

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for interim and ) DOCKET NO. 940109-WU  
permanent rate increase in ) ORDER NO. PSC-94-0856-PHO-WU  
Franklin County by St. George ) ISSUED: July 14, 1994  
Island Utility Company, Ltd. )  
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Pursuant to Notice, a Prehearing Conference was held on July 12, 1994, in Tallahassee, Florida, before Chairman J. Terry Deason, as Prehearing Officer.

APPEARANCES:

G. STEVEN PFEIFFER, Esquire, Apgar, Pelham, Pfeiffer & Theriaque, 909 East Park Avenue, Tallahassee, Florida 32301, and GENE D. BROWN, Esquire, 3848 Killearn Court, Tallahassee, Florida 32308  
On behalf of St. George Island Utility Company, Ltd.

HAROLD McLEAN, Associate Public Counsel, Office of the Public Counsel, c/o the Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400  
On behalf of the Citizens of The State of Florida.

BARBARA SANDERS, Esquire, 53 C Avenue, P.O. Box 157, Apalachicola, Florida 32320  
On behalf of the St. George Island Water Sewer District

ROBERT J. PIERSON and MARC S. NASH, Esquires, 101 East Gaines Street, Tallahassee, Florida 32399-0863  
On behalf of the Commission Staff.

MARYANNE HELTON, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862  
Counsel to the Commissioners.

PREHEARING ORDER

I. CASE BACKGROUND

St. George Island Utility Company, Ltd., (St. George or utility) is a Class B water utility providing service for approximately 993 water customers in Franklin County. On January 31, 1994, the utility filed an application for approval of interim and permanent rate increases pursuant to Sections 367.081 and

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367.082, Florida Statutes, and that date was designated as the official filing date. The utility's present rate of return was established in Order No. 21122, issued on April 24, 1989, in Docket No. 871177-WU. The utility's application for increased rates is based on the test year ended December 31, 1992, for both interim and final rates. In its application, St. George reported operating revenues of \$314,517 and a net operating loss of \$428,201 for the test year.

By Order No. PSC-94-0461-FOF-WU, issued April 18, 1994, the Commission suspended the Utility's proposed final rates and approved an interim rate increase, subject to refund, pending the Commission's final decision in this case. As of the date of this Order, the Utility had not implemented the approved interim rates.

On February 11, 1994, the Office of Public Counsel (OPC), on behalf of the Utility's ratepayers, served notice of its intervention in this proceeding pursuant to Section 350.0611, Florida Statutes. OPC's intervention was acknowledged by Order No. PSC-94-0291-PCO-WU, issued March 14, 1994. On April 27, 1994, the St. George Island Water Sewer District (District) petitioned to intervene in this proceeding. Its petition was granted by Order No. PSC-94-0573-PCO-WU, issued May 16, 1994.

## 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 364.183(2), 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 364.183, 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. POST-HEARING PROCEDURE

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. You must include in that statement, a summary of each position of no more than 50 words, set off with asterisks. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

IV. PREFILED TESTIMONY AND EXHIBITS

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.

V. ORDER OF WITNESSES

DIRECT

<u>Witness</u>	<u>Appearing For</u>	<u>Issues Nos.</u>
Gene D. Brown	Utility	1, 2, 5-27, 35, 40-42
Frank Seidman	Utility	1, 3-17, 19-23, 25-38
Wayne Coloney	Utility	1, 2, 12, 16, 19, 40, 41
Jeanie Drawdy	Utility	1, 2, 12
Kimberly Dismukes	OPC	2, 4-7, 9, 11-15, 17-30
Cliff McKeown	Staff	1
John A. Kintz	Staff	1, 40
Alan C. Pierce	Staff	1
James W. Abbott	Staff	1
Nancy L. Gaffney	Staff	3, 4, 6, 13, 15, 16, 25, 39

REBUTTAL

Gene D. Brown	Utility	1, 2, 5-27, 35, 40-42
Frank Seidman	Utility	1, 3-17, 19-23, 25-38
Sandra Chase	Utility	13, 19, 21, 24, 25, 35
Hank Garrett	Utility	1, 14, 15, 19, 21, 25
Wayne Coloney	Utility	1, 2, 12, 16, 19, 40, 41
Barbara Withers	Utility	17, 39
Steve Baltzley	Utility	1, 23, 27, 41
Ted Bidy	Utility	1, 40, 41

VI. BASIC POSITIONS

UTILITY: The Utility is seeking a rate increase arising from the facts that, as adjusted for the test year, ended December 31, 1992, the Utility has been operating at a net loss in its water operations, and that in order to meet the needs of its customers, the Utility desires to implement programs to ensure continued provision of good quality service. St. George proposes to increase its water revenues in order to meet customer needs and in order to produce a reasonable rate of return on its rate base.

OPC: For a variety of reasons set forth in the testimony of the Citizens, the rates proposed by the utility are excessive. The case presented by St. George fails to sustain the company's burden of proof in that it fails to show that the rates currently charged are unreasonable.

The Utility's application reflects numerous pro forma adjustment representing expenses which were identified in contemplation of this rate application and are of doubtful validity. The necessity for these adjustments is seriously impeached by their omission from the immediately preceding, dismissed rate case and by comparison with the expenses incurred by other Class B utilities regulated by this Commission.

St. George has the ultimate burden of persuasion in this application. Yet it brings to this proceeding estimates and guesses in lieu of records which the Utility should have maintained. Whether the issue is the original cost of the plant, or employees' travel allowances, the commission should resolve doubt against the party who could have prevented it. It is the utility's burden to bring substantial, competent evidence to the Commission. To the contrary, the Utility's case is founded upon unsubstantiated estimates.

DISTRICT: The current rate should be rolled back to reflect the actual cost of the utility, and the other provisions of Section 367.081, Florida Statutes, should be followed.

STAFF: A review of St. George's application, its minimum filing requirements, the audit report, and information provided in response to discovery requests seems to indicate that St. George is entitled to some level, as yet undetermined, of a rate increase.

VII. ISSUES AND POSITIONS

QUALITY OF SERVICE

ISSUE 1: Is the quality of service provided by St. George Island Utility Co., Ltd. satisfactory?

POSITIONS:

Utility: Yes. (Brown, Seidman, Coloney, Garrett, Biddy, Baltzley)

OPC: The customers of the utility are uniquely situated to know the quality of water service provided by the Utility. The Citizens will rely upon the live testimony of the customers in order to form a position on this issue.

District: Agree with OPC.

Staff: No position at this time pending testimony to be provided at the hearing.

RATE BASE

ISSUE 2: Has St. George accurately stated the original cost of the water system?

POSITIONS:

Utility: Yes. (Brown, Seidman, Coloney)

OPC: No. Because the Utility for whatever reason either cannot or will not present the Commission with original documentation as to original cost, the Commission must look to other evidence to indicate, as best it can, the original cost of the water system. Although the Commission in the last rate case relied on an original cost study commissioned by the Utility for purposes of a rate case, there is much earlier documentation available to the Commission of greater reliability than the Utility's original cost study. Where St. George's failure to maintain proper records introduces ambiguity into the regulatory process, the Commission should construe the ambiguity against it. This is particularly true where, as here, the Utility has the ultimate burden of proof to show that its current rates are unreasonable. In the last rate case, the Commission enunciated its reservation as to the original cost study for good

reason. The Commission offered to address the issue again if evidence were produced suggesting that its analysis was incorrect. That evidence having been here produced, plant in service should be reduced by \$795,557. Accumulated depreciation should also be correspondingly reduced by \$150,518, resulting in a net reduction to rate base of \$645,038. Further, test year depreciation expense should be reduced by \$21,480. (Dismukes)

District: When the Commission established rates in 1989, the Utility could not locate its records. Consequently, the Commission did the best it could to determine the original cost, and used the estimate of the Internal Revenue Service, which also presumably did not have any records to substantiate the cost. Now that the 1978 appraisal by William Bishop has been located, the Commission does not have to guess what the Utility's investment is in property used and useful in the public service. Based upon the original cost data, the Commission should roll back the rates, and establish the rates based upon the actual cost and the criteria in Section 367.081, Florida Statutes.

Staff: No position at this time.

ISSUE 3: Should the utility's pro forma adjustment of \$21,000 for engineering design fees, as stated in Audit Exception No. 14, be removed?

POSITIONS:

Utility: No. St. George has provided documentation in its response to Audit Exception No. 9. The Coloney Company fees are not a duplication of expenses and have never been capitalized or expensed. (Seidman)

OPC: Agree with Staff.

District: Agree with Staff.

Staff: Yes. (Gaffney)



ISSUE 4: Should plant in service be reduced by \$1,295 for leasehold improvements?

POSITIONS:

Utility: Leasehold improvements should be allowed, inasmuch as they relate to utility use. The correct adjustment would be a reduction of \$647. (Seidman)

OPC: Agree with Staff.

District: Agree with Staff.

Staff: Yes. (Gaffney)

ISSUE 5: Is an adjustment necessary to reflect the use of office furniture and equipment by utility affiliates?

POSITIONS:

Utility: No. (Brown, Seidman)

OPC: Yes. As is more thoroughly discussed under net operating income, 10% of a number of expenses should be allocated to affiliates of St. George. Similarly, 10% of the investment in certain office equipment should be allocated to non-utility affiliates as well, resulting in a reduction of \$1,026 to general plant. Accumulated depreciation should also be correspondingly reduced by \$80. Further, test year depreciation expense should be decreased by \$68. (Dismukes)

District: Agree with OPC.

Staff: Yes.

ISSUE 6: Should adjustments be made to plant and contributions in aid of construction (CIAC)?

POSITIONS:

Utility: This adjustment will be appropriate when the Utility receives bills of sale for the contributed properties, and the transactions should, at that time, be recorded on the Utility's books. (Brown, Seidman)

OPC: If the Commission does not accept adjustments to the test year based upon 1993 expenses, revenues, and investment,

\$65,000 in CIAC from St. George Island Homeowners Association should be removed from rate base. In addition, \$44,400 received in 1991, but not booked until 1993 should be removed from the 1992 test year rate base. (Dismukes)

District: Agree with OPC.

Staff: Yes. An adjustment should be made to increase CIAC by \$45,600 to impute the full amount of CIAC for 30 lots not recorded at the required charge according to Audit Exception No. 17. Any unrecorded contributions should be included on the utility's books.

ISSUE 7: Does the utility's case in chief present an appropriate matching of rate base, on the one hand, with revenues and expenses, on the other?

POSITIONS:

Utility: Yes. (Brown, Seidman)

OPC: No. As is more thoroughly discussed under net operating income, the Utility's filing includes many adjustments to the test year (1992) reflecting expenses of 1993. In an issue under NOI, the Citizens recommend adjustments which reflect additional changes in 1993 in both revenue and expenses. If the Commission accepts the Utility's and the Citizens' adjustments to expenses and revenue, then it would adjust the rate base to 1993 level as well. 1993 included additions to rate base due to increased number of customers. However, additional contributions in aid of construction were also received in 1993 such that a negative adjustment to rate base of \$190,062 is appropriate. The reduction to depreciation expense occasioned by negative \$190,062 adjustment to rate base is recommended in an NOI issue. (Dismukes)

District: Agree with OPC.

Staff: No position at this time.

ISSUE 8: What is the appropriate level of test year rate base?

POSITIONS:

Utility: The final amount is subject to the resolution of other issues. (Seidman)

OPC: The final amount is subject to the resolution of other issues.

District: The final amount is subject to the resolution of other issues.

Staff: The final amount is subject to the resolution of other issues.

COST OF CAPITAL

ISSUE 9: What capital structure should be used for ratemaking purposes?

POSITIONS:

Utility: The resolution of this issue depends upon the resolution of other issues. (Seidman)

OPC: Two adjustments to capital structure are appropriate:

The advertising judgment

A judgment owned by Ms. Melton, Mr. Brown's late mother, of Leisure Properties, Inc. to an advertising agency, was exchanged by the utility for an alleged debt of the utility to Ms. Melton. The Utility's debt to Leisure is unsupported by any note or other evidence of indebtedness and it is unclear how the activities of Leisure Properties with its ad agency affects utility business. The debt with an unpaid balance of \$85,865 should be removed from the utility's capital structure.

Short term debt

St. George has retired several components of short term debt since the test year. Only that short term debt in existence should be reflected in the test year.

The effect of these adjustments is shown in schedule 25 of the Citizens testimony. (Dismukes)

District: Agree with OPC.

Staff: No position at this time.

ISSUE 10: What is the weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure used for ratemaking purposes?

POSITIONS:

Utility: The resolution of this issue depends upon the resolution of other issues. (Seidman)

OPC: The appropriate overall cost of capital is 8.07%.

District: This is a fall-out issue.

Staff: This is a fall-out issue.

OPERATING INCOME

ISSUE 11: Should the numerous pro forma adjustments to the test year in this case be contrasted with those requested in the immediately prior, dismissed rate case?

POSITIONS:

Utility: No. (Brown, Seidman)

OPC: Yes. That a number of pro forma adjustments arose over the space of only a few months goes directly to the credibility of the adjustments themselves. Where the adjustments vary one case to the next the Commission cannot conclude that the company observed the same standard of candor and accuracy in both cases. The Commission is free to conclude that the pro forma adjustments of the later filing flow not from known and ascertainable changes, but from an attempt to capture expenses which are either unnecessary or unlikely or both. (Dismukes)

District: Agree with OPC.

Staff: No position at this time.

ISSUE 12: Are the expenses claimed by St. George comparable to those experienced by other Class B water utilities under Commission jurisdiction and, if not, are any adjustments appropriate?

POSITIONS:

Utility: This is an inappropriate issue. (Brown, Seidman, Coloney)

OPC: No. The Utility's expenses are alarmingly higher than those of other Class B water utilities under commission jurisdiction. O&M expenses of St. George, stated on a per ERC basis are more than twice as high as Jasmine Lakes Corporation; almost three time higher than Mad Hatter Utility, Inc., both of which were recently reviewed for reasonableness. While there may be some dissimilarity between St. George and these utilities, there is no dissimilarity which would explain the disparity of O&M expenses in this order of magnitude. this Utility's expenses are uniformly higher than other Class B utilities. St. George's filing is silent as to why its O&M expenses should substantially surpass all other Class B utilities. The Commission should view the Utility's O&M expense with heightened scrutiny where its expenses are well beyond those experienced by other Class B utilities. (Dismukes)

District: Agree with OPC.

Staff: No position at this time.

ISSUE 13: Should test year expenses be adjusted to reflect an additional allocation of expenses to utility affiliates?

POSITIONS:

Utility: No. (Brown, Seidman, Chase)

OPC: Yes. At least eight affiliates operate from the same address and the same offices as the utility. Despite the inherent difficulty in the allocation of expenses, the utility is virtually devoid of time records, fax logs, copy logs, written rent agreements, or any other rational basis upon which to base any allocation. Because of the lack of records, the Commission (and intervenors) are left to infer from what evidence they can find the extent to which utility resources are shared with the

affiliates. While the Utility invites the Commission to assume that resources are dedicated exclusively to utility proposes, the Citizens believe the better practice is to resolve doubt against the party who brings doubt to the process. There is no justification for the lack of time records, phone records, and written arrangements between the utility and its affiliates generally, and Mr. Brown specially.

The Citizens recommend that an allocation of 10% of most common costs to Mr. Brown's affiliated companies is appropriate with two exceptions: Ms. Chase's (the office manager for Mr. Browns law practice and the utility and other affiliates) should be allocated 25% to non-utility affiliates and 50% of the office rent should be allocated to non-utility affiliates.

In all, \$10,355 in expenses should be allocated to non-utility affiliates. In addition to \$332 which represents the appropriate share of payroll taxes based upon allocated salaries. (Dismukes)

District: Agree with OPC.

Staff: Yes, office rent should be reduced by \$3,600, as per Audit Disclosure No. 10. (Gaffney)

ISSUE 14: Should employee salaries and wages be reduced?

POSITIONS:

Utility: No. Maintaining fair compensation for the Utility's employees is vital to maintaining consistency in the Utility's operations. (Brown, Seidman, Garrett)

OPC: Yes. In December of 1993, employees of St. George received an average wage increase of 26%. These raises were granted to the utility employees as this rate case was being prepared. The Citizens believe that the raises were driven not by economic conditions in the employment market and note that the Commission has voted in two recent water and wastewater cases to limit the level of pay increases to less than 5%. The Utility's application also includes an adjustment for a full time employee (a second field assistant) who was hired long after the test year and who has worked only part time during 1994. The Citizens recommend that this employee be included as part time such that these two adjustments taken together

result in an adjustment to wages and salaries of \$23,906.  
(Dismukes)

District: Some salaries and wages should be reduced.

Staff: If the utility proves that the second field assistant is actually working full-time, the expense should be allowed.

ISSUE 15: Should pension and benefits be reduced?

POSITIONS:

Utility: No. Operational problems that the utility has experienced in the past have in many instances been a direct result of losing good employees to better paying jobs. Establishing a pension program is both fair to the employees and will serve as a significant inducement to keep them working with the utility. St. George has a funded pension plan in place. (Brown, Seidman, Garrett)

OPC: Yes. Health benefits (\$300 cash per month) are requested by the Utility for all employees of the utility and for Mr. Brown. Mr. Brown is not an employee of the utility-- he is the employee of Armada Bay Company to which the utility pays \$48,000/yr for management services. Because it is unusual for a utility of this size to pay health benefits to hourly and part-time employees, the utility should incur health benefits only for its four full time, salaried employees. For Ms. Chase, however, because her time is allocated 25% to non-utility affiliates, her health benefits should be similarly allocated.

A pension benefit for all employees is also sought. The pension was established, if at all, effective in January of 1994. This plan is suspect for several reasons detailed in the Citizens' testimony. In sum, it appears to have been fashioned in contemplation of this rate application, it includes no requirement that St. George continue whatever program there is, (it is in fact contingent on specific approval in this application) and finally, if it were seriously undertaken, it might have been explained to employees such that they could remember its substance.

\$16,956 of this pro forma adjustment to test year should be rejected. (Dismukes)

District: Agree with OPC.

Staff: Yes, as suggested in Audit Disclosure No. 4, health benefits should be reduced by \$900. Also, the company's proposed pension expense should be disallowed due to the lack of a pension plan based on an external trust fund.

ISSUE 16: Should an adjustment be made to reduce engineering contractual services by \$1,959 as suggested in Audit Disclosure No. 6?

POSITIONS:

Utility: No. The Utility's retainer payment relationship with Wayne Coloney offers substantial benefits to St. George at a cost that is less than would result from employing the services on an as-needed basis. (Brown, Seidman, Coloney)

OPC: Agree with Staff.

District: Agree with Staff.

Staff: Yes. The utility included a pro forma adjustment to its contractual services-engineering on the basis that it now retains Mr. Wayne Coloney for \$500 per month. Staff believes that the actual test year expenses less the interest paid to Baskerville-Donovan for a past due balance is reasonable for contractual services-engineering. (Gaffney)

ISSUE 17: Should any adjustment be made to contractual services-accounting?

POSITIONS:

Utility: No. (Brown, Seidman, Withers)

OPC: Yes. The Utility has included in its application a \$6,000/yr retainer for tax accountant Barbara Withers. She is, according to St. George, to be consulted for tax advice and complicated or more sophisticated accounting matters. Ms. Withers was allegedly retained by the Utility in January of 1993, however the retainer was prepared in February of 1994. Despite Ms. Withers association with Mr. Brown's interest since the 1970's, her services were not required or used by the Utility during 1992 (the test year) or 1993. The need for Ms.



Withers' services is dubious at best: it lacks the certainty required by the Commission to support pro forma adjustments. (Dismukes)

This \$6,000 pro forma adjustment to test year should be rejected.

District: Agree with OPC.

Staff: No position at this time.

ISSUE 18: Should an adjustment be made to reduce legal contractual services?

POSITIONS:

Utility: No. The availability of legal services on an on going basis is a valuable service for the utility, and is less expensive than employing counsel at hourly rates on an as needed basis. On account of improved management of the company, and the likelihood of reduced need for on going legal service, St. George agrees to reduce its legal fees to \$1,000 per month. (Brown)

OPC: Yes. Mr. Brown's dual role as utility manager (through Armada Bay Company) and legal advisor add complexity to any rational analysis of the necessity for his services and at any given time, in what capacity he is acting. Vastly complicating this situation is the total lack of contemporaneous record of these matters. It is literally impossible to determine whether as a given time Mr. Brown was pursuing valid utility purposes or defending the utility for failing to observe lawful government regulation.

It will also be seen that St. George is an unusually litigious utility, always ensnared in disputes with regulatory agencies, not the least of which is this Commission. This Commission has never compelled customers to pay for utility management's recalcitrance, procrastination, and violation of law. Intermingled in St. George's litigation are the services of several outside law firms, the nature and necessity of their services unclear.

In addition, the Utility does not favor the Commission with time records to which the Commission could look to justify the unusually high legal expenses of \$24,000.

The Citizens recommend the Commission look to other Class B utilities for a measure of reasonableness. Such a comparison yields an average of \$3 per customer per year, which would yield a legal expense of \$3,141 per year for the Utility. Consequently, an adjustment of \$21,000 is appropriate. (Dismukes)

District: Agree with OPC.

Staff: Yes, if it is found that these services are not necessary for the day to day operations of the utility.

ISSUE 19: Should an adjustment be made to reduce management fees?

POSITIONS:

Utility: No, except as set forth in St. George's rebuttal testimony. The Utility needs to ensure that an allocation for management is maintained at a sufficient level to ensure that a qualified manager can be employed and kept. The Utility will offer testimony regarding the appropriate level of compensation. (Brown, Seidman, Chase, Coloney, Garrett)

OPC: Yes. Mr. Brown serves several functions on behalf of the utility, but the evidence will show that the functions are inextricably co-mingled with each other. Because time records for the test year are non-existent, because all time records extant at this time are recently compiled in contemplation of this rate case, and because no records of alleged utility related travel are maintained, it is not possible to tell what efforts are expended by Mr. Brown on utility business and which of those efforts are related to legal or non-legal functions.

Despite Mr. Brown's being in the best position to maintain and furnish to the Commission contemporaneous accounts of his time and expenses, he has, until quite recently, declined to do so. So failing, the Utility, through Mr. Brown, now invites the Commission to rely upon his recollection. (Dismukes)

District: Agree with OPC.

Staff: Yes, if it is found that the quality of the management services are unsatisfactory, the fees should be reduced.

ISSUE 20: Should any adjustment be made to contractual services-other?

POSITIONS:

Utility: St. George will offer adequate support for the pro forma adjustment. (Brown, Seidman)

OPC: Yes. As detailed in the Citizens' testimony, the majority of these expenses have never been incurred. Moreover, a significant portion of the proposed expenses are occasioned by neglect of utility assets which now need more than maintenance--they need rehabilitation. Neglect leading to rehabilitation brings about costs which are not prudently incurred in the provision of service and ought not be borne by customers.

The Citizens' testimony shows several other matters of concern. This \$70,011 pro forma adjustment to test year for contractual services - other should be rejected.

To the extent that any of these proposed expenses are included in the rates customers will pay, the Citizens recommend that each be placed in escrow, that an agent beyond the control of St. George be appointed, and that the condition of escrow be verified by a designated commission staff employee acceptable to the Citizens. (Dismukes)

District: Agree with OPC.

Staff: Yes. The utility's pro forma adjustment to contractual services-other for storage tank maintenance, pipe cleaning, testing, and uniforms should be removed if the utility cannot provide adequate support for the requested amounts.

ISSUE 21: Should transportation expenses be reduced?

POSITIONS:

Utility: No. While the utility has not maintained travel logs, it is not aware of any rule or policy that require the keeping of such logs. The travel allowance is a fair means for compensating employees for travel in a manner than minimizes paper work and does not result in more money being paid for travel than actually occurs. The system is less expensive than purchasing vehicles. The

utility will produce travel logs for some employees as requested at the hearing to substantiate its travel allowances. (Brown, Seidman, Chase, Garrett)

OPC: St. George owns no vehicles, thus the pro forma transportation represents cash paid to employees and to Mr. Brown. Neither Mr. Brown nor any of the employees who receive a travel allowance are required to document what travel takes places on behalf of their employer. No travel records are maintained either by the employees or by the utility.

Because the Utility maintains no records, the Commission (and intervenors) are once again invited to rely on far less certain supposition, recollection, and the like for evidence.

Were the Commission to utilize the same standards it applies to its own employees where they seek reimbursement for use of their private vehicles, the entire proforma adjustment of \$15,600 would be rejected. However, it is reasonable to assume that the employees stationed on the island (Mr. Garrett and Mr. Shiver) must travel in association with their work. While assumption is a very poor substitute for evidence, the Citizens recommend that half of their requested travel allowance be added to the test year. This would permit the utility to recover for 20,000 miles travel per year at 20 cents per mile.

Consequently, \$11,700 of the pro forma adjustment to test year for transportation expenses should be rejected. (Dismukes)

District: Agree with OPC.

Staff: Yes, the transportation expenses requested for the office personnel should be disallowed since no travel logs could be provided. For the field personnel, the travel logs since May 18, 1994 will be produced at hearing and this evidence will need to be reviewed.

ISSUE 22: Should an adjustment be made to reduce insurance expense?

POSITIONS:

Utility: No. The utility does have policies in effect, and has received various price quotes to secure a fair price.  
(Brown)

OPC: Yes. The Utility is seeking a pro forma adjustment of \$36,502 for general liability, workman's compensation, and property insurance. The adjustment arises from the Utility's having obtained one bid from one agent. The utility has apparently never had most of this coverage in the past, and certainly did not have it in the test year or since. The necessity for insurance is questionable were the utility is judgment proof. The entire \$36,502 pro forma adjustment to test year should be rejected.  
(Dismukes)

District: Agree with OPC.

Staff: Yes, since the policies are not in effect and no signed contracts have been provided, an adjustment should be made.

ISSUE 23: Is St. George's level of unaccounted for water excessive, and if so, should an adjustment be made to the chemical and purchased power expenses?

POSITIONS:

Utility: No. (Brown, Seidman, Baltzley)

OPC: Yes. During the test year the utility experienced 15.27% unaccounted for water. St. George now only experiences 2% unaccounted for water, but the chemicals and purchased power associated with the difference between 2% and 15.27% improperly remain in the test year. In addition, the company had three overflows which caused the loss of 435,000 gallons, in addition to losses by way of unaccounted for water. Likewise, the chemical and purchased power associated with this 435,000 gallons should not go in the test year since the cause of the loss is now corrected. These items necessitate an adjustment to chemical expenses of \$538 and to purchased power by \$2,888. (Dismukes)

District: Agree with OPC.

Staff: No.

ISSUE 24: Should any adjustment be made to bad debt expense?

POSITIONS:

Utility: No. The expense reflects reality. Because of the fact that many of the Utility's customers are transitory residents who may have water service for only a few weeks or a few months, it suffers higher than usual unpaid water bills. St. George is not able to recoup these debts when new customers move in. (Brown, Chase)

OPC: Yes. The support for this expense was confusing. No one at the utility was able to explain the document. The document does nothing to support the requested \$6,276. As with other adjustments, it is reasonable to look to other Class B utilities. Such a comparison yields an average approximately one-fourth of the amount requested.

Thus \$4,707 of the pro forma adjustment to test year for bad debt expense should be rejected. (Dismukes)

District: Agree with OPC.

Staff: Yes, bad debt expense should be decreased by \$4,707

ISSUE 25: Should miscellaneous expenses be reduced?

POSITIONS:

Utility: No. The cellular telephone is an important communication tool that enables St. George to service its customers better. The corporate filing is for a corporate owner of St. George. St. George is a partnership. Because the Utility does not operate as a corporation customers are saved corporate income taxes and other costs of doing business as a corporation. The corporate structure of the partners is a necessary feature of St. George doing business in a manner that saves its customers money. (Brown, Seidman, Chase, Garrett)

OPC: Yes. Included in this issue are four items: Mr. Brown's cell phone; corporate filing fees of a non-utility affiliate, which is a corporate partner of the general partnership which is the utility; certain items from the staff audit which are non recurring or non utility; and fourth, non utility and non-recurring telephone charges.

\$6,831 of the pro forma adjustment to test year for miscellaneous expense should be rejected. (Dismukes)

District: Agree with OPC.

Staff: Yes, per Audit Disclosure No. 13, the cellular phone in the name of Sandra Chase for \$1,376 and corporate filing fees for other associated companies of \$576 should be removed. (Gaffney)

ISSUE 26: What is the appropriate amount of rate case expense?

POSITIONS:

Utility: St. George contends that its estimates regarding rate case expense are reasonable and relate only to prudently incurred expenses. A detailed accounting of rate case expenses will be provided. (Brown, Seidman)

OPC: Adjustments are necessary in several categories.

Citizens Direct Testimony

The detail to an adjustment to amortized rate case expenses of \$13,950 is included in the Citizens' direct testimony.

The Dr. Ben Johnson Deposition

The deposition of Dr. Johnson was unnecessary, and irrelevant to this rate proceeding. The rare questions which touched upon this proceeding could have been answered more accurately by Kim Dismukes who will be a witness in the proceeding. The "deposition" was an expensive argument between Mr. Brown and Dr. Johnson concerning their historical and continuing feud regarding Dr. Johnson's attempts to obtain service from the Utility.

None of the costs of the deposition are as yet known to the Citizens so the precise adjustment to rate case expense is unknown at this time.

Discovery compliance

A significant portion of rate case expense was incurred because of the Utility's disregard--if not contempt--for the provisions of discovery employed by the Florida Rules of Civil Procedure and the rules of this Commission. Compliance with, rather than steadfast resistance to, reasonable discovery is the reasonable and prudent course

to take for any regulated utility. Had utility management reasonably and prudently complied with discovery provisions, much less rate case would have been incurred. Rate case expense occasioned by the Utility's resistance to discovery should be rejected as unreasonably incurred.

Duplicative Legal Services

In the person of Gene Brown and Steven Pfeiffer, the Utility has obtained the services of two seasoned members of the Florida Bar. The services of either one would have been adequate, particularly as to attendance at depositions. (Dismukes)

District: Agree with OPC.

Staff: No position at this time. However, only prudently incurred rate case expense should be allowed.

ISSUE 27: Should an adjustment be made to amortization expenses for the system analysis, aerator analysis, hydrological study, and fire protection studies?

POSITIONS:

Utility: No. The utility will provide documentation regarding the system analysis, the aerator analysis, and the hydrological study. The fire protection study is a prudent means for addressing the nature of improvements that would be needed to provide full fire protection so that the Utility's customers can make an informed decision as to whether they wish to pay for that service. (Brown, Seidman, Baltzley)

OPC: Yes. Four adjustments are necessary.

System analysis

This item relates to a revised system analysis allegedly required by the DEP. However, DEP correspondence to St. George indicates that what they want is an update. The Utility has sought no bid for the update and in the absence of a bid, assumes that the update will cost as much as the original. In short, there is no basis for the utility assumption that the update will recur every two years. Citizens recommend that this expense be amortized over 5 years. Accordingly, this pro forma adjustment to test year expenses should be reduced by \$9,511.



Aerator analysis

The original aerator analysis was apparently deficient. Ratepayers should not be required to pay for the cost to correct these deficiencies. In addition, the company has provided no support for a 2 year amortization period. Accordingly, this pro forma adjustment to test year expense should be reduced by \$3,234.

Hydrological study

The utility estimated the cost of this study as it must where it has not obtained any bid from any engineering firm. The study is allegedly required by the water management district as a prerequisite to an enlargement of the Utility's consumptive use permit. It is interesting to note that the Utility once had a CUP which authorized greater use than that now sought. Since the need for the study is questionable, since it might have been avoided, and there is no documentation for the cost of the study, all of this \$9,000 pro forma adjustment to test year expenses should be rejected.

Fire protection study

The \$6,000 cost for the fire protection is an estimate devoid of any substantiation. None of it should be added to the test year. (Dismukes)

District: Agree with OPC.

Staff: Yes. The amortization period for the system and aerator analyses should be five years instead of the requested two years. The expense for the hydrological study should be allowed only if the utility provides documentation which supports the requested amount. The fire protection study expense should be removed. Instead of spending money for a study which will not provide any additional fire fighting capacity. The issue of additional capacity is addressed under Issue 58.

ISSUE 28: Should an adjustment be made to taxes other than income?

POSITIONS:

Utility: This issue will be determined based upon resolution of other issues. (Seidman)

OPC: Taxes other than income should be increased by \$403. (Dismukes)

District: Agree with Staff.

Staff: This is a fall-out issue and the final amount is subject to the resolution of other issues.

ISSUE 29: Should test year expenses be adjusted to eliminate the cost of maintaining the old generator?

POSITIONS:

Utility: No. (Seidman)

OPC: Yes. The Company's filing includes a new generator in rate base. The repair cost for the old generator is non-recurring. Moreover, it is questionable as to whether the expense of maintaining the old generator was prudent given the eminent purchase of a new generator. \$2,665 should be removed from test year. (Dismukes)

District: Agree with OPC.

Staff: No.

ISSUE 30: Does the utility's case in chief present an appropriate matching of revenues and expenses?

POSITIONS:

Utility: Yes. (Seidman)

OPC: No. St. George's case is based upon a 1992 test year; yet the Commission is urged by the Utility to consider a number of 1993 (and in some cases, 1994) expenses as pro forma adjustments to the test year. While the test year ought to be adjusted for known and ascertainable change in expenses as the Utility urges, it ought to be adjusted for known and ascertainable change in revenue and investment as well. The Citizens recommend adjustments to test year revenue and expenses as follows:

- a. a \$35,094 increase to revenue to recognize 1993 revenue;
- b. a \$3,365 increase to expenses to recognize 1993 expenses not already recognized in the Utility's filing. (A test year adjustment to recognize change in investment is reflected in the section dealing with rate base.)

- c. a \$9,801 negative adjustment to depreciation expense based upon investment. (Dismukes)

District: Agree with OPC.

Staff: No position at this time.

ISSUE 31: What is the appropriate level of test year operating income?

POSITIONS:

Utility: The test year revenues shown on St. George's MFRs, as adjusted. (Seidman)

OPC: Fall-out issue.

District: Fall-out issue.

Staff: The final amount is subject to the resolution of other issues.

REVENUE REQUIREMENT

ISSUE 32: What is the total revenue requirement?

POSITIONS:

Utility: The revenue requirement depicted in the MFRs, as adjusted. (Seidman)

OPC: Fall-out issue.

District: No position.

Staff: The final amount is subject to the resolution of other issues.

RATES AND CHARGES

ISSUE 33: What are the appropriate rates and charges and their effective dates?

POSITIONS:

Utility: This issue will be determined based upon resolution of other issues. (Seidman)

OPC: No position.

District: Agree with Staff.

Staff: The appropriate rates will be determined after the resolution of other issues.

ISSUE 34: Should the utility's service availability policy and charges be revised?

POSITIONS:

Utility: The Utility contends that the service availability policy should not be revised; however, whether any revision is needed would be determined based upon resolution of other issues. (Seidman)

OPC: No position.

District: Agree with Staff.

Staff: Pending the resolution of other rate base and CIAC issues, the service availability charges should be reviewed to determine any necessary revisions.

ISSUE 35: Should the utility's service availability charges be escrowed?

POSITIONS:

Utility: No. (Brown, Seidman, Chase)

OPC: Yes.

District: Yes.

Staff: Yes.

ISSUE 36: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense?

POSITIONS:

Utility: This issue will be determined based upon resolution of other issues. (Seidman)

OPC: Fall-out issue.

District: Fall-out issue.

Staff: The appropriate amount by which rates should be reduced four years after the established effective date is determined after the resolution of other issues.

ISSUE 37: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

POSITIONS:

Utility: No refund is warranted. To the extent that any refund could be warranted, the issue will be determined based upon resolution of other issues. (Seidman)

OPC: Agree with Staff.

District: Agree with Staff.

Staff: If final rates are lower than interim rates, any revenues collected under interim rates in excess of those that would have been generated under the final approved rates should be refunded with interest.

ISSUE 38: Should the utility's AFPI charge be adjusted?

POSITIONS:

Utility: This issue will be determined base upon resolution of other issues. (Seidman)

OPC: Agree with Staff.

District: Agree with Staff.

Staff: The final amount is subject to the resolution of other issues.

OTHER ISSUES

ISSUE 39: Does the utility keep its books and records in substantial compliance with the Commission's Rules and Regulations and, if not, should it be penalized?

POSITIONS:

Utility: As determined in the Audit, St. George keeps its books and records in compliance with Commission rules and regulations and accepted accounting principles. (Withers)

OPC: No position at this time.

District: No, the Utility does not maintain its books in compliance with Commission requirements. Yes, the Utility should be penalized.

Staff: No. The utility should be required to keep its books and records in accordance with the Commission's Rules and Regulations. If a penalty is to be applied, since the utility has no equity, the only methods available would be to reduce the Utility's management fees or the allowed rate case expense.

ISSUE 40: What is the number of ERCs that the utility is currently serving and what is the maximum number of ERCs that the utility is capable of serving while maintaining compliance with the regulatory agencies?

POSITIONS:

Utility: St. George will maintain capacity to serve anticipated growth. (Brown, Coloney, Bidy)

OPC: No position.

District: No position at this time.

Staff: The utility was serving 1,027 ERCs in May 1993. The maximum number of ERCs that the utility is capable of serving is 1,346 ERCs, as long as the current Northwest Florida Water Management District's restriction to 700,000 gpd withdrawal from the aquifer remains in effect and where an ERC is defined as 520 gpd. This maximum number is derived with well number 3 on-line and DS19-222055 permitted improvements in place. (Kintz)

ISSUE 41: Is additional capacity required of the utility, and if so, what specific actions, if any, are necessary in order to achieve additional capacity?

POSITIONS:

Utility: Additional capacity and actions needed to meet it will be determined by engineering analysis. (Brown, Coloney, Biddy, Baltzley)

OPC: No position.

District: Agree with Staff.

Staff: Yes; however, staff does not have a position at this time as to what specific actions, if any, are needed.

ISSUE 42: Does the utility own the third well property and its improvements?

POSITIONS:

Utility: Yes. (Brown)

OPC: No position.

District: No position.

Staff: No position, but the utility should provide proof that the property is in its name.

VIII. EXHIBIT LIST

DIRECT

<u>Sponsor</u>	<u>For</u>	<u>Exhibit No.</u>	<u>Description</u>
Seidman	Utility	FS-1 (Composite)	MFRs
Seidman	Utility	FS-2	Utility response to Audit
Brown	Utility	GDB-1 (Composite)	Engineering contractual services documents incl. system analyses

<u>Sponsor</u>	<u>For</u>	<u>Exhibit No.</u>	<u>Description</u>
Brown	Utility	GDB-2 (Composite)	Documents supporting Utility pension plan
Brown	Utility	GDB-3 (Composite)	Documents supporting Utility insurance policies
Coloney	Utility	WHC-1	Professional Resume
Coloney	Utility	WHC-2	Who's Who Entry
Dismukes	OPC	KHD-1	Comparison of prior case to present
Dismukes	OPC	KHD-2	Comparison of prior and present case - O&M expenses
Dismukes	OPC	KHD-3	Comparison of O&M expenses - St. George and other utilities
Dismukes	OPC	KHD-4	Comparison of O&M expenses per customer for Class B utilities
Dismukes	OPC	KHD-5	A f f i l i a t e transactions adjustments
Dismukes	OPC	KHD-6	Growth adjustments
Dismukes	OPC	KHD-7	Salary adjustments
Dismukes	OPC	KHD-8	Adjustments to Contractual services - Legal
Dismukes	OPC	KHD-9	Adjustments to pensions and benefits
<u>Sponsor</u>	<u>For</u>	<u>Exhibit No.</u>	<u>Description</u>



Dismukes	OPC	KHD-10	Adjustments to Contractual services - Accounting
Dismukes	OPC	KHD-11	Adjustments to Contractual services - Other
Dismukes	OPC	KHD-12	Adjustments to insurance expense
Dismukes	OPC	KHD-13	Adjustments to transportation expense
Dismukes	OPC	KHD-14	Adjustments to bad debt expense
Dismukes	OPC	KHD-15	Adjustments to miscellaneous expense
Dismukes	OPC	KHD-16	Adjustments to amortization expense
Dismukes	OPC	KHD-17	Unaccounted-for water adjustments
Dismukes	OPC	KHD-18	Rate case expense adjustments
Dismukes	OPC	KHD-19	Adjustment to generator maintenance expense
Dismukes	OPC	KHD-20	Adjustments to taxes other than income
Dismukes	OPC	KHD-21	Original cost calculations
Dismukes	OPC	KHD-22	1978 Engineering Study
Dismukes	OPC	KHD-23	CIAC adjustments
<u>Sponsor</u>	<u>For</u>	<u>Exhibit No.</u>	<u>Description</u>

Dismukes	OPC	KHD-24	Utility capital structure
Dismukes	OPC	KHD-25	Summary of recommended adjustments
Dismukes	OPC	KHD-26	Recommended rate base
Dismukes	OPC	KHD-27	Recommended NOI
McKeown	Staff	CM-1	System pressure graphs
McKeown	Staff	CM-2	DEP Permit DS19-222055
McKeown	Staff	CM-3	12/22/93 letter from G. Brown to DEP
McKeown	Staff	CM-4	04/21/94 letter from G. Brown to DEP
McKeown	Staff	CM-5	10/27/93 deficiency letter to G. Brown
McKeown	Staff	CM-6	12/07/93 deficiency letter to G. Brown
McKeown	Staff	CM-7	08/24/93 Sanitary Survey Report
McKeown	Staff	CM-8	12/23/93 response of G. Brown to Sanitary Survey
McKeown	Staff	CM-9	DEP letter to Baskerville-Donovan
McKeown	Staff	CM-10	01/13/94 St. George settlement proposal
McKeown	Staff	CM-11	DEP response to St. George settlement proposal
McKeown	Staff	CM-12	DEP response to H <sub>2</sub> S report

<u>Sponsor</u>	<u>For</u>	<u>Exhibit No.</u>	<u>Description</u>
McKeown	Staff	CM-13	04/30/92 partial final judgment
McKeown	Staff	CM-14	DEP approval to place Well No. 3 in service
McKeown	Staff	CM-15	09/09/93 DEP request for additional testing
McKeown	Staff	CM-16	Correspondence r e g a r d i n g contamination/cross- connection
Kintz	Staff	JAK-1	02/17/94 memo regarding system capacity
Pierce	Staff	ACP-1	Graph of growth on St. George Island 1988-94
Pierce	Staff	ACP-2	Comparison of growth inside/outside Plantation 1988-93
Abbott	Staff	JWA-1	Fire Dept. payments to St. George
Abbott	Staff	JWA-2	07/16/92 letter and a t t a c h m e n t s regarding fire hydrant testing at Plantation
Abbott	Staff	JWA-3	Flow testing on St. George Island (to be produced at hearing)
Gaffney	Staff	NLG-1	Audit Report
Gaffney	Staff	NLG-2	Audit Exception 10

REBUTTAL

<u>Sponsor</u>	<u>For</u>	<u>Exhibit No.</u>	<u>Description</u>
Brown	Utility	GDB-4 (Composite)	Utility response to Staff Int. No. 16
Brown	Utility	GDB-5	Office lease
Brown	Utility	GDB-6	Price quote for tank cleaning
Brown	Utility	GDB-7	Price quote for pipe cleaning
Brown	Utility	GDB-8 (Composite)	Insurance documents
Brown	Utility	GDB-9 (Composite)	Pension documents
Brown	Utility	GDB-10 (Composite)	Hydrological study documents
Brown	Utility	GDB-11 (Composite)	Fire protection and system capacity analysis documents
Brown	Utility	GDB-12	CIAC analysis
Brown	Utility	GDB-13 (Composite)	Documents regarding third well operation
Seidman	Utility	FS-3 (Composite)	Schedules regarding transportation allowance, Rhema charges, rate case expense, audit response correspondence, audit response
Withers	Utility	BSW-1	Affidavit
Baltzley	Utility	SB-1 (Composite)	Water system review documentation
Biddy	Utility	TLB-1 (Composite)	Baskerville-Donovan materials
Garrett	Utility	MHG-1	Travel Records

IX. PROPOSED STIPULATIONS

St. George, OPC, the District, and Staff have stipulated to the following:

1. Plant in service should be reduced by \$2,067 for lack of support documentation, as per Audit Exception No. 5.
2. Plant in service should be reduced by \$876 for unsupported costs associated with the third well, as per Audit Exception No. 9.
3. Plant in service should be reduced by \$2,370 for duplicative recording of Coloney Company invoices as stated in Audit Exception No. 10.
4. Plant in service should be reduced by \$12,518 to remove costs associated with the 50,000 gallon storage tank as stated in Audit Exception No. 12. In addition, corresponding adjustments should be made to reduce accumulated depreciation by \$629 and depreciation expense by \$358.
5. Plant in service should be adjusted for plant retirements as stated in Audit Exception No. 8, as follows:
  - a. An adjustment should be made to increase plant in service by \$1,675 and accumulated depreciation by \$168. In December of 1988 an adjustment was made to retire a copier on the island; however, the copier was never recorded on the books.
  - b. An adjustment should be made to reduce plant in service by \$7,029, accumulated depreciation by \$3,866 and depreciation expense by \$351, to record the retirement of a pump at well #1 which was replaced. In February 1989 the pump was replaced with a new pump but the retirement was not recorded.
  - c. An adjustment should be made to reduce plant in service by \$10,378, accumulated depreciation by \$2,077, and depreciation expense by \$519, to record the retirement of a pump at well #2. In July 1989 the pump was replaced but the retirement was not recorded on the company's books.
  - d. An adjustment should be made to decrease plant in service by \$3,654, accumulated depreciation by \$972 and

depreciation expense by \$244 to retire a Harris 3M Copier that was not recorded.

6. Plant in service should be reduced by \$3,098 of transportation expenses, as stated in Audit Exception No. 7.
7. Land and Land Rights should be reduced by \$570 to remove non-utility related charges per Audit Exception No. 4.
8. Materials and supplies should be reduced by \$4,851 as stated under Audit Exception No. 22.
9. Chemical expenses should be reduced by \$657 as per Audit Exception No. 21.
10. CIAC should be increased by \$29,759, plant should be increased by \$13,423, accumulated amortization of CIAC should be increased by \$2,702, and depreciation expense should be increased by \$298, to record contributions paid by the St. George Island Volunteer Fire Department and Higdon and Bates.
11. Accumulated Depreciation should be increased by \$10,327, as per Audit Exception No. 15.
12. Accumulated Amortization of CIAC should be increased by \$10,635, as per Audit Exception No. 16.
13. Depreciation expense should be increased by \$5,432, as per Audit Exception No. 27.
14. The utility's depreciation rates should be adjusted as set forth in Rule 25-30.140, Florida Administrative Code. Depreciation expense should be reduced by \$8,802, and accumulated depreciation should be reduced by \$3,564.
15. Plant in service should be reduced by \$12,665, as per Audit Exception No. 6.

In addition to the above, St. George and Staff have stipulated to, and neither OPC nor the District have taken a position on, the following:

16. Plant in service should be increased by \$1,941, as shown in Audit Exception No. 11, for the utility's new generator.
17. Advances for Construction should be decreased by \$9,257, as stated in Audit Exception No. 20.

18. The cost rate for customer deposits should be reduced in accordance with Rule 25-30.111, Florida Administrative Code.
19. The cost of common equity should be set using the leverage formula in effect at the time of the Agenda Conference for the final order in this proceeding. The range for the cost of equity should be plus or minus 100 basis points.
20. Used and useful shall be determined in the following manner:
  - a. All Source of Supply, Treatment and General Plant is considered 100% used and useful.
  - b. All Transmission and Distribution Plant is considered 100% used and useful except for the distribution mains (less than 8" diameter) in Account 331.4 Transmission & Distribution Mains serving certain subdivisions within the area known as the Plantation, which lines were constructed for the benefit of the developer. The cost of distribution lines (less than 8" diameter) within the following subdivisions will be subject to a used & useful factor equal to used lots divided by total lots, as follows:

	<u>Used, 8/92</u>	<u>Total</u>
Oyster Bay Village	2	27
Heron Bay Village	5	23
Bay Cove Village	9	34
Pelican Beach Village	28	58
Dolphin Beach Village	26	43
Indian Bay Village	8	30
Bay View Village	7	27
Windjammer Village	14	40
Treasure Beach Village	23	52
Plantation Beach Village	32	67
Turtle Beach Village	26	58
Pebble Beach Village	33	75
Sea Palm Village	32	75
Bay Palm Village	5	22
Sandpiper Village	8	34
Sea Pine Village	11	40
Sea Dune Village	18	34
Osprey Village	10	22
Bay Pine Village	<u>3</u>	<u>11</u>
	300	772
Less '93 additions	<u>(15)</u>	
Used lots - 1992	285	

$$\text{Used and useful factor} = \frac{285}{772} = .369$$

The used and useful factor will be applied to the original cost of 2" and 6" mains, valves and fittings in the designated Plantation areas per the inventory on the 1992 Baskerville Donovan system drawings. See Attachment A, which details the mains and valves. The appropriate test year average balance in Account 331.4 will be reduced by the non-used and useful amount of designated Plantation area original cost.

- c. Accumulated depreciation and depreciation expense for Acct 331.4 will be adjusted to reflect the net used and useful factor in Plant Account 331.4 after accounting for the used and useful in the designated Plantation areas.
- d. AFPI will be calculated and collected from new customers in the above designated Plantation areas.
- e. The term "used lots" in this stipulation includes all lots in the designated Plantation areas for which a) the fully applicable service availability charge has been paid or b) a \$500 service availability charge has been prepaid and a base facility charge is being paid in accordance with the terms of the settlement agreement under Order No. 23649, whether or not there is a meter.

Finally, St. George, OPC, and Staff have stipulated to, and the District has taken no position on, the following:

- 21. Test year contractual services-other should be reduced by \$3,873, per Audit Exception No. 24. (The adjustment suggested in Audit Exception No. 24 was actually \$4,373. However, in its response to the audit, the utility provided support for \$500 of that amount.)

X. DISPOSITION OF PENDING MOTIONS

OPC's MOTION TO COMPEL

On June 28, 1994, OPC filed a motion to compel. According to OPC, responses to its second and third requests for production of documents, which were the subject of a previous order resolving discovery disputes, are long overdue. In its response, the Utility states that it is willing to produce all documents requested, except for a memorandum requested pursuant to Document Request No.



25. The Utility claims that the memorandum is protected under the attorney work product doctrine.

Since the Utility is willing to produce the requested documents, OPC's motion to compel is granted. As for the memorandum that is the subject of Document Request No. 25, the Prehearing Officer notes that that document, as well as the Utility's prior claim of attorney-client privilege, was specifically addressed in Order No. PSC-94-0571-CFO-WU, issued May 13, 1994, which required St. George to produce the document. Since the Utility failed to timely request reconsideration of that order, it cannot be heard to claim that the document is protected under the attorney work product doctrine fully two months later. St. George shall produce the document, along with all other documents which are the subject of OPC's motion to compel, no later than Friday, July 15, 1994.

UTILITY'S MOTIONS TO COMPEL/MOTION IN LIMINE

On July 5, 1994, St. George filed its own motion to compel discovery from OPC. The Utility is requesting documents related to certain schedules attached to the testimony of OPC's witness, Kimberly Dismukes. OPC argues that the Utility's requests would require it to either create documents or supply documents that are not in its possession. To the extent that OPC has documents which are responsive to the Utility's requests, or knowledge concerning the whereabouts of such documents, it shall supply such information to the Utility within five (5) days.

In the alternative to its motion to compel, the Utility argued that, to the extent that OPC is not able to support Ms. Dismukes' schedules by source documentation, the schedules are inadmissible hearsay. The Utility, therefore, argues that the schedules should, essentially, be stricken. Since this is an evidentiary matter, the Utility's motion in limine is denied. It may, however, make an objection to the materials at the appropriate time.

OPC'S MOTION FOR LEAVE TO FILE  
SUPPLEMENTAL TESTIMONY/UTILITY'S  
MOTION TO ALLOW LATE FILED TESTIMONY

On June 28, 1994, OPC filed a motion for leave to file supplemental testimony. On July 11, 1994, the Utility filed a motion to allow late filed rebuttal testimony. Initially, the Utility objected to OPC's request and OPC objected to the Utility's request. At the prehearing conference, however, both parties withdrew their objections. Accordingly, both OPC's and the Utility's motions are granted.

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It is, therefore,

ORDERED by Chairman J. Terry Deason, as Prehearing Officer, that the Office of Public Counsel's motion to compel is granted, as set forth in the body of this Order. It is further

ORDERED that St. George Island Utility Company, Ltd.'s motion to compel is granted, as set forth in the body of this Order. It is further


ORDERED that St. George Island Utility Company, Ltd.'s motion in limine is denied, as set forth in the body of this Order. It is further

ORDERED that the Office of Public Counsel's motion for leave to file supplemental testimony is granted, as set forth in the body of this Order. It is further

ORDERED that St. George Island Utility Company, Ltd.'s motion to allow late filed testimony is granted, as set forth in the body of this Order. It is further

ORDERED that this Order shall govern the conduct of these proceedings, unless modified by the Commission.

By ORDER of Chairman J. Terry Deason, as Prehearing Officer, this 14th day of July, 1994.

  
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J. TERRY DEASON, Chairman and  
Prehearing Officer

( S E A L )

RJP

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 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.

ATTACHMENT A

St. George Island Utility Company, Ltd.  
 Used and Useful—Plantation Distribution Lines

Plantation Subdivision	Valves		Map Inches Linear Feet of 6" Main of 6" Main		Map Inches Linear Feet of 2" Main of 2" Main		Total Lots Available	Lots Connected
	2" Valves	6" Valves						
OYSTER BAY	0	3	8	1,600	0	0	27	2
HERON BAY	0	3	7.75	1,550	0	0	23	5
BAY COVE	0	2	9	1,800	2.5	500	34	9
PELICAN BEACH	1	3	14	2,800	6.75	1,350	58	28
DOLPHIN BEACH	0	4	11.75	2,350	2.5	500	43	26
INDIAN BAY	0	3	6.75	1,350	3	600	30	8
BAY VIEW	0	2	6	1,200	0.75	150	27	7
WINDJAMMER	0	3	9.25	1,850	5	1,000	40	14
TREASURE BEACH	1	4	13	2,600	7	1,400	52	23
PLANTATION BEACH	4	4	15	3,000	7.75	1,550	67	32
TURTLE BEACH	0	4	24.75	4,950	0	0	58	26
PEBBLE BEACH	0	3	18.5	3,700	0	0	75	33
SEA PALM	0	8	32	6,400	1.75	350	75	32
BAY PALM	2	1	4.75	950	10	2,000	22	5
SANDPIPER	0	2	11.25	2,250	4	800	34	8
SEA PINE	0	3	16.25	3,250	0	0	40	11
SEA DUNE	0	2	10.5	2,100	0	0	34	18
OSPREY VILLAGE	0	1	6	1,200	0	0	22	10
BAY PINE	5	0	0	0	9.5	1,900	11	3
TOTALS	13	55		44,900		12,100 (Less 93 Addns)	772	300 <u>-15</u> 285

Used & Useful % On Distribution Mains in Plantation =

285/772 = 36.9%

M E M O R A N D U M

July 14, 1994

TO: DIVISION OF RECORDS AND REPORTING  
FROM: DIVISION OF LEGAL SERVICES (PIERSON) *R*  
RE: DOCKET NO. 940109-WU - Petition for interim and permanent  
rate increase in Franklin County by St. George Island  
Utility Company, Ltd.

*0856 - PHO*

Attached is a Prehearing Order to be issued in the above-referenced docket. (Number of pages in Order - ~~43~~  
*44*)

RJP/dp

Attachment

cc: Division of Appeals (Helton)  
Division of Legal Services (Davis)  
Division of Water and Wastewater (Willis, Amaya, Crouch,  
Merchant, Moniz, Raspberry, Williams)  
Division of Auditing and Financial Analysis (Maurey)  
Court Reporter

I: 940109PHS.RJP

**MUST GO TODAY**