

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: November 20, 2007

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Hudson, Bulecza-Banks, Edwards, Rendell, Bruce) *SH* *CRB* *JK* *C* *W*
Office of the General Counsel (Brown) *NCB* *S.M.C.*

RE: Docket No. 070177-WU – Application for staff-assisted rate case in Pasco County by LWV Utility.

AGENDA: 12/04/07 – Regular Agenda – Proposed Agency Action Except for Issues 14, 15, and 16 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Carter

CRITICAL DATES: 09/16/08 (15-Month Effective Date (SARC))

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\070177.RCM.DOC

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Case Background

LWV Utilities, Inc. (LWV) is a Class C water utility located in Pasco County serving approximately 437 customers. LWV is located in the Southwest Florida Water Management District (SWFWMD). Wastewater service is provided by septic tanks. The utility's 2006 annual report reflects operating revenues of \$73,266 and an operating loss of (\$11,478).

Certificate No. 152-W was granted to Lakewood Villas, Inc. in 1972¹ and subsequently transferred to LWV in 1977.² The utility was part of the James A. Cochran Revocable Trust with James Cochran as the trustee. Mr. Cochran died on August 10, 2002. Mr. James C. Weeks succeeded Mr. Cochran as trustee. During the probate of Mr. Cochran's estate, the trust was dissolved and the stock in LWV was divided between Mr. James C. Weeks and Mr. Ricky Miller.

On February 27, 2004, Mr. James C. Weeks filed an application for transfer of majority organizational control of LWV Utilities, Inc. The transfer of majority organizational control of LWV Utilities, Inc. from the James A. Cochran Revocable Trust to James C. Weeks and Ricky A. Miller was granted and rate base was established.³

On March 19, 2007, LWV applied for a staff-assisted rate case (SARC) in the instant docket. By letter dated July 27, 2007, the utility extended the fifteen-month statutory deadline for consideration of its requested increase by 30 days to allow the utility additional time to provide required information to staff in order for staff to fully evaluate the 2006 test year. The test year proposed for final rates is the twelve-month period ended December 31, 2006.

The Commission has the authority to consider this rate case pursuant to Section 367.0814, Florida Statutes (F.S.).

¹ Certificate No. 152-W was granted by Order No. 5807, issued July 26, 1973, in Docket No. C-72587-W, In Re: Application of Lakewood Villas, Inc., for a certificate to operate an existing water system in Pasco County.

² Certificate issued pursuant to Order No. 8104, issued November 16, 1977, in Docket No. 770764-W, In Re: Joint Application for the transfer of Certificate No. 152-W from Lakewood Villas, Inc., to LWV Utilities, Inc., in Pasco County, Florida, pursuant to Section 367.071, Florida Statutes.

³ Transfer of majority organization control was granted by Order No. PSC-05-0424-PAA-WU, in Docket No. 040173-WU, In Re: Application for transfer of majority organizational control of LWV Utilities, Inc. holder of Certificate No. 152-W in Pasco County from James A. Cochran Revocable Trust to James C. Weeks and Ricky A. Miller.

Discussion of Issues

Issue 1: Should the quality of service provided by LWV Utilities, Inc. be considered satisfactory?

Recommendation: Yes, LWV Utilities, Inc.'s overall quality of service should be considered satisfactory. (Edwards)

Staff Analysis: Pursuant to Rule 25-30.433(1), Florida Administrative Code (F.A.C.), in every water and wastewater rate case, the Commission shall determine the overall quality of service provided by a utility by evaluating three separate components of water and wastewater operations. These components are the quality of the utility's product, the operating conditions of the utility's plant and facilities, and the utility's attempt to address customer satisfaction. The rule further states that sanitary surveys, outstanding citations, violations, and consent orders on file with the Department of Environmental Protection (DEP) and the county health department over the preceding three-year period shall be considered, along with input from the DEP and health department officials and consideration of customer comments or complaints. Staff's analysis of these three components is addressed below.

Quality of Utility's Product

LWV's water treatment system is under the jurisdiction of the DEP in the Tampa district office. Staff reviewed the utility's and DEP's records. According to the DEP inspector, the finished water product complies with DEP's regulatory standards. Therefore, it appears the water quality is satisfactory.

Based on the above, it appears the quality of the utility's finished water product is satisfactory.

Operating Condition of the Water Facilities

On August 23, 2007, DEP conducted a Compliance Evaluation Inspection at the LWV facility to determine compliance with water requirements. DEP concluded that overall, the facility was not in compliance. Although the condition of the facility was not in compliance, according to the inspector, the plant's deficiencies do not pose a health hazard and are not critical. The facilities were in non-compliance status for the following:

- a) repair cracks around well pad at Well # 2;
- b) check valve at Well #1 was inoperable;
- c) hydro pneumatic tank needs to be inspected;
- d) a water distribution system map was not available;
- e) a written emergency preparedness/response plan was not available;

LWV has indicated to staff that the first two items listed above have been addressed and corrected. LWV is making a concerted effort to address all of the necessary corrections required by DEP to comply with all regulatory standards.

Based on the DEP's inspection and staff's field inspection, the operating condition of the water treatment facility is not in compliance with DEP's regulatory standards but is not considered critical. Therefore, it appears the operating condition of the water treatment facilities is not satisfactory.

The Utility's Attempt to Address Customer Satisfaction

Staff reviewed the Commission's complaints records and determined there were no complaints recorded during the test year. In addition, staff reviewed the DEP's records and found no customer complaints on file.

On October 3, 2007, staff conducted a customer meeting in New Port Richey, Florida. Earlier that day, staff conducted a meeting with one of the residents and addressed his concerns. His concerns were the Consumer Confidence Report (CCR), stuck valves, and "Boil Water Notices." There were approximately nine customers that attended the evening meeting and five customers spoke. The residents expressed concerns regarding: inconsistent meter readings, failure to receive boil water notices, line breaks, provision of sewer service by Pasco County, and black specks in a customer's toilet bowl. The customers informed staff the previous utility owner did not read the meters on a consistent basis and did not perform boil water noticing in the event of a major line break or water outage. However, these customers stated the new owner is having the meters read consistently and is informing them of possible water outages. Regarding Pasco County providing sewer service in the future, staff suggested customers contact the Pasco County authorities for further information. After the meeting, staff traveled to the customer's home to investigate the black specks in the toilet. Staff determined the black specks in the toilet bowl were due to chlorinated water reacting with the aging and deteriorating black seals in the water tank. Four of the nine customers that attended the meeting stated they were very satisfied with the water product and customer service. Also, subsequent to the customer meeting, staff has received three customer letters indicating that they are in support of the increase for the utility.

Based on the above, staff believes the utility is making a concerted effort to address its customers concerns. Therefore, it appears the utility is attempting to satisfy its customers.

Summary

Based on staff's review of the water treatment plant and the distribution system, it appears the water product complies with regulatory standards, the condition of the plant is deficient but not considered critical, and the majority of the customers are satisfied with the utility. Therefore, staff recommends the overall quality of service provided by LWV Utilities, Inc. be considered satisfactory.

Issue 2: Should the utility operations of Advisor Enterprises be consolidated with LWV Utilities?

Recommendation: Yes. The utility operations of Advisor Enterprises should be consolidated with LWV Utilities. (Hudson)

Staff Analysis: The previous owner of the utility, Mr. Cochran, owned a separate company called Advisor which was incorporated in 1975. This separate company did not provide water service; however in 1985, several homeowners approached Mr. Cochran concerning Advisor supplying portable water. These homeowners were concerned about their wells since area wells had either collapsed or gone dry. Over the period of 1985 to 1998, these customers were connected to LWV's water system by Advisor. Mr. Cochran billed these customers through his Advisor company, which he believed to be exempt. Currently, LWV serves 87 customers, previously served by Advisor. The lines to serve these customers were installed by LWV and are connected to LWV's distribution system by Advisor. The water serving these customers is also provided by LWV. However, the former owner of Advisor charged water rates higher than those of LWV.

The former owner believed Advisor was exempt from the PSC's jurisdiction. However, it was determined during the SARC audit that the customers of Advisor, were in fact, customers of LWV. The customers of Advisor are located in LWV's certificated territory. Therefore, it was inappropriate for the customers to be treated as a separate water utility and charged higher rates. Since the Advisor customers are customers of LWV, they should be charged the Commission-approved rates for LWV. Staff is recommending in Issue No. 13 a refund of the difference in rates to Advisor's customers.

Based on the above, Advisor Enterprises' utility operations should be consolidated with LWV Utilities.

Issue 3: What are the used and useful percentages for the utility's water treatment plant and water distribution system?

Recommendation: LWV's water treatment and water distribution systems should be considered 100% used and useful (U&U). (Edwards)

Staff Analysis: Staff has performed an analysis of the utility's facilities and its analysis and recommendations are discussed below.

Water Treatment Plant – Used and Useful (U&U)

The utility has two wells with a total capacity of 344 gallons per minute (gpm). Consistent with past Commission practice and in accordance with the American Waterworks Association Manual of Water Supply Practices, if a water system has more than one well, the highest capacity well should be removed from the calculation to determine the plant's firm reliable capacity. By taking the largest well out of service, which is 186 gpm, the utility's firm reliable capacity is 158 gpm, the capacity of the smaller well. The calculation of firm reliable capacity is consistent with Commission practice.⁴ Peak demand was determined by taking the single maximum day in the test year, less excessive unaccounted for water, divided by 1,440 minutes in a day, times 2, resulting in 760gpm ($(547,000 / 1,440) * 2$). Dividing 760 gpm by the firm reliable capacity (158 gpm) results in a U&U of 100%. Therefore, staff recommends the water treatment system be considered 100% U&U.

Water Distribution Systems

LWV's customer base is primarily residential except for approximately seven commercial customers. A review of the utility's distribution system found that it is built out. In accordance with Commission practice, when the service territory the system is designed to serve is built out, and there is no potential for expansion of the service territory,⁵ the system is deemed 100% U & U. Therefore, staff recommends the water distribution system be considered 100% U&U.

⁴ Order No. PSC-03-1440-FOF-WS, issued December 22, 2003, in Docket No. 020071-WS, In Re: Application for rate increase by Utilities, Inc., of Florida.

⁵ Id.

Issue 4: What is the appropriate average test year rate base for the utility?

Recommendation: The appropriate average test year rate base for the utility is \$44,175. (Hudson)

Staff Analysis: The utility's rate base was last audited in the transfer docket in Docket No. 040173-WU. Staff selected a test year ending December 31, 2006 for this rate case. Rate base components established in the transfer docket have been updated through December 31, 2006 using information obtained from staff's SARC audit and engineering reports. A summary of each component and the adjustments follows.

Utility Plant in Service (UPIS): The utility recorded \$111,586 for water UPIS for the test year ending December 31, 2006.

Pursuant to Audit Finding No. 3, the utility did not record some plant additions in the years 2004 and 2006. Staff increased Account No. 311 by \$3,509 to reflect a plant addition not recorded in 2004 and decreased this account by \$2,249 for retirement of the replaced plant. The utility did not record three plant additions in 2006. Staff has increased Account No. 311 by \$3,845 to reflect one plant addition. As original cost records were unavailable, staff decreased this account by \$2,884 ($\$3,845 \times 75\%$) consistent with Commission practice to retire 75% of new costs. Staff has increased Account No. 311 by \$334 for the second unrecorded plant and Account No. 340 by \$493 for the third unrecorded plant.

The utility has requested pro forma plant additions for a flow meter and fence in the amounts of \$3,770 and \$3,936, respectively. LWV provides emergency backup water supply for Orangewood Utilities. The flow meter is needed to measure the water when used as a backup. Staff believes these requested pro forma plant items are reasonable, and staff has increased UPIS by those amounts to reflect the pro forma plant additions. Staff has decreased this account by \$894 to reflect an averaging adjustment. Staff's net adjustment to UPIS is an increase of \$9,860. Staff's recommended average UPIS balance is \$121,446 .

Non-used and Useful Plant: As discussed in Issue No. 3 of this recommendation, the utility's water treatment plant should be considered 100% used and useful. Therefore, a used and useful adjustment is unnecessary.

Contribution in Aid of Construction (CIAC): The utility recorded CIAC of \$17,850 for the test year ended December 31, 2006. Audit Disclosure No. 5 indicates that the utility did not record CIAC in the amount of \$1,300 during the test year. Staff has increased this account to reflect the collected CIAC. Staff has decreased this account by \$650 to reflect an averaging adjustment. Staff has calculated average CIAC to be \$18,500.

Accumulated Depreciation: The utility recorded a balance for accumulated depreciation of \$82,708 for the test year. Staff has calculated accumulated depreciation using the prescribed rates set forth in Rule 25-30.140, F.A.C. As a result, staff has decreased this account by \$1,119 to reflect depreciation calculated by staff. Staff has increased this account by \$367 to reflect pro forma accumulated depreciation. Staff has decreased this account by \$649 to reflect an

averaging adjustment. These adjustments result in an average accumulated depreciation of \$81,307.

Accumulated Amortization of CIAC: The utility's records indicate accumulated amortization of CIAC balances of \$10,401. Staff recalculated the amortization of CIAC using composite rates prescribed in Rule 25-30.140, F.A.C. Based on this recalculation, staff increased accumulated amortization of CIAC by \$1,303. In addition, staff decreased this account by \$361 to reflect an averaging adjustment. Staff recommends average accumulated amortization of CIAC of \$11,343.

Working Capital Allowance: Working capital is defined as the investor-supplied funds necessary to meet operating expenses or going-concern requirements of the utility. Consistent with Rule 25-30.433(2), F.A.C., staff used the one-eighth of the O&M expense formula approach for calculating working capital allowance. Applying this formula, staff recommends a working capital allowance of \$10,193 (based on O&M of \$81,540). Working capital has been increased by \$10,193 to reflect one-eighth of staff's recommended O&M expenses.

Rate Base Summary: Based on the forgoing, staff recommends that the appropriate test year average rate base is \$44,175 .

Rate base is shown on Schedule No. 1, and staff's adjustments are shown on Schedule 1-A.

Issue 5: What is the appropriate rate of return on equity and overall rate of return for this utility?

Recommendation: The appropriate return on equity is 9.06% with a range of 8.06% - 10.06%. The appropriate overall rate of return is 8.86%. (Hudson)

Staff Analysis: According to staff's audit, the utility recorded the following items in its capital structure: common stock of \$500; negative retained earnings of \$121,143; and, paid-in-capital of \$11,890. The utility's capital structure consists of long term debt in the amount of \$119,185 and customer deposits of \$8,250.

The utility's long term debt was a loan from the previous owner who is now deceased. There is no debt instrument or interest cost associated with this loan. It is Commission practice that when no cost is assigned to long term debt and no debt instrument is available, it is appropriate to characterize the debt as other common equity given the related party status to the debt.⁶ Staff has made an adjustment to reclassify the long term debt of \$119,185 to other common equity.

The appropriate rate of return on equity is 9.06%. using the most recent Commission-approved leverage formula.⁷ The utility's capital structure has been reconciled with staff's recommended rate base. Staff recommends a return on equity of 9.06% with a range of 8.06% - 10.06%, and an overall rate of return of 8.86%.

The return on equity and overall rate of return are shown on Schedule No. 2.

⁶ See Order No. PSC-00-1165-PAA-WS, issued June 27, 2000, in Docket No. 990243-WS, In re: Application for limited proceeding increase and restructuring of water rates by Sun Communities Finance Limited Partnership in Lake County, and overearnings investigation.

⁷ See Order No. PSC-07-0472-PAA-WS, issued June 1, 2007, in Docket No. 070006-WS, In Re: Water and Wastewater Industry Annual Reestablishment of Authorized Range of Return on Common Equity for Water and Wastewater Utilities Pursuant to Section 367.081(4)(f), Florida Statutes.

Issue 6: What is the appropriate test year revenue?

Recommendation: The appropriate test year revenue for this utility is \$91,853. (Hudson)

Staff Analysis: As discussed in Issue No. 2, Advisor was treated as a separate utility from LWV. However, staff is recommending the former customers of Advisor be treated as customers of LWV. During the test year, the utility recorded \$73,716 of revenues which did not include any revenues from customers of Advisor. In its recorded revenues, the utility included customer deposits of \$2,880 and removed deposit refunds of \$410. The customer deposits should not have been recorded as revenues. Therefore, staff has decreased revenues by \$2,470 (\$410 - \$2,880) which is the net adjustment of removing the customer deposits and including the refunds.

Staff calculated annualized revenue for the test period using the current rates times the number of bills and consumption provided in the billing analysis. While customers of Advisor were charged higher rates, staff calculated test year revenues by applying LWV's Commission-approved rates to these customers. As a result, test year revenue was increased by \$20,292 to reflect annualized revenue from the customers of Advisor based on the existing rates. Staff is recommending in Issue No. 13 a refund of the difference in rates to Advisor's customers.

The utility recorded miscellaneous service revenues of \$450. Based on the audit, the utility's test year miscellaneous service revenues were \$765. Staff has made an adjustment to increase miscellaneous service revenues by \$315 (\$765 - \$450).

Staff's net adjustment to revenues is an increase of \$18,137 (\$20,292-\$2,470+\$315). Staff recommends test year revenues of \$91,853. Test year revenue is shown on Schedule No. 3. The related adjustments are shown on Schedule No. 3-A.

Issue 7: What is the appropriate allocation of common expenses to LWV Utilities?

Recommendation: The appropriate allocation of common expenses to LWV is 63%. (Hudson)

Staff Analysis: The owner of LWV also owns and manages several other companies. These companies are Advisor Enterprises, Inc. (Advisor), Barbara Ann Acres, and Silver Oak Hills. Barbara Ann Acres and Silver Oak Hills are water utilities that are supplied water by the City of New Port Richey and are exempt under Section 367.022(8), Florida Statutes. As discussed in Issue No. 2, Advisor was set up by the previous owner to serve 87 customers located in LWV's certificated territory. Advisor also is in the business of renting commercial office space. Thus, the owner has four business entities.

Since the utility owner has four business entities, staff has determined that 25% of the common expenses should be allocated to his commercial rental business. Commission practice is to allocate administrative and general expenses based on the number of customers.⁸ For the utility operations, staff has calculated an allocation of common expense for the remaining 75% based on the average number of customers. There are no customers associated with the commercial rental. In order to allocate the remaining costs for the water utilities, staff has calculated a customer equivalent for Advisor's 25% common cost allocation. Staff determined the customer equivalent to be 173 customers. With the information from the audit, staff determined that each system should be allocated its common operating costs based on the average number of customers representing the system:

<u>Name of System</u>	<u>Average No. Customers</u>	<u>Percentage of Allocation</u>
LWV and Advisor	437	63.0%
Barbara Ann Acres	29	4.2%
Silver Oak Hills	54	7.8%
Advisor Commercial Properties	<u>173*</u>	<u>25.0%</u>
	<u>693</u>	<u>100.0%</u>

*customer equivalent

Therefore, staff recommends that reasonable and prudent common costs should be allocated to LWV based on the allocated portion of 63%. This equitably reflects the distribution of costs among related parties.

⁸ See Order Nos. 17043, issued December 31, 1986, in Docket No. 860325-WS, In re: Request by Southern States Utilities, Inc. for approval of test year ended 12/31/85 for rate increase in Seminole County; and PSC-01-0323-PAA-WU, issued February 5, 2001, in Docket No. 000580-WU, In re: Application for staff-assisted rate case in Polk County by Keen Sales, Rentals and Utilities, Inc. (Alturas Water Works).

Issue 8: What is the appropriate operating expense?

Recommendation: The appropriate amount of operating expense for the utility is \$93,860. (Hudson)

Staff Analysis: The utility recorded operating expense of \$85,194 during the test year ending December 31, 2006. Advisor pays the overhead expenses such as payroll, utilities, transportation and office expenses. The amounts are then allocated by the accountant. As discussed in Issue No. 7, staff has allocated common costs related to all companies based on the number of customers. The test year O & M expenses have been reviewed and invoices, canceled checks, and other supporting documentation have been examined. Staff made several adjustments to the utility's operating expenses, as summarized below:

Salaries and Wages – Employees – (601) – The utility recorded \$0 in this account during the test year. The utility owner had an employee that read meters and performed repairs for all related utility companies. His salary of \$21,798 was paid by Advisor. For the test year, the utility's accountant had not allocated any salary for this employee to LWV. His employment ceased at the end of 2006. The utility manager has been performing the duties of the former employee. However, the utility manager plans to hire someone to fill the position in the near future. Staff has increased this account by \$13,733 ($\$21,798 \times 63\%$) to reflect the utility's allocated salary. Staff recommends salaries and wages – employee of \$13,733.

Salaries and Wages – Officers – (603) – The utility recorded \$50,000 in this account during the test year. The utility's manager salary is \$50,000 for all of his companies. The utility manager's allocated salary for LWV is \$31,500 ($\$50,000 \times 63\%$). Therefore, staff has made an adjustment to decrease this account by \$18,500 ($\$50,000 - \$31,500$). Staff recommends salaries and wages – officers of \$31,500.

Employee Pensions and Benefits – (604) – The utility did not record an amount in this account during the test year. The utility recorded \$10,410 on the books of Advisor. The amount recorded represents medical insurance cost of \$6,834 and \$3,576 for the manager and former employee, respectively. Staff has increased this account by \$6,558 ($\$10,410 \times 63\%$) to reflect LWV's allocation of common cost for the utility's medical insurance. Staff recommends contractual services – professional expense of \$6,558.

Purchased Water – (610) – The utility recorded \$2,355 in this account during the test year. Staff decreased this account by \$171 to reflect the net result of including a 2006 expense of \$186 and removed a 2005 expense of \$357. Staff recommends purchased water expense for the test year of \$2,184.

Purchased Power – (615) – The utility recorded \$4,634 in this account during the test year. Staff increased this account by \$65 to reflect the net result of removing a 2005 expense of \$315 and including a 2006 expense of \$380. Staff recommends purchased power expense for the test year of \$4,699.

Chemicals – (618) – The utility recorded \$1,202 in this account during the test year. Staff decreased this account by \$65 to remove a 2005 expense. Staff recommends chemical expense for the test year of \$1,137.

Materials and Supplies – (620) – The utility recorded \$2,273 in this account during the test year. Staff decreased this account by \$14 to remove a 2005 expense. Also, staff decreased this account by \$334 for plant reclassified to Account No. 311. Staff recommends materials and supplies expense for the test year of \$1,925.

Contractual Services - Billing – (630) – The utility recorded \$0 in this account during the test year. During the test year, the utility had an employee that read the meters and performed repairs to the utility system. His employment ceased at the end of 2006. From January through May 2007, the utility manager read the meters. The utility contracted services for meter reading which began in June of 2007. The contract price is \$.25 a meter. Therefore, staff increased this account by \$1,311 (437 x \$.25 x 12). Staff recommends contractual services – billing of \$1,311.

Contractual Services - Professional – (631) – The utility recorded \$1,114 in this account during the test year. Staff decreased this account by \$107 to reclassify a computer expense to Account No. 636. Staff recommends contractual services – professional of \$1,007.

Contractual Services - Testing – (635) – The utility recorded \$4,500 in this account during the test year. Staff decreased this account by \$520 to remove an expense related to an unregulated utility. Staff made an adjustment to decrease this account by \$1,955 to reclassify operator expense to Account No. 636.

Each utility must adhere to specific testing conditions prescribed within its operating permit. These testing requirements are tailored to each utility as required by the Florida Administrative Code and enforced by DEP. The tests and the frequency at which tests must be repeated for this utility are:

<u>Test</u>	<u>Frequency</u>	<u>Cost</u>	<u>Annual Amount</u>
Consumer Confidence Report	Annual	\$ 125	\$ 125
Disinfection By-Products	Annual	\$ 275	\$ 275
Nitrate/Nitrite	Annual	\$ 50	\$ 50
Lead/Copper	36 months	\$ 250	\$ 83
Primary Inorganics	36 months	\$ 550	\$ 183
Volatile Organics	36 months	\$ 200	\$ 67
Pesticides/PCB	36 months	<u>\$1,400</u>	<u>\$ 467</u>
	Total	<u>\$2,850</u>	<u>\$1,250</u>

During the test year, the utility did not amortize the DEP required testing. Staff has decreased this account by \$775 to reflect amortization of DEP's required testing frequency. Staff recommends contractual services – testing of \$1,250.

Contractual Services - Other – (636) – The utility recorded \$4,848 in this account during the test year. Staff has made the following adjustments to this account.

1. Remove expense related to unregulated utility	(\$284)
2. Reclassify plant addition to Acct No. 311	(\$3,845)
3. Include operator expense paid by Advisor	\$210
4. Reclassify operator expense from Acct No. 635	\$1,955
5. Reclassify computer expense from Acct No. 631	\$107
6. Reflect annual increase in operator expense (\$255-\$210)*12	\$540
7. Reflect the utility's appropriate allocation of operator expense	(\$592)
8. Reflect the utility's appropriate allocation of computer expense	\$869
9. Increase for 5 year amortization of tank maintenance as required by DEP (\$1,500/5)	<u>\$300</u>
Total Net Adjustment	<u>(\$740)</u>

Staff's net adjustment to this account is a decrease of \$740. Staff recommends contractual services – other expense of \$4,108.

Rents – (640) – The utility recorded \$7,704 in this account during the test year. The utility's office is located in a building owned by the utility's manager. The building consists of six suites. The utility is located in one suite along with three related party businesses. The remaining five suites are commercial property rented out by Advisor. Since the one office suite is shared by the utility manager's other businesses, the office rent expense should be allocated among all businesses. The utility's allocated office rent should be \$4,854 (\$7,704 x 63%). Staff decreased this account by \$2,850 (\$7,704 - \$4,854) to reflect the utility's allocated office rent. Staff increased this account by \$886 (\$1,407 x 63%) to reflect the utility's allocated office utilities. Staff recommends rent expense for the test year of \$5,740 .

Transportation Expense – (650) – The utility recorded \$0 in this account during the test year. Staff has increased this account by \$1,181 (\$1,875 x 63%) to reflect the utility's allocated portion of transportation expense. Staff recommends transportation expense for the test year of \$1,181.

Regulatory Commission Expense – (665) – The utility recorded \$0 in this account during the test year. Pursuant to Section 367.0816, Florida Statutes, rate case expense is amortized over a 4-year period. The utility was required by Rule 25-22.0407(9)(b), Florida Administrative Code, to mail notices of the customer meeting in this case to its customers. For these notices, staff has estimated \$358 postage expense, \$306 printing expense, and \$44 for envelopes. The above results in a total rate case expense for noticing of \$708. Staff has increased this account by \$177 (\$708/4) to reflect rate case expense for noticing. The utility paid a \$1,000 rate case filing fee.

Staff has increased this account by \$250 (\$1,000/4). The utility's consultant is charging \$1,200 to assist with the rate case. Staff believes the amount is reasonable. Therefore, staff increased this account by \$300 (\$1,200/4). Staff recommends regulatory commission expense for the test year of \$727.

Miscellaneous Expense – (675) – The utility recorded \$263 in this account for the test year. Staff increased this account by \$1,968 (\$3,123 x 63%) to reflect the utility's allocated telephone expense. Also, staff increased this account by \$781 (\$1,240 x 63%) to reflect the utility's allocated postage and supplies expense. Staff is recommending in Issue No. 10 that the utility billing be changed from bi-monthly to monthly. Staff increased this account by \$1,468 to reflect the change in the billing cycle discussed in Issue No. 10. Staff recommends miscellaneous expense for the test year of \$4,217.

Operation and Maintenance Expense (O&M Summary) – Based on the above adjustments, O&M should be increased by \$2,647. Staff's recommended O&M expenses are \$81,540 as shown on Schedule 3.

Depreciation Expense (Net of Amortization of CIAC) – The utility recorded \$2,345 in this account during the test year. Staff calculated test year depreciation expense using the rates prescribed in Rule 25-30.140, F.A.C. Staff's calculated test year depreciation expense is \$4,550, therefore, staff has increased this account by \$1,759 (\$4,550 - \$2,791). Further, amortization of CIAC has a negative impact on depreciation expense. The utility recorded \$446 for amortization of CIAC. Staff has calculated amortization of CIAC based on composite rates. Staff's calculated test year amortization of CIAC is \$693; therefore, staff has increased this account by \$247 (\$693 - \$446). Staff recommends net depreciation expense of \$3,857.

Taxes Other Than Income – The utility recorded taxes other than income of \$3,956 in this account during the test year. The utility recorded \$2,937 for RAFs for the test year. As discussed in Issue 6, staff has increased test year revenue by \$18,137. Based on staff's recommended test year revenues, the 2006 RAFs should have been \$4,133. Staff has made an adjustment to increase RAFs by \$1,196 (\$4,133 - \$2,937). Although the utility recorded \$2,937, it actually paid \$3,317 for RAFs. The utility owes an additional \$816 (\$4,133 - \$3,317) in RAFs for 2006. As discussed in Issue 8 under Account Nos. 601 and 603, staff is recommending an allocation of the owner and maintenance employee salaries to LWV. Therefore, staff has increased payroll taxes by \$3,460 to reflect the taxes on staff's recommended salaries. The utility recorded \$869 for property taxes, but, its test year property taxes are \$719. Staff has decreased this account by \$150 (\$869 - \$719).

Income Tax – The utility recorded income tax of \$0 for water. The utility is a subchapter 1120 S corporation. The tax liability is passed on to the owner's personal tax returns. Therefore, staff did not make an adjustment to this account.

Operating Expenses Summary – The application of staff's recommended adjustments to the audited test year operating expenses results in staff's calculated operating expenses of \$93,860. Operating expenses are shown on Schedule No. 3. The related adjustments are shown on Schedule 3-A.

Issue 9: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement is \$98,052. (Hudson)

Staff Analysis: The utility should be allowed an annual increase of \$6,200 (6.75%). This will allow the utility the opportunity to recover its expenses and earn an 8.86% return on its investment. The calculations are as follows:

	<u>Water</u>
Adjusted Rate Base	\$44,175
Rate of Return	X <u>8.86%</u>
Return on Rate Base	\$3,914
Adjusted O & M Expense	\$81,540
Depreciation expense (Net)	\$3,857
Taxes Other Than Income	\$8,741
Income Taxes	<u>\$0</u>
Revenue Requirement	\$98,052
Less Adjusted Test Year Revenues	<u>\$91,853</u>
Annual Increase	<u>\$6,200</u>
Percent Increase/(Decrease)	<u>6.75%</u>

Revenue requirement is shown on Schedule No. 3.

Issue 10: Should the utility's current water system rate structure be changed, and, if so, what is the appropriate rate structure?

Recommendation: Yes. The utility's current water system rate structure, which includes a 6,000 (6 kgal) water allotment in the base facility charge (BFC), should be changed to a two-tier inclining block rate structure. The pre-repression BFC cost recovery should be set at 40%. The usage blocks should be set for consumption at: a) 0-10 kgal; b) usage in excess of 10 kgal, with appropriate usage block rate factors of 1.0 and 1.25, respectively. Staff recommends changing the utility's current bi-monthly BFC to a monthly BFC based on an inclining block rate structure. (Bruce)

Staff Analysis: The utility's current rate structure consists of a bi-monthly BFC/gallage charge rate structure, in which the BFC of \$23.95 includes 6,000 gallons (6 kgal) allotment in the BFC, and all gallons in excess of 6 kgal used are charged \$1.88 per kgal. This rate structure is not considered conservation-oriented, because the 6 kgal allotment in the bi-monthly BFC discourages conservation below 6 kgals. Therefore, in order to promote the goal of eliminating water rate structures that discourage conservation, the allotment of 6 kgal should be eliminated from the BFC. Furthermore, staff recommends changing the utility's current bi-monthly BFC to an inclining block rate structure which will be billed on a monthly basis. By billing on a monthly basis, customers receive a more timely price signal, enabling them to adjust their consumption accordingly.

Staff performed a detailed analysis of the utility's billing data in order to evaluate various BFC cost recovery percentages, usage blocks, and usage block rate factors for the residential rate class. The goal of the evaluation was to select rate design parameters that: 1) allow the utility to recover its revenue requirement; 2) equitably distribute cost recovery among the utility's customers; and 3) implement, where appropriate, water conservation rate structures consistent with the Commission's Memorandum of Understanding with the state's five Water Management Districts.

The utility is located in the Southwest Florida Water Management District (SWFWMD or District). For those utilities located within a SWFWMD water use caution area, the District places a gallon per day use target of 150 gallons per day per capita (gpcd). On July 5, 2005, the District issued LWV a Notice of Noncompliance advising the utility that it was exceeding its withdrawal quantities authorized under their Water Use Permit (WUP). Since the issuance of the letter, the withdrawals continued to exceed the permitted quantities. By letter dated December 15, 2006, the District issued a Consent Order to the utility regarding the exceeded withdrawal quantity, wherein they were required to bring the water withdrawals into compliance.

On August 2, 2007, the District issued a revision of the Water Use Permit, wherein the annual average withdrawal quantities increased from 55,000 gallons per day (gpd) to 115,000 gpd and which required the utility to implement a water conservation rate structure. Based on staff's analysis, coupled with the District's requirement to implement a conservation-oriented rate structure, staff believes it is appropriate to discontinue the 6 kgal allotment in the BFC. Furthermore, staff believes that it is appropriate to recommend a two-tier inclining block rate structure and usage block rate factors of 1.0 and 1.25. Staff recommends that the fixed cost

recovery be reduced to 40% from the initial accounting allocation of 62.26%. This shifts more cost recovery to the gallonage charge providing a greater incentive for customers to conserve.

Based on the foregoing, staff recommends that the utility's current water system rate structure, which includes a 6,000 (6 kgal) water allotment in the base facility charge (BFC), should be changed to a two-tier inclining block rate structure. The pre-repression BFC cost recovery should be set at 40%. The usage blocks should be set for consumption at: a) 0-10 kgal; b) usage in excess of 10 kgal, with appropriate usage block rate factors of 1.0 and 1.25, respectively. Staff recommends changing the utility's current bi-monthly BFC to a monthly BFC based on an inclining block rate structure.

Issue 11: Is a repression adjustment appropriate in this case, and, if so, what is the appropriate adjustment?

Recommendation: No, a repression adjustment is not appropriate for this utility. However, in order to monitor the effects resulting from the changes in revenues, the utility should prepare monthly reports for the water system, detailing the number of bills rendered, the consumption billed and revenues billed. In addition, the reports should be prepared by customer class and meter size. The reports should be filed with staff, on a quarterly basis, for a period of two years beginning the first billing period after the approved rates go into effect. To the extent the utility makes adjustments to consumption in any month during the reporting period, the utility should be ordered to file a revised monthly report for that month within 30 days of any revision. (Bruce)

Staff Analysis: Based on staff's analysis, a repression adjustment is not warranted in this case due to the small magnitude of the recommended revenue increase. However, staff recommends that monthly reports be prepared to monitor the effects resulting from changes in revenue to the water system. These reports should reflect the number of bills rendered, the consumption billed, and the revenues billed. In addition, these reports should be prepared by customer class and meter size. The reports should be filed with staff, on a quarterly basis, for a period of two years beginning the first billing period after the approved rates go into effect. To the extent the utility makes adjustments to consumption in any month during the reporting period, the utility should be ordered to file a revised monthly report for that month within 30 days of any revision.

Issue 12: What are the appropriate rates for the utility?

Recommendation: The appropriate monthly water rates are shown on Schedule No. 4. The recommended rates should be designed to produce revenue of \$97,287 for water, excluding miscellaneous service charges. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice. (Bruce, Hudson)

Staff Analysis: The recommended rates are designed to produce revenue of \$97,287 for water, excluding miscellaneous service charges of \$765. Staff calculated rates using the test-year number of bills and consumption.

The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

If the effective date of the new rates falls within a regular billing cycle, the initial bills at the new rate may be prorated. The old charge should be prorated based on the number of days in the billing cycle before the effective date of the new rates. The new charge should be prorated based on the number of days in the billing cycle on and after the effective date of the new rates. In no event should the rates be effective for service rendered prior to the stamped approval date.

A comparison of the utility's original rates and staff's recommended rates are shown on Schedule No. 4.

Issue 13: Should the customers of Advisor receive refunds of incorrectly charged rates?

Recommendation: The utility should refund \$8,249 or 7.73% of test year revenues to Advisor customers. The refunds should be made monthly to these customers over the next twelve months and should be made with interest, as required by Rule 25-30.360(4), F.A.C. The utility should be required to submit the proper refund reports, pursuant to Rule 25-30.360(7), F.A.C. The refund should be completed within one year of the effective date of this Order. The utility should treat any unclaimed refunds as contributions-in-aid-of-construction (CIAC), pursuant to Rule 25-30.360(8), F.A.C. (Hudson)

Staff Analysis: As discussed in Issue No. 2, the previous owner of the utility, Mr. Cochran, owned a separate company called Advisor which was incorporated in 1975. This separate company did not provide water service; however in 1985, several homeowners approached Mr. Cochran concerning Advisor supplying potable water. These homeowners were concerned about their wells since area wells had either collapsed or gone dry. Over the period of 1985 to 1998, these customers were connected to LWV's water system by Advisor. Mr. Cochran billed these customers through his Advisor company, which he believed to be exempt. Currently, LWV serves 87 customers, previously served by Advisor. The lines to serve these customers were installed by LWV and are connected to LWV's distribution system by Advisor. The water serving these customers is also provided by LWV. However, the former owner of Advisor charged water rates higher than those of LWV.

During this rate proceeding, the new owner of LWV, Mr. Weeks, was informed that Advisor customers are in LWV's certificated territory and are customers of the utility. Upon this discovery, Mr. Weeks agreed to reduce the rates of Advisor's customers to those currently approved for the utility, LWV. Mr. Weeks has been very cooperative in trying to fix the problem created by the previous owner. The utility owner was also made aware that it may be required to make refunds. Staff and the utility are concerned with the magnitude of the refund due to the number of years Advisor customers were charged different rates. The utility proposed that it refund only the overcollection collected during the test year to the Advisor customers.

Staff believes some consideration should be given to the time frame for which the refund should apply. According to the utility, it appears that Advisor's customers have been charged different rates since 1985, approximately 21 years. Staff believes a refund that applies to a 21-year period would be detrimental to the viability of the utility. As stated previously, the utility was part of the James A. Cochran Revocable Trust with James Cochran as the trustee. Mr. Cochran died on August 10, 2002. Mr. James C. Weeks succeeded Mr. Cochran as trustee. During the probate of Mr. Cochran's estate, the trust was dissolved and the stock in LWV was divided between Mr. James C. Weeks and Mr. Ricky Miller. The transfer of majority control was approved in 2005. Thus, the current owner did not have access to the excess funds. For that reason, staff also considered a refund covering the two years the current owner has owned the utility. This would result in a refund as high as \$29,654 for those years.

Staff believes even a refund for 2 years would still create a significant financial hardship for the utility. Due to circumstances beyond the owner's control, Advisor's customers were charged different rates. Mr. Weeks operated under the premise that the Advisor's customers were unregulated. Once he discovered Advisor's customers were in the certificated territory of

the utility, Mr. Weeks consulted with staff in an effort to quickly resolve the issue. Staff believes the utility's proposal to refund the overcollection for the test year is appropriate.

When analyzing the appropriate amount of refund, staff considered the earnings of the utility during the test year. As discussed in Issue 5, staff is recommending a rate of return on equity of 9.06% with a range of 8.06% to 10.06%, and an overall rate of return of 8.86%. The utility's earnings based on LWV's tariffed rates during the test year resulted in a negative return of 4.54%. Staff analyzed the amount of reduction necessary to achieve the top of the range for LWV's recommended return on equity. Staff based the analysis on the actual revenues collected by the utility using the higher rates charged to the Advisor customers. This resulted in an overall earned rate of return of 29.02%, or \$8,249 in overearnings. Therefore, based on staff's calculation, the utility should refund \$8,249 to the former customers of Advisor. Staff also recommends this amount should be refunded evenly through monthly credits on these customers' bills over the next twelve months.

The refund should be made with interest, as required by Rule 25-30.360(4), F.A.C. The utility should be required to submit the proper refund reports, pursuant to Rule 25-30.360(7), F.A.C. The refund should be completed within one year of the effective date of this Order. The utility should treat any unclaimed refunds as contributions-in-aid-of-construction (CIAC), pursuant to Rule 25-30.360(8), F.A.C.

Issue 14: 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 as required by Section 367.0816, Florida Statutes?

Recommendation: The water rates should be reduced as shown on Schedule No. 4, to remove rate case expense grossed-up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense. (Hudson)

Staff Analysis: Section 367.0816, F.S., requires that the rates be reduced immediately following the expiration of the four-year period by the amount of the rate case expense previously included in the rates. The reduction will reflect the removal of revenues associated with the amortization of rate case expense and the gross-up for RAFs which is \$761 annually for water. Using the utility's current revenues, expenses, capital structure and customer base the reduction in revenues will result in the rate decreases as shown on Schedule No. 4.

The utility should be required to file revised tariff sheets no later than one month prior to the actual date of the required rate reduction. The utility also should be required to file a proposed customer notice setting forth the lower rates and the reason for the reduction.

If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

Issue 15: Should the recommended rates be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility?

Recommendation: Yes. Pursuant to Section 367.0814(7), F.S., the recommended rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the utility should be subject to the refund provisions discussed below in the staff analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund. (Hudson)

Staff Analysis: This recommendation proposes an increase in water rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the utility. Therefore, pursuant to Section 367.0814(7), F.S., in the event of a protest filed by a party other than the utility, staff recommends that the recommended rates be approved as temporary rates. The recommended rates collected by the utility should be subject to the refund provisions discussed below.

The utility should be authorized to collect the temporary rates upon the staff's approval of appropriate security for the potential refund and the proposed customer notice. Security should be in the form of a bond or letter of credit in the amount of \$4,280. Alternatively, the utility could establish an escrow agreement with an independent financial institution.

If the utility chooses a bond as security, the bond should contain wording to the effect that it will be terminated only under the following conditions:

- 1) The Commission approves the rate increase; or
- 2) If the Commission denies the increase, the utility shall refund the amount collected that is attributable to the increase.

If the utility chooses a letter of credit as a security, it should contain the following conditions:

- 1) The letter of credit is irrevocable for the period it is in effect, and.
- 2) The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

If security is provided through an escrow agreement, the following conditions should be part of the agreement:

- 1) No refunds in the escrow account may be withdrawn by the utility without the express approval of the Commission;
- 2) The escrow account shall be an interest bearing account;
- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers;
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility;
- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times;
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt;
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments; and
- 8) The Commission Clerk must be a signatory to the escrow agreement.
- 9) The account must specify by whom and on whose behalf such monies were paid.

In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the utility. Irrespective of the form of security chosen by the utility, an account of all monies received as a result of the rate increase should be maintained by the utility. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

The utility should maintain a record of the amount of the bond, and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the utility should file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

Issue 16: Should LWV Utilities be ordered to show cause, in writing within 21 days, why it should not be fined for charging rates and charges that are not contained in its tariff, in apparent violation of Sections 367.081(1) and 367.091(4), Florida Statutes?

Recommendation: No, a show cause proceeding should not be initiated. The utility should, however, be put on notice that, pursuant to Sections 367.081(1) and 367.091(4), Florida Statutes, it must only charge those rates and charges approved by the Commission in its tariff. (Brown, Hudson)

Staff Analysis: During the course of this rate proceeding, staff discovered that Advisor's customers were within the certificated territory of the utility. As discussed previously, Advisor's customers were always considered a separate utility from LWV Utilities. Thus, they were charged different rates. Advisor customers are customers of LWV and should not have been charged different rates. They should have been charged the rates approved by this Commission.

Section 367.081(1), Florida Statutes, states that a utility may only charge the rates and charges that have been approved by the Commission. Moreover, Section 367.091(4), Florida Statutes, states that a utility may only impose and collect those rates and charges approved by the Commission for the particular class of service involved and that a change in any rate schedule may not be made without Commission approval. By charging rates and charges different than those approved by the Commission, it appears that the utility is in apparent violation of Sections 367.081(1) and 367.091(4), Florida Statutes.

Section 367.161, Florida Statutes, authorizes the Commission to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or have willfully violated any Commission rule, order, or provision of Chapter 367, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, titled In Re: Investigation Into The Proper Application of Rule 25-14.003, Florida Administrative Code, Relating To Tax Savings Refund For 1988 and 1989 For GTE Florida, Inc., the Commission having found that a company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "in our view, 'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Additionally, "it is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

As discussed earlier, the previous owner set up Advisor and charged different rates as an unregulated utility. The current owner believed that Advisor was an unregulated utility, and was unaware that Advisor's customers should be charged the same rates as LWV's. When it discovered that Advisor's customers were in LWV's territory and should be charged LWV's rates, the utility agreed to reduce the rates. Therefore, staff does not believe there was any willful intent on behalf of the utility to violate Sections 367.081 and 367.091, Florida Statutes.

Based on the foregoing, staff does not believe that the apparent violations of Sections 367.081(1) and 367.091(4), Florida Statutes, rise to the level that would warrant the initiation of a show cause proceeding in these circumstances. Therefore, staff recommends that the utility

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Date: November 20, 2007

should not be required to show cause. The utility should, however, be put on notice that, pursuant to Sections 367.081(1) and 367.091(4), Florida Statutes, it must only charge those rates and charges approved by the Commission in its tariff.

Issue 17: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order will be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff and that the refund has been completed and verified by staff. Once these actions are complete, this docket should be closed administratively (Brown, Hudson)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order will be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff and that the refund has been completed and verified by staff. Once these actions are complete, this docket should be closed administratively.

LWV UTILITIES, INC.		SCHEDULE NO. 1	
TEST YEAR ENDING 12/31/2006		DOCKET NO. 070177-WU	
SCHEDULE OF WATER RATE BASE			
DESCRIPTION	BALANCE PER UTILITY	STAFF ADJUST. TO UTIL. BAL.	BALANCE PER STAFF
1. UTILITY PLANT IN SERVICE	\$111,586	\$9,860	\$121,446
2. LAND & LAND RIGHTS	\$1,000	\$0	\$1,000
3. NON-USED AND USEFUL COMPONENTS	\$0	\$0	\$0
4. CIAC	(\$17,850)	(\$650)	(\$18,500)
5. ACCUMULATED DEPRECIATION	(\$82,708)	\$1,401	(\$81,307)
6. AMORTIZATION OF CIAC	\$10,401	\$942	\$11,343
7. WORKING CAPITAL ALLOWANCE	<u>\$0</u>	<u>\$10,193</u>	<u>\$10,193</u>
8. WATER RATE BASE	<u>\$22,429</u>	<u>\$21,746</u>	<u>\$44,175</u>

LWV UTILITIES, INC.
TEST YEAR ENDING 12/31/2006
ADJUSTMENTS TO RATE BASE

SCHEDULE NO. 1-A
DOCKET NO. 070177-WU

WATER

UTILITY PLANT IN SERVICE

1. To record a 2004 plant addition in Acct. No. 311	\$3,509
2. To record the retirement of plant from Acct. No. 311	(\$2,249)
3. To record plant addition to Acct. No. 311	\$3,845
4. To record the retire of 75% of replacement cost of Plant in Acct. 311	(\$2,884)
5. To record plant addition to Acct. No. 311	\$334
6. To record plant addition to Acct. No. 340	\$493
7. To record pro forma plant - meter	\$3,770
8. To record pro forma plant - fence	\$3,936
9. To record an averaging adjustment	(\$894)
Total	<u>\$9,860</u>

LAND AND LAND RIGHTS

1. Include land rights unrecorded by utility.	<u>\$0</u>
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Non-Used and Useful

1. Non-used and useful components.	<u>\$0</u>
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CIAC

1. To reflect unrecorded connections.	(\$1,300)
2. To record an averaging adjustments	\$650
Total	<u>(\$650)</u>

ACCUMULATED DEPRECIATION

1. To reflect test year depreciation calculated per 25-30.140 FAC.	\$1,119
2. To record pro forma accumulated depreciation	(\$367)
3. To record an averaging adjustment	\$649
4. Total	<u>\$0</u>
Total	<u>\$1,401</u>

AMORTIZATION OF CIAC

1. To reflect accumulated amortization per 25-30.140 FAC.	\$1,303
2. To reflect an averaging adjustment	(\$361)
Total	<u>\$942</u>

WORKING CAPITAL ALLOWANCE

1. To reflect 1/8 of test year O & M expenses.	<u>\$10,193</u>
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LWV UTILITIES, INC.
TEST YEAR ENDING 12/31/2006
SCHEDULE OF CAPITAL STRUCTURE

SCHEDULE NO. 2
DOCKET NO. 070177-WU

CAPITAL COMPONENT	PER UTILITY	SPECIFIC ADJUSTMENTS	BALANCE BEFORE PRO RATA ADJUSTMENTS	PRO RATA ADJUSTMENTS	BALANCE PER STAFF	PERCENT OF TOTAL	COST	WEIGHTED COST
1. COMMON STOCK	\$500	\$0	\$500					
2. RETAINED EARNINGS	(\$121,143)	\$0	(\$121,143)					
3. PAID IN CAPITAL	\$11,890	\$0	\$11,890					
4. OTHER COMMON EQUITY	<u>\$0</u>	<u>\$119,185</u>	<u>\$119,185</u>					
5. TOTAL COMMON EQUITY	(\$108,753)	\$119,185	\$10,432	\$25,493	\$35,925	81.32%	9.06%	7.37%
6. LONG TERM DEBT		\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
Loan From Stockholder	\$119,185	(\$119,185)	\$0	\$0	\$0	0.00%	0.00%	0.00%
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>0.00%</u>	9.00%	0.00%
TOTAL LONG TERM DEBT	\$119,185	(\$119,185)	\$0	\$0	\$0	0.00%		
7. CUSTOMER DEPOSITS	<u>\$8,250</u>	<u>\$0</u>	<u>\$8,250</u>	<u>\$0</u>	<u>\$8,250</u>	<u>18.68%</u>	8.00%	<u>1.49%</u>
8. TOTAL	<u>\$18,682</u>	<u>\$0</u>	<u>\$18,682</u>	<u>\$25,493</u>	<u>\$44,175</u>	<u>100.00%</u>		<u>8.86%</u>
RANGE OF REASONABLENESS						LOW	HIGH	
RETURN ON EQUITY						<u>8.06%</u>	<u>10.06%</u>	
OVERALL RATE OF RETURN						<u>8.05%</u>	<u>9.68%</u>	

LWV UTILITIES, INC.		SCHEDULE NO. 3			
TEST YEAR ENDING 12/31/2006		DOCKET NO. 070177-WU			
SCHEDULE OF WATER OPERATING INCOME					
	TEST YEAR PER UTILITY	STAFF ADJ. PER UTILITY	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1. OPERATING REVENUES	<u>\$73,716</u>	<u>\$18,137</u>	<u>\$91,853</u>	<u>\$6,200</u> 6.75%	<u>\$98,052</u>
OPERATING EXPENSES:					
2. OPERATION & MAINTENANCE	78,893	2,647	81,540	0	81,540
3. DEPRECIATION (NET)	2,345	1,512	3,857	0	3,857
4. AMORTIZATION	0	0	0	0	0
5. TAXES OTHER THAN INCOME	3,956	4,506	8,462	279	8,741
6. INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7. TOTAL OPERATING EXPENSES	<u>\$85,194</u>	<u>\$8,666</u>	<u>\$93,860</u>	<u>\$279</u>	<u>\$94,139</u>
8. OPERATING INCOME/(LOSS)	<u>(\$11,478)</u>		<u>(\$2,007)</u>		<u>\$3,914</u>
9. WATER RATE BASE	<u>\$22,429</u>		<u>\$44,175</u>		<u>\$44,175</u>
10. RATE OF RETURN	<u>-51.17%</u>		<u>-4.54%</u>		<u>8.86%</u>

LWV UTILITIES, INC.
TEST YEAR ENDING 12/31/2006
ADJUSTMENTS TO OPERATING INCOME

SCHEDULE NO. 3-A
DOCKET NO. 070177-WU

OPERATING REVENUES	<u>WATER</u>
1. To reflect test year revenues	(\$2,470)
2. To reflect revenues from the Advisor customers	\$20,292
3. To reflect the appropriate miscellaneous service charges	\$315
	<u>\$18,137</u>
OPERATION AND MAINTENANCE EXPENSES	
1. Salaries and Wages - Employees (601)	
a.) Adjustment to increase office salaries.	<u>\$13,733</u>
2. Salaries and Wages - Officers (603)	
a.) To reflect the utility's allocated share of managers salary	<u>(\$18,500)</u>
3. Employee Pension & Benefits	
a.) To reflect the utility's allocated share of the managers health ins.	\$4,305
b.) To reflect the utility's allocated share of the employee health ins.	<u>\$2,253</u>
Total	<u>\$6,558</u>
4. Purchased Water	
a.) To include 2006 purchase water expense	\$186
b.) To remove 2005 purchase water expense	<u>(\$357)</u>
Total	<u>(\$171)</u>
5. Purchased Power (615)	
a.) To include 2006 purchase water expense	\$380
b.) To remove 2005 purchase water expense	<u>(\$315)</u>
Total	<u>\$65</u>
6. Chemicals (618)	
a.) To remove 2005 chemical expense	<u>(\$65)</u>
7. Materials and Supplies (620)	
a.) To remove a 2005 expense	(\$14)
b.) To reclassify plant addition to Acct. No. 311	<u>(\$334)</u>
Total	<u>(\$348)</u>
8. Contractual Services - Billing (630)	
a.) To reflect expense for meter reader	<u>\$1,311</u>
9. Contractual Services - Professional (631)	
a.) To reclassify computer expenses to Acct. No. 636	<u>(\$107)</u>
10. Contractual Services - Testing (635)	
a.) To remove testing expenses related to Barbara Ann and Silver Oak	(\$520)
b.) To reclassify operator expense to Acct. No. 636	(\$1,955)
c.) To reflect DEP required testing	<u>(\$775)</u>
Total	<u>(\$3,250)</u>

LWV UTILITIES, INC.
TEST YEAR ENDING 12/31/2006
ADJUSTMENTS TO OPERATING INCOME

DOCKET NO. 070177-WU
PAGE 2 OF 2

11. Contractual Services - Other (636)	
a.) To remove expense related to unregulated utility	(\$284)
b.) To reclassify plant addition to Acct. No. 311	(\$3,845)
c.) To reflect operator expense paid by Advisor	\$210
d.) To reclassify operator expense from Acct. No. 635	\$1,955
e.) To reclassify computer expenses from Acct. No. 631	\$107
f.) To reflect the annual increase in operator expense (\$255-\$210)*12	\$540
g.) To reflect the utility's appropriate allocation of operator expense	(\$592)
h.) To allocate the utility's the appropriate computer expense	\$869
i.) To reflect 5 yr. amortization of tank maintenance (\$1,500/5)	\$300
Total	<u>(\$740)</u>
12. Rents (640)	
a.) To reflect the utility's allocation of office rent	(\$2,850)
b.) To reflect the utility's allocation of office utilities	\$886
Total	<u>(\$1,964)</u>
13. Transportation Expense (650)	
a.) To reflect the utility's allocation for transportation expense	<u>\$1,181</u>
14. Regulatory Commission Expense (665)	
a.) To reflect the 4 year amortization of rate case expense (\$2,908/4)	<u>\$727</u>
15. Miscellaneous Expense (675)	
a.) To reflect the utility's allocation of telephone expense	\$1,968
b.) To reflect the utility's allocation of postage and supplies expense	\$781
c.) To reflect additional cost for converting to monthly billing	<u>\$1,468</u>
Total	<u>\$4,217</u>
TOTAL OPERATION & MAINTENANCE ADJUSTMENTS	<u>\$2,647</u>
	<u>WATER</u>
DEPRECIATION EXPENSE	
1. To reflect test year depreciation calculated per 25-30.140, F.A.C.	\$1,759
2. Test year amortization of CIAC.	<u>(\$247)</u>
Total	<u>\$1,512</u>
TAXES OTHER THAN INCOME	
1. To include regulatory assessment fees on test year revenue.	\$1,196
2. To adjust payroll tax for recommended salaries.	\$3,460
3. To reflect appropriate property taxes	<u>(\$150)</u>
Total	<u>\$4,506</u>

LWV UTILITIES, INC.
TEST YEAR ENDING 12/31/2006
ANALYSIS OF WATER OPERATION AND
MAINTENANCE EXPENSE

SCHEDULE NO. 3-B
DOCKET NO. 070177-WU

	TOTAL PER UTILITY	STAFF PER ADJUST.	TOTAL PER PER STAFF
(601) SALARIES AND WAGES - EMPLOYEES	\$0	\$13,733	\$13,733
(603) SALARIES AND WAGES - OFFICERS	\$50,000	(\$18,500)	\$31,500
(604) EMPLOYEE PENSION & BENEFITS	\$0	\$6,558	\$6,558
(610) PURCHASED WATER	\$2,355	(\$171)	\$2,184
(615) PURCHASED POWER	\$4,634	\$65	\$4,699
(616) FUEL FOR POWER PRODUCTION	\$0	\$0	\$0
(618) CHEMICALS	\$1,202	(\$65)	\$1,137
(620) MATERIALS AND SUPPLIES	\$2,273	(\$348)	\$1,925
(630) CONTRACTUAL SERVICES - BILLING	\$0	\$1,311	\$1,311
(631) CONTRACTUAL SERVICES - PROFESSIONAL	\$1,114	(\$107)	\$1,007
(635) CONTRACTUAL SERVICES - TESTING	\$4,500	(\$3,250)	\$1,250
(636) CONTRACTUAL SERVICES - OTHER	\$4,848	(\$740)	\$4,108
(640) RENTS	\$7,704	(\$1,964)	\$5,740
(650) TRANSPORTATION EXPENSE	\$0	\$1,181	\$1,181
(655) INSURANCE EXPENSE	\$0	\$0	\$0
(665) REGULATORY COMMISSION EXPENSE	\$0	\$727	\$727
(670) BAD DEBT EXPENSE	\$263	\$0	\$263
(675) MISCELLANEOUS EXPENSES	<u>\$0</u>	<u>\$4,217</u>	<u>\$4,217</u>
	<u>\$78,893</u>	<u>\$2,647</u>	<u>\$81,540</u>

Docket No. 070177-WU
 Date: November 20, 2007

LWV UTILITIES, INC. TEST YEAR ENDING 12/31/2006 MONTHLY WATER RATES			SCHEDULE NO. 4 DOCKET NO. 070177-WU	
	UTILITY'S* BI-MONTHLY EXISTING RATES	UTILITY'S** EXISTING RATE EQUIVALENT MONTHLY RATE	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
Residential and General Service				
<u>Base Facility Charge by Meter Size:</u>				
5/8"X3/4"	\$23.95	\$11.98	\$8.01	\$0.06
3/4"	\$0.00		\$12.02	\$0.09
1"	\$59.90	\$29.95	\$20.03	\$0.16
1-1/2"	\$119.83	\$59.92	\$40.05	\$0.31
2"	\$0.00		\$64.08	\$0.50
3"	\$0.00		\$128.16	\$1.00
4"	\$0.00		\$200.25	\$1.55
6"	\$0.00		\$400.50	\$3.11
* Existing Rates Include 6,000 Gal in BFC				
** Monthly equivalent existing rate would include 3,000 Gal in BFC				
<u>Residential Gallonage Charge</u>				
Over 6,000 Gallons	\$1.88			\$0.00
0 - 10,000			\$2.10	\$0.02
10,000+			\$2.63	
<u>General Service Gallonage Charge</u>				
Over 6,000 Gallons	\$1.88			
Per 1,000 Gallons			\$2.18	
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>				
3,000 Gallons	\$29.59	\$11.98	\$14.31	
5,000 Gallons	\$33.35	\$15.74	\$18.51	
10,000 Gallons	\$42.75	\$25.14	\$29.01	