

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate ) DOCKET NO. 910637-WS  
increase in Pasco County by MAD) ORDER NO. PSC-92-0878-PHO-WS  
HATTER UTILITY, INC. ) ISSUED: 08/26/92  
\_\_\_\_\_ )

Pursuant to Notice, a Prehearing Conference was held on August 17, 1992, in Tallahassee, Florida, before Commissioner Betty Easley, as Prehearing Officer.

APPEARANCES:

ROBERT M. C. ROSE, Esquire, Rose, Sundstrom & Bentley,  
2548 Blairstone Pines Drive, Tallahassee, Florida 32301  
On behalf of Mad Hatter Utility, Inc.

MR. TIMOTHY G. HAYES, Esquire, Hayes & Albrechta, P. A.,  
21859 State Road 54, Suite 200, Lutz, Florida 33549  
On his own behalf

HAROLD MCLEAN, Esquire, Office of Public Counsel, Claude  
Pepper Building, 111 West Madison Street, Room 812,  
Tallahassee, Florida 32399-1400  
On behalf of the Citizens of the State of Florida

MATTHEW J. FEIL, Esquire, Florida Public Service  
Commission, 101 E. Gaines Street, Tallahassee, Florida  
32399-0863  
On behalf of the Commission Staff

PRENTICE PRUITT, Esquire, Florida Public Service  
Commission, 101 E. Gaines Street, Tallahassee, Florida  
32399-0862  
On behalf of the Commissioners

PREHEARING ORDER

I. CASE BACKGROUND

Mad Hatter Utility, Inc., (MHU or utility) is a class "B" utility located in Lutz, Florida. MHU owns and operates water and wastewater systems in three separate communities: Linda Lakes, Foxwood and Turtle Lakes.

On October 18, 1991, MHU completed the minimum filing requirements for a general rate increase and that date was established as the official date of filing for this proceeding.

DOCUMENT NUMBER-DATE

09681 AUG 26 1992

FILE RECORDS (RECORDS)

The approved test year for determining interim and final rates is the twelve-month period ended December 31, 1990. By Order No. 25589, issued January 9, 1992, the Commission suspended MHU's proposed rates and approved interim rates.

By Proposed Agency Action (PAA) Order No. PSC-92-0123-FOF-WS, issued March 31, 1992, the Commission allowed MHU increased rates, required the refund of excess interim and emergency rates, reduced MHU's service availability charges, and found MHU in violation of several Commission rules. On April 21, 1992, Mr. Timothy G. Hayes filed a timely protest to the Commission's PAA Order. Pursuant to Mr. Hayes' protest, this matter is scheduled for an administrative hearing on September 2 and 3, 1992.

## II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 367.156, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 367.156, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is

defined in Section 367.156, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.

- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

### III. PREFILED TESTIMONY AND EXHIBITS

With the exception of the five employees of State agencies listed below as appearing for Mr. Hayes, testimony of all witnesses to be sponsored by the parties and staff has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

At the Prehearing Conference, the parties and staff agreed that staff witnesses Stambaugh, Amato, Burghardt, and Barker and utility witness Doughty could be taken out of order to accommodate their work schedules. Utility witness Doughty will only be available to testify on the September 3.

### IV. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct</u>		
Robert C. Nixon	Utility	2-4, 6, 8
Larry G. DeLucenay	Utility	1, 3, 4, 19

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
Sgt. L. S. Vinson*	Mr. Hayes	1
William C. Burke*	Mr. Hayes	1
Glen Thompson*	Mr. Hayes	1
Bruce C. Wirth*	Mr. Hayes	1
Kenneth R. Barrett*	Mr. Hayes	1
Kimberly Dismukes	OPC	3-6, 9, 11, 13, 14, 15
Janice DeLucenay** (adverse party witness)	OPC, Staff	28, 29 (for staff)
Thomas E. Stambaugh	Staff	(all issues relating to audit report)
Joseph A. Amato	Staff	1
Pete Burghardt	Staff	1
Robert P. Barker	Staff	1
<u>Rebuttal</u>		
Robert C. Nixon	Utility	2-6, 9, 11, 13-15, 20
Larry G. DeLucenay	Utility	1-5, 11
Leroy C. Doughty	Utility	11, 13

\*The witness is an employee of an agency of the State of Florida for whom no prepared testimony was filed. See "Rulings" section below.

\*\*The utility has agreed to make Ms. Janice DeLucenay available at the hearing without the need for a subpoena should staff require her testimony. However, the utility has stated that if OPC seeks to have Ms. DeLucenay testify as part of its direct case, OPC would have to compel Ms. DeLucenay's presence by subpoena.

V. BASIC POSITIONS

UTILITY: Utility should be authorized to charge and collect the proposed final water service rates set forth on page 151 and the "tie-in scenario" sewer service rates set forth on page 152, both of Schedule E-1, Exhibit 1-A, as filed herein on October 18, 1991, increased to include the funds expended and to be expended in compliance with the Consent Final Judgment of the Circuit Court and the expenses of this proceeding resulting from the protest to Order No. PSC-92-0123-FOF-WS, to be recovered by Utility in accordance with the provisions of Section 367.0816, Florida Statutes, 1991.

The hearing scheduled in this Docket No. 910637-WS for September 2 and 3, 1992, is a hearing held pursuant to Section 120.57(1), Florida Statutes, 1991, solely for the resolution of disputed issues of material fact.

HAYES: That the utility has repeatedly failed to abide by State regulations and laws regarding the operation of a wastewater and water utility. Furthermore, the quality of the service provided to the customers over the last several years has been well below the standards required and warrants the decertification of this utility franchise.

That the utility should not be authorized to charge and collect the proposed final water and sewer service rates.

OPC: The utility's request for increased rates is excessive and unjustified. Although the Citizens agree with many of the adjustments suggested by staff in its PAA recommendation, the Citizens take no position with respect to some and disagree with others.

STAFF: The information gathered through discovery and prefiled testimony indicates, at this point, that the utility is entitled to some level of increase. The specific level cannot be determined until the evidence presented at hearing is analyzed.

VI. ISSUES AND POSITIONS

QUALITY OF SERVICE

ISSUE 1: Is the quality of service provided by the utility satisfactory?

POSITIONS

UTILITY: Yes. (DeLucenay)

HAYES: No, for the three water treatment plants and the Linda Lakes, Foxwood and Turtle Lakes wastewater treatment plants. The utility has repeatedly failed to be responsive to the complaints of its customers. Testimony on this issue will be developed by Petitioner and will be elaborated on in more detail on the testimony of the customers and interveners in this matter. (Vinson, Burke, Thompson, Wirth, Barret)

OPC: No position at this time.

STAFF: No position pending receipt of customer testimony at hearing. (Amato, Burghardt, Barker)

RATE BASE

ISSUE 2: Should the utility be allowed a proforma adjustment for the construction of a force main to interconnect a portion of the Foxwood subdivision to the remainder of the system, and, if so, what is the amount of the adjustment?

POSITIONS

UTILITY: Yes. The actual cost. (DeLucenay, Nixon)

HAYES: Agree with staff.

OPC: No position at this time.

STAFF: Yes. The amount of adjustments to plant, depreciation expense, and accumulated depreciation should be based on the actual cost of the force main.

**ISSUE 3: Should the utility be allowed to recover the investment in the abandoned Foxwood and Turtle Lakes treatment facilities from the ratepayers, and, if so, how much and over what period of time?**

POSITIONS

UTILITY: Yes, the used and useful portion of the loss, \$404,476.00, should be recognized for recovery over an eight-year period. The annual amount recovered should be \$50,560.00 (Nixon, DeLucenay)

HAYES: Agree with OPC.

OPC: No. Such recovery should not be borne by ratepayers. If the Commission requires some kind of sharing between ratepayers and stockholders, the Company should be required to offset its abandoned plant costs with the estimated salvage value of the plant and land; the costs should be amortized over 15 years. (Dismukes)

STAFF: Agree with utility.

**ISSUE 4: Should the Company be allowed to charge rates which include the cost of restoring the Foxwood and Turtle Lakes wastewater treatment plants and sites?**

POSITIONS

UTILITY: Yes. (Nixon, DeLucenay)

HAYES: Agree with OPC.

OPC: No. (Dismukes)

STAFF: To the extent prudent, costs for restoring the treatment plants and sites should be recovered.

**ISSUE 5: What adjustments should be made to rate base for the purchase of a backhoe from a related party?**

POSITIONS

UTILITY: None. (Nixon, DeLucenay)

HAYES: Agree with OPC.

OPC: The backhoe should be recorded at the lower of market or book value. Unless Mad Hatter produces the documentation requested by Citizens, Citizens recommend reducing the estimated market value of the backhoe by one-half, or \$8,750, and increasing accumulated depreciation by \$728. (Dismukes)

STAFF: Agree with utility.

**ISSUE 6: What is the appropriate method for calculating working capital and what should be the amount of working capital in the rate bases?**

POSITIONS

UTILITY: Working capital should be calculated using the formula (one-eighth of operation and maintenance expense) method. No position at this time as to the amount to be included in rate base, which is subject to the resolution of other issues. (Nixon)

HAYES: Agree with OPC.

OPC: The appropriate method is the balance sheet method, and the working capital allowance is \$0. (Dismukes)

STAFF: Agree with utility.

**ISSUE 7: What are the test year rate bases?**

POSITIONS

ALL: Amounts are arithmetic calculations subject to the resolution of other issues.

COST OF CAPITAL

**ISSUE 8: What is the appropriate rate of return on equity?**

POSITIONS

UTILITY: The return on equity should be determined based on the Commission leverage graph formula in effect at the time of the Commission's vote on final rates in this case. (Nixon)

HAYES: No position at this time.

OPC: No position at this time.

STAFF: Agree with utility, and a range of reasonableness of plus or minus 1% should be authorized.

**ISSUE 9: Should a capital structure adjustment be made for deferred taxes?**

POSITIONS

UTILITY: No. (Nixon)

HAYES: Agree with OPC.

OPC: Yes. An adjustment should be made for deferred income taxes that would have resulted if the Company was a C-Corporation during the test year. Deferred taxes in the amount of \$9,776 should be added to the capital structure at a zero cost. (Dismukes)

STAFF: No position at this time.

**ISSUE 10: What is the appropriate overall rate of return?**

POSITIONS

ALL: Amount is an arithmetic calculation subject to the resolution of other issues.

NET OPERATING INCOME

**ISSUE 11: Should salary expense, payroll taxes, and worker's compensation be adjusted?**

POSITIONS

UTILITY: No. (Nixon, Delucenay, Doughty)

HAYES: Agree with OPC.

OPC: Salaries should be adjusted to remove a financial liaison officer, an in-house engineer, two operators, and a laborer. The remaining test year salaries, except the president's, should be increased by 4%. Payroll taxes and workers compensation should be adjusted accordingly. The Citizens also believe that an additional reduction to salaries of \$3,947 should be made for the shared use of Mad Hatter employees by Scarecrow Utilities. Corresponding reductions to payroll taxes for \$304 and workers compensation for \$46 for the latter reduction are also required. In addition, any payment for penalties paid to the IRS should be removed from test year expenses. (Dismukes)

STAFF: Agree with OPC.

**ISSUE 12: Is an adjustment necessary to reduce the expense for telephone service?**

POSITIONS

UTILITY: Agree with staff.

HAYES: Agree with OPC.

OPC: Citizens agree with the staff, but also believe that additional adjustments to reduce telephone expenses are necessary as follows:

-- Expenses for Mrs. Delucenay's cellular phone should be removed from the test year.

- Answering service expenses should be allocated to Scarecrow Utilities using a ratio of 3.64%.
- Paging expenses should be allocated to Scarecrow Utilities using a ratio of 3.64%.

STAFF: Yes, expenses should be reduced by \$2,312 to remove charges for a related company.

**ISSUE 13**: Should expenses for Carr & Associates financial services be reduced?

POSITIONS

UTILITY: The expense should be reduced to allow amortization over a four-year period. (Nixon, Doughty)

HAYES: Agree with OPC.

OPC: Yes. Expenses in the amount of \$9,123 should be removed from the test year. The abnormal portion of Carr & Associates expenses should be amortized over four years. The remainder should be included in the test year as a normal recurring expense. (Dismukes)

STAFF: Agree with OPC, but an allowance should be made for reasonable accounting services.

**ISSUE 14**: Should legal expenses be reduced?

POSITIONS

UTILITY: Yes. The amount allowed should be \$9,705. (Nixon)

HAYES: Agree with OPC.

OPC: Yes. Citizens preliminary estimate based upon the Company's failure to provide all legal bills produced a reduction of \$13,716. (Dismukes)

STAFF: Agree with utility.

**ISSUE 15: Should materials and supplies expenses be reduced?**

**POSITIONS**

**UTILITY:** \$1,437 should be removed. (Nixon)

**HAYES:** Agree with OPC.

**OPC:** Yes. Materials and supplies expenses should be reduced as follows:

- \$1,437 consistent with the abandonment of the Foxwood and Turtle Lakes sewer treatment facilities. These expenses are non-recurring.
- \$1,417 for the administrative and customer related materials and supplies used by Scarecrow Utilities but paid by Mad Hatter. (Dismukes)

**STAFF:** Agree with OPC.

**ISSUE 16: Should transportation expenses be reduced?**

**POSITIONS**

**UTILITY:** No.

**HAYES:** Agree with OPC.

**OPC:** Yes. Transportation expenses should be reduced as follows:

- \$4,872 for payments for the lease of Mr. Delucenay's personal vehicle.
- \$513 for the expenses related to the use of Mad Hatter vehicles by Scarecrow Utilities.

**STAFF:** No position at this time.

**ISSUE 17: Should any meal and materials expenses of Mr. Delucenay be removed from the test year?**

**POSITIONS**

**UTILITY:** No.

**HAYES:** Agree with OPC.

**OPC:** Yes: \$2,215.

**STAFF:** No position at this time.

**ISSUE 18: Should general liability insurance expense be reduced?**

**POSITIONS**

**UTILITY:** No.

**HAYES:** Agree with OPC.

**OPC:** Yes. General liability insurance should be reduced consistent with the abandonment of the Turtle Lakes and Foxwood sewer treatment facilities.

**STAFF:** Yes.

**ISSUE 19: What is the appropriate allowance for rate case expense?**

**POSITIONS**

**UTILITY:** Agree with staff. (DeLucenay)

**HAYES:** Agree with OPC.

**OPC:** The Company's requested rate case expenses are excessive.

**STAFF:** Reasonable and prudently-incurred rate case expense should be allowed.

**ISSUE 20: What are the appropriate provisions for taxes other than income tax expense?**

**POSITIONS**

**UTILITY:** No salaries or payroll taxes should be allocated to Scarecrow Utilities. (Nixon)

**HAYES:** Agree with OPC.

**OPC:** Citizens agree with the staff PAA recommendation. In addition the following adjustments are required:

- \$304 reduction of payroll taxes for the salary allocated to Scarecrow Utilities.

**STAFF:** Property taxes should be reduced to remove taxes associated with abandoned plant. Payroll taxes should be reduced to be consistent with the salaries allowance.

**ISSUE 21: What are the appropriate provisions for income tax expense?**

**POSITIONS**

**ALL:** Amounts are arithmetic calculations subject to the resolution of other issues.

**ISSUE 22: What are the test year operating incomes?**

**POSITIONS**

**ALL:** Amounts are arithmetic calculations subject to the resolution of other issues.

**REVENUE REQUIREMENT**

**ISSUE 23: What are the total revenue requirements?**

**POSITIONS**

**ALL:** Amounts are arithmetic calculations subject to the resolution of other issues.

RATES AND CHARGES

**ISSUE 24: What are the appropriate water and wastewater rates?**

POSITIONS

**ALL:** Amounts are arithmetic calculations subject to the resolution of other issues.

**ISSUE 25: What are the amounts by which rates should be reduced after the four year amortization period for rate case expense?**

POSITIONS

**ALL:** Amounts are arithmetic calculations subject to the resolution of other issues.

**ISSUE 26: Does the utility's existing CIAC levels exceed the guideline level of Rule 25-30.580, Florida Administrative Code, and, if so, should the utility's service availability policy be changed?**

POSITIONS

**UTILITY:** No position at this time.

**HAYES:** No position at this time.

**OPC:** No position at this time.

**STAFF:** The utility's reported levels of CIAC exceed the 75% maximum specified in Rule 25-30.580(1)(a). The utility should be ordered to discontinue collection of all authorized and unauthorized service availability charges, except meter installation fees.

**ISSUE 27: Should the Company be required to keep records of the effective impact fee (\$1.00 per 1,000 gallons of treated sewage) assessed by Pasco County?**

ORDER NO. PSC-92-0878-PHO-WS  
DOCKET NO. 910637-WS  
PAGE 17

POSITIONS

UTILITY: No.

HAYES: Yes.

OPC: Yes, the Company should be required to keep records of the effective impact fee assessed its customers by Pasco County.

STAFF: No position at this time.

OTHER ISSUES

**ISSUE 28: Did the utility collect unauthorized service availability charges in violation of Sections 367.081(1), 367.091(2) and (3), Florida Statutes, and, if so, how much?**

POSITIONS

UTILITY: Yes, but no position at this time as to amount.

HAYES: Agree with staff.

OPC: No position at this time.

STAFF: Yes, the utility collected unauthorized plant capacity charges, meter installation fees, and guaranteed revenue charges. No position at this time as to amount. (J. DeLucenay)

**ISSUE 29: Should the utility be ordered to refund all unauthorized service availability and guaranteed revenues charges collected, and, if so, what adjustments are appropriate?**

POSITIONS

UTILITY: No.

HAYES: Agree with staff.

OPC: Agree with staff.

STAFF: Yes. CIAC and amortization of CIAC should be adjusted accordingly. (J. DeLucenay)

ISSUE 30: Is there any reason why the utility should be fined or have its certificates revoked?

POSITIONS

UTILITY: No.

HAYES: No position at this time.

OPC: No position at this time.

STAFF: No position at this time.

VII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Nixon	Utility	N/A	MFRs
		RCN-6	Prefiled Schedule - Loss on Abandonment (Note: Schedule revised with prefiled rebuttal)
		RCN-7	Prefiled Schedule - Post Abandonment Adjustments to Rate Base and Operating Income (Note: Schedule revised with prefiled rebuttal)
Nixon	Utility	RCN-8	Prefiled Rebuttal Exhibit - Utility response to Staff Audit Report
DeLucenay	Utility	N/A	MFRs - Exhibits 2, 3, 4, and 5, filed as part of MFR's, relating to DER and HRS matters and a bulk service agreement with Pasco County.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		Exhibit No. 8	Prefiled - Mr. DeLucenay's resume.
		Exhibit No. 9	Prefiled - Consent Final Judgment with DER dated 3-16-92.
		LGD-____ (composite)	Prefiled attachments to Rebuttal testimony
Wirth	Hayes	N/A	Not prefiled - August 30, 1991, letter to Dr. Richard Garrity, Director Southwest District Office, DER, with attached Table 1, a mounding analysis conducted by SWFWMD staff.
Barrett	Hayes	N/A	Not prefiled - August 28, 1991, letter to Dr. Richard Garrity, with attached memo dated August 29, 1991, regarding Mr. Barrett's field inspection.
Dismukes	OPC	KHD-1 (composite)	Prefiled - Accounting Schedules
Stambaugh	Staff	TEM-1 (composite)	Staff Audit Reports

Parties and staff reserve the right to identify additional exhibits for the purpose of cross-examination.

VIII. PROPOSED STIPULATIONS

At the Prehearing Conference, a number of proposed stipulations were reached. These proposed stipulations are shown below and are divided into two categories: (1) those where all parties and staff agreed and (2) those where the utility and staff agreed, without Mr. Hayes or OPC participating in the stipulation or taking a position on the issue which was the substance of the stipulation.

In the former category are the following proposed stipulations:

- (1) Test year rental expenses should be reduced by \$1,800 to remove expenses for renting a backhoe.
- (2) Long-term debt should be reduced by \$297,458 to reflect the retirement of debt.
- (3) The Foxwood, Turtle Lakes, and Linda Lakes water treatment plants and water distribution systems should all be considered 100% used and useful.
- (4) Test year expenses should be reduced by \$761 to remove dues and donations.
- (5) Advertising expenses should be reduced by \$750.
- (6) Test year expenses should be reduced by \$405 to remove staff lunch and dinner expenses.
- (7) Insurance expenses should be reduced by \$126 to remove the cost of vehicle insurance related to Scarecrow Utilities' use of Mad Hatter vehicles, and insurance expenses should also be reduced by \$189 to remove a portion of the DeLucenays' health insurance costs and allocate it to Scarecrow Utilities.
- (8) The miscellaneous service charge for wastewater violation reconnections during regular business hours should allow the utility to collect actual costs. All of the utility's other miscellaneous service charges should remain unchanged.

(9) The utility did not refund deposits and pay interest in accordance with Rule 25-30.311(4), (5) and (6), Florida Administrative Code. The utility agrees to make the refunds and pay the interest that are due. Also, the utility agrees to improve its deposit records so that all future refunds and interest payments are timely.

(10) General plant should be reduced by \$806 to reflect the shared use of facilities by a related company, Scarecrow Utilities. Accumulated depreciation should be reduced by \$183, and test year depreciation should be reduced by \$149.

(11) General plant, which the utility assigned exclusively to the Foxwood water system, should be allocated among all of the utility's water and wastewater systems. The allocation should be based on the systems' number of customers: 50.10% should be allocated to the water systems and 49.90% should be allocated to the wastewater systems, with the latter amount further allocated 96.3% to the Foxwood and Turtle Lakes wastewater systems and 3.70% to the Linda Lakes wastewater system. Accumulated depreciation and depreciation expense should also be adjusted accordingly.

(12) The utility shall report to the Commission any future sales of abandoned land and shall also report any proposed rate reduction resulting therefrom.

(13) Chemical expenses should be reduced by \$485 per year to reflect the shutdown of the Foxwood and Turtle Lakes wastewater treatment plants.

(14) Sludge removal expense should be reduced by \$695 per year to reflect the shutdown of the Foxwood and Turtle Lakes wastewater treatment plants.

(15) Purchased power expense should be reduced by \$30,087 to reflect the shutdown of the Foxwood and Turtle Lakes wastewater treatment plants.

(16) Contractual accounting services should be reduced by \$27,912 to remove certain accounting fees.

(17) Requested rent expense should be reduced by \$487 to allocate a portion of rent expense to a related company, Scarecrow Utilities. The remaining \$12,902 should be shared by the utility's systems based on the number of customers in the percentages set forth in Stipulation No. 12 above.

(18) Contractual engineering services should be reduced by \$23,346 to reflect the abandonment of the Foxwood and Turtle Lakes sewer treatment facilities.

(19) Taxes other than income taxes should be reduced by \$5,571 for penalties and discounts lost.

(20) The utility should refund excess interim and emergency rates. The parties defer to the Commission as to the method for calculating the amount of the refund(s), if any.

In the latter category of proposed stipulations, are the following:

(21) The Linda Lakes wastewater treatment plant and all three of the wastewater collection systems should be considered 100% used and useful.

(22) The Foxwood wastewater treatment plant should be considered 69% used and useful prior to abandonment, and the Turtle Lakes wastewater treatment plant should be considered 66% used and useful prior to abandonment.

(23) The following adjustments should be made to remove abandoned wastewater plant: plant-in-service should be reduced by \$634,281; land should be reduced by \$83,036; accumulated depreciation should be reduced by \$125,093; CIAC should be reduced by \$46,798. In addition, amortization of CIAC, depreciation expense, and plant-held-for-future-use should be adjusted accordingly.

(24) The allowance for purchased wastewater treatment should be calculated by multiplying 1990 test year flows for the Foxwood and Turtle Lakes treatment plants by the \$4.12/thousand gallons charge now assessed the utility by Pasco County.

IX. RULINGS

As set forth below, the utility's August 17, 1992, Motion to Strike Portion of Intervenor Hayes' Prehearing Statement, as amended orally at the Prehearing Conference, is denied in part, and ruling as to the remainder is reserved until hearing. In its motion, the utility requested that the Commission strike the witness and exhibit lists in Mr. Hayes' Prehearing Statement, thereby disallowing Mr. Hayes from presenting those witnesses and exhibits, on the grounds that the witnesses' testimony and the exhibits were not prefiled as required and on the grounds that Mr. Hayes' Prehearing Statement was not timely filed.

Although Mr. Hayes' Prehearing Statement lists eight witnesses, three of the eight will be sponsored by staff, and prepared testimony for these three witnesses has already been filed. The five remaining witnesses are all employees of agencies of the State of Florida. Mr. Vinson is employed by the Game and Fish Commission; Mr. Burke and Mr. Thompson are employed by HRS, Pasco County; Mr. Wirth and Mr. Barrett are employed by SWFWMD.

Based on Mr. Hayes' assurances that these five witnesses will testify exclusively as to matters which are public record with the respective agencies involved, I think it appropriate to allow their testimony. Any testimony by these witness as to matters which are outside the public records of their agencies, as well as any testimony in the nature of expert opinion testimony, would be the subject of a proper objection at the hearing. In addition, I believe that the exhibits which these witnesses will sponsor, as shown in Mr. Hayes' Prehearing Statement, should be evaluated using the same criterion. I do not, however, think it appropriate to rule on the admissibility of these exhibits at this time. Generally, rulings as the admissibility of exhibits are made at the hearing; and, furthermore, the Commission will need to review the documents in question, which were not prefiled, in order to evaluate by the aforementioned criterion.

The utility's August 17, 1992, Motion to Extend Time for Rebuttal Testimony and to Complete Discovery is granted: The August 26, 1992, discovery cut-off date is lifted with respect to discovery sought of Mr. Hayes' five State agency witnesses, and the utility is allowed to present at the hearing testimony in rebuttal to the testimony of the same five witnesses.

It is therefore,

ORDERED by Commissioner Betty Easley, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Betty Easley, as Prehearing Officer, this 26th day of August, 1992.

  
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BETTY EASLEY, Commissioner  
and Prehearing Officer

( S E A L )

BE/MJF

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in

ORDER NO. PSC-92-0878-PHO-WS  
DOCKET NO. 910637-WS  
PAGE 25

the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.