility owner did not maintain the books and records or did not submit them to the new owner following the sale of the mobile home park and utility facilities. However, a utility representative informed us that the current utility owner is planning to contract with a Florida based certified public accounting firm to establish and maintain the utility's books and records in accordance with the NARUC Uniform System of Accounts. Accordingly, the utility shall maintain its books and records in conformity with the 1984 NARUC Uniform System of Accounts.

RATE BASE

Our calculation of the appropriate rate base for the water and wastewater systems is depicted on Schedules Nos. 1 and 1-A. Our adjustments are itemized on Schedule 1-B. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on those schedules without further discussion in the body of this Order. The major adjustments are discussed below.

As previously discussed, the utility does not maintain a system of books and records. Consequently, the utility does not have any historical cost records relating to the utility's rate base. During the course of this proceeding, the utility contracted with a professional engineering firm to conduct an original cost study on the water and wastewater systems.

Ordinarily, we do not establish rate base in original certificate proceedings. Rather, it is simply used as an aid in calculating initial rates. However, in this case, we reviewed the original cost study and we find that these costs are reasonable. Additionally, we were able to determine the additions which were made to utility plant in service by the current owner from the date he purchased the utility through June 30, 1994. In consideration of the time which has already been expended in obtaining and verifying this information, we find it appropriate to establish rate base at this time. The following is a discussion of our adjustments to rate base.

Utility Plant in Service

Because the utility does not maintain any books or records, the beginning balance for utility plant in service is \$0. Based upon our calculations, we find that the appropriate balance for utility plant in service is \$94,174 for water and \$152,065 for wastewater. The water and wastewater accounts shall be increased by \$68,500 for water and \$145,000 for wastewater to reflect the utility plant in service as shown in the original cost study. Additionally, an adjustment of \$4,845 shall be made to reflect 1991 additions to water plant in service that were necessary to extend water service to five single family homes. Further, we determined that additions of \$3,204 and \$6,315 were made to water and wastewater plant respectively in 1993 and 1994. A proforma adjustment of \$16,875 shall be made to reflect the cost of meters and meter installations which will be added to the 135 unmetered mobile

home lots currently served by the utility. Finally, adjustments of \$750 shall be made to both water and wastewater to reflect the utility's organization costs.

Non-Used and Useful Plant

We determined that the utility's water and wastewater systems are nearly at full capacity. As previously discussed, the utility is planning to provide service to a second mobile home park and additional single family homes. However, it will be necessary for the utility to expand its facilities in order to serve these additional customers. Therefore, we find that no adjustments are necessary for non-used and useful plant.

Contributions-in-Aid-of-Construction

Rule 25-30.570(1), Florida Administrative Code, states:

If the amount of contributions-in-aid-of-construction (CIAC) has not been recorded on the utility's books and the utility does not submit competent substantial evidence as to the amount of CIAC, the amount of CIAC shall be imputed to be the amount of plant costs available, or the proportion of the cost of the facilities and plant attributable to the water transmission and distribution system and the sewage collection system.

The utility does not have any records which indicate whether or not the utility has collected any CIAC or written off the lines to cost of goods sold. The mobile home park is strictly a rental community and the owner still owns all of the lots within the park. Therefore, CIAC shall not be imputed for the mobile home park. However, the utility was not able to verify whether or not the lines installed to provide water service to the five single family homes were written off to cost of goods sold. In accordance with Rule 25-30.570(1), Florida Administrative Code, CIAC shall be imputed in the amount of the water transmission and distribution system which serves the single family homes. Additionally, we determined that the metered customers were required to pay a meter installation fee. Therefore, CIAC shall also be imputed to reflect the meter installation fees for the five single family homes. Since the utility does not maintain any books or records, the beginning balance for CIAC is \$0. Therefore, CIAC for water shall be decreased by \$4,520.

Accumulated Depreciation

The utility's beginning balance for accumulated depreciation is \$0. We calculated the utility's accumulated depreciation in accordance with Rule 25-30.140, Florida Administrative Code. Based on our calculations, the accumulated depreciation accounts shall be decreased by \$30,546 for water and \$70,842 for wastewater.

Amortization of CIAC

The utility's beginning balance for amortization of CIAC is \$0. We calculated the utility's amortization of CIAC in accordance with Rule 25-30.140(8)(a), Florida Administrative Code. Therefore, the amortization of CIAC account for water shall be increased by \$363.

Working Capital Allowance

Pursuant to Rule 25-30.443, Florida Administrative Code, we shall use the one-eighth of operation and maintenance expense formula to calculate working capital allowance. Applying that formula, the working capital allowance is \$2,860 for water and \$3,143 for wastewater.

Rate Base Summary

Based on the adjustments set forth herein, the rate base for Shangri-La shall be established at \$62,185 for the water system and \$84,367 for the wastewater system as of June 30, 1994.

RATE OF RETURN

Our calculation of the appropriate return on equity and overall rate of return and our adjustments are contained on Schedule No. 2. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on those schedules without further discussion in the body of this Order. The major adjustments are discussed below.

On October 7, 1992, Mr. William E. Werner entered into an agreement with Shangri-La by the Lake, Inc. to purchase Shangri-La by the Lake Mobile Home Park for the sum of \$1,750,000. The purchase included the mobile home park's water and wastewater facilities. According to the agreement, \$1,450,000 of the purchase price was covered through long-term debt, with the remaining \$300,000 being paid in cash. The agreement does not indicate how much of the purchase price is related to the utility assets. Therefore, we estimated the utility's capital structure using the percentage split between debt and equity that was used for the total purchase price. The resulting ratios are 82.86% long-term debt and 17.14% common equity.

The long-term debt of \$1,450,000 is comprised of a \$1,150,000 loan from Barnett Bank at a cost of 10.75% and a \$300,000 purchase money mortgage at a cost of 10.00%. The Barnett Bank loan represents 79.31% of total debt and the purchase money mortgage represents 20.69% of total debt. Applying the percentage of each loan to total debt multiplied by the costs results in a 10.59% cost of debt.

The utility's return on equity, when based on the leverage graph formula in Order No. PSC-95-0982-FOF-WS, issued August 10, 1995, is 15.65%. However, that Order capped the return on common equity at 11.88% for all water and wastewater utilities having

equity ratios of less than 40%. Since the utility's equity ratio is less than 40%, the appropriate return on equity is 11.88%.

The utility's capital structure has been reconciled with the approved rate base. The weighted costs of 8.78% for debt and 2.04% for equity result in the appropriate overall rate of return of 10.82%.

RATES AND CHARGES

As discussed earlier, in a proceeding to grant certificates to a utility which is already in existence, the utility is authorized to continue charging its existing rates. However, because Shangri-La does not have specific water and wastewater rates, we find it appropriate to calculate initial water and wastewater rates in this proceeding.

Shangri-La is currently providing water and wastewater service to 135 mobile homes and water service to five single family homes. At present, only the five single family homes are metered. The mobile home park tenants receive water and wastewater service as part of their monthly rent. The prior utility owner was charging the five single family homes a flat fee of \$10 per month for water and wastewater service. We informed the current utility owner that the utility may not assess specific charges for water and wastewater service until we approve the rates. Therefore, the five single family homes are currently receiving the water and wastewater service at no charge. Further, a utility representative stated that the current owner has never charged these customers for water and wastewater service.

We determined that the utility exceeded its water use permit during the test year. The utility is currently authorized to pump 14,300,000 gallons per year. However, the utility's records indicated that the utility consumed 17,674,000 during an eleven-month span during the test year period. We believe the excessive consumption is primarily due to the lack of specific charges for water and wastewater service. We believe that the excessive consumption will be discouraged through the installation of water meters in the mobile home park and implementation of the base facility charge rate structure.

The utility representative further informed us that the current owner plans to install meters in the mobile home park in the future. However, the utility is required to follow a procedure under the Mobile Home Landlord Tenant Act prior to being authorized to install the meters in the mobile home park. This procedure will include negotiations with the Homeowners' Association. The utility anticipates that it may be a year before they can install the meters if the negotiations are successful.

In its application, Shangri-La requested approval of residential rates using the base facility charge rate structure for the metered customers and a flat rate for the unmetered customers. The utility informed us that its requested rates were based upon a survey of the rates charged by other utilities near Shangri-La's service territory.

We believe rates should be calculated using the base facility charge rate structure. The preferable situation would be to meter the mobile home park at this time and begin charging all of the customers under the base facility charge rate structure. However, since it appears that this will not be possible in the immediate future, the utility requested that we approve rates for the metered customers at this time and allow the utility additional time to

pursue approval of the remaining meter installations through the Mobile Home Landlord Tenant Act procedure.

The utility shall be allowed to charge the single family homes at this time. According to the utility's records, a significant portion of the excessive consumption is attributable to the single family homes. Therefore, we find it appropriate to set rates for those customers at this time. However, we also find that the utility shall only assess the new rates to customers who are currently metered. The utility shall continue to charge the mobile home park tenants in the current manner until such time as the utility is able to install water meters in the mobile home park.

We determined that the utility exceeded its authorized water use permit withdrawal limits. A portion of the water consumed was used by the mobile home park for the community swimming pool and irrigation of the common grounds. Taking into consideration that all of the water was not used by the residents, we estimated that the average residential consumption is approximately 10,000 gallons per month in the mobile home park and 24,000 gallons per month for the single family homes.

The service area is primarily a retirement community in which approximately half of the customers are seasonal residents. The average residential consumption appears to be high for this type of customer base. However, as discussed herein, we believe that the excessive consumption is primarily due to the utility's lack of usage specific charges for water and wastewater service. It is expected that the average consumption level will be less than the current figure after the meters are installed and the base facility charge rate structure is implemented. Therefore, we estimated that an average water consumption of 7,500 gallons per customer per month and a residential wastewater gallonage cap of 6,000 gallons per month is appropriate for the purpose of calculating rates.

Although the utility does not maintain a system of books and records, we were able to determine a portion of the utility's operation and maintenance expenses for the 12 months ended June 30, 1994. The mobile home park and utility both operate out of the same office. Therefore, we allocated the related expenses equally between the mobile home park and utility. The utility's expenses were then split equally between water and wastewater. Also, we estimated additional expenses based upon our records of typical expenses incurred by Class C utilities regulated by the Commission.

All of the following expenses are annual expenses with the exception of a portion of the expense for accounting contractual services. As discussed earlier, the utility plans to hire a Florida based certified accounting firm to set-up and maintain its books and records. We were informed that the accounting firm will charge a one time fee of \$1,000 to set-up the books and records according to the NARUC Uniform System of Accounts. We believe this charge is reasonable in comparison to fees charged by other accounting firms and we find it appropriate to allow it. This expense shall be divided equally between water and wastewater, and amortized over a period of five years.

Depreciation expense for the water and wastewater systems are calculated to reflect the adjustments made to utility plant in service. Operating revenues and the corresponding regulatory assessment fees were adjusted to a level which allows the utility the opportunity to earn a 10.82% overall rate of return. The Schedule of Operations appears on Schedules Nos. 3 and 3-A with our adjustments appearing on Schedule No. 3-B.

The utility's capital structure is adjusted to reconcile with utility rate base. The appropriate return on common equity is 11.88% pursuant to the leverage formula as established in Order No. PSC-95-0982-FOF-WS. The utility's rates were calculated using the base facility charge rate structure and based on a revenue requirement of \$37,587 and \$45,515, for the water and wastewater systems, respectively. We calculated the rates based on the assumption that all of the customers will eventually be metered and charged under this rate structure. Although the utility did not request rates for general service customers, in keeping with current policy, we calculated rates for both the residential and general service classifications.

Additionally, the utility requested approval of customer deposits and miscellaneous service charges. We recalculated the customer deposits in accordance with Rule 25-30.311, Florida Administrative Code, using the rates approved in this Order. We are not requiring a separate deposit for the 1 inch meter because it does not appear that the utility will have any 1 inch meter customers. The utility's requested miscellaneous service charges conform to Staff Advisory Bulletin No. 13, 2nd revised. The utility's proposed rates and charges, and our approved rates and charges are shown on Schedule No. 4.

The applicant filed a sample tariff as part of its application for a certificate. However, because we are establishing rates which differ than those proposed by the utility, it will be necessary for the utility to refile tariff sheets reflecting the approved rates and charges. Therefore, the utility shall file revised tariff sheets reflecting the approved rates and charges within thirty days of the issuance date of the Order.

In summary, the rates and charges set forth are appropriate for all metered customers of the utility. Also, the utility shall file revised tariff sheets reflecting the approved rates and charges within thirty days of the issuance date of the Order. In accordance with Rule 25-30.475, Florida Administrative Code, the rates and charges shall be effective for services rendered on or after the stamped approval date of the tariff sheets, provided the customers have received notice. The tariff sheets will be approved upon the verification that the tariff sheets are consistent with our decision and the proposed customer notice is adequate. The utility shall provide proof that the customers have received notice within ten days after the date of the notice.

SERVICE AVAILABILITY CHARGE

Shangri-La requested the following service availability charges in its application.

	<u>Water</u>	<u>Wastewater</u>
<u>Connection Fees:</u>		
5/8" x 3/4" meter	\$125	\$300
1" meter	190	450

	<u>Water</u>	<u>Wastewater</u>
<u>Cross Connection Charges:</u>		
5/8" x 3/4" dual check valve	\$55	N/A
1" dual check valve	75	N/A

The utility does not have any records which indicate whether or not the utility has collected any CIAC or written off the lines to cost of goods sold. In accordance with Rule 25-30.570(1), Florida Administrative Code, CIAC shall be imputed in the amount of the water transmission and distribution system and water meters which serve the single family homes. This results in a contribution level of 7.37% for water and 0% for wastewater. These levels are below the guidelines set forth in Rule 25-30.580, Florida Administrative Code. Rule 25-30.580(1)(b), Florida Administrative Code, states that the minimum amount of CIAC should not be less than the percentage of such facilities and plant that is represented by the water transmission and distribution and wastewater collection systems. Following this guideline, the utility's minimum contribution level is 45.24% for water and 36.07% for wastewater.

However, Rule 25-30.580(2), Florida Administrative Code, states in any case where compliance with the guidelines of subsection (1) introduces unusual hardship or unreasonable difficulty, and the Commission, utility, or interested party shows that it is not in the best interests of the customers of the utility to require compliance, the Commission may exempt the utility from the guidelines. As previously discussed, we determined that the utility's facilities are almost 100% used and useful. However, it may be possible for the utility to add a few more customers before reaching full capacity. We believe that the implementation of service availability charges will not significantly impact the utility but could have adverse effects on some customers. In essence, the establishment of service availability charges at this time would result in the last few customers paying almost 100% of the customer contributions needed to bring the utility within the guidelines. Therefore, we find that the application of Rule 25-30.580(2), Florida Administrative Code, is appropriate in this proceeding. Shangri-La shall be exempt from compliance with Rule 25.30.580(1)(b), Florida Administrative Code, at this time. In the past, we exempted several utilities from compliance with the Rule. See Orders Nos. 24485, issued May 7, 1991, PSC-93-0508-FOF-SU, issued April 5, 1993, and PSC-93-0508-FOF-WS, issued November 18, 1993.

The utility anticipates providing service to a second mobile home park in the future. It will be necessary for the utility to expand its facilities prior to providing service to the second mobile home park. We find it appropriate to reevaluate the utility's need for service availability charges when it begins the necessary plant expansion.

As discussed, the utility plans to install water meters in the existing mobile home park. The existing customers shall not be required to pay a meter installation fee. Earlier in this Order, we granted a pro forma adjustment to utility plant in service to reflect the utility's investment in the new water meters. However, this adjustment only represents the installation of meters for the 135 existing customers within the mobile home park. Again, it may be possible for the utility to add a few more customers prior to expanding its

facilities. We find it appropriate to allow the utility to charge a meter installation fee to new customers which connect to the system after the utility installs the meters for existing customers. We hereby find that the appropriate meter installation fee is \$125. The meter installation fee shall be effective for meter installations for new customers made on or after the stamped approval date on the tariff sheets. The utility shall file revised tariff sheets reflecting the approved meter installation fee within thirty days of the issuance date of the Order. The tariff sheets will be approved upon verification that the revised tariff sheets are consistent with the our decision.

REGULATORY ASSESSMENT FEES AND ANNUAL REPORT

Pursuant to Rules 25-30.110(3) and 25-30.120(2), Florida Administrative Code, annual reports and regulatory assessment fees are due from regulated utilities regardless of whether a certificate has been granted. Shangri-La has been subject to this Commission's jurisdiction since it was established on April 21, 1983, although we did not learn of its existence until approximately the early part of 1994. The utility was advised of the Commission's jurisdiction and its responsibility to obtain a certificate at that time.

However, because the utility has not been charging specific rates for water and wastewater service, there are no utility revenues on which to assess the regulatory assessment fees. Rule 25-30.120(1), states in part that "Regardless of the gross operating revenue of a utility, a minimum annual regulatory assessment fee of \$25 shall be imposed." Therefore, the utility shall be required to remit regulatory assessment fees for 1994. Further, the utility shall file an annual report for 1994. The utility shall be given 45 days from the issuance of this Order to file these items.

Upon expiration of the protest period, if there are no timely protests to the proposed agency action issues, no further action will be required and the docket shall be closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Shangri-La by the Lake Utilities, Inc. is hereby granted Certificates Nos. 567-W and 494-S to serve the territory described in Attachment A. It is further

ORDERED that Shangri-La by the Lake Utilities, Inc. is authorized to charge the new rates as set forth in the body of this Order. It is further

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

ORDERED that Shangri-La by the Lake Utilities, Inc.'s rates and charges shall be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code, provided that the customers have received notice. It is further

ORDERED that Shangri-La by the Lake Utilities, Inc. shall provide proof that the customers have received notice within 10 days of the date of the notice. It is further

ORDERED that, prior to its implementation of the rates and charges approved herein, Shangri-La by the Lake Utilities, Inc. shall submit and have approved a proposed

customer notice to its customers of the rates and charges and reasons therefor. The notice will be approved upon our staff's verification that it is consistent with our decision herein. It is further

ORDERED that, prior to the implementation of rates and charges approved herein, Shangri-La by the Lake Utilities, Inc. shall submit and have approved revised tariff sheets within thirty days of the issuance of this Order. The revised tariff sheets will be approved upon our staff's verification that the pages are consistent with our decision herein, that the protest period has expired, and that the customer notice is adequate. It is further

ORDERED that the service availability charge approved herein shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets. It is further

ORDERED that Shangri-La by the Lake Utilities, Inc. shall maintain its books and records in conformity with the 1984 NARUC Uniform Systems of Accounts and Rule 25-30.115, Florida Administrative Code. It is further

ORDERED that Shangri-La by the Lake Utilities, Inc. shall remit regulatory assessment fees for 1994, and file its 1994 annual report within 45 days from the issuance of this Order. It is further

ORDERED that Shangri-La by the Lake Utilities Inc. shall not show cause why it should be fined for failing to obtain certificates of authorization to provide water and wastewater service. It is further

ORDERED that the provision of this Order, regarding our establishment of rate base, return on equity, rate of return, and rates and charges are issued as proposed agency action and shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that in the event this Order becomes final, this docket should be closed.

By ORDER of the Florida Public Service Commission, this 12th day of January, 1996.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

ATTACHMENT A

Shangri-La by the Lake Utilities, Inc.

TERRITORY DESCRIPTION

The following described lands located in Section 6, Township 19 South, Range 26 East, Lake County, Florida:

Begin for a Point of Beginning at the Southwest corner of Section 6, Township 19 South, Range 26 East, Lake County, Florida, also described as the Southwest corner of Government Lot 9 of said Section 6, run thence N. $0^{\circ} 28' 58''$ E. a distance of 1285.90 feet to the Northwest corner of said Government Lot 9, run thence North $89^{\circ} 59' 40''$ E. a distance of 2711.55 feet, more or less to the waters of Lake Eustis to a point hereby designated as Point "A"; begin again at the point of beginning and run East along the South line of said section 6 a distance of 1363.00 feet, run thence North 100.00 feet, run thence East 450.00 feet, more or less, to the waters of Lake Eustis, run thence in a Northeasterly direction along the waters of Lake Eustis to the aforesaid point "A" and point of termination.

Also, the South 685 feet of the East 380 feet of the Southeast $1/4$ of the Southeast $1/4$ of Section 1, Township 19 South, Range 25 East. Less the East 50 feet and less the South 25 feet thereof.

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SHANGRI-LA BY THE LAKE UTILITIES, INC.
AS OF JUNE 30, 1994

SCHEDULE NO. 1
DOCKET NO. 840653-WS

SCHEDULE OF WATER RATE BASE

	<u>BALANCE PER UTILITY</u>	<u>COMM. ADJUST. TO UTIL. BAL.</u>	<u>BALANCE PER COMM.</u>
UTILITY PLANT IN SERVICE	\$0	\$84,174 A	\$84,174
LAND/NON-DEPRECIABLE ASSETS	0	0 B	0
PLANT HELD FOR FUTURE USE	0	0	0
NON-USED AND USEFUL PLANT	0	0 C	0
CWIP	0	0	0
CIAC	0	(4,520) D	(4,520)
ACCUMULATED DEPRECIATION	0	(30,692) E	(30,692)
AMORTIZATION OF ACQUISITION ADJUSTMENT	0	0	0
AMORTIZATION OF CIAC	0	363 F	363
WORKING CAPITAL ALLOWANCE	<u>0</u>	<u>2,860</u> G	<u>2,860</u>
WATER RATE BASE	\$0	\$82,185	<u>\$82,185</u>

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SHANGRI-LA BY THE LAKE UTILITIES, INC.
 AS OF JUNE 30, 1994

SCHEDULE NO. 1-A
 DOCKET NO. 940653-WS

SCHEDULE OF WASTEWATER RATE BASE

	<u>BALANCE PER UTILITY</u>	<u>COMM. ADJUST. TO UTIL. BAL.</u>	<u>BALANCE PER COMM.</u>
UTILITY PLANT IN SERVICE	\$0	\$152,065 A	\$152,065
LAND/NON-DEPRECIABLE ASSETS	0	0 B	0
PLANT HELD FOR FUTURE USE	0	0	0
NON-USED AND USEFUL PLANT	0	0 C	0
CWIP	0	0	0
CIAC	0	0 D	0
ACCUMULATED DEPRECIATION	0	(70,842) E	(70,842)
AMORTIZATION OF ACQUISITION ADJUSTMENT	0	0	0
AMORTIZATION OF CIAC	0	0 F	0
WORKING CAPITAL ALLOWANCE	0	3,143 G	3,143
WASTEWATER RATE BASE	<u>\$0</u>	<u>\$84,367</u>	<u>\$84,367</u>

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SHANDI-LA BY THE LAKE UTILITIES, INC.
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SCHEDULE NO. 1-B
DOCKET NO. 940653-WS

ADJUSTMENTS TO RATE BASE

	WATER	WASTEWATER
A. UTILITY PLANT IN SERVICE		
1. To reflect original cost study	\$ 68,800	\$ 148,000
2. To reflect 1991 plant additions necessary to provide water service to five single family homes	4,845	0
3. To adjust for 1993 and 1994 plant additions per staff audit report	3,304	6,315
4. Problems adjustment to reflect meter and meter installations for 135 existing mobile home lots	16,675	0
5. To reflect organization costs	750	750
	<u>\$ 94,174</u>	<u>\$ 155,065</u>
B. LAND		
1.	\$ 0	\$ 0
2.	0	0
	<u>\$ 0</u>	<u>\$ 0</u>
C. NON-USED AND USEFUL PLANT		
1.	\$ 0	\$ 0
D. CIAC		
1. To impute CIAC for water service provided to five single family homes	\$ (4,520)	\$ 0
2.	0	0
3.	0	0
4.	0	0
	<u>\$ (4,520)</u>	<u>\$ 0</u>
E. ACCUMULATED DEPRECIATION		
1. To reflect accumulated depreciation on plant in service	\$ (30,892)	\$ (70,842)
2.	0	0
3.	0	0
4.	0	0
5.	0	0
6.	0	0
7.	0	0
	<u>\$ (30,892)</u>	<u>\$ (70,842)</u>
F. AMORTIZATION OF CIAC		
1. To reflect accumulated amortization of CIAC	\$ 363	\$ 0
2.	0	0
	<u>\$ 363</u>	<u>\$ 0</u>
G. WORKING CAPITAL ALLOWANCE		
1. To reflect 1/8 of last year O & M expenses	\$ 2,882	\$ 3,142

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SHANGRI-LA BY THE LAKE UTILITIES, INC.
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SCHEDULE NO. 2
 DOCKET NO. 940653-WS

SCHEDULE OF CAPITAL STRUCTURE

	<u>BALANCE PER UTILITY</u>	<u>COMM. ADJUST. TO UTIL. BAL.</u>	<u>BALANCE PER COMM.</u>	<u>PERCENT OF TOTAL</u>	<u>COST</u>	<u>WEIGHTED COST</u>
LONG-TERM DEBT	\$ 0	121,429	121,429	82.86%	10.89%	8.78%
EQUITY	0	25,123	25,123	17.14%	11.89%	2.04%
TOTAL	\$ 0	\$ 146,552	\$ 146,552	100.00%		10.82%
RATE BASE			146,552			

<u>RANGE OF REASONABLENESS</u>	<u>LOW</u>	<u>HIGH</u>
RETURN ON EQUITY	10.89%	12.89%
OVERALL RATE OF RETURN	10.64%	10.99%

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SHANGRI-LA BY THE LAKE UTILITIES, INC.
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SCHEDULE NO. 3
DOCKET NO. 940653-WS

SCHEDULE OF WATER OPERATING INCOME

	TEST YEAR PER UTILITY	COMM. ADJ. TO UTILITY	COMM. ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	TOTAL PER COMM.
OPERATING REVENUES	\$ 0	\$ 0	\$ 0	\$ 37,587 E	\$ 37,587
OPERATING EXPENSES					
OPERATION AND MAINTENANCE	0	22,880 A	22,880	0	22,880
DEPRECIATION	0	3,724 B	3,724	0	3,724
AMORTIZATION	0	121 C	121	0	121
TAXES OTHER THAN INCOME	0	2,445 D	2,445	1,691 F	4,136
INCOME TAXES	0	0	0	0	0
TOTAL OPERATING EXPENSES	\$ 0	\$ 29,170	\$ 29,170	\$ 1,691	\$ 30,861
OPERATING INCOME / (LOSS)	\$ 0		\$ (29,170)		\$ 6,725
WATER RATE BASE	\$ 0		\$ 62,185		\$ 62,185
RATE OF RETURN	N/A		-46.91%		10.82%

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SHANGRI-LA BY THE LAKE UTILITIES, INC.
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SCHEDULE NO. 3-A
DOCKET NO. 940653-WS

SCHEDULE OF WASTEWATER OPERATING INCOME

	TEST YEAR PER UTILITY	COMM. ADJ. TO UTILITY	COMM. ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	TOTAL PER COMM.
OPERATING REVENUES	\$ 0	\$ 0	\$ 0	\$ 45,515 E	\$ 45,515
OPERATING EXPENSES					
OPERATION AND MAINTENANCE	0	25,147 A	25,147	0	25,147
DEPRECIATION	0	6,447 B	6,447	0	6,447
AMORTIZATION	0	0 C	0	0	0
TAXES OTHER THAN INCOME	0	2,748 D	2,748	2,048 F	4,796
INCOME TAXES	0	0	0	0	0
TOTAL OPERATING EXPENSES	\$ 0	\$ 34,342	\$ 34,342	\$ 2,048	\$ 36,391
OPERATING INCOME / (LOSS)	\$ 0		\$ (34,342)		\$ 9,124
WASTEWATER RATE BASE	\$ 0		\$ 84,367		\$ 84,367
RATE OF RETURN	N/A		-40.71%		-10.82%

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SHANGRI-LA BY THE LAKE UTILITIES, INC.
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SCHEDULE NO. 3-B (Sheet 1 of 2)
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ADJUSTMENTS TO OPERATING INCOME

<u>REVENUE</u>	<u>WATER</u>	<u>WASTEWATER</u>
a.	0	0
b.	0	0
	<u>\$ 0</u>	<u>\$ 0</u>
A. OPERATION AND MAINTENANCE EXPENSES		
1. Salaries and Wages (Employees)		
a. To adjust per audit calculation	\$ 2,497	\$ 2,497
2. Salaries and Wages (Officers)		
a. To reflect officer's salary	\$ 2,185	\$ 2,185
3. Sludge Removal Expense		
a. To adjust per audit calculation	0	1,380
b.	0	0
	<u>\$ 0</u>	<u>\$ 1,380</u>
4. Purchased Power		
a. To adjust per audit calculation	3,002	4,129
	0	0
	<u>\$ 3,002</u>	<u>\$ 4,129</u>
5. Chemicals		
a. To adjust per audit calculation	0	410
b. To reflect appropriate chemical expense for water plant	495	0
	<u>\$ 495</u>	<u>\$ 410</u>
6. Materials and Supplies		
a. To adjust per audit calculation	485	997
b. To reflect utility billing expense	840	840
	<u>\$ 485</u>	<u>\$ 997</u>
7. Contractual Services		
a. To adjust engineering contractual services per audit calculation	3,180	3,783
b. To adjust legal contractual services per audit calculation	883	883
c. To reflect engineering contractual services for required DEP testing	2,500	1,000
d. To reflect accounting contractual services	2,100	2,100
e.	0	0
f.	0	0
g.	0	0
h.	0	0
i.	0	0
j.	0	0
	<u>\$ 8,453</u>	<u>\$ 7,646</u>
8. Rents		
a. To reflect lease for utility land	3,780	3,780
b. To reflect rent for office space	800	800
c.	0	0
	<u>\$ 4,380</u>	<u>\$ 4,380</u>
9. Transportation Expenses		
a. To reflect transportation expense for use of truck owned by parent company	435	435
b.	0	0
	<u>\$ 435</u>	<u>\$ 435</u>
10. Insurance Expense		
a. To reflect insurance expense on utility facilities	299	638
b.	0	0
c.	0	0
d.	0	0
e.	0	0
	<u>\$ 299</u>	<u>\$ 638</u>

(Continued on Sheet 2)

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SHANGRI-LA BY THE LAKE UTILITIES, INC.
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SCHEDULE NO. 3-B (Sheet 2 of 2)
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ADJUSTMENTS TO OPERATING INCOME

11. Regulatory Commission Expense		
a.	\$ 0	\$ 0
12. Miscellaneous Expenses		
a. To adjust per audit calculation	89	0
b. To allocate a portion of the office electric expense to the utility	72	72
c. To allocate a portion of the business phone service expense to the utility	383	383
d. To allocate a portion of the cellular phone service to the utility	305	305
e.	0	0
f.	0	0
g.	0	0
h.	0	0
i.	0	0
j.	0	0
k.	0	0
l.	0	0
m.	0	0
n.	0	0
	\$ 719	\$ 630
13. Unclassified disbursements		
a.	0	0
b.	0	0
c.	0	0
d.	0	0
	\$ 0	\$ 0
TOTAL O & M ADJUSTMENTS	\$ 22,890	\$ 25,147
B. DEPRECIATION EXPENSE		
1. To reflect annual depreciation expense	3,724	6,447
2.	0	0
3.	0	0
4.	0	0
5.	0	0
	\$ 3,724	\$ 6,447
C. AMORTIZATION EXPENSE		
1. To reflect annual amortization expense	\$ 181	\$ 0
D. TAXES OTHER THAN INCOME		
1. To adjust property taxes per audit calculation	1,897	1,870
2. To adjust payroll taxes per audit calculation	480	480
3. To reflect payroll taxes associated with officer's salary	388	388
4.	0	0
5.	0	0
6.	0	0
7.	0	0
	\$ 2,445	\$ 2,748
E. OPERATING REVENUES		
1. To reflect staff's recommended increase in revenue	\$ 27,897	\$ 45,818
F. TAXES OTHER THAN INCOME		
1. To reflect additional regulatory assessment fee associated with recommended revenue requirement	\$ 1,881	\$ 2,048

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SCHEDULE NO. 4
Page 1 of 4

MONTHLY RATES AND CHARGES OF
SHANGRI-LA BY THE LAKE UTILITIES, INC.

Monthly Service Rates

WATER

	<u>Utility Proposed Rates</u>	<u>Commission Approved Rates</u>
<u>Residential Service</u>		
<u>Base Facility Charge</u>		
<u>Meter Size:</u>		
5/8" x 3/4"	\$ 9.59	\$ 12.86
3/4"	9.59	19.29
1"	9.59	32.15
1-1/2"	9.59	64.30
2"	9.59	102.88
3"	9.59	205.75
4"	9.59	321.49
6"	9.59	642.98
<u>Gallonage Charge</u>		
per 1,000 gallons:	\$ 1.05	\$ 1.27
<u>Residential Service (Un-metered)</u>		
Flat Rate	\$ 19.74	\$ ---

Typical Residential Bills

<u>5/8" x 3/4" meter:</u>		
3 M	\$ 12.74	\$ 16.67
5 M	\$ 14.84	\$ 19.21
10 M	\$ 20.09	\$ 25.56
Flat Rate	\$ 19.74	\$ ---

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SCHEDULE NO. 4
Page 2 of 4

Monthly Service Rates (Continued)

WATER (Continued)

	<u>Utility Proposed Rates</u>	<u>Commission Approved Rates</u>
<u>General Service</u>		
<u>Base Facility Charge</u>		
<u>Meter Size:</u>		
5/8" x 3/4"	\$ ---	\$ 12.86
3/4"	---	19.29
1"	---	32.15
1-1/2"	---	64.30
2"	---	102.88
3"	---	205.75
4"	---	321.49
6"	---	642.98
 Gallage Charge per 1,000 gallons:	 \$ ---	 \$ 1.27

WASTEWATER

	<u>Utility Proposed Rates</u>	<u>Commission Approved Rates</u>
<u>Residential Service</u>		
<u>Base Facility Charge</u>		
<u>All Meter Sizes:</u>	\$ 19.18	\$ 11.05
 Gallage Charge per 1,000 gallons (no maximum):	 \$ 1.85	 \$ ---
Gallage Charge per 1,000 gallons up to 6,000 gallons:	\$ ---	\$ 2.84
 <u>Residential Service</u> Flat Rate	 \$ 39.18	 ---

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SCHEDULE NO. 4
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Monthly Service Rates (Continued)

WASTEWATER (Continued)

Typical Residential Bills

5/8" x 3/4" Meter:

3 M	\$ 24.73	\$ 19.57
5 M	\$ 28.43	\$ 25.25
6 M	\$ 30.28	\$ 28.09
10 M	\$ 37.68	\$ 28.09
Flat Rate	\$ 39.18	\$ ---

Utility
Proposed
Rates

Commission
Approved
Rates

General Service

Base Facility Charge

Meter Size:

5/8" x 3/4"	\$ ---	\$ 11.05
3/4"	---	16.58
1"	---	27.63
1-1/2"	---	55.27
2"	---	88.43
3"	---	176.86
4"	---	276.34
6"	---	552.67

Gallage Charge

per 1,000 gallons:

\$ ---	\$ 3.41
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SCHEDULE NO. 4
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CUSTOMER DEPOSITS AND MISCELLANEOUS SERVICE CHARGES

Customer Deposits

	<u>Utility Proposed Charges</u>	<u>Commission Approved Charges</u>
<u>Water:</u>		
Residential		
5/8" x 3/4" meter	\$ 50.00	\$ 45.00
1" meter	\$ 75.00	\$ ---
<u>Wastewater:</u>		
Residential		
5/8" x 3/4" meter	\$ 80.00	\$ 55.00
1" meter	\$100.00	\$ ---

Miscellaneous Service Charges

	<u>Utility Proposed Charges</u>	<u>Commission Approved Charges</u>
Initial Connection	\$ 15.00	\$ 15.00
Normal Reconnection	\$ 15.00	\$ 15.00
Violation Reconnection:		
Water	\$ 15.00	\$ 15.00
Wastewater	Actual Cost	Actual Cost
Premises Visit (in lieu of disconnection)	\$ 10.00	\$ 10.00

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for certificate to
provide water service in Citrus County
by Forest Hills Water System.

DOCKET NO. 941303-WU
ORDER NO. PSC-96-0584-FOF-WU
ISSUED: May 6, 1996

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

**ORDER GRANTING WATER CERTIFICATE NO. 568-W
AND REQUIRING FILING OF ANNUAL REPORT AND
PAYMENT OF REGULATORY ASSESSMENT FEES
AND
NOTICE OF PROPOSED AGENCY ACTION
ORDER ESTABLISHING RATES AND CHARGES**

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein regarding our establishing rates and charges 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.

Background

Forest Hills Water System (Forest Hills or utility) is an existing Class C utility in Citrus County, which currently provides water service to forty-seven homes, a twelve-unit apartment complex, and two duplexes. At buildout, the utility anticipates providing water service to a total of sixty-eight homes, a twelve-unit apartment complex, two duplexes, and five general service customers. The utility's current annual operating revenues are estimated to be \$11,340 and will increase to approximately \$16,020 at buildout. The utility's requested service territory includes a small portion of land which is not currently being served.

On December 15, 1994, Forest Hills filed an application for a certificate to provide water service in Citrus County. The utility's application was found to be deficient. The utility corrected the deficiencies on March 15, 1996.

The utility was established in 1972. The utility's facilities consist of one water treatment plant and one water transmission and distribution system. The current owner purchased the utility on November 21, 1990. According to the application, the owner

purchased the existing utility without knowledge or concept of the Public Service Commission. After being informed by our staff that the utility was subject to Commission jurisdiction and was operating in violation of Section 367.031, Florida Statutes, the utility promptly filed this application for a water certificate.

No Show Cause Required

As previously noted, Forest Hills was established in 1972. The Commission obtained jurisdiction over Citrus County on December 18, 1973, and has retained jurisdiction since that time. Our staff first learned of the existence of the utility in the latter part of 1994, and immediately requested that it file an application for a certificate of authorization pursuant to Section 367.031, Florida Statutes. On December 15, 1994, Forest Hills filed an application for a certificate of authorization to provide water service.

Section 367.031, Florida Statutes, requires utilities that are subject to Commission jurisdiction to obtain a certificate of authorization or an order exempting them from Commission regulation. Section 367.161(1), Florida Statutes, authorizes the Commission to assess a penalty of not more than \$5,000 for each offense if a utility is found to have knowingly refused to comply with, or to have willfully violated, any provision of Chapter 367, Florida Statutes.

Utilities are charged with the knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). Thus, any intentional act, such as the utility's failure to obtain a certificate of authorization or an order exempting it from Commission regulation, would meet the standard for a "willful violation." In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., the Commission, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "willful" implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id. at 6.

Operating a utility without obtaining a certificate of authorization or an order of exemption from Commission regulation is an apparent violation of Section 367.031, Florida Statutes. However, the current owner purchased the utility on November 21, 1990, without knowledge or concept of the Commission. Moreover, the utility promptly filed its application for a certificate of authorization once it became aware of its statutory obligation to do so. For these reasons, we do not find that this utility's apparent violation of Section 367.031, Florida Statutes, rises to the level of warranting that a show cause order be issued. Therefore, Forest Hills shall not be ordered to show cause.

Application

Except as previously discussed, the application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative

rules concerning an application for original certificate for an existing utility currently charging for service. The application contains a check in the amount of \$500, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The applicant has provided evidence that the utility owns the land upon which its facilities are located, as required by Rule 25-30.034(1)(e), Florida Administrative Code.

Forest Hills has provided adequate service territory and system maps and a territory description, as prescribed by Rule 25-30.034(1)(h), (i) and (j), Florida Administrative Code. A copy of the description of the territory is appended to this Order, and is incorporated herein by reference.

In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code, including notice to the customers in the proposed territory. We received no objections to the notice of application.

Regarding the applicant's financial and technical ability, the application states that the owner had and continues to have financial stability for operations of the plant. Also, in order to maintain a high criteria in obtaining the best possible drinking water available for the customers, the owner has contracted licensed technicians to perform all plant functions. Along with regular testing, the utility maintains rigid guidelines for plant testing. Although the current owner had no knowledge of the Commission, the application states that the water plant has always operated under guidelines of State and County regulations regarding testing, reports, and so forth. We contacted the Department of Environmental Protection and learned that the utility's water facilities are in satisfactory condition and there are no outstanding violations.

Additionally, the utility's requested territory includes a small area which is not currently being served. The additional territory adjoins the utility's current service territory and a portion of it is owned by the utility owner. Although the County is serving a small portion of land which is adjacent to the utility's requested service territory, the County has indicated that it does not plan to serve the additional territory requested by the utility. Although there is not an immediate need for service, it is anticipated that there will be a need for service at some point in the future. Because the land adjoins the utility's current service territory and the County does not desire to serve this area, we believe it is reasonable for Forest Hills to provide water service to the additional territory.

Based on the foregoing, we find it is in the public interest to grant the application for an original certificate. Accordingly, we hereby grant Water Certificate No. 568-W to Forest Hills Water System to serve the territory described in Attachment A.

Rates and Charges

The utility's present rates and charges are as follows:

Bimonthly Service Rates

Residential, General, and
Multi-Residential Service
Flat Rate

\$ 30

Miscellaneous Service Charges

Normal Reconnection Fee	\$ 45
Late Fee	\$ 5

Service Availability Charges

<u>Connection Charge:</u> All Customers	\$920
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The utility provides service to the Forest Hills Subdivision. The utility's service availability policy is that all new customers are required to pay a \$920 connection charge for initiation of service at a location where service did not previously exist. Regarding the date and under what authority the current rates and charges were established, the application states that when the new owner purchased the utility, there was an established flat rate of \$10.00 per unit per month. On January 1, 1992, the new owner increased that rate to \$15.00 per unit per month, which is billed on a bimonthly basis. Additionally, the utility charges a \$5 late fee on delinquent bills.

Commission policy in this type of proceeding has been to continue the utility's existing charges until the utility files an application for a rate proceeding. Accordingly, the utility's current charges in this case shall be continued with one modification. The utility's current connection charge, \$920, includes the cost of the meter installation. We find that it would be more appropriate to show the meter installation cost as a separate charge. Therefore, the utility's current connection charge shall be itemized to reflect a \$125 meter installation charge and a \$795 system capacity charge.

The utility has filed a tariff which reflects the current rates and charges. Therefore, the utility shall file a revised tariff sheet reflecting the separate meter installation and system capacity charges within thirty days of the effective date of this Order. The tariff sheets will be approved upon the verification that the revised tariff sheets are consistent with our decision herein.

Regulatory Assessment Fees

Pursuant to Rules 25-30.110(3) and 25-30.120(2), Florida Administrative Code, annual reports and regulatory assessment fees are due from regulated utilities regardless of whether a certificate has been granted. Although Forest Hills has been subject to this Commission's jurisdiction since December 18, 1973, we did not learn of its existence until late 1994. The utility was advised of the Commission's jurisdiction and its responsibility to obtain a certificate at that time. Therefore, the utility shall file an annual report and remit regulatory assessment fees for 1995 within forty-five days of the issuance date of this Order.

Upon expiration of the protest period, if there are no timely protests to the proposed agency action issues, no further action will be required and the docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Forest Hills Water System, 6050 West Gulf to Lake Highway, Crystal River, Florida 34429, is hereby granted Water Certificate No. 568-W to serve the territory described in Attachment A. It is further

ORDERED that Forest Hills Water System shall charge the rates and charges approved in the body of this Order until authorized to change by this Commission in a subsequent proceeding. It is further

ORDERED that Forest Hills Water System shall submit and have approved revised tariff sheets within thirty days of the effective date of this Order. The revised tariff sheets will be approved upon the expiration of the protest period and upon our staff's verification that the pages are consistent with our decision herein. It is further

ORDERED that Forest Hills Water System shall file an annual report and remit regulatory assessment fees for 1995 within forty-five days of the issuance date of this Order. It is further

ORDERED that the provision of this Order regarding our establishment of rates and charges is issued as proposed agency action and shall become final unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 6th day of May, 1996.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

ATTACHMENT A

FOREST HILLS WATER SYSTEM

TERRITORY DESCRIPTION

The following described lands located in portions of Section 30, Township 18 South, Range 18 East, Citrus County, Florida:

That part of the Southwest 1/4 of the Southeast 1/4 of Section 30, Township 18 South, Range 18 East, Citrus County, Florida, lying North of State Road No. 44 and Southwesterly of the Florida Power Corp. Power Line.

Less and Except the following:

From the NE corner of the SW 1/4 of the SE 1/4 run South 0° East along the East line of the SW 1/4 of the SE 1/4 for 802 feet more or less; thence South 90° West 542 feet to the Point of Beginning (POB); thence South 0° West for 80.18 feet; thence South 90° East for 25 feet; thence South 0° West for 235.65 feet more or less to the intersection of the North Right of Way line of State Road #44; thence Northwesterly along the North Right of Way line of State Road #44 to the intersection line of the West line of the Southwest 1/4 of the Southeast 1/4; thence North 0° 11' 48" West along the West line for 149.07 feet; thence North 88° 46' 34" East for 150 feet; thence South 0° 13' 35" East for 186.01 feet to the intersection of the North Right of Way line of State Road #44; thence Southwesterly along the North Right of Way line of State Road #44 for 51.26 feet; thence North 0° East for 151.87 feet; thence North 90° East for 311.41 feet; thence South 0° East for 80.18 feet; thence South 90° East for 193.98 feet; thence South 0° East for 81.08 feet; thence South 90° East for 143.97 feet to the Point of Beginning.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application of Sky Acres
Enterprises d/b/a Terrace Park
Ventures for a Certificate to Provide
Wastewater Service in Pasco County.

DOCKET NO. 951190-SU
ORDER NO. PSC-97-0011-FOF-SU
ISSUED: January 2, 1997

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

**ORDER GRANTING CERTIFICATE, SETTING RATES AND
CHARGES, REQUIRING SKY ACRES ENTERPRISES D/B/A
TERRACE PARK VENTURES TO FILE 1995 AND
1996 ANNUAL REPORTS AND PAY REGULATORY
ASSESSMENT FEES FOR 1995 AND 1996,
AND CLOSING DOCKET**

BY THE COMMISSION:

Background

On October 5, 1995, Sky Acres Enterprises d/b/a Terrace Park Ventures (Sky Acres or utility) filed an application with this Commission for a certificate to provide wastewater service in Pasco County, pursuant to Section 367.045, Florida Statutes. Sky Acres, which has been in existence since 1982, is a Class C utility providing service to 132 residential customers and 1 general service customer in the mobile home park known as Terrace Park Estates. Sky Acres' facilities consist of one wastewater treatment plant and one wastewater collection system. Water service is provided by Pasco County.

Sky Acres obtained the land to build the mobile home park and wastewater system in 1981. At that time, the name of the company was Amanda Company and the park was known as Terrace Grove. The name of the utility was later changed to Sky Acres and the park was renamed Terrace Park Estates.

Sky Acres has operated without a certificate since 1982. The utility believed, because of its small size and because it operated as a nonprofit entity, that it was only subject to the jurisdiction of the Department of Environmental Protection (DEP).

We became aware of the utility's existence when it attempted to double its rates without notice early in 1995. According to Sky Acres, it had been cited with several violations and was attempting to comply with upgrades required by DEP by increasing its

rates. Sky Acres indicated that it wanted the homeowners association to assume ownership and operation of the utility, but the association did not agree.

By letter dated April 22, 1995, Sky Acres was informed by the Commission staff that it appeared the utility did not qualify for exemption and would, therefore, have to complete an application for a certificate. As stated previously, the application was filed on October 5, 1995. However, the application was not completed until October 30, 1996. Because Sky Acres has been providing service since 1982 without a certificate or order finding it exempt from Commission regulation, it is in apparent violation of Section 367.031, Florida Statutes.

Show Cause

As stated previously, Sky Acres is in apparent violation of Section 367.031, Florida Statutes, which states, in part, "Each utility subject to the jurisdiction of the commission must obtain from the commission a certificate of authorization to provide water or wastewater service." Sky Acres has been providing wastewater service to the residents of Terrace Park Estates since June of 1982 without a certificate. Such action is "willful" in the sense intended by Section 367.161, Florida Statutes. Section 367.161, Florida Statutes, authorizes the Commission to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated any provision of Chapter 367, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C. Relating To Tax Savings Refund For 1988 and 1989 For GTE Florida, Inc., the Commission, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "[i]n our view, 'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id., at 6.

Sky Acres' failure to obtain a certificate prior to providing service appears to be due to the belief that it was exempt from our regulation because of its small size and the fact that it operated the wastewater facility in a nonprofit manner. After being informed by the Commission staff that it did not qualify for exemption pursuant to Section 367.022, Florida Statutes, Sky Acres filed an application for a certificate.

Although Sky Acres failed to obtain a certificate prior to providing service, we do not find that the violation of Section 367.031, Florida Statutes, rises in these circumstances to the level of warranting initiation of show cause proceedings. Therefore, show cause proceedings will not be initiated against Sky Acres for failing to obtain a certificate prior to providing wastewater service.

Application

Except as discussed previously, the application is in compliance with Section 367.045, Florida Statutes, and Rule 25-30.034, Florida Statutes. In particular, the application contains a filing fee in the amount of \$750.00, pursuant to Rule 25-30.020(2)(a), Florida Administrative Code. Sky Acres also provided a copy of a recorded warranty deed

as evidence that it owns the land upon which its facilities are located, as required by Rule 25-30.034(1)(e), Florida Administrative Code.

Sky Acres provided a description of the territory to be served, a detailed system map and a territory map as prescribed by Rule 25-30.034(1)(h)(i) and (j), Florida Administrative Code. The territory Sky Acres has requested to serve is described in Attachment A of this order, which by reference is incorporated herein.

Sky Acres provided proof of compliance with the noticing provisions of Rule 25-30.030, Florida Administrative Code. No objections to the application have been received and the time for filing such has expired.

According to information provided in the application, it appears that Sky Acres has the financial ability to provide service to the customers in the requested territory. Also, according to the information provided, the utility has the technical ability to provide wastewater service. Sky Acres has retained Darrell Adams-Environmental Services to manage the wastewater treatment system. Mr. Jeffrey G. Weiner, who is employed by Darrell Adams-Environmental Services to service Sky Acres, has held DEP license number C0080000 since November, 1990.

It should be noted that the utility's DEP permit expired October 1, 1995. On October 30, 1996, Sky Acres provided proof that it has applied to DEP for another permit. According to DEP, Sky Acres will not be issued another permit until the alleged compliance violations have been resolved. DEP issued a warning letter on November 13, 1996, to which Sky Acres was to have responded by December 1, 1996. Sky Acres' response to DEP's warning letter was received by DEP on December 6, 1996. Although Sky Acres has made some corrections, the response to the warning letter was inadequate.

The primary violations cited in DEP's letter are operating a plant without a valid permit, exceeding effluent limits for coliform and nitrates, uncalibrated elapsed-time meters, nonfunctioning visual and audible alarms at the lift station, and improperly designed and maintained clarifier wier. We are concerned about these violations, the lack of a current DEP permit, and Sky Acres' apparent failure to adequately respond to DEP's warning letter. We do not, however, find it appropriate to address these concerns in this docket. We will continue to monitor this situation and if the violations continue, another docket will be opened to address any problems.

In view of the foregoing, we find that it is in the public interest to grant Sky Acres Certificate No. 505-S to provide wastewater service in the territory described in Attachment A of this Order.

Rates and Charges

As stated previously, Sky Acres currently provides wastewater service to approximately 132 residential customers and 1 general service customer. Water service is provided by Pasco County. Sky Acres charges its customers a fixed quarterly charge of \$3.59 for wastewater service. In addition, wastewater usage rates are set at 75 percent of Pasco County's water usage rates. The water usage charges are reported quarterly to Sky Acres by Pasco County. Sky Acres then multiples each customers' water usage charge by 75 percent to determine the customers' quarterly wastewater charge. Based on Pasco

County's current water usage charges, Sky Acres' 75 percent wastewater usage charges are as follows:

Quarterly fixed charge:	\$3.59
Gallonage charges:	
1,000 to 3,000 gallons	\$1.27 per 1,000 per month
4,000 to 6,000 gallons	\$1.36 per 1,000 per month
7,000 to 10,000 gallons	\$1.44 per 1,000 per month
11,000 to 15,000 gallons	\$1.58 per 1,000 per month
16,000 to 45,000 gallons	\$1.69 per 1,000 per month
over 46,000 gallons	\$1.88 per 1,000 per month

Although Sky Acres originally anticipated another phase of development, those plans have been canceled. Sky Acres' original permit with DEP was for 50,000 gallons per day (gpd). Sky Acres has requested that its new permit be issued for 27,000 gpd instead to avoid the need for more expensive treatment equipment. DEP has confirmed that 27,000 gpd will be adequate to serve Sky Acres' existing customers but would not be adequate to serve any expansion. Since Terrace Park Estates is built out, the utility's proposed tariff does not contain a service availability charge. The utility does not charge customer deposits or miscellaneous connections fees.

Therefore, we find that Sky Acres' existing rates, as set forth herein, are reasonable and they are approved. The utility has filed a tariff which reflects these rates and charges. The tariff shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets.

Regulatory Assessment Fees and Annual Reports

Pursuant to Rules 25-30.110(3) and 25-30.120(2), Florida Administrative Code, annual reports and regulatory assessment fees are due from regulated utilities regardless of whether or not a certificate has been granted. Sky Acres has been providing utility service and collecting revenues since June of 1982. In April of 1995, Sky Acres was notified that it was a utility subject to Commission jurisdiction.

Therefore, we find it appropriate to require Sky Acres to file annual reports for 1995 and 1996 and to pay regulatory assessment fees for both 1995 and 1996. Sky Acres shall file a 1995 annual report and pay regulatory assessment fees for 1995 within 60 days of the date of this Order. In addition, Sky Acres shall file a 1996 annual report and regulatory assessment fees for 1996 by March 31, 1997.

It is, therefore,

ORDERED by the Florida Public Service Commission that Sky Acres Enterprises d/b/a Terrace Park Ventures, 700 Grand Avenue, Wausau, Wisconsin 54402, is hereby

granted Certificate No. 505-S to serve the territory described in Attachment A of this Order. It is further

ORDERED that Sky Acres Enterprises d/b/a Terrace Park Ventures shall charge its customers the rates and charges approved in the body of this order until authorized to change by this Commission in a subsequent proceeding. It is further

ORDERED that the tariff filed reflecting the rates and charges approved herein shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets. It is further

ORDERED that Sky Acres Enterprises d/b/a Terrace Park Ventures shall file a 1995 annual report and pay regulatory assessment fees for 1995 within 60 days of the date of this Order. It is further

ORDERED that Sky Acres Enterprises d/b/a Terrace Park Ventures shall file a 1996 annual report and pay regulatory assessment fees for 1996 by March 31, 1997. It is further ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 2nd day of January, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

ATTACHMENT A

SKY ACRES ENTERPRISES d/b/a TERRACE PARK VENTURES

Territory Description

The Northeast 1/4 of the Northeast 1/4 of Section 24 Township 26 South,
Range 20 East, Pasco County, Florida, known as Terrace Park Estates.

to be held on April 21, 1997. Commission staff has proposed that the prehearing conference date be changed to May 5, 1997, in order to allow for time to review rebuttal testimony prior to the prehearing. Mad Hatter Utility, Inc., and Pasco County have agreed with staff's proposal. As of the date of this Order, there are no other parties of record to this docket.

Finding the above-described proposal to be reasonable, Order No. PSC-96-1037-PCO-WS, issued August 9, 1996, is hereby revised to reflect that the prehearing conference will be held on May 5, 1997, at 1:30 p.m.

Except as modified herein, Order No. PSC-96-1037-PCO-WS is hereby reaffirmed in all other respects.

Based upon the foregoing, it is

ORDERED by Commissioner Diane K. Kiesling, as Prehearing Officer, that Order No. PSC-96-1037-PCO-WS, issued August 9, 1996, in this docket, is hereby revised as set forth in the body of this Order. It is further

ORDERED that Order No. PSC-96-1037-PCO-WS is hereby reaffirmed in all other respects.

By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 24th day of February, 1997.

DIANE K. KIESLING, Commissioner and
Prehearing Officer

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for grandfather
certificates to provide water and
wastewater service in Manatee County
by Floridana Homeowners, Inc.

DOCKET NO. 961232-WS
ORDER NO. PSC-97-0211-FOF-WS
ISSUED: February 24, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

ORDER GRANTING GRANDFATHER CERTIFICATES
AND
NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING RATES AND CHARGES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein approving rates and charges 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.

BACKGROUND

On October 10, 1995, the Manatee County Board of County Commissioners adopted Resolution No. R-95-109, pursuant to Section 367.171, Florida Statutes, declaring the privately owned water and wastewater utilities in Manatee County subject to the provisions of Chapter 367, Florida Statutes, effective October 10, 1995. The Florida Public Service Commission (PSC) received Manatee County's resolution on October 17, 1995. The effect of the resolution is to invoke PSC jurisdiction over privately owned water and wastewater systems in Manatee County. Pursuant to Section 367.031, Florida Statutes, all utilities subject to the Commission's jurisdiction must obtain from the Commission a certificate to provide water and wastewater service.

Floridana Homeowners, Inc. (Floridana or utility) was established in 1978 to serve water and wastewater customers within the Floridana mobile home park and a park clubhouse facility in Manatee County, Florida. Floridana obtains bulk water and wastewater service from Manatee County. The utility provides water service to 297 mobile homes, as well as a park clubhouse. Wastewater service is provided to 312 mobile homes, as well as the park clubhouse. Fifteen customers are served water directly by Manatee County. Floridana originally applied for an exemption as a non-profit association, but did not attain the necessary requirements for such an exemption. The utility's application for a grandfather certificate was then delayed because the utility experienced some difficulty in changing its corporate status.

Pursuant to Section 367.171, Florida Statutes and Rule 25-30.035, Florida Administrative Code, on October 11, 1996, Floridana filed an application for a water and wastewater certificate of authority (grandfather certificate) to provide water and wastewater services in Manatee County.

Floridana has never been regulated by any governing authority. Therefore, no annual reports or related information are available. The utility will be categorized as a Class C utility in regard to Commission standards.

APPLICATION

The application for a certificate is in compliance with the governing statute, Section 367.171, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for a grandfather certificate. The statutes and rules do not require noticing for grandfather certificate applications. The application contains a check in the amount of \$1,000.00, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code. The applicant has provided a warranty deed as evidence that the utility owns the land upon which the utility's facilities are located as required by Rule 25-30.035(6), Florida Administrative Code.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.035(9), (10), and (11), Florida Administrative Code. A description of the territory requested by the applicant is appended to this Order as Attachment A.

Based on the above information, we find it appropriate to approve Floridana's application for a grandfather certificate. Accordingly, Floridana shall be granted Water Certificate No. 586-W and Wastewater Certificate No. 504-S to serve the territory described in Attachment A.

RATES AND CHARGES

Prior to Commission jurisdiction, Floridana was never regulated by any regulatory authority. The utility has operated in Manatee County since 1978 without receiving a county franchise. Floridana serves two classes of customers, shareholders and non-shareholders. The shareholders are charged \$43.33 each month, and the residents of the park who are not shareholders are charged a flat rate of \$50.00 a month. This charge includes water, wastewater, garbage collection, and the use of the clubhouse and facilities.

The expenses associated with providing utility service were not separately identified by Floridana. Therefore, it is necessary to determine what portion of the monthly charges are recovering the cost of water and wastewater service and then to calculate rates. We recently completed a staff assisted rate case on a similar utility in Manatee County, Heather Hills. Both Floridana and Heather Hills are master metered mobile home parks receiving bulk service from Manatee County. They also have a comparable number of customers. Floridana has a total of 315 customers, while Heather Hills has a total of 353. However, one difference is that Floridana has 15 wastewater customers which are billed directly by the county.

Because of their similarities, we made the assumption that the operation and maintenance expenses of Floridana would be similar to those identified in the Heather Hills case. Based upon this assumption, we used a ratio of the total bill paid by Heather Hills to Manatee County for each respective service compared to the revenue requirement determined in the staff assisted rate case. We then used the total bill paid by Floridana for each respective service to calculate the estimated revenue requirement for Floridana.

For example, from September, 1995 to August, 1996, the total water bill paid by Floridana to Manatee County was \$18,497.95. In comparison, Heather Hills paid \$19,133 to

Manatee County for water service and received \$41,316 in total water revenue. This revenue included the regulatory assessment fees and all other costs needed to operate a water utility. The total water revenue required by Floridana is calculated below.

$$\text{Heather Hills} - \frac{\$19,133}{\$41,316} = \frac{\$18,497.95}{X} - \text{Floridana}$$

$X = \$39,944.66 = \text{Revenue Required for the Water System by Floridana}$

Because fifteen customers receive water directly from Manatee County, there are only 298 water customers. Using the total revenue required and the total number of water customers, a flat monthly charge of \$11.17 per customer per month is obtained. A base facility charge and gallonage rate cannot be calculated at this time because the customers do not have individual water meters.

A similar calculation was performed to develop the wastewater rates. From September 1995 to August 1996, the total wastewater bill paid by Floridana to Manatee County was \$42,852.49. In comparison, Heather Hills paid \$45,006 to Manatee County for wastewater service and needed \$61,596 in total wastewater revenue. This revenue included the regulatory assessment fees and all other costs needed to operate a wastewater utility. The total water revenue required by Floridana is calculated below.

$$\text{Heather Hills} - \frac{\$45,006}{\$61,596} = \frac{\$42,852.49}{X} - \text{Floridana}$$

$X = \$58,648.67 = \text{Revenue Required for the Wastewater System by Floridana}$

As mentioned earlier, there are 15 customers who are wastewater-only customers of Floridana. Prior to the Commission receiving jurisdiction, Manatee County also billed these 15 customers for water and wastewater service. We investigated the utility system maps and discovered that the collection of these customers' wastewater was through a gravity main owned by Floridana. Wastewater was then transmitted through a force main to Manatee County. Therefore, it was appropriate for these 15 customers to be billed by Floridana for wastewater service.

Manatee County was contacted to confirm that a double billing situation did not exist for these residents. The County has responded that it will reduce the charge for the residents to the bulk rate paid to the County by Floridana for wastewater treatment. In addition, the County agreed to reduce the wastewater bulk bill to Floridana by the 15 customers.

We believe the total wastewater charge for all Floridana residents should be equal. Therefore, we calculated two monthly wastewater rates - one for the 298 residents who receive water and wastewater service directly from Floridana and one for the 15 customers who receive wastewater-only service from Floridana. This allows Floridana to collect the appropriate revenue requirement from all wastewater customers and prevents the 15 customers

from being "double-billed" for the same service, although they will continue to receive two bills.

We calculated a monthly wastewater rate of \$15.90 for the 298 residents who receive both water and wastewater service directly from Floridana. A monthly rate of \$10.02 was calculated for the 15 customers who are billed a wastewater base facility charge of \$5.88 by Manatee County. The \$10.02 represents payment to Floridana for the wastewater collection system within the park. This amount would raise the total payment of these 15 customers equal to that of the 298 customers who would be billed \$15.90 by Floridana. These rates provide the appropriate contribution to the utility without one class of customers (water and wastewater) subsidizing the other class (wastewater-only).

For informational purposes, we have calculated sample bills for a residential customer using Floridana's rates and the county's rates. Under direct service from the county, a residential customer using 3,000, 6,000 and 9,000 gallons of water and wastewater would be billed monthly amounts of \$26.27, \$35.60 and \$45.14, respectively. A Floridana customer would be billed a flat monthly amount of \$26.78 for water and wastewater service.

In addition, Floridana has requested approval of miscellaneous service charges pursuant to Second Revised Staff Advisory Bulletin No. 13 and Rule 25-30.460, Florida Administrative Code. These miscellaneous service charges are standard throughout the water and wastewater industry in Florida. Prior to Commission regulation, Floridana did not charge customers a connection fee or other turn-on service charges.

Based on the prior calculations, the utility's rates and charges are identified below:

Monthly Service Rates

General Service and Residential Service - Water

Billing Period Monthly

Flat Rates

All Customers \$11.17

Monthly Service Rates

General Service and Residential Service - Wastewater

Billing Period Monthly

Flat Rates

Customers (298) \$15.90

Customers * (15) \$10.02

*Customers charged a BFC by Manatee County

Miscellaneous Service Charges

Initial connection	\$10.00
Normal reconnection	\$10.00
Violation reconnection	\$15.00
Premises visit	\$ 5.00

The utility has filed a tariff which reflects the above rates and charges, and we approve them as submitted. Floridana shall charge these rates and charges until authorized to change by the Commission. The tariff shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets.

REGULATORY ASSESSMENT FEES

Pursuant to Rules 25-30.110(3) and 25-30.120(2), Florida Administrative Code, annual reports and regulatory assessment fees are due from regulated utilities regardless of whether a certificate has been granted. Floridana has been subject to this Commission's jurisdiction since October 1, 1995. The utility was advised of the Commission's jurisdiction and the utility's responsibility to obtain a certificate by a letter dated November 10, 1995. Therefore, Floridana shall remit past due regulatory assessment fees and file a 1995 annual report for that portion of 1995 when the utility became subject to Commission jurisdiction, beginning October 1, 1995, within 45 days of the issuance of this Order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Floridana Homeowners, Inc. is hereby granted Water Certificate No. 586-W and Wastewater Certificate No. 504-S to serve the territory described in Attachment A of this Order. It is further

ORDERED that Floridana Homeowners, Inc. shall charge its customers the rates and charges approved herein until authorized to change by this Commission. The tariff filed by Floridana Homeowners, Inc., which reflects these rates and charges, shall be effective on the stamped approval date on the tariff sheets. It is further

ORDERED that Floridana Homeowners, Inc. shall remit regulatory assessment fees and file an annual report for that portion of 1995 when Floridana Homeowners, Inc. became subject to Commission jurisdiction, within 45 days of the issuance of this Order. It is further

ORDERED that the provisions of this Order approving the rates and charges are issued as proposed agency action and shall become final unless an appropriate petition is filed with the Director of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the Notice of Further Judicial Proceedings or Judicial Review. It is further

ORDERED that, if no protests are received, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 24th day of February,
1997.

**BLANCA S. BAYÓ, Director
Division of Records and Reporting**

ATTACHMENT A

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Floridana Homeowners, Inc.
Manatee County, Florida

Water Service Area

Area described within Township 35 South, Range 17 East, Section 11 situated in Manatee County, Florida;

The Point of Beginning (POB) being the Southeast corner of said Section '11, run due West 1,310 feet more or less; thence due North 1,340 feet more or less; thence due East 1,310 feet more or less; thence due South 1,340 feet more or less to the POB;

Less and except the following three parcels;

The POB being the Southeast corner of Said Section 11, run due West 700 feet more or less; thence due North 220 feet more or less; thence due East 700 feet more or less; thence due South 220 feet more or less to the POB;

From the Southeast corner of Said Section 11, run due North 250 feet more or less; run due West 50 feet more or less to the POB; run due West 59.98 feet more or less; thence due North 60 feet more or less; thence due East 59.98 feet more or less; thence due South 60 feet more or less to the POB;

From the Southeast corner of Said Section 11, run due North 310 feet more or less; run due West 250 feet more or less to the POB; run due West 50 feet more or less; thence due North 60 feet more or less; thence due East 50 feet more or less; thence due South 60 feet more or less to the POB.

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Floridana Homeowners, Inc.
Manatee County, Florida

Wastewater Service Area

Area described within Township 35 South, Range 17 East, Section 11 situated in Manatee County, Florida;

The POB being the Southeast corner of said Section 11, run due West 1,310 feet more or less; thence due North 1,340 feet more or less; thence due East 1,310 feet more or less; thence due South 1,340 feet more or less to the POB.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate
to provide water service in Highlands
County by Holmes Utilities, Inc.

DOCKET NO. 960244-WU
ORDER NO. PSC-97-0568-FOF-WU
ISSUED: May 20, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

**ORDER GRANTING CERTIFICATE, SETTING RATES AND
CHARGES, REQUIRING PAYMENT OF 1995 AND 1996
REGULATORY ASSESSMENT FEES AND FILING
OF 1996 ANNUAL REPORT,
AND CLOSING DOCKET**

BY THE COMMISSION:

On February 27, 1996, Holmes Utilities, Inc. (Holmes or utility) filed an application for a certificate to provide water service in Highlands County. Holmes is an existing Class C utility which is currently providing water service to 37 single family residences and one clubhouse in the Country Walk Subdivision. At buildout, the utility anticipates serving 89 single family residences and one clubhouse in the Subdivision.

The utility has been in existence providing water service since 1987. Its facilities consist of one water treatment plant and one water transmission and distribution system. Wastewater is provided by septic tank.

According to the application, the current owners purchased the utility on August 1, 1995, and were not aware that the system was subject to Commission regulation. We became aware of the utility's existence due to an inquiry by a customer regarding Commission regulation of the utility. Holmes filed an application for a certificate on February 27, 1996, after being advised that it is subject to this Commission's jurisdiction and that it is in violation of Section 367.031, Florida Statutes, for providing water service without a certificate. Holmes' apparent violation of Section 367.031, Florida Statutes, is discussed later in this Order.

Show Cause

As stated previously, Holmes is in apparent violation of Section 367.031, Florida Statutes, which states, in part, "Each utility subject to the jurisdiction of the commission

must obtain . . . a certificate of authorization to provide water or wastewater service." The system has been in existence since 1987 and has been providing water service without a certificate since that time. Holmes Utilities has been providing water service to the residents of Country Walk Subdivision without a certificate since it purchased the system in August of 1995. Such action is "willful" in the sense intended by Section 367.161, Florida Statutes. Section 367.161, Florida Statutes, authorizes the Commission to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated any provision of Chapter 367, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund For 1988 and 1989 For GTE Florida, Inc., the Commission, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "[i]n our view, 'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id. at 6.

Failure of Holmes to obtain a certificate prior to providing service appears to be due to lack of knowledge of the statutes and Commission rules. Holmes became aware of this Commission's regulation and of the necessity to obtain a certificate when it was contacted by the Commission staff as the result of an inquiry from a customer regarding whether or not the utility was jurisdictional. The application was filed by the utility shortly after it was contacted by the Commission Staff.

Although regulated utilities are charged with knowledge of Chapter 367, Florida Statutes, we do not believe that the violation of Section 367.031, Florida Statutes, rises in these circumstances to the level of warranting initiation of show cause proceedings. Holmes Utilities filed the application upon becoming aware of the Commission's jurisdiction, which was a only few months after purchase of the utility. In addition, the utility has been very responsive to requests for information. Therefore, a show cause proceeding will not be initiated against Holmes for failure to obtain a certificate prior to providing water service in Highlands County.

Application

Except as discussed previously, the application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and provisions of the Florida Administrative Code. In particular, the application contains a filing fee in the amount of \$750, pursuant to Rule 25-30.020, Florida Administrative Code. Holmes has provided evidence that the utility owns the land upon which the utility's facilities are located, as required by Rule 25-30.034(1)(e), Florida Administrative Code.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.034(1)(h),(I) and (j), Florida Administrative Code. A description of the territory Holmes has requested to serve is shown on Attachment A of this Order, which by reference is incorporated herein.

Holmes provided proof of compliance with the noticing provisions of Rule 25-30.030, Florida Administrative Code, including notice to the customers in the proposed

territory. No objections to the application have been received and the time for filing such has expired.

Regarding the Holmes' financial and technical ability, the application states that the utility has 100% financial and technical backing of the owner's company, Pugh Utilities Services, Inc. (Pugh Utilities), which was established in 1979 and incorporated on September 1, 1995. According to the application, Pugh Utilities has a net worth of \$350,000. In addition, the application states that the owners and employees of Pugh Utilities have over 100 combined years of water and wastewater experience. Therefore, it appears that Holmes has the financial and technical ability to continue to operate the water system and provide satisfactory service to its customers.

According to the Department of Environmental Protection (DEP), the utility's water facilities are in satisfactory condition and there are no outstanding violations against the utility. However, the utility is experiencing a problem with copper sulfide and iron sulfide. The problem occurs when sulfur, which is naturally present in water, reacts with the copper and iron in the customers' pipes. According to DEP, the utility is in compliance with DEP's standards regarding these secondary contaminants. These contaminants do not pose a health risk to the customers, but are recognized as an aesthetic problem in the quality of the water. Based upon DEP's recommendation, the utility has attempted to correct the problem by injecting an inhibitor into the water. This is the least costly method available to correct the problem. According to the DEP representative, this has helped but has not eliminated the problem.

There are two additional alternatives which the utility may use to correct the problem. First, the utility could increase the size and depth of the well to reach a deeper source of water which may not contain the same level of sulfur. The DEP representative estimates that this would cost approximately \$10,000. Second, the utility could install a filtration system on the well. This would cost approximately \$20,000 to \$50,000. However, there is no guarantee that either of these alternatives would correct the problem.

The DEP representative met with the customers last year to discuss the problem and possible solutions. Nineteen customers attended the meeting. Approximately half of the customers indicated they would be willing to pay higher rates in order to correct the problem. However, some of the customers have already installed home filtration systems and are not willing to incur any additional cost.

Because the utility is in compliance with DEP's standards and the contaminants do not pose a health risk, DEP cannot require the utility to implement either of above methods at this time. Additionally, to date, the Commission has not received any complaints from the utility's customers. According to the utility's owner, the utility plans to conduct additional testing to monitor the problem. In consideration of these facts, we do not find that action by the Commission is necessary at this time. However, the Commission is aware of the situation in the event it is raised by the customers or the utility in future proceedings.

Based on the foregoing, we find that it is in the public interest to grant Holmes Certificate No. 579-W to serve the territory described in Attachment A of this Order.

Rates and Charges

The utility's present water rates and charges became effective in August of 1995, when the current owners purchased the system. These rates and charges are as follows:

WATER
Monthly Rates

Residential and General Service

Base Facility Charge

Meter Size:

5/8" x 3/4" \$ 8.00

Gallage Charge

(Per 1,000 Gallons)

0 - 5,000 Gallons \$ 1.40

5,001 - 10,000 Gallons \$ 1.70

10,001 - 15,000 Gallons \$ 2.00

Over 15,000 Gallons*

*Gallage Charge increases by \$0.30 for each
5,000 Gallon Block over 15,000 gallons.

Miscellaneous Service Charges

Initial Connection Fee \$ 15.00

Normal Reconnection Fee \$ 15.00

Violation Reconnection Fee \$ 15.00

Premises Visit Fee (in lieu of
disconnection) \$ 10.00

Service Availability Charges

Customer Connection (Tap-in) Charge

5/8" x 3/4" Meter \$550.00

We find these rates and charges to be reasonable and they are approved. Holmes shall continue to charge these rates and charges until authorized to change by this Commission in a subsequent proceeding. The utility has filed a tariff which reflects the rates

and charges approved herein. The tariff shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets.

Regulatory Assessment Fees and Annual Report

Pursuant to Rules 25-30.110(3) and 25-30.120(2), Florida Administrative Code, annual reports and regulatory assessment fees are due from regulated utilities regardless of whether a certificate has been granted. The utility has been subject to this Commission's jurisdiction since it was established in 1987, although we did not learn of its existence until 1995. Holmes Utilities was advised of the Commission's jurisdiction and its responsibility to obtain a certificate in September of 1995. Holmes has not paid regulatory assessment fees for 1995 or 1996. The utility has, however, filed a 1995 annual report.

Therefore, Holmes shall remit regulatory assessment fees for 1995, from September 1, 1995 through December 31, 1995, within 45 days of the date of this Order. In addition, Holmes shall remit regulatory assessment fees for 1996 and file a 1996 annual report within 45 days of the date of this Order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Holmes Utilities, Inc., 760 Henscratch Road, Lake Placid, Florida 33852, is hereby granted Certificate No. 579-W to provide water service to the territory shown on Attachment A of this Order. It is further

ORDERED that the rates and charges set forth in the body of this Order are hereby approved. Holmes Utilities, Inc. shall charge these rates and charges until authorized to change by this Commission in a subsequent proceeding. The rates and charges shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets. It is further

ORDERED that Holmes Utilities, Inc. shall pay regulatory assessment fees for 1995, from September 1, 1995, through December 31, 1995, within 45 days of the date of this Order. It is further

ORDERED that Holmes Utilities, Inc. shall pay regulatory assessment fees for 1996, within 45 days of the date of this Order. It is further

ORDERED that Holmes Utilities, Inc. shall file an annual report for 1996 within 45 days of the date of this Order. It is further

ORDERED that Docket No. 960244-WU is hereby closed.

By ORDER of the Florida Public Service Commission, this 20th day of May, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

ATTACHMENT A

HOLMES UTILITIES, INC.

HIGHLANDS COUNTY

TERRITORY DESCRIPTION

Township 36 South, Range 29 East, Section 16

Begin at the NW corner of the SW 1/4 of the SW 1/4 of said Section 16; thence

- N 88°22'50" E, along the North line of the said SW 1/4 of the SW 1/4 for a distance of 1,328.55 feet to a point marking the NE corner of the SW 1/4 of the SW 1/4 of Section 16, Township 36 South, Range 29 East; thence run
- S 00°02'11" E, along the East line of the SW 1/4 of the SW 1/4 for a distance of 1,272.47 feet to a point on the Government Meander Line of Lake Carrie; thence run
- S 78°27'29" W, a distance of 273.91 feet along said Government Meander Line to a point; thence run
- S 88°22'28" W, a distance of 1,055.35 feet to the SW corner of Section 16, Township 36 South, Range 29 East; thence run
- N 00°14'24" W, a distance of 1,319.68 feet to the Point of Beginning.

Said portion containing 40.02 acres, more or less.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for grandfather certificates to operate a water and wastewater utility in Polk County by Cypress Lakes Associates, Ltd.

DOCKET NO. 961334-WS
ORDER NO. PSC-97-0569-FOF-WS
ISSUED: May 20, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

ORDER GRANTING GRANDFATHER CERTIFICATES, SETTING RATES AND CHARGES, REQUIRING CYPRESS LAKES ASSOCIATES, LTD TO PAY REGULATORY ASSESSMENT FEES FOR 1996 AND FILE A 1996 ANNUAL REPORT, AND CLOSING DOCKET

BY THE COMMISSION:

Background

On November 7, 1996, Cypress Lakes Associates, Ltd. (Cypress Lakes or utility) filed an application with this Commission for grandfather certificates to provide water and wastewater service in Polk County, Florida, pursuant to Section 367.171, Florida Statutes. The application was filed after the Board of County Commissioners of Polk County adopted a resolution on May 14, 1996, which made the utilities in the County subject to the provisions of Section 367, Florida Statutes.

According to the application, Cypress Lakes has been in existence providing water and wastewater service since 1987. Cypress Lakes currently provides water and wastewater service to approximately 53 residential customers, 707 multi-residential customers, and 5 general service customers in Polk County.

Application

The application is in compliance with Section 367.171, Florida Statutes, and other pertinent statutes and provisions of the Florida Administrative Code. In particular, the application contains a filing fee in the amount of \$2,000, pursuant to Rule 25-30.020, Florida Administrative Code. In addition, Cypress Lakes provided a warranty deed as proof that it

ORDERED that all parties shall furnish copies of future pleadings and other documents that are hereafter filed in this proceeding to Charles R. Forman, Esquire, 320 Northwest 3rd Avenue, Ocala, Florida 34475.

By ORDER of the Florida Public Service Commission this 6th day of October, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate
to provide water service in Osceola
County by Morningside Utility Inc.

DOCKET NO. 970636-WU
ORDER NO. PSC-97-1211-FOF-WU
ISSUED: October 7, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
DIANE K. KIESLING
JOE GARCIA

ORDER GRANTING CERTIFICATE, REQUIRING PAYMENT
OF 1996 REGULATORY ASSESSMENT FEES AND FILING OF
ANNUAL REPORT FOR 1996 AND DECLINING TO
INITIATE SHOW CAUSE PROCEEDINGS
AND
NOTICE OF PROPOSED AGENCY ACTION
ORDER SETTING RATES AND CHARGES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action setting rates and charges 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.

Background

On May 28, 1997, Morningside Utility, Inc. (Morningside or utility) filed an application with this Commission for a certificate to provide water service in Osceola County,

pursuant to Section 367.045, Florida Statutes. Morningside is a Class C utility which serves approximately 170 customers. The utility will serve approximately 187 customers when the system reaches build-out.

According to the application, the utility was established in 1983 by the developer, Schoolfield Properties. The utility's facilities include two wells and one water distribution system. The residents, which receive potable water from Morningside, receive wastewater service from septic tanks.

Morningside has never been certificated, nor found to be exempt from Commission regulation. The present owner, Mr. George Devillers, purchased the system in 1988 from Schoolfield Properties. The Commission became aware of the utility through contact with the Florida Department of Environmental Protection (DEP). Upon review of the operation of the utility system, the Commission staff determined the utility did not qualify for an exemption pursuant to Section 367.022, Florida Statutes, because of its capacity. Morningside was informed of the requirements of Sections 367.031 and 367.045, Florida Statutes, and of its apparent violation of those Statutes for providing service without a certificate. Morningside filed an application for a certificate on May 28, 1997.

Show Cause

As stated previously, Morningside Utility, Inc. is in apparent violation of Section 367.031, Florida Statutes, which states, in part, "Each utility subject to the jurisdiction of the commission must obtain . . . a certificate of authorization to provide water or wastewater service." Morningside was owned and operated by Schoolfield Properties until it was purchased by Mr. George Devillers, in 1988. Morningside has been providing water service to its customers since that time without a certificate. Such action is "willful" in the sense intended by Section 367.161, Florida Statutes. Section 367.161, Florida Statutes, authorizes the Commission to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated any provision of Chapter 367, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C. Relating To Tax Savings Refund For 1988 and 1989 For GTE Florida, Inc., the Commission, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "[i]n our view, 'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id. at 6.

Failure of Morningside to obtain a certificate prior to providing service appears to be due to lack of knowledge of the statutes and Commission rules. Mr. Devillers, the current owner, moved to Florida and bought the utility as an investment. Schoolfield Properties had been operating the system since 1983 without a certificate. At the time Mr. Devillers purchased the system from Schoolfield Properties, he had no knowledge of the Commission or its requirements. Mr. Devillers became aware of this Commission's regulation when DEP advised the utility that an additional well was needed to serve more customers. Upon being informed by the Commission staff of the requirements of Section 367.031, Florida Statutes, Morningside filed an application for a certificate.

Although regulated utilities are charged with knowledge of Chapter 367, Florida Statutes, we do not find that the violation of Section 367.031, Florida Statutes, rises in these circumstances to the level of warranting initiation of show cause proceedings. Therefore, a show cause proceeding will not be initiated against Morningside for failure to obtain a certificate prior to providing water service.

Application

The application is in compliance with Section 367.045, Florida Statutes, and other pertinent statutes and provisions of the Florida Administrative Code. In particular, the application contains a filing fee in the amount of \$750, as prescribed by Rule 25-30.020, Florida Administrative Code.

Rule 25-30.033(1)(j), Florida Administrative Code, requires a utility to provide proof that it has continued use of the land upon which its facilities are located. Morningside provided a 99-year lease as evidence that it has continued use of the land upon which the facilities are located. However, the lease is not recorded. Therefore, we find it appropriate to require Morningside to record the 99-year lease in accordance with Section 695.01, Florida Statutes, and to provide the Commission with a recorded copy of the lease within 60 days of the date of this Order.

Adequate service territory and system maps and a territory description have been provided as required by Rule 25-30.033(1)(l), (m), and (n), Florida Administrative Code. The territory which Morningside has requested to serve is described on Attachment A of this Order, which by reference is incorporated herein.

Morningside provided proof of compliance with the noticing provisions of Rule 25-30.030, Florida Administrative Code, including notice to the customers in the proposed territory. No objections to the application have been received and the time for filing such has expired.

Morningside has been in existence, providing water service to its customers since 1983. Mr. George Devillers, the current owner, has overseen the day to day operations of the utility since 1988, and has retained the services of a licensed operator. Therefore, we believe that Morningside has demonstrated that it has the technical ability to continue to provide service to its customers. It should be noted that Morningside is currently operating under a Consent Order. However, according to DEP, Morningside is making the additions required by DEP in a satisfactory and timely manner. With regard to Morningside's financial ability, according to information provided with the application, Morningside has the financial ability to continue to provide service to its customers.

Based on the foregoing, we find that it is in the public interest to grant Morningside Certificate No. 595-W in Osceola County, to serve the territory shown on Attachment A of this Order.

Rates and Charges

Morningside's current rates and charges became effective prior to the current owner's purchase of the system in 1988. The utility's current rates and charges are as follows:

WATER
Monthly Service Rates

Residential and General Service

Base Facility Charge

Meter Size:

3/4" \$ 12.00

Consumption Rate

Per 1,000 Gallons \$ 2.20

Meter Test Charges

Meter Size:

5/8" x 3/4" \$ 20.00

1" and 1-1/2" \$ 25.00

2" and Greater Actual Cost

Miscellaneous Service Charges

Initial Connection \$ 15.00

Normal Reconnection \$ 15.00

Violation Reconnection \$ 15.00

Premises Visit \$ 10.00

Service Availability Charges

System Capacity Charge (Per Equivalent
Residential Connection) \$600.00

Meter Installation Charge
(5/8" x 3/4" Meter) \$ 65.00

Meter Installation Charge
(Over 5/8" x 3/4" Meter) Actual Cost

Customer Deposits

Morningside does not require deposits.

We find these rates and charges to be reasonable and they are approved. Morningside shall continue to charge these rates and charges until authorized to change by this Commission in a subsequent proceeding. Morningside has submitted a tariff which

reflects the rates and charges approved herein. The tariff shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets.

1996 Regulatory Assessment Fees and Annual Report

Pursuant to Rule 25-30.110(3), Florida Administrative Code, "[t]he obligation to file an annual report for any year shall apply to any utility which is subject to this Commission's jurisdiction as of December 31 of that year, whether or not the utility has actually applied for or has been issued a certificate." Additionally, Rule 25-30.120(2), Florida Administrative Code, states "any utility which is subject to this Commission's jurisdiction on or before December 31 of that year or any part of that year, whether or not the utility has actually applied for or has been issued a certificate" is required to pay regulatory assessment fees. Therefore, we find it appropriate to require Morningside to pay regulatory assessment fees for 1996 and file a 1996 annual report within 45 days of the date of this Order. Morningside is also put on notice that annual reports and regulatory assessment fees are due each year, pursuant to Rules 25-30.110(3) and 25-30.120(2), Florida Administrative Code.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Morningside Utility, Inc., 1106 Monroe Avenue, St. Cloud, Florida 34769, is hereby granted Certificate No. 595-W in Osceola County to serve the territory shown on Attachment A of this Order. It is further

ORDERED that Morningside Utility, Inc. shall record the 99-year lease in accordance with Section 695.01, Florida Statutes, and file a copy of the recorded lease for the land upon which the utility's facilities are located within 60 days of the date of this Order. It is further

ORDERED that Morningside Utility, Inc. shall charge the rates and charges approved in the body of this Order until authorized to change by this Commission in a subsequent proceeding. It is further

ORDERED that the tariff, reflecting the rates and charges approved herein, shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets. It is further

ORDERED that Morningside Utility, Inc. shall pay regulatory assessment fees for 1996 and file a 1996 annual report, pursuant to Rules 25-30.110 and 25-30.120, Florida Administrative Code, within 45 days of the date of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 7th day of October, 1997.

**BLANCA S. BAYÓ, Director
Division of Records and Reporting**

ATTACHMENT AMorningside Utility, Inc.TERRITORY DESCRIPTION

The following described lands located in portions of Section 3, Township 25 South, Range 30 East, Osceola County, Florida:

Beginning at the Northeast corner of Section 3, Township 25 South, Range 30 East, Osceola County, Florida, also being the Northeast corner of Lot 124, Morningside Village, Unit Four, as filed and recorded in Plat Book 5, Page 185 of the Public Records of Osceola County, Florida, run North $88^{\circ} 57' 45''$ West, along the North line of said Section 3, 1991.94 feet to the Northwest corner of Lot 163, Morningside Village, Unit Five, as filed and recorded in Plat Book 6, Page 1 of the Public Records of Osceola County, Florida; run thence South $00^{\circ} 58' 04''$ West, along the West line of aforesaid Morningside Village, Unit Five, 655.51 feet to the Southwest corner of Lot 159 of aforesaid Morningside Village, Unit Five; run thence South $88^{\circ} 46' 09''$ East, along the South line of said Morningside Village, Unit Five, 662.73 feet to the Northwest corner of Lot 10, Morningside Village, Unit One, as filed and recorded in Plat Book 4, Page 84 of the Public Records of Osceola County, Florida; run thence South $00^{\circ} 58' 29''$ West, along the West line of aforesaid Morningside Village, Unit One, 1337.02 feet to the Southwest corner of Lot 1 of aforesaid Morningside Village, Unit One; run thence along the South line of said Morningside Village, Unit One the following: South $89^{\circ} 01' 31''$ East, 175.00 feet; North $25^{\circ} 05' 45''$ East, 73.41 feet to a point on a 50.00 feet radius curve, concave Northwesterly; run thence Northeasterly along said 50.00 feet radius curve, through a central angle of $98^{\circ} 02' 52''$, an arc distance of 85.56 feet (Chord bearing North $41^{\circ} 57' 03''$ East, Chord = 75.50 feet) to the Southwest corner of Lot 19 of said Morningside Village, Unit One; run thence South $89^{\circ} 01' 31''$ East, along the South line of said Lot 19, 155.49 feet to the Southeast corner of said Morningside Village, Unit One, said point being a point on the West line of Morningside Village, Unit Two, as filed and recorded in Plat Book 4, Page 85 of the Public Records of Osceola County, Florida; run thence South $00^{\circ} 58' 29''$ West, along said West line of Morningside Village, Unit Two, 37.00 feet to the Southwest corner of said Morningside Village, Unit Two; run thence South $89^{\circ} 01' 31''$ East, along the South line of said Morningside Village, Unit Two, 126.01 feet to a point on a 50.00 feet radius, concave Northwesterly; run thence Southeasterly along said 50.00 feet radius, through a central angle of $101^{\circ} 32' 13''$, an arc distance of 88.61 feet (Chord bearing South $38^{\circ} 15' 24''$ East) to a point on the West line of Lot 44 of said Morningside Village, Unit Two; run thence South $00^{\circ} 58' 29''$ West, 35.00 feet; continue thence along aforesaid South line of Morningside Village, Unit Two, the following: South $89^{\circ} 01' 31''$ East, 145.00 feet; South $00^{\circ} 58' 29''$ West, 100.00 feet South $89^{\circ} 01' 13''$ East, 290.00 feet to the Southwest corner of Lot 73, Morningside Village, Unit Three, as filed and recorded in Plat Book 5, Page 84 of the Public Records of Osceola County, Florida; run thence along the South line of said Morningside Village, Unit Three, the following: South 89°

01' 31" West, 63.00 feet; South 00° 58' 29" West, 133.00 feet; South 89° 01' 31" East, 237.83 feet to the Southeast corner of said Morningside Village, Unit Three, said corner being on the East line of aforesaid Section 3; run thence North 01° 11' 59" East, along said East line, 2234.32 feet to the Point of Beginning.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause
proceedings against East Marion
Water Distribution, Inc. in Marion
County for failure to file 1996 annual
report in accordance with Rule
25-30.110(3), F.A.C.

DOCKET NO. 980099-WU
ORDER NO. PSC-98-0753-FOF-WU
ISSUED: June 1, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING WAIVER OF RULES 25-30.110,(6)(c) and (7),
FLORIDA ADMINISTRATIVE CODE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that 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.

BACKGROUND

East Marion Water Distribution, Inc., (East Marion or utility) is a Class C water utility operating in Marion County. According to the 1991 annual report, East Marion provides water service to two customers with approximately \$750 in operating revenues. The system was inactive from 1992 until 1995.

According to the utility's application for transfer of majority organizational control, in Docket No. 971269-WS, the contract for sale and purchase of land and the utility between the First Bank of Osceola, the transferor, and Mr. Herbert Hein, the transferee, was executed on February 21, 1995.

Neither the contract for sale nor the application stated that the sale was contingent upon the Commission's approval. Because Mr. Hein had ownership and/or control of the utility and has been operating the utility since May of 1995, we requested payment of regulatory assessment fees and annual reports for 1995 forward from Mr. Hein's agent, Mr.

Len Tabor. Due to the utility's renewed activity, we also requested that the utility file its annual report for 1996.

The utility filed its 1996 annual report on February 2, 1998, and our staff determined that there were no deficiencies. By letter dated March 10, 1998, the utility was notified that the total penalty for untimely filing its 1996 annual report was \$741 (247 days x \$3.00 per day) and that payment was due by March 30, 1998. On March 10, 1998, our staff was contacted by Mr. Hein, regarding the possibility of filing a petition for rule waiver or variance of the rule with respect to the penalties. Information regarding filing a petition for rule waiver was forwarded via facsimile. Our staff sent a follow-up letter to Mr. Hein on March 31, 1998, to determine what actions the utility would undertake to comply with the Commission rule. On April 6, 1998, the utility filed a petition for rule waiver of Rules 25-30.110(6)(c) and (7), Florida Administrative Code.

The transfer of majority control is being handled separately in Docket No. 971269-WS. This Order addresses the utility's petition for rule waiver.

Pursuant to Section 120.542(6), Florida Statutes, on April 6, 1998, we provided notice to the Department of State, which published notice of the waiver request in the Florida Administrative Weekly. After reviewing the petition, our staff found no deficiencies. We did not receive any comments regarding the utility's petition. Pursuant to Section 120.542(8), Florida Statutes, we are required to issue an order in writing granting or denying the petition for waiver or variance stating the relevant facts and reasons supporting our decision within 90 days after receipt of the original petition.

RULE WAIVER

On April 6, 1998, East Marion filed a petition for rule waiver of Rules 25-30.110(6)(c) and (7), Florida Administrative Code. The utility sought a waiver because it believed the underlying purpose of the statute has been served in that the utility filed its 1996 annual report on February 2, 1998. Our staff determined that the utility's 1996 annual report was not deficient, thus the report was in compliance with Rules 25-30.110(6)(c) and (7), Florida Administrative Code. To date, the 1995 annual report has not been filed.

In East Marion's petition, the utility stated that the application of the rule would create a substantial hardship on its operations in that the previous owners died and the previous records were otherwise nonexistent. The utility also stated that First Bank of Osceola, the interim owner of East Marion, did not maintain records on the utility. Despite the utility's circumstances, East Marion's new owner, Mr. Hein, hired a certified public accountant to prepare the 1996 annual report. East Marion has also timely filed its annual report for 1997. Further, the utility has incurred losses of \$16,862 for 1996 and \$15,024 for 1997.

The utility also stated in its petition that if we ordered the utility to file a 1995 annual report, such action "would only serve to increase the operating losses of the company and absorb funds needed to keep East Marion operational." Finally, the utility's petition stated that little purpose would be served in requiring it to file its 1995 annual report as the utility only renewed activity in 1996 and the pertinent information is contained in its 1996 and 1997 annual reports.

SUMMARY AND DISPOSITION OF FINDINGS

The underlying statutes pertaining to the rule in this instance are Sections 367.121(1)(c) and 367.161(2), Florida Statutes. Section 367.121, Florida Statutes, provides that we shall require regular reports from utilities under our jurisdiction consistent with the uniform system and classification of accounts and may require preparation of the reports by a certified public accountant. Rule 25-30.110(3)(a), Florida Administrative Code, which requires utilities subject to our jurisdiction to file an annual report on or before March 31 of the following year, implements Section 367.121, Florida Statutes. Section 367.161(2), Florida Statutes, provides that we have the power to impose penalties on utilities under our jurisdiction who have refused to comply or wilfully violate Florida Statutes, Commission rules, or orders. Rules 25-30.110(6)(c) and (7), Florida Administrative Code, which provides for penalties of \$3.00 per day for a Class C utility for failure to timely file its annual report, implements Section 367.161, Florida Statutes. The purpose of requiring payment of penalties for late filing is to ensure compliance with Florida Statutes and Commission rules.

Section 120.542(2), Florida Statutes, in pertinent parts, provides that "variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and that application of the rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, substantial hardship means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver."

We find that the utility has demonstrated a substantial technological and economic hardship. The current owner bought the utility in 1995. The previous owners of the utility died and the records of the utility were not maintained by the interim owner. The new owner hired a certified public accountant and had the 1996 annual report prepared. Also, the utility continues to lose money. Ordering the new owner to remit the penalties for untimely filing its 1996 annual report and to spend the money to prepare a 1995 annual report would only add to the substantial economic hardship of the utility.

We also find that the underlying purpose of the statute has been achieved. The utility filed its 1996 annual report as well as timely filed its 1997 annual report. Records on the utility's operations were not maintained when the new owner acquired the utility in 1995. Because we now have the relevant information regarding the utility's operations pursuant to Florida Statutes and our rule, the underlying purpose of the statute has been achieved.

Based on the foregoing, East Marion's petition for rule waiver is granted because the utility has demonstrated that a waiver of Rules 25-30.110(6)(c) and (7), Florida Administrative Code, would serve the underlying purpose of Sections 367.121 and 367.161 Florida Statutes, and the application of the rule would create a substantial hardship for the utility.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that East Marion Water Distribution, Inc.'s petition for rule waiver be granted. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 1st day of June, 1998.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for exemption from Rules 25-4.113, 25-24.471, and 25-24.515, F.A.C., and for authorization to discontinue service without notice and to require advance payment for service from certain customers, and for such other relief as may be appropriate, by North American InTeleCom, Inc.

DOCKET NO. 970968-TP
ORDER NO. PSC-98-0754-FOF-TP
ISSUED: June 1, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

ORDER CLOSING DOCKET

BY THE COMMISSION:

North American InTeleCom, Inc. (NAI) holds Interexchange Certificate No. 4697 and Pay Telephone Certificate No. 2459. The company provides telecommunications services to inmate facilities.

On July 17, 1997, NAI filed a Petition for exemption from Rule 25-4.113, Florida Administrative Code, Refusal or Discontinuance of Service by Company, Rule 25-



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Please Respond to Main Office

November 3, 1998

RECEIVED

NOV 5 1998

Florida Public Service Commission
Division of Water and Wastewater

VIA TELEFAX TO (850) 413-6250

Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No.: 980307-WS- Application for certificate to provide water and wastewater services in Orange County by Zellwood Station Co-Op, Inc.

Dear Mr. Ferguson:

Please be advised that I have received and reviewed a copy of the staff memorandum report and recommendations regarding the above-captioned application for an original certificate. I have noted that the report includes a staff recommendation that the utility should pay a regulatory assessment fee for the 1998 calendar year.

On behalf of my client, Banbury Village Association, Inc., I would request that the Commission disregard the staff recommendation regarding the payment of regulatory fees for 1998. Pursuant to the stipulation entered into by my client in this case, the individual condominium owners within Banbury (the utility customers) have stipulated and agreed to a rate increase in excess of 100% commencing in 1999. This rate increase includes the annual regulatory assessment for 1999. It would place an undue hardship on the individuals within Banbury to pay additional assessments in order to pay a regulatory fee for 1998 when, in fact, the utility was not truly regulated in 1998.

On behalf of my client, therefore, I would respectfully request that the Public Service Commission waive the regulatory fee for 1998. If you have any questions, or if you require any additional information, please do not hesitate to contact me.

Very truly yours,

James E. Olsen

cc.

Banbury Village Association, Inc., c/o Ellen Womack, Manager
Thomas A. Cloud, Esq.

ADMINISTRATION MAIL ROOM
NOV 5 9 00 AM '98
RECEIVED



Clayton & McCulloh
ATTORNEYS AT LAW

Clayton & McCulloh Building
1065 Maitland Center Commons Blvd.
Maitland, Florida 32751



Florida Public Service Commission
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November 6, 1998

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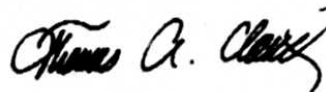
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MICHAEL J. CANAN

Our File No: 40195-2**Via FAX Transmittal - 850/413-6250**

Cleveland Ferguson, III, Esquire
Staff Attorney
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Dear Cleveland:

I just wanted to send you this letter to thank you for all your efforts in the Zellwood case. I have read the e-mails with some interest. I have put together a little chart on the past orders related to start dates of regulatory assessment fees and annual reports which I will forward to you later. Thanks again for your courtesy, professionalism, and integrity.

Sincerely yours,

Thomas A. Cloud, Esquire**GRAY, HARRIS & ROBINSON, P.A.**