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

**DATE:** December 3, 2010

**TO:** Office of Commission Clerk (Cole)

**FROM:** Division of Economic Regulation (Hudson, Cicchetti, Daniel, Fletcher, <sup>NS</sup>Maurey, <sup>NS</sup>Salnova, <sup>NS</sup>Stallcup, <sup>NS</sup>Walden, Williams)  
Office of the General Counsel (Jaeger, Saylor)

*Handwritten notes and signatures:*  
JA, AC, PD, BF, ALM, JSC, and other initials.

**RE:** Docket No. 100104-WU – Application for increase in water rates in Franklin County by Water Management Services, Inc.

**AGENDA:** 12/14/10 – Regular Agenda – Post-Hearing Decision – Participation is Limited to Commissioners and Staff

**COMMISSIONERS ASSIGNED:** Edgar, Skop, Graham

**PREHEARING OFFICER:** Skop

**CRITICAL DATES:** 01/25/11 (8-Month Effective Date)

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\100104.RCM.DOC

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### **Case Background**

Water Management Services, Inc. (WMSI or Utility) is a Class A water utility providing service to approximately 1,805 water customers in Franklin County. For the year ended December 31, 2009, the Utility reported operating revenues of \$1,319,558 and a net operating loss of \$23,496. WMSI's last full rate case proceeding was in 1994.<sup>1</sup>

On June 6, 2000, the Utility filed an application for a limited proceeding to increase its water rates to recover the cost of building a new water transmission main to connect its wells on the mainland to its service territory on St. George Island. The need for a new water supply main was due to the Florida Department of Transportation (DOT) demolishing and replacing the St. George Island Bridge. WMSI's supply main was attached to the old bridge and was to be attached to the new bridge. The Commission found that the construction of a new water supply main was justified and the increase was phased in over three phases.<sup>2</sup>

On May 25, 2010, the Utility filed its application for the rate increase at issue in the instant docket. Staff found no deficiencies in the Minimum Filing Requirements (MFRs). WMSI requested that the application be set directly for hearing and requested interim rates. The test year established for interim and final rates is the 13-month average period ended December 31, 2009.

The Utility requested interim rates designed to generate annual water revenues of \$1,627,994. This represents a revenue increase on an annual basis of \$327,504 (25.18 percent). WMSI requested final rates designed to generate annual water revenues of \$1,943,296. This represents a revenue increase of \$641,629 (49.29 percent).

On June 4, 2010, the Office of Public Counsel (OPC) filed its Notice of Intervention in this proceeding, pursuant to Section 350.0611, Florida Statutes (F.S.). By Order No. PSC-10-0392-PCO-WU, issued June 16, 2010, the Commission acknowledged OPC's Notice of Intervention in this proceeding. By Order No. PSC-10-0513-PCO-WU, issued August 12, 2010, the Commission suspended the Utility's rates and approved interim rates for WMSI. The interim increase granted was \$109,228, or 8.27 percent, and is subject to refund with interest.

A formal hearing and service hearings were held October 5 and 6, 2010, on St. George Island. The parties filed briefs on October 29, 2010.

This recommendation addresses the Utility's requested final rates. The Commission has jurisdiction pursuant to Sections 367.081 and 367.082, F.S.

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<sup>1</sup> See Order No. PSC-94-1383-FOF-WU, issued November 14, 1994, in Docket No. 940109-WU, In re: Petition for interim and permanent rate increase in Franklin County by St. George Island Company, Ltd.

<sup>2</sup> See Order Nos. PSC-00-2227-PAA-WU, issued November 21, 2000, PSC-03-1005-PAA-WU, issued September 8, 2003, and PSC-05-1156-PAA-WU, issued November 21, 2005, in Docket No. 000694-WU, In re: Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.

**Approved Stipulations**

The Commission found that the stipulations reached by the parties and supported by staff were reasonable, and accepted the stipulated matters set forth below at the hearing.

- 1 )           The parties agree that no used and useful adjustment for water plant facilities and storage is required.
- 2 )           As a result of WMSI's transfer of rental rights to the elevated tower, plant in service and accumulated depreciation should be reduced by \$100,000 and \$6,978, respectively. Additionally, test year depreciation expense should be reduced by \$2,326.
- 3 )           Land should be decreased by \$3,400 to reflect the removal of appraisal and surveying costs associated with land that was sold.
- 4 )           Advances for Construction should be decreased by \$9,257 to reflect Commission approved adjustment from the Utility's last rate case.
- 5 )           Working capital should be reduced by \$112,034 unamortized debt discount and issuing expense which is included in the Utility's long-term debt cost rate. Further, working capital should be reduced by \$17,983 to remove fully amortized rate case expense from prior rate case.
- 6 )           The appropriate amount of customer deposits to include in the capital structure is \$100,499.
- 7 )           \$1,250 of additional contractual service costs should be removed for a total of \$7,250 for Hank Garrett charges during 2009 (on general ledger as management fees).
- 8 )           An adjustment should be made to reduce the out of period costs by \$2,100 to reflect the actual cost incurred in 2009 for preparation of the 2008 Annual Report.
- 9 )           To ensure that the Utility adjusts its books in accordance with the Commission's decision, WMSI should provide proof, within 90 days of the final order issued in this docket, that the adjustments for all the applicable NARUC USOA primary accounts have been made.

## Discussion of Issues

### QUALITY OF SERVICE

**Issue 1:** Is the quality of service provided by the Utility satisfactory?

**Recommendation:** Yes, the overall quality of service provided by the Utility should be considered satisfactory. (Williams, Walden)

### Position of the Parties

**WMSI:** Yes, the quality of service provided by the Utility is satisfactory.

**OPC:** Environmental agencies and customers did not indicate problems with water quality or related parameters of service.

**Staff Analysis:** Pursuant to Rule 25-30.433(1), Florida Administrative Code (F.A.C.), the Commission determines the overall quality of service provided by the utility by evaluating three separate components of water operations. These components are the quality of the utility's product, the operating condition of the utility's plant and facilities, and the utility's attempt to address customer satisfaction. Comments or complaints received by the Commission from customers are reviewed. The utility's compliance history with the Florida Department of Environmental Protection (DEP) is also considered.

### Quality of Utility's Product and Operating Condition of Utility's Plant and Facilities

In evaluating the quality of the Utility's product and the operating conditions of the Utility's plant and facilities, staff witness McKeown, Engineering Specialist with DEP, testified to the Utility's satisfactory compliance with DEP's regulations and the requirements of the Safe Drinking Water Act. (TR 403) Witness McKeown conducted an annual compliance inspection of the Utility on March 5, 2010, and identified no major deficiencies. The Utility is in compliance with all requirements, and DEP is satisfied with the condition of the system. (EXH 40, pp. 1-2) In addition, witness McKeown discussed the well-meter accuracies for the flow meters at each of the Utility's wells. These values range from -1 percent to +4 percent, which are within the standard set forth by the American Water Works Association (AWWA). (TR 405) Well accuracy data was also discussed in the Utility's filing where it is noted that the amount of unaccounted for water is less than 10 percent. (EXH 3, vol. 1, p. 82) Therefore, staff recommends that the quality of the Utility's product and the operating condition of the Utility's plant and facilities be considered satisfactory.

### Utility's Attempt to Address Customer Satisfaction

Two customer service hearings were held on October 5, 2010. Approximately 50 customers attended the hearings and 19 customers spoke. With respect to the quality of service and the customer satisfaction level, the customers generally spoke positively about the improvements the Utility has made to the fire protection system, the responsiveness of the Utility's employees, and the overall level of customer service provided. However, the customers

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were generally opposed to the level of the proposed rate increase. (Customer Service Hearings (SH) TR 26, 28, 31-34, 37, 40, 43-44, 47, 63, 64, 65, 81, 83, 85)

In addition to the comments received at the customer service hearings, staff reviewed customer complaints filed with both the Utility and the Commission. Since 2009, two complaints were filed with the Utility. These same complaints were also filed with the Commission. Both complaints related to customer deposits, and were subsequently resolved. (EXH 3, vol. 3, Customer Complaints, p 9.1-2) Based on this review, staff recommends that the Utility's attempt to address customer satisfaction be considered satisfactory.

#### Conclusion

Based on staff witness McKeown's testimony, it appears that the quality of the Utility's product and the operational conditions of the plant and facilities are satisfactory. From the customer testimony provided at the customer service hearings, the customers seem satisfied with the level of service provided by WMSI. Therefore, staff recommends that the overall quality of service provided by the Utility be considered satisfactory.

## **USED AND USEFUL**

**Issue 2:** What is the used and useful percentage of the Utility's water distribution system?

**Recommendation:** Consistent with the methodology in Order No. PSC-94-1383-FOF-WU, the Utility's transmission and distribution mains should be considered 100 percent used and useful, except for the distribution mains less than 8" in diameter serving certain subdivisions within the area known as the Plantation.<sup>3</sup> Those lines inside the Plantation should be considered 60.9 percent used and useful and no further adjustment to the Utility's MFRs is necessary for the water distribution system. (Walden, Williams, Hudson)

### **Position of the Parties**

**WMSI:** The used and useful percentage of the Utility's water distribution system is 100% as identified in WMSI's MFRs (Ex. 3) and in the rebuttal testimony of Frank Seidman (T. 424-27) and Gene Brown (T. 558), and consistent with Order No. PSC-94-1383-FOF-WU.

**OPC:** Using the lot-to-lot method recommended by OPC witness Woodcock, the WMSI's distribution system is 54.9% used and useful (1,817 divided by 3,311 lots). Non-used and useful plant in service and accumulated depreciation should be removed by \$1,059,878 and \$472,904, respectively, resulting in a net reduction to rate base of \$586,975. Additionally, depreciation expense should be reduced by \$16,912 to remove the non-used and useful portion.

**Staff Analysis:** The Utility asserted that all the transmission and distribution mains outside the Plantation subdivision are 100 percent used and useful (U&U). In his direct testimony, Utility witness Seidman included an adjustment for non-U&U lines less than 8" in diameter serving certain subdivisions within the area known as the Plantation. Witness Seidman stated that lines inside the Plantation were constructed for the benefit of the developer. Those lines inside the Plantation are 60.9 percent U&U and the appropriate dollar reduction is \$78,864 and \$59,009 for plant and accumulated depreciation, respectively. This is the same methodology from a stipulated settlement approved in Order No. PSC-94-1383-FOF-WU.<sup>4</sup> (TR 26; EXH 3, vol. 1, p. 85)

OPC witness Seidman offered a different perspective for the U&U percentage for mains in his rebuttal testimony. He stated that substantial investment has been made in improving the system's mains to provide for fire protection at the behest of customers and OPC, and OPC's lot count method denies the ability to recover that full investment. (TR 426) In Order No. PSC-05-1156-PAA-WU, which primarily addressed the new supply main, the Commission made a specific finding that there should be no adjustment for U&U for these transmission and distribution mains.<sup>5</sup> Witness Seidman testified that the change in water management district restrictions that now allow and encourage shallow wells on the island, further supports his view that the lot count method for certain areas in the Plantation is no longer appropriate. (TR 426)

<sup>3</sup> See Order No. PSC- PSC-94-1383-FOF-WU, at 5.

<sup>4</sup> See Order No. PSC- PSC-94-1383-FOF-WU, at 5.

<sup>5</sup> See Order No. PSC-05-1156-PAA-WU, issued November 21, 2005, in Docket No. 000694-WU, In re: Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County, pp. 8-9.

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Witness Seidman concluded that the entire transmission and distribution system should be considered 100 percent U&U. (TR 426, 445)

Utility witness Brown testified that WMSI is the only source of water for fighting fires on the island and that the Utility now has 122 hydrants connected to the water system. (TR 83) Plans are to install another 40-50 hydrants in 2010. (TR 83) Water mains are looped to provide sufficient pressure and volume for fire fighting. (TR 83) Witness Brown noted that there are no separate charges for fire protection. (TR 83-84) He testified that because of fire flow and the need to maintain pressure throughout the Plantation, all the water lines should be considered 100 percent U&U. (TR 558)

OPC witness Woodcock testified that his lot count method is the appropriate method for calculating the U&U percentage of the distribution system. His calculations resulted in a U&U percentage of transmission and distribution lines of 54.9 percent. (TR 156, 164, 169-170) Witness Woodcock did consider that the same water mains provide service to customers as well as fire flow, which is usually the case in all water systems. The unique characteristics of the island and its distribution system were reviewed and witness Woodcock noted that there are higher densities of customers on the beach front. The presence of shallow wells would have a minimal impact on this determination. He further testified that even if he were to consider the approximately 35 lots that obtain potable water from shallow wells, the effect would be less than a 1 percent change to his suggested 54.9 percent U&U calculation. (TR 171-173) Witness Woodcock testified that the Utility, in retrospect, could increase its lot-to-lot U&U percentage by having a smaller service area and concentrate development. (TR 174)

In the last rate case, Docket No. 940109-WU, the U&U allocation for lines was a stipulation. That stipulation provided that,

20. Used and useful shall be determined in the following manner:

....

b. All Transmission and Distribution Plant is considered 100 percent used and useful except for the distribution mains (less than 8" diameter) in Account 331.4 Transmission & Distribution Mains serving certain subdivisions within the area known as the Plantation, which lines were constructed for the benefit of the developer. The cost of distribution lines (less than 8" diameter) within the following subdivisions [inside the Plantation] will be subject to a used & useful factor equal to used lots divided by total lots ....<sup>6</sup>

Witness Seidman cited the Commission's decision in Order No. PSC-05-1156-PAA-WU to support his recommendation. In that order, the Commission concluded that no U&U adjustment should be made to transmission and distribution mains, referring to the piping installed for enhanced fire protection service and capacity. However, as noted in witness Seidman's rebuttal testimony, this finding does not address all of the Utility's water mains as

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<sup>6</sup> See Order No. PSC-94-1383-FOF-WU, issued November 14, 1994, in Docket No. 940109-WU, In re: Petition for interim and permanent rate increase in Franklin County by St. George Island Utility Company, Ltd., p. 5.

witness Seidman's testimony suggests, but rather addresses additional lines that were added for enhanced fire protection.

Staff is not persuaded that the lot-to-lot comparison for the entire service area advocated by OPC witness Woodcock is appropriate. Witness Woodcock's calculations are not consistent with the prior rate order.<sup>7</sup> While witness Woodcock did consider the configuration of the island and the water system, it is unclear how much consideration was given to the unique characteristics of the service area where customers tend to build a home on the waterfront. Another distinguishing feature in this case is that the active customer count is declining, indicating that there was a loss in customers in 2007, 2008, and 2009. Projections are for the Utility to lose an average of 16 customers per year based upon historical data for the last three years. (EXH 3, vol. 1, p. 87) While the service area is not built-out, the Utility is not experiencing positive customer growth at this time.

Staff recommends that the Utility's transmission and distribution mains be considered 100 percent U&U except for the distribution mains less than 8" in diameter serving certain subdivisions within the area known as the Plantation. Consistent with the methodology in Order No. PSC-94-1383-FOF-WU, those lines inside the Plantation should be considered 60.9 percent U&U and no further adjustment to the Utility's MFRs is necessary for the water distribution system.

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<sup>7</sup> Ibid.

**RATE BASE**

**Issue 3:** Should any adjustments be made to rate base regarding affiliate assets?

**Recommendation:** No. The Utility removed the plant and accumulated depreciation associated with Trailer No. 2. However, depreciation expense should be reduced by \$2,670. (Hudson)

**Position of the Parties**

**WMSI:** No. No adjustment is necessary or appropriate.

**OPC:** Yes. Plant and accumulated depreciation should be reduced by \$16,022 and \$10,682, respectively, for a backhoe trailer that was sold to BMG. Depreciation expense should also be reduced by \$2,670.

**Staff Analysis:** The Utility purchased an Econoline backhoe trailer (Trailer No. 1) from Stonehenge Trailer, on September 2, 2005, for \$7,008. (EXH 38, bate stamp page (BSP) 2853) WMSI witness Brown testified Trailer No. 1 was not large enough to carry WMSI's 410 backhoe. It was sold to an "outside party" for \$5,000. (TR 551) The Utility provided a deposit slip dated March 30, 2006, for a deposit to one of WMSI accounts which included the \$5,000 for Trailer No. 1. (EXH 38, BSP 2860; TR 296) The Utility also provided a bill of sale conveying title of Trailer No. 1 to Brown Management Group (BMG) dated December 22, 2009. (EXH 38, BSP 2841) The bill of sale is approximately four years from the date when Trailer No. 1 was sold.

Since Trailer No. 1's size was not adequate, the Utility purchased another trailer (Trailer No. 2) for \$16,022 on November 18, 2005. (EXH 38, BSP 2853) Witness Brown stated that Trailer No. 2 was adequate enough to carry the 410 backhoe. However, the field technicians chose to drive the 410 backhoe rather than haul it on the trailer. (TR 551-552) Witness Brown stated he attempted to sell Trailer No. 2, but was unsuccessful. (TR 552) He stated the dealer also sold storage sheds so he thought he could use the storage shed for files and records. Witness Brown said he traded Trailer No. 2 for a storage shed valued at \$7,900. (TR 552) Ultimately, Trailer No. 2 was traded for a storage shed that was placed on property owned and later sold by BMG, an affiliate company. (TR 551-552; OPC BR 7) BMG sold the property on November 26, 2009, and witness Brown considered \$10,000 a fair price to compensate WMSI for the trailer traded for the storage shed. (TR 552) The bill of sale conveying title of Trailer No. 2 to BMG was dated August 18, 2010, with the effective date of transfer, March 31, 2007. (EXH 38, BSP 2862)

OPC witness Ramas testified that the transactions involving the acquisition and subsequent sale of the two separate backhoe trailers are questionable, and they highlight concerns regarding certain transactions between WMSI and its affiliate, BMG. (OPC BR 7) Staff agrees with OPC witness Ramas that the transactions raise questions. Staff believes the discrepancies between the timing of the bill of sales and the effective date of transfer of titles is perplexing. It was never adequately explained why WMSI conveyed the title to Trailer No. 1 four years after it was sold. As for Trailer No. 2, it was traded to the dealer for a storage shed. Staff believes that WMSI should be in possession of documentation conveying title to the dealer

that received the trailer in the trade. It appears BMG took possession of WMSI property without having proper ownership. According to Trailer No. 2's bill of sale, the Utility gave BMG the rights to the trailer in March 2007. However, the Utility was not compensated for this asset until almost three years later, in December 2009.

Witness Ramas testified there has been a lot of conflicting information provided with respect to the trailers. (TR 299) She stated it is clear that WMSI is moving assets in and out of its affiliate, BMG. The overall volume of transactions between WMSI and BMG raises questions. This concern is discussed more fully in Issue 50A.

OPC is recommending the Utility's plant and accumulated depreciation balances be reduced by \$16,022 and \$10,682, respectively for Trailer No. 2, and depreciation expense be reduced by \$2,670. (TR 299) Staff has reviewed the Utility's general ledger and determined WMSI removed the appropriate amounts related to Trailer No. 2 from plant and accumulated depreciation. (EXH 36) However, depreciation expense was not reduced. Witness Brown testified that the Utility should not have booked any depreciation expense after the trailer was traded for the storage shed inasmuch as the shed was never used by WMSI. (TR 552) Based on the above, depreciation expense should be reduced by \$2,670.

**Issue 4:** Should any adjustments be made to rate base for vehicles?

**Recommendation:** Yes. Plant should be decreased by \$30,413 for a 2007 Chevy Tahoe. Accumulated depreciation should be reduced by \$4,224. Further, depreciation expense should be reduced by \$5,069. Also, the Utility's adjustments for 50 percent U&U should not be applied to the vice president's vehicle. The net adjustment to U&U is an increase of \$13,094. Depreciation expense should be increased by \$2,535 to remove the U&U adjustment for the vice president's vehicle. Finally, the Utility should be ordered to maintain travel logs for all vehicles to enable staff to evaluate the appropriate level of utility-related usage in future rate case proceedings. (Hudson)

**Position of the Parties**

**WMSI:** No. No adjustment is necessary or appropriate.

**OPC:** Yes. The Company has not supported the 50% allocation for vehicles assigned to Mr. Brown and Ms. Chase as reasonable for WMSI work purposes. Plant and accumulated depreciation should be reduced by \$20,935 and 7,560, for the 2008 GMC Sierra, and \$15,207 and \$2,112 for the Tahoe, respectively. Test year depreciation expense should be reduced by \$3,489 and \$2,535 for the GMC truck and Tahoe, respectively.

**Staff Analysis:** The Utility's Account No. 341.5 – Transportation Equipment includes \$41,870 and \$30,413, for the president's and vice-president's vehicles, respectively. WMSI made a 50 percent non-utility use adjustment to both vehicles totaling \$36,142. The adjustment was included in the Utility's non-used and useful adjustment. (EXH 3)

OPC witness Ramas testified that the vehicles of the president and vice president should be disallowed. (TR 302) She stated that use of these vehicles is an extra benefit provided to these officers that is not necessary for the provision of utility service. (TR 302) She further indicated that the Utility has not justified the work-related mileage or the percentage of work-related usage. (TR 302) In regard to the vice president's vehicle, witness Ramas stated that the title of Ms. Chase's vehicle is not in the name of the Utility. (TR 303)

In rebuttal testimony, WMSI witness Brown testified that he has been provided a vehicle throughout his 35 years of managing the Utility. (TR 533) According to the Utility's response to OPC Interrogatory No. 5, he averages four trips a month to St. George Island. (EXH 34) He stated that he meets with bankers, contractors, vendors, accountants, lawyers, engineers, and various agency personnel having jurisdiction over WMSI in various locations throughout Tallahassee. (TR 554) Witness Brown stated that Ms. Chase has been provided a vehicle for the past 15 years. (TR 533) She averages one trip per month to St. George Island. (EXH 34) In rebuttal, witness Brown asserted that Ms. Chase makes trips to banks both in Tallahassee and out of town, office of the pension plan administrator, office of its CPA, storage unit, post office, DEP, PSC, NFWFMD, Federal Express, UPS, office of its engineers, office supply vendors, and various others vendors to pick up parts and supplies and equipment for the Utility. (TR 554) However, according to mileage reimbursements for two other WMSI employees, Mr. Mitchell and Ms. Blankenship, it appears that their travel for Utility business significantly overlaps the Utility business the Utility purports Ms. Chase conducts. (EXH 32, BSP 475-525)

According to the Utility's response to OPC Interrogatory No. 5, witness Brown's assigned vehicle is a 2008 GMC Sierra 2500 (GMC) and Ms. Chase is assigned a 2007 Chevrolet Tahoe (Tahoe). Both vehicles are available for their personal use. (EXH 34, BSP 669-670) WMSI did not know the weekly average or the annual mileage driven for Utility work of either vehicle. (EXH 34, BSP 669-670) In response to OPC POD No. 29, WMSI indicated there were no records of mileage driven in regard to utility business. (EXH 36, BSP 2195) OPC Interrogatory No. 6 asked the Utility to detail the 50 percent non-utility usage, and WMSI responded it was an estimate by witness Brown. (EXH 34, BSP 670-671) However, in his rebuttal testimony, witness Brown indicated Ms. Chase and himself have never been required to keep detailed travel logs. (TR 553) Witness Brown asserted the Commission only mandated the travel records be kept for field employees; however, he and Ms. Chase have kept track of the total annual miles driven for the vehicles. (TR 553)

Staff agrees with the Utility that Order No. PSC-94-1383-FOF-WU only ordered that travel records be kept for field employees.<sup>8</sup> However, transportation allowances were disallowed for the office staff because of the lack of support documentation. In the last rate case, witness Brown's transportation allowance was disallowed because he was considered contract labor. In the instant docket, staff believes Mr. Brown should be classified as office staff. Therefore, WMSI should be aware and on notice that travel records are needed for staff to make a determination of utility-related use. This is especially the case when the vehicles are used for both business and personal use.

WMSI witness Brown indicated the Utility's tax return is evidence that the mileage for Utility use is 50 percent for both vehicles. (TR 553, 555) OPC contended that the IRS also requires travel logs to support business versus personal use of vehicles which is apparently non-existent for the Utility. (OPC BR 9) OPC indicated that a tax return is not evidence without documentary support and it would be thrown out by taxing authorities. (OPC BR 9)

OPC witness Ramas testified that the vice president's vehicle is titled to Ms. Chase and not to the Utility. (TR 303; EXH 36, BSP 2175-2178) Witness Brown testified that the Utility began providing a vehicle for Ms. Chase on the condition that she used her credit to purchase the vehicle on behalf of WMSI, and the Utility would make the payments and record the depreciation on the vehicle as Utility-related. (TR 555) He further stated that it has been the policy and procedure for years, and has not been challenged previously. (TR 555) Staff is unable to follow the Utility's logic behind the purchasing of the vehicle for Ms. Chase. It appears Ms. Chase has had personal vehicles, and she has agreed to allow the Utility to use these vehicles for tax purposes.

Witness Brown asserted that Ms. Chase's credit was used to purchase the 2007 Tahoe. (WMSI BR 10) However, according to the Utility's general ledger, WMSI paid for the Tahoe with a check from WMSI's account in the amount of \$30,413.29 to Proctor's. (EXH 36, BSP 885) This contradicts witness Brown's statement that it was Ms. Chase's credit that was used to purchase the vehicle. If the intent was for the vehicle to be that of the Utility, staff is perplexed as to why the vehicle was not titled to the Utility at the outset since Utility funds were used to

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<sup>8</sup> See Order No. PSC-94-1383-FOF-WU, issued November 14, 1994, in Docket No. 940109-WU, In re: Petition for interim and permanent rate increase in Franklin County by St. George Island Utility Company, Ltd., at page 44.

purchase the vehicle. In response to OPC POD No. 27, a bill of sale, dated February 18, 2009, was provided indicating Ms. Chase conveyed her rights to the 2007 Tahoe to WMSI for the sum of \$20,000. (EXH 36, BSP 2175) On that same day, Ms. Chase and her husband, Mr. Dan Chase used the vehicle as collateral for a loan through Envision Credit Union. (EXH 36, BSP 2176; EXH 38, BSP 2626-2627) In his deposition, witness Brown stated the money was needed as cash flow for the Utility. (EXH 38)

Staff disagrees with OPC that the president's vehicle should be removed. The total mileage driven for the president's vehicle was 22,068 miles. (EXH 51) The Utility purports that 50 percent or 11,034 miles are Utility-related usage. (EXH 31, BSP 213) The president makes four trips a month to the island for Utility-related business. The Utility estimated the round trip to the island and back is 160 miles. (EXH 27, BSP 93) Therefore, staff accepts the Utility position that 50 percent of the vehicle's use is Utility-related. Staff agrees with OPC that the Utility has not sufficiently supported the need for a vehicle for the vice president. The Utility should have been aware from its last rate case that travel records are needed in order to demonstrate Utility-related usage. Further, the vice president's vehicle is titled to her and not to WMSI. (TR 303; EXH 36, BSP 2175-2178) Staff is not sure of the validity of this attempt to convey her rights to the vehicle to the Utility when there is a third-party lien holder, Envision Credit Union. In any event, whether the title is to Ms. Chase or WMSI, staff does not believe that the Utility has sufficiently justified a need for her vehicle.

Based on the above, staff recommends that plant should be decreased by \$30,413 for the Tahoe. Accumulated depreciation should be reduced by \$4,224. Further, depreciation expense should be reduced by \$5,069. Also, the Utility's adjustments for 50 percent U&U should be removed for the vice president's vehicle. The U&U should be increased by \$15,206 for the plant and decreased by \$2,117 for accumulated depreciation. The net adjustment to U&U is \$13,094. Depreciation expense should be increased by \$2,535 to remove the U&U adjustment for the vice president's vehicle. Finally, the Utility should be ordered to maintain travel records for all vehicles used for utility purposes to enable staff to evaluate the appropriate level of Utility-related usage in future rate case proceedings.

Docket No. 100104-WU

Date: December 3, 2010

**Issue 5:** Should any adjustments be made to offset plant improvements related to mains in the State Park as a result of WMSI's transfer of rental rights to the elevated tower?

**Stipulation:** As a result of WMSI's transfer of rental rights to the elevated tower, plant and accumulated depreciation should be reduced by \$100,000 and \$6,978, respectively. Additionally, test year depreciation expense should be reduced by \$2,326.

**Issue 6:** Should any adjustments be made to test year plant-in-service balances?

**Recommendation:** Yes. Plant should be increased by \$11,371 to reflect capitalized plant and decreased by \$8,001 for retirement cost of replaced plant items for a net increase of \$3,370. Accordingly, accumulated depreciation should be decreased by \$7,909, and depreciation expense should increase by \$560. (Hudson)

**Position of the Parties**

**WMSI:** No. No further adjustments are necessary or appropriate other than as identified in the stipulations of Issues 5 and 7.

**OPC:** Yes. OPC adjustments to plant are reflected in other issues. Plant should be reduced by \$2,138,094 to reflect a test year balance of \$8,366,290.

**Staff Analysis:** In response to OPC POD No. 30, the Utility provided copies of invoices for all miscellaneous expenses over \$2,000. (EXH 34, BSP 2198-2206; EXH 34, BSP 739) The invoices were for replacing all of the Utility's well drives, rebuilding a pump motor, and replacing a flow meter. (EXH 34, BSP 2198-2206) Staff determined that \$51,751 of the miscellaneous expense should be capitalized. Consistent with the National Association of Regulatory Utility Commissioners' Uniform System of Accounts (NARUC USOA), staff capitalized the expenses related to plant. The 13-month average for the capitalized plant is \$11,371. Accordingly, staff increased Account No. 304.2 – Structures and Improvements by \$440, and Account No. 311.2 – Pumping Equipment by \$10,931, for a total adjustment of \$11,371. Also, staff has decreased plant by \$8,001 to reflect 75 percent retirement costs for the replaced plant items.

In 2008, WMSI received net proceeds of \$719,337 in settlement for the failure of the paint coating on the supply main attached to the bridge. (TR 417) The supply main cost included cost for a special protective coating to be applied to the supply main because of its exposure to highly corrosive conditions. (TR 436) WMSI witness Seidman testified that the coating did not perform as expected. WMSI sued and recovered related costs. (TR 436)

Staff witness Dobiac testified that the Utility recorded the \$719,337 as a reduction to plant (supply mains). (TR 417) She recommended the Utility reverse the entry and increase plant by \$719,337, accumulated depreciation by \$23,855 and depreciation expense by \$23,978. (TR 417) Witness Dobiac contended that the proceeds of the settlement should be placed in an escrow account and used to offset the future costs of a maintenance contract for the bridge. (TR 417; EXH 41) The bridge maintenance contract is \$48,000 annually for 10 years. (TR 88-89)

WMSI witness Seidman asserted that the Utility does not have \$719,000 readily available to place in an escrow account. (TR 437) He stated requiring WMSI to escrow the funds after the fact would require the Utility to borrow the funds. (TR 437) WMSI witness Seidman argued that the recording of the transaction gave full benefit to customers, and staff witness Dobiac's treatment would result in an increase in rate base and depreciation expense. (TR 437) He further added that the supply main would have to be maintained regardless of whether a special coating had been used. (TR 436)

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Staff agrees with WMSI witness Seidman and believes maintenance of the supply main would be required regardless of whether or not the special coating had failed. (TR 436) Staff believes the settlement was for a failed product and not for the maintenance of the supply main. The treatment recommended by staff witness Dobiac would result in additional revenue requirements for the Utility to recover from customers. Staff agrees with the Utility's assertion that the treatment of the settlement was appropriate. Even though staff agrees that the proceeds are not for the maintenance of the bridge, staff is concerned with the management's use of the funds. This concern will be addressed more fully in Issue 50A. As a result, staff recommends no additional adjustment to the plant balance related to the proceeds from the supply main.

Based on the above, plant should be increased by \$11,371 to reflect capitalized plant and decreased by \$8,001 for retirement cost of replaced plant items for a net increase of \$3,370. Accordingly, accumulated depreciation should be decreased by \$7,909 (\$8,001-\$92) and depreciation expense should be increased by \$560.

Docket No. 100104-WU  
Date: December 3, 2010

**Issue 7:** Should any adjustments be made to test year land?

**Stipulation:** Land should be decreased by \$3,400 to reflect the removal of appraisal and surveying costs associated with land that was sold.

**Issue 8:** What improvements, if any, has WMSI made to its water distribution system regarding fire flow that were addressed by the Commission in Orders Nos. PSC-04-0791-AS-WU, issued August 12, 2004, and PSC-05-1156-PAA-WU, issued November 21, 2005, in Docket No. 000694-WU? Do these improvements satisfy the requirements of the orders?

**Recommendation:** The Utility has made the improvements to its water distribution system regarding fire flow and has satisfied the requirements of Commission Order Nos. PSC-04-0791-AS-WU and PSC-05-1156-PAA-WU. (Hudson)

### **Position of the Parties**

**WMSI:** WMSI installed in excess of 40,000 lineal feet of 6" and 8" mains for fire flow improvement, together with all necessary appurtenances as an addition to its transmission and distribution system, as indicated in the service area map provided to OPC and staff and as described in Exhibit 70. These improvements satisfy the requirements of Order No. PSC-04-0791-AS-WU, as indicated in Order No. PSC-05-1156-PAA-WU.

**OPC:** Responding to customers' inquiries, OPC served discovery designed to identify the location and cost of fire flow improvements that WMSI constructed in response to the above orders. WMSI provided, on the eve of the hearing, a document showing the location of completed looping projects. However, WMSI did not account fully for the \$400,000 that the Commission directed the Utility to spend on additional looping projects in lieu of replacing its elevated storage tank.

**Staff Analysis:** By Order No. PSC-04-0791-AS-WU, the Commission approved a settlement agreement between WMSI and OPC related to the elevated water storage tank.<sup>9</sup> The Order directed WMSI to spend the approximately \$400,000 that it would have spent replacing the elevated storage tank on completing the looping of the water main. The Utility was also ordered to provide two complete copies of the as-built drawings of the Utility's water distribution system to OPC, upon completion of the improvement, and one to the Fire Station on St. George Island. WMSI contended that the Commission explicitly recognized that it had already expended funds and manpower to improve fire flow. (WMSI BR 12) The Utility indicated that the Commission reviewed the expenditures and found no exceptions pursuant to Order No. PSC-05-1156-PAA-WU.<sup>10</sup>

OPC stated that it posed discovery questions to the Utility in regard to the fire flow improvements based on inquiries made by WMSI's customers. (OPC BR 10) OPC argued WMSI had been unresponsive to its inquiries. However, just before the start of the hearing, the Utility provided a distribution map marking the location of the completed looping projects and several invoices from the contractor that performed the work. (EXH 70) OPC contended the Utility has not adequately supported that it spent the \$400,000 to increase fire flow capabilities. (OPC BR 11) Because the invoices were dated prior to the settlement, OPC does not believe the

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<sup>9</sup> See Order No. PSC-04-0791-AS-WU, issued August 12, 2004, in Docket No. 000694-WU, In re: Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.

<sup>10</sup> See Order No. PSC-05-1156-PAA-WU, issued November 21, 2005, in Docket No. 000694-WU, In re: Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.

expenditures could be as a result of the settlement. (OPC BR 11) As stated previously, and citing Order No. PSC-04-0791-AS-WU, WMSI argued that the Commission acknowledged at the time of the settlement that it had already expended funds and manpower to improve fire flow. (WMSI BR 12)

WMSI witness Brown testified that the Utility has installed over 40,000 linear feet of lines, as ordered. He further stated, at the time it was completed, it was reviewed by OPC and the fire department and the Utility believed the issue had been addressed. (TR 104-105) OPC is satisfied that the Utility, using a contractor or its own personnel, completed a substantial number of looping projects that had the effect of increasing system fire flow capabilities, as contemplated by the Commission. (OPC BR 11) Again, the Utility indicated that the Commission has audited its expenditures and found no exception.

After the issuance of Order No. PSC-05-1156-PAA-WU, OPC filed a protest, arguing that the staff audit did not adequately verify the work done, amounts spent, and prudence of the expenditures claimed by WMSI in the final petition. OPC was specifically concerned with the water plant/office building. The parties eventually worked out a settlement, that was approved by Order No. PSC-06-0092-AS-WU.<sup>11</sup> The settlement agreement ordered the Utility to reduce plant by \$71,000. There is no mention of any issue in regard to the expenditures for the looping of the lines.

Staff believes the fire flow improvements have been addressed by Order No. PSC-05-1156-PAA-WU. During the final phase of the Utility's limited proceeding, staff auditors verified the expenditures. At that time, OPC did not have an issue with the fire flow improvements. It appears OPC believed it would take at least the \$400,000 to complete the looping of the mains for the fire flow. OPC has acknowledged that WMSI has completed the fire flow improvements and provided the maps verifying the completion.

Based on the above, staff recommends that the Utility has made the improvements to its water distribution system regarding fire flow and has satisfied the requirements of Commission Order Nos. PSC-04-0791-AS-WU and PSC-05-1156-PAA-WU.

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<sup>11</sup> See Order No. PSC-06-0092-AS-WU, issued February 9, 2006, in Docket No. 000694-WU, In re: Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.

**Issue 9:** Should the Utility's pro forma plant additions be approved for recovery? If so, in what manner should they be approved for recovery?

**Recommendation:** The pro forma plant additions should not be approved for recovery in this proceeding. However, all evidence supports that the proposed projects are prudent, reasonable, and should improve the quality of service and the system's reliability. Staff therefore recommends that the Commission find in this proceeding that the pro forma projects are prudent. However, the Utility should file for another proceeding once it has obtained adequate cost justification for the pro forma plant additions. At this time, all adjustments related to the pro forma plant additions should be removed as outlined in the staff analysis below. (Williams, Hudson)

### **Position of the Parties**

**WMSI:** Yes. The Commission should find that the additions will replace aging assets, improve quality of service and improve the system's safety and reliability, and that, when completed; the projects will be 100% used and useful. The Commission should set Phase I rates based on the Utility's cost of service without the projects, leaving the docket open to set Phase II rates, based on documented estimates for completion, and set Phase III rates based upon a true-up of actual costs.

**OPC:** Preliminary, planning level engineering estimates are inadequate to support the inclusion of \$2.2 million of proposed future plant improvements in rate base in this proceeding. OPC does not object to the phased approach proposed in WMSI's rebuttal testimony, in which the pro forma adjustments would be excluded from the calculation of revenue requirements in this case, provided that customers are shielded from excessive rate case expense caused by WMSI's premature approach in this case.

**Staff Analysis:** The Utility is seeking to increase its plant by \$2,202,481 for pro forma plant improvements. (EXH 3) The record evidence shows that the projects are needed and prudent for all plant projects. (WMSI BR 14) WMSI witness Scibelli, a registered Professional Engineer in the State of Florida, on behalf of Post, Buckley, Schuh, and Jernigan (PBS&J), conducted an evaluation of WMSI's water system in April 2010. The evaluation concluded that several modifications to WMSI's water system were necessary to maintain and improve the water service. The recommended improvements included the relocation of a portion of the existing water supply main, the replacement of the existing ground storage tank, the purchase of land for the new storage tank, the reconfiguration of the existing pumping and electrical system, and the upgrade of the distribution system. PBS&J determined that these improvements would increase the reliability and integrity of the system. (TR 81-82, 462-463, 474-476; EXH 44)

OPC witness Woodcock, a registered Professional Engineer in the State of Florida, also testified to the prudence of the proposed pro forma plant projects. Witness Woodcock reviewed the evaluation of WMSI's water system conducted by PBS&J, and the recommendation of the pro forma projects. Mr. Woodcock also conducted an inspection of the Utility's facilities. Regarding prudence, he determined that the projects would, "replace aging assets, improve the quality of service to the customers, or improve the safety and reliability conditions to the utility system." (TR 161, 178-180)

While both parties' witnesses testified that the projects are prudent, WMSI's only support for plant improvements is a water system evaluation prepared by PBS&J. (EXH 44 and EXH 45) OPC witness Woodcock testified that the PBS&J evaluation constitutes only "planning level engineering estimates" of costs, and as such are inadequate to support including the improvements in rate base. (TR 155) It is Commission practice to require at least three bids prior to any approval for pro forma additions.<sup>12</sup> In his deposition, Witness Brown stated he was generally aware of the requirement. (EXH 38, BSP 2746-2747) However, witness Brown stated that the bidding process is very expensive and the Utility wanted the Commission to make a decision on the pro forma projects before it would proceed with the bidding process. (EXH 38, BSP 2746-2747)

The Utility's financing for these projects is conditional. Citizens State Bank has agreed to loan WMSI \$5,000,000 if the following conditions are met:

- 1) That the Florida Public Service Commission grant a rate increase to WMSI that will enable the Utility to pay the debt service on the loan, in addition to all of WMSI's ordinary and reasonable expenses;
- 2) That the United States Department of Agriculture provide Citizens with a least an 80 percent guarantee for the loan; and
- 3) That the Florida Department of Environmental Protection agrees to subordinate its lien on WMSI's supply main so that Citizens will have a first lien against all the Utility's assets, including all of its revenue and cash flow.

(EXH 24)

There is no evidence in the record as to whether or not DEP has agreed to subordinate its lien on WMSI's supply main.

Based upon the testimony of both witness Scibelli and witness Woodcock, staff agrees that the requested pro forma plant projects are necessary and will improve the quality of service and the system's reliability and therefore concurs that the proposed projects are prudent and reasonable. Therefore, the Commission should find that the improvements are necessary and they are legitimate, prudent, and necessary expenses. However, because the cost support is insufficient the Utility should file for another proceeding once it has obtained adequate support documentation to support the cost of the pro forma plant additions. In the subsequent proceeding, the Commission should determine whether the cost justification provided by the Utility represents the legitimate and reasonable costs of the improvements. At this time, because there is not sufficient cost justification for the pro forma adjustments by the Utility, all pro forma plant additions should be removed as follows:

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<sup>12</sup> See Order Nos. PSC-07-0609-PAA-WS, issued July 30, 2007, in Docket No. 060246, In re: Application for increase in water and wastewater rates in Polk County by Gold Coast Utility Corp., and PSC-10-0400-PAA-WS, in Docket No. 090392-WS, In re: Application for increase in water and wastewater rates in Lake County by Utilities Inc. of Pennbrooke, at pp. 9-10.

Table 9-1

Pro Forma Plant Adjustments	
Pro forma Plant Additions	(\$1,752,481)
Pro forma Land	(\$450,000)
Reverse Plant Retirements	\$180,409
Remove Pro Forma Accumulated Depreciation	\$29,083
Reverse Retired Accumulated Depreciation	(\$180,409)
Remove Amortization of Retirement	(\$12,879)
Remove Pro Forma Depreciation Expense	(\$58,167)
Reverse Depreciation Expense for Retirements	\$6,233
Remove Pro Forma Property Taxes	(\$5,787)

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**Issue 10:** Should any adjustments be made to test year accumulated depreciation?

**Recommendation:** Yes. However, all such adjustments have been made in preceding issues. (Hudson)

**Position of the Parties**

**WMSI:** No adjustments should be made except Account 331.4 should be reduced by \$6,977 to reflect forgiveness of cost for the state park mains project, as reflected in issues already stipulated.

**OPC:** Yes. This is a fall out issue. As addressed in previous issues, accumulated depreciation should be reduced by \$133,666 in total.

**Staff Analysis:** In Issue 4, staff recommends the removal of \$4,224 of accumulated depreciation associated with the vice president's vehicle. The Utility has stipulated to the removal of \$6,978 of accumulated depreciation in Issue 5. As discussed in Issue 6, staff increased plant to capitalize plant recorded as miscellaneous expenses. Staff's calculated 13-month average for accumulated depreciation on the capitalized plant is \$92, and this account has been increased accordingly. Staff has decreased accumulated depreciation by \$8,001 to reflect 75 percent retirement cost for the replacement plant items. Also, as discussed in Issue 9, staff recommends the Utility's pro forma projects be addressed in a subsequent proceeding. Therefore, staff has removed \$29,083 for the Utility's pro forma accumulated depreciation and increased accumulated depreciation by \$180,409 to reverse its retirement. Based on these adjustments, accumulated depreciation should be increased by \$132,215. However, all such adjustments have been made in preceding issues.

**Issue 11:** Should any adjustments be made to test year Advances for Construction?

**Recommendation:** No further adjustment beyond adjustment specified in Stipulation No. 5 identified on page 5 of the recommendation is necessary. The partial stipulation states that Advances for Construction should be decreased by \$9,257 to reflect Commission approved adjustment from the Utility's last rate case. (Hudson)

**Position of the Parties**

**WMSI:** No adjustments should be made beyond those already stipulated.

**OPC:** Yes. In addition to the stipulated adjustment, advances should be increased by the Commission ordered adjustment of \$65,000 to reflect funds received from a Homeowner's Association. The Company's argument that the Commission's order was wrong is untimely and inappropriate.

**Staff Analysis:** In the Utility's last rate case, the Commission ordered that it record \$65,000 as Advances for Construction. WMSI witness Brown testified the \$65,000 payment was paid to him personally and his affiliates (not the Utility) by the St. George Homeowners' Association (SGHOA) as settlement of a lawsuit that did not involve the Utility. (TR 559) OPC contended that WMSI witness Brown has not supported his opinion that the settlement did not involve the Utility. (OPC BR 17) However, the Commission's order acknowledged that the Utility was not involved in the lawsuit.<sup>13</sup>

The Utility's affiliate received the money in a settlement with SGHOA. The settlement required the Utility's affiliate to advance money to the Utility to be used strictly for capital improvements to enhance and increase the flow and pressure of the water system, including the installation of a new altitude valve and high speed turbine pump. Staff witness Dobiak stated in Audit Finding 4 that the Utility did not record the funds to Advances for Construction as ordered by the Commission.<sup>14</sup> (EXH 41)

OPC contended that the Commission should uphold its decision from the prior rate case and order that the adjustment be made to increase Advances for Construction. (OPC BR 17) WMSI witness Brown stated, in response to Staff's Interrogatory No. 89, that the Utility recorded the advance as an equity advance. (EXH 31, BSP 213). He asserted recording the \$65,000 to Account No. 252 – Advances for Construction was improper. (EXH 31, BSP 213) NARUC USOA defines this account as follows:

This account shall include advances by or in behalf of customers for construction which are to be refunded either wholly or in part. When a person is refunded the entire amount to which he is entitled according to the agreement or rule under which the advance was made, the balance, if any, remaining in this account shall be credited to account 271 – Contributions in Aid of Construction.

<sup>13</sup> See Order No. PSC-94-1383-FOF-WU, issued November 14, 1994, in Docket No. 940109-WU, In re: Petition for interim and permanent rate increase in Franklin County by St. George Island Utility Company, Ltd., at page 30.

<sup>14</sup> Id. at 30.

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WMSI witness Brown testified that there was never any expectation the advance would be repaid by WMSI, or the homeowners. In the prior rate case, the Commission ordered the advance be expended to complete certain improvements.<sup>15</sup> Further, the order specified the advance was not Contributions in Aid of Construction (CIAC). Staff agrees with WMSI that Advances for Construction may not have been the appropriate account to record the settlement funds, at the time. Staff believes equity advance or paid-in capital would have been more appropriate.

In response to Staff's Interrogatory No. 89, the Utility provided a list of specific fire protection expenditures made but noted that it stopped keeping a tally once \$65,909 was expended by the Utility. (EXH 31, BSP 220) Staff believes WMSI has used the advance toward the improvements ordered by the Commission. Even if the Utility had recorded the funds in Advances for Construction, the completion of the improvements results in a reduction to this account.

The Utility has stipulated to an adjustment of \$9,257 to increase Advances for Construction. As such, staff recommends no further adjustment beyond the adjustments specified in Stipulation No. 5 identified on page 5 of the recommendation is necessary.

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<sup>15</sup> Id. at 30.

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Date: December 3, 2010

**Issue 12:** What is the appropriate working capital allowance?

**Recommendation:** With the partial stipulation, and other appropriate adjustments, the appropriate working capital allowance is \$39,912. (Hudson)

**Position of the Parties**

**WMSI:** The appropriate working capital allowance, after stipulated adjustments, is \$51,140.

**OPC:** Working capital should be \$47,944. In addition to the stipulated reductions of \$133,213, adjustments are appropriate to: remove the \$35,603 average test year balance proposed deferred wastewater certificate costs; remove deferred rate case expense of \$1,586 associated with the preliminary legal and consulting fees; remove the \$6,008 non-utility prepaid insurance for the Key Man Life Insurance policy; and increase WCA to remove the \$40,000 operating reserves for the executive deferred compensation plan.

**Staff Analysis:** Pursuant to Rule 25-30.433(2), F.A.C., the Utility used the balance sheet approach to calculate its working capital allowance. (EXH 3) In its filing, WMSI requested a working capital allowance of \$181,157.

The Utility stipulated to the removal of \$112,034 for unamortized debt discount and \$17,983 for fully amortized prior rate case expense.<sup>16</sup> WMSI's working capital allowance includes \$35,662 of deferred cost of the Utility's wastewater certificate; \$6,344 for deferred rate case expense related to preliminary evaluation; \$6,008 for estimated prepaid insurance associated with key man life insurance; and \$40,000 of operating reserves for its proposed deferred compensation cost. (EXH 3) As discussed in other issues, staff is recommending that the wastewater application cost, preliminary rate case expense, key man life insurance, and deferred compensation cost be disallowed. As a result of staff's recommended disallowances, staff has decreased working capital allowance by the aforementioned amounts.

In addition, the Utility recorded \$60,754 of amortization for an undepreciated supply main which had been replaced. (EXH 3) In WMSI's limited proceeding, the Commission approved an annual amortization of \$14,298 for the undepreciated portion of the supply main. Staff has recalculated the amortization using the Commission-approved amortization resulting in a balance of \$62,187. Therefore, staff has increased the deferred account by \$1,432 (\$62,187-\$60,754).

Further, as discussed in Issue 29, staff is recommending rate case expense of \$206,632. It is Commission practice that one-half of rate case expense be included in the working capital allowance.<sup>17</sup> Therefore, the appropriate deferred rate case expense is \$103,316. The Utility's

<sup>16</sup> See Order No. PSC-10-0601-PHO-WU, issued September 30, 2010, in this Docket, p. 30.

<sup>17</sup> See Order Nos. PSC-01-0326-FOF-SU, issued February 6, 2001, in Docket No. 991643-SU, In re: Application for increase in wastewater rates in Seven Springs System in Pasco County by Aloha Utilities, Inc., p. 40; PSC-00-0248-PAA-WU, issued February 7, 2000, in Docket No. 990535-WU, In re: Request for approval of increase in water rates in Nassau County by Florida Public Utilities Company (Fernandina Beach System); and PSC-07-0130-SC-SU, issued February 15, 2007, in Docket No. 060256-SU, In re: Request for approval of increase in wastewater rates in Seminole County by Alafaya Utilities, Inc.

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working capital includes \$114,306 of deferred rate case expense. As mentioned above, staff has decreased working capital allowance by \$6,344 to remove rate case expense related to preliminary evaluation. Staff has decreased working capital allowance by an additional \$4,646 to reflect the appropriate deferred rate case expense. Staff's recommended net adjustment for deferred rate case expense is a decrease of \$10,990.

Based on the above, staff's recommended net adjustment to working capital allowance is a decrease of \$141,245. Staff recommends a working capital allowance in the amount of \$39,912 (\$181,157-\$141,245).

Docket No. 100104-WU  
Date: December 3, 2010

**Issue 13:** What is the appropriate rate base for the December 31, 2009, test year?

**Recommendation:** Consistent with other recommended adjustments, the appropriate 13-month average rate base is \$3,724,384. (Hudson)

**Position of the Parties**

**WMSI:** The appropriate base rate is contained in Exhibit 3, the MFRs. Further, WMSI agrees to the adjustments as outlined in the rebuttal testimony of Gene D. Brown and Frank Seidman, including the stipulated adjustments.

**OPC:** The appropriate rate base should be \$3,068,963.

**Staff Analysis:** Based on staff's recommended adjustments and the approved stipulations, the appropriate 13-month average rate base is \$3,724,384.<sup>18</sup> Schedule No. 1-A reflects staff's recommended rate base calculation. Staff's proposed adjustments to rate base are shown on Schedule No. 1-B.

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<sup>18</sup> For information purposes only, the primary difference between staff's recommended rate base and OPC's is the U&U adjustment. OPC recommended a U&U adjustment of \$586,974, and staff agrees with WMSI's adjustment of \$78,864.

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Docket No. 100104-WU  
Date: December 3, 2010

**COST OF CAPITAL**

**Issue 14:** What is the appropriate amount of customer deposits to include in the capital structure?

**Stipulation:** The appropriate amount of customer deposits to include in the capital structure is \$100,499.

**Issue 15:** What is the appropriate amount and cost rate for long-term debt for the test year?

**Recommendation:** The appropriate amount and cost rate for long-term debt for the test year is \$3,623,885 at 3.79 percent. (Salnova)

**Position of the Parties**

**WMSI:** The appropriate amount and cost rate for long-term debt for the test year is \$9,919,844 at 4.99%, including the proposed capital improvements and refinancing. These numbers may change when actual financing is completed. The appropriate amount, excluding the proposed capital improvements and refinancing, is \$7,768,865 at 3.79%.

**OPC:** Long term debt should be \$7,725,661 with a weighted cost of 3.78%. This reflects removal of the \$15,711 Envision loan for a 2007 Chevrolet Tahoe owned by Ms. Chase, the \$27,492 Capital City Bank loan for the 2009 GMC Sierra used by Gene Brown, and the projected \$5 million loan at 6.5% from Citizens State Bank. An additional adjustment should be made to add back the \$2,849,020 test year balance of the loan from Gulf State Bank at 4.25%.

**Staff Analysis:** WMSI recorded a long-term debt balance of \$9,919,844 at 4.99 percent in the Utility's capital structure for the 2009 test year. (EXH 3, MFR Schedule D-1) Per staff's analysis, the long-term debt balance should be adjusted as follows: (1) remove the \$15,711 Envision loan at 5.75 percent for a 2007 Chevrolet Tahoe; (2) remove the projected \$5,000,000 loan at 6.65 percent from Citizens State Bank (CSB); and (3) add back the \$2,849,020 Gulf State Bank (GSB) loan at 4.25 percent.

As discussed in Issue 4, staff recommends, for ratemaking purposes, disallowance of the 2007 Chevrolet Tahoe owned by Ms. Chase. Consequently, the associated loan also should be excluded from the capital structure. Therefore, the \$15,711 Envision loan at 5.75 percent should be removed from the balance of long-term debt in the capital structure.

WMSI allocated 50 percent of the loan for the 2009 GMC Sierra used by Mr. Brown to the balance of long-term debt. OPC proposed to remove \$27,492 from the capital structure, thus, disallow the entire debt for the vehicle used by Mr. Brown. (OPC BR 19) As discussed in Issue 4, staff concurs with WMSI's position to include 50 percent of this vehicle in rate base and to reflect the \$27,492 of associated debt in the capital structure.

In its filing, WMSI included the projected \$5,000,000 CSB loan at 6.65 percent in the capital structure and removed the \$2,849,020 GSB loan at 4.25 percent, which was expected to be paid off with the new \$5,000,000 loan, to reflect the financing of the proposed capital improvements and the retirement of certain existing debt. (EXH 3, MFR Schedule D-5 Final) WMSI proposed to payoff all existing debt except for the DEP state revolving fund loan. (EXH 24; EXH 26)

CSB preliminarily agreed to make the \$5,000,000 loan to WMSI, provided the Utility met certain conditions that were specified in a bank loan commitment letter dated May 14, 2010. (EXH 24) Pursuant to the agreement, and in order for the bank to issue funds, CSB required a

first lien against all of the Utility's assets, including all of its revenue and cash flow. (EXH 24) These conditions would require the Utility to payoff the GSB loan.

Staff recommends removing from the test year capital structure the proposed \$5,000,000 loan at 6.65 percent from CSB and including in the capital structure the existing \$2,849,020 loan at 4.25 percent from GSB. (EXH 3, MFR Schedule D-5 Interim) As addressed in Issue 9, staff recommends removing the proposed plant additions of approximately \$2,200,000 from rate base. Consequently, the proposed CSB loan to finance the plant additions should also be excluded from the long-term debt in the capital structure. In addition, the remaining balance of the proposed \$5,000,000 loan that was intended to retire certain existing debt should be removed and replaced with the GSB loan as such retirement is no longer applicable.

Staff recommends the appropriate balance of long-term debt to be included in the capital structure for the December 31, 2009 test year is \$3,623,885 at 3.79 percent.

**Issue 16:** What is the appropriate return on equity (ROE) for the test year?

**Recommendation:** The appropriate return on equity for the test year is 10.85 percent. (Salnova)

**Position of the Parties**

**WMSI:** The appropriate ROE for the test year is 11.30%.

**OPC:** For purposes of establishing a return on equity for a future equity investment, the current leverage formula at a 40% equity ratio should be used. Pursuant to Order No. PSC-10-0401-PAA-WS, a prospective mid-point ROE of 10.85 percent, with a range of 9.85% to 11.85% is appropriate.

**Staff Analysis:** WMSI proposed a ROE of 11.30 percent (EXH 3, MFR Schedule D-1) based on last year's leverage formula. WMSI's capital structure consists only of long-term debt and customer deposits. However, for purposes of establishing a ROE for future equity investment, staff recommends an authorized mid-point ROE of 10.85 percent with a range of plus or minus 100 basis points. Staff's recommended ROE was derived using the current leverage formula and a 40 percent equity ratio. Staff's recommendation is consistent with Order No. PSC-10-0401-PAA-WS.<sup>19</sup> WMSI has no equity capital; therefore, the recommended ROE has no effect on the weighted average cost of capital or the revenue requirement.

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<sup>19</sup> See Order No. PSC-10-0401-PAA-WS, issued June 18, 2010, in Docket No. 100006-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), F.S.

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**Issue 17:** What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure for the December 31, 2009, test year?

**Recommendation:** The appropriate weighted average cost of capital for WMSI is 3.85 percent. (Salnova)

**Position of the Parties**

**WMSI:** The appropriate weighted average cost of capital is 5.01%, including the proposed capital improvements and refinancing. These numbers may change when actual financing is completed. The appropriate weighted average cost of capital is 3.85%, excluding the proposed capital improvements and refinancing.

**OPC:** The appropriate overall rate of return for WMSI is 3.85%.

**Staff Analysis:** As stipulated in Issue 14, the appropriate balance of customer deposits to be included in the capital structure for the December 31, 2009, test year is \$100,499 at a cost rate of 6.00 percent. As discussed in Issue 15, staff recommends the appropriate balance of long-term debt for the test year is \$3,623,885 at a cost rate of 3.79 percent. Per Issue 16, staff recommends 10.85 percent as the appropriate mid-point return on common equity for the test year.

Based upon the proper components, amounts, and cost rates associated with the capital structure for the test year ended December 31, 2009, staff recommends that the appropriate weighted average cost of capital for WMSI for purposes of setting rates is 3.85 percent. Staff's recommendation is detailed on Schedule No. 2.

**NET OPERATING INCOME**

**Issue 18:** Should any adjustments be made to the requested level of salaries and wages expense?

**Recommendation:** Yes. The level of salaries and wages expense should be reduced by \$50,424. The corresponding adjustment for payroll taxes is a decrease of \$3,857. (Hudson)

**Position of the Parties**

**WMSI:** No. No adjustment is necessary or appropriate. After WMSI's normalization adjustment, the overall salaries were lower during the test year of 2009 than in 2008.

**OPC:** Yes. The excessive percentage wage increases in salary for two positions granted in the test year should be reduced. Ms. Chase's 2009 base salary increase of 18.6% (\$11,000) and Ms. Molsbee's increase of 30% (\$14,019) should be replaced by increases of 3%, resulting in a test year salary reduction of \$21,870. Additionally, salaries for Gene Brown, Sandra Chase and Bob Mitchell should be reduced by 12.5% or \$28,554 to reflect an allocation of their salaries to affiliated operations.

**Staff Analysis:** The Utility's MFRs include salary increases for two of its employees. (EXH 3) At the end of 2008, Ms. Chase's base salary was \$59,000. Her salary for 2009 was \$70,000, an \$11,000 or 18.6 percent increase. Ms. Molsbee's base salary, in 2008, was \$45,981. For 2009, she received an increase of \$14,019 or a 30 percent increase. (EXH 34, BSP 726-727)

WMSI witness Brown testified that Ms. Chase has worked for the Utility for almost 30 years. (TR 539) In his deposition, witness Brown stated his justification for Ms. Chase's wage increase was that he thought she deserved the increase. (EXH 38) Witness Brown indicated Ms. Chase is invaluable to the Utility. (TR 541) Witness Brown asserted that Ms. Chase has a certified operator license from DEP, and she is certified as a cross-connection control administrator and at one time, she was solely responsible for the billing and customer relations and cross-connection control program. (TR 541) Witness Brown contended it is unreasonable for her to earn less than \$70,000 per year when one of her subordinates, who did not have as many years with the company, accepted a job with another utility at \$70,000 per year. (TR 541)

Witness Brown stated Ms. Molsbee started with the Utility in 1983. He said she has not worked continuously with WMSI but has been there now since 2005. (TR 539) WMSI witness Brown indicated when Ms. Molsbee was hired back, it was agreed that she would get a large raise, if and when she became certified. (TR 539) Ms. Molsbee got her certification in 2008, and she was given the promised raise. (TR 540) The Utility used Hank Garrett's salary when he was an operator with Eastpoint Water and Sewer as the market rate for setting salaries for Ms. Chase and Ms. Molsbee. (TR 540, TR 542; EXH 38, BSP 2674-2675; WMSI BR 20)

OPC witness Ramas testified that the salary increases for the two employees are excessive. (TR 280) OPC contended WMSI has not adequately justified the salary increases. (TR 281) OPC argued that it is unreasonable and unjustified for the Utility to grant 18.6 percent and 30.0 percent salary increases during a period of financial difficulty in which it was not

paying many of its bills and debt obligations, coupled with the economic climate in Florida and throughout the United States. (OPC BR 21)

In response to OPC Interrogatory No. 39, the Utility provided the salaries for all employees for 2006 through 2010. (EXH 34, BSP 726-727) Ms. Chase's salary increased three percent in 2008, and Ms. Molsbee salary increased 12.15 percent in 2008. (EXH 34, BSP 726) Over the course of two years, Ms. Chase's salary has increased 21.6 percent and Ms. Molsbee's has increased 42.15 percent. (EXH 34, BSP 726-727) Staff agrees with OPC witness Ramas that the test year increase is substantial. Staff does not believe the Utility has adequately supported the level of increases given in 2009. Staff believes Ms. Molsbee's 12.15 percent salary increase in 2008 compensated her for obtaining her certification. In addition, witness Brown admitted there had been no significant change in Ms. Chase's job function or responsibility at the time her increase was granted. (EXH 38, BSP 2674) Finally, the Utility's competitive market survey for the increases consisted of a hand-jotted note by witness Brown stating what Hank Garrett's salary was with Eastpoint per Ms. Molsbee. (TR 281; EXH 38, BSP 2674-2675)

WMSI witness Seidman contended the increases should be placed in the proper context because they did not occur in a vacuum. (TR 431) He stated many changes were made in personnel for the Utility that increased the availability of competent operations management with a total savings in expenses. (TR 432) Witness Seidman testified that several part-time field employees were eliminated and a full-time field employee was brought in at half the cost. (TR 432) He indicated witness Brown took a cut in his salary that more than offset the annual increases awarded to Ms. Molsbee and Ms. Chase. (TR 432) WMSI witness Seidman asserted those changes saved the Utility \$12,609. (TR 432; EXH 42)

Mr. Brown's salary increased by 37.3 percent from the years 2006 to 2009. However, staff believes Mr. Brown's salary should have been normalized to remove additional salary he incurred for providing legal services for the Utility in the settlement case. In response to OPC Interrogatory No. 42, the Utility indicated witness Brown's salary increase was a management decision based primarily upon the extra legal work that he did in connection with the litigation regarding the paint failure on WMSI's supply main. (EXH 34, BSP 704) The litigation was settled June 2008. (EXH 34) Therefore, Mr. Brown's 2008 salary should be normalized to reflect the removal of the salary related to the legal work in the amount of \$45,010 which is the difference between his 2006 and 2008 salary. Further, staff believes the \$30,300 adjustment in 2009 reflects the removal of some salary related to legal work since the case has been concluded. In staff's opinion, the Utility would have to cut witness Brown's salary an additional \$30,000 to support its position that giving up his salary saved money for WMSI.

Staff agrees with OPC witness Ramas that the requested salary increases are excessive. WMSI's argument is that the Commission has found that adjustments cannot be made to expenses deemed abnormally high without also making adjustments for those that are abnormally low.<sup>20</sup> Pursuant to Order No. PSC-93-1288-FOF-SU, the Commission found that selecting certain expenses to normalize is inappropriate, especially when normalization of other expenses would increase the level of test year expenses and, accordingly, the utility's revenue

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<sup>20</sup> See Order No. PSC-93-1288-FOF-SU, issued September 3, 1993, in Docket No. 980808-SU, In Re: Application for Rate Increase by South Fort Myers Division of Florida Cities Water Company in Lee County.

requirement. As discussed in Issue 19, staff notes that the Utility's Engineering Services has been \$0 in prior years and is recommending it be increased to recognize that WMSI will incur cost for non-capital Engineering Services. Accordingly, staff has adjusted the Utility's expense that had been abnormally low in prior years. Staff does believe some level of increase is appropriate, and OPC witness Ramas' suggested three percent appears to be reasonable. This amount is significantly higher than the Commission's 2010 price index. As a result, the Utility's salary and wages expense should be reduced by \$21,870 to reflect three percent salary increases for both Ms. Chase and Ms. Molsbee.

In addition, OPC witness Ramas recommended that five hours or 12.5 percent of Mr. Brown, Ms. Chase, and Mr. Mitchell's salaries be allocated to affiliate operations. (TR 253) In response to OPC Interrogatory No. 12, WMSI indicated that there is no allocation of cost from WMSI to BMG. (EXH 34, BSP 675) The response also indicated that Mr. Brown and Ms. Chase each work approximately two hours per week for all various entities owned by Mr. Brown and that the two hours are outside of their 40-plus hour week that they work for WMSI. (EXH 34, BSP 674) Further, the Utility stated that Mr. Mitchell, WMSI's controller, works approximately two hours per week for BMG. (TR 531-532; WMSI BR 21) OPC witness Ramas contended that, based on the level of transactions on the Utility's books associated with Mr. Brown and BMG, it is unreasonable to assume that these employees only work approximately two hours per week for BMG. (TR 261)

WMSI argued that OPC witness Ramas' recommended adjustment of five hours is arbitrary, and she does not provide any support for her assumption. (WMSI BR 21) The Utility indicated OPC witness Ramas applied the percentage to Ms. Chase even though she made no mention of her in regard to the amount of transfers between the various cash accounts of the affiliates. (TR 262-263) WMSI witness Brown said Ms. Chase does not spend any significant time on affiliate transactions. (TR 531)

Staff believes OPC witness Ramas considered Mr. Brown, Ms. Chase, and Mr. Mitchell as a collaborative effort in regard to the affiliates. WMSI witness Brown had already indicated that they each work about two hours per week on business related to affiliates. (EXH 34, BSP 674) He also testified that the affiliate, BMG, is a sub-S corporation which holds a limited number of passive investments. (TR 531) However, due to the number of transactions between WMSI and the affiliate, staff believes the work involved for BMG goes well beyond the "passive" nature described and the two hours the Utility claims is spent by Mr. Brown, Mrs. Chase and Mr. Mitchell.

Staff agrees with OPC witness Ramas that there should be an allocation of salaries and wages to affiliates. Staff believes witness Ramas' recommendation is reasonable.<sup>21</sup> Based on the above, staff recommends a decrease in the amount of \$28,554 to reflect an allocation of salaries expense to affiliates.

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<sup>21</sup> The Utility cites cases that any reductions in salary must be supported by competent, substantial evidence. Staff believes that these reductions in salary levels for the President and Vice President comply with the requirement that any reduction "be based on competent, substantial evidence." See, Metro Dade County Water & Sewer Bd. v. Comm'ty Util. Corp., 200 So. 2d 831, 833 (Fla. 3d DCA 1967); and Fla. Bridge Co. v. Bevis, 363 So. 2d 799 (Fla. 1978)

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Based on the above, staff recommends a decrease of \$50,424 to salaries and wages expense. The corresponding adjustment for payroll taxes is a decrease of \$3,857.

**Issue 19:** Should any adjustments be made to employee pension and benefits?

**Recommendation:** Yes. Employee pension and benefits should be reduced by \$83,665 to reflect the removal of \$80,000 for the executive deferred compensation plan and \$3,665 to allocate 12.5 percent of the expense to affiliate operations. (Hudson)

**Position of the Parties**

**WMSI:** No. No adjustment is necessary or appropriate.

**OPC:** Yes. Benefits expense should be reduced \$80,000 to remove the new executive deferred compensation plan expense. This new deferred compensation plan, which more than doubles employee benefit expense, is not funded and represents a significant increase in compensation for Mr. Brown and Ms. Chase of \$40,000 each per year. Additionally, the employee benefits for Gene Brown, Sandra Chase and Bob Mitchell should be reduced by \$3,665 to reflect a 12.5% allocation to affiliated operations.

**Staff Analysis:** In the test year, WMSI enacted an executive deferred compensation plan (deferred plan). The test year O&M expense included \$80,000 of deferred compensation for Mr. Brown and Ms. Chase. (EXH 3) OPC witness Ramas asserted that, based on the deferred plan's documentation, it appeared Mr. Brown and Ms. Chase have been granted a \$40,000 increase in their compensation that they are deferring. (TR 285) The Utility contended the deferred plan is not designed to boost the salaries of Mr. Brown and Ms. Chase; instead, it applies to all of WMSI management personnel and Mr. Garrett and Ms. Molsbee will likely qualify in time. (TR 543; WMSI BR 23) The deferred plan is for all management; however, Mr. Brown and Ms. Chase are the only employees that currently qualify for the deferred plan. (TR 543) WMSI witness Brown testified that the deferred plan is designed to keep good people as long as possible, including an extra five years after they begin thinking about retirement. (TR 543) He indicated that it does not seem fair or reasonable that WMSI cannot have fair and reasonable pensions comparable with state employees, similar to the "DROP" program.<sup>22</sup> (TR 544)

OPC asserted that witness Brown's comparison to the State of Florida's "DROP" is an invalid comparison. (OPC BR 23) Witness Brown arrived at the annual amount of the expense by determining what he thought would be a reasonable amount monthly (\$1,500 to \$2,000) to pay him and Ms. Chase for the rest of their remaining estimated lives upon retirement. Then, he determined the amount of deferred compensation that would need to be accrued over the remaining several years before retirement. (EXH 38, BSP 2679) OPC asserted it is highly unlikely that the State of Florida, or any state for the matter, contributes, within a compressed time frame of only a few years, amounts actuarially sufficient to pay in the range of \$1,500 to \$2,000 per month for the rest of an employee's life. (OPC BR 23)

In response to OPC POD No. 51, the Utility provided a copy of the executive deferred compensation plan. (EXH 17) The deferred compensation plan states the purpose of the plan is to provide deferred compensation to a select group of management and highly compensated employees through an unfunded "top hat" arrangement exempt from the fiduciary, funding,

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<sup>22</sup> Stands for Delayed Retirement Option Program.

vesting and plan termination insurance provisions of Title I and Title IV of the Employee Retirement Income Security Act (ERISA). (EXH 17) Further, the plan affords employees the opportunity to defer compensation they are unable to defer or receive under the Company's tax qualified cash or deferred compensation plan (WMSI 401(k) Plan), because of the limits on deferrals imposed by Sections 401(k) and 402(g) of the Internal Revenue Code. (EXH 17)

OPC witness Ramas testified the deferred plan indicates that it is unfunded and that "no eligible employees shall have preference over any general creditor of the Company with the [sic] regards to the amount accrued in such employee's account." (TR 285; EXH 34) She further stated the plan is unsecured and that no trust or similar arrangement is intended or created as a result of the implementation of this new plan. (TR 285; EXH 34) Based on staff's review of the plan, all deferred compensation deferred under the plan is as follows: (1) a general asset of the Utility; (2) may be used in the operation of the Utility's business or in any other manner permitted by law; and (3) remains subject to the claims of WMSI's general unsecured creditors.

WMSI witness Brown asserted the plan is a reasonable and necessary expense of operating a perpetual business which strives to keep dedicated employees. (TR 545) OPC indicated WMSI was able to operate through 2008 without such a plan and was able during the same period to retain several long-term employees, such as Mr. Brown and Ms. Chase, each of which have worked for the Company or its predecessors for over 25 years. (OPC BR 24) WMSI witness Brown expressed it is difficult to explain to WMSI's 25-plus year managers why they cannot have a program similar to the other utilities in the county, or similar to the pension plans enjoyed by the state employees who regulate them. (TR 545)

Staff does agree that employee benefits like a deferred compensation plan benefit could help retain and attract quality employees. OPC witness Ramas agreed that a "reasonable" employee benefit plan should be included in rates. (TR 353-354) Staff notes that there are currently expenses included in the test year for the Utility's 401(k) plan. However, staff does not believe the deferred plan as proposed by WMSI is reasonable. Based on the documentation of the deferred plan, it is not a guaranteed benefit. The Utility's creditors will have preference over the employees in regard to the compensation. The deferred compensation is an asset of the Utility and can be used in the Utility's operations. There is also the concern that these funds could be transferred to affiliate companies.

As discussed in Issue 50A, the Utility has had access to funds that have been transferred out of WMSI that could have been used to establish a funded plan for this additional employee benefit. Staff does not believe the customers should bear this additional cost. Therefore, staff recommends that \$80,000 be removed from employee pensions and benefits.

Finally, consistent with staff's recommendation in Issue 18, staff has reduced employee pension and benefits by \$3,665 to reflect a 12.50 percent allocation to affiliated operations. Based on the above, employee pensions and benefits should be reduced by \$83,665 (\$80,000+\$3,665).

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**Issue 20:** Should any adjustments be made to Materials and Supplies expense?

**Recommendation:** Yes. Materials and Supplies should be decreased by \$8 to remove an out of period expense. (Hudson)

**Position of the Parties**

**WMSI:** No. No adjustment is necessary or appropriate.

**OPC:** No position.

**Staff Analysis:** Pursuant to Audit Finding 4, the Utility recorded an out-of-period expense in the amount of \$8 in Materials and Supplies expense. (EXH 41) WMSI agreed with this adjustment. (EXH 31, BSP 214) Staff recommends Material and Supplies be decreased by \$8.

**Issue 21:** Should any adjustments be made to the requested level of Engineering Services expense?

**Recommendation:** Yes. The requested level of Engineering Services expense should be decreased by \$42,128. (Hudson, Walden)

**Position of the Parties**

**WMSI:** No. No adjustment is necessary or appropriate.

**OPC:** Yes. WMSI's proposed \$48,000 annual engineering services expense should be reduced. This level has not been incurred historically. Further, most engineering costs and expenditures incurred by the Company on a regular basis would be capital in nature and capitalized. The 2009 test year non-recurring costs for the water system evaluation should be amortized over a 5-year period and the Company's proposed engineering expenses should be reduced by \$42,500, allowing an annual expense of \$5,500.

**Staff Analysis:** The Utility's MFR's include \$48,000 for Engineering Services. (EXH 3) The balance includes \$27,500 for a PBS&J water evaluation study and a pro forma adjustment of \$20,500 to bring the test year level to \$48,000. (EXH 3) WMSI witness Brown testified that the Utility must have access to high quality Engineering Services on a consistent basis because of all the governmental compliance issues and permitting requirements. (TR 89) The Utility has entered into a retainer agreement with PBS&J for \$4,000 monthly or \$48,000 annually for Engineering Services. (EXH 34, BSP 692-694)

OPC witness Ramas testified that the requested amount is excessive, in part because many types of engineering expenses that a water utility would incur should be capitalized as part of construction cost rather than expensed. (OPC BR 25; TR 269-270) Witness Ramas asserted that an appropriate level of engineering cost would be \$5,500 which is the amortization of the water evaluation study over a period of five years. (TR 269-270) WMSI contended that allowing only the amortization of the PBS&J water system evaluation does not allow for any recurring, non-capital Engineering Services. (WMSI BR 25)

Witness Ramas stated the amortization of the water system evaluation allows \$5,500, on a going forward basis, for WMSI to utilize for recurring type Engineering Services. (TR 333-334) Staff disagrees with OPC witness Ramas' adjustment to Engineering Services. Staff believes the water system evaluation is the crux of the Utility's justification of its pro forma plant improvements. As discussed in Issue 9, staff has recommended that the improvements are prudent and necessary. As such, staff recommends that costs associated with the water system evaluation be capitalized when the improvements are placed into service. Therefore, staff has removed the cost of \$27,500 for the water system evaluation, and believes the evaluation should be capitalized as plant when WMSI seeks recovery of the pro forma projects in a subsequent proceeding.

OPC witness Ramas did not dispute that the Utility will have some need for non-capital engineering costs. (TR 332-336) Staff notes that witness Ramas' recommendation to amortize the cost of the water evaluation study does allow for some level of recurring type Engineering

Services. The Utility's Engineering Services expense has been \$0 in prior years. However, WMSI witness Brown testified that Mr. Thomas had been providing Engineering Services at no cost. (TR 584-585) Mr. Thomas provided Engineering Services for the Utility in its last full rate case proceeding.<sup>23</sup> Staff has indexed the Engineering Services from the last rate case to the current level and determined Engineering Services should be \$5,872. Therefore, staff has reduced Engineering Services by \$14,628. Based on the above, staff recommends the requested level of Engineering Services expense should be decreased by \$42,128 (\$27,500+\$14,628).

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<sup>23</sup> See Order No. PSC-94-1383-FOF-WU, page 54.

**Issue 22:** Should any adjustments be made to the requested level of Accounting Services expense?

**Recommendation:** Yes. The requested level of accounting services expense should be reduced by \$14,333. (Hudson)

**Position of the Parties**

**WMSI:** No. No adjustment is necessary or appropriate.

**OPC:** Yes. The Company's requested \$18,000 in accounting fees is excessive, not historically representative, not required and duplicative of services provided for by the in-house controller and office administrator. The new retainer-based contract is charged whether services are provided or not, and is not paid on a regular basis. WMSI's adjusted test year accounting expenses should be reduced by \$14,333 to reflect a five-year average of \$3,667 which is reasonable going forward.

**Staff Analysis:** WMSI's MFRs reflect Accounting Services of \$18,000, which include test year expenses of \$4,225 and a pro forma adjustment of \$13,775. (EXH 3) The Utility has entered into an accounting service contract with Barbara Withers, Certified Public Accountant (CPA). The accounting service contract is a set monthly retainer of \$1,500 per month or \$18,000, annually. (TR 91, 504) This amounts to an average of 10 hours of Accounting Services per month. The Utility indicated that any unused hours would be credited to the months where more hours are required. (TR 91) The Utility indicated that the accounting contract assures that the Utility would have priority access to a CPA and is better for budgetary purposes. (TR 91)

In rebuttal testimony, WMSI witness Withers testified the services provided under the contract include preparing the Utility's tax returns; updating WMSI's policy and procedures manual; monitoring compliance; ensuring compliance with NARUC USOA for Class A Utilities; assisting with any necessary journal entries; providing services regarding plant additions, disposals, and depreciation; maintaining the fixed asset matrix; assisting in the areas of amortization of deferred debits and contributions in aid of construction (CIAC); and performing various accounting and bookkeeping assistance. (TR 503) Witness Withers contended the additional Accounting Services of a licensed CPA are needed to properly maintain the books and records of the Utility due to the complex accounting matters involved. (TR 506)

OPC asserted that the complex nature of accounting for WMSI does not arise from utility depreciation or accounting because those issues are clearly delineated with rules and the NARUC USOA. (OPC BR 27) OPC contended that the true source of complexity of the Utility's accounting issues is the nature and frequency of its affiliate transactions. (OPC BR 27) Further, OPC witness Ramas testified that, in her opinion, WMSI has not justified the need for a significant increase in the amount of assistance needed from an external certified public accounting firm. (TR 266) Her opinion is based on the fact the Utility has an in-house controller whose duties include accounting and bookkeeping activity, as well as the responsibility for the general ledger, payroll, payroll tax returns, preparation of financial statements, and other accounting type services. (TR 266) There is also an office administrator who assists the controller with the day-to-day accounting functions. (TR 266) OPC agreed that a reasonable

level of CPA services is needed. However, OPC stated that WMSI has not historically incurred the levels sought and has not supported its contention that these levels will recur annually. (OPC BR 27) To reflect the appropriate level of Accounting Services expense on a going-forward basis, OPC witness Ramas recommended an annual accounting expense of \$3,667. This amount equates to the annual average accounting expense incurred by the Utility over the past five years. (TR 266-267)

The Utility indicated it has an accounting procedures manual to assure compliance with all of the various requirements involving accounting issues, including those of NARUC. (TR 91) The manual was created by the Utility's CPA, Barbara Withers. (EXH 38, BSP 2983) The manual contains a very extensive list of accounting functions and duties which are assigned to the various employees of WMSI and the CPA, Ms. Withers. (EXH 38) In Attachment A, staff has made a grid of the procedures contained in the accounting manual. Mr. Mitchell, the controller, is primarily responsible for duties that are covered in the Accounting Services contract with Ms. Withers. The accounting manual indicates that Ms. Withers' only responsibility not also covered by other WMSI employees is the preparation of the Federal Corporate Tax Return and the Florida Corporate Tax Return.

In response to OPC Interrogatory No. 31, the Utility indicated it has incurred accounting expenses of \$10,626 for 2005; \$698 for 2007; \$2,250 for 2008; and \$4,225 for 2009. WMSI incurred a high-level of accounting expenses in 2005 due to a new fixed asset and depreciation program set-up and an audit. The next highest-level was \$4,225 in 2009 which included the cost of Ms. Withers preparing the accounting manual. (EXH 34, BSP 699-700). The Utility's level of Accounting Services expense has varied over the past several years. However, the level has not approached the \$18,000 being requested by the WMSI. (TR 266) WMSI witness Withers agreed that the five-year average for Accounting Services has been in the neighborhood of \$3,700. (TR 505) However, she purports that her services have been previously provided at a discount or at no-charge due to extremely challenging years for WMSI. (TR 505)

Staff agrees with OPC that the level of Accounting Services expense should be reduced. Staff believes that the five-year average of \$3,667 is an appropriate level of Accounting Services expense for the Utility. On a prospective basis, staff believes Ms. Withers services will be minimal according to the accounting manual. Staff believes the Utility has adequate in-house employees to maintain its accounting functions in full compliance as illustrated in its accounting manual. Staff believes the \$3,667 level of Accounting Services expense would allow for oversight over the implementation of the accounting manual, as well as the completion of the Federal and Florida Corporate Tax returns.

Based on the above, the level of Accounting Services expense should be reduced by \$14,333 (\$18,000-\$3,667).

**Issue 23:** Should any adjustments be made to the requested level of DEP refinancing costs?

**Recommendation:** Yes. The Utility's test year expenses should be reduced by \$2,500 to remove cost related to the DEP refinancing. (Hudson)

**Position of the Parties**

**WMSI:** No. No adjustment is necessary or appropriate. This expense was incurred to increase the loan amortization period to more closely match the depreciable life of assets, improving cash flow to the betterment of the customers.

**OPC:** Yes, \$2,500 should be removed from test year expenses for DEP refinancing consulting costs. These costs are non-recurring and the customers should not be harmed from increased expenses as a result of the Company being unable to adequately manage its cash flow.

**Staff Analysis:** WMSI's MFRs include \$2,500 in Contractual Services-Other to Sigma Project Solution, LLC. (Sigma) (EXH 3; EXH 36, BSP 1537) WMSI witness Brown testified that Sigma was instrumental in assisting the Utility with refinancing its DEP loan at a lower interest rate and extending the amortization of the loan from 20 years to 30 years. (TR 535) WMSI indicated the transaction was beneficial to the customers. (TR 535; WMSI BR 27) In rebuttal, WMSI witness Brown testified that, with Sigma's help, debt service was reduced by \$121,000 per year. (TR 535)

In response to OPC POD No. 8, WMSI provided a copy of Amendment 3 of its loan agreement which indicated WMSI had requested the restructuring of its loan as a result of "worsening economic conditions." (TR 270) OPC witness Ramas stated that it appeared WMSI did not have the cash necessary to pay the November 2009 and May 2010 semi-annual payments. Therefore, the amount of outstanding interest was added to the principal balance. (TR 271) OPC witness Ramas believed \$2,500 is not only non-recurring, but it should not be passed along to the customers as a result of WMSI not being able to adequately manage its cash flow. (TR 271) Witness Ramas expressed concern that the Utility was unable to pay its debt obligation while at same time investments in associated companies were increasing and notes receivable from associated companies were outstanding. (TR 272; OPC BR 28)

WMSI stated that OPC witness Ramas is trying to justify the disallowance of the costs by trying to tie it to her erroneous conclusion that BMG and witness Brown took more cash out of the Utility than they put in. (WMSI BR 27-28) WMSI contended that the records support that witness Brown and BMG have put \$156,842 more into the Utility than was taken out during the period of January 2009 through August 2010. (WMSI BR 28) However, as will be discussed more fully in Issue 50A, BMG and Mr. Brown have actually taken more cash out than has been put in WMSI. Staff believes the Utility has not adequately managed its cash flow. Therefore, the cost of refinancing the loan should not be passed along to the customers. The refinancing of the loan added an additional \$955,113 of interest over the life of the loan. (EXH 31, BSP 216) Based on the above, staff recommends the DEP refinancing cost of \$2,500 should be removed.

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**Issue 24:** Should any adjustments be made to the requested level of Contract Labor Costs?

**Stipulation:** \$1,250 of additional contractual service costs should be removed for a total of \$7,250 for Hank Garrett charges during 2009 (on general ledger as management fees).

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**Issue 25:** Should additional adjustments be made to remove out of period costs for annual report preparation fees?

**Stipulation:** Yes. An adjustment should be made to reduce the out of period costs by \$2,100 to reflect the actual cost incurred in 2009 for preparation of the 2008 Annual Report.

**Issue 26:** Should any adjustments be made to rental of building/real property?

**Recommendation:** Yes. Rental of building/real property should be reduced by \$2,250 to reflect the allocation of rent expense to affiliated entities. (Hudson)

**Position of the Parties**

**WMSI:** No. No adjustment is necessary or appropriate.

**OPC:** Consistent with OPC's recommendation that 12.5% of Mr. Brown, Ms. Chase and Mr. Mitchell's salaries being allocated to affiliated operations, 12.5% of the rent expense associated with the Tallahassee office should be allocated to affiliated entities. This results in a \$2,250 reduction to test year rent expense.

**Staff Analysis:** The Utility, at one time, owned an office in Tallahassee. However, WMSI sold the office in March 2005, in order to increase cash flow. WMSI stated it did not have sufficient funds to purchase another office. (EXH 34, BSP 708) The Utility's Tallahassee office location is leased from BMG for \$18,000, annually. (EXH 36, BSP 2208-2211) Consistent with the recommendation in Issue 18,<sup>24</sup> staff recommends that 12.5 percent of the rent expense be allocated to the Utility's affiliate. Thus, staff recommends the rent expense be reduced by \$2,250.

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<sup>24</sup> In Issue 18, staff agreed with OPC that 12.5 percent of salaries for Mr. Brown, Ms. Chase, and Mr. Mitchell be allocated to affiliate operations.

**Issue 27:** Should any adjustment be made to transportation expense?

**Recommendation:** Yes. Transportation expense should be reduced by \$3,618. (Hudson)

**Position of the Parties**

**WMSI:** No. No adjustment is necessary or appropriate.

**OPC:** Yes. OPC agrees with the staff auditor that \$9,104 in unsupported transportation expenses should be removed. Additionally, \$1,265 in non-utility expenses for tires purchased for Mr. Brown's GMC Sierra sold after the test year should be removed. Further, the Commission should prescribe specific instructions and details that should be maintained in travel logs to document the business and personal use of utility-owned vehicles and personal vehicles by employees who request reimbursement from the Utility.

**Staff Analysis:** The Utility recorded \$23,168 of transportation expense. (EXH 3) Staff witness Dobiac stated in Audit Finding 6 that transportation expenses should be reduced by \$9,104 for insufficient support documentation. (EXH 41) In her deposition, witness Dobiac stated documentation was received from the Utility; however, she was unable to differentiate whether the fueling costs were related to a company vehicle or a personal vehicle. (EXH 69) Witness Dobiac asserted that sufficient support would be a receipt specifying the vehicle being fueled, the driver's initials, and the date. (EXH 41)

OPC agrees with witness Dobiac that transportation expenses should be reduced by \$9,104 because WMSI had insufficient supporting documentation. (OPC BR 29) Based on review of the Utility's 2009 General Ledger, witness Dobiac recommended disallowance of some transportation expense related to the island vehicles. (EXH 36, BSP 349-357; EXH 69) During the test year, no vehicles on the island were allowed for personal use. Thus, staff believes the fuel purchases on the island were not for personal use. (EXH 34, BSP 670) WMSI's general ledger separates transportation expense into two sub-accounts. (EXH 36, BSP 349-357) One is the transportation expense for the island and the other being for the staff in Tallahassee. The island transportation account balance is \$14,289. (EXH 36, BSP 355) Again, staff believes the island transportation expense is appropriate and reflects cost related to the fueling of Utility-vehicles and personal vehicles for Utility-related business.

The administration transportation expense account included transportation costs related to Mr. Brown, Ms. Chase, Mr. Mitchell, and Ms. Blankenship. The administration's transportation balance is \$8,879. (EXH 36, BSP 357) Staff believes \$1,631 of the amount in the account is appropriate because it reflects total documented mileage reimbursement to Mr. Mitchell and Ms. Blankenship. (EXH 32, BSP 475-525) The remaining balance of \$7,248 relates transportation cost for Mr. Brown and Ms. Chase for fuel purchases and maintenance on their vehicles.

As discussed in Issue 4, staff recommends the vehicle for the vice president (Ms. Chase) be removed. As a result, any maintenance costs related to this vehicle should be removed. Also, both her and witness Brown's vehicles are used for personal use and WMSI has not documented how much of the use is related to Utility business. WMSI contended that Mr. Brown averages four trips a month to the island. (EXH 34, BSP 669-670) Based on the number of trips and

mileage incurred, staff believes Mr. Brown has demonstrated that his transportation expense is reasonable. Therefore, staff recommends allowing this travel expense. However, the cost for Ms. Chase should be removed for lack of support documentation of her travels. Staff recommends transportation expense be decreased by \$2,985. Also, OPC recommends that transportation expense be reduced by \$1,265 to remove tires purchased for witness Brown's vehicle. (OPC BR 29) As discussed in Issue 4, staff is accepting the Utility's position that 50 percent of the president's vehicle be allocated to the Utility. Therefore, staff recommends that transportation expense be decreased by \$633 ( $\$1,265/2$ ) to remove 50 percent of the maintenance on the president's vehicle. Staff's adjustments result in a transportation expense allowance of approximately \$3,000 for the president. As discussed in Issue 4, the president's Utility-related mileage is 11,034. The Utility indicated his vehicle averages 12 miles per gallon and the fuel cost averaged \$2.75 per gallon. (EXH 31, BSP 215) This equates to approximately \$2,529 for fuel allowance.<sup>25</sup> Therefore, staff believes the approximate \$3,000 is reasonable.

Based on the above and discussions in Issue 4, staff does not believe the Utility has supported transportation cost for Ms. Chase. Therefore, staff is recommending transportation expense be reduced by \$3,618 ( $\$2,985 + 633$ ).

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<sup>25</sup> 11,034 miles divided by 12 miles per gallon = 919.50; 919.50 times \$2.75 = \$2,529

**Issue 28:** Should the requested key man life insurance expense be approved?

**Recommendation:** No. The key man life insurance expense should not be approved and the Utility's insurance-other account should be reduced by \$12,015. (Hudson)

**Position of the Parties**

**WMSI:** Yes.

**OPC:** No. OPC agrees with the staff auditor that the \$12,015 expense for key man life insurance should be excluded from expenses. The policy provides \$800,000 in life insurance on Gene D. Brown, and the WMSI Employee Benefit Trust is the beneficiary, with Ms. Chase as trustee. The trust will be used to fund the 401(k) and deferred compensation plans to protect WMSI's employees, not to fund the ongoing utility operations upon Mr. Brown's death.

**Staff Analysis:** The Utility's MFRs include \$12,015 in insurance-other for a key man life insurance policy. (EXH 3) In response to OPC Interrogatory No. 55, WMSI stated the key man insurance was added to help the Utility survive if it lost the person who manages and is most knowledgeable about the Utility which is Gene Brown, "the key man." (EXH 34, BSP 709) However, OPC argues that review of the policy shows that this is not the case. (OPC BR 31) The face value of the policy is \$800,000, and the beneficiary is the WMSI Employee Benefit Trust payable to Sandra M. Chase, Trustee, upon the insured's death. (EXH 34, BSP 2331-2348) Section 5 of the trust document indicates that the primary purpose of the trust is not to ensure the continued financing of the Utility's operations – but to provide 401(k) plan employee benefits upon the death of Mr. Brown. (EXH 38) In his deposition, WMSI witness Brown stated that the purpose of the key man life policy is to fund the Utility's employee benefit plan, which consists basically of the 401(k) plan and the deferred compensation plan. (EXH 38, BSP 2666) He further stated that if there is any residual left it would go to the Utility. (EXH 38, BSP 2666)

Later, in response to Audit Finding 5, staff witness Dobiac's recommendation to reclassify the key man life insurance policy to non-utility, WMSI stated that any and all proceeds from the policy would go to fund the Utility's 401(k) plans and its pension plan upon the death of Mr. Brown. (EXH 31, BSP 214) It further stated his death would cause a disruption in the operation of WMSI, and otherwise threaten the continued funding of WMSI's Employee Benefit Plan. (EXH 31, BSP 214) Staff believes the Utility has put this policy in place to maintain the benefits for its employees. However, staff does not believe this cost should be borne by the customers. Further, in justifying the salary increase for Ms. Chase, WMSI witness Brown stated that she is qualified to assume his duties if he should become incapacitated. (TR 541) Staff believes this contradicts the assertion that the Utility would not survive in the event of the loss of Mr. Brown.

WMSI contended that witness Ramas admitted on cross-examination that the 401(k) plan was a legitimate utility expense. (WMSI BR 30; TR 353-354) WMSI also noted that OPC witness Ramas expressed concern that the Utility had not funded any of the 2009 pension accruals. (TR 288) As a result, the Utility stated that the use of the key man life insurance is a legitimate expense and should be allowed. (WMSI BR 30) Witness Ramas recommended that the cost of the key man life insurance be excluded and not passed on to the Utility's customers.

(TR 287) Her justification is that the key man life insurance is to fund employee pension benefits and not for continuance of Utility operations. (TR 287) Staff agrees with witness Ramas that the cost should not be passed on to the customer. Staff notes that the Utility has been collecting monies through existing rates for the 401(k) plan, and staff believes the Utility operations would continue with the loss of Mr. Brown because Ms. Chase is qualified to assume his duties. (TR 541) Thus, staff believes the funding of the 401(k) plan would continue.

Finally, staff believes the key man life insurance is intended to cover the costs of the new executive deferred compensation plan. Staff recommended in Issue 19 that the cost associated with the deferred compensation be disallowed. For such an insurance plan to be considered Utility-related, staff believes the proceeds of any such plan should be used for the purpose that supports Utility operations going forward such as paying down the debt of the Utility rather than fund an employee pension fund.

Based on the above, the key man life insurance expense should not be approved and the Utility's insurance-other account should be reduced by \$12,015.

**Issue 29:** What is the appropriate amount of rate case expense?

**Recommendation:** The Utility's test year rate case expense should be reduced by \$24,184 to remove the fully amortized expense from the Utility's prior limited proceeding. The appropriate amount of rate case expense is \$206,632. The four-year amortization results in test year rate case expense of \$51,658, which decreases the Utility's annual amortization amount by \$5,495. (Hudson)

**Position of the Parties**

**WMSI:** The appropriate amount of rate case expense is contained in Exhibit 3, the MFRs, as modified by Exhibit 71, and the stipulations agreed to by the parties. In addition, should the Commission adopt a phased increase as the Utility has requested, this docket should remain open and additional rate case expense associated with the phase increases are appropriate.

**OPC:** The following adjustments are appropriate: remove duplicative fees of \$12,688 from firms that were not hired; no costs for Sigma Solutions should be included; remove prior rate case expense of \$24,184; disallow \$7,496 of unsupported accounting and engineering fees; and reduce \$5,680 of estimated fees to complete for the shortened hearing.

**Staff Analysis:** The Utility's test year included \$24,184 of rate case expense from its prior limited proceeding.<sup>26</sup> (EXH 3) The rate case expense has been fully amortized. Therefore, rate case expense should be decreased by \$24,184. Staff notes that WMSI witness Seidman agreed with this adjustment. (TR 431)

WMSI initially submitted in its MFRs \$228,613 in rate case expense for the instant docket, for an annual amortization expense of \$57,153. (EXH 3) At the hearing, the Utility updated its actual and estimated rate case expense and submitted it as Hearing Exhibit 71. In its update, WMSI requested total rate case expense of \$267,977. (EXH 71) This results in an increase of \$39,364 to the initial amount in the MFRs. Based on the Utility's requested increase in rate case expense, the four-year amortization test year rate case expense would be \$66,994, increasing the amortization originally included in the MFRs by \$9,841. (EXH 71) The following is a breakdown of the Utility's updated request for rate case expense:

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<sup>26</sup> See Order No. PSC-05-1156-PAA-WU, issued November 21, 2005, in Docket No. 000694-WU, In re: Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.

Table 29-1

	<b>Estimated MFR B-10</b>	<b>Actual</b>	<b>Additional Estimated</b>	<b>Revised B-10 Total</b>
<b>Legal Fees</b>				
Rose, Sundstrom & Bentley, PA	\$3,340	\$3,340	\$0	\$3,340
Radey, Thomas, Yon & Clark, PA - Clark	12,000	2,400	8,000	10,400
Radey, Thomas, Yon & Clark, PA - Scoles	93,600	69,108	21,840	90,948
Radey, Thomas, Yon & Clark, PA - Incidentals	<u>0</u>	<u>7,770</u>	<u>760</u>	<u>8,530</u>
<b>Total</b>	<b>\$108,940</b>	<b>\$82,738</b>	<b>\$29,840</b>	<b>\$113,218</b>
<b>Consultants</b>				
Carlstedt, Jackson, Nixon & Wilson, CPA	9,348	9,348	\$0	9,348
Radey, Thomas, Yon & Clark, PA - Deason	22,500	40,500	12,600	53,100
M&R Consultants, Inc. - Frank Seidman	4,060	4,060	0	4,060
M&R Consultants, Inc. - Frank Seidman	61,000	57,926	9,500	67,426
Post, Buckley, Schuh, & Jernigen, Inc. - Gauker	15,015	0	0	0
Post, Buckley, Schuh, & Jernigen, Inc. - Scibelli	0	6,200	2,300	8,500
Barbara Withers	<u>0</u>	<u>3,375</u>	<u>1,200</u>	<u>4,575</u>
<b>Total</b>	<b>\$111,923</b>	<b>\$121,409</b>	<b>\$25,600</b>	<b>\$147,009</b>
<b>Other</b>				
Filing Fee	\$5,250	\$5,250	\$0	\$5,250
Customer Notices	500	500	0	500
Fed. Ex, Copies & other misc.	<u>2,000</u>	<u>2,000</u>	<u>0</u>	<u>2,000</u>
<b>Total</b>	<b><u>\$7,750</u></b>	<b><u>\$7,750</u></b>	<b><u>0</u></b>	<b><u>\$7,750</u></b>
<b>Total Rate Case Expense</b>	<b><u>\$228,613</u></b>	<b><u>\$211,896</u></b>	<b><u>\$55,440</u></b>	<b><u>\$267,977</u></b>
<b>Four-Year Amortization</b>	<b>\$57,153</b>			<b>\$66,994</b>

Preliminary Evaluation

WMSI's updated request for rate case expense included \$12,688 for legal and consulting cost of firms that did preliminary work but were not involved in the on-going proceeding. (TR 275) In response to OPC Interrogatory No. 56, the Utility stated the "preliminary legal counsel," Rose, Sundstrom & Bentley, PA (Rose) provided it with a high-level analysis of WMSI's position, as well as work in trying to find financing for the Utility. WMSI said the information was needed for it to make a decision on how to proceed with this case. (EXH 34, BSP 709) The Utility stated that Radey, Thomas, Yon & Clark, PA (Radey) had no special expertise in locating funding sources for a water utility but was able to work with WMSI on a payment schedule that allowed it to proceed with highly qualified legal counsel. (EXH 34, BSP 709) In regard to the preliminary evaluation for the accounting firm, the Utility contended Carlstedt, Jackson, Nixon & Wilson, CPA (CJNW) did preliminary work that was useful to Rose in their financial efforts and to WMSI in preparing the case for filing. (EXH 34, BSP 710) WMSI witness Brown testified that the preliminary expense should be allowed because this work provided WMSI with valuable legal advice and strategy regarding the Commission and rate structure. (TR 536) He also stated the accounting firm provided assistance and advice to the Utility regarding prior orders of the Commission. (TR 536) Further, witness Brown contended that the preliminary work helped reduce the ultimate charges of those consultants currently retained. (TR 536-537)

OPC contended that the preliminary analysis was duplicative of the work performed by the consultants currently retained. (OPC BR 32) OPC stated the Utility's invoices show Radey billed WMSI legal and accounting consulting services for both Ms. Lisa Scoles and Mr. Terry Deason in January and February of 2010. (EXH 71) Also, Mr. Frank Seidman billed for preliminary charges for planning and developing the MFRs in April 2010. (OPC BR 32) OPC witness Ramas asserted that ratepayers should not pay for two different accounting and legal firms to assist in the preparation of a rate case, particularly when the Utility decided to switch firms during the preparation stage. (TR 276-277) Further, witness Ramas testified that finding financing is not a rate case expense and that many of the financing problems or concerns of the Utility are the result of affiliated transactions and relationships which have left WMSI "in an oft times precarious financial situation." (TR 276)

Staff agrees with OPC witness Ramas that the preliminary evaluation work was duplicated by those currently retained. Also, even if the preliminary work had not been duplicated, staff believes the part related to finding financing should be removed for the reason expressed by witness Ramas. Based on the above, staff recommends that the \$12,688 cost related to the preliminary evaluation be removed.

### Legal

WMSI's updated rate case expense included a total of \$109,878 for legal costs for Radey. The costs consist of \$10,400 for Susan Clark, \$90,948 for Ms. Scoles and \$8,530 for incidentals (conference calls, copies, and travel, etc.). Ms. Clark's actual charges were for 6 hours at \$400 per hour for a total of \$2,400. Her estimated cost to complete this case is \$8,000 for an additional 20 hours. In reviewing the invoice related to Ms. Clark, staff determined she had 1.25 hours billed for reviewing the testimony of Mr. Gauker. Mr. Gauker's testimony was not filed in this case. Staff believes time spent on his testimony should be removed. Her actual hours should be 4.75 hours. Also, considering the amount of time worked on the case by Ms. Clark leading up to the hearing, staff believes her estimate of hours to complete is overstated. Consistent with past Commission decisions, staff has adjusted the amount of hours based on the average monthly hours that have been incurred and applied it to the estimated future duration of this rate case.<sup>27</sup> This results in 2.11 hours of estimated time to complete.<sup>28</sup> Also, staff allowed 10 hours for her attendance at the first day of the hearing. This results in adjusted hours of 16.86 hours for Ms. Clark. Ms. Clark's hourly rate is \$400. Staff believes her hourly rate is higher than the \$320 that has been allowed for legal counsel for other water and wastewater utilities.<sup>29</sup> The preliminary counsel's rate is \$320. (EXH 71) Therefore, staff believes Ms. Clark's hourly rate should be reduced to \$320. Staff recommends cost of \$5,396 ( $\$320 \times 16.86$ ) for Ms. Clark. Staff had decreased rate case expense by \$5,004 ( $\$10,400 - \$5,396$ ) to reflect the appropriate rate case expense for Ms. Clark.

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<sup>27</sup> See Order No. PSC-09-0385-FOF-WS, issued May 29, 2009, in Docket No. 080121-WS, In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc., at page 192.

<sup>28</sup> Total adjusted hours 4.75 (6-1.25) divided by number of months for actual hours was nine = .528 hours; .528 hours multiplied by estimated four months to complete case= 2.1 hours

<sup>29</sup> See Order No. PSC-10-0423-PAA-SU, issued July 1, 2010, in Docket No. 090402-SU, In re: Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corporation, at page 18.

Ms. Scoles' actual charges were for 265.8 hours at \$260 per hour for a total of \$69,108. Her estimate of time to complete is 84 hours which equates to \$21,840. Consistent with the discussion above, Ms. Scoles costs were reduced by \$239 to remove cost associated with reviewing Mr. Gauker's testimony. OPC stated that although the estimated time to complete provided no breakdown of hours by function, it is reasonable to assume the estimate was based on three days of hearing, the original time frame set by the Commission. (OPC BR 33) However, the estimate of time should be reduced by eight hours since the hearing concluded on the second day. (OPC BR 33) Staff agrees with OPC and as a result, staff has reduced her legal cost by \$2,080. The net adjustment to Ms. Scoles' legal cost is \$2,319. Staff recommends legal cost of \$88,628 for Ms. Scoles. Finally, staff has reduced the legal firm's actual incidentals by \$120 due to lack of support documentation.

#### Consultant

WMSI's updated rate case expense included a total of \$53,100 for consultant cost for Terry Deason. The cost consists of actual charges for 135 hours at \$300 for a total of \$40,500. His estimated time to complete was an additional 42 hours which totals \$12,600. Consistent with the discussion above, staff has reduced Mr. Deason's actual hours by .2 hour for time spent on Mr. Gauker's testimony. Also, consistent with the previous discussion, staff has reduced Mr. Deason's estimated time to complete by eight hours because the hearing concluded on the second day. With staff's recommended reduction of 8.2 hours, it results in total adjusted hours of 168.8 for Mr. Deason.

Mr. Deason's hourly rate is \$300. Staff believes his hourly rate is high compared to other engineering and rate consultants who practice before the Commission. As will be discussed below, Mr. Frank Seidman is a consultant in the rate case proceeding. Witness Seidman is a professional engineer and has over 40 years of experience in utility regulation, management and consulting. (TR 21) Witness Seidman prepared and sponsored the MFRs in this proceeding. (EXH 3) His hourly rate is \$150 an hour. In prior rate case decisions, the Commission has decreased the hourly rate of Mr. Guastella, an engineering consultant to that of Mr. Seidman.<sup>30</sup> Staff finds that an hourly rate of \$150 equal to the rate charged by witness Seidman should be allowed. Staff recommends consulting cost related to Mr. Deason of \$25,320 (168.8 hours x \$150). Thus, staff recommends a decrease in rate case expense of \$27,780 (\$53,100-\$25,320).

Witness Seidman's consultant costs consist of actual charges in the amount of \$61,986. His actual charges consist of \$4,858 for costs related to the Utility's application for a wastewater certificate. As discussed in Issue 34, staff is recommending the cost associated with the wastewater certificate be removed. As such, staff has reduced witness Seidman's cost by \$4,858. The remaining actual cost is \$57,128. This results in 380.85 hours of consulting. Witness Seidman's estimated cost to complete is \$9,500. Staff has also reduced witness Seidman's cost by \$1,200 to reflect the removal of eight hours for the third hearing day, as discussed above.

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<sup>30</sup> See Order Nos. PSC-09-0385-FOF-WS, issued May 29, 2009, in Docket No. 080121-WS, In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc; and PSC-09-0632-PAA-WU, issued September 17, 2009, in Docket No. 080353-WU, In re: Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.

Based on the above, staff recommends the appropriate consulting cost for witness Seidman should be \$65,428.

WMSI's updated rate case expense included a total of \$4,575 for Barbara Withers and \$8,500 for Michael Scibelli. OPC argued that the support for these witnesses consisted of two-typed pages with the hourly rate and number of hours worked. (OPC BR 32) The total costs were broken down by total fees incurred as of September 30, 2010, and total fees projected through the final agenda. (EXH 71; OPC BR 32) Witness Withers' actual charges were for 22.5 hours at \$150. However, in Exhibit 4 of her rebuttal testimony, witness Withers provided a schedule outlining her hours worked which indicated she actually worked 10 hours reviewing and preparing testimony. (EXH 49) Staff has reduced the number of hours worked for Ms. Withers by 12.5 for a reduction of \$1,875. Her estimated cost to complete of \$1,200 is consistent with her time spent at the hearing and requires no adjustment.

The Utility has not provided any support documentation for Mr. Scibelli's requested rate case expense. OPC asserted that evidence in the record reflects that each witness prepared testimony and attended a portion of the hearing. (OPC BR 33) There is no documentation for Mr. Scibelli supporting more than the 18 hours for his work. Mr. Scibelli's hourly rate is \$160. Therefore, staff recommends the appropriate rate case expense for Mr. Scibelli is \$2,880. As such, staff recommends that rate case expense should be reduced by \$5,620 for Mr. Scibelli.

In summary, staff recommends that rate case expense be decreased by \$61,345 for all the aforementioned adjustments. The appropriate rate case expense is as follows:

Table 29-2

	Revised B-10 Total	Staff Adjustments	Adjusted Total
<b>Legal Fees</b>			
Rose, Sundstrom & Bentley, PA	\$3,340	(\$3,340)	\$0
Radey, Thomas, Yon & Clark, PA - Clark	10,400	(5,004)	5,396
Radey, Thomas, Yon & Clark, PA - Scoles	90,948	(2,319)	88,629
Radey, Thomas, Yon & Clark, PA - Incidentals	<u>8,530</u>	<u>(120)</u>	<u>8,410</u>
<b>Total</b>	\$113,218	(\$9,315)	\$102,554
<b>Consultants</b>			
Carlstedt, Jackson, Nixon & Wilson, CPA	\$9,348	(\$9,348)	\$0
Radey, Thomas, Yon & Clark, PA - Deason	53,100	(27,780)	25,320
M&R Consultants, Inc. - Frank Seidman	4,060	(4,060)	0
M&R Consultants, Inc. - Frank Seidman	67,426	(1,998)	65,428
Post, Buckley, Schuh, & Jernigen, Inc. - Gauker	0	0	0
Post, Buckley, Schuh, & Jernigen, Inc. - Scibelli	8,500	(5,621)	2,879
Barbara Withers	<u>4,575</u>	<u>(1,875)</u>	<u>2,700</u>
<b>Total</b>	\$147,009	(\$50,681)	\$96,327
<b>Other</b>			
Filing Fee	\$5,250	\$0	\$5,250
Customer Notices	500	0	500
Fed. Ex, Copies & other misc.	2,000	0	2,000
<b>Total</b>	<u>\$7,750</u>	<u>0</u>	<u>7,750</u>
<b>Total Rate Case Expense</b>	<u>267,977</u>	<u>(\$61,345)</u>	<u>\$206,632</u>
<b>Four-Year Amortization</b>	\$66,994		\$51,658

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Therefore, staff recommends rate case expense of \$206,632. Based on a four-year amortization period, the annual rate case amortization is \$51,658.

**Issue 30:** Should any adjustments be made to employee training costs?

**Recommendation:** Yes. Employee training costs should be decreased by \$1,752. (Hudson)

**Position of the Parties**

**WMSI:** No. No adjustment is necessary or appropriate.

**OPC:** Yes. The amount of employee training costs recorded by the Company during the 2009 test year was significantly higher than the level of employee training costs incurred in prior years. The test year employee training costs should be normalized to reflect a three-year average of \$1,070, which results in a \$1,752 reduction to test year expenses. Further, WMSI's rebuttal of this issue failed to adequately support its 2010 level of expenses.

**Staff Analysis:** In 2009, WMSI recorded \$2,822 in miscellaneous expenses for employee training cost. (EXH 3) OPC witness Ramas noted that the amount of employee training costs recorded in the test year is significantly greater than the level incurred in prior years. (TR 288) In prior years, the Utility has incurred employee training cost in the amount of \$125 in 2007 and \$262 in 2008. (EXH 11) WMSI indicated in response to OPC Interrogatory No. 48 that Mr. Brown attended a seminar in California that accounted for \$2,698 of the total cost recorded in 2009. (EXH 36, BSP 706)

OPC witness Ramas testified that the amount of employee training costs should be adjusted to reflect the average-level incurred for the past three years, 2007 through 2009. (TR 289) This would result in a three-year average of \$1,070 and a \$1,752 decrease to test year expenses. (TR 289) Witness Ramas indicated that by taking the three-year average it would recognize that training costs fluctuate from year to year, and it would normalize the training costs impacted by the travel of one employee to attend a single seminar. (TR 289)

WMSI witness Brown disagrees with OPC witness Ramas' reduction to employee training costs. (TR 546) He stated that employee training and continuing education is an important function for WMSI, and it is beneficial to the customers. (TR 546-547) In rebuttal, witness Brown testified that Mr. Hank Garrett and Ms. Nita Molsbee are required to have at least 45 hours of training per year to keep their DEP licenses. The Utility asserted that there is no evidence in the record that the expenses are unreasonable or unnecessary. (WMSI BR 32) Staff does not believe witness Ramas took issue with employees attending training seminars. Her issue instead was that the level of employee training expense in the test year is significantly greater than the level of expense incurred in prior years.

Witness Brown stated the Utility, for the first eight months of 2010, has incurred \$2,606 for continuing education. (TR 547) The Utility's 2010 general ledger indicated that as of June 30, 2010, only \$473 was spent for two operator training courses. (EXH 36, BSP 1757) Therefore, witness Brown is implying that the remaining \$2,133 was incurred for the three-day training session in August in Jacksonville sponsored by the Florida Rural Water Association attended by Mr. Garrett. However, WMSI did not include its general ledger as of August 2010 as a hearing exhibit. OPC concluded that the Utility has failed to provide support of the reasonableness for the remaining \$2,133. (OPC BR 34)

Staff agrees with OPC that the level of employee training costs should be based on an average expense. In the past, the Commission has used a three-year average to reflect the appropriate expense level.<sup>31</sup> A three-year average takes into account that the level of employee training costs fluctuates. The Utility has recognized that training costs vary from year to year, depending upon the availability of employees to attend various training sessions or conventions. (WMSI BR 32; TR 546-547) Based on the above, staff recommends employee training costs should be reduced by \$1,752.

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<sup>31</sup> See Order No. PSC-10-0168-PAA-SU, issued March 23, 2010, in Docket No. 090182-SU, In re: Application for increase in wastewater rates in Pasco County by Ni Florida, LLC. Staff notes while this order dealt with three-year average for bad debt expense, it illustrates the Commission's policy to use a three-year average for certain expenses.

**Issue 31:** Should any further adjustments be made to miscellaneous expenses?

**Recommendation:** Yes. Miscellaneous expense should be further reduced by \$54,594. (Hudson)

**Position of the Parties**

**WMSI:** No. No adjustment is necessary or appropriate.

**OPC:** Yes. First, the staff audit workpapers reflected \$299.14 in non-utility expense reductions. Second, \$1,960 in condo fees should not be charged to the ratepayers for the Tallahassee office that is owned by and is the responsibility of BMG. Third, consistent with OPC's adjustment to rate case expense, miscellaneous expenses should be reduced by \$494.06 for travel costs associated with Mr. Brown's trip to meet with the rate case consultant not chosen to file this rate case.

**Staff Analysis:** In her deposition, staff witness Dobiac agreed that the audit report inadvertently did not contain findings that were included in the audit workpapers. (EXH 69) Audit work paper 43-27.8 reflects reductions of \$299 and \$90 for a non-utility and unsupported expense, respectively. (EXH 69; EXH 3) The Utility did not take issue with these adjustments. Thus, staff recommends \$389 be removed from miscellaneous expenses.

The Utility included \$1,960 in miscellaneous expenses for the John Knox Road Condominium Association dues. (EXH 3) According to the lease agreement between WMSI and BMG, the Utility is only responsible for the utilities of the office. (EXH 32, BSP 2208-2211) Therefore, staff recommends a reduction of \$1,960 to miscellaneous expense.

As discussed in Issue 4, miscellaneous expense included costs related to replacement and repair of plant items. As a result, staff reclassified \$51,751 to plant. In addition, as discussed in Issue 29, staff recommends the rate case expense related to the preliminary evaluation be removed. Thus, staff has decreased this account by \$494 to remove travel costs associated with witness Brown's trip to meet the preliminary rate consultant.

Based on the above, staff recommends miscellaneous expense should be decreased by \$54,594 (\$389+\$1,960+\$51,751+\$494).

**Issue 32:** Should any further adjustments be made to the Utility’s pro forma expenses?

**Recommendation:** No further adjustments should be made to the Utility’s pro forma expenses. However, the Utility should submit a quarterly general ledger and canceled checks verifying that the Utility is consistently paying for the pro forma expenses allowed in this rate proceeding for a period of two years. (Hudson)

**Position of the Parties**

**WMSI:** No. No further adjustment is necessary or appropriate.

**OPC:** No position.

**Staff Analysis:** In addition to the pro forma expenses discussed in previous issues, the Utility has requested the following pro forma expense items:

Table 32-1

Additional Pro Forma Expense Adjustments	
Bridge Maintenance Contract	\$36,000
Tank Maintenance Contract	17,380
Billing Software Lease & Maintenance	3,720
John Deere Lease	2,084
Hydra Platform Lease	16,514
Stuffer Machine Lease	706
Mail Machine Lease	1,285
Vehicle Lease	7,610
Vehicle Lease	<u>8,273</u>
	<u>\$93,572</u>

The Utility’s adjustments were made to reflect 12 months of expense for commitments being incurred during the test year. (EXH 3) OPC had no position with regard to the adjustments. (OPC BR 36) Staff believes the amounts are reasonable. However, because the commitments are new to the test year, staff believes it is appropriate to monitor the expenses allowed in rates to verify that these expenses are on-going beyond the test year. Therefore, staff recommends the Utility be required to submit a quarterly general ledger and canceled checks verifying that the Utility is paying the pro forma expenses allowed in this rate proceeding for a

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period of two years. This requirement shall continue for two years from the date of the issuance of the Order.

**Issue 33:** Should any adjustments be made to depreciation expense?

**Recommendation:** Yes. However, all such adjustments have been made in preceding issues. (Hudson)

**Position of the Parties**

**WMSI:** Depreciation expense should be reduced by the amount included in the stipulation on Issue 5.

**OPC:** Yes. Depreciation expense as discussed in previous issues should be reduced by \$79,865. This is a fall out issue.

**Staff Analysis:** Based on recommended adjustments and stipulations in previous issues, depreciation expense should be reduced by \$58,904. A comparison of WMSI, OPC and staff's recommended adjustment is shown below.

Table 33-1

	Depreciation Expense		
	WMSI	OPC	Staff
<u>Adjustments</u>			
Issue 2	\$0	(\$16,912)	2,535
Issue 3	0	(2,670)	(2,670)
Issue 4	0	(6,024)	(5,069)
Stipulated 5	(2,326)	(2,326)	(2,326)
Issue 6	0	0	560
Issue 9	0	(51,934)	(51,934)
	<u>(\$2,326)</u>	<u>(\$79,866)</u>	<u>(\$58,904)</u>

**Issue 34:** Should the company's request to recover the costs associated with the withdrawn wastewater certificate application be approved?

**Recommendation:** No. The Utility's requested amortization of \$10,570 for cost associated with its application for a wastewater certificate should be removed. (Hudson)

**Position of the Parties**

**WMSI:** Yes, the costs associated with the wastewater certificate should be approved.

**OPC:** No. These non-utility costs should be removed and not passed on to the Company's water customers. Mr. Brown's attempt to expand his operations to include wastewater service to St. George Island has nothing to do with WMSI's provision of water service. This risk should be borne by Mr. Brown, the investor, not the water utility. The \$10,570 in requested amortization for this failed attempt should be removed as well as amount included in working capital.

**Staff Analysis:** WMSI is seeking to recover the cost it incurred in its application for a wastewater certificate. The Utility included an amortization amount of \$10,570 in its MFRs. (EXH 3) WMSI witness Brown testified that the Utility's efforts to pursue a wastewater certificate were prompted by a request from the Franklin County Commission. (TR 548, 614-615) Witness Brown testified that the Utility had been approached by commercial customers, in recent years, about providing wastewater service. (TR 433) WMSI believes that providing wastewater service would preserve its customer base by allowing it to be able to retain its commercial customers. (TR 433) Witness Brown indicated that if commercial customers are forced out of business because of wastewater problems the Utility would lose the commercial customer as a water customer as well. This would leave WMSI with a smaller customer base to spread the water revenue requirement over, thus resulting in higher rates for the remaining customers. (TR 433) Therefore, WMSI believes the wastewater system would have benefited the water customers. (TR 433)

OPC witness Ramas testified that the Utility's application and proposal to provide wastewater service had nothing to do with the provision of water service to its customers. Witness Ramas stated that Utility customers should not be burdened with witness Brown's decision to attempt to expand his operations. (TR 290) She asserted that water and wastewater services are two completely and distinctly separate services. Witness Ramas acknowledged that some utilities do offer both services. (TR 355) And although witness Ramas also acknowledged that there would be certain efficiencies with one company providing both water and wastewater service, she concluded that the two are completely different services. (TR 355-356)

Staff believes the Utility's decision to seek approval of a wastewater system was a business decision which should be borne by the shareholders of the Utility. The costs incurred in the pursuit of a wastewater certificate have nothing to do with the provision of water service, and therefore should not be passed on to the ratepayers. Based on the above, staff recommends the Utility's requested amortization of \$10,570 for cost associated with its application for a wastewater certificate be removed.

**Issue 35:** How should the gain on sale of land and other assets be treated?

**Recommendation:** The gain on sale of land and other assets of the Utility should be amortized over five years. The annual amortization is \$48,408. (Hudson)

**Position of the Parties**

**WMSI:** Gains and losses on the sale of land or other utility assets should be handled in accordance with the NARUC uniform system of accounts. For WMSI, net operating losses over the past several years exceed net gains in sales, as shown by Exhibit 84. No adjustment is necessary or appropriate unless the Commission approves the amortization of the difference between net losses and gains on sales.

**OPC:** The gain on sale of utility buildings and land realized by WMSI over the period March 2005 through November 2007 should be flowed back to ratepayers over five years. Excluding the gain on sale of the apartments above the St. George Island office previously disallowed by the Commission, the net gain during that period is \$327,580. This results in an annual amortization of gain on sale going to the benefit of WMSI's customers of \$65,516 (\$327,580/5 years)

**Staff Analysis:** Over the past five years, WMSI has sold assets that have resulted in gains and losses. (EXH 84) It is a longstanding Commission practice to amortize capital gains from the sale of specific assets over a period of five years to the benefit of the ratepayers.<sup>32</sup> If the sale results in a loss of customers, the gain flows to the shareholders.

The Utility stated that during the years of 2003-2009, it experienced gains on sales as well as cumulative net operating losses of \$420,484. (WMSI BR 35-36) WMSI argued it is not appropriate to pick and choose gains without also considering net operating losses incurred during the same period. (WMSI BR 36)

Staff believes capital gains and losses should be recognized related to the selling of specific assets. Based on the Utility's statements in its brief, WMSI believes operating losses should be recognized or netted against any net capital gains. (WMSI BR 36) Staff disagrees with this argument. The Utility's last full rate case proceeding was in 1994. If the Utility was experiencing net operating losses for all or most of those years, it was the Utility's burden to file for rate relief. Staff does not believe capital gains should be offset by operating losses.

Based on Commission practice, staff believes the net capital gains (net of capital losses) on the sale of specific assets should be recognized and amortized over five years. Staff's

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<sup>32</sup> See Order Nos. PSC-07-0205-PAA-WS, issued March 6, 2007, in Docket No. 060258-WS, In re: Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corp., PSC-04-0947-PAA-SU, issued September 28, 2004, in Docket No. 040733-SU, In re: Disposition of gain on sale of land held for future use in Marion County by BFF Corp.; Order No. PSC-02-1159-PAA-GU, issued August 23, 2002, in Docket No. 020521-GU, In re: Petition for approval to amortize gain on sale of property over five-year period by Florida Public Utilities Company; and Order No. PSC-98-0451-FOF-EI, issued March 30, 1998, in Docket No. 970537-EI, In re: 1997 depreciation study by Florida Public Utilities Company, Marianna Division.

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calculation has not included those assets that would otherwise be fully amortized within a year of when the rates would go into effect. Staff has not included the sale of the space above the Utility's St. George office because it was disallowed in the last rate case. Based on the above, staff has calculated a net gain of \$242,040. Staff recommends the net gain on sale of land and other specific assets of the Utility be amortized over five years, which results in an annual amortization of \$48,408.

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**Issue 36:** What is the test year pre-repression water operating income or loss before any revenue increase?

**Recommendation:** The test year pre-repression water operating income is \$136,572 for water. (Hudson)

**Position of the Parties**

**WMSI:** There is an operating loss of \$274,662.

**OPC:** The appropriate annual net operating income before any revenue increase or decrease is at least \$123,068.

**Staff Analysis:** Based on the adjustments discussed in previous issues, staff recommends that the test year operating income before any provision for increased revenues is \$136,572 as shown on Schedule No. 3-A.

**Issue 37:** What is the appropriate pre-repression revenue requirement for the December 31, 2009 test year?

**Recommendation:** The following revenue requirement should be approved.

	<u>Test Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Water	\$1,302,363	\$7,124	\$1,309,487	0.55%

(Hudson)

**Position of the Parties**

**WMSI:** The appropriate pre-repression revenue requirement is \$1,943,296.

**OPC:** The revenue requirement is [sic] should be \$1,296,510, which results in a revenue decrease of \$5,157.

**Staff Analysis:** WMSI requested final rates designed to generate annual water revenues of \$1,943,296. This represents a revenue increase of \$641,629 (49.29 percent). Staff has increased test year revenue by \$696 to reflect the appropriate test year revenues as calculated using the Utility's billing determinants and current rates. (EXH 3)

Consistent with staff's recommended rate base, cost of capital, and net operating income adjustments, staff recommends that the total pre-repression revenue requirement is \$1,309,487 as shown on Schedule No. 3-A. However, as discussed in Issue 39, staff recommends that the Utility's BFC and gallonage charges remain unchanged.

## **RATES AND CHARGES**

**Issue 38:** What are the appropriate test year billing determinants before repression?

**Recommendation:** The appropriate test year billing determinants before repression are those listed in the MFR Schedule E-2, page 1 of 2, column 5, and in MFR Schedule E-14. (Stallcup)

### **Position of the Parties**

**WMSI:** The appropriate test year billing determinants before repression are contained in the MFRs, page 67.

**OPC:** No position.

**Staff Analysis:** Staff reviewed the aggregate billing determinants contained in MFR Schedule E-2 and the detailed billing determinants contained in MFR Schedules E-14. In this review, staff verified that the aggregate billing determinants in MFR Schedule E-2 represent the sum of the detailed billing determinants contained in MFR Schedule E-14. Furthermore, staff verified that the aggregate billing determinants contained in MFR Schedule E-2, page 1 of 2, column 5, produce test year revenues that are not materially different than the revenues recorded by the Utility for the 2009 test year. Therefore, staff believes that the billing determinants contained in MFR Schedule E-2, page 1 of 2, column 5, are appropriate for rate-setting purposes. (EXH 3)

At the hearing, WMSI witness Seidman testified that the billing determinants contained in MFR Schedule E-2, page 1 of 2, column 5, are the actual number of bills rendered and gallons sold during the 2009 test year. (TR 56-57) In its brief, OPC took no position on the test year billing determinants. (OPC BR 39)

Based on the foregoing, staff recommends that the appropriate billing determinants before repression for the 2009 test year are those listed in MFR Schedule E-2, page 1 of 2, column 5.

**Issue 39:** What are the appropriate rate structures for this utility?

**Recommendation:** The appropriate rate structure for the residential class is a continuation of the Utility's existing three-tiered inclining block rate structure. The appropriate rate structure for all non-residential classes is a continuation of the BFC/uniform gallonage charge rate structure. Because staff's recommended change in revenue requirements is approximately one half of one percent, staff recommends that the Utility's BFC and gallonage charges remain unchanged (Stallcup)

**Position of the Parties**

**WMSI:** The appropriate rate structures are as follows: (i) for residential service, the rate structure should be the base facility charge plus a two-tiered inclining block gallonage charge and (ii) for non-residential service, the rate structure should be the base facility charge plus a flat gallonage charge. For both types of service, the base facility charge should recover 75 percent of the authorized revenue requirement.

**OPC:** The current rate structure, approved by the Commission in Docket 000694-WU, WMSI's last limited proceeding, is reasonable and appropriately promotes water conservation. The Company's requested change to allocate 75% of revenues to the base facility charge and 25% to the gallonage charge (instead of the current 50%/50% allocation) should be rejected.

**Staff Analysis:** Staff performed a detailed analysis of the Utility's billing data in order to evaluate various BFC cost recovery percentages, as well as usage blocks and usage block rate factors for the residential rate classes. The goals of the evaluations were to select the 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 conserving rate structures consistent with the Commission's Memorandum of Understanding (MOU) with the Water Management Districts (WMDs).

The Utility's current residential rate structure is a three-tier inclining block rate structure with usage blocks from 0 to 8 kgals, 8.001 to 15 kgals, and all kgals in excess of 15 kgals per month. The gallonage rates for these usage blocks are \$3.27, \$4.08 and \$4.91 per kgal, respectively. The BFC for a 5/8" x 3/4" meter is \$27.50 based upon a BFC allocation percentage of 50 percent.

In 1991, the Commission entered into a MOU with the five WMDs. The purpose of the MOU was to commemorate that the agencies recognized that it is in the public interest to engage in a joint goal to ensure the efficient and conservative utilization of water resources in Florida, and that a joint cooperative effort is necessary to implement an effective, state-wide water conservation policy. In keeping with this MOU, the Commission has, whenever practicable, implemented water conserving rate structures which limit the BFC allocation to no more than 40 percent and to adopt inclining block rate structures that provide an economic incentive to consumers to reduce excessive consumption. Over the last several years, it has been

Commission practice to implement these rate design parameters whenever applicable.<sup>33</sup> In the instant case, staff witness Chelette testified that the Northwest Florida Water Management District (NFWFMD) believes that an inclining block rate structure is appropriate for WMSI. Such a water conserving rate structure, along with the District's policy on shallow wells, is intended to relieve withdrawal rates on the Floridian aquifer and prevent salt water intrusion into the aquifer in coastal counties. (TR 411-412)

Since the Utility's rates were last set in 2006, the number of gallons sold by the Utility has declined by 32 percent. (TR 77) According to WMSI witness Brown, three factors have contributed to this decline: a general deterioration in the level of economic activity over the last few years, business closures caused by the lack of adequate sewage treatment, and the proliferation of shallow wells by property owners on St. George Island. (TR 77) Furthermore, WMSI witness Brown testified that the current BFC allocation of 50 percent makes it difficult for the Utility to cover fixed cost during the off-season. (TR 84-85) Staff witness Chelette testified that a recent rule change by the NFWFMD encourages the use of shallow wells for irrigation purposes on St. George Island to relieve withdrawals from the Floridian aquifer. (TR 408)

In the Utility's filing, WMSI witness Seidman proposed that the Commission approve a two-tiered inclining block rate structure with a BFC allocation of 75 percent, in lieu of the current 50 percent BFC allocation. According to witness Seidman, due to the current BFC allocation of 50 percent coupled with a three-tiered inclining block rate structure, "customers find that the modest cost of drilling a shallow well makes economic sense" to avoid the higher rates in the upper tiers. (TR 27-28) According to witness Seidman, "by increasing the BFC portion of the bill, the savings that may accrue from using less WMSI water will be less, making it more economical to stay on the system." (TR 26-28) Furthermore, witness Brown testified that increasing the BFC allocation to 75 percent would provide increased revenue stability and allow the Utility to more easily cover its fixed costs throughout the year. (TR 84-85)

Staff evaluated the impact on customer bills that would result if the Commission approved the Utility's proposed rate structure. As shown in Table 39-1 on the following page, the Utility's proposed rate structure would cause the BFC to increase by 37.8 percent while reducing the gallonage charges for usage above 15 kgals per month by 46.7 percent. The effect of these changes would be to increase customer bills at low levels of consumption while reducing customer bills by over 20 percent at all levels of consumption at or above 15 kgals per month. While staff agrees with the Utility's contention that this rate structure would provide enhanced revenue stability and reduce the incentive for customers to install shallow wells, staff is concerned that the sharp reductions in customer bills above 15 kgals per month would reverse the water conservation gains already achieved on St. George Island. Using staff's standard

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<sup>33</sup> See Order Nos. PSC-94-1452-FOF-WU, issued November 28, 1994, in Docket No. 940475-WU, In re: Application for rate increase in Martin County by Hobe Sound Water Company; Order No. PSC-01-0327-PAA-WU, issued February 6, 2001, in Docket No. 000295-WU, In re: Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.; Order No. PSC-00-2500-PAA-WS, issued December 26, 2000, in Docket No. 000327-WS, In re: Application for staff-assisted rate case in Putnam County by Buffalo Bluff Utilities, Inc.; Order No. PSC-02-0593-FOF-WS, issued April 30, 2002, in Docket No. 010503-WU, In re: Application for increase in water rates for Seven Springs system in Pasco County by Aloha Utilities, Inc.

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methodology to calculate customers' reaction to changes in price, staff estimates that if the Utility's rate structure were approved, total water consumption on St. George Island would increase by 3.5 percent. Therefore, staff does not believe that the Utility's proposed rate structure is appropriate.

Table 39-1: Rates and Bill Impacts of WMSI's Proposed Rate Structures

Rate Structure and Consumption Level	Current Rates BFC = 50%	WMSI Proposed Rate Structure BFC = 75%
BFC	\$27.50	\$38.45
<u>\$/Kgal</u>		
0 - 8 kgals	\$3.27	\$1.92
8.001 - 15 kgals	\$4.08	\$1.80
15+ kgals	\$4.91	\$2.69
<u>Consumption</u>	<u>Current Bill</u>	<u>(\$ change)</u>
0 kgals	\$27.50	\$10.56
5 kgals	\$43.85	\$3.58
10 kgals	\$61.82	(\$5.55)
15 kgals	\$82.22	(\$17.27)
20 kgals	\$106.77	(\$28.70)
25 kgals	\$131.32	(\$40.13)
30 kgals	\$155.87	(\$51.56)
35 kgals	\$180.42	(\$62.99)
40 kgals	\$204.97	(\$74.42)
<u>Consumption</u>		<u>(% change)</u>
0 kgals		37.8%
5 kgals		8.0%
10 kgals		-8.9%
15 kgals		-20.7%
20 kgals		-26.5%
25 kgals		-30.1%
30 kgals		-32.6%
35 kgals		-34.4%
40 kgals		-35.8%
<u>Effect of Repression on kgals Sold</u>		<u>(kgal change)</u> 4,264 kgals 3.4%

Given the small change in staff's recommended revenue requirements of approximately one half of one percent, staff believes that it would be inappropriate to change the utility's existing rate structure or its existing BFC and gallonage charges at this time. If new rates were to be established using staff's recommended increase in revenue requirements of \$7,124, staff believes that the cost of implementing these new rates would offset any revenue gain to the Utility. Therefore staff believes it would be more appropriate from a rate stability perspective to maintain the current rates until the Utility comes before the Commission to recover the cost associated with the pro-forma plant additions. Furthermore, according to staff's calculations, the Utility's existing rates are sufficient to cover its fixed costs during the off-season. Therefore, staff recommends that the Utility's existing rate structure, BFC and gallonage charges remain unchanged.

Based on the foregoing, staff recommends that the Utility's existing rate structures be continued and that the Utility's existing BFC and gallonage charges remain unchanged.

**Issue 40:** Is a repression adjustment appropriate in this case, and, if so, what is the appropriate adjustment to make for this Utility?

**Recommendation:** No, a repression adjustment is not appropriate in this case. (Stallcup)

**Position of the Parties**

**WMSI:** Yes. The appropriate adjustment is shown in Exhibit 3, the MFRs, page 68.

**OPC:** No repression adjustment is necessary in this case.

**Staff Analysis:** In the Utility's original filing, WMSI proposed that a repression adjustment be made to the test year billing determinants. (EXH 3, MFR Schedule E-2, page 2 of 2) This adjustment was based on the Utility's proposed increase in its revenue requirement of approximately 50 percent. Staff agrees with WMSI that such a large increase in revenue requirements, and therefore customer bills, would result in a material reduction in the number of gallons sold. However, because staff is recommending that the Utility's BFC and gallonage charges remain unchanged at this time, customer bills will also remain unchanged. Therefore, staff believes that a repression adjustment is not appropriate at this time.

**Issue 41:** What are the appropriate rates for this Utility?

**Recommendation:** The appropriate monthly rates are shown on Schedule No. 4. Excluding miscellaneous service revenues, the recommended water rates are designed to produce total Utility revenues of \$1,298,436. 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 of the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date the notice was given no less than 10 days after the date of the notice. (Stallcup, Hudson)

**Position of the Parties**

**WMSI:** The appropriate rates for this Utility are those presented in Exhibit 3, the MFRs, page 66, with adjustments for the impact of any specific adjustments agreed to by the Utility.

**OPC:** No position.

**Staff Analysis:** Excluding miscellaneous service revenues, the recommended water rates are designed to produce total Utility revenues of \$1,298,436. The appropriate monthly rates are shown on Schedule No. 4. Approximately 54.5 percent of the water system's monthly service revenues are recovered through the base facility charge, while approximately 45.5 percent represents revenue recovery through the consumption charge.

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 of the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date the notice was given no less than 10 days after the date of the notice.

**Issue 42:** Should the Utility be authorized to revise its miscellaneous service charges, and, if so, what are the appropriate charges?

**Recommendation:** Yes. Staff recommends that the Utility’s proposed charges as reflected in Exhibit 3 (MFR p. 70) are reasonable and should be approved. (Lingo, Stallcup)

**Position of the Parties**

**WMSI:** Yes. The appropriate charges are shown in Exhibit 3, the MFRs, page 70.

**OPC:** No position.

**Staff Analysis:** Witness Brown testified that the Utility’s current charges were established approximately 30 years ago, and that they do not cover current costs. The Utility desires to recover its actual costs related to miscellaneous service charges, rather than pass those costs on to its general customer base. (TR 87) WMSI witness Seidman testified that the Utility is requesting an increase in its miscellaneous service charges to reflect current costs. (TR 32) The Utility’s current and proposed charges are listed below:

Table 42-1

WATER MANAGEMENT SERVICES, INC. DOCKET NO. 100104-WS TEST YEAR ENDED DECEMBER 31, 2009  SCHEDULE OF PRESENT AND PROPOSED WATER SYSTEM MISCELLANEOUS SERVICE CHARGES				
	<u>Present Charges</u>		<u>Proposed Charges</u>	
	<u>Business Hours</u>	<u>After Hours</u>	<u>Business Hours</u>	<u>After Hours</u>
Initial Connection	\$15.00	\$15.00	\$21.00	\$42.00
Normal Reconnection	\$15.00	\$15.00	\$21.00	\$42.00
Violation Reconnection	\$15.00	\$15.00	\$21.00	\$42.00
Premises Visit	\$13.00	\$13.00	\$21.00	\$42.00
Source: EXH 3 (MFRs, p. 70)				

The Commission has expressed concern with miscellaneous service charges that fail to compensate utilities for the costs incurred. In a 1995 case involving Southern States Utilities, Inc., the Commission expressed concern that the miscellaneous service charges were eight years old and could not possibly cover costs.<sup>34</sup> The Commission directed Staff to examine whether miscellaneous service charges should be indexed in the future and included in index applications. Currently, miscellaneous service charges may be indexed if requested in price index applications pursuant to Rule 25-30.420, F.A.C. However, few utilities request that their miscellaneous

<sup>34</sup> See Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, in Docket No. 090495-WS, In Re: Application for rate increase and increase in service availability charges by Southern States Utilities, Inc., pp. 262-263.

service charges be indexed.<sup>35</sup> Based on witness Brown’s statement that the Utility’s current charges were established approximately 30 years ago, WMSI is one of the many utilities that has failed to take advantage of the miscellaneous service charges indexing option afforded the Utility pursuant to the aforementioned rule.

Staff applied approved price indices from 1990 through WMSI’s test year, consistent with what has been done in prior cases, to WMSI’s current miscellaneous service charges.<sup>36</sup> The results of 20 years of indexing is shown on the following page.

Table 42-2

<b>WATER MANAGEMENT SERVICES, INC.</b> <b>DOCKET NO. 100104-WS</b> <b>TEST YEAR ENDED DECEMBER 31, 2009</b>					
<b>ANALYSIS OF PROPOSED INCREASE IN</b> <b>MISCELLANEOUS SERVICE CHARGES: NORMAL HOURS</b>					
<b>O&amp;M</b> <b>Expense</b> <b>Year</b>	<b>Index</b> <b>Applicable</b> <b>To O&amp;M</b> <b>Expense</b> <b>Year</b>	<b>Initial</b> <b>Connection</b> <b>Currently</b> <b>\$15</b>	<b>Normal</b> <b>Connection</b> <b>Currently</b> <b>\$15</b>	<b>Violation</b> <b>Reconnection</b> <b>Currently</b> <b>\$15</b>	<b>Premises</b> <b>Visit (in Lieu</b> <b>Of Disconnection)</b> <b>Currently</b> <b>\$13</b>
1990	4.12 %	\$ 15.62	\$ 15.62	\$ 15.62	\$ 13.54
1991	3.63 %	\$ 16.18	\$ 16.18	\$ 16.18	\$ 14.03
1992	3.33 %	\$ 16.72	\$ 16.72	\$ 16.72	\$14.49
1993	2.56 %	\$ 17.15	\$ 17.15	\$ 17.15	\$ 14.87
1994	1.95 %	\$ 17.49	\$ 17.49	\$ 17.49	\$ 15.15
1995	2.49 %	\$ 17.92	\$ 17.92	\$ 17.92	\$ 15.53
1996	2.13 %	\$ 18.30	\$ 18.30	\$ 18.30	\$ 15.86
1997	2.10 %	\$ 18.69	\$ 18.69	\$ 18.69	\$ 16.20
1998	1.21 %	\$ 18.91	\$ 18.91	\$ 18.91	\$ 16.39
1999	1.36 %	\$ 19.17	\$ 19.17	\$ 19.17	\$ 16.62
2000	2.50 %	\$ 19.65	\$ 19.65	\$ 19.65	\$ 17.03
2001	2.33 %	\$ 20.11	\$ 20.11	\$ 20.11	\$ 17.43
2002	1.31 %	\$ 20.37	\$ 20.37	\$ 20.37	\$ 17.66
2003	1.60 %	\$ 20.70	\$ 20.70	\$ 20.70	\$ 17.94
2004	2.17 %	\$ 21.15	\$ 21.15	\$ 21.15	\$ 18.33
2005	2.74 %	\$ 21.73	\$ 21.73	\$ 21.73	\$ 18.83
2006	3.09 %	\$ 22.40	\$ 22.40	\$ 22.40	\$ 19.41
2007	2.39 %	\$ 22.93	\$ 22.93	\$ 22.93	\$ 19.88
2008	2.55 %	\$ 23.52	\$ 23.52	\$ 23.52	\$ 20.38
<b>2009</b>	<b>0.56 %</b>	<b>\$ 23.65</b>	<b>\$ 23.65</b>	<b>\$ 23.65</b>	<b>\$ 20.50</b>
(A) Applicable during normal business hours. Source: EXH 3 (MFRs p. 70); Order No. PSC-10-0082-PAA-WS, issued February 15, 2010, in Docket No. 100005-WS, In re: Annual reestablishment of Price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.					

<sup>35</sup> See Order No. PSC-07-0088-PAA-WS, issued January 31, 2007, in Docket No. 060261-WS, In re: Application for increase in water and wastewater rates in Lake County by Utilities, Inc. of Pennbrooke.

<sup>36</sup> Ibid.

As shown on Table 42-2, indexing the current business hour charges increases the current initial connection, normal connection, and violation reconnection charges to \$23.65 each, while the premises visit in lieu of disconnection charge increases to \$20.50. The Utility's proposed charge for each of these four services is \$21, less than the indexed charges for 2009 contained on Table 42-2. (EXH 3, MFR p. 70) Therefore, Staff recommends that the Utility's proposed business hour charges as reflected in EXH 3 (MFR p. 70) are reasonable and should be approved.

The Utility's current after hours miscellaneous service charges are the same as its business hours miscellaneous charges. (EXH 3, MFR p. 70) However, the Utility proposes to increase its after hours miscellaneous service charges to \$42. (EXH 3, MFR p. 70) The Utility's support for increasing the after hours miscellaneous service charges is shown below.

Table 42-3

<b>WATER MANAGEMENT SERVICES, INC.</b> <b>DOCKET NO. 100104-WS</b> <b>TEST YEAR ENDED DECEMBER 31, 2009</b>			
<b>ANALYSIS OF PROPOSED INCREASE IN</b> <b>MISCELLANEOUS SERVICE CHARGES: AFTER HOURS</b>			
<b><u>BUSINESS HOURS</u></b>	<b><u>Technician</u></b>	<b><u>Supervisor</u></b>	<b><u>TOTAL</u></b>
Hourly Rate of Pay	\$16.00	\$27.79	
Partial Hours Charged	0.75	0.25	
Day Call Labor Expense	\$12.00	\$6.95	\$18.95
Total Truck Rate	2.75		
Partial Hours Charged	0.75		
Day Call Truck Expense	\$2.05		\$2.05
<b>Total Day Call Expenses</b>	<b>\$14.05</b>	<b>\$6.95</b>	<b>\$21.00</b>
<b><u>AFTER HOURS</u></b>			
Hourly Rate of Pay (OT)	\$24.00	\$41.69	
Partial Hours Charged	1.25	0.25	
After Hours Labor Expense	\$30.00	\$10.42	
Total Truck Rate	\$2.75		
Partial Hours Charged	1.25		
After Hours Truck Expense	\$3.44		
<b>Total After Hours Call Expense</b>	<b>\$33.44</b>	<b>\$10.42</b>	<b>\$43.86</b>
		<b>Use:</b>	<b>\$42.00</b>
<b>Source: EXH 3 (MFR p. 71)</b>			

In support of the Utility's requested increase in miscellaneous service charges, witness Brown testified that the Utility's service area is 20 miles long and spread out. (TR 71) Furthermore, WMSI witness Brown cited a Revenue Sufficiency Analysis (RSA) prepared for Orange City, Florida, performed by OPC witness Woodcock. (EXH 82) Staff's review of the RSA indicates that, based on the average of the nine cities and counties included in the RSA, the normal and after hours turn on charges are virtually identical to the miscellaneous service charges proposed by WMSI.

Based on the foregoing, Staff recommends that the Utility's proposed charges as reflected in Exhibit 3 (MFR p. 70) are reasonable and should be approved.

**Issue 43:** Are the procedures and charges imposed by WMSI when an existing customer disconnects and/or a new customer reconnects in an existing service location appropriate? If not, how should the tariff provisions governing these activities be modified?

**Recommendation:** No. The procedures imposed by WMSI when an existing customer disconnects and/or a new customer reconnects in an existing service location are not appropriate. The Utility does not have the authority to inspect the interior of a customer's property nor refuse service if it can not make an interior inspection. The "Addendum to Water Application" is appropriate as it will assist the Utility in obtaining the necessary information for determining property use and should be incorporated into its tariff. The temporary charge of \$100 is reasonable and should be incorporated in the Utility's tariff along with the definition and policies governing the temporary service charge. (Hudson)

**Position of the Parties**

**WMSI:** Yes, the procedures and charges imposed by WMSI when an existing disconnects and/or a new customer reconnects in an existing service location are appropriate.

**OPC:** No. WMSI does not have the authority to require the inspection of the interior of any dwelling, especially refusing to reconnect service until such inspection is granted. Its tariff allows the utility to access its property that extends to the meter. Anything beyond the meter belongs to the customer. Further, the utility should be required to seek a tariff change to add definitions and policies for temporary service charges as required by Rule 25-30.315, F.A.C.

**Staff Analysis:** WMSI witness Brown testified that the Utility has had problems with the use of properties being converted from single family to condominiums. (TR 115) Witness Brown stated that structures originally built as single family homes with six and eight bedrooms are often converted by the property owner to four or five unit condominiums. Witness Brown asserted that it is not fair or equitable to other utility customers to have multiple condominium units with a single 5/8" x 3/4" meter pay the same as residential customers. (TR 115)

Witness Brown stated the Utility brought the matter to the Commission's attention. (TR 115-116) By letter dated October 13, 2009, WMSI asserted it was directed by Commission staff that it is the Utility's responsibility to determine whether a customer's property is a residential class or general water service property at the time a customer applies for service and whether one or more meters is appropriate. (TR 114-118; EXH 78)

Witness Brown testified that when an existing customer requests service, the Utility performs a bookkeeping audit and a site visit. (EXH 35, BSP 747-748) The Utility inspects both inside and outside of the property to see if there is a shallow well and a need for a cross-connection control device. The Utility also has to establish whether the property is for multi-family, single family or commercial use. (TR 109-110) Witness Brown stated that WMSI will not install a meter to an existing dwelling until access to the inside is granted for inspection. (TR 110) OPC argued that WMSI does not have the authority to require a customer to permit the Utility access to inspect the interior of any dwelling. (OPC BR 41) Further, the Utility does not have the authority to refuse to reconnect service until the inspection is permitted. (OPC BR 41) Witness Brown has acknowledged that the Utility's right to inspect the customer's installation

ends at the point of delivery and that the inside of a home or business is beyond the point of delivery. (TR 113; EXH 76)

The Utility has become very vigilant about determining the use of a property. (TR 118) As a result, WMSI has drafted an addendum to its water application titled "Addendum to Application for Water Service" (addendum). (EXH 77) The addendum is used to provide the Utility with the information to address the problems with residents converting single family units to multi-family structures. (OPC BR 40) Witness Brown admitted the addendum is not included in its tariff. (TR 117) He asserted that the Commission rules recognized the Utility's right to determine whether any property's type of service has changed after service was originally provided. (TR 114-117; EXH 77) Witness Brown believes the tariff should be amended to include the addendum because it provides necessary information. (TR 117) Based on staff's review of the addendum, the customer has to provide the property use at the initiation of service. Therefore, if the property owner converts the property use, the Utility has documentation of the initial intended property use.

WMSI has also been charging \$100 for temporary residential meters for a limited use. (OPC BR 41) Witness Brown indicated the temporary meter charge is for people who do not want to sign up and be permanent customers. (EXH 35, BSP 748-749) Witness Brown stated that this charge was designed to accommodate home inspectors, realtors, and people who need to inspect the property. (TR 121-122) Witness Brown acknowledged that the Utility does not have a tariff for the charge. However, he indicated the temporary charge is authorized by PSC rules and the Utility should adhere to the rules. (TR 121)

Based on the above, the procedures imposed by WMSI when an existing customer disconnects and/or a new customer reconnects in an existing service location are not appropriate. Staff agrees with OPC that the Utility does not have the authority to inspect the interior of a customer's property nor refuse service if it can not make an interior inspection. However, the "Addendum to Water Application" is appropriate as it will assist the Utility in obtaining the necessary information for determining property use and should be incorporated into its tariff. The temporary service charge of \$100 is reasonable and should be incorporated in the Utility's tariff along with the definition and policies governing the temporary service charge.

**Issue 44:** In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

**Recommendation:** The proper refund amount should be calculated by using the same data used to establish final rates, excluding rate case expense and other items not in effect during the interim period. This revised revenue requirement for the interim collection period should be compared to the amount of interim revenue requirement granted. The Utility should be required to refund 100 percent of the interim increase that was collected by the Utility. The refund should be made with interest in accordance with Rule 25-30.360(4), F.A.C. The Utility should be required to submit proper refund reports pursuant to Rule 25-30.360(7), F.A.C. The Utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C. Further, the escrow should be released upon staff's verification that the required refunds have been made. (Hudson)

### **Position of the Parties**

**WMSI:** There should be no interim refunds.

**OPC:** The refund amount is based on the Commission's final decision in this case. Consistent with the interim statute, the interim refund should be calculated by taking out any pro forma plant and expense items (not already being removed) if the amounts have not been incurred during the interim collection period.

**Staff Analysis:** By Order No. PSC-10-0513-PCO-WU, issued August 12, 2010, the Commission authorized the collection of interim water rates, subject to refund, pursuant to Section 367.082, F.S. The approved interim revenue requirement was \$1,429,470, which represents an increase of \$109,228, or 8.27 percent.

According to Section 367.082, F.S., any refund should be calculated to reduce the rate of return of the Utility during the pendency of the proceeding to the same level within the range of the newly authorized rate of return. Adjustments made in the rate case test period that do not relate to the period interim rates are in effect should be removed. Rate case expense is an example of an adjustment which is recovered only after final rates are established.

In this proceeding, the test period for establishment of interim and final rates is the historical period ended December 31, 2009. WMSI's approved interim rates did not include any provisions for pro forma or projected operating expenses or plant. The interim increase was designed to allow recovery of actual interest costs and the floor of the last authorized range for equity earnings.

To establish the proper refund amount, staff has calculated a revised interim revenue requirement utilizing the same data used to establish final rates. Rate case expense was excluded because this item is prospective in nature and did not occur during the interim collection period.

Using the principles discussed above, staff calculates that the \$1,429,470 water revenue requirement granted in Order No. PSC-10-0513-PCO-WU for the interim test year is greater than the revenue requirement for the interim collection period of \$1,251,468. The Utility should be

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required to refund 100 percent of the interim increase that was collected by the Utility. The refund should be made with interest in accordance with Rule 25-30.360(4), F.A.C. The Utility should be required to submit proper refund reports pursuant to Rule 25-30.360(7), F.A.C. The Utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C. Further, the escrow should be released upon staff's verification that the required refunds have been made.

**Issue 45:** 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, F.S.?

**Recommendation:** The water rates should be reduced as shown on Schedule No. 4 to remove \$54,092 of water rate case expense, grossed-up for regulatory assessment fees (RAFs), which is being 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 30 days prior to the actual date of the required rate reduction. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-40.475(1), F.A.C. The rates should not be implemented until staff has approved the proposed customer notice. WMSI should provide proof of the date notice was given no less than 10 days after the date of the notice. (Hudson)

**Position of the Parties**

**WMSI:** This is a fall out calculation based on adjustments to revenue requirements and the appropriate rate case expense.

**OPC:** No position.

**Staff Analysis:** Section 367.0816, F.S., requires rates to be reduced immediately following the expiration of the four-year amortization 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 \$54,092. The decreased revenue will result in the rate reduction recommended by staff on Schedule No. 4.

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 30 days prior to the actual date of the required rate reduction. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-40.475(1), F.A.C. The rates should not be implemented until staff has approved the proposed customer notice. WMSI should provide proof of the date notice was given no less than 10 days after the date of the notice.

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 for the reduction in the rates due to the amortized rate case expense.

**Issue 46:** What are the appropriate service availability charges for WMSI?

**Recommendation:** The appropriate service availability charges for WMSI are the charges contained in its current tariff. (Hudson)

**Position of the Parties**

**WMSI:** The appropriate service availability charges are set forth in Exhibit 3, Schedule SAC-1, page 1, and SAC-8. Should the Commission adopt WMSI's position that the pro forma projects are necessary, then the proposed service availability charges based on the estimated costs of these projects should be approved at the appropriate time.

**OPC:** WMSI's service availability charges should total no more than \$2,300, which would generate a 75 percent CIAC ratio excluding the pro forma plant additions. Backing out the other charges would result in a plant capacity charge of \$1,525.

**Staff Analysis:** According to its current tariff, the Utility has authorized service availability charges of \$845, \$525, and \$250 for a plant capacity charge, a main extension charge, and a meter installation charge, respectively. The total for these charges is \$1,620. In its filing, WMSI requested a revised plant capacity charge of \$4,058.35. (EXH 3) This requested charge was based on the Utility's proposed pro forma plant additions. (EXH 3) The Utility stated that its requested increase would hold down cost for existing customers because it would not have to borrow as much money for improvements and repairs to serve new customers. (WMSI BR 41)

Pursuant to Section 367.101, F.S., the Commission must set just and reasonable charges and conditions for service availability. When designing the appropriate level of service availability charges, the Commission uses Rule 25-30.580, F.A.C., as a guideline. Rule 25-30.580(1)(a), F.A.C., provides a guideline that the maximum amount of CIAC, net of amortization, should not exceed 75 percent of the total original cost, net of accumulated depreciation, of a utility's facilities and plant when the facilities and plant are at their design capacity. Rule 25-30.580(1)(b), F.A.C., provides a guideline that the minimum amount of CIAC should not be less than the percentage of such facilities and plant that is represented by a utility's water transmission and distribution systems.

In its brief, OPC contended that the Commission has broad authority and discretion with which to establish WMSI's service availability charges. OPC asserted that setting these charges too high could negatively impact any potential customer growth. OPC contended that WMSI's service availability charges should total no more than \$2,300, which would generate a 75 percent CIAC ratio, excluding the Utility's proposed pro forma plant additions. Backing out the current authorized main extension and meter installation charges of \$525 and \$250, respectively, it would result in a revised plant capacity charge of \$1,525 which represents an increase of \$680. (OPC BR 41-42)

As discussed in Issue 9, the pro forma plant additions will be addressed in a separate proceeding. Once the appropriate cost has been determined for those plant additions, staff recommends any revised service availability charges be addressed in that separate proceeding as well. As discussed in Issues 37 and 39, staff has recommended that the Utility's BFC and

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gallongage charges remain unchanged. Given staff's recommended no rate change and because the Utility has no common equity, staff believes that any increase in WMSI's service availability charges could increase the potential of the Utility to be in an overearnings posture in the immediate future. Accordingly, staff recommends that no change should be approved for WMSI's current service availability charges at this time. Therefore, staff recommends that the appropriate service availability charges for the Utility are the charges contained in its current tariff.

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**OTHER ISSUES**

**Issue 47:** Should the Utility be required to provide proof that it has adjusted its books for all Commission approved adjustments?

**Stipulation:** To ensure that the Utility adjusts its books in accordance with the Commission's decision, WMSI should provide proof, within 90 days of the final order issued in this docket, that the adjustments for all the applicable NARUC USOA primary accounts have been made.

**Issue 48:** Has the Utility failed to return customer deposits in compliance with the refund procedures stated in Rule 25-30.311(5), Florida Administrative Code, and, if so, what amount of customer deposits shall the Utility be required to refund?

**Recommendation:** No. The Utility has not failed to return customer deposits in compliance with the refund procedures stated in Rule 25-30.311(5), F.A.C. (Jaeger, Sayler, Hudson)

**Position of the Parties**

**WMSI:** No, the Utility has not failed to return customer deposits in compliance with the refund procedures stated in Rule 25-30.311(5), F.A.C.

**OPC:** No position.

**Staff Analysis:** In the Utility's MFRs, the customer deposit balance was \$100,499. (EXH 3) As reflected in Issue 14, the parties stipulated that the appropriate customer deposit balance is \$100,499. Other than this stipulation, no other evidence was presented with regard to customer deposits and compliance with the refund procedures stated in Rule 25-30.311(5), F.A.C. As the balance is stipulated to be correct, and there is no other evidence to show that any deposits are being inappropriately retained, staff recommends the Commission find that the Utility has not failed to return customer deposits in compliance with the refund procedures stated in Rule 25-30.311(5), F.A.C.

**Issue 49:** Did the Utility fail to maintain field employee travel records pursuant to Order No. PSC-94-1383-FOF-WU? If so, should the Utility be ordered to show cause why it failed to maintain field employee travel records pursuant to Order No. PSC-94-1383-FOF-WU, issued November 14, 1994?

**Recommendation:** Yes, the Utility failed to maintain field employee travel records in compliance with the requirements of Order No. PSC-94-1383-FOF-WU, and should be ordered to show cause why it should not be fined \$1,000 pursuant to Section 367.161, F.S., for this failure to comply with the Order. (Jaeger, Hudson)

**Position of the Parties**

**WMSI:** No. The Utility has not failed to maintain field employee travel records pursuant to Order No. PSC-94-1383-FOF-WU and the Utility should not be ordered to show cause why it failed to maintain field employee travel records.

**OPC:** Yes. The Utility failed to maintain field employee travel records pursuant to the Commission's order. The Utility should be ordered to show cause why it should not be fined.

**Staff Analysis:**

Requirements of Order No. PSC-94-1383-FOF-WU

Under the heading Transportation Expenses in Order No. PSC-94-1383-FOF-WU (1994 Order), the Commission discussed the appropriate expenses to be allowed in the Utility's last full rate case. The 1994 Order noted that the Utility had requested total annual transportation expenses of \$15,600 divided as follows: \$5,200 for Mr. Garrett (field employee); \$2,600 for Mr. Shiver (field employee); \$2,600 for Ms. Chase (office or administrative employee); \$1,300 for Ms. Hill (office or administrative employee); and \$3,900 for Mr. Brown (office or administrative employee). 1994 Order at 42-43.

The 1994 Order noted that although the Utility did not own any vehicles, the Utility argued that Mr. Garrett's truck was used as a Utility vehicle and could be used by other employees. *Id.* at 43. One Utility witness testified that "the cost to the company would be about \$18,100, or about \$2,500 more than the amount requested" if the Utility had owned the vehicle. *Id.* Also, Mr. Garrett demonstrated that in one month where he kept track of his mileage just prior to the hearing, he drove over 2,381 miles. *Id.* The 1994 Order noted that at \$0.40 per mile, his travel allowance for that month would have been \$952. *Id.* The Utility requested an annual allowance of \$5,200 for Mr. Garrett's vehicle or approximately \$400 per month. *Id.* at 42-43.

The 1994 Order noted that OPC had argued that the mileage estimates for the office workers appeared high, and the expenses should be disallowed because the Utility either did not maintain records of their travel or were not employees of the Utility. *Id.* Further, OPC recommended that only half the requested travel allowance for field employees be allowed. *Id.* The Commission noted in the 1994 Order that OPC argued that "the Commission should not reward the Company for poor management practices by allowing a travel allowance for undocumented and unsubstantiated mileage." *Id.*

The Commission found in the 1994 Order that though “OPC's argument has merit, we do not believe that it would be fair to penalize field employees for management's decision not to require records.” *Id.* at 43-44 Further, the Commission agreed that, except for the insurance expense, estimated to be \$1,600 per year per vehicle, the Utility’s analysis of its field employees expense was reasonable. As regards to field employees and administrative staff, the Commission found:

Upon consideration of Mr. Garrett's testimony regarding the conditions on St. George Island and his one-month travel records, it appears that the requested transportation allowance for field employees is reasonable. However, these employees shall maintain travel records prospectively so that we may adequately consider the level of such expenses in future proceedings.

As for the requested allowances for administrative staff, the Utility did not provide any evidence to support the requested amounts. In addition, Mr. Brown is an employee of ABC, not the Utility. His travel costs should be borne by ABC, not the Utility. We have, accordingly, reduced transportation expenses by \$7,800.

*Id.* at 44. (emphasis added). Therefore, while allowing the field employees travel expenses, the Commission cautioned the Utility to keep better records for those employees. Further, it did not allow any of Mr. Brown’s travel expenses.

#### Utility Argument/Position

In Issue 4, the Utility argued that, for Witness Brown, there is testimony and information provided through discovery responses that he used his vehicle 50 percent of the time for Utility business. (TR 553-54; EXH 34, pp. 669-70). The Utility argued that this vehicle usage is also supported by the Utility’s 2009 tax return, which details the miles, and which indicates that witness Brown drove 11,034 miles in 2009 on Utility-related business. (TR 553; EXH 51). Further, the Utility argued that there is undisputed testimony that witness Brown used this vehicle to travel to and from St. George Island four times per month. (TR 360, 553-54; EXH 34, pp. 669-70).

Similarly, WMSI argued that there is evidence in the record that Ms. Chase used the vehicle that she drives 50 percent for Utility-related business. (TR 554; EXH 34, p. 670), and that this fact is also supported by the Utility’s 2009 tax return, which details the miles driven for Utility-related business. (TR 553; EXH 51) The Utility stated that it is undisputed that Ms. Chase travels to St. George Island once a month. (TR 554; EXH 34, p. 670).

In Issue 27, WMSI noted that it provided the auditor with hundreds of documents, including invoices in the form of receipts, cancelled checks, and/or credit card invoices to substantiate its gasoline purchases for Utility vehicles, but that the staff auditor recommended that the purchases be disallowed because the audit staff could not differentiate whether the vehicle fueled was a company vehicle or a personal vehicle, and the auditor wanted to see the driver initial and date the receipt and list what vehicle the gasoline was purchased for, so that she

could be sure the purchase was for a WMSI vehicle. (EXH 69) Further, the Utility noted that gas or fuel charged at local gas stations and paid by WMSI checks are used only to purchase gas for Utility-owned or leased-vehicles. (EXH 27, p. 64) The Utility also argued that: “No WMSI employee has ever put any gas charged to the company in any personal vehicle,” and that it had offered to provide sworn affidavits from WMSI employees to that effect. (EXH 31, pp. 215-16)

With respect to the travel records required by the 1994 Order, the Utility noted that there was and is some confusion as to what records the Utility had been directed to keep and what records were being maintained. (EXH 38, pp. 2732-41) The Utility argued that “a review of Order No. PSC-94-1383-FOF-WU [1994 Order] and the evidence in the record make it clear that the Utility has properly maintained field employee travel records.” (WMSI BR 41-42) The Utility stated that the 1994 Order found the requested transportation allowance for field employees to be reasonable and further directed that “these employees shall maintain travel records prospectively so that we may adequately consider the level of such expense in future proceedings.” (WMSI BR 42) The Utility noted that in November 1994, when the 1994 Order was issued:

WMSI did not own or lease any vehicles, such that all travel done by employees on behalf of the Utility was necessarily done using their personal vehicles and then reimbursed by the Utility. (Ex. 28, p. 193). Thus, the records required under Order PSC-94-1383-FOF-WU [1994 Order] were travel records for field employees using their personal vehicles for Utility business. (Ex. 28, p. 193). Now, as has been discussed, WMSI owns or leases vehicles that are used by Utility employees for travel done on behalf of the Utility. (Ex. 28, p. 193). Travel records of field employees using Utility vehicles for Utility-related travel are not specifically maintained, although, in essence, the beginning odometer reading versus the current odometer reading for the Utility vehicles used by the Utility’s field employees would constitute travel records, since all travel done in those vehicles is done by field employees on behalf of the Utility. (Ex. 28, p. 193). In addition, WMSI requires field employees to keep travel records for mileage driven by field employees using their personal vehicles for Utility-related travel. (Ex. 28, p. 193-94). Employees using their personal vehicles for Utility-related mileage report that mileage on a weekly basis and are reimbursed. (Ex. 28, p. 193-94). The mileage records are included in the employees’ weekly time sheets. These records have been produced by WMSI as part of this proceeding. (Ex. 27, p. 62-65, 94-188; Ex. 28, p. 193-94; Ex. 32, p. 475-525).

(WMSI BR 42)

Finally, WMSI stated that there were no documents responsive to OPC’s Request for Production No. 29, asking for vehicle logs related to “utility-related work” for “all vehicles owned or leased [by the Utility],” (EXH 28, pp. 193-94), because the only travel records other than the odometer readings for Utility vehicles are for field employees using their personal vehicle for Utility-related travel (as required by the 1994 Order). Therefore, the Utility concluded that it has not failed to maintain field employee travel records pursuant to Order No.

PSC-94-1383-FOF-WU and the Utility should not be ordered to show cause why it failed to maintain field employee travel records. (WMSI BR 41-43)

OPC Argument/Position

In Issue 4, OPC noted “that WMSI has recorded costs associated with six vehicles for use by its eight employees.”<sup>37</sup> (OPC BR 8) OPC further noted that WMSI has not “justified the work-related mileage or the percentage of work-related usage,” and that the “only support is anecdotal, based on estimates of mileage and numbers of trips.” (TR 300-305)

Regarding Ms. Chase’s vehicle, OPC states that not only has the Utility failed to provide any documentation to establish Ms. Chase’s need for a Company-owned vehicle, this vehicle is not even owned by WMSI. Further, in the Utility’s last rate case, OPC noted that WMSI requested a travel allowance of \$2,600 for Ms. Chase, \$1,300 for Ms. Hill, and \$3,900 for Mr. Brown, all of which were denied for either inadequate records or, in Mr. Brown’s case, because he was employed by an affiliate.<sup>38</sup> OPC argued that the “Commission’s denial of costs as unsupported should have signaled WMSI that better record keeping would be expected in future cases.” (OPC BR 9)

OPC noted that witness Brown did not provide any documentation to support his claimed average of four trips to the island per month. (TR 361) OPC witness Ramas testified that keeping track of the business nature and the amount of miles for a trip is a common requirement for any company, not only regulated utilities. This is particularly true for companies that reimburse employees for miles or deduct vehicle costs on their tax returns for work-related mileage. (TR 365) OPC witness Ramas added that keeping documentation for business travel is required by IRS regulations. (TR 366) Had witness Brown maintained adequate travel logs, witness Ramas stated, some reimbursement based on the actual work-related travel would be reasonable.

OPC also argued that WMSI’s tax return, which shows mileage figures, does not constitute support, and that the IRS requires travel logs to support business versus personal use of vehicles, which is apparently non-existent for this company. OPC argued that the tax return itself is not evidence without documentary support, and that “Mr. Brown’s attempt to support his transportation mileage with ‘guesstimates’ doesn’t constitute support.” (OPC BR 9-10)

In Issue 27, OPC noted that staff witness Dobiac “stated that the auditors did receive some documentation from the company, but that the documentation was not sufficient for the audit staff to determine whether the company vehicle was fueled or whether a personal vehicle was fueled.” (EXH 69, pp. 35-36) Additionally, OPC recommends that the Commission require WMSI to maintain vehicle logs for all company owned or leased vehicles, especially where personal use is allowed. (OPC BR 30, 43) Witness Ramas also recommends that mileage logs, defined as documentation that keeps track of the business nature and mileage of each trip, should

<sup>37</sup> Acknowledges that the Utility has removed from rate base 50% of the cost associated with the 2008 GMC truck used by Gene Brown and the 2007 Chevrolet Tahoe used by Sandra Chase.

<sup>38</sup> See Order No. PSC-94-1383-FOF-WU, pages 42-44.

be maintained for Utility-owned or leased vehicles and personal vehicles being used for Utility business. (TR 364-365)

OPC acknowledged that while the "Commission in the last rate case addressed only the need for vehicle logs for operational employees, it was clearly a problem for numerous employees." (OPC BR 30) Based on all the above, OPC argued that "WMSI clearly failed to maintain field employee travel records pursuant to the Commission's order [1994 Order] in the last rate case," and that:

In addition to a fine, OPC recommends that the Commission require WMSI to maintain vehicle logs for all company owned or leased vehicles, especially where personal use is allowed and for all employees that use their personal vehicle for business purposes and seek reimbursement from the company. If the company needs a further example of the information the logs should contain, it can review the publications of the IRS for guidance in setting up adequate documentation.

(OPC BR 43)

#### Staff Analysis and Recommendation to Initiate a Show Cause Proceeding

The 1994 Order, referring to operational employees, states that "these employees shall maintain travel records prospectively so that we may adequately consider the level of such expenses in future proceedings." 1994 Order at 44 (emphasis added). Based on all the above, it appears that the Commission is again faced with inadequate or minimal support to set the appropriate level of transportation expenses. Staff acknowledges that there does appear to be support or adequate records when field employees use their personal vehicle. However, other than an odometer reading, and the assurance that all charges or invoices for the Utility owned or leased vehicles were Utility-related, the Utility's records for the Utility-owned or leased vehicles do not appear to be adequate. Further, the 1994 Order made it clear that the Utility must document travel expenses, and disallowed the administrative staff's expenses because there was no documentation. Based on the testimony of staff witness Dobiak and OPC witness Ramas, staff does not believe that WMSI has maintained travel records in accordance with the requirements of the 1994 Order.

Utilities are charged with the knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). Section 367.161(1), F.S., authorizes the Commission to assess a penalty of not more than \$5,000 for each offense if a Utility is found to have knowingly refused to comply with, or to have willfully violated, any provision of Chapter 367, F.S., or any lawful order of the Commission. By failing to comply with the above-noted requirements of the 1994 Order, the Utility's acts were "willful" in the sense intended by Section 367.161, F.S. In Commission Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, titled In re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., the Commission, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it

should not be fined, stating that “willful” implies an intent to do an act, and this is distinct from an intent to violate a statute or rule. Id. at 6.

Staff believes that the circumstances in this case are such that show cause proceedings should be initiated. Staff believes that there is a continued pattern of failure to document travel expenses. Based on the above-noted pattern of disregard, but noting that the Utility has improved documentation of the travel expenses for its operational staff using their personal vehicles, staff believes that the situation warrants more than just a warning. Accordingly, staff recommends that WMSI be made to show cause in writing, within 21 days, why it should not be fined a total of \$1,000 for its apparent failure to comply with the requirements of the 1994 Order. Staff recommends that the show cause order incorporate the following conditions:

- 1) The Utility’s response to the show cause order should identify disputed issues of material fact;
- 2) Should WMSI file a timely written response that raises material questions of fact and makes a request for a hearing pursuant to Sections 120.569 and 120.57(1), F.S., a further proceeding will be scheduled before a final determination of this matter is made;
- 3) A failure to file a timely written response to the show cause order should constitute an admission of the facts herein alleged and a waiver of the right to a hearing on this issue;
- 4) In the event that WMSI fails to file a timely response to the show cause order, the fine should be deemed assessed with no further action required by the Commission;
- 5) If the Utility responds timely but does not request a hearing, a recommendation should be presented to the Commission regarding the disposition of the show cause order; and
- 6) If the Utility responds to the show cause order by remitting the fine, this show cause matter should be considered resolved.

Further, the Utility should be put on notice that failure to comply with Commission orders, rules, or statutes will again subject the Utility to show cause proceedings and fines of up to \$5,000 per day per violation for each day the violation continues as set forth in Section 367.161, F.S.

**Issue 50A:** Is the Utility's level of investment in associated companies appropriate? If not, what action should the Commission take?

**Recommendation:** Based on the evidence in the record, it cannot be determined if the level of investment in associated companies is appropriate. However, this amount is not included in rate base and thus is not considered in the determination of the customer rates recommended in this proceeding. Before the next filing by this Utility, staff will initiate a cash flow audit to explore this issue in greater detail. (Hudson, Cicchetti, Maurey, Jaeger)

**WMSI:** The Utility does not have investments in associated companies. It has advances payable to and receivable from associated companies to service loans that were taken out by the associated companies on the Utility's behalf, in order to keep the Utility operating. The appropriate levels of these advances are beyond the jurisdiction of the Commission to determine, as they do not involve customer funds. No Commission action is necessary or appropriate.

**OPC:** No, given the level of mixing of utility and non-utility funds and the cash and financial constraints, it is imprudent. The Commission should: (1) bar WMSI from further investments in associated companies; (2) require WMSI to demand return of its affiliate investments prior to the next rate case, to increase funding of operations and strengthening WMSI's financial position; and, (3) if repayment is not made by the next rate case, impute a return on the outstanding investment.

**Staff Analysis:** Account 123 – Investments in Associated Companies (Account 123 or Investment in Associated Companies) represents the net investment made by a regulated utility in an affiliated company. The NARUC USOA for Class A Water Utilities defines the account as:

This account shall include the book cost of investments in securities issued or assumed by associated companies and investment advances to such companies, including interest accrued thereon when such interest is not subject to current settlement. Include also the offsetting entry to the recording of amortization of discount or premium on interest bearing investments.

Thus, this account includes the net amount of investments in and advances to associated companies. The amount recorded in this account increased from \$0 on January 1, 2004, to \$1,213,905 as of December 31, 2009. (TR 257)

#### OPC Argument/Position

OPC witness Ramas testified that there has been an ongoing pattern of frequent transactions between WMSI and associated companies controlled by the Utility's president, Mr. Brown. (TR 319; EXH 12, EXH 13) She argued that, with over 200 cash transactions in 2008 and nearly 300 cash transactions in 2009, Mr. Brown has not adequately insulated WMSI's utility operations and finances from the operations and finances of the associated companies and himself personally. (TR 319; OPC BR 48)

OPC argued that it was not prudent for WMSI to transfer funds and make advances to associated companies during a time of capital investment needs and during a period in which WMSI was facing cash constraints and was unable to pay many of its outstanding obligations. (OPC BR 44) During the six-year period when the balance in this account increased from \$0 to approximately \$1.2 million, the Utility reported a cumulative net loss of approximately \$727,000. (TR 258, 573)

Because OPC believes WMSI's president "simply refuses to acknowledge any boundaries between the utility and his personal, unregulated business endeavors," it has made a series of recommendations regarding the treatment of this account. (OPC BR 4) First, OPC has recommended the Commission prohibit WMSI from making any additional investments or transfers of cash to associated companies without prior approval from the Commission. Second, OPC believes the Commission should require WMSI to demand return or repayment of all advances and investments in associated companies. Finally, in the absence of the return of these advances, OPC requested that the Commission consider imputing a return on these funds for purposes of offsetting any revenue deficiency claimed by the Utility in future rate proceedings. (OPC BR 4)

#### Utility Argument/Position

WMSI witness Brown testified that OPC witness Ramas' misunderstanding of Account 123 has led OPC to incorrectly allege that WMSI has made substantial equity investments in affiliated companies during a period in which the Utility was experiencing severe cash flow problems. (TR 570) He emphasized that no revenues received through customer rates were used for any investment in any affiliated company. (TR 571) Witness Brown testified that all of the funds that flowed through this account were used to pay debt service on loans incurred by BMG and himself personally to obtain financing to keep the Utility in operation. (TR 572) Due to cumulative net losses over this six-year period, he argued "there was never any extra cash to take and there was none taken." (TR 573)

Witness Brown testified that OPC's misunderstanding of Account 123 may stem from the title of the account. He argued that this account tracks loans and advances to as well as investments in associated companies. (TR 617) Witness Brown elaborated that, in the case of WMSI, the balance in this account does not represent an equity investment in associated companies but instead represents an accumulation of advances from the Utility to BMG and himself to pay the aforementioned debt service. (TR 617) While he agreed that the title of this account may be the cause of the confusion, he noted that due to NARUC and Commission rules the Utility has no choice but to record the amounts in this account. (TR 618)

Witness Brown testified that it has been necessary for BMG and him to borrow money on behalf of WMSI because the Utility lost its ability to raise capital on its own approximately three years ago. (TR 630, 640-641) He noted that the downturn in the economy has negatively affected the access to capital by small businesses across the county but especially so for companies such as WMSI that report negative equity and consistent net losses. (TR 524) Witness Brown elaborated that the financial difficulties of WMSI were further exasperated by a number of government decisions that negatively impacted the Utility. (TR 524) Specifically, he cited the Department of Transportation's (DOT) decision to replace the bridge connecting St.

George Island to the mainland that necessitated the replacement of the Utility's water supply main. He also noted the decision by the Northwest Florida Water Management District (NFWFMD) to allow the drilling of shallow wells on the island that led to a decrease in water consumption. He referenced the requirement that WMSI provide fire protection on the island but that Franklin County does not remit any of the fire protection assessment fees it collects from island residents to the Utility. (TR 524) Finally, he complained that the Commission did not allow recovery of WMSI's full investment in the new water supply main as another factor contributing to the Utility's inability to earn its authorized return. (TR 623) As a result of the Utility's inability to raise capital or earn a reasonable return, witness Brown argued that he and BMG have been subsidizing WMSI, not the Utility subsidizing him and BMG. (TR 626; WMSI BR 47)

Finally, WMSI argued that the transactions with affiliated companies in question are not utility related and therefore do not fall under the Commission's jurisdiction. (WMSI BR 46) As non-utility transactions, the amounts recorded in this account do not impact the rates paid by WMSI customers. WMSI noted that the Commission's authority under Section 367.121(1)(i), F.S., extends only to requiring reports and data to ensure that a utility's ratepayers do not subsidize non-utility activities. (WMSI BR 48) Thus, the Utility concluded that there is nothing related to this account that warrants Commission action.

#### Staff Analysis

The only aspect of this issue that all parties agree on is that the amount recorded in Account 123 – Investments in Associated Companies has increased by approximately \$1.2 million over the past six years. (TR 258, 513) However, while OPC witness Ramas testified that the majority of this amount represents investments in associated companies, WMSI witness Brown countered that the amount represents advances to associated companies to repay loans and advances made by BMG and Mr. Brown on behalf of the Utility.

Based on the description of the account, witness Brown indicated Account 123 was the proper account to record the transaction. (TR 643-644) However, he argued that the funds in Account 123 do not represent equity investments in associated companies. (TR 643) Witness Brown thought if the advances were placed in Account 146 – Notes Receivable from Associated Companies, it would have avoided confusion as to the nature of the advances. (TR 617, 644) However, he indicated that the Utility would not be in compliance with NARUC because the guidelines state if there is no specific due date or that the obligation was going to be paid within 12 months, it should be transferred to Account 123. (TR 617, 644) Witness Brown argued that the loans he and BMG have taken out on behalf of the Utility fall within the criteria described above. As a result, the advances must be included in Account 123. (TR 617-618, 644) The Utility argued that it is OPC's misinterpretation of this account that has led to the "unflattering and groundless allegations" OPC has made against Mr. Brown. (WMSI BR 46)

Staff disagrees with the Utility that recording the amounts in Account 146 would have avoided the confusion over these transactions. If the advances are to service loans taken out on WMSI's behalf by Mr. Brown and BMG, staff contends that Notes Receivable from Associated Companies would not have been the appropriate account regardless of the 12 month-limitation.

The NARUC USOA for Class A Water Utilities describes Account 146 – Notes Receivable from Associated Companies as follows:

These accounts shall include notes and drafts upon which associated companies are liable, and which would mature and are expected to be paid in full not later than one year from date of issue, together with any interest thereon, and debit balances subject to current settlement in open accounts with associated companies. Items which do not bear a specified due date but which have been carried for more than twelve months and items which are not paid within twelve months from due date shall be transferred to account 123 – Investment in Associated Companies.

Witness Brown argued that the Utility owes money to him and BMG. If this is true, it is not clear why recording the advances in Notes Receivable from Associated Companies would eliminate any confusion. A receivable would represent money owed to the Utility from the associated company. If the affiliates have indeed advanced funds to the Utility, WMSI should have recorded the advances in Account 223 – Advances from Associated Companies. The NARUC USOA for Class A Water Utilities describes this account as follows:

This account shall include the face value of notes payable to associated companies and the amount of open book accounts representing advances from associated companies. It does not include notes and open accounts, representing indebtedness, subject to current settlement which are includible in account 233 – Accounts Payable to Associated Companies or account 234 – Notes Payable to Associated Companies.

Based on the Utility's recording of the advances, there is a debit to Investment in Associated Companies and a credit to Cash when money is advanced to associated companies. When Mr. Brown or the affiliate puts money into the Utility, there is a debit to Cash and a credit to Investment in Associated Companies. Thus, staff believes Account 123 – Investment in Associated Companies represents monies or assets of the Utility that have been transferred to affiliates. As reflected in Account 123, the net amount of the advances reveals that more money and assets have been transferred out of WMSI than into the Utility. There is no record of loans or advances to WMSI from Mr. Brown or any associated company that total anywhere near \$1.2 million. In fact, a review of the Utility's financial statements from 2004, when the amount in Account 123 was \$0, forward indicates there has been no increase in the amount of equity invested in WMSI, no loans or advances from Mr. Brown or any associated company to WMSI, and no notes or accounts payable to associated companies or Mr. Brown on the books of WMSI. (TR 260)

If debt had been taken on by Mr. Brown and/or a company under his control to pay the expenses of WMSI, there is no evidence in the record other than the statements of witness Brown. (TR 625-626) Staff believes that, if Mr. Brown advanced funds to WMSI, the amount of those advances should be properly accounted for on WMSI's books. There is no such evidence in the record. Witness Brown asserted that he and BMG have put more money in the Utility than they have taken out. (TR 504-505) However, the books and records of the Utility do not bear this out. The bottom line is that between January 1, 2004, and December 31, 2009, it

appears that WMSI has advanced approximately \$1.2 million more to associated companies than it received in return.

Staff agrees with witness Brown that the recession has made it more difficult for small companies to access capital under reasonable terms. Staff also agrees that the NFWFMD decision to allow the drilling of shallow wells on St. George Island has negatively impacted water consumption. In addition, staff agrees that there is a cost associated with WMSI providing fire protection on the island. However, staff disagrees with witness Brown's claims that the Utility's financial difficulties can all be laid at the feet of the various governmental agencies he cited. In the case of the decrease in consumption due to the drilling of shallow wells, the staff recommendation has taken this factor into consideration as discussed in Issues 38 and 39. Moreover, it is the responsibility of the Utility as to when to file a rate case due to inadequate revenues. As for the need to replace the water supply main, the Utility was afforded a low-cost loan to finance the cost of the new supply main and was granted a phased-in rate increase to recover the cost of the investment. As discussed in Issues 2 and 8, staff has recommended used and useful adjustments and the recognition of certain investments to allow the Utility an opportunity to recover the cost of providing fire protection. Finally, regarding the Utility's claim that Mr. Brown and BMG needed to subsidize WMSI due to the Commission not allowing the full cost of the new water supply main in rate base, the order granting rate relief in the Utility's limited proceeding indicates the Commission allowed all but approximately \$37,000 of that amount. (WMSI BR 45; OPC BR 46) Moreover, the case ultimately was resolved by a Settlement Agreement between WMSI and OPC.<sup>39</sup> Staff agrees with OPC that WMSI's rates reflect virtually the full amount invested in the new water supply main.

Finally, the Utility states that the transactions with affiliated companies in question are non-utility and are therefore outside the Commission's authority to regulate. (WMSI BR 46) WMSI goes on to state, "... as non-utility transactions, they do not impact the rates paid by customers." (WMSI BR 47) Staff believes affiliated transactions should not affect customer rates. In the instant case, as previously noted, there is evidence the Utility missed debt service payments on its low cost loan from the DEP and missed payments on other obligations while funds were being transferred to affiliated companies. The DEP loan was modified to extend the payoff period an additional ten years. This action was apparently taken in part to improve immediate cash flow problems but resulted in additional interest that customers must pay. (TR 254) Consequently, affiliate transactions can have the potential to affect customers.

The Commission is charged with the responsibility, through the exercise of its ratemaking authority, to ensure that only reasonable and prudent costs are passed on to customers. Normally in a situation when a determination of mismanagement or imprudence has been made, staff would recommend the asset or expense in question be removed from the determination of rates. In the case of non-regulated investments, staff would recommend the amount of investment be removed from the capital structure directly from equity in the rate base/capital structure reconciliation process. This treatment protects customers by attributing the highest cost source of capital to the higher risk non-regulated, non-utility use of funds. However,

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<sup>39</sup> See Order No. PSC-06-0092-AS-WU, issued February 9, 2006, in Docket No. 000694-WU, In re: Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.

WMSI has no common equity in its capital structure. Another available remedy for imprudence is to make an adjustment to the president's salary. In the instant case, an argument could be made that the Utility was forced to refinance and extend the term of the DEP loan because of poor cash management. By refinancing this loan, customers must now pay approximately \$955,000 in additional interest over the life of the loan. If this additional interest is amortized over the extended term of the loan of 20 years, by operation of math the amount of additional interest incurred is approximately \$47,000 a year. If such an adjustment is determined to be warranted in this case, the precise calculation results in a reduction of the president's salary of \$47,756. The corresponding payroll tax adjustment would be a decrease of \$3,653.

As the Utility notes, the Commission's authority is limited to that conferred by statute, and any reasonable doubt as to the existence of a particular power must be resolved against that power.<sup>40</sup> Further, because the revenues expended by the Utility were not subject to refund, the Commission would not appear to have any express authority over those revenues.<sup>41</sup> As noted in the staff analysis, the Commission's primary actions when there is an indication of mismanagement and there is an indication that revenues are inappropriately or imprudently expended, the Commission has three main remedies: (1) it can take the funds out of equity or reduce the return on equity;<sup>42</sup> (2) it can reduce the president's salary; or (3) it can and does in all cases make sure that any imprudent expenditures and associated costs do not increase the rates of the customers. Further, if it affects quality of service, the Commission can require specific improvements. In this case, staff notes that the quality of service provided by the Utility is satisfactory. Also, upon close review, staff does not believe that the advances of funds to the Utility's associated companies has negatively impacted the rates recommended by staff.<sup>43</sup> Finally, staff notes that the Commission has declined to micromanage business decisions of a utility.<sup>44</sup> Based on all the above, staff does not believe that the actions requested by OPC are appropriate. Further, staff believes that prudence reviews in general rate cases provide ample protection to the customers. Finally, staff will initiate a cash flow audit of the Utility in the near future, and, if it is determined that the activity in the account has impaired the Utility's ability to meet its financial and operating responsibilities, staff will recommend an appropriate adjustment for imprudence.

### Conclusion

On its face, the anecdotal evidence that the Utility advanced approximately \$1.2 million to associated companies while at the same time reported cumulative net losses of approximately

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<sup>40</sup> See Florida Bridge Company v. Bevis, 363 So. 2d 799 (Fla. 1978); Department of Transportation v. Mayo, 354 So. 2d 359 (Fla. 1979); and City of Cape Coral v. GAC Utilities, Inc., 281 So. 2d 493 (Fla. 1973)

<sup>41</sup> See City of Miami v. Florida Public Service Commission, 208 So. 2d 249, 259 (Fla. 1968) (provision against retroactive ratemaking)

<sup>42</sup> Because the Utility has no equity, this remedy is not available.

<sup>43</sup> Other than the limited proceeding for the replacement of the supply main on the bridge, the Utility has not had a full rate proceeding since 1994, and staff is recommending in this case that the appropriate overall rate of return is 3.85 percent, and that rates not be increased.

<sup>44</sup> See Order No. PSC-04-0712-PAA-WS, issued July 20, 2004, in Docket Nos. 020896-WS and 010503-WU, In re: Petition by customers of Aloha Utilities, Inc. for deletion of portion of territory in Seven Springs area in Pasco County, and In re: Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc.

\$727,000 raises questions. In addition, there was no evidence presented regarding the loans that Mr. Brown and BMG allegedly incurred for the benefit of the Utility that these advances are purported to represent. Moreover, it is confusing how these advances can be classified as non-utility as the Utility claims in its brief, but the purpose of the advances is to service debt taken out on behalf of the Utility to fund its regulated operations as argued by witness Brown. Finally, it is not clear why the operations and finances of the Utility and associated companies are so intertwined.

That said, there was no evidence presented that documented Mr. Brown or BMG have misappropriated funds from the Utility. In addition, it is quite possible that this confusion may stem from poor bookkeeping. With staff's recommended adjustments to expenses and an overall rate of return of 3.85 percent, staff believes that the customers are not being charged higher rates due to Mr. Brown's actions.

While the recommendations proposed by OPC regarding future treatment of Account 123 seem well-intended, the Commission does not have express statutory authority to preclude a utility from making investments in associated companies. In addition, Commission practice has been not to micromanage the business decisions of regulated companies, but to instead focus on the end-product goal.<sup>45</sup> Staff believes prudence reviews in general rate cases, like this instant case, provide ample protections for the public interest. As discussed in Issue 1, staff has recommended that the overall quality of service provided by the Utility should be considered satisfactory. In fact, despite the difficult financial position of WMSI, as evidenced by their comments at the Service Hearings, the customers continue to receive quality service and are satisfied with the responsiveness of Utility employees. Based on its recommendations in the various issues in this case, staff believes its recommended rates for WMSI are just, reasonable, compensatory, and not unfairly discriminatory in accordance with Section 367.081(2)(a)1., F.S. Therefore, in keeping with Commission practice discussed above and noting that the Utility is providing satisfactory quality of service, staff recommends that the Commission decline to prescribe any of OPC recommendations stated above.

Based on the record in this proceeding, it cannot be determined if the level of investment in associated companies is appropriate. However, because the amount in question is not included in rate base and thus is not considered in the determination of rates recommended in this proceeding, staff recommends no action be taken at this time. To explore this issue in greater detail, staff will initiate a cash flow audit of the Utility in the near future. If it is determined that the activity in this account has impaired the Utility's ability to meet its financial and operating responsibilities, staff will recommend an appropriate adjustment for imprudence.

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<sup>45</sup> See Order No. PSC-04-0712-PAA-WS, p. 18, issued July 20, 2004, in Docket Nos. 020896-WS and 010503-WU, In re: Petition by customers of Aloha Utilities, Inc. for deletion of portion of territory in Seven Springs area in Pasco County and In re: Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc. (noting the Commission declined to micromanage business decisions of a utility and prescribe a specific water treatment process).

**Issue 50B** Are there any non-Utility expenses that the Utility is requesting be recovered through customer rates? If so, what adjustments should be made?

**Recommendation:** Yes, however, all non-Utility adjustments have been made in previous issues. (Hudson)

**Position of the Parties**

**WMSI:** No. There are no non-Utility expenses that are being requested be recovered through customer rates. Therefore, no adjustments should be made.

**OPC:** Yes, this filing contains numerous instances of non-utility expenses that the utility is requesting to have recovered through customer rates. As identified in prior issues, these non-Utility investments and expenses should be removed from rate base and operating expenses.

**Staff Analysis:** All non-Utility expenses have been addressed in previous issues. Therefore, no further adjustments are needed.

Docket No. 100104-WU

Date: December 3, 2010

**Issue 51:** Should this docket be closed?

**Recommendation:** If the Commission's final order is not appealed, this docket should be closed upon staff's approval of the tariffs, verification of the required refunds, and the expiration of the time for filing an appeal. (Jaeger, Sayler, Hudson)

**Position of the Parties**

**WMSI:** No. The docket should remain open to set Phase II rates based on bids and documented estimates for completing the improvements projects and expenses associated with efforts to monitor cross-connections, and to set Phase III rates based upon a true-up of actual costs.

**OPC:** This docket should be closed as required in the normal course of a file and suspend rate case after the final order is issued, the revised tariff pages have been approved, the notice has been issued and the appropriate refunds have been credited to customer accounts. The docket should not remain open for any additional phases of rate increases.

**Staff Analysis:** If the Commission's final order is not appealed, this docket should be closed upon staff's approval of the tariffs, verification of the required refunds, and the expiration of the time for filing an appeal.

ATTACHMENT A  
 ACCOUNTING MANUAL GRID (EXH 48)  
 PAGE 1 OF 2

	(1) Bobby Mitchell, Controller	(2) Jessica Blankenship, Office Assistant	(3) Gene Brown, General Manager	(4) Sandy Chase, Assistant General Manager	(5) Barbara Withers, CPA	(6) Brenda Molsbee, Island Manager	(7) Others (Island, Engineers, etc)
<b>BOOKS AND RECORDS</b>							
General Ledger	X						
Cash Receipts Journal		X					
Cash Disbursements Journal	X						
Payroll Journal	X						
Billing and Adjustments Journal (Inhance Reports)		X					
Standard Journal (Recurring Entries)	X						
General Journal	X						
Month End Bank Reconciliations/Cash Reports		X					
Subsidiary Ledgers							
- Pension Plan Accruals	X						
- CWIP Accounts	X						
- Customer Deposits		X					
- Accounts Receivable		X					
- Individual Earnings Records	X						
- Accounts Payable (by Wednesday of each week)	X						
- CIAC schedules	X						
Other Supporting Records							
- Aged accounts receivable		X					
- Property & Equipment	X						
- Depreciation schedules for fixed assets	X						
- Prepaid expenses	X						
- Accrued & withheld taxes	X						
- Vacation, overtime & sick leave records		X		X			
- Amortization schedules & deferred expenses -including deferred rate case & limited proceedings)		X					
Operations Summary for Management, including CIAC list (Contributions in Aid of Construction) (by 20th of each month)	X						
Daily Cash Reports, by 9 a.m. each morning		X					
PSC reports, includes two (2) consolidated reports required to be filed within 20 days of each billing cycle (1 and 4)	X			X			
Inventory Lists - all tangible personal property, equipment, furniture and fixtures, etc, including such items as safety equipment, vests, signs, and cones; tools etc.		X		X			
Rework on Audits	X	X		X			
Cross Connection Program		X		X		X	X
Financial Statements, including balance sheets and income statements (both NARUC and Tax) by the 15th of each month	X						
PTO Summary update each month (Paid Time Off) - report of balances of sick and annual leave for each employee		X		X			
Water Billing Summary including number of customers and gallons used by meter type	X						

ATTACHMENT A  
 ACCOUNTING MANUAL GRID (EXH 48)  
 PAGE 2 OF 2

	(1) Bobby Mitchell, Controller	(2) Jessica Blankenship, Office Assistant	(3) Gene Brown, General Manager	(4) Sandy Chase, Assistant General Manager	(5) Barbara Withers, CPA	(6) Brenda Molesbee, Island Manager	(7) Others (Island, Engineers, etc)
Technicians at St George Island reads meters on Monday and Tuesday of the last full week of the month							X
Technicians reports meter readings to Island office by Wednesday of that week							X
Meter readings entered into Inhance 5000 system						X	
Inhance system automatically computes amount due for each customer						X	
Statements for each customer are printed and mailed out by Friday of the last full week of the month						X	
Payments are received by either the Tallahassee office or the St. George Island office		X				X	
Cash receipts are deposited daily		X				X	
Customer accounts credited for the amount of money received						X	
Yearly credits to customers' accounts for interest on deposits						X	
Final bills to customers terminating service and set up of new customer's accounts						X	
<b>OTHER ACCOUNTING TASKS</b>							
Maintaining accounts payable records		X					
Maintaining accounts receivable records		X					
Writing all checks including both expenses and payroll	X						
Preparing monthly bills to customers						X	
Entering customer payments into Inhance System						X	
Preparing payroll tax returns	X						
Daily Bank Deposits		X					
Month End Bank Reconciliations of All Bank Accounts		X					
Updating CWIP Accounts	X						
Updating Pension Accrual Accounts	X						
Updating Loan Liability Accounts	X						
Updating Customer Deposit Accounts		X				X	
Daily Cash Reports	X	X					
Posting and maintaining general ledger on monthly basis, with financial statements prepared no later than the 15th of the following month	X						
<b>MAJOR DUE DATES ANNUAL ACCOUNTINGS</b>							
Annual Report to the Florida Public Service Commission due by March 31 each year for the prior year * (1) primary and assisted as needed by all others	X	X	X	X	X	X	X
Form 1120, Federal Corporate Income Tax Return - due by March 15 each year					X		
Form F-1120, Florida Corporate Income Tax Return - due by April 1 each year					X		
Florida Tangible Personal Property Tax Returns - due by April 1st each year	X						
Annual Regulatory Assessment to the Florida Public Service Commission due by March 31st each year	NOT ASSIGNED IN MANUAL						

Water Management Services, Inc. Schedule of Water Rate Base Test Year Ended 12/31/09				Schedule No. 1-A Docket No. 100104-WU		
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Staff Adjust- ments	Staff Adjusted Test Year	
1 Plant in Service	\$8,932,312	\$1,572,072	\$10,504,384	(\$1,699,115)	\$8,805,269	
2 Land and Land Rights	90,994	450,000	540,994	(453,400)	87,594	
3 Non-used and Useful Components	0	(46,325)	(46,325)	13,094	(33,231)	
4 Accumulated Depreciation	(3,263,577)	151,326	(3,112,251)	(132,215)	(3,244,466)	
5 CIAC	(3,228,165)	0	(3,228,165)	0	(3,228,165)	
6 Amortization of CIAC	1,327,593	0	1,327,593	0	1,327,593	
7 Advances for Construction	(20,864)	0	(20,864)	(9,257)	(30,121)	
8 Working Capital Allowance	<u>181,157</u>	<u>0</u>	<u>181,157</u>	<u>(141,245)</u>	<u>39,912</u>	
9 <b>Rate Base</b>	<u>\$4,019,450</u>	<u>\$2,127,073</u>	<u>\$6,146,523</u>	<u>(\$2,422,139)</u>	<u>\$3,724,384</u>	

**Water Management Services, Inc.**  
**Adjustments to Rate Base**  
**Test Year Ended 12/31/09**

**Schedule No. 1-B**  
**Docket No. 100104-WU**

Explanation	Water
<u>Plant In Service</u>	
1 Remove vice president's vehicle. (Issue 4)	(\$30,413)
2 Stipulated Issue 5.	(100,000)
3 Capitalize plant items recorded as miscellaneous ex. (Issue 6)	11,371
4 Retire 75% of replacement cost for plant items. (Issue 6)	(8,001)
5 Remove pro forma plant additions. (Issue 9)	(1,752,481)
6 Reverse retirements. (Issue 9)	180,409
Total	<u>(\$1,699,115)</u>
<u>Land</u>	
1 Stipulated Issue 7.	(\$3,400)
2 Remove pro forma land. (Issue 9)	(450,000)
Total	<u>(\$453,400)</u>
<u>Non-used and Useful</u>	
To reflect net non-used and useful adjustment. (Issue 4)	<u>\$13,094</u>
<u>Accumulated Depreciation</u>	
1 Remove A/D associated with vice president's. (Issue 4)	\$4,224
2 Stipulated Issue 5.	6,978
3 Retire accumulated depreciation for retired plant. (Issue 6)	8,001
4 Record accumulated depr. for reclassified plant items. (Issue 6)	(92)
5 Remove pro forma accumulated depreciation. (Issue 9)	29,083
6 Reverse accumulated depreciation retirement. (Issue 9)	(180,409)
Total	<u>(\$132,215)</u>
<u>Advances for Construction</u>	
Partial Stipulated Issue 11.	<u>(\$9,257)</u>
<u>Working Capital</u>	
1 Partial Stipulated Issue 12 - Unamortized Debt Discount.	(\$112,034)
2 Partial Stipulated Issue 12 - Fully Amort. Prior Rate Case Expense.	(17,983)
3 Remove deferred wastewater certificate application cost. (Issue 12)	(35,662)
4 Reflect the appropriate deferred current rate case expense. (Issue 12)	(10,990)
5 Remove estimated prepaid insurance for Key Man Life. (Issue 12)	(6,008)
6 Increase operating reserve to remove exec. deferred compensation. (Issue 12)	40,000
7 Correct amortization of loss on bridge per prior Commission Order. (Issue 12)	1,432
Total	<u>(\$141,245)</u>

Water Management Services, Inc.  
Capital Structure-Simple Average  
Test Year Ended 12/31/09

Description	Total Capital	Specific Adjustments	Subtotal Adjusted Capital	Prorata Adjustments	Capital Reconciled to Rate Base	Ratio	Cost Rate	Weighted Cost	
<b>Per Utility</b>									
1 Long-term Debt	\$9,919,844	\$0	\$9,919,844	(\$3,873,821)	\$6,046,023	98.36%	4.99%	4.91%	
2 Short-term Debt	0	0	0	0	0	0.00%	0.00%	0.00%	
3 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%	
4 Common Equity	(1,857,218)	1,857,218	0	0	0	0.00%	11.30%	0.00%	
5 Customer Deposits	100,499	0	100,499	0	100,499	1.64%	6.00%	0.10%	
6 Deferred Income Taxes	0	0	0	0	0	0.00%	0.00%	0.00%	
7 <b>Total Capital</b>	<u>\$8,163,125</u>	<u>\$1,857,218</u>	<u>\$10,020,343</u>	<u>(\$3,873,821)</u>	<u>\$6,146,522</u>	<u>100.00%</u>		<u>5.01%</u>	
<b>Per Staff</b>									
8 Long-term Debt	\$9,919,844	(\$2,166,691)	\$7,753,153	(\$4,129,268)	\$3,623,885	97.30%	3.79%	3.69%	
9 Short-term Debt	0	0	0	0	0	0.00%	0.00%	0.00%	
10 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%	
11 Common Equity	(1,857,218)	1,857,218	0	0	0	0.00%	10.85%	0.00%	
12 Customer Deposits	100,499	0	100,499	0	100,499	2.70%	6.00%	0.16%	
13 Deferred Income Taxes	0	0	0	0	0	0.00%	0.00%	0.00%	
14 <b>Total Capital</b>	<u>\$8,163,125</u>	<u>(\$309,473)</u>	<u>\$7,853,652</u>	<u>(\$4,129,267)</u>	<u>\$3,724,384</u>	<u>100.00%</u>		<u>3.85%</u>	
						<b>LOW</b>	<b>HIGH</b>		
RETURN ON EQUITY						<u>9.85%</u>	<u>11.85%</u>		
OVERALL RATE OF RETURN						<u>3.85%</u>	<u>3.85%</u>		

Water Management Services, Inc. Statement of Water Operations Test Year Ended 12/31/09						Schedule No. 3-A Docket No. 100104-WU	
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Staff Adjust- ments	Staff Adjusted Test Year	Revenue Increase	Revenue Requirement
1 <b>Operating Revenues:</b>	<u>\$1,319,313</u>	<u>\$623,983</u>	<u>\$1,943,296</u>	<u>-\$640,933</u>	<u>\$1,302,363</u>	<u>\$7,124</u> 0.55%	<u>\$1,309,487</u>
<b>Operating Expenses</b>							
2 Operation & Maintenance	\$1,057,196	\$175,909	1,233,105	(300,316)	932,789		932,789
3 Depreciation	175,545	50,100	225,645	(58,904)	166,741		166,741
4 Amortization	14,616	23,450	38,066	(71,857)	(33,791)		(33,791)
5 Taxes Other Than Income	100,197	38,342	138,539	(38,486)	100,053	321	100,373
6 Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7 <b>Total Operating Expense</b>	<u>1,347,554</u>	<u>287,801</u>	<u>1,635,355</u>	<u>(469,564)</u>	<u>1,165,791</u>	<u>321</u>	<u>1,166,111</u>
8 <b>Operating Income</b>	<u>(\$28,241)</u>	<u>\$336,182</u>	<u>\$307,941</u>	<u>(171,369)</u>	<u>\$136,572</u>	<u>6,803</u>	<u>\$143,375</u>
9 <b>Rate Base</b>	<u>\$4,019,450</u>		<u>\$6,146,523</u>		<u>\$3,724,384</u>		<u>\$3,724,384</u>
10 <b>Rate of Return</b>	<u>-0.70%</u>		<u>5.01%</u>		<u>3.67%</u>		<u>3.85%</u>

Explanation	Water
<u>Operating Revenues</u>	
1 Remove requested final revenue increase.	(\$641,629)
2 To reflect the appropriate amount of annualized revenues. (Issue 37)	<u>696</u>
Total	<u>(\$640,933)</u>
<u>Operation and Maintenance Expense</u>	
1 Remove a portion of test year salary increase. (Issue 18)	(\$21,870)
2 Reflect 12.5% allocation to affiliates. (Issue 18)	(28,554)
3 Remove executive deferred compensation. (Issue 19)	(80,000)
4 Remove 12.5% allocation to affiliates for employee pensions and benefit. (Issue 19)	(3,665)
5 Remove out of period for materials and supplies. (Issue 20)	(8)
6 Remove water system evaluation. (Issue 21)	(27,500)
7 Remove pro forma adjustment for Engineering Services. (Issue 21)	(14,628)
8 Reflect the appropriate Accounting Services expense (Issue 22)	(14,333)
9 Remove refinancing consulting costs. (Issue 23)	(2,500)
10 Stipulated Issue 24	(1,250)
11 Stipulated Issue 25	(2,100)
12 Remove 12.5% allocation to affiliates for rental of building/real property. (Issue 26)	(2,250)
13 Remove unsupported transportation expense. (Issue 27)	(2,985)
14 Remove expenses associated with president's vehicle. (Issue 27)	(633)
15 Remove key man life insurance policy. (Issue 28)	(12,015)
16 Remove prior fully amortized rate case expense. (Issue 29)	(24,184)
17 Reflect the appropriate rate case expense. (Issue 29)	(5,495)
18 Reflect the appropriate employee training costs. (Issue 30)	(1,752)
19 Remove non-utility and unsupported expenses. (Issue 31)	(389)
20 Remove related party condo association fees. (Issue 31)	(1,960)
21 Capitalized plant items. (Issue 31)	(51,751)
22 Remove travel costs associated with rate case consultant. (Issue 31)	<u>(494)</u>
Total	<u>(\$300,316)</u>

**Water Management Services, Inc.**  
**Adjustment to Operating Income**  
**Test Year Ended 12/31/09**

**Schedule No. 3-B**  
**Docket No. 100104-WU**  
**Page 2 of 2**

Explanation	Water
<u>Depreciation Expense - Net</u>	
1 Remove depreciation expense on backhoe sold to BMG. (Issue 3)	(\$2,670)
2 Remove depreciation expense for vice president's. (Issue 4)	(5,069)
3 To remove net depreciation on non-U&U adjustment. (Issue 4)	2,535
4 Stipulated Issue 5.	(2,326)
5 Record depreciation expense for reclassified plant items. (Issue 6)	560
6 Remove pro forma depreciation expense. (Issue 9)	(58,167)
7 Reverse depreciation expense for retirements. (Issue 9)	6,233
Total	<u>(\$58,904)</u>
<u>Amortization-Other Expense</u>	
1 Remove amortization of retired plant. (Issue 9)	(\$12,879)
2 Remove amortization of wastewater certificate. (Issue 34)	(10,570)
3 Amortize Gain on Sale. (Issue 35)	(48,408)
	<u>(\$71,857)</u>
<u>Taxes Other Than Income</u>	
1 RAFs on revenue adjustments above.	(\$28,842)
2 Remove property taxes for pro forma additions. (Issue 9)	(5,787)
3 Remove payroll taxes for salary reductions. (Issue 18)	(3,857)
Total	<u>(\$38,486)</u>

<b>Water Management Services, Inc.</b>		<b>Schedule No. 4</b>			
<b>Water Monthly Service Rates</b>		<b>Docket No. 100104-WU</b>			
<b>Test Year Ended 12/31/09</b>					
	<b>Rates Prior to Filing</b>	<b>Commission Approved Interim</b>	<b>Utility Requested Final</b>	<b>Staff Recomm. Final</b>	<b>4-year Rate Reduction</b>
<b><u>Residential, GS and Multi-Family</u></b>					
Base Facility Charge by Meter Size:					
5/8" x 3/4"	\$27.50	\$30.20	\$58.42	\$27.50	\$1.14
3/4"	\$41.26	\$45.31	\$87.64	\$41.26	\$1.71
1"	\$68.78	\$75.52	\$146.10	\$68.78	\$2.86
1-1/2"	\$137.54	\$151.04	\$292.16	\$137.54	\$5.71
2"	\$220.08	\$241.67	\$467.50	\$220.08	\$9.14
3" Compound	\$412.64	\$453.12	\$876.53	\$412.64	\$17.14
3" Turbine	\$481.42	\$528.64	\$1,022.64	\$481.42	\$20.00
4" Compound	\$687.74	\$755.20	\$1,460.90	\$687.74	\$28.56
4" Turbine	\$825.28	\$906.24	\$1,753.07	\$825.28	\$34.28
6" Compound	\$1,375.46	\$1,510.40	\$2,921.76	\$1,375.46	\$57.13
6" Turbine	\$1,719.33	\$1,888.01	\$3,652.21	\$1,719.33	\$71.41
8" Compound	\$2,200.75	\$2,440.47	\$4,674.85	\$2,200.75	\$91.41
8" Turbine	\$2,475.83	\$2,718.72	\$5,259.17	\$2,475.83	\$102.83
10" Compound	\$3,163.57	\$3,473.93	\$6,720.08	\$3,049.77	\$131.39
10" Turbine	\$3,988.85	\$4,380.17	\$8,473.14	\$3,988.85	\$165.67
12" Compound	\$5,914.50	\$6,494.73	\$12,563.62	\$5,914.50	\$245.65
<b><u>Residential</u></b>					
Gallonage Charge					
0 - 8,000 Gallons	\$3.27	\$3.60	\$2.99	\$3.27	\$0.14
8,001 - 15,000 Gallons	\$4.08	\$4.48	\$2.99	\$4.08	\$0.17
over 15,000 Gallons	\$4.91	\$5.39	\$4.48	\$4.91	\$0.20
<b><u>General Service and Multi-Family</u></b>					
Gallonage Charge, per 1,000 Gallons	\$4.65	\$5.11	3.30	\$4.65	\$0.19
<b><u>Typical Residential Bills 5/8" x 3/4" Meter</u></b>					
3,000 Gallons	\$37.31	\$40.99	\$67.39	\$37.31	
5,000 Gallons	\$43.85	\$48.18	\$73.37	\$43.85	
10,000 Gallons	\$61.82	\$67.93	\$88.32	\$61.82	