BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of ST. GEORGE ISLAND UTILITY COMPANY, LTD. for increased rates and service availability charges for water service in Franklin County	DOCKET NO. 871177-WU ORDER NO. 23649 ISSUED: 10-22-90

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD
BETTY EASLEY
GERALD L. GUNTER
FRANK S. MESSERSMITH

ORDER APPROVING STIPULATION IN SETTLEMENT

BY THE COMMISSION:

BACKGROUND

By Order No. 21122, issued April 24, 1989, this Commission established increased rates and charges for St. George Island Utility Company, Ltd. (St. George). Also by Order No. 21122, we found that the quality of service provided by St. George was unsatisfactory, imposed a moratorium against any further connections, and required St. George to make a number of physical and recordkeeping improvements within certain time periods. Finally, by Order No. 21122, we informed St. George that, if it did not make the required improvements within the allotted time, we would order it to show cause why it should not be fined.

Late in 1989, St. George entered into a consent order with the Department of Environmental Regulation (DER). Under the terms of the consent order, St. George was to have completed a 150,000 gallon elevated storage tank no later than April 30, 1990. Also under the terms of the consent order, St. George was to apply for a construction permit for a new well no later than December 1, 1989. Finally, the consent order allowed St. George to connect up to 200 new equivalent residential connections prior to its completion of the elevated storage tank and new well. By Order No. 22321, issued December 19, 1989, we essentially adopted and ratified the terms of the consent order.

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It soon became apparent that St. George had not or would not meet the time schedule established for all of the physical improvements under Order No. 21122, even as modified by Order No. 22321. In addition, an audit performed in February of 1990 revealed that St. George had not made the recordkeeping improvements required under Order No. 21122. Accordingly, by Order No. 23038, issued June 6, 1990, we ordered St. George to show cause why it should not be fined up to $5,000 per day for each violation of Order No. 21122.

Also around this time, we received a number of letters and telephone calls which indicated that St. George was engaged in certain inconsistent and questionable practices regarding its acceptance of customers, collections of contributions-in-aid-of-construction (CIAC), and customer billing. Accordingly, by Order No. 23038, we also ordered St. George to show cause why it should not be fined up to $5,000 per day for each of these practices.

On June 26, 1990, St. George filed a timely response to Order No. 23038. In its response, St. George denied that it knowingly refused to comply with, or willfully violated any Commission statute, rule or order. St. George further demanded that these matters be set for hearing.

By Order No. 23258, issued July 27, 1990, we set this matter for hearing on an expedited basis. In addition, since we had just learned that St. George did not have title to the elevated storage tank or tank site, by Order No. 23258, we also required St. George to obtain such title. Further, we had just become privy to a notice sent by St. George to certain persons who had paid for service availability at the previously approved level of $500 ("the prepaid customers"), which notice appeared to demand additional amounts for service availability, and to condition the initiation or continuation of service upon St. George's receipt of such additional amounts. Therefore, by Order No. 23258, we also required St. George to cease any attempts to collect additional monies for service availability or to interrupt or deny requests for service from any of the prepaid customers, up to the 200 connection moratorium level, and to notify the prepaid customers that they should disregard its previous notice until the matter is resolved at hearing. Finally, we ordered St. George to stop preparing any further notices "in accordance with our orders", unless specifically directed to do so by this Commission.

PROPOSED STIPULATION IN SETTLEMENT

In August of 1990, St. George contacted the Staff of this Commission (Staff) to determine whether there was any possibility of settling this case. On August 22, 1990, St. George submitted a draft Proposed Stipulation in Settlement. After some discussion back and forth, St. George filed a final Proposed Stipulation in Settlement on September 13, 1990. The Proposed Stipulation in Settlement is appended to this Order as Attachment 1. A summary of each show cause issue, along with St. George's position thereon, follows.

1. Service Availability Escrow Accounts

Pursuant to Order No. 21122, St. George was to have placed $1,520 of each service availability charge collected into a Commission-approved escrow account. In February of this year, we performed an audit of St. George's books and records. According to that audit, a number of connections were "purchased" for the previously authorized charge of $500 and resold, by third parties, with the help of St. George, for the currently authorized charge of $2,020. These transactions were not proper. Under our rules, St. George should have refunded $500 to the original purchasers, collected $2,020 from each of the subsequent purchasers, and placed $1,520 per connection into escrow.

In its proposed stipulation in settlement, St. George agrees that, at least with regard to the third-party-brokered connections, its service availability escrow accounts were not adequately funded. However, St. George assures us that it has taken action to correct this problem, and that the escrow accounts are now properly funded with the exception of one customer account. St. George further assures us that this amount will be placed into escrow as soon as it is collected. A follow-up audit of St. George's books and records, performed in July, confirms that the service availability escrow accounts are now properly funded, with the exception of the one account mentioned above.

2. Elevated Storage Tank

Pursuant to Orders Nos. 21122 and 22321, St. George was to have completed a 150,000 gallon elevated storage tank no later than

April 30, 1990. According to Order No. 23038, as of March 31, 1990, St. George had not even begun constructing the tank.

In its proposed stipulation in settlement, St. George agrees that it did not complete the elevated storage tank on a timely basis. It now states that the tank will be completed by September 30, 1990, and that the contractor has committed to this date. St. George argues, however, that it will take an additional sixty days for testing and certification before the tank can be placed in service. It will, therefore, commit to placing the tank in service no later than November 30, 1990, absent any acts of God or other factors beyond its control.

3. Third Well

By Order No. 21122, we required St. George to submit firm plans for a third well to DER and this Commission by July 24, 1989. St. George did not submit such plans to this Commission until September 17, 1990.

In its proposed stipulation in settlement, St. George agrees that it did not file the plans on a timely basis. St. George states that it was its intent to file an application for a DER construction, including firm engineering plans, with DER and this Commission upon its receipt of a consumptive use permit from the Northwest Florida Water Management District (NFWMD). St. George did not file for a consumptive use permit until November 30, 1989. A consumptive use permit was issued by NFWMD on May 24, 1990, and that document, along with a copy of St. George's DER permit application, have now been filed with this Commission. We note that St. George has actually gone beyond what we required by Order Nos. 21122 and 22321: it has entered into agreements for the purchase of the well site and for the construction of a ground storage tank.

4. Aerator

According to Order No. 21122, St. George was also to have submitted plans to repair or replace its aerator to both DER and this Commission no later than July 23, 1989. St. George never did submit plans in accordance with that Order. Further, although it did install three additional trays for the aerator prior to

September of 1989, the aerator structure remained inadequately screened long after that time.

In its proposed stipulation in settlement, St. George admits that it did not comply with the requirements of Order No. 21122. However, St. George argues that it has doubled the size of the aerator and that it has fully rescreened the aerator enclosure. In addition, St. George states that, if hydrogen sulfide test results are not satisfactory to DER, it will commit to increase its aeration capacity by November 30, 1990.

5. Cross-connection Control Program

St. George was also to have prepared and submitted a workable cross-connection control program with DER and this Commission no later than July 23, 1989. St. George did submit a cross-connection control program to DER in May 1989, which plan has been implemented. However, St. George admits, in its proposed stipulation in settlement, that it did not submit a copy of the plan with this Commission until May 14, 1990.

6. Leak Detection and Repair Program

We also ordered St. George to submit a proposal to establish and implement a leak detection control program to DER and this Commission no later than July 23, 1989. Although it did file a proposed leak detection and control program with DER and this Commission on May 14, 1990, in its proposed stipulation in settlement, St. George admits that it did not comply with the time frame established under Order No. 21122.

7. Violation of Moratorium

By Order No. 21122, we ordered St. George to cease making any further connections to its system, unless the customer had a building permit from Franklin County on or before April 24, 1989. As noted above, we performed an audit of St. George's books and records in February of this year, which indicated that St. George had violated the moratorium by a substantial number of connections. Our follow-up audit, however, indicated that St. George actually only violated the moratorium by one connection. According to our

most recent audit, St. George accepted payment for this connection on November 27, 1989, which was prior to the issuance of Order No. 22321, by which we adopted DER's consent order and allowed 200 connections to the system. In its proposed stipulation in settlement, St. George admits that it may have violated the moratorium by one connection, but states that this connection was accepted while its offices were being transferred from St. George Island to Tallahassee, and that the file relating to this transaction was misplaced.

8. Collections of Service Availability/Base Facility Charges

According to the audit performed in February of 1990, it appeared that St. George accepted a substantial number of customers (the "prepaid customers") for the previously approved service availability charge of $500, subsequent to our oral decision to increase such charges, but prior to the effective date of its revised tariff pages. We also noted in this regard that the revised tariff pages were not filed until approximately eight weeks after our decision had been reduced to writing. Since it appeared that most of the "prepaid customers" were not actually connected to the system, we were concerned that they were signed up solely for the purpose of avoiding the increased charges or the moratorium. We questioned whether these "prepaid customers" should in fact be considered customers or whether their payments should be considered as a credit toward the currently approved charges of $2,020.

In addition to the above, our audit revealed that St. George was collecting its base facility charge from some of the "prepaid customers" but not others. We also began to receive a number of complaints about such inconsistent billing practices. The information available to us at that time appeared to indicate that St. George was using the charge as an unapproved guaranteed revenue charge, in violation of its approved tariff.

In its proposed stipulation in settlement, St. George argues that it did not violate Order No. 21122 by its acceptance of the "prepaid customers". St. George argues that it was bound by law to charge the rate in effect at the time that the "prepaid customers" signed up for service.

St. George also argues that it did not violate its tariff by collecting the base facility charge from the "prepaid customers".

Upon review, we note that St. George's tariff is vague with regard to when the base facility charge can be charged. This may have contributed to the different interpretations by St. George and Staff.

In its proposed stipulation in settlement, St. George proposes to adopt and implement the following policies in order to settle these matters:

> Any person who paid a service availability charge of $500 will be sent a notice requesting that they make an election, either reaffirming that they wish to be considered a current customer of the utility or that they do not wish to be a current customer of the utility.
>
> Those persons who elect to be current customers, and so indicate by executing and returning a water service agreement to the utility, will be considered to have paid the correct service availability charge, regardless of whether or not they have actually connected to the system. These customers will be required to pay the monthly base facility charge, effective May 1, 1989. [This is not an industry-wide policy, but is specific to St. George only.]
>
> The utility will review its billing and collection records for the period from May 1, 1989 to the current date for each of the customers making this election and determine the amount of additional base facility charges, if any, which may be due the utility. These prior charges will be billed at the rate of one base facility charge per month until such time as all amounts due have been billed. These customers will also be billed for current base facility charges and water usage, if any.
>
> Any person making this election, who has not connected to the system, and who allows more than 6 months of base facility charges to accrue without paying such charges will be deemed by the Utility to have revoked his election to be considered a current customer. Any payments which that person has made to the Utility for either service availability fees or base facility charges will be held for his account and will be applied against the then current service availability fees under the

Utility's tariff when this individual makes application to the Utility for service.

Those persons who do not return an executed water service agreement within 60 days will be sent a second request by certified mail. If within 30 days from that date there is no response or if a person notifies the Utility that they do not wish to become a customer, they will not be billed the monthly base facility charge. The Utility will review its billing and collection records to determine the base facility charges actually paid by these persons and these charges will be added to the service availability fees paid by these persons which will be held by the utility for their respective accounts. When application is made by these persons, the amounts so held will be applied against the then current service availability fee under the Utility's tariff.

No special status will be accorded the persons electing not to be current customers with respect to any future priority to obtain water service. Accordingly, these persons would not be included in any count of customers in determining available capacity of the utility.

Prospectively, the utility will implement a new policy under which it will not accept prepaid connection fees. Under this policy a person may become a customer when he executes a water service agreement, provides the utility with evidence, such as a building permit, that a structure is or will be present at the service location, and pays the current service availability charge. All such customers will then be billed monthly for the base facility charge and water usage, if any. Developer agreements under which the utility agrees to provide future service to a development or sub-division will be excluded from this policy. [St. George has agreed orally that "structure" shall be taken to mean any device capable of delivering water, such as a faucet on the property. We believe that this clarification is necessary in order that nobody is prohibited from receiving service if they wish water supplied to their property.]

The utility will provide the staff of the Commission a

draft of its letter of notification for their information and comment prior to mailing any such notices to customers.

9. Improper CIAC Records

In our February, 1990 audit, we found that St. George did not account for CIAC collections in accordance with Rule 25-30.115, Florida Administrative Code. In its proposed stipulation in settlement, St. George admits that it has maintained poor CIAC records, however, it states that it has brought its records into compliance at this time. This statement is borne out by our July, 1990 audit.

10. Improper Plant Records

In addition to CIAC records, our February audit revealed that St. George did not keep its plant records in accordance with Rule 25-30.115, Florida Administrative Code. As with the above, St. George agrees that it kept poor records, but maintains that this problem has now been resolved. This statement is also borne out by our most recent audit.

11. Improper Customer Billing Records

Our February audit also revealed that St. George did not keep its customer billing records in accordance with Rule 25-30.115, Florida Administrative Code. In its proposed stipulation in settlement, St. George admits that it has kept poor customer billing records, but argues that it has now conformed to our requirements. Although our July audit did find five customers who had paid for service availability but were not on the billing records, the audit report indicates that these errors have been corrected.

12. Initiation of Service Without Proper Agreements

Our February audit also found that a number of customer files did not contain executed water service agreements, in violation of St. George's approved tariff. In its proposed stipulation in

settlement, St. George contends that it has undertaken to obtain such agreements from those customers. St. George also argues that it has changed its procedures to ensure that a water service agreement is executed for all new customers in the future. We note that our July audit revealed no further problems in this regard.

13. Third Escrow Account

We added this issue by Order No. 23258 due to certain questions regarding the source, nature, and purpose of the funds in St. George's third service availability escrow account. During our most recent audit, St. George has provided us with information regarding the source, nature, and purpose of all of its escrow accounts. We have prepared a reconciliation and are satisfied that this matter is no longer at issue.

SETTLEMENT PROPOSAL

As detailed above, St. George admits, for the purpose of this settlement proposal, that it has not complied with the statutes, rules, and orders of this Commission. Accordingly, in order to avoid a lengthy and costly hearing, St. George proposes the following:

1. The Utility will adopt and implement the policies set forth in paragraph 8 [of its Proposed Stipulation in Settlement, also numbered paragraph 8] above with respect to charges for water availability and base facilities charges;

2. The Utility will continue to maintain its records in accordance with the NARUC Uniform System of Accounts.

3. The Utility will continue to abide by the rules, regulations and orders of the Commission.

4. The Utility will be fined $50,000 for failure to timely complete and place into service the elevated storage tank and for all other violations referred to above. The Utility agrees to pay $5,000 of this fine within 60 days after acceptance by the

> Commission of this stipulation in settlement. The balance of the fine will be suspended if the elevated storage tank is completed and placed in service by December 1, 1990; provided, that this deadline will be extended if the failure to complete the tank is due to Acts of God, failure to secure timely governmental approvals through no fault of the Utility, or other factors beyond reasonable control of the Utility. The balance of the fine, if payable, will be due within 60 days of December 1, 1990. When the elevated storage tank is placed in service, the escrow requirements of Order No. 21122 shall be terminated.

Upon review, we believe that the Proposed Stipulation in Settlement is a reasonable resolution of Orders Nos. 23038 and 23258. Generally, the purpose of a show cause proceeding is to gain compliance with the statutes, rules and orders of this Commission. We believe that the show cause proceeding initiated against St. George has served that very purpose. St. George is now or will be by a date certain in compliance with the requirements of Order No. 21122. Accordingly, we hereby approve the Proposed Stipulation in Settlement attached hereto in settlement of the show cause issues raised in Orders Nos. 23038 and 23258.

Based upon the discussion above, it is

ORDERED by the Florida Public Service Commission that the Proposed Stipulation in Settlement filed on September 13, 1990, which is appended to this Order as Attachment 1 and which is, by reference, incorporated herein, is hereby approved. It is further

ORDERED that St. George Island Utility Company, Ltd. shall complete and have in service by December 1, 1990, the elevated storage tank required under Orders Nos. 21122 and 22321. It is further

ORDERED that St. George Island Utility Company, Ltd. is hereby fined $50,000 for its various violations of Order No. 21122, $45,000 of which will be suspended if the elevated storage tank is completed and placed in service on or before December 1, 1990. It is further

ORDERED that St. George Island Utility Company, Ltd. shall remit the remaining $5,000 of the penalty to this Commission within sixty (60) days of the date of this Order. It is further

ORDERED that St. George Island Utility Company, Ltd. shall continue to maintain its books and records in accordance with the requirements of Rule 25-30.115, Florida Administrative Code. It is further

ORDERED that St. George Island Utility Company, Ltd. shall adopt and implement the policies and procedures outlined in numbered paragraph 8 of its Proposed Stipulation in Settlement. Any notices shall be approved by Staff prior to their distribution.

By ORDER of the Florida Public Service Commission, this 22nd day of OCTOBER, 1990.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

RJP

by: Kay Flynn
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting 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 or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting 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.

ST. GEORGE ISLAND UTILITY COMPANY, LTD.
PROPOSED STIPULATION IN SETTLEMENT
ORDER TO SHOW CAUSE

ORDER NO. 23038
ORDER NO. 23258

Submitted September 13, 1990

On June 6, 1990, the Florida Public Service Commission issued Order No. 23038 in which St. George Island Utility Company, Ltd. was ordered to show cause why it should not be fined $5,000 per day for failure to comply with certain previously issued Orders of the Commission. The utility timely filed its response to Order No. 23038 and requested that the entire matter be set for public hearing. On July 27, 1990, the Commission issued Order No. 23258 which set the matters in Order No. 23038 for hearing and added several additional issues to be addressed at the hearing.

In an effort to avoid the time and expense required by a public hearing, the utility submits this proposed stipulation in settlement of all issues now pending under Order No. 23038 and Order No. 23258. In submitting this proposed stipulation the utility wishes to draw the Commission's attention to the fact that the purpose of the show cause order was to bring about compliance by the utility with all orders, statutes, and rules of the Commission. The following paragraphs are responsive to each of the ordered matters, stating the utility's position with respect to the alledged failure to comply and the current status of the matter.

With respect to Order No. 23038 the issues are:

1. Failure to Properly fund the service availability escrow account in violation of Order No. 21122.

The utility agrees that, based on its current understanding of Public Service Commission Rules with respect to sales of connections by third parties, (for which appropriate corrective action has now been taken, see below), the service availability escrow account had not been properly funded. The utility has thoroughly reviewed its records of new customers accepted by the utility since April 4, 1989 and made appropriate corrections not only to its service availability escrow accounts, but to its CIAC account as well.

The utility was audited by the Public Service Commission audit staff for the period January 1, 1990 to July 25, 1990 and the audit concluded that the escrow accounts were properly funded. The utility has further reviewed its service availability escrow accounts with the staff of the Commission. With the exception of account 968, 27 Plantation Beach, for which the utility agrees to fund the service availability escrow when CIAC is

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collected from the customer, both the utility and the staff are in agreement that the service availability escrow accounts have been properly funded.

2. Failure to construct the elevated storage tank in a timely fashion.

The utility agrees that the elevated storage tank has not been completed on a timely basis. The tank has been under construction since April, 1990 and the contractor originally committed to its completion by September 6, 1990. Notwithstanding that commitment, it does not appear that construction will be completed by that time. A more realistic date now appears to be September 30, 1990, and the contractor has committed to that revised date. We will require an additional 60 days for acceptance testing and certification of the tank before it can be placed in service. We will therefore commit to placing the tank in service not later than November 30, 1990.

3. Failure to submit plans for a new well.

The utility filed application for a consumptive use permit for a third well site with the Northwest Florida Water Management District on November 30, 1989. The utility agrees that it did not file plans for a third well site with the Commission by November 30, 1990 as directed by Order No. 23238. It was the utility's intention to file a permit application, including engineering plans and other engineering documentation with the Department of Environmental Regulation upon receipt of the consumptive use permit from the Northwest Florida Water Management District. The consumptive use permit was issued on May 24, 1990, and the well permit application was filed with DER on August 10, 1990. Copies of both documents have been filed with the Commission.

In addition, the utility has entered into an agreement for the purchase of the well site, the construction of the well and the installation of a ground storage tank, high service pump and interconnection of all wells to the ground storage tank. The utility believes that it has gone well beyond any requirement of this order and any failure to comply with the Order was the result of the unintentional misinterpretation by the utility of the Commission's wishes.

4. Failure to repair or replace aerator

The utility has doubled the size of the aerator and fully rebuilt the screened aerator enclosure. The utility agrees, however, that all repairs required by the Commission were not completed within the timeframe established by the Commission.

To the best knowledge of the utility, no tests have ever been

conducted on untreated and treated water to ascertain the extent to which hyrogen sulfide is removed by aeration and if the hydrogen sulfide level in treated water is acceptable. The utility has undertaken to have such tests performed. If the test results are not satisfactory to the Department of Environmental Regulation, the utility will commit to increasing its aeration capacity to the point where the hydrogen sulfide level in treated water is acceptable. The utility will commit to complete such increased treatment capacity by November 30, 1990.

5. Failure to submit a proposal to establish and implement a workable cross-connection control program.

The utility prepared and submitted to the Department of Environmental Regulation in May 1989, a cross-connection control program. The utility agrees that a copy of this program was not filed with the Public Service Commission until May 14, 1990. On that date the cross-connection control program, together with a system cross-connection audit and copies of letters sent to all customers of the utility found to be a potential hazard, was filed with the PSC. The plan has been implemented.

6. Failure to submit a proposal to establish and implement a workable leak detection control program.

The utility admits that it did not comply with the requirement to establish and implement a leak detection control program within 90 days of the issuance of Order 21122. On May 14, 1990, the utility did file with both DER and the PSC a water audit and leak detection program. In addition, the utility has availed itself of the services and equipment of the Florida Rural Water Association in implementing its leak detection program.

7. Disregard of moratorium.

After extensive reviews of the utility's records by the accounting staff of the utility, the staff of the PSC and auditors of the PSC, it appears that one connection may have violated the moratorium. This is for Ball Engineering, account 1030 at service location Lot 1, Tract 24E. Payment for this location was received on November 27, 1989. This was after the utility had entered into the consent order with DER which modified its moratorium by allowing up to 200 additional connections, but prior to the issuance of Order No. 22321 issued by the Commission on December 1989, which adopted and approved the DER consent order.

This customer was accepted by the utility's general manager at a time when the administrative offices and accounting records were being transferred from ST. George Island to Tallahassee and the file relating to this transaction was misplaced. It was not discovered until three or four months later when the utility was

updating and reconciling its CIAC records.

8. Violation of intent of Order No. 21122 by collecting the previously approved service availability charge of $500, rather than the currently approved fee of $2020.

The utility did not violate Order No. 21122. Upon advice of counsel it charged new customers the $500 service availability fee until the new rates were effective, after which all new customers were charged the new service availability charge of $2020.

The controversy surrounding this issue raises several very important issues of policy relating not only to the amount of service availability fee a customer should pay but also when, under the utility's tariff, a customer should be obligated to pay a monthly base facility charge.

In order to address and settle these issues, the utility proposes the following.

Any person who paid a service availability charge of $500 will be sent a notice requesting that they make an election, either reaffirming that they wish to be considered a current customer of the utility or that they do not wish to be a current customer of the utility.

Those persons who elect to be current customers, and so indicate by executing and returning a water service agreement to the utility, will be considered to have paid the correct service availability charge, regardless of whether or not they have actually connected to the system. These customers will be required to pay the monthly base facilities charge, effective May 1, 1989.

The utility will review its billing and collection records for the period from May 1, 1989 to the current date for each of the customers making this election and determine the amount of additional base facility charges, if any, which may be due the utility. These prior charges will be billed at the rate of one base facility charge per month until such time as all amounts due have been billed. These customers will also be billed for current base facility charges and water usage, if any.

Any person making this election, who has not connected to the system, and who allows more than 6 months of base facilities charges to accrue without paying such charges will be deemed by the utility to have revoked his election to be considered a current customer. Any payments which that person has made to the utility for either service availability fees or base facility charges will be held for his account and will be applied against the then current service availability fees under the utility's tariff when this individual makes application to the utility for service.

Those persons who do not return an executed water service

agreement within 60 days will be sent a second request by certified mail. If within 30 days from that date there is no response or if a person notifies the utility that that they do not wish to become a customer they will not be billed the monthly base facilities charge. The utility will review its billing and collection records to determine the base facilities charges actually paid by these persons and these charges will be added to the service availability fees paid by these persons which will be held by the utility for their respective accounts. When application is made by these persons, the amounts so held will be applied against the then currect service availability fee under the utility's tariff.

No special status would be accorded the persons electing not to be current customers with respect to any future priority to obtain water service. Accordingly, these persons would not be included in any count of customers in determining available capacity of the utility.

Prospectively, the utility will implement a new policy under which it will not accept prepaid connection fees. Under this policy a person may become a customer when he executes a water service agreement, provides the utility with evidence, such as a building permit, that a structure is or will be present at the service location, and pays the current service available charge. All such customers will then be billed monthly for the base facility charge and water usage, if any. Developer agreements under which the utility agrees to provide future service to a development or sub-division will be excluded from this policy.

The utility will provide the staff of the Commission a draft of its letter of notification for their information and comment prior to mailing any such notices to customers.

9. Failure to keep CIAC records in accordance with the NARUC Uniform System of Accounts

The utility has maintained CIAC records, which by the utility's admission were poorly organized and difficult to use. This issue was first raised by the Commission auditor in February, 1990 and since that time, the utility has revised its record keeping proceedures in a number of areas including the maintenance of CIAC records. In its most recent audit, the Commission auditor found this issue to have been resolved.

10. Failure to keep proper plant records as required by the NARUC Uniform System of Accounts

This is another recordkeeping area which was commented upon in the audit of February, 1990. The utility has revised its record keeping procedures with respect to plant accounts and the matter was found to have been resolved in the most recent audit.

11. Failure to maintain customer billing records in accordance

with the NARUC Uniform System of Accounts

All matters raised by the February, 1990 Commission audit have been corrected and the most recent audit found no recurrance of matters raised with respect to the proper maintenance of customer billing records.

12. Inappropriately charging its base facility charge as a guaranteed revenue charge

The utility believed, on advise of counsel, that billing the base facility charge to customers who had paid the service availability fee but who had not connected to the system was appropriate and proper under its tariff. The practice became an issue when several customers complained to the Commission staff about being billed the base facility charge when they did not have a meter. As a consequence of these complaints, and the failure to give uniform responses, some customers continued to be billed while others were not.

The proposal set forth in response to item 3 above will provide for the establishment of billing policy with respect to base facility charges and for bringing billings of the past into conformity with this policy.

13. Refund all base facility charges collected as guaranteed revenues.

This issue has been addressed in numbers 8 and 12 above.

14. Failure to properly use water service agreements to initiate water service in the manner required by its tariff

In the audit conducted by the Commission in February, 1990, it was found that a number of customer files were incomplete in that they did not contain executed water service agreements. The utility has undertaken to obtain such agreements from customers where they are not present its files. The utility has also changed its proceedures to ensure that all persons wishing service execute a water service agreement before such service is initiated. The most recent audit by the Commission found that the files of customers opening accounts since the previous audit were complete.

With respect to Order No. 23258 the issues are:

1. The source, nature and purpose of the funds on deposit in the third escrow account

The utility has provided the Commission auditor and staff with full details of the source, nature and purpose of all of its escrow accounts. The balances of each account have been reconciled to the balances required to be in the escrow accounts

under Order No. 21122. The Commission staff and the utility are in agreement that the reconciliation is correct.

2. Stop any further attempts to collect any additional monies for service availability from persons who have prepaid such charges

The utility has ceased any efforts to collect such funds and will abide by the ruling of the Commission in resolution of this matter.

3. Prepare a notice to inform those who have prepaid CIAC at the previously approved $500 rate to ignore the previous notice

The required notice was mailed to customers on August 23, 1990 after its contents had been approved by the Commission staff.

4. Cease and desist from preparing any further notices "in accordance with our orders"

The utility has modified its form letter that it had been using to request customers who had not executed water service agreements to execute and return such agreements, by removing the language in question. The utility will refrain from using such language in the future unless directed to do so by the Commission.

5. Shall not interrupt service to or deny requests for service from any persons who had prepaid their service availability charge at the previously approved rate of $500

Pending resolution of the issues which are the subject of Orders 23038 and 23253 as they relate to service availability charges, the utility agrees to provide service to all such prepaid customers providing there is a structure or the customer has a building permit for a structure. A structure includes any improvement with an actual provision for receiving water service such as a stand alone water faucet. The utility does not wish to place meters at vacant lots with no provision for water service.

6. Excercise the option on the elevated storage tank and tank site

The utility has filed the option exercise document with the Commission.

The utility believes that, with the exception of the elevated storage tank, and subject to the adoption by the Commission of its proposals with respect to service availability charges and

base facility charges, it is now in compliance with all Commission Orders, rules and regulations and statutes. The utility agrees that it misinterpreted or misunderstood one or more orders and that it did not achieve timely compliance on several of the ordered matters. The utility also agrees that poor record keeping practices in the past resulted in errors in its records.

To avoid the costly and time consuming process of a public hearing to decide these matters and because the utility believes that the true purpose of the show cause orders has been served by bringing about compliance with the Commission statutes, rules and orders, the utility will agree to the following stipulation in full and complete settlement of all issues raised by Orders 23038 and 23258.

1. The utility will adopt and implement the policies set forth availability and base facilities charges.

2. The utility will continue to maintain its records in accordance with the NARUC Uniform System of Accounts.

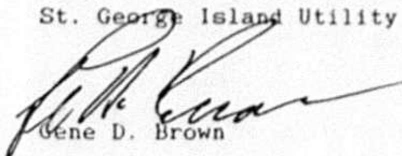
3. The utility will continue to abide by the rules, regulations and orders of the Commission.

4. The utility will be fined $50,000 for failure to timely complete and place in service the elevated storage tank and for all other violations referred to above. The utility the utility agrees to pay $5,000 of this fine within 60 days after acceptance by the Commission of this stipulation in settlement. The balance of the fine will be suspended if the elevated storage tank is completed and placed in service by December 1, 1990; provided, however, that this deadline will be extended if the failure to complete the tank is due to Acts of God, failure to secure timely governmental approvals through no fault of the utility, or other factors beyond the reasonable control of the utility. The balance of the fine, if payable, will be due within 60 days of December 1, 1990. When the elevated storage tank is placed in service, the escrow requirement of Order No. 21122 shall be terminated.

This settlement is a proposal only. If it is not accepted in full by the Commission, the utility will not be bound by any of the terms hereof, and no part of this document will be offered as evidence or otherwise used as an admission against the utility in any subsequent hearing in this matter.

Respectfully submitted,

St. George Island Utility Company, Ltd. by:



Gene D. Brown