

Marguerite McLean

100104-WU

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Sent: Monday, September 27, 2010 11:06 AM
To: Filings@psc.state.fl.us
Cc: Erik Sayler; Gene Brown; Lisa C. Scoles; Ralph Jaeger
Subject: e-filing (Dkt. No. 100104-WU)
Attachments: 100104.OPC's motion to strike.pdf

Electronic Filing

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b. Docket No. 100104-WS

In re: Application for increase in water rates in Franklin County by Water Management Services, Inc.

c. Document being filed on behalf of Office of Public Counsel.

d. There are a total of 34 pages.

e. The document attached for electronic filing is OPC's Motion to Strike Portions of WMSI's Rebuttal Testimony

Thank you for your attention and cooperation to this request.

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9/27/2010

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water)
rates in Franklin County by Water)
Management Services, Inc.)

Docket No. 100104-WU

Filed: September 27, 2010

OPC'S MOTION TO STRIKE PORTIONS OF WMSI'S REBUTTAL TESTIMONY

The Citizens of the State of Florida, by and through the Office of Public Counsel, move to strike the following portions of "rebuttal" testimony of Water Management Services, Inc. ("WMSI") witnesses Gene Brown and Frank Seidman:

Mr. Brown—page 33, lines 18 through page 34, line 5; page 34, lines 16 through 22.

Mr. Seidman—page 5, lines 9 though page 6, line 12; page 8, line 1 through page 9, line 5.

The Commission should strike these portions of prefiled testimony because they are not in the nature of rebuttal to the testimony of OPC's witnesses. Instead, they attempt to inject at this late stage of the proceeding an impermissible modification of WMSI's case in chief. WMSI's effort to introduce a new and different approach to its case in chief at this juncture constitutes an abuse of procedure and, if permitted, would violate OPC's right to due process. In support, OPC states:

1. In its application for an increase in water revenues, WMSI requested an increase in rates designed to pay for approximately \$2.2 million of capital improvements. At paragraphs 6 and 16 of the application, WMSI stated:

6. The Applicant is requesting rates that would allow it to recover all expenses that WMSI will incur on a going-forward basis, and generate a fair rate of return on its investment.

....

16. The Applicant has experienced increased Operations and Maintenance expenses due to the aging infrastructure of the system, much of which was originally constructed over 30 years ago. In order to

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make the necessary capital improvements to WMSI's aging infrastructure, the Applicant is requesting a rate increase to pay for the improvements, totaling an estimated \$2,202,481. A *summary* of the elements of the capital improvements and their costs are shown at page 3 of MFR, Volume I.

2. WMSI included the \$2.2 million of capital improvements in its requested rate base, in the form of pro forma adjustments. See Schedule A-3, pages 1 and 2 (Attachment A).
3. WMSI witnesses Gene Brown and Frank Seidman addressed WMSI's request for an increase to include the cost of the \$2.2 million of capital improvements in their direct testimony. See testimony of Mr. Brown at page 5, line 10—page 8, line 23 (Attachment B); testimony of Frank Seidman, page 5, lines 13-19 (Attachment C).
4. In his prefiled testimony, OPC witness Andrew Woodcock, P.E., asserts that the Commission should deny the \$2.2 million of pro forma adjustments sought by WMSI, on the grounds that the only support consists of "planning level" engineering estimates, which are insufficient to document the cost of the proposed capital additions for ratemaking purposes. See Attachment D. Based on Mr. Woodcock's testimony, OPC accounting witness Ms. Donna Ramas removed the \$2.2 million of pro forma adjustments from rate base. (Attachment E)
5. The only legitimate rebuttal to Mr. Woodcock's position would be an assertion disputing his characterization of the "planning level" estimates as inadequate to support an addition to rate base. On September 17, 2010, WMSI submitted its rebuttal testimony. In the testimony addressing Mr. Woodcock's testimony, WMSI witness Gene Brown was silent

on the subject of the adequacy or inadequacy of WMSI's support of the pro forma adjustments. However, when addressing Ms. Ramas, Mr. Brown introduced for the first time in testimony the concept of a series of proceedings beginning with an acknowledgement of the need for improvements and proceeding ultimately to an after-the-fact, true-up proceeding. (Attachment F)

6. Similarly, in his September 17 prefiled testimony, WMSI witness Frank Seidman does not attempt to refute Mr. Woodcock's testimony that the costs of the proposed improvements are not sufficiently documented. Instead, he, like Mr. Brown, talks in terms of an order acknowledging the necessity of the improvements and pledging to provide for an increase to pay for them after they have been completed. (He even says, "Later, in my rebuttal to Ms. Ramas, I will demonstrate how this may be accomplished"—an outright acknowledgement that he is introducing a proposal for the first time.) (Attachment G)

7. It is axiomatic that the function of rebuttal testimony is to provide the party initiating a proceeding with an opportunity to refute subsequent testimony of an adversarial party; absent such an opportunity, the rebutting party would suffer a procedural disadvantage, because the adversary has had the benefit of the first party's evidence when fashioning its own. However, it is equally axiomatic that to permit the rebutting party to misuse this opportunity to rebut by introducing new subjects and/or altering that party's theory of the case would be to place the *adversary* at a disadvantage. "It is well settled that the purpose of rebuttal testimony is to 'explain, repel, counteract, or disprove the evidence of the adverse

party,' and if the defendant opens the door to the line of testimony, he cannot successfully object to the prosecution 'accepting the challenge and attempting to rebut the presumption asserted.' *United States v. Delk*, 586 F.2d 513, 516 (5th Cir. 1978), quoting *Luttrell v. United States*, 320 F.2d 462, 464 (5th Cir. 1963). In *Driscoll v. Morris*, 114 So.2d 314, 315 (3d DCA 1959), the court held:

Generally speaking, rebuttal testimony which is offered by the plaintiff is directed to new matter brought out by evidence of the defendant and does not consist of testimony which should have properly been submitted by the plaintiff in his case-in-chief. It is not the purpose of rebuttal testimony to add additional facts to those submitted by the plaintiff in his case-in-chief unless such additional facts are required by the new matter developed by the defendant. If the proffered evidence appears to be cumulative rather than rebuttal, it is within the sound discretion of the trial judge to allow its admission and the exercise of this discretion will not be disturbed on appeal unless it appears to so prejudice the result as to indicate an abuse of discretion.

8. Citing this language, in Order No. PSC-00-0087-PCO-WS, issued in Docket No. 960545 on January 10, 2000, the Commission granted a motion to strike rebuttal testimony of Aloha Utilities, Inc. There, the utility had introduced, in the "rebuttal" phase, evidence concerning regulatory expense that was not mentioned in its case-in-chief and that rebutted nothing in the Intervenor's case. The Commission found that the testimony and exhibits "do not rebut any parties' testimony, are not cumulative to any other testimony, and are, therefore, not proper rebuttal testimony and exhibits."
9. This should be the result here, as well. The testimony that is the subject of OPC's motion is not "cumulative" to WMSI's direct case—in fact, the rebuttal is *inconsistent* with and *contradicts* WMSI's direct case, in which WMSI built the proposed capital additions into rate base and proposed rates to recover the cost of the improvements. The testimony that is the

subject of OPC's motion does not attempt to disprove the testimony of OPC's witness—if anything, WMSI's testimony accepts the assertions of Mr. Woodcock and Ms. Ramas, and proceeds to alter WMSI's basic request for relief. The heart of the OPC testimony that WMSI purports to rebut is that WMSI has not documented or supported the cost of the proposed additions. WMSI does not seek to contradict or disprove OPC's assertion; rather, it seeks to change the course of the case in light of that assertion. That is not the appropriate function of rebuttal.

10. Further, to allow the rebuttal to which OPC objects would be to prejudice OPC's case. Implicit in the rebuttal that is the subject of OPC's Motion to Strike is the idea that the Commission should indicate in this case that it will agree to increase rates by the amount of the costs of the proposed capital additions. Elsewhere in this case, OPC witness Donna Ramas has pointed out that WMSI's investment in "associated companies" now stands at \$1.2 million—at a time when WMSI claims it has difficulty paying its obligations. Had WMSI presented its concept of findings and phases in its direct case, OPC's witnesses could have addressed the proposal in the full context of WMSI's financial condition and issues of imprudence to which it gives rise. If WMSI is permitted to present "out of bounds" testimony, it will have denied OPC that opportunity.

11. WMSI's rebuttal witnesses say nothing in opposition to Mr. Woodcock's assertion that WMSI has failed to support the costs of its proposed capital projects adequately. WMSI's application, prefiled direct testimony, and minimum filing requirements say nothing about a series of proceedings, initial findings, or true-ups. Contrary to the

impressions they seek to create, WMSI included the improvements in rate base and asked the Commission to increase rates to pay for them - *in this case*. The new proposals that WMSI seeks to inject in its "rebuttal" testimony would change the nature of WMSI's application dramatically. If WMSI intended or desired to pursue this route, it should have laid out the proposal in its case in chief. WMSI's effort to overcome OPC's criticism of the shortcomings of the documentation it offered to support \$2.2 million of capital projects by changing its basic case in chief is not legitimate rebuttal and should be stricken.

WHEREFORE, OPC requests the Commission to strike the portions of WMSI's rebuttal identified herein.


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Attorney for the Citizens
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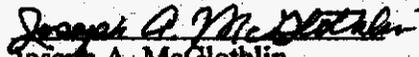
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing OPC'S MOTION TO STRIKE PORTIONS OF WMSI'S REBUTTAL TESTIMONY has been furnished by electronic mail and U.S. Mail to the following parties on this 27th day of September, 2010, to the following:

**Ralph Jaeger
Erik Saylor
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850**

**Mr. Gene D. Brown
Water Management Services, Inc..
250 John Knox Road, #4
Tallahassee, FL 32303-4234**

**Lisa C. Scoles
Radey Thomas Yon Clark
Post Office Box 10967
Tallahassee, FL 32302**


Joseph A. McGlothlin

ATTACHMENT A

**MFR SCHEDULE A-3
(RATE BASE ADJUSTMENTS)**

Pages 1, 2

Schedule of Adjustments to Rate Base

Florida Public Service Commission

Company: Water Management Services, Inc.
 Schedule Year Ends: December 31, 2009
 Invoice: [] Final [X]
 Historic [X] Projected []

Schedule: A-3
 Page 1 of 2
 Docket No.: 100104-WU
 Preparer: F. Seidman

Explanation: Provide a detailed description of all adjustments to rate base per books, with a total for each rate base line item.

Line No.	Description	Water	Wastewater
(A) Utility Plant in Service - Proforma			
2	Supply Main Extension	156,156	
3	Water Plant Process Improvements	916,125	
4	Land required for building new Tank & WTP	450,000	
5	Concrete Ground Storage Tank	326,000	
6	Replace/Rehab Electrical Systems	337,700	
7	Upgrade Distribution System	22,500	
8	Proforma Plant Retirements	(180,409)	
9	Total Plant in Service	\$ 2,022,072	\$ -
10	(B) Net Non-used and Useful Adjustment	\$ (46,325)	\$ -
11	(C) Construction Work in Progress	\$ -	\$ -
(D) Accumulated Depreciation - Proforma			
13	Supply Main Extension	2,231	
14	Water Plant Process Improvements	20,685	
15	Concrete Ground Storage Tank	4,075	
16	Rehab Electrical Systems - Wells	8,443	
18	Upgrade Distribution System	262	
18	Proforma Plant Retirements	(180,409)	
19	Total Accumulated Depreciation	\$ (144,715)	\$ -
20	(E) Accumulated Amortization of CIAC	\$ -	\$ -
21			
22	(F) Working Capital, Balance Sheet Method, see Sch. A-17	\$ 181,157	\$ -

Camponer Water Management Services, Inc.
 Schedule Year Ending December 31, 2009
 Interim Final
 Historic Projected

Schedule A-3
 Page 2 of 2
 Docket No. 100704-WU
 Prepared by F. Robinson

(A) - PROFORMA ADJUSTMENTS

A1 - Proforma Plant Additions

	Account No.	Installed Cost	Depreciable Life, years	Annual Depr. Exp.	TV Depr. Amortization
1	300	136,156	35	4,662	2,231
Reconnect portion of 12" Supply Main from bridge main to island. This portion is exposed to the elements and subject to sea water contamination.					
2	320	910,125	22	41,360	20,685
Install chlorine monitoring chlorine system, increase chlorinator capacity, include float chlorine diffuser system to enable adding chlorine directly to ground storage tank increasing flexibility and contact time, add NSF certified balling to ground storage tank.					
3	303	450,000			
Lead required for building new Tank & WTP					
	330	126,000	40	3,150	4,075
Replace existing ground storage tank and sectors. The existing tank has reached end of useful life and is subject to catastrophic failure.					
4	311	357,700	20	16,885	8,443
Replace and/or Rehabilitate electrical equipment					
5	331	22,280	43	522	262
Upgrade distribution system					
Subtotal - Adjustments for Proforma Plant Additions		2,202,461		71,389	35,695

A2 - Proforma Plant Retirement @ 12/31/10
 (See Sub B-1 for Amortization of Proforma Early Retirement of Plant)

	Account No.	Original Cost Retired	Annual Depr. Exp. Removed	Amount Amort. Retired
High Service Pump Controller	307	(4,340)	(145)	(4,340)
High Service Pump & Motor #2	309	(25,000)	(714)	(25,000)
Asset #2	309	(25,000)	(714)	(25,000)
High Service Pump Flow motor (3)	308	(35,138)	(1,004)	(35,138)
Pipes & Valves, net of 55% salvage	309	(40,000)	(1,143)	(40,000)
High Service Pump #1	311	(3,913)	(196)	(3,913)
Well Pump Motor Controller	311	(39,611)	(1,981)	(39,611)
Asset #1	320	(7,222)	(326)	(7,222)
Subtotal - Adjustments for Retired Plant		(180,409)	(6,233)	(180,409)

VEHICLE USE ADJUSTMENTS

Part of (B) Net Non Used & Useful Adjustment

	Account No.	Original Cost	Depreciable Life, years	Annual Depr. Exp.	Amount Amortization
2008 GMC Truck assigned to G. Brown, purchased 10/07	341	41,870	6	4,978	15,130
2007 Chevrolet SUV assigned to S. Clark, purchased 2/09	341	30,413	6	3,049	4,234
Total		72,283		12,027	19,364
Adjust 30% for non-utility use (Included in Non-Used Adjustments)		(24,143)		(6,004)	(9,613)

ATTACHMENT B

**EXCERPT – PREFILED DIRECT TESTIMONY
OF WMSI WITNESS GENE BROWN**

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1 Including me, each of the utility's four top management employees has worked for
2 the company for an average of 24 years. That is the key to the utility's success,
3 having experienced personnel who are dedicated to providing a consistent, high
4 level of service to customers.

5

6 **Q. What improvements have you made since the last rate case?**

7 **A. We installed a new supply main pipeline across the bridge to the island, and we
8 have made various improvements to enhance fire protection on the island.**

9

10 **Q. Do you plan to make any other improvements to enhance your services?**

11 **A. Yes. Last year we asked our engineers, PBS&J, to conduct a complete evaluation
12 of the water system and to make recommendations for improvements that are
13 needed to maintain reliability and our current level of service.**

14

15 **Q. What were the results of that evaluation?**

16 **A. PBS&J concluded that we need to construct a new ground storage tank; construct a
17 little over 2,000 feet of new supply main; rebuild major parts of the pumping and
18 electrical system; and that we need to make various other improvements to increase
19 the reliability and integrity of the system.**

20

21 **Q. Why are all of these improvements necessary at this time?**

22 **A. The ground storage tank and parts of the electrical system are approximately 35
23 years old and have basically reached the end of their useful lives. The ground**

1 storage tank is crumbling in places and we could have a catastrophic failure at any
2 time. The electrical system is problematic and unreliable. Parts of the supply main
3 are exposed and unsupported out in the Bay on the island side, making it subject to
4 damage from boats or storms as well as salt water intrusion. Any of these problems
5 could result in a sudden loss of water supply to the island, which would last for an
6 extended period of time until emergency repairs could be made. Needless to say,
7 we do not want that to happen.

8
9 **Q. What will these improvements cost?**

10 **A. They will cost approximately \$2.2 million.**

11
12 **Q. How does the company propose to pay for these improvements?**

13 **A. We have a conditional written commitment from a local commercial bank to make**
14 **a \$5 million loan with a United States Department of Agriculture guarantee, subject**
15 **to approval of our requested rates. This loan will pay for all the needed**
16 **improvements, and will refinance all of the utility's existing debt except the State**
17 **Revolving Fund loan administered by DEP which was used for the new supply**
18 **main. It is necessary and prudent to refinance all of our existing debt at current**
19 **market rates, except for the State Revolving Fund loan which is at 3%.**

20
21 **Q. Can you borrow this money without a rate increase?**

22 **A. No. The proposed loan is expressly contingent upon new, increased rates necessary**
23 **to repay the loan.**

ATTACHMENT C

**EXCERPT – PREFILED DIRECT TESTIMONY
OF WMSI WITNESS FRANK SEIDMAN**

DOCUMENT NUMBER DATE

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1 expense associated with the limited proceeding, Docket No. 000694-WU. The
2 primary adjustments to operating expenses were to normalize certain test year
3 expenses either to reflect a full 12 months for some only partially expensed on the
4 books or to reflect known changes in personnel or salaries that are now in effect,
5 and will continue to be in effect for the foreseeable future. As explained in greater
6 detail in Mr. Brown's testimony, these adjustments are necessary to reflect the level
7 of expenses which is necessary for WMSI to efficiently provide quality service to
8 its customers. Finally, there are adjustments to depreciation and taxes associated
9 with adjustments to plant in service, rate base and the requested revenue increase.
10 These are all summarized and detailed in Schedule B-3 of Volume I of Exhibit (FS-
11 2)_____.

12
13 **Q. What adjustments were made to Plant in Service?**

14 **A. Plant in Service was adjusted to include several pro forma projects necessary to**
15 **preserve and maintain the quality of service for existing customers. These projects**
16 **are described in Schedule A-3 of Volume I of Exhibit (FS-2)_____. It is the**
17 **intent of the utility to complete these projects within two years. The projects**
18 **include improvements to the supply main, the water treatment plant, the ground**
19 **storage tank and the distribution system.**

ATTACHMENT D

**EXCERPT – PREFILED DIRECT TESTIMONY
OF OPC WITNESS ANDREW WOODCOCK**

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seven Technical Memoranda and an Executive Summary. Each of the memoranda evaluates a different aspect of the WMSI system and provides various engineering recommendations and cost estimates. It is my opinion that these cost estimates are not sufficient documentation to support additions to plant-in-service, and therefore should not be included in rate base.

Q. EXPLAIN WHY YOU ARE OF THE OPINION THAT THE COST ESTIMATES DO NOT SUFFICIENTLY SUPPORT THE PRO FORMA ADDITIONS TO RATE BASE.

A. A rate base calculation relies upon plant-in-service amounts that are derived from the actual booked costs of assets in the utility system and are supported by invoices from contractors or equipment suppliers. The cost estimates submitted by WMSI in support of the pro forma additions are an engineer's preliminary opinion of what the recommended capital projects may cost, and may vary substantially from the actual installed cost.

Q. IN YOUR OPINION, WHAT WOULD REPRESENT SUFFICIENT DOCUMENTATION TO SUPPORT THE PRO FORMA ADJUSTMENTS?

A. As I stated above, I am of the opinion that actual invoices that document the full scope of the project and its final installed cost represent sufficient documentation to support the pro forma additions to rate base.

Q. WOULD ANY OTHER TYPE OF DOCUMENTATION BE SUFFICIENT?

A. Competitive bids from contractors or suppliers for a well defined project scope could be considered, but would still not be as accurate as the final installed cost.

Q. PLEASE EXPLAIN WHY NOT?

A. Competitive bids do not take into account anything that may happen during the construction of the project. For example, there may be an unforeseen site condition that increases the overall project cost. In that case, relying upon bids for adjustments to rate base would understate the actual project cost. Conversely, the scope of the project may be reduced after the bids are received, thereby reducing the actual project cost. In this case, relying upon bids would overstate the actual project cost. I am of the opinion that if competitive bids are accepted as documentation for pro forma additions to rate base, then a subsequent true up should be conducted to reconcile the actual project costs to rate base.

Q. EXPLAIN SPECIFICALLY WHY YOU ARE OF THE OPINION THAT COST ESTIMATES IN GENERAL ARE NOT SUFFICIENT DOCUMENTATION TO SUPPORT THE PRO FORMA ADDITIONS TO RATE BASE.

A. Cost estimates prepared by engineers are sometimes also referred to as estimates of probable cost. They can come in various levels of detail and accuracy, depending upon the amount of engineering detail and analysis conducted. One of the primary purposes of an engineering cost estimate is to inform the utility of the amount of funds necessary to complete the project. As a result, cost estimates are conservative

in nature. No engineer wants to provide a cost estimate to a utility that underestimates the cost of a project. If properly performed, a cost estimate is higher than the project cost that would be received from competitive bids.

As more engineering work is performed on a specific project, a cost estimate tends to get more refined and accurate. For example, a planning level cost estimate that does not have any design documentation is not as accurate as a cost estimate based on fully designed project drawings and specifications. For a given project, the cost estimate prepared in the planning phase will not be as accurate as the cost estimate prepared at the end of the final design phase.

Now, if the project drawings and specifications are given to contractors to prepare a competitive bid, the resulting costs would be a better indicator of the cost of a project, because it involves a knowledgeable third party analysis, can be secured by a contract to obtain the construction services for the quoted price, and reflects competitive market forces at the time of the bid. Therefore, cost estimates are not as accurate an indicator of a project cost as are competitive bids.

Q. WHAT LEVEL OF DETAIL IS IN THE ESTIMATES PROVIDED BY WMSI TO SUPPORT THE PRO FORMA ADDITIONS?

A. I would characterize the estimates provided by WMSI to support the pro forma plant additions as planning level estimates. They are based upon a study level of engineering analysis and do not rely upon any detailed project drawings, complete

specifications, or similar construction documents. The technical memoranda provide an analysis that documents the need for improvements and identifies the projects to address the needs. However, there is not any detail on the project design or materials to produce anything other than a planning level estimate.

Q. WHAT INDICATIONS CAN YOU POINT TO REGARDING THE ACCURACY OF THE COST ESTIMATES FOR THE WMSI PRO FORMA ADJUSTMENTS?

A. There are few, but one example concerns the additional property costs associated with installing the new ground storage tank (GST). A total of \$450,000 for property is included in the cost estimate, which is over 25% of the of the project cost. No supporting documentation was provided about how the value was obtained. Exhibit ATW-3 provides a summary table and supporting documentation on parcels around the water plant site obtained from the Franklin County Property Appraiser's website. The data shows adjacent lots selling for between \$7,500 and \$160,000 with the most recent in 2007 being \$95,000. Given the wide range of the prices of nearby sales and the nationwide collapse in the real estate market since 2007, it is difficult to tell if the estimated property value of \$450,000 is at all representative of what the actual cost to purchase the property may be.

Q. IN SUMMARY TO THIS ISSUE, WOULD YOU PLEASE RESTATE YOUR POSITION REGARDING THE PRO FORMA ADJUSTMENTS?

- A. In my opinion, the engineering estimates provided by WMSI do not have the level of detail or accuracy required to make pro forma adjustments to rate base. Therefore, it is my recommendation that the pro forma adjustment to rate base not be included at this time.

IV. CAPITAL IMPROVEMENTS

Q. NOTWITHSTANDING YOUR OPINION REGARDING THE PRO FORMA ADJUSTMENTS ABOVE, DO YOU HAVE ANY SPECIFIC CONCERNS REGARDING THE CAPITAL PROJECTS REPRESENTED BY THE PRO FORMA ADJUSTMENTS?

- A. Yes. The capital projects are identified in the Executive Summary of the report as Raw Water Transmission Line, Plant Improvements, Electrical System Replacement/Rehabilitation and Distribution System. Based on my review of the documentation and my inspection of the utility's facilities, these projects would replace aging assets, improve the quality of service to the customers, or improve the safety and reliability conditions of the utility system. However, I do take exception to the analysis that led to the conclusion to locate a new ground storage tank (GST) on adjacent property.

Q. CAN YOU BE SPECIFIC?

- A. Yes, Exhibit ATW-4 is an excerpt from Technical Memorandum 5 from the PBS&J engineering report. The memorandum evaluates four alternatives for addressing the observed structural issues of the GST. The recommended option (identified as

ATTACHMENT E

**EXCERPT – PREFILED DIRECT TESTIMONY
OF OPC WITNESS DONNA RAMAS**

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1 in 2004. They have only been depreciated for approximately six years on the
2 Company's books. As part of its filing, the Company is proposing to recover the
3 net undepreciated balance as prudently retired plant resulting in a requested
4 annual amortization of \$12,879.

5

6 **Q. HAS THE COMPANY FULLY SUPPORTED ITS PROPOSED PRO**
7 **FORMA PLANT ADDITIONS IN THIS CASE?**

8 A. This issue is addressed by OPC engineering witness Andrew Woodcock. As
9 indicated in Mr. Woodcock's testimony, the Company has not provided a
10 reasonable level of support for the cost projections that it has incorporated in this
11 case for its proposed additions. Prior to allowing for pro forma plant additions
12 that go beyond the end of the test year, a reasonable level of support for the
13 estimates associated with those costs should be provided. The Company has
14 provided no bids or detailed analysis of the cost projections associated with each
15 of its proposed plant additions in this case. Again, this is discussed in further
16 detail in the testimony of Mr. Woodcock. As part of the Commission's decision in
17 this case, it should not essentially give the Company a blank check for extremely
18 high level cost projections that it has incorporated in this case for these plant
19 additions. The Company should be required to provide a reasonable level of
20 support for the proposed pro forma plant additions prior to any of them being
21 allowed for inclusion in rate base in this case.

22

23 **Q. HAVE YOU MADE AN ADJUSTMENT TO REFLECT THE REMOVAL**
24 **OF THESE UNSUPPORTED PRO FORMA PLANT ADDITIONS?**

25 A. Yes. As shown on Schedule C-1, page 1 of 2, I reflect the reversal of each of the

1 Company's proposed additions to plant in service as well as the reversal of the
2 associated pro forma plant retirements incorporated in this case. Additionally, all
3 of the related adjustments, such as the adjustment for pro forma accumulated
4 depreciation and pro forma depreciation expense are also reversed on Schedule C-
5 1, page 1 of 2.

6
7 **Q. WHAT ADDITIONAL ADJUSTMENTS ARE NECESSARY TO REVERSE**
8 **THE COMPANY'S PROPOSED PRO FORMA PLANT ADDITIONS AND**
9 **TO REMOVE ALL IMPACTS FROM THIS CASE?**

10 A. As shown on Schedule C-1, page 1, line 23, the Company's proposed amortization
11 of prudently retired plant should also be removed at this time. Additionally, the
12 amount included for the projected increase in property taxes associated with the
13 pro forma plant should also be removed. These pro forma plant additions as well
14 as all of the associated adjustments included in the filing by the Company should
15 not be allowed before such time as the cost are fully justified and supported.
16

17 **Q. DO YOU HAVE ANY CONCERNS WITH THE COMPANY'S**
18 **CALCULATION OF ITS PROPOSED AMORTIZATION OF THE PLANT**
19 **TO BE RETIRED?**

20 A. Yes. In calculating its proposed amortization of the plant to be retired, the
21 Company appears to have used the formula required by Rule 25-30.433(9) in
22 determining the amortization period for recovery, with one exception. In
23 calculating the amortization period, the Company used the rate of return of
24 5.01%, which is based on the "final requested interest rate from limited
25 proceeding Dkt. No. 000694-WU". The Commission's rule states that the amount

ATTACHMENT F

**EXCERPT – REBUTTAL TESTIMONY
OF WMSI WITNESS GENE BROWN**

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FFSC REVISIONS CLERK

1 sewer, at least in the central commercial area. Some of them later asked
2 me to slow things down for political reasons, but they still led me to
3 believe that we were working toward the same goal. I would not have
4 proceeded otherwise. The sewer application did not work out, and I have
5 now had to file this separate application for an increase in water rates.
6 This would not have been necessary if WMSI's plan to provide sewer
7 service had been successful. If WMSI had refused to respond to the
8 requests for sewer service by its commercial water customers, or refused
9 to respond to the formal request from the county government to make a
10 sewer presentation, I believe the company would have been criticized,
11 maybe even by members of the PSC, for failing to respond to the demands
12 of its water customers who also needed wastewater service. This sewer
13 endeavor was undertaken on behalf of WMSI water customers. It was a
14 reasonable and prudent decision designed to prevent an increase in water
15 rates, and it is fair and appropriate for those water customers to reimburse
16 the costs.

17
18 Q. Would you please comment on the pro forma plant improvements
19 discussed at pages 44 to 48 of Ms. Ramas' testimony.

20 A. WMSI and its lawyers and consultants have made it clear from the outset
21 that there is no attempt to have the PSC set rates based upon pro-forma
22 estimates. There is an attempt to reach a consensus as to what
23 improvements should be made and the conditions under which those

1 improvements should be engineered, bid and financed. To date, WMSI
2 has spent \$61,000 on evaluation and planning. It appears that the
3 improvements are reasonable and necessary, and that the only remaining
4 issue is whether the new ground storage tank should be built on the
5 existing site or a new site. After reviewing the testimony of OPC's
6 engineer, Andrew Woodcock, I asked PBS&J to reevaluate its alternatives
7 2 and 3 from its report. This revision, which is being filed with the
8 rebuttal testimony of Michael Scibelli, shows there is only a \$64,000
9 difference between the cost of a new tank on a new site and the cost of a
10 new tank on the old site. This \$64,000 is not worth the risk of a major
11 water outage on the island, not to mention the problematic issue of
12 whether a sufficient temporary site can be found for the temporary storage
13 and pumping facilities during demolition of the old tank and construction
14 of a new tank on the same site. Also, the storage and shop/work area that
15 WMSI will have when the old tank is converted is worth at least \$64,000
16 to WMSI because it is badly needed. However, WMSI will follow
17 whatever directive the PSC may give regarding these improvements.
18 Basically, the utility and its lender, Citizens State Bank, need a comfort
19 level that the cost of the improvements will be included in rates in a "true-
20 up" proceeding after final construction plans have been prepared and after
21 the bidding process has been completed according to the directions of the
22 PSC.
23

1 Q. Does that conclude your testimony with regard to Ms. Ramas?

2 A. Yes.

3

4 Q. Did you review the corrected direct testimony filed by OPC witness
5 Andrew Woodcock?

6 A. Yes, I did.

7

8 Q. Do you have any comments on the testimony of Andrew Woodcock?

9 A. Yes. I agree with most of his testimony, but I disagree with him about
10 used and useful.

11

12 The PSC has previously found everything to be used and useful
13 except the distribution lines in the plantation. Now, in light of the
14 legalization of wells in the plantation so that we do not have mandatory
15 hookups, and in light of the fact that the fire department and other
16 agencies are constantly pressing WMSI to provide fire flow and pressure
17 throughout the plantation, I do not believe it is fair or reasonable for any
18 of the distribution lines in the plantation to be considered non-used and
19 useful. All of these distribution lines are required to provide fire flow and
20 pressure to approximately 500 existing water customers in the plantation.
21 If WMSI is going to continue the installation of fire hydrants, pumps and
22 other fire protection improvements in the plantation, it is not reasonable to
23 disallow a return on any part of the distribution system, all of which must
be available in the event of a fire.

1 Q. Does that conclude your testimony with regard to Andrew
2 Woodcock?

3 A. Yes, it does.
4

5 Q. Did you review the testimony of Debra Dobiac?

6 A. Yes.
7

8 Q. Do you have a response to the testimony of Debra Dobiac, including
9 the auditor's report attached to her testimony?

10 A. Yes, I agree with most of her testimony, and I have the following
11 comments about the six audit findings:
12

13 Audit Finding No. 1: I disagree. I believe WMSI handled this correctly as
14 a reduction to plant. Maintenance of the supply main would have been
15 required in any event, so that is a proper expense item.
16

17 Audit Finding No. 2: I agree.
18

19 Audit Finding No. 3: I agree with the \$9,257 adjustment, and I agree that
20 the \$65,000 adjustment should be reconsidered. That \$65,000 payment
21 was paid to me and my affiliates (not the utility company) by the
22 homeowners as settlement of a lawsuit that did not involve the utility
23 company. It was then advanced by me to the utility company as an equity

ATTACHMENT G

**EXCERPT - REBUTTAL TESTIMONY
OF WMSI WITNESS FRANK SEIDMAN**

RECEIVED WMSI

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1 Commission addressed the used and usefulness of this project in Order
2 No. PSC-05-1156-PAA-WU, and found the associated mains to be 100%
3 used and useful. The only other major addition was for the renovation of
4 the mains in the state park which were leaking badly. All of the mains in
5 the state park are 100% used and useful. There is no valid reason that the
6 entire transmission and distribution system should not be considered 100%
7 used and useful.

8
9 Q. At page 8 of his direct testimony, Mr. Woodcock recommends that the
10 pro forma adjustments to rate base not be included at this time.
11 Would you please respond to that?

12 A. Yes. Regarding the proposed pro forma adjustments, Mr. Woodcock, at
13 page 9 of his corrected direct testimony, makes the following statement.
14 "Based on my review of the documentation and my inspection of the
15 utility's facilities, these projects would replace aging assets, improve the
16 quality of service to the customers, or improve the safety and reliability
17 conditions of the utility system." His recommendation to not include these
18 additions in rate base "at this time" is based not on their lack of necessity,
19 or their lack of good engineering, but on his allegation that the costs are
20 not sufficiently supported.

1 I would like to make it clear that it is not the intent of WMSI to request
2 that the Commission approve "carte blanche" the estimated costs shown in
3 the minimum filing requirements (MFRs). We fully expect that the
4 Commission will require a true up of actual costs to estimated costs. But
5 we will not know the actual costs until the projects are completed and the
6 projects cannot be completed unless there is sufficient acknowledgment in
7 this record and in the final order that the proposed plant additions are
8 necessary and that the Commission will approve rates based on the
9 legitimate final costs, when they are known. Otherwise, WMSI will not be
10 able to obtain financing and without financing these necessary projects
11 will not be done. Later, in my rebuttal to Ms. Ramas, I will address how
12 this may be accomplished.

13
14 **Q.** ~~Would you please turn now to the direct testimony of Ms. Ramas? At~~
15 ~~page 26 of her direct testimony, Ms. Ramas proposes an adjustment to~~
16 ~~Account No. 634 in the amount of \$(1,250). Do you agree with this~~
17 ~~adjustment?~~

18 **A.** Yes. In the MFRs, an adjustment was made to remove the contract service
19 costs for Mr. Garrett. The adjustment inadvertently did not catch the total
20 amount. Ms. Ramas' adjustment corrects that.
21

1 Q. In her direct testimony at page 32 and again at page 46, Ms. Ramas
2 makes a recommendation to remove WMSI's proposed pro forma
3 plant additions and all adjustments related thereto. Would you please
4 respond to that recommendation?

5 A. Yes. I previously addressed this, in principle, in my response to Mr.
6 Woodcock's recommendation to not include these plant additions in rate
7 base, at this time. The basis for his recommendation is the lack of
8 documents supporting the proposed cost. I indicated that WMSI agrees
9 that the cost of the additions should be included in rate base at their actual
10 cost, but in the interim, a mechanism was needed to provide WMSI with
11 the ability to obtain financing so that the work could be done. Typically,
12 this Commission has allowed recovery of costs for necessary projects prior
13 to their completion, based on estimated costs, but with a true up of
14 estimated costs to actual costs. The Commission took such an approach for
15 this utility in the Supply Main Docket No. 940109-WU. In that docket,
16 the Commission made a finding as to the necessity and used and
17 usefulness of the project, so that there was a basis to obtain financing.
18 That is what WMSI proposes in this case. If that is done, WMSI will be in
19 a position to obtain the financing proposed in its filing because the lender
20 will know that the Commission will eventually approve rates to support
21 the legitimate costs of the projects. It is then that WMSI can move ahead
22 to obtain documents supporting the costs. Recognizing the "chicken and
23 egg" situation the utility is in, WMSI proposes that the situation may best

1 be handled by providing for a phased rate increase provision similar to that
2 authorized in Docket No. 940109-WU. This would allow for a first phase
3 based on the case without the pro forma additions, a second phase based
4 on the documented estimate for completing the projects and a third phase
5 that allows for a true up to the actual costs incurred.

6
7 **Q. At page 32 of her direct testimony, Ms. Ramas recommends an**
8 **adjustment to remove the amortization expense associated with the**
9 **prior rate case. Do you agree with that adjustment?**

10 **A. Yes.**

11
12 **Q. Beginning at page 33 of her direct testimony, Ms. Ramas recommends**
13 **adjusting the salaries of Ms. Sandra Chase and Ms. Brenda Molsbee**
14 **because they were given significant increases. Do you agree with those**
15 **adjustments?**

16 **No. I certainly cannot deny that these two individuals were given**
17 **significant salary increases in 2009. And if we were to consider only the**
18 **fact that the increases were significant without considering any other**
19 **factors, it would also give me pause. Mr. Brown obviously believes that**
20 **these increases are warranted. He will address those reasons in his rebuttal**
21 **testimony. What I would like to do here is place the impact of these**
22 **increases in the proper context, because these increases did not occur in a**
23 **vacuum. During the test year, many changes were made in the area of**