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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 100104-WU

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COMMISSION
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Water Management Services, Inc., Appellant,)	
)	
v.)	NOTICE OF APPEAL
)	
Florida Public Service Commission, Appellee.)	
_____)	

NOTICE IS GIVEN that Water Management Services Inc., appeals to the District Court of Appeal for the First District of Florida, the Final Order Denying in Part and Granting in Part Water Rate Increase and Approving Miscellaneous Service Charges and Order Initiating Show Cause Proceedings rendered on January 3, 2011 (Order No. PSC-11-0010-SC-WU) as Clarified by Order Denying OPC's Motion for Reconsideration and Granting OPC's Motion for Clarification rendered on March 7, 2011 (Order No. PSC-11-0156-FOF-WU). Conformed copies of these orders are attached. The nature of the order is a final order which established inadequate rates and denied other relief, which adversely affects the Appellant.

A conformed copy of the orders designated in this Notice of Appeal are attached hereto.

CERTIFICATE OF SERVICE

I certify that a copy of this document was delivered by U.S. Mail to the persons listed below on March ~~28~~ 29 2011:

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Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400
On behalf of the Citizens of the State of Florida (OPC)

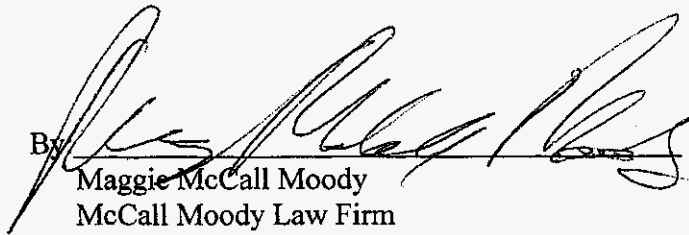
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Respectfully submitted,

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

11 MAR 29 AM 10:29

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

DOCKET NO. 100104-WU
ORDER NO. PSC-11-0156-FOF-WU
ISSUED: March 7, 2011

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR

ORDER DENYING OPC'S MOTION FOR RECONSIDERATION
AND
GRANTING OPC'S MOTION FOR CLARIFICATION

BY THE COMMISSION:

I. 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.

On May 25, 2010, the Utility filed its application for the rate increase at issue in the instant docket, and requested that the application be set directly for hearing. WMSI requested final rates designed to generate annual water revenues of \$1,943,296, for a revenue increase of \$641,629 (49.29 percent). By Order No. PSC-10-0513-PCO-WU, issued August 12, 2010, we suspended the Utility's rates and approved interim rates granting a water rate increase of \$109,228, or 8.27 percent. Subsequent to a formal hearing, we issued Order No. PSC-11-0010-SC-WU (Final Order) on January 3, 2011. The Final Order approved a revenue increase of \$13,474 (a 1.03 percent increase), and required all interim rates to be refunded with interest.

In the Final Order, we also found that there was "some evidence that the Utility advanced approximately \$1.2 million to associated companies while reporting cumulative net losses of approximately \$727,000."¹ In its post-hearing brief, the Office of Public Counsel (OPC), which had intervened, argued that these advances were not prudent, and requested that we take the following actions:

- (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 . . . ; and (3) if repayment is not made by the next rate case, impute a return on the outstanding investment.

¹ Final Order, at page 55.

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Having considered OPC's arguments, we determined that "there was no evidence presented that documented Mr. Brown or BMG having misappropriated funds from the Utility."² We found that with the adjustments to expenses and an overall rate of return of 3.85 percent, the customers were not being charged higher rates due to these advances, and the customers continue to receive quality service. Further, we stated that we did not want to micromanage this Utility, and declined to take the three actions that OPC suggested. We concluded that "based on the record in this proceeding, it cannot be determined if the level of investment in associated companies is appropriate," but we directed our staff to "initiate a cash flow audit of the Utility as soon as possible, and if it is determined that the activity in the account has impaired the Utility's ability to meet its financial and operating responsibilities, our staff shall recommend an appropriate adjustment for imprudence."³

On January 14, 2011, OPC timely filed its Motion for Reconsideration and/or Clarification (Motion) of the Final Order pursuant to Rule 25-22.060, Florida Administrative Code (F.A.C.).⁴ We have jurisdiction pursuant to Section 367.081, Florida Statutes (F.S.).

II. Office of Public Counsel's Motion for Reconsideration

A. Legal Standard

The standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law which was overlooked or which we failed to consider in rendering our Order. Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); Pingree v. Quaintance, 394 So. 2d 161 (Fla. 1st DCA 1981). The purpose of reconsideration is to bring to the administrative agency's attention a specific point that, had it been considered when it was presented in the first instance, would have required a different decision. State ex. rel. Jaytex Realty Co. v. Green, 105 So. 2d 817, 819 (Fla. 1st DCA 1958) (Wigginton, J., concurring); Sherwood v. State, 111 So. 2d 96 (Fla. 3rd DCA 1959). Our decision to grant a motion for reconsideration must be based on specific factual matters rather than an arbitrary feeling that a mistake may have been made. Stewart Bonded Warehouse, Inc., 294 So. 2d at 317 (overturning a Commission order on reconsideration because the Commission's basis for granting reconsideration was to reweigh the evidence, which was "not sufficient").

B. Parties' Arguments on OPC's Motion for Reconsideration

1. OPC's Argument on Motion for Reconsideration

Although OPC states that it agrees with nearly all of our findings and dispositions, it requests we reconsider and/or clarify a single subject -- our treatment of the \$1.2 million (net) that WMSI currently has advanced to "associated companies" and WMSI's president. OPC asks us to reconsider our statement that the record is not adequate to enable us to ascertain whether

² Final Order, at page 55.

³ Final Order, at page 56.

⁴ OPC did not request oral argument as required by Rule 25-22.0022, F.A.C.

the \$1.2 million level of advances to associated companies is appropriate, and find that the level is both inappropriate and imprudent. OPC states that we should reconsider our treatment of advances because we failed to consider the utility's legal burden of proof and the import of evidence of record. Each of these arguments are set out below.

a. The Commission Failed to Place the Burden of Proof on WMSI

OPC argues that in a ratemaking proceeding, the burden of proof is on the utility to demonstrate that it has acted prudently, and the costs it wishes to recover from its customers are reasonable. OPC notes that this burden is heightened when analyzing transactions with related companies,⁵ and citing Order No. PSC-06-0170A-PAA-WS,⁶ states:

By their very nature, related-party transactions require closer scrutiny. Although a transaction between related parties is not per se unreasonable, it is the utility's burden to prove that its costs are reasonable. This burden is even greater when the transaction is between related parties.

OPC argues that although WMSI's president sought to justify the \$1.2 million of advances on the grounds that he and associated companies have taken out loans and used the proceeds to pay some of the utility's expenses, we found that WMSI presented absolutely no documentary evidence to prove that assertion.⁷ OPC asserts that: "Having observed WMSI's complete failure to prove its claim, the Commission failed to apply the legal standard of the utility's burden of proof."

b. The Commission overlooked and/or failed to consider evidence of record demonstrating that customers have been injured by WMSI's imprudent advances to associated companies.

OPC also argues that our "conclusion that the record is 'inadequate' conflicts with factual findings located elsewhere in the Order," and in the record. OPC notes that at page 53 of the Final Order, we "observed that, by allowing associated companies to withdraw \$1.2 million from the utility during the period 2004-2009, WMSI's management placed itself in a position in which it could not even meet the basic debt payment obligations of its very favorable loan from the Florida Department of Environmental Protection . . .," and ". . . WMSI was forced to reschedule and extend loan payments, which had the effect of increasing costs borne by customers over time."

OPC claims that we overlooked or failed to consider other evidence in the Final Order that further demonstrates WMSI's imprudence. OPC witness Donna Ramas pointed out that

⁵ WMSI's president owns or controls the "associated companies" to whom WMSI has advanced the \$1.2 million.

⁶ Issued March 9, 2006, in Docket No. 050281-WS, In re: Application for increase in water and wastewater rates in Volusia County by Plantation Bay Utility Company, at page 15 of 49 (We determined that the utility had failed to prove that the price it paid a related company for land was based on market value, and so entered a value of zero for the property for rate base valuation purposes.)

⁷ Final Order, at pages 53-54.

WMSI's debt obligations exceed the value of its plant. She also noted that WMSI has on occasion reduced the value of plant on its books without at the same time paying down debt associated with the adjusted plant. For instance, after WMSI settled litigation with a contractor over the quality of coatings applied to bridge crossing structures, she noted that WMSI received a settlement of \$760,000. WMSI appropriately reduced the value of plant associated with the litigation and settlement, and thus reduced WMSI's rate base. However, WMSI did not use all of the settlement proceeds to pay down the debt associated with the plant. Instead, during the three-month period following the receipt of the \$760,000, the balance in Investment in Associated Companies increased by \$254,125 for items such as \$50,000 advanced to BMG, \$85,000 advanced to SMC Investment Properties and \$50,000 advanced to Gene D. Brown. Had WMSI used some or all of the \$1.2 million of advances to associated companies (which amount is equal to roughly one-third the value of its entire rate base), on which it receives no interest and no return, to instead reduce its debt, OPC argues that the Utility's interest expense would be lower. Further, WMSI would be in a better position to pay its debt obligations timely, and WMSI's lower debt burden would be reflected in the rates that customers pay. In short, OPC states that we overlooked evidence which shows injury to customers. On reconsideration, OPC requests we take this evidence into account and conclude that the \$1.2 million balance of outstanding advances to associated companies is inappropriate, imprudent, and harmful to customers.

2. Utility's Response to OPC's Motion for Reconsideration

As stated above, OPC filed its Motion for Reconsideration and/or Clarification of the Final Order on January 14, 2011. No response was filed by WMSI, and the time for doing so has expired.

3. Commission Analysis

Regarding OPC's first argument concerning the proper placing of the burden of proof, we were well aware of the burden of proof and always placed the burden of proof on the Utility as required. We specifically found that with our "adjustments to expenses and an overall rate of return of 3.85 percent, we do not believe that the customers are being charged higher rates due to Mr. Brown's actions."⁸ Further, we also found that the Utility was supplying satisfactory quality of service and specifically noted that based on customer testimony the customers were receiving quality service.

Regarding OPC's argument that we overlooked or failed to consider evidence of record, in many instances OPC is referring to findings in the Final Order that it thinks would support its position that we should immediately find that the level of transfers are both inappropriate or imprudent. We do not understand how, if we specifically noted those findings, it could be said that we overlooked or failed to consider those findings.

⁸ Final Order, at page 56.

Regarding OPC's claim that we overlooked or failed to consider the refinancing of the DEP loan, we specifically noted that, over time, the "refinancing of the loan added an additional \$955,113 of interest over the life of the loan . . .," and disallowed the DEP refinancing costs of \$2,500.⁹ Therefore, we clearly considered this fact.

Also, we were well aware that WMSI had no equity in the system, and the capital structure was primarily comprised of debt, plus a small amount of customer deposits. As regards OPC's argument concerning the disposition of the funds received by WMSI for the settlement of the quality of coatings applied to bridge crossing structures, we specifically stated:

We find that the Utility's treatment of the settlement was appropriate. Even though we find that the proceeds are not for the maintenance of the bridge, we are concerned with the management's use of the funds.

Therefore, it is clear that we also considered this fact, and merely reached a different conclusion as to the actions to be taken on a going forward basis.

OPC also argues that if WMSI had used some or all of the \$1.2 million of advances to "reduce its debt, the utility's interest expense would be lower." However, the capital structure is reconciled to rate base, and any interest on the debt instruments to be included in the rates would be limited to that amount included in rate base. Therefore, the customers do not pay for any interest paid by the utility over and above the amount associated with used and useful rate base. Even if the full amount of \$1.2 million was used to pay down the Utility's debt, the capital structure of WMSI would still consist almost entirely of debt. Finally, we note that if the Utility ever does obtain any equity investment, the current cost of equity is set at 10.85 percent, which is almost three-times the current debt cost and overall cost of capital.

4. Commission Conclusion

In considering the arguments raised by OPC in its Motion for Reconsideration, we find that OPC has merely reargued its positions already set forth at hearing and in its post-hearing brief, rather than identifying a point of fact or law that we overlooked or failed to consider in the first instance. A motion for reconsideration is not the appropriate vehicle for rearguing matters that have already been considered by the Commission. Diamond Cab Co. of Miami, 146 So. 2d at 891 (holding that it is not the province of reconsideration to provide "a procedure for rearguing the whole case merely because the losing party disagrees with the judgment or the order"); Sherwood, 111 So. 2d at 98 (citing State ex. rel. Jaytex Realty Co., 105 So. 2d at 819 (Wigginton, J., concurring) (stating that it is inappropriate to reargue in a motion for reconsideration matters that have already been considered); Stewart Bonded Warehouse, Inc., 294 So. 2d at 316-317 (noting that it is improper in a motion for reconsideration to ask the deciding body to reexamine the evidence presented and "change its mind").

⁹ Final Order, at page 27.

In consideration of the above, OPC's Motion for Reconsideration shall be denied as it fails to identify a point of fact or law which was overlooked or which we failed to consider in rendering our Final Order. We further find that we relied on evidence in the record and applied the correct legal standards. Finally, the Motion for Reconsideration shall be denied because OPC merely reargues its case set forth in great detail in its post-hearing brief.

In the event we were to deny reconsideration, OPC requests we clarify the nature and scope of the cash flow audit of WMSI that we directed our staff to initiate. This request is addressed below.

III. Office of Public Counsel's Motion for Clarification

A. Parties' Arguments

1. OPC's Motion for Clarification

OPC asks us to clarify the portion of the Final Order that states that the measures proposed by OPC, especially imputing a return on the advances for purposes of calculating future revenue requirements in the event the amounts remain at such inappropriate levels, would constitute "micromanagement," so as to avoid the unwarranted implication that we are limited in our options to the specific measures¹⁰ enumerated in the Final Order. OPC requests we clarify the Final Order to acknowledge clearly that the type of imputation advocated by OPC is a ratemaking tool that we can and frequently do employ to guard customers of regulated utilities from the excesses or mistakes of utility management. Also, OPC requests we clarify the nature and scope of the cash flow audit of WMSI that we directed our staff to initiate. OPC's argument on these two points of clarification is summarized below:

a. The Commission Should Clarify That It Can and Will Employ the Tool of Imputation Advocated by OPC When Needed to Protect Customers

In its post-hearing brief, OPC argued that we should impute a return on the \$1.2 million in WMSI's next case if, after being placed on notice of our determination regarding the imprudence of the advances, WMSI fails to restore the cash to the Utility. Referring to page 56 of the Final Order, in its Motion, OPC states that we "described OPC's proposed measures as 'well intended' but expressed" our "intent to avoid 'micromanaging' the utility."¹¹ OPC requests

¹⁰ In the Final Order, we noted that when there was a determination of mismanagement or imprudence, we could take the following actions: (1) remove the asset or expense in question from the determination of rates; (2) in the case of non-regulated investments, it could reduce equity in the capital structure by the amount of the investment; or (3) it could reduce the president's salary. See Final Order, at pages 54-55.

¹¹ OPC believes that in the Final Order, we indicated that we lacked authority to prohibit WMSI from investing further in associated companies. OPC regards its recommendation that we direct WMSI to recall the advances to be more in the nature of notice of our intent to impute a return on advances in the event advances remain inordinately high. OPC notes that in WMSI's 1994 rate case, in response to evidence of troubling business practices, we required WMSI to place service availability payments it received in an escrow account to ensure the money would be available for future capital additions and not be used by the utility for other purposes. Further, among other restrictions, OPC notes that WMSI was required to submit a written request for release of those funds. See Order No. PSC-94-1383-FOF-WU, at page 66.

we clarify the Order to avoid any implication that we regard "imputation" as "micromanagement."

OPC then notes that by rule we impute "a value for Contributions In Aid of Construction (CIAC) from a developer when the utility fails to record it." See Rule 25-30.570, F.A.C. Similarly, we have imputed additional revenues in a test year: (1) to adjust for a utility's failure to meter and bill sales to parties related to the utility; and (2) to take into account opportunities for sales for reuse that a utility failed to include in its test year revenues. This imputation of revenues has "the effect of lowering the utility's calculated revenue deficiency, thereby protecting customers from unreasonably high rates."

Citing Order No. PSC-04-0128-PAA-GU,¹² OPC asserts in its Motion that:

[T]he Commission noted that City Gas' actual cost of short term debt was unreasonably high due to severe financial/credit difficulties being experienced by its corporate parent. To protect City Gas' customers from being penalized (in the form of high interest costs and correspondingly high rates) for the difficulties created by the parent corporation, the Commission imputed a short term cost of debt of 3.9% in lieu of the 7% reported by the utility and used the imputed rate to calculate City Gas' revenue requirements.

Motion, at page 5. Based on the above, OPC argues that we have in our "arsenal of regulatory tools the ability to either impute income to the utility associated with the advances or, alternatively, to impute a lower overall indebtedness (and correspondingly lower interest cost) reflecting the prudent use of cash to pay down costly debt rather than sending it to associated companies 'free of charge,'" and should clarify the Final Order "to affirm the availability of the imputation tool in circumstances such as those presented in this case."

b. The Commission Should Clarify the Parameters of the Cash Flow Audit

If we proceed solely with the cash flow audit described in the Final Order, OPC asks us "to clarify that the scope of the audit will include the books and records of associated companies and WMSI's president to the full extent necessary to establish definitively the extent of payments made by recipients of advances to defray utility expenses, and that the Commission will provide OPC and customers a point of entry in the event the audit does not support WMSI's claim."

2. Utility's Response

As noted previously, OPC filed its Motion for Reconsideration and/or Clarification of the Final Order on January 14, 2011. No response was filed by WMSI, and the time for doing so has expired.

¹² Issued February 9, 2004, in Docket No. 030569-GU, In re: Application for rate increase by City Gas Company of Florida.

3. Commission Analysis and Conclusion

a. The Commission Should Clarify That It Can and Will Employ the Tool of Imputation Advocated by OPC When Needed to Protect Customers

We did not limit ourselves to the actions listed in the Final Order. As noted in the examples designated by OPC, imputation is one of the many tools that we may use if the facts of the case warrant such an imputation. In the City Gas case, we reduced the cost of short-term debt from 7 percent to 3.9 percent, while, in this case, the cost of long-term debt is already at 3.79 percent. In denying OPC's request, under the facts of this case as set forth in the record, we merely disagreed that we should impute an interest return on the \$1.2 million that may have been advanced to related parties. Therefore, we found and still find that the customers have not been penalized by the Utility's actions.¹³ Further, we have historically avoided "micromanaging" utilities. Pursuant to Section 367.011(3), F.S., we must act in the "public interest" and the provisions of Chapter 367, F.S., "shall be liberally construed for the accomplishment of this purpose." Therefore, to the extent that this discussion clarifies our position on this issue, OPC's Motion for Clarification is granted to the extent noted above.

b. The Commission Should Clarify the Parameters of the Cash Flow Audit

Our staff has already initiated its cash flow audit, and we find the parameters in the Audit Service Request are sufficient.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that OPC's Motion for Reconsideration is denied. It is further

ORDERED that OPC's Motion for Clarification is granted as set forth in the body of this Order. It is further

ORDERED that this docket shall remain open until: (1) our staff confirms that the appropriate refunds have been made; (2) the appropriate notices and tariffs have been filed and approved by our staff; and (3) the show cause proceedings are concluded. Upon those events being completed, pursuant to Order No. PSC-11-0010-SC-WU, the docket may be closed administratively.

¹³ The approved rates only include the recovery of a return on rate base deemed used and useful and devoted to public use. Even though the long-term debt is greater than the approved rate base, any incremental interest expense paid on the long-term debt above rate base is not embedded in the customers' rates.

ORDER NO. PSC-11-0156-FOF-WU
DOCKET NO. 100104-WU
PAGE 9

By ORDER of the Florida Public Service Commission this 7th day of March, 2011.



ANN COLE
Commission Clerk

(SEAL)

RRJ

NOTICE OF JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 100104-WU
ORDER NO. PSC-11-0010-SC-WU
ISSUED: January 3, 2011

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP

FINAL ORDER DENYING IN PART AND GRANTING IN PART WATER RATE
INCREASE AND APPROVING MISCELLANEOUS
SERVICE CHARGES
AND
ORDER INITIATING SHOW CAUSE PROCEEDINGS

APPEARANCES:

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Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

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Florida 32399-0850
Advisors to the Commission

BY THE COMMISSION:

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(or Office of Commission Clerk designee)

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I. 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 1994.¹

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

¹ 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.

attached to the new bridge. This Commission found that the construction of a new water supply main was justified and the increase was phased in over three phases.²

On May 25, 2010, the Utility filed its application for the rate increase at issue in the instant docket. Our 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 represented 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, we acknowledged OPC's Notice of Intervention in this proceeding. By Order No. PSC-10-0513-PCO-WU, issued August 12, 2010, we 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 Order addresses the Utility's requested final rates. We have jurisdiction pursuant to Sections 367.081 and 367.082, F.S.

II. APPROVED STIPULATIONS

We found that the stipulations reached by the parties and supported by our staff were reasonable, and we accepted and approved the stipulated matters set forth below at the hearing:

- 1) 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 shall be reduced by \$100,000 and \$6,978, respectively. Additionally, test year depreciation expense shall be reduced by \$2,326.
- 3) Land shall be decreased by \$3,400 to reflect the removal of appraisal and surveying costs associated with land that was sold.

² 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.

- 4) Advances for Construction shall be decreased by \$9,257 to reflect Commission approved adjustment from the Utility's last rate case.
- 5) Working capital shall 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 shall 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 shall be removed for a total of \$7,250 for Hank Garrett charges during 2009 (on general ledger as management fees).
- 8) An adjustment shall 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 shall 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.

III. QUALITY OF SERVICE

Pursuant to Rule 25-30.433(1), Florida Administrative Code (F.A.C.), we determine 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 this Commission from customers are also reviewed. Finally, the utility's compliance history with the Florida Department of Environmental Protection (DEP) is also considered.

A. 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. 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. 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). 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.

Therefore, we find that the quality of the Utility's product and the operating condition of the Utility's plant and facilities are satisfactory.

B. 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 were generally opposed to the level of the proposed rate increase.

In addition to the comments received at the customer service hearings, our 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 this Commission. Both complaints related to customer deposits, and were subsequently resolved. Based on this review, we find that the Utility's attempt to address customer satisfaction is satisfactory.

C. Conclusion

Based on all the above, and specifically 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, we find that the overall quality of service provided by the Utility is satisfactory.

IV. USED AND USEFUL

The Utility asserts 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 inches in diameter serving certain subdivisions within the area known as the Plantation. In his direct testimony, witness Seidman stated that lines inside the Plantation were constructed for the benefit of the developer, and should be 60.9 percent U&U, with appropriate dollar reductions of \$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.³

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. In Order No. PSC-05-1156-PAA-WU, which primarily addressed the new supply main, we made a specific finding that there

³ See Order No. PSC-94-1383-FOF-WU, page 5.

should be no adjustment for U&U for these transmission and distribution mains.⁴ 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. In his rebuttal, witness Seidman concluded that the entire transmission and distribution system should be considered 100 percent U&U.

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, and plans to install another 40-50 hydrants in 2010. He also noted that water mains are looped to provide sufficient pressure and volume for fire fighting. Finally, he noted that there are no separate charges for fire protection, and that because of fire flow and the need to maintain pressure throughout the Plantation, he testified that all the water lines should be considered 100 percent U&U.

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. 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. 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 one percent change to his suggested 54.9 percent U&U calculation. 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.

In the last full rate case, Docket No. 940109-WU, the U&U allocation for lines was a stipulation.⁵ That stipulation provided in pertinent part as follows:

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

⁴ 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, pages 8-9.

⁵ 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., page 5.

Witness Seidman cited our decision in Order No. PSC-05-1156-PAA-WU to support his recommendation. In that order, we 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 witness Seidman's testimony suggests, but rather addresses additional lines that were added for enhanced fire protection.

We are 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.⁶ 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. While the service area is not built-out, the Utility is not experiencing positive customer growth at this time.

Based on the above, we find that the Utility's transmission and distribution mains shall 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 shall be considered 60.9 percent U&U and no further adjustment to the Utility's MFRs is necessary for the water distribution system.

V. RATE BASE

A. Affiliate Assets

The Utility purchased an Econoline backhoe trailer (Trailer No. 1) from Stonehenge Trailer, on September 2, 2005, for \$7,008. 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. 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. The Utility also provided a bill of sale conveying title of Trailer No. 1 to Brown Management Group (BMG) dated December 22, 2009. 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. 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. Witness Brown stated he attempted to sell Trailer No. 2, but was unsuccessful. However, he noted that he was able to trade Trailer No. 2 for a storage shed valued at \$7,900. Ultimately, Trailer No. 2 was traded for a storage shed that was placed on property owned and later sold by BMG, an affiliate company. BMG sold the property on

⁶ Ibid.

November 26, 2009, and witness Brown considered \$10,000 a fair price to compensate WMSI for the trailer traded for the storage shed. 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.

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. We agree with OPC witness Ramas, and the discrepancies between the timing of the bill of sales and the effective date of transfer of titles are 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. 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 that the Utility provided conflicting information with respect to the trailers. 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 later in this Order.

OPC requests that 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. A review of the Utility's general ledger shows that WMSI removed the appropriate amounts related to Trailer No. 2 from plant and accumulated depreciation. 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. Based on the above, depreciation expense shall be reduced by \$2,670.

B. Transportation Equipment

The Utility's Account No. 341.5 – Transportation Equipment includes \$41,870 and \$30,413, for the president's (Mr. Brown) and vice-president's (Ms. Chase) 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.

OPC witness Ramas testified that the vehicles of the president and vice president should be disallowed. 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. She further indicated that the Utility has not justified the work-related mileage or the percentage of work-related usage. 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.

In rebuttal testimony, WMSI witness Brown testified that he has been provided a vehicle throughout his 35 years of managing the Utility. According to the Utility's response to OPC

Interrogatory No. 5, he averages four trips a month to St. George Island. Witness Brown further stated that he meets with bankers, contractors, vendors, accountants, lawyers, engineers, and various agency personnel having jurisdiction over WMSI in various locations throughout Tallahassee. Witness Brown stated that Ms. Chase has been provided a vehicle for the past 15 years. She averages one trip per month to St. George Island. In his 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, the Northwest Florida Water Management District (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. 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.

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. WMSI did not know the weekly average or the annual mileage driven for Utility work of either vehicle. In response to OPC Production of Document request (POD) No. 29, WMSI indicated there were no records of mileage driven in regard to utility business. 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. However, in his rebuttal testimony, witness Brown indicated Ms. Chase and himself have never been required to keep detailed travel logs. Witness Brown asserted that this 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.

Although Order No. PSC-94-1383-FOF-WU only specifically ordered that travel records be kept for field employees,⁷ 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, we find Mr. Brown shall be classified as office staff. Therefore, WMSI shall be aware and on notice that travel records are needed for us 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. 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 indicated that a tax return is not evidence without documentary support and it would be thrown out by taxing authorities.

Witness Brown testified that the Utility began providing a vehicle for Ms. Chase on the condition that she use 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. He further stated that it has been the policy and procedure for years, and has not been challenged

⁷ 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., page 44.

previously. Although we cannot 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.

Further, although witness Brown asserts that Ms. Chase's credit was used to purchase the 2007 Tahoe, 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. 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 and Utility funds were used to purchase the vehicle, we do not understand why the vehicle was not titled to the Utility at the outset. 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. However, on that same day, Ms. Chase and her husband, Mr. Dan Chase, used the vehicle as collateral for a loan through Envision Credit Union. In his deposition, witness Brown stated the money was needed as cash flow for the Utility.

As regards the president's vehicle, we disagree with OPC that it should be removed. The total mileage driven for the president's vehicle was 22,068 miles. The Utility purports that 50 percent or 11,034 miles are Utility-related usage. Based on four trips a month to the island for Utility-related business, with the round trip to the island and back being 160 miles, we accept the Utility's position that 50 percent of the vehicle's use is Utility-related. However, as regards the vice-president's vehicle, we agree with OPC that the Utility has not sufficiently supported the need or use for such vehicle. 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. We are 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, we find that the Utility has not sufficiently justified a need for her vehicle.

Based on the above, plant shall be decreased by \$30,413 for the Tahoe. Accumulated depreciation shall be reduced by \$4,224. Further, depreciation expense shall be reduced by \$5,069. Also, the Utility's adjustments for 50 percent U&U shall be removed for the vice-president's vehicle. The U&U shall 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 shall 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 our staff and this Commission to evaluate the appropriate level of Utility-related usage in future rate case proceedings.

C. Transfer of Rental Rights to the Elevated Tower

At the hearing, we approved the parties' stipulation that as a result of WMSI's transfer of rental rights to the elevated tower, plant and accumulated depreciation shall be reduced by \$100,000 and \$6,978, respectively. Additionally, test year depreciation expense shall be reduced by \$2,326.

D. Plant-in-Service Balances

In response to OPC POD No. 30, the Utility provided copies of invoices for all miscellaneous expenses over \$2,000. The invoices were for replacing all of the Utility's well drives, rebuilding a pump motor, and replacing a flow meter. However, we have determined that \$51,751 of the miscellaneous expense should have been capitalized. Consistent with the National Association of Regulatory Utility Commissioners' Uniform System of Accounts (NARUC USOA), we have capitalized the expenses related to plant. The 13-month average for the capitalized plant is \$11,371. Accordingly, we have 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, we have decreased plant by \$8,001 to reflect 75 percent retirement costs for the replaced plant items.

Further, 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. 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. WMSI witness Seidman testified that the coating did not perform as expected. WMSI sued and recovered related costs.

Staff witness Dobiac testified that the Utility recorded the \$719,337 as a reduction to plant (supply mains). She recommended the Utility reverse the entry and increase plant by \$719,337, accumulated depreciation by \$23,855 and depreciation expense by \$23,978. 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. The bridge maintenance contract is \$48,000 annually for 10 years.

WMSI witness Seidman asserted that the Utility does not have \$719,000 readily available to place in an escrow account. He stated that to require WMSI to escrow the funds after the fact would require the Utility to borrow the funds. 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. He further added that the supply main would have to be maintained regardless of whether a special coating had been used.

We agree with WMSI witness Seidman and find that maintenance of the supply main would be required regardless of whether or not the special coating had failed. The settlement appears to be for a failed product and not for the maintenance of the supply main, and the treatment suggested by staff witness Dobiac would result in additional revenue requirements for the Utility to recover from customers. We find that the Utility's treatment of the settlement was appropriate. Even though we find that the proceeds are not for the maintenance of the bridge, we are concerned with the management's use of the funds. This concern will be addressed more fully later in this Order. As a result, we find the Utility's treatment is appropriate and no additional adjustment to the plant balance related to the proceeds from the settlement is required.

Based on the above, plant shall 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 shall be decreased by \$7,909 (\$8,001 - \$92) and depreciation expense shall be increased by \$560.

E. Test Year land

At the hearing, we approved the parties' stipulation that land should be decreased by \$3,400 to reflect the removal of appraisal and surveying costs associated with land that was sold.

F. Improvements for Fire Flow

By Order No. PSC-04-0791-AS-WU, we approved a settlement agreement between WMSI and OPC related to the elevated water storage tank.⁸ 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. The Utility indicated that this Commission had reviewed the expenditures and found no exceptions pursuant to Order No. PSC-05-1156-PAA-WU.⁹

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 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. OPC contended the Utility has not adequately supported that it spent the \$400,000 to increase fire flow capabilities. Because the invoices were dated prior to the settlement, OPC does not believe the expenditures could be as a result of the settlement. As stated previously, and citing Order No. PSC-04-0791-AS-WU, WMSI argued that we acknowledged at the time of the settlement that the Utility had already expended funds and manpower to improve fire flow.

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. 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. As stated before, the Utility indicated that we had 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

⁸ 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.

⁹ 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.

water plant/office building. The parties eventually worked out a settlement, that was approved by Order No. PSC-06-0092-AS-WU.¹⁰ 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.

We find 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, we find 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.

G. Pro Forma Plant Additions

The Utility is seeking to increase its plant by \$2,202,481 for pro forma plant improvements. The record evidence shows that the projects are needed. 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.

OPC witness Woodcock, a registered Professional Engineer in the State of Florida, also testified as to the need for the proposed pro forma plant projects. Witness Woodcock reviewed the evaluation of WMSI's water system conducted by PBS&J, and the recommendation for the pro forma projects. Mr. Woodcock also conducted an inspection of the Utility's facilities. 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." While witness Woodcock did not take issue with the projects, he did disagree as to where the ground storage tank should be located and the estimated costs.

While both parties' witnesses testified favorably toward the projects, we note that WMSI's only support for plant improvements is a water system evaluation prepared by PBS&J. 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. It is our practice to require at least three bids prior to any approval

¹⁰ 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.

for pro forma additions.¹¹ In his deposition, witness Brown stated he was generally aware of the requirement. However, witness Brown stated that the bidding process is very expensive and the Utility wanted us to make a decision on the pro forma projects before it would proceed with the bidding process.

The Utility's financing for these projects is conditional. Citizens State Bank (CSB) 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.

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 and all the evidence, we find that the proposed pro forma plant projects are reasonable and should improve the quality of service and the system's reliability. However, because the cost support is insufficient the Utility shall 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, we will 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 shall be removed as follows:

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)

¹¹ See Order Nos. PSC-07-0609-PAA-WS, issued July 30, 2007, in Docket No. 060246-WS, In re: Application for increase in water and wastewater rates in Polk County by Gold Coast Utility Corp., and PSC-10-0400-PAA-WS, issued June 18, 2010, in Docket No. 090392-WS, In re: Application for increase in water and wastewater rates in Lake County by Utilities Inc. of Pennbrooke, pages 9-10.

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)

H. Accumulated Depreciation

Previously, in this Order, we removed \$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 for the transfer of rental rights to the elevated tower. We also increased plant to capitalize plant recorded as miscellaneous expenses. The 13-month average for accumulated depreciation on the capitalized plant is \$92, and this account has been increased accordingly. Further, we have decreased accumulated depreciation by \$8,001 to reflect 75 percent retirement cost for the replacement plant items. Also, as discussed in the section above, the Utility's pro forma projects shall be addressed in a subsequent proceeding. Therefore, we have 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 shall be increased by \$132,215.

I. Advances for Construction

In the Utility's last rate case, we 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. OPC contended that WMSI witness Brown has not supported his opinion that the settlement did not involve the Utility. However, our order acknowledged that the Utility was not involved in the lawsuit.¹²

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 this Commission.¹³

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

¹² 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., page 30.

¹³ Id. at 30.

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.

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, we ordered the advance be expended to complete certain improvements.¹⁴ Further, the order specified the advance was not Contributions in Aid of Construction (CIAC).

In response to Staff 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. Therefore, it appears that WMSI has used the advance toward the improvements ordered by this 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.

As there is no further dispute concerning Advances for Construction, the only other adjustment regarding Advances for Construction shall be the adjustment that the parties agreed to in Stipulation No. 4.

J. Working Capital Allowance

Pursuant to Rule 25-30.433(2), F.A.C., the Utility used the balance sheet approach to calculate its working capital allowance. 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.¹⁵ WMSI's working capital allowance includes: (1) \$35,662 of deferred cost of the Utility's wastewater certificate; (2) \$6,344 for deferred rate case expense related to preliminary evaluation; (3) \$6,008 for estimated prepaid insurance associated with key man life insurance; and (4) \$40,000 of operating reserves for its proposed deferred compensation cost. As discussed elsewhere in this Order, we are disallowing those costs. Therefore, working capital allowance shall be reduced by the aforementioned amounts.

In addition, the Utility recorded \$60,754 of amortization for an undepreciated supply main which had been replaced. In WMSI's limited proceeding, we approved an annual amortization of \$14,298 for the undepreciated portion of the supply main. Using our approved amortization rate, we calculate a balance of \$62,187. Therefore, we have increased the deferred account by \$1,432 (\$62,187 - \$60,754).

¹⁴ Id. at 30.

¹⁵ See Order No. PSC-10-0601-PHO-WU, issued September 30, 2010, in this docket, page 30.

Further, as discussed later in this Order, we are approving rate case expense of \$229,180. It is our practice that one-half of rate case expense be included in the working capital allowance.¹⁶ Therefore, the appropriate deferred rate case expense is \$114,590. The Utility's working capital includes \$114,306 of deferred rate case expense. The net adjustment to working capital for deferred rate case expense is an increase of \$284.

Based on the above, our net adjustment to working capital allowance is a decrease of \$129,971. This results in the working capital allowance being \$51,186 (\$181,157 - \$129,971).

K. Total Rate Base

Based on our adjustments and the approved stipulations, we calculate the appropriate 13-month average rate base to be \$3,735,659. Schedule No. 1-A reflects our rate base calculation and Schedule No. 1-B shows our adjustments to rate base.

VI. COST OF CAPITAL

A. Customer Deposits

At the hearing, we approved the parties' stipulation that the appropriate amount of customer deposits to include in the capital structure is \$100,499.

B. Long-Term Debt

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. Per our 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 the 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 above, we disallowed the costs of the 2007 Chevrolet Tahoe owned by Ms. Chase. Consequently, the associated loan also shall be excluded from the capital structure. Therefore, the \$15,711 Envision loan at 5.75 percent shall be removed from the balance of long-term debt in the capital structure.

WMSI allocated 50 percent of the loan for the 2008 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. As discussed above, we agreed to include 50 percent of Mr. Brown's vehicle in rate base and to reflect the \$27,492 of associated debt in the capital structure.

¹⁶ 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., page 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.

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 proceeds from the \$5,000,000 loan, to reflect the financing of the proposed capital improvements and the retirement of certain existing debt. WMSI proposed to pay off all existing debt except for the DEP state revolving fund loan.

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. 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. These conditions would require the Utility to payoff the GSB loan.

We find it is appropriate to remove from the test year capital structure the proposed \$5,000,000 loan at 6.65 percent from CSB, and, instead, find it is appropriate to include in the capital structure the existing \$2,849,020 loan at 4.25 percent from GSB. As noted earlier in this Order, we have removed the proposed plant additions of approximately \$2,200,000 from rate base. Consequently, the proposed CSB loan to finance the plant additions shall also be excluded from the long-term debt balance in the capital structure. In addition, the remaining balance of the proposed \$5,000,000 loan that was intended to retire certain existing debt shall be removed and replaced with the GSB loan as such retirement is no longer applicable.

Based on the above, we find the appropriate balance of long-term debt to be included in the capital structure for the December 31, 2009 test year is \$3,635,160 at 3.79 percent.

C. Return on Equity (ROE)

WMSI proposed an ROE of 11.30 percent based on last year's leverage formula. WMSI's capital structure consists only of long-term debt and customer deposits. However, we find it appropriate to establish an ROE for future equity investment. Using the current leverage formula and a 40-percent equity ratio, we calculate an authorized mid-point ROE of 10.85 percent with a range of plus or minus 100 basis points.¹⁷ Because WMSI has no equity capital, this ROE has no effect on the weighted average cost of capital or the revenue requirement.

D. Weighted Average Cost of Capital

As noted above, 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. Also, the appropriate balance of long-term debt for the test year is \$3,635,160 at a cost rate of 3.79 percent.

¹⁷ 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.

Based upon the proper components, amounts, and cost rates associated with the capital structure for the test year ended December 31, 2009, we find that the appropriate weighted average cost of capital for WMSI for purposes of setting rates is 3.85 percent. Our calculation is shown on Schedule No. 2.

VII. NET OPERATING INCOME

A. Salaries and Wages Expense

The Utility's MFRs include salary increases for two of its employees. 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.

WMSI witness Brown testified that Ms. Chase has worked for the Utility for almost 30 years. In his deposition, witness Brown stated his justification for Ms. Chase's wage increase was that he thought she deserved the increase. Witness Brown indicated Ms. Chase is invaluable to the Utility. 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 billing, customer relations, and the cross-connection control program. 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.

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. 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. Ms. Molsbee got her certification in 2008, and she was given the promised raise. 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.

OPC witness Ramas testified that the salary increases for the two employees are excessive. OPC contended WMSI has not adequately justified the salary increases. 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.

In response to OPC Interrogatory No. 39, the Utility provided the salaries for all employees for 2006 through 2010. Ms. Chase's salary increased three percent in 2008, and Ms. Molsbee salary increased 12.15 percent in 2008. Over the course of two years, Ms. Chase's salary has increased 21.6 percent and Ms. Molsbee's has increased 42.15 percent. As noted by OPC witness Ramas, the test year increase in salaries for these two employees is substantial. We find that the Utility has not adequately supported the level of increases given in 2009. We believe 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. 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.

WMSI witness Seidman contended the increases should be placed in the proper context because they did not occur in a vacuum. 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. Witness Seidman testified that several part-time field employees were eliminated and a full-time field employee was brought in at half the cost. He indicated witness Brown took a cut in his salary that more than offset the annual increases awarded to Ms. Molsbee and Ms. Chase. WMSI witness Seidman asserted those changes saved the Utility \$12,609.

Mr. Brown's salary increased by 37.3 percent from the years 2006 to 2009. However, 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 Mr. 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. The litigation was settled June 2008. Therefore, Mr. Brown's 2008 salary shall 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, we believe the \$30,300 adjustment in 2009 reflects the removal of some salary related to legal work since the case has been concluded. In our review, we believe 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.

We agree with OPC witness Ramas that the requested salary increases are excessive. We are aware that this Commission has found that adjustments cannot be made to expenses deemed abnormally high without also making adjustments for those that are abnormally low.¹⁸ Pursuant to Order No. PSC-93-1288-FOF-SU, this 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 requirement. As discussed below, we note that the Utility's Engineering Services has been \$0 in prior years and we are increasing that expense to recognize that WMSI will incur cost for non-capital Engineering Services. Accordingly, we have adjusted the Utility's expense that had been abnormally low in prior years. However, for salaries, some level of increase is appropriate, and we find that OPC witness Ramas' suggested three percent is reasonable. This amount is significantly higher than our 2010 price index. As a result, the Utility's salary and wages expense shall be reduced by \$21,870 to reflect net three-percent salary increases for both Ms. Chase and Ms. Molsbee.

In addition, OPC witness Ramas recommended that 5 hours or 12.5 percent of Mr. Brown, Ms. Chase, and Mr. Mitchell's salaries be allocated to affiliate operations. In response to OPC Interrogatory No. 12, WMSI indicated that there is no allocation of cost from WMSI to BMG. 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

¹⁸ See Order No. PSC-93-1288-FOF-SU, issued September 3, 1993, in Docket No. 920808-SU, In re: Application for rate increase by South Fort Myers Division of Florida Cities Water Company in Lee County.

their 40-plus hour week that they work for WMSI. Further, the Utility stated that Mr. Mitchell, WMSI's controller, works approximately two hours per week for BMG. 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.

WMSI argued that OPC witness Ramas' recommended adjustment of five hours is arbitrary, and she does not provide any support for her assumption. 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. WMSI witness Brown said Ms. Chase does not spend any significant time on affiliate transactions.

We believe 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. He also testified that the affiliate, BMG, is a sub-S corporation which holds a limited number of passive investments. However, due to the number of transactions between WMSI and the affiliate, we find 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.

We agree with OPC witness Ramas that there should be an allocation of salaries and wages to affiliates. Further, we find that witness Ramas' recommendation is reasonable.¹⁹ Therefore, we shall reduce salaries by \$28,554 to reflect an allocation of salary expense to the affiliates.

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

B. Employee Pension and Benefits

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. 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. 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. The deferred plan is for all management; however, Mr. Brown and Ms. Chase are the only employees that currently qualify for the deferred plan. 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

¹⁹ The Utility cites cases that any reductions in salary must be supported by competent, substantial evidence. We find 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)

retirement. 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.²⁰

OPC asserted that witness Brown's comparison to the State of Florida's "DROP" is an invalid comparison. 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. OPC asserted it is highly unlikely that the State of Florida, or any state for that 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.

In response to OPC POD No. 51, the Utility provided a copy of the executive deferred compensation plan. 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, vesting and plan termination insurance provisions of Title I and Title IV of the Employee Retirement Income Security Act (ERISA). 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.

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." 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. Based on review of the plan, all deferred compensation deferred under the plan: (1) is 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. 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. 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.

We 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. We note that there are currently expenses included in the test year for the Utility's 401(k) plan. However, we find that the deferred plan as proposed

²⁰ Stands for Delayed Retirement Option Program.

by WMSI is unreasonable. 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, and the funds are 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 later in this Order, 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. Therefore, we find that the customers shall not bear this additional cost, and \$80,000 shall be removed from employee pensions and benefits.

Finally, consistent with our reductions to salaries and wages, we have reduced employee pension and benefits expense by \$3,665 to reflect a 12.50 percent allocation to affiliated operations. Based on the above, employee pensions and benefits shall be reduced by \$83,665 (\$80,000 + \$3,665).

C. Materials and Supplies Expense

Pursuant to Audit Finding 4, the Utility recorded an out-of-period expense in the amount of \$8 in Materials and Supplies Expense. WMSI agreed with this adjustment, and the Material and Supplies expense shall be decreased by \$8.

D. Engineering Services Expense

The Utility's MFR's include \$48,000 for Engineering Services. 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. 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. The Utility has entered into a retainer agreement with PBS&J for \$4,000 monthly or \$48,000 annually for Engineering Services.

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. 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. WMSI contended that allowing only the amortization of the PBS&J water system evaluation does not allow for any recurring, non-capital Engineering Services.

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. We believe the water system evaluation is the crux of the Utility's justification of its pro forma plant improvements. As discussed in our treatment of pro forma plant additions, the improvements are necessary to maintain the water service, and would ". . . replace aging assets, improve the quality of service to the customers, or improve the safety and reliability conditions to the utility system." As such, the costs associated with the water system evaluation shall be capitalized when the improvements are placed into service. Therefore, we have removed the cost of \$27,500 for the

water system evaluation, and find that the evaluation shall 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. 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. Mr. Thomas provided Engineering Services for the Utility in its last full rate case proceeding.²¹ We believe the Engineering Services from the last rate case should be indexed to the current level. By indexing the Engineering Services from the last rate case, we calculate the appropriate Engineering Services to be \$5,872. Therefore, we have reduced Engineering Services by \$14,628. Based on the above, the requested level of Engineering Services expense shall be decreased by \$42,128 (\$27,500 + \$14,628).

E. Accounting Services Expense

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. 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. This amounts to an average of ten hours of Accounting Services per month. The Utility indicated that any unused hours would be credited to the months where more hours are required. The Utility indicated that the accounting contract assures that the Utility would have priority access to a CPA and is better for budgetary purposes.

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. 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.

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 contended that the true source of complexity of the Utility's accounting issues is the nature and frequency of its affiliate transactions. 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. 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

²¹ See Order No. PSC-94-1383-FOF-WU, page 54.

returns, preparation of financial statements, and other accounting type services. There is also an office administrator who assists the controller with the day-to-day accounting functions. 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. 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.

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. The manual was created by the Utility's CPA, Barbara Withers. 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. In Attachment A of this Order, there is 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. 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 WMSI. WMSI witness Withers agreed that the five-year average for Accounting Services has been in the neighborhood of \$3,700. However, she purports that her services have been previously provided at a discount or at no-charge due to extremely challenging years for WMSI.

We find that the level of Accounting Services expense shall be reduced, and that the five-year average of \$3,667 is an appropriate level of Accounting Services expense for the Utility. On a prospective basis, we find that Ms. Withers services will be minimal according to the accounting manual. The Utility has adequate in-house employees to maintain its accounting functions in full compliance as illustrated in its accounting manual. The \$3,667 level of Accounting Services expense will 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 shall be reduced by \$14,333 (\$18,000 - \$3,667).

F. DEP Refinancing Costs

WMSI's MFRs include \$2,500 in Contractual Services - Other to Sigma Project Solution, LLC (Sigma). 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. WMSI indicated the transaction was beneficial to the customers. In rebuttal, WMSI witness Brown testified that, with Sigma's help, debt service was reduced by \$121,000 per year.

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." 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. 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. Witness Ramas expressed concern that the Utility was unable to pay its debt obligation while, at the same time, investments in associated companies were increasing and notes receivable from associated companies were outstanding.

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 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. However, as will be discussed more fully below, it appears that BMG and Mr. Brown have actually taken more cash out than has been put in WMSI, and that the Utility has not adequately managed its cash flow. Therefore, we find the cost of refinancing the loan shall 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. Based on the above, the DEP refinancing cost of \$2,500 shall be removed.

G. Contract Labor Costs

At the hearing, we approved the parties' stipulation that \$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).

H. Out-of-Period Costs for Annual Report Preparation Fees

At the hearing, we approved the parties' stipulation that 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.

I. Rental of Building/Real Property

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. The Utility's Tallahassee office location is leased from BMG for \$18,000, annually. Consistent with our allocation of salaries and wages,²² 12.5 percent of the rent expense shall be allocated to the Utility's affiliate. Thus, rent expense shall be reduced by \$2,250.

J. Transportation Expense

The Utility recorded \$23,168 of transportation expense. Staff witness Dobiac stated in Audit Finding 6 that transportation expenses should be reduced by \$9,104 for insufficient support documentation. 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. Witness Dobiac asserted that sufficient support would be a receipt specifying the vehicle being fueled, the driver's initials, and the date.

OPC agrees with witness Dobiac that transportation expenses should be reduced by \$9,104 because WMSI had insufficient supporting documentation. Based on her review of the Utility's 2009 General Ledger, witness Dobiac recommended disallowance of some transportation expense related to the island vehicles. However, it appears that during the test year, no vehicles on the island were allowed for personal use, and, therefore, the fuel purchases on the island would not be for personal use. WMSI's general ledger separates transportation expense into two sub-accounts: (1) the transportation expense for the island; and (2) the transportation expense for the staff in Tallahassee. Because we believe the island transportation expense reflects cost related to the fueling of Utility-vehicles and personal vehicles for Utility-related business, we find that the island transportation account balance of \$14,289 is appropriate.

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. We find \$1,631 of the amount in the account is appropriate because it reflects total documented mileage reimbursement to Mr. Mitchell and Ms. Blankenship. The remaining balance of \$7,248 relates to transportation costs for Mr. Brown and Ms. Chase for fuel purchases and maintenance on their vehicles.

As discussed previously in this Order, the vehicle for the vice president (Ms. Chase) has been removed. As a result, any maintenance costs or fuel costs related to this vehicle shall also be removed. Also, both Ms. Chase's and Mr. Brown's vehicles are used for personal use and WMSI has not documented how much of the use is related to Utility business. WMSI contends that Mr. Brown averages four trips a month to the island. Based on the number of trips and mileage incurred, we find that Mr. Brown has demonstrated that his transportation expense is reasonable, and it shall be allowed. However, the travel expense for Ms. Chase shall be removed

²² For salaries and wages, we agreed with OPC that 12.5 percent of salaries for Mr. Brown, Ms. Chase, and Mr. Mitchell be allocated to affiliate operations.

for lack of support documentation. Based on the above, transportation expense shall 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. As noted above, we have approved 50 percent of the cost of the president's vehicle in rate base. Therefore, consistent with that decision, we have decreased the expense for the tires by 50 percent, i.e., \$633 ($\$1,265/2$). These adjustments result in a transportation expense allowance of approximately \$3,000 for the president. As discussed earlier, the president's Utility-related mileage is 11,034. The Utility has indicated that Mr. Brown's vehicle averages 12 miles per gallon and the fuel cost averaged \$2.75 per gallon. This equates to approximately \$2,529 for fuel allowance.²³ Therefore, we find that the approximate \$3,000 is reasonable.

Based on the above, we find the Utility has not supported transportation cost for Ms. Chase. Therefore, transportation expense shall be reduced by \$3,618 ($\$2,985 + 633$).

K. Key Man Life Insurance

The Utility's MFRs include \$12,015 in Insurance - Other for a key man life insurance policy. 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." However, OPC argues that review of the policy shows that this is not the case. 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. 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. 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. He further stated that if there is any residual left it would go to the Utility.

Later, in response to Audit Finding 5, staff witness Dobiak'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. 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. It appears that the Utility has put this policy in place to maintain the benefits for its employees, and this cost shall not 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. 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 also noted that OPC witness Ramas expressed concern

²³ $11,034 \text{ miles divided by } 12 \text{ miles per gallon} = 919.50; 919.50 \text{ times } \$2.75 = \$2,529$

that the Utility had not funded any of the 2009 pension accruals. As a result, the Utility stated that the use of the key man life insurance is a legitimate expense and should be allowed. Witness Ramas recommended that the cost of the key man life insurance be excluded and not passed on to the Utility's customers. Her justification is that the key man life insurance is to fund employee pension benefits and not for continuance of Utility operations. We agree. The cost shall not be passed on to the customer. We note that the Utility has been collecting monies through existing rates for the 401(k) plan, and we believe the Utility operations would continue with the loss of Mr. Brown because Ms. Chase is qualified to assume his duties. Thus, we believe the funding of the 401(k) plan would continue.

Finally, it appears that the key man life insurance is intended to cover the costs of the new executive deferred compensation plan, which we disallowed. For such an insurance plan to be considered Utility-related, 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 shall not be approved and the Utility's Insurance - Other account shall be reduced by \$12,015.

L. Rate Case Expense

The Utility's test year included \$24,184 of rate case expense from its prior limited proceeding.²⁴ The rate case expense has been fully amortized. Therefore, rate case expense shall be decreased by \$24,184. WMSI witness Seidman agreed with this adjustment.

WMSI initially submitted in its MFRs \$228,613 in rate case expense for the instant docket, for an annual amortization expense of \$57,153. 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. 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 of test year rate case expense would be \$66,994, increasing the amortization originally included in the MFRs by \$9,841. The following is a breakdown of the Utility's updated request for rate case expense:

²⁴ 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.

	Estimated MFR B-10	Actual	Additional Estimated	Revised B-10 Total
Legal Fees				
Rose, Sundstrom & Bentley, PA - Rose	\$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	0	7,770	760	8,530
Total	\$108,940	\$82,738	\$29,840	\$113,218
Consultants				
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	0	3,375	1,200	4,575
Total	\$111,923	\$121,409	\$25,600	\$147,009
Other				
Filing Fee	\$5,250	\$5,250	\$0	\$5,250
Customer Notices	500	500	0	500
Fed. Ex, Copies & other misc.	2,000	2,000	0	2,000
Total	\$7,750	\$7,750	0	\$7,750
Total Rate Case Expense	\$228,613	\$211,896	\$55,440	\$267,977
Four-Year Amortization	\$57,153			\$66,994

1. 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. 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. 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. 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 its financial efforts and to WMSI in preparing the case for filing. 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. He also stated the accounting firm provided assistance and advice to the Utility regarding prior orders of the Commission. Further, witness Brown contended that the preliminary work helped reduce the ultimate charges of those consultants currently retained.

OPC contends that the preliminary analysis was duplicative of the work performed by the consultants currently retained. OPC states that 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. Also, Mr. Frank Seidman billed for preliminary charges for planning and developing the MFRs in April 2010. 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. 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."

We find that the preliminary evaluation work was duplicated by those currently retained. Also, even if the preliminary work had not been duplicated, the part related to finding financing should be removed for the reason expressed by witness Ramas. Based on the above, we find that the \$12,688 cost related to the preliminary evaluation shall be removed.

2. 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 six 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, she had 1.25 hours billed for reviewing the testimony of Mr. Gauker. Mr. Gauker's testimony was not filed in this case. Therefore, time spent on his testimony shall be removed, and her actual hours shall be 4.75 hours. Also, considering the amount of time worked on the case by Ms. Clark leading up to the hearing, we find her estimate of hours to complete is overstated. Consistent with past decisions, we have 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.²⁵ This results in 2.11 hours of estimated time to complete.²⁶ Also, although Ms. Clark attended the first day of the hearing, she made no appearance as counsel and did not actively participate. Therefore, we find that no hours for attendance at the first day of the hearing is appropriate. This results in adjusted hours of 6.86 hours for Ms. Clark. Ms. Clark's hourly rate is \$400. Therefore, we find the appropriate rate case expense for Ms. Clark is \$2,744. Therefore, we have decreased rate case expense by \$7,656 (\$10,400 - \$2,744).

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 number of days scheduled by this Commission. Therefore,

²⁵ 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., page 192.

²⁶ 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.

because the hearing concluded on the second day, the estimate of time shall be reduced by eight hours, and we have reduced her legal cost by \$2,080. The net adjustment to Ms. Scoles' legal cost is \$2,319, for legal costs of \$88,628 for Ms. Scoles. Finally, we have reduced the legal firm's actual incidentals by \$120 due to lack of support documentation.

3. Consultants' Expenses

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, we have reduced Mr. Deason's actual hours by .2 hour for time spent on Mr. Gauker's testimony. Also, consistent with the previous discussion, we have reduced Mr. Deason's estimated time to complete by eight hours because the hearing concluded on the second day. With the reduction of 8.2 hours, we calculate the total adjusted hours to be 168.8 for Mr. Deason. Mr. Deason's hourly rate is \$300. Therefore, we calculate the total expenses for Mr. Deason to be \$50,640, a reduction of \$2,460 (\$53,100 - \$50,640).

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 we have disallowed the cost associated with the wastewater certificate, we have 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. We have also reduced witness Seidman's cost by \$1,200 to reflect the removal of eight hours for the third hearing day, as discussed above. Based on the above, we find the appropriate consulting cost for witness Seidman to 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. The total costs were broken down by total fees incurred as of September 30, 2010, and total fees projected through the final agenda. 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. Therefore, we have 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. There is no documentation for Mr. Scibelli supporting more than the 18 hours for his work. Mr. Scibelli's hourly rate is \$160. Therefore, the appropriate rate case expense for Mr. Scibelli is \$2,880. As such, rate case expense shall be reduced by \$5,620 for Mr. Scibelli.

In summary, rate case expense shall be decreased by \$38,796 for all the aforementioned adjustments. The appropriate rate case expense is as follows:

	Revised B-10 <u>Total</u>	Commission <u>Adjustments</u>	Adjusted <u>Total</u>
Legal Fees			
Rose, Sundstrom & Bentley, PA	\$3,340	(\$3,340)	\$0
Radey, Thomas, Yon & Clark, PA - Clark	10,400	(7,656)	2,744
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>
Total	\$113,218	(\$9,315)	\$99,783
Consultants			
Carlstedt, Jackson, Nixon & Wilson, CPA	\$9,348	(\$9,348)	\$0
Radey, Thomas, Yon & Clark, PA - Deason	53,100	(2,460)	50,640
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>
Total	\$147,009	(\$25,361)	\$121,647
Other			
Filing Fee	\$5,250	\$0	\$5,250
Customer Notices	500	0	500
Fed. Ex, Copies & other misc.	2,000	0	2,000
Total	<u>\$7,750</u>	<u>0</u>	<u>7,750</u>
Total Rate Case Expense	<u>267,977</u>	<u>(\$38,796)</u>	<u>\$229,180</u>
Four-Year Amortization	\$66,994		\$57,295

Therefore, we find the appropriate rate case expense is \$229,180. Based on a four-year amortization period, the annual rate case amortization is \$57,295.

M. Employee Training Costs

In 2009, WMSI recorded \$2,822 in miscellaneous expenses for employee training cost. 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. In prior years, the Utility has incurred employee training cost in the amount of \$125 in 2007 and \$262 in 2008. 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.

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. This would result in a three-year average of \$1,070 and a \$1,752 decrease to test year expenses. 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.

WMSI witness Brown disagrees with OPC witness Ramas' reduction to employee training costs. He stated that employee training and continuing education is an important function for WMSI, and it is beneficial to the customers. 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. We do 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 that for the first eight months of 2010, the Utility incurred \$2,606 for continuing education. The Utility's 2010 general ledger indicated that as of June 30, 2010, only \$473 was spent for two operator training courses. Therefore, it appears 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.

We find that the level of employee training costs shall be based on an average expense. In the past, for certain expenses, we have used a three-year average to reflect the appropriate expense level.²⁷ 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. Based on the above, employee training costs shall be reduced by \$1,752.

N. Miscellaneous Expenses

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

The Utility included \$1,960 in miscellaneous expenses for the John Knox Road Condominium Association dues. According to the lease agreement between WMSI and BMG, the Utility is only responsible for the utilities of the office. Therefore, miscellaneous expense shall be reduced by an additional \$1,960.

As discussed previously in this Order, miscellaneous expense included costs related to replacement and repair of plant items. As a result, we reclassified \$51,751 to plant. In addition, as discussed above, we removed the rate case expense related to the preliminary evaluation. Thus, this account shall be decreased by \$494 to remove travel costs associated with witness Brown's trip to meet the preliminary rate consultant. Based on the above, miscellaneous expense shall be decreased by \$54,594 (\$389 + \$1,960 + \$51,751 + \$494).

O. Pro Forma Expenses

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

²⁷ 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 Nj Florida, LLC. While this order dealt with three-year average for bad debt expense, it illustrates our policy to use a three-year average for certain expenses.

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>
Total	<u>\$93,572</u>

The Utility's adjustments were made to reflect 12 months of expense for commitments being incurred during the test year. OPC had no position with regard to the adjustments. Although the amounts appear to be reasonable, we note that the commitments are new to the test year. Therefore, we find it is appropriate to monitor these expenses which we are allowing in rates to verify that they are on-going beyond the test year. Therefore, the Utility shall 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 period of two years from the date of this Order.

P. Depreciation Expense

Based on our adjustments and approval of stipulations in previous issues, depreciation expense shall be reduced by \$58,904. A comparison of WMSI, OPC and our approved adjustments is shown below.

Adjustments	Depreciation Expense		
	WMSI	OPC	Commission
U&U Percentage	\$0	(\$16,912)	2,535
Affiliate Assets	0	(2,670)	(2,670)
Transportation Equipment	0	(6,024)	(5,069)
Stipulation 2 (Transfer of Rental Rights)	(2,326)	(2,326)	(2,326)
Plant-in-Service Balances	0	0	560
Pro Forma Plant Additions	0	(51,934)	(51,934)
	(\$2,326)	(\$79,866)	(\$58,904)

Q. Costs Associated With the Withdrawal of the Wastewater Certificate Application

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. WMSI witness Brown testified that the Utility's efforts to pursue a wastewater certificate were prompted by a request from the Franklin County Commission. Witness Brown testified that the Utility had been approached by commercial customers, in recent years, about providing wastewater service. WMSI believes that providing wastewater service would preserve its customer base by allowing it to be able to retain its commercial customers. 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. Therefore, WMSI believes the wastewater system would have benefited the water customers.

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. She asserted that water and wastewater services are two completely and distinctly separate services. Witness Ramas acknowledged that some utilities do offer both services. Also, although witness Ramas 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.

We find that 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, the Utility's requested amortization of \$10,570 for cost associated with its application for a wastewater certificate shall be removed.

R. Gain on Sale of Land and Other Assets

Over the past five years, WMSI has sold assets that have resulted in gains and losses. We have a longstanding practice to amortize capital gains from the sale of specific assets over a period of five years to the benefit of the ratepayers.²⁸ 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 argued it is not appropriate to pick and choose gains without also considering net operating losses incurred during the same period.

We find capital gains and losses shall be recognized related to the selling of specific assets. We disagree with the Utility's argument that operating losses should be recognized or netted against any net capital gains. 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.

Based on the above, the net capital gains (net of capital losses) on the sale of specific assets shall be recognized and amortized over five years. Our calculations do not include those assets that would otherwise be fully amortized within a year of when the rates would go into effect. Also, we have 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, we calculate a net gain of \$242,040, which shall be amortized over five years, for an annual amortization amount of \$48,408.

VIII. REVENUE REQUIREMENT

A. Test Year Pre-Repression Water Operating Income

Based on the adjustments discussed above, we find that the test year operating income before any provision for increased revenues is \$130,935 as shown on Schedule No. 3-A.

B. Pre-Repression Revenue Requirement

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). We have increased test year revenue by \$696 to reflect the appropriate test year revenues as calculated using the Utility's billing determinants and current rates.

²⁸ 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.

Consistent with our approved rate base, cost of capital, and net operating income adjustments, the total pre-repression revenue requirement is \$1,315,837 as shown below:

	<u>Test</u> <u>Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue</u> <u>Requirement</u>	<u>% Increase</u>
Water	\$1,302,363	\$13,474	\$1,315,837	1.03%

Our calculations of the revenue requirement are shown on Schedule No. 3-A, with our adjustments shown on Schedule No. 3-B.

IX. RATES AND CHARGES

A. Test Year Billing Determinants Before Repression

Our 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, our 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, our 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.

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. In its brief, OPC took no position on the test year billing determinants. Therefore, we find that the billing determinants contained in MFR Schedule E-2, page 1 of 2, column 5, are appropriate for rate-setting purposes.

B. Appropriate Rate Structure

Our 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 our 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, we 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, we have, 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 our practice to implement these rate design parameters whenever applicable.²⁹ In the instant case, staff witness Chelette testified that the Northwest Florida Water Management District (NFWFMD or District) 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.

Since the Utility's rates were last set in 2006, the number of gallons sold by the Utility has declined by 32 percent. 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. 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. 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.

²⁹ 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.

In the Utility's filing, WMSI witness Seidman proposed that we 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. 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." 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.

We have evaluated the impact on customer bills that would result if we approved the Utility's proposed rate structure. As shown in the table below, 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 we agree with the Utility's contention that this rate structure would provide enhanced revenue stability and reduce the incentive for customers to install shallow wells, we are 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 our standard methodology to calculate customers' reaction to changes in price, if the Utility's rate structure were approved, we calculate total water consumption on St. George Island would increase by about 3.5 percent. Therefore, we do not believe that the Utility's proposed rate structure is appropriate.

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 the revenue requirement of a little over one percent, we find that it would be inappropriate to change the Utility's existing rate structure at this time. Therefore we find it appropriate from a rate stability perspective to maintain the current rate structure until the Utility comes before us to recover the costs associated with the pro-forma plant additions. Furthermore, with this increase, according to our calculations, the Utility's rates will be sufficient to cover its fixed costs during the off-season. Therefore, the Utility's existing rate structure shall remain unchanged.

C. Repression Adjustment

In the Utility's original filing, WMSI proposed that a repression adjustment be made to the test year billing determinants. This adjustment was based on the Utility's proposed increase in its revenue requirement of approximately 50 percent. We agree with WMSI that such a large increase in revenue, and customer bills, would result in a material reduction in the number of gallons sold. However, because we are approving an increase of just a little over one percent, we find that a repression adjustment is not appropriate at this time.

D. Appropriate Rates

Excluding miscellaneous service revenues, the approved water rates are designed to produce total Utility revenues of \$1,311,910. 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 BFC, while approximately 45.5 percent represents revenue recovery through the consumption charge.

The Utility shall file revised tariff sheets and a proposed customer notice to reflect the approved rates. The approved rates shall 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 shall not be implemented until our staff has approved the proposed customer notice. The Utility shall provide proof of the date the notice was given no less than 10 days after the date of the notice.

E. Miscellaneous Service Charges

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. WMSI witness Seidman testified that the Utility is requesting an increase in its miscellaneous service charges to reflect current costs. The Utility's current and proposed charges are listed below:

WATER MANAGEMENT SERVICES, INC. DOCKET NO. 100104-WS TEST YEAR ENDED DECEMBER 31, 2009 SCHEDULE OF PRESENT AND PROPOSED WATER SYSTEM MISCELLANEOUS SERVICE CHARGES				
	Present Charges		Proposed Charges	
	Business Hours	After Hours	Business Hours	After Hours
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

We have expressed concern with miscellaneous service charges that fail to compensate utilities for the costs incurred. In a 1995 case involving Southern States Utilities, Inc., we noted that the miscellaneous service charges were eight years old and could not possibly cover costs.³⁰ In that case, we directed our 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 service charges be indexed.³¹ 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.

Our 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.³² The results of 20 years of indexing is shown below.

³⁰ 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.*, pages 237-238.

³¹ 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.*

³² *Ibid.*

WATER MANAGEMENT SERVICES, INC. DOCKET NO. 100104-WS TEST YEAR ENDED DECEMBER 31, 2009 ANALYSIS OF PROPOSED INCREASE IN MISCELLANEOUS SERVICE CHARGES: NORMAL HOURS					
O&M Expense Year	Index Applicable To O&M Expense Year	Initial Connection Currently \$15	Normal Connection Currently \$15	Violation Reconnection Currently \$15	Premises Visit (in Lieu Of Disconnection) Currently \$13
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
2009	0.56 %	\$ 23.65	\$ 23.65	\$ 23.65	\$ 20.50

(A) Applicable during normal business hours.
 Source: Exhibit 3 (MFRs, page 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), P.S.

As shown on the table above, 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 in the table. Therefore, we find that the Utility's proposed business hour charges as reflected in hearing Exhibit 3 are reasonable, and they shall be approved.

The Utility's current after hours miscellaneous service charges are the same as its business hours miscellaneous charges. However, the Utility proposes to increase its after hours

miscellaneous service charges to \$42. The Utility's support for increasing the after hours miscellaneous service charges is shown below.

WATER MANAGEMENT SERVICES, INC. DOCKET NO. 100104-WS TEST YEAR ENDED DECEMBER 31, 2009			
ANALYSIS OF PROPOSED INCREASE IN MISCELLANEOUS SERVICE CHARGES: AFTER HOURS			
BUSINESS HOURS			
	Technician	Supervisor	TOTAL
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
Total Day Call Expenses	\$14.05	\$6.95	\$21.00
AFTER HOURS			
	Technician	Supervisor	Total
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		
Total After Hours Call Expense	\$33.44	\$10.42	\$43.86
		Use:	\$42.00
Source: Exhibit 3 (MFR page 71)			

In support of the Utility's requested increase in miscellaneous service charges, WMSI witness Brown testified that the Utility's service area is 20 miles long and spread out. Furthermore, witness Brown cited a Revenue Sufficiency Analysis (RSA) prepared for Orange City, Florida, performed by OPC witness Woodcock. A 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, we find that the Utility's proposed charges as reflected in hearing Exhibit 3 are reasonable and they are approved.

F. Procedures and Charges for Disconnects and Reconnects

WMSI witness Brown testified that the Utility has had problems with the use of properties being converted from single family to condominiums. 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.

Witness Brown stated the Utility brought the matter to the Commission's attention. 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.

Witness Brown testified that when an existing customer requests service, the Utility performs a bookkeeping audit and a site visit. 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. Witness Brown stated that WMSI will not install a meter to an existing dwelling until access to the inside is granted for inspection.

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. Further, OPC alleges that the Utility does not have the authority to refuse to reconnect service until the inspection is permitted. 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.

The Utility states that it has become very vigilant about determining the use of a property. As a result, WMSI has drafted an addendum to its water application titled "Addendum to Application for Water Service." (addendum) 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. Witness Brown admitted the addendum is not included in its tariff. He asserted that our rules recognized the Utility's right to determine whether any property's type of service has changed after service was originally provided. Witness Brown believes the tariff should be amended to include the addendum because it provides necessary information. Based on 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. Witness Brown indicated the temporary meter charge is for people who do not want to sign up and be permanent customers. Witness Brown stated that this charge was designed to accommodate home inspectors, realtors, and people who need to inspect the property. Witness Brown acknowledged that the Utility does not have a tariff for the charge. However, he

indicated the temporary charge is authorized by our rules and thought that the Utility should adhere to the rules.

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. 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 shall be incorporated into its tariff. The temporary service charge of \$100 is reasonable and shall also be incorporated in the Utility's tariff along with the definition and policies governing the temporary service charge.

G. Interim Refund

By Order No. PSC-10-0513-PCO-WU, issued August 12, 2010, we 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 represented an increase of \$109,228, or 8.27 percent.

According to Section 367.082, F.S., any refund shall 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, we have 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, we calculate 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 shall refund 100 percent of the interim increase that was collected. The \$1,251,915 refund shall be made with interest in accordance with Rule 25-30.360(4), F.A.C. The Utility shall submit proper refund reports pursuant to Rule 25-30.360(7), F.A.C. The Utility shall treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C. Further, the escrow shall be released upon our staff's verification that the required refunds have been made.

H. Four-Year Rate Reduction

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 regulatory assessment fees (RAFs) which is \$59,995. The decreased revenue will result in the rate reductions shown on Schedule No. 4.

The Utility shall 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 shall 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 shall not be implemented until our staff has approved the proposed customer notice. WMSI shall 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 shall 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.

I. Service Availability Charges

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. This requested charge was based on the Utility's proposed pro forma plant additions. The Utility stated that its requested increase would hold down costs for existing customers because it would not have to borrow as much money for improvements and repairs to serve new customers.

Pursuant to Section 367.101, F.S., we must set just and reasonable charges and conditions for service availability. When designing the appropriate level of service availability charges, we use 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 notes that we have 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.

As discussed earlier in this Order, we have disallowed the of pro forma plant additions in this docket, and provided that they would be addressed in a separate proceeding. Similarly, for the appropriate service availability charges, once the appropriate costs have been determined for those pro forma plant additions, the appropriate service availability charges shall be addressed in that separate proceeding as well. As discussed above, the Utility's rate structure shall remain unchanged, and rates will only be increased by a little over one percent.. Given no rate change and because the Utility has no common equity, we believe 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, we find that no change shall be approved for WMSI's current service availability charges, and the appropriate service availability charges shall be as contained in the Utility's current tariff.

X. OTHER ISSUES

A. Proof of Adjustments

At the hearing, we approved the parties' stipulation that to ensure the Utility adjusts its books in accordance with our decisions, WMSI shall 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.

B. Failure to Return Customer Deposits

In the Utility's MFRs, the customer deposit balance was \$100,499. The parties have stipulated that this amount is appropriate. 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, we 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.

C. Investment In Associated Companies

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.

1. 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. 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.

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. 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.

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. First, OPC has recommended that we prohibit WMSI from making any additional investments or transfers of cash to associated companies without prior approval from the Commission. Second, OPC believes we 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 requests that we consider imputing a return on these funds for purposes of offsetting any revenue deficiency claimed by the Utility in future rate proceedings.

2. 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. He emphasized that no revenues received through customer rates were used for any investment in any affiliated company. 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. 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."

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. 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. 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.

Based on the description of the account, witness Brown indicated Account 123 was the proper account to record the transaction. However, he argued that the funds in Account 123 do not represent equity investments in associated companies. 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. However, he indicated that the Utility would not be in compliance with the NARUC USOA 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. 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. 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.

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. 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. Witness Brown elaborated that the financial difficulties of WMSI were further exasperated by a number of government decisions that negatively impacted the Utility. 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 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. Finally, he complained that we 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. 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.

Finally, WMSI argued that the transactions with affiliated companies in question are not utility related and therefore do not fall under our jurisdiction. As non-utility transactions, the amounts recorded in this account do not impact the rates paid by WMSI customers. WMSI argues that our 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. Thus, the Utility concluded that there is nothing related to this account that warrants any Commission action.

3. Commission Analysis

Our review shows that the amount recorded in Account 123 – Investments in Associated Companies, has increased by approximately \$1.2 million over the past six years. 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.

We disagree 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, 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, it appears that amounts in Account 123 – Investment in Associated Companies, represent 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.

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. 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. 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.

We agree that the recession has made it more difficult for small companies to access capital under reasonable terms. We also agree that the NFWFMD decision to allow the drilling of shallow wells on St. George Island has negatively impacted water consumption. In addition, we agree that there is a cost associated with WMSI providing fire protection on the island. However, we disagree 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, we have taken this factor into consideration in setting rates. 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. Also, we have made used and useful adjustments and recognized 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 this 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 that we allowed all but approximately \$37,000 of that amount. Moreover, the case ultimately was resolved by a Settlement Agreement between WMSI and OPC.³³ We agree 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 our authority to regulate. WMSI goes on to state, ". . . as non-utility transactions, they do not impact the rates paid by customers." Although affiliated transactions should not affect customer rates, in the instant case, 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. Consequently, affiliate transactions can have the potential to affect customers.

We are charged with the responsibility, through the exercise of our 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 is made, we would remove the asset or expense in question from the determination of rates. In the case of non-regulated investments, we would normally reduce equity in the capital structure by the amount of the investment. This treatment protects customers by attributing the highest cost source of capital to the higher risk non-regulated, non-utility use of funds. However, WMSI has no common equity

³³ 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.

in its capital structure. Another available remedy for imprudence is to make an adjustment to the president's salary. However, at this time, we decline to make an adjustment to the president's salary.

As the Utility notes, our 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.³⁴ Further, because the revenues expended by the Utility were not subject to refund, it would not appear that we have any express authority over those revenues.³⁵ As noted above, our primary actions when there is an indication of mismanagement and there is an indication that revenues are inappropriately or imprudently expended, we have three main remedies: (1) we can take the funds out of equity or reduce the return on equity;³⁶ (2) we can reduce the amount allowed for the president's salary; or (3) we can and do 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, we can require specific improvements. In this case, we have found that the quality of service provided by the Utility is satisfactory. Also, upon close review, the advances of funds to the Utility's associated companies do not appear to have negatively impacted the rates approved.³⁷ Finally, we note that we have declined to micromanage business decisions of a utility.³⁸ Based on all the above, we do not believe that the actions requested by OPC are appropriate. Further, under normal circumstances, we believe prudence reviews in general rate cases provide ample protection to the customers.

4. Conclusion

There is some evidence that the Utility advanced approximately \$1.2 million to associated companies while reporting cumulative net losses of approximately \$727,000. 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. These issues raise questions which need further investigation.

We note that there was no evidence presented that documented Mr. Brown or BMG having misappropriated funds from the Utility. In addition, its quite possible that this confusion

³⁴ 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)

³⁵ See City of Miami v. Florida Public Service Commission, 208 So. 2d 249, 259 (Fla. 1968) (provision against retroactive ratemaking)

³⁶ Because the Utility has no equity, this remedy is not available.

³⁷ 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 we are approving an overall rate of return of 3.85 percent, and we are not increasing rates.

³⁸ 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.

may stem from poor bookkeeping. With our adjustments to expenses and an overall rate of return of 3.85 percent, we do not believe that the customers are 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, we do not have express statutory authority to preclude a utility from making investments in associated companies. In addition, our practice has been not to micromanage the business decisions of regulated companies, but to instead focus on the end-product goal.³⁹ Also, we note that the overall quality of service provided by the Utility is 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 our adjustments to rate base and expenses, we believe the 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 our practice discussed above and noting that the Utility is providing satisfactory quality of service, we find that we should 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, the amounts in question are not included in rate base and are not considered in the determination of the appropriate rates. That said, based on the circumstances in this case, our staff shall initiate a cash flow audit of the Utility as soon as possible, and, if it is determined that the activity in the account has impaired the Utility's ability to meet its financial and operating responsibilities, our staff shall recommend an appropriate adjustment for imprudence.

D. Non-Utility Expenses in Customer Rates

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

E. Show Cause Proceeding For Failure To Comply With Commission Order No. PSC-94-1383-FOF-WU

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

Under the heading Transportation Expenses in Order No. PSC-94-1383-FOF-WU (1994 Order), this 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).

³⁹ 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., page 18 (noting the Commission declined to micromanage business decisions of a utility and prescribe a specific water treatment process).

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. 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. 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. The 1994 Order noted that at \$0.40 per mile, his travel allowance for that month would have been \$952. The Utility requested an annual allowance of \$5,200 for Mr. Garrett's vehicle or approximately \$400 per month.

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. Further, OPC recommended that only half the requested travel allowance for field employees be allowed. The 1994 Order noted that OPC had argued that "the Commission should not reward the Company for poor management practices by allowing a travel allowance for undocumented and unsubstantiated mileage."

This 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." Further, we 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, this 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.

(emphasis added). Moreover, in the ordering paragraphs of the 1994 Order this Commission "Ordered that St. George Island Utility Co., Ltd. shall hereinafter keep accurate mileage records." Therefore, while allowing the field employees travel expenses, this Commission cautioned the Utility to keep better records for those employees. Further, it did not allow any of Mr. Brown's travel expenses.

2. Utility Argument/Position

The Utility argues that, for Mr. Brown, there is testimony and information provided through discovery responses that he used his vehicle 50 percent of the time for Utility business. The Utility further argues that this vehicle usage is also supported by the Utility's 2009 tax return, which details the miles, and which indicates that Mr. Brown drove 11,034 miles in 2009

on Utility-related business. Further, the Utility states that there is undisputed testimony that witness Brown used this vehicle to travel to and from St. George Island four times per month.

Similarly, WMSI argues that there is evidence in the record that Ms. Chase used the vehicle that she drives 50 percent for Utility-related business, and that this fact is also supported by the Utility's 2009 tax return, which details the miles driven for Utility-related business. The Utility states that it is undisputed that Ms. Chase travels to St. George Island once a month.

Also, WMSI notes 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 Utility 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. Further, the Utility notes 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. The Utility also argues 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.

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. The Utility argues 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." The Utility states 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." 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).

Finally, WMSI states 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]," 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.

3. OPC Argument/Position

OPC notes "that WMSI has recorded costs associated with six vehicles for use by its eight employees."⁴⁰ OPC further notes 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."

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 full rate case, OPC notes 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.⁴¹ OPC argues that the "Commission's denial of costs as unsupported should have signaled WMSI that better record keeping would be expected in future cases."

OPC notes that witness Brown did not provide any documentation to support his claimed average of four trips to the island per month. 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. OPC witness Ramas added that keeping documentation for business travel is required by IRS regulations. Had witness Brown maintained adequate travel logs, witness Ramas stated, some reimbursement based on the actual work-related travel would be reasonable.

OPC also argues 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

⁴⁰ 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.

⁴¹ See Order No. PSC-94-1383-FOF-WU, pages 42-44.

of vehicles, which is apparently non-existent for this company. OPC argues 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 notes 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." Additionally, OPC recommends that we require WMSI to maintain vehicle logs for all company owned or leased vehicles, especially where personal use is allowed. Witness Ramas also recommends that mileage logs, defined as documentation that keeps track of the business nature and mileage of each trip, should be maintained for Utility-owned or leased vehicles and personal vehicles being used for Utility business.

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." Based on all the above, OPC argues 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 we 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.

4. Initiation of 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). Further, the ordering paragraph states "that St. George Island Utility Co., Ltd. shall hereinafter keep accurate mileage records." Based on all the above, it appears that this Commission is again faced with inadequate or minimal support to set the appropriate level of transportation expenses. 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 Dobiac and OPC witness Ramas, we find that WMSI has failed to maintain travel records in accordance with the requirements of the 1994 Order.

Utilities are charged with the knowledge of this 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 this 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., this 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.

Based on the above, we find that the circumstances in this case are such that show cause proceedings should be initiated. There appears to be 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, we further find that the situation warrants more than just a warning. Accordingly, WMSI shall 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. The initiation of show cause proceedings shall incorporate the following conditions:

- 1) The Utility's response to the show cause order shall 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 shall 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 shall 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 this 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 shall be considered resolved.

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Further, the Utility shall 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.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the application of Water Management Services, Inc., for increased water rates is granted in part and denied in part as set forth in the body of this Order. It is further

ORDERED that each of the findings made in the body of this Order are hereby approved in every respect. It is further

ORDERED that all matters contained in the attachments and schedules appended hereto are incorporated herein by reference. It is further

ORDERED that Water Management Services, Inc. shall charge the rates and charges as set forth in the body of this Order and as shown on the Schedule No. 4 attached hereto. It is further

ORDERED that Water Management Services, Inc. shall file revised water tariff sheets and a proposed customer notice to reflect the approved water rates. It is further

ORDERED that the approved rates shall 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. It is further

ORDERED that the approved water rates shall not be implemented until our staff has approved the proposed customer notice, and Water Management Services, Inc. shall provide proof of the date notice was given no less than ten days after the date of the notice. It is further

ORDERED that Water Management Services, Inc. shall refund all the interim water rates. It is further

ORDERED that the refunds shall be made with interest in accordance with Rule 25-30.360(4), F.A.C. It is further

ORDERED that Water Management Services, Inc. shall submit proper refund reports pursuant to Rule 25-30.360(7), F.A.C. The Utility shall treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C. It is further

ORDERED that the escrow account shall be released upon our staff's verification that the required refunds have been made. It is further

ORDERED that the water rates shall be reduced as shown on Schedule No. 4 to remove the amortization of rate case expense, grossed up for regulatory assessment fees. It is further

ORDERED that the decrease in rates shall become effective immediately following the expiration of the four-year rate case expense recovery period. It is further

ORDERED that Water Management Services, Inc. shall file revised tariff sheets and a proposed customer notice setting forth the lower rates and the reason for the reduction to reflect the approved reduction in rates no later than 30 days prior to the actual date of the required rate reduction. It is further

ORDERED that the approved reduction in rates shall 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. It is further

ORDERED that the reduction in rates shall not be implemented until our staff has approved the proposed customer notice. The Utility shall provide proof of the date notice was given no less than 10 days after the date of the notice. It is further

ORDERED that if Water Management Services, Inc. files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall 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. It is further

ORDERED that Water Management Services, Inc. shall file a proposed customer notice to reflect the Commission-approved miscellaneous service charges. It is further

ORDERED that the approved charges shall be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), F.A.C., provided the notice has been approved by our staff. It is further

ORDERED that within ten days of the date of the order, Water Management Services, Inc. shall provide notice of the tariff changes to all customers. It is further

ORDERED that Water Management Services, Inc. shall provide proof the customers have received notice within ten days after the date the notice was sent. It is further

ORDERED that the "Addendum to Water Application" and the temporary service charge of \$100 is reasonable and shall be incorporated in Water Management Services, Inc.'s tariff along with the definition and policies governing the temporary service charge. It is further

ORDERED that the Utility shall continue to charge the service availability charges approved in its tariffs. It is further

ORDER NO. PSC-11-0010-SC-WU
DOCKET NO. 100104-WU
PAGE 64

ORDERED that Water Management Services, Inc. shall 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 period of two years from the date of this Order. It is further

ORDERED that Water Management Services, Inc. shall provide proof, within 90 days of this order, that the adjustments for all the applicable NARUC USOA primary accounts have been made.

ORDERED that Water Management Services, Inc. shall be ordered to show cause in writing, within 21 days, why it should not be fined a total of \$1,000 for its apparent failure to timely comply with the requirements of Order No. PSC-94-1383-FOF-WU. It is further


ORDERED that any response shall comply with the conditions as set forth in the body of this Order and shall be filed with the Commission Clerk within 21 days of the date of issuance of this Order. It is further

ORDERED that Water Management Services, Inc. shall maintain travel records or logs for all vehicles used for utility purposes to enable this Commission to evaluate the appropriate level of Utility-related usage in future rate case proceedings. It is further

ORDERED that our staff shall initiate a cash flow audit of Water Management Services, Inc. as soon as possible, and, if it is determined that the activity in the account has impaired the Utility's ability to meet its financial and operating responsibilities, our staff shall recommend an appropriate adjustment for imprudence. It is further

ORDERED that if this Final Order is not appealed, this docket shall be closed upon: (1) our staff's confirmation that the appropriate refunds have been made; (2) that the appropriate notices and tariffs have been filed and approved by our staff; and (3) the completion of the show cause proceedings initiated herein.

By ORDER of the Florida Public Service Commission this 3rd day of January, 2011.



ANN COLE
Commission Clerk

(SEAL)

RRJ

DISSENTS BY CHAIRMAN GRAHAM, COMMISSIONER EDGAR, AND
COMMISSIONER SKOP:

CHAIRMAN GRAHAM dissented on not allowing any rate case expense for Ms. Clark's attendance at the first day of the hearing.

COMMISSIONER EDGAR dissented on the appropriate level of accounting expenses.

COMMISSIONER SKOP, dissenting with a separate opinion:

I respectfully dissent with the majority decision to include 50% of the President's personal vehicle in the rate base absent supporting documentation. Given the financial situation of the company and the numerous affiliate transfers adversely impacting Water Management Services, Inc. (WMSI) cash flow, one must critically question whether this discretionary expenditure was prudently incurred to begin with notwithstanding the demonstrated lack of supporting documentation. Accordingly, the majority decision unnecessarily increases utility rates for WMSI ratepayers.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

A party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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The show cause portion of this order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the show cause portion of this order may file a response within 21 days of issuance of the show cause order as set forth herein. This response must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 24, 2011.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing and a default pursuant to Rule 28-106.111(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.

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)
BOOKS AND RECORDS							
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 Moisbee, 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	
OTHER ACCOUNTING TASKS							
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						
MAJOR DUE DATES ANNUAL ACCOUNTINGS							
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	Commission Approved Adjustments	Commission Approved 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>(129,971)</u>	<u>51,186</u>
9 Rate Base	<u>\$4,019,450</u>	<u>\$2,127,073</u>	<u>\$6,146,523</u>	<u>(\$2,410,864)</u>	<u>\$3,735,659</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 (Transfer of Rental Rights to Elevated Tower).	(100,000)
3 Capitalize plant items recorded as miscellaneous expenses (Issue 6 – Plant-in-Service Balances)	11,371
4 Retire 75% of replacement cost for plant items. (Issue 6)	(8,001)
5 Remove pro forma plant additions. (Issue 9 – Pro Forma Plant Additions)	(1,752,481)
6 Reverse retirements. (Issue 9)	180,409
Total	<u>(\$1,699,115)</u>
<u>Land</u>	
1 Stipulated Issue 7 (Test Year Land).	(\$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 (Transfer of Rental Rights to Elevated Tower).	6,978
3 Retire accumulated depreciation for retired plant. (Issue 6 – Plant-in-Service Balances)	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 (Advances for Construction).	<u>(\$9,257)</u>
<u>Working Capital</u>	
Partial Stipulated Issue 12 (Working Capital allowance) - Unamortized Debt	
1 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)	284
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>(\$129,971)</u>

Water Management Services, Inc.							Schedule No. 2	
Capital Structure-Simple Average							Docket No. 100104-WU	
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
Per Utility								
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 Total Capital	<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>
Per Commission								
8 Long-term Debt	\$9,919,844	(\$2,166,691)	\$7,753,153	(\$4,117,993)	\$3,635,160	97.31%	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	2.69%	6.00%	0.16%
13 Deferred Income Taxes	0	0	0	0	0	0.00%	0.00%	0.00%
14 Total Capital	<u>\$8,163,125</u>	<u>(\$309,473)</u>	<u>\$7,853,652</u>	<u>(\$4,117,993)</u>	<u>\$3,735,659</u>	<u>100.00%</u>		<u>3.85%</u>
						<u>LOW</u>	<u>HIGH</u>	
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	Commission Approved Adjustments	Commission Approved Test Year	Revenue Increase	Revenue Requirement
1 Operating Revenues:	<u>\$1,319,313</u>	<u>\$623,983</u>	<u>\$1,943,296</u>	<u>-\$640,933</u>	<u>\$1,302,363</u>	<u>\$13,474</u> 1.03%	<u>\$1,315,837</u>
Operating Expenses							
2 Operation & Maintenance	<u>\$1,057,196</u>	<u>\$175,909</u>	<u>1,233,105</u>	<u>(294,679)</u>	<u>938,426</u>		<u>938,426</u>
3 Depreciation	<u>175,545</u>	<u>50,100</u>	<u>225,645</u>	<u>(58,904)</u>	<u>166,741</u>		<u>166,741</u>
4 Amortization	<u>14,616</u>	<u>23,450</u>	<u>38,066</u>	<u>(71,857)</u>	<u>(33,791)</u>		<u>(33,791)</u>
5 Taxes Other Than Income	<u>100,197</u>	<u>38,342</u>	<u>138,539</u>	<u>(38,486)</u>	<u>100,053</u>	<u>606</u>	<u>100,659</u>
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 Total Operating Expense	<u>1,347,554</u>	<u>287,801</u>	<u>1,635,355</u>	<u>(463,927)</u>	<u>1,171,428</u>	<u>606</u>	<u>1,172,034</u>
8 Operating Income	<u>(\$28,241)</u>	<u>\$336,182</u>	<u>\$307,941</u>	<u>(177,006)</u>	<u>\$130,935</u>	<u>12,868</u>	<u>\$143,802</u>
9 Rate Base	<u>\$4,019,450</u>		<u>\$6,146,523</u>		<u>\$3,735,659</u>		<u>\$3,735,659</u>
10 Rate of Return	<u>-0.70%</u>		<u>5.01%</u>		<u>3.50%</u>		<u>3.85%</u>

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

Schedule No. 3-B
Docket No. 100104-WU
Page 1 of 2

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 – Pre- Repression Revenue Requirement)	696
Total	<u>(\$640,933)</u>
<u>Operation and Maintenance Expense</u>	
1 Remove a portion of test year salary increase. (Issue 18 – Salaries and Wage Expense)	(\$21,870)
2 Reflect 12.5% allocation to affiliates. (Issue 18)	(28,554)
3 Remove executive deferred compensation. (Issue 19 – Employee Pensions and Benefits)	(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 – Materials and Supplies Expense)	(8)
6 Remove water system evaluation. (Issue 21 – Engineering Services Expense)	(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 – DEP Refinancing Costs)	(2,500)
10 Stipulated Issue 24 – Contract Labor Costs	(1,250)
11 Stipulated Issue 25 – Out-of-Period Costs for Annual Report Preparation	(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 – Transportation Expense)	(2,985)
14 Remove expenses associated with president's vehicle. (Issue 27)	(633)
15 Remove Key Man Life Insurance policy. (Issue 28 – Key Man Life Insurance)	(12,015)
16 Remove prior fully amortized rate case expense. (Issue 29 – Rate Case Expense)	(24,184)
17 Reflect the appropriate rate case expense. (Issue 29)	142
18 Reflect the appropriate employee training costs. (Issue 30 – Employee Training Costs)	(1,752)
19 Remove non-utility and unsupported expenses. (Issue 31 – Miscellaneous Expenses)	(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)	(494)
Total	<u>(\$294,679)</u>

Water Management Services, Inc. Adjustment to Operating Income Test Year Ended 12/31/09		
Explanation		Water
<u>Depreciation Expense - Net</u>		
1	Remove depreciation expense on backhoe sold to BMG. (Issue 3 – Depreciation Expense)	(\$2,670)
2	Remove depreciation expense for vice president's vehicle. (Issue 4 – Transportation Equipment)	(5,069)
3	To remove net depreciation on non-U&U adjustment. (Issue 4)	2,535
4	Stipulated Issue 5 (Transfer of Rental Rights).	(2,326)
5	Record depreciation expense for reclassified plant items. (Issue 6 – Plant-in-Service Balances)	560
6	Remove pro forma depreciation expense. (Issue 9 – Pro Forma Plant Additions)	(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 – Costs Associated with Withdrawal of Certificate Application)	(10,570)
3	Amortize Gain on Sale. (Issue 35 – Gain on Sale of Land and Other Assets)	<u>(48,408)</u>
		<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)	<u>(3,857)</u>
	Total	<u>(\$38,486)</u>

Water Management Services, Inc. Water Monthly Service Rates Test Year Ended 12/31/09			Schedule No. 4 Docket No. 100104-WU		
	Rates Prior to Filing	Commission Approved Interim	Utility Requested Final	Commission Approved Final	4-year Rate Reduction
Residential, GS and Multi-Family					
Base Facility Charge by Meter Size:					
5/8" x 3/4"	\$27.50	\$30.20	\$58.42	\$27.79	\$1.27
3/4"	\$41.26	\$45.31	\$87.64	\$41.69	\$1.90
1"	\$68.78	\$75.52	\$146.10	\$69.49	\$3.17
1-1/2"	\$137.54	\$151.04	\$292.16	\$138.97	\$6.34
2"	\$220.08	\$241.67	\$467.50	\$222.36	\$10.14
3" Compound	\$412.64	\$453.12	\$876.53	\$416.92	\$19.01
3" Turbine	\$481.42	\$528.64	\$1,022.64	\$486.42	\$22.18
4" Compound	\$687.74	\$755.20	\$1,460.90	\$694.88	\$31.68
4" Turbine	\$825.28	\$906.24	\$1,753.07	\$833.84	\$38.02
6" Compound	\$1,375.46	\$1,510.40	\$2,921.76	\$1,389.73	\$63.36
6" Turbine	\$1,719.33	\$1,888.01	\$3,652.21	\$1,737.17	\$79.21
8" Compound	\$2,200.75	\$2,440.47	\$4,674.85	\$2,223.59	\$101.38
8" Turbine	\$2,475.83	\$2,718.72	\$5,259.17	\$2,501.52	\$114.06
10" Compound	\$3,163.57	\$3,473.93	\$6,720.08	\$3,196.40	\$145.74
10" Turbine	\$3,988.85	\$4,380.17	\$8,473.14	\$4,030.24	\$183.76
12" Compound	\$5,914.50	\$6,494.73	\$12,563.62	\$5,975.88	\$272.47
Residential					
Gallorage Charge					
0 - 8,000 Gallons	\$3.27	\$3.60	\$2.99	\$3.30	\$0.15
8,001 - 15,000 Gallons	\$4.08	\$4.48	\$2.99	\$4.12	\$0.19
over 15,000 Gallons	\$4.91	\$5.39	\$4.48	\$4.96	\$0.23
General Service and Multi-Family					
Gallorage Charge, per 1,000 Gallons	\$4.65	\$5.11	3.30	\$4.70	\$0.21
Typical Residential Bills 5/8" x 3/4" Meter					
3,000 Gallons	\$37.31	\$40.99	\$67.39	\$37.70	
5,000 Gallons	\$43.85	\$48.18	\$73.37	\$44.31	
10,000 Gallons	\$61.82	\$67.93	\$88.32	\$62.47	