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PREFILED TESTIMONY OF FRANCES J. LINGO, PSC BUREAU OF SPECIAL ASSISTANCE

DIVISION OF WATER AND WASTEWATER

FILED ON BEHALF OF

THE STAFF OF THE FLORIDA PUBLIC SERVICE COMMISSION

SHADY OAKS MOBILE-MODULAR ESTATES, INC.

DOCKET NO. 900025-WS

FILED: OCTOBER 12, 1992

DOCUMENT NUMBER-DATE
11990 OCT 12 1992
FPSC-RECORDS/REPORTING

1 DIRECT TESTIMONY OF FRANCES J. LINGO

2 Q. Would you please state your name and business address?

3 A. Frances J. Lingo, 101 East Gaines Street, Tallahassee, Florida 32399-
4 0850.

5 Q. By whom are you employed, and in what capacity?

6 A. I am employed by the Florida Public Service Commission as a Regulatory
7 Analyst IV.

8 Q. How long have you been employed by the Florida Public Service Commission?

9 A. I have been employed by the Commission since June 12, 1989.

10 Q. Would you please state your educational background and experience?

11 A. I received a Bachelor of Science Degree with a major in Accounting and a
12 Bachelor of Science Degree with a major in Economics, both from The Florida
13 State University, in August 1983.

14 From October 1983 to May 1989, I was employed by Ben Johnson Associates,
15 Inc. (BJA), an economic and analytic consulting firm specializing in the area
16 of public utility regulation. During my employment at BJA, I performed
17 research and analysis in more than 75 utility rate proceedings, assisting with
18 the coordination and preparation of exhibits. I also assisted with the
19 preparation of testimony, discovery and cross-examination regarding rate
20 design issues.

21 In particular, I prepared embedded cost-of-service studies, made typical
22 bill comparisons and examined local service rate and cost relationships. I
23 studied residential and general service rates, customer charges, management
24 decision-making processes, slippage in the engineering and construction of

25

1 | nuclear power plants, nuclear versus coal plant costs and seasonal load and
2 | usage patterns.

3 | In June 1989, I joined the Commission as a Regulatory Analyst II. In June
4 | 1990, I was promoted to Regulatory Analyst III, and in October 1991, I was
5 | promoted to my current position of Regulatory Analyst IV.

6 | Q. Would you describe your experience and duties at the Commission?

7 | A. Yes. My experience at the Commission includes but is not limited to:

8 | (a) reviewing and evaluating staff-assisted rate case filings, including
9 | auditing utilities' books and records, developing rate base, rate of
10 | return and revenue requirements, and preparing and presenting
11 | recommendations in cases in which I am involved;

12 | (b) reviewing and evaluating price index and pass-through rate
13 | adjustment applications;

14 | (c) desk audits of annual reports and determining the respective
15 | utility's rate of return;

16 | (d) overearning investigations; and

17 | (d) research and other related duties on accounting and financial
18 | matters relating to water and wastewater utilities subject to the
19 | jurisdiction of the Commission.

20 | In addition, I have attended the Eastern Utility Rate Seminar, a
21 | comprehensive seminar on utility ratemaking, including topics on rate base,
22 | income statement considerations, problems of small water utilities, return on
23 | investment and rate design. I have also received in-house training regarding
24 | utility regulation, rate base, rate of return, revenue requirements and rate
25 | design issues.

1 Q. What is the purpose of your testimony in this proceeding?

2 A. I will present testimony regarding Shady Oaks Mobile-Modular Estates,
3 Inc.'s compliance with Commission Orders Nos. 24084 and 25296. My testimony
4 will focus on whether the utility has complied with Commission orders to:

5 (a) request a name change and restructure;

6 (b) spend at least \$1,445 per month for preventative maintenance; and

7 (c) maintain its escrow account at the appropriate balance.

8 Q. Have you prepared exhibits which support Staff's position in this case?

9 A. Yes. Attached as Exhibit FJL-1 is Staff's recommendation prepared for the
10 April 21, 1992 Agenda Conference. As a matter of convenience, Commission
11 Orders Nos. 24084, 25296 and PSC-92-0367-FOF-WS are attached as Exhibits FJL-
12 2, FJL-3 and FJL-4, respectively. Exhibit FJL-5 is correspondence from the
13 Division of Water and Wastewater to Mr. Richard D. Sims, the owner of Shady
14 Oaks. Exhibit FJL-6 contains copies of recent correspondence received by
15 Staff from the utility. Exhibit FJL-7 is an analysis of the utility's
16 preventative maintenance expenditures, and Exhibit FJL-8 is an analysis of the
17 deficiency in the utility's escrow account.

18 Q. By Orders Nos. 24084 and 25296, did the Commission order Shady Oaks
19 Mobile-Modular Estates, Inc. to submit a request for acknowledgement of a name
20 change and restructure?

21 A. Yes, it did.

22 Q. Would you please summarize the events associated with the orders in this
23 regard?

24 A. Yes. As discussed in detail on pages four through six of Exhibit FJL-1,
25 in August 1990, Mr. Sims transferred the title of the utility land from Shady

1 | Oaks Mobile-Modular Estates, Inc. to Richard D. and Caroline Sue Sims.
2 | However, this transfer was not approved by the Commission. Therefore, in
3 | Order No. 24084, issued February 8, 1991, the Commission ordered Shady Oaks
4 | to file within 60 days a request for acknowledgement of a name change and
5 | restructure.

6 | By Order No. 25296, issued November 4, 1991, the Commission allowed the
7 | utility additional time to complete the name change and restructure
8 | requirements. Specifically, the utility was ordered to submit within 60 days
9 | all necessary information for changing its certificated name, including
10 | evidence that the title to all the utility land and personal property has been
11 | properly transferred to S & D Utility, or revert to operating under its
12 | currently certificated name of Shady Oaks Mobile-Modular Estates, Inc.

13 | Q. In addition to the Commission orders requiring that the utility submit a
14 | request for acknowledgement of a name change and restructure, has staff made
15 | other attempts to obtain the information from the utility?

16 | A. Yes. By letter dated January 22, 1992, Staff restated to Mr. Sims what
17 | information was necessary to complete the name change. This letter is
18 | included in Exhibit FJL-1. In addition, by letter dated July 21, 1992, Staff
19 | again notified Mr. Sims regarding the appropriate filing requirements. This
20 | letter is attached as Exhibit FJL-5.

21 | Q. Have you reviewed all the documents filed by the utility in this
22 | proceeding?

23 | A. Yes, I have.

24 | Q. Based on your review of these documents, has the utility filed the
25 | required documents for the name change and restructure?

1 | A. No, the utility has not filed the documents for a name change and
2 | restructure.

3 | Q. Although the utility has failed to file the required documents for the
4 | name change and restructure, has the utility complied with the Commission's
5 | order to revert to operating under its certificated name of Shady Oaks Mobile-
6 | Modular Estates, Inc.?

7 | A. No. The utility continues to operate as S & D Utility. Attached as
8 | Exhibit FJL-6 are copies of recent correspondence received by Staff from the
9 | utility. The letterhead on all correspondence indicates the utility is
10 | operating as S & D Utility.

11 | Q. Therefore, based on your review of the documents filed in this proceeding,
12 | has the utility complied with Orders Nos. 24084 and 25296 with respect to the
13 | name change and restructure requirements?

14 | A. No, it has not.

15 | Q. By Orders Nos. 24084 and 25296, Did the Commission order Shady Oaks
16 | Mobile-Modular Estates, Inc. to spend funds on preventative maintenance?

17 | A. Yes, it did.

18 | Q. Would you please summarize the events associated with the orders in this
19 | regard?

20 | A. Yes. As discussed on pages seven through eight of Exhibit FJL-1, the
21 | rates approved in Order No. 24084 include a monthly allowance of \$1,700 for
22 | preventative maintenance. Order No. 24084 further states that if at six
23 | months from the effective date of the order the utility has not expended at
24 | least 85% of the amount allowed (at least \$1,445 per month), the utility shall
25 | submit a written schedule to show what monthly maintenance will be adopted

1 | along with a statement of the reason such funds were not expended and a
2 | detailed statement of its future plans to maintain the system.

3 | The utility did not spend the required maintenance allowance during the
4 | months of March through August 1991. However, in Order No. 25296, issued
5 | November 4, 1991, the Commission found that the utility's failure to spend the
6 | maintenance allowance was likely due to decreased revenues collected during
7 | the period. Therefore, the utility was ordered to comply with the
8 | requirements of Order No. 24084 on a prospective basis. The Commission was
9 | to review the issue in five months' time.

10 | Q. Have you performed an analysis of the utility's preventative maintenance
11 | expenditures?

12 | A. Yes. I have analyzed the utility's expenditures for the months of
13 | September 1991 through February 1992.

14 | Q. What are the results of your analysis of these expenditures?

15 | A. As shown on Exhibit FJL-7, my analysis indicates that during the six
16 | months under review, the utility's total expenditures on preventative
17 | maintenance were approximately \$3,300. However, over a six month period, the
18 | utility would be expected to spend at least \$8,670. This figure is based on
19 | the requirement that the utility spend at least 85% of the \$1,700 allowance
20 | for each of the six months. Therefore, the utility's actual expenditures
21 | represent less than 40% of what the utility was ordered to spend.

22 | Q. Although the utility did not spend the allowance for preventative
23 | maintenance, has the utility submitted to staff the required statement of the
24 | reasons the funds were not expended and a detailed statement of its future
25 | plans to maintain the system?

1 A. No. The utility has not submitted either of these statements to Staff.
2 Q. Therefore, based on your review of the utility's expenditures and the
3 documents filed in this proceeding, has the utility complied with Order No.
4 25296 regarding the preventative maintenance requirement?
5 A. No, it has not.
6 Q. By Orders Nos. 24084 and 25296, Did the Commission order Shady Oaks
7 Mobile-Modular Estates, Inc. to escrow a portion of its rate increase?
8 A. Yes, it did.
9 Q. Would you please summarize the events associated with the orders in this
10 regard?
11 A. Yes. As discussed on pages ten through eleven of Exhibit FJL-1, the
12 utility received a rate increase effective March 2, 1991, as a result of its
13 staff-assisted rate case. By Order No. 24084, the utility was required to
14 place in escrow the portion of the rate increase related to proforma plant and
15 a \$2,000 penalty related to unsatisfactory quality of service. Specifically,
16 the utility was ordered to escrow a total of \$0.32 of the water gallonage
17 charge, or \$1.89 of the water flat rate, and a total of \$1.80 of the
18 wastewater gallonage charge, or \$10.80 of the wastewater flat rate be escrowed
19 to accumulate the proper sums as required.
20 As discussed in Order No. 25296, the utility did not comply with Order No.
21 24084 regarding the escrow requirements, in large part due to the failure of
22 many of the utility's customers to pay their water and wastewater bills. As
23 a result, the utility unilaterally decided to discontinue placing money in
24 escrow in order for it to pay its bills. As further discussed in Order No.
25 25296, the utility was admonished for ceasing to escrow without the

1 Commission's approval. The utility was ordered to immediately correct the
2 deficiency in the account, and to continue placing the appropriate portion of
3 revenues in the escrow account.

4 Q. Have you performed an analysis of the utility's escrow account balance?

5 A. Yes. Attached as Exhibit FJL-8 is my analysis of the utility's escrow
6 account balance.

7 Q. Please explain Exhibit FJL-8.

8 A. I have reviewed the utility's billing and collection records. Based on
9 the revenues collected each month, I calculated the appropriate amount of
10 revenues that should have been placed into the escrow account each month.
11 These amounts were then compared to the amounts actually escrowed by the
12 utility.

13 Q. What are your findings based on this analysis?

14 A. As shown on Exhibit FJL-8, as of November 30, 1991, the utility had placed
15 \$1,201 into escrow, or approximately \$3,417 less than the appropriate escrow
16 amount of \$4,618. This violates the Commission's order to immediately place
17 into the escrow account the funds necessary to bring the account up to the
18 appropriate balance. As also shown on Exhibit FJL-8, at September 30, 1992,
19 the utility should have placed a total of approximately \$22,609 into the
20 escrow account. However, the utility has placed only \$9,251 into the account,
21 or 59% less than the appropriate amount.

22 Q. Therefore, based on your analysis of the balance in the utility's escrow
23 account, has the utility complied with Orders Nos. 24084 and 25296 regarding
24 the escrow requirement?

25 A. No, it has not.

1 | Q. Does this conclude your testimony?

2 | A. Yes, it does.

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SWAFFORD

R. VANDIVER

DLS
WR
[Signature]

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

MEMORANDUM

April 9, 1992

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF WATER AND WASTEWATER (LINGO, RIEGER) *[Handwritten initials]*
DIVISION OF RESEARCH AND REGULATORY REVIEW (D. VANDIVER) *[Handwritten initials]*
DIVISION OF LEGAL SERVICES (FEIL) *[Handwritten initials]*

RE : UTILITY: SHADY OAKS MOBILE-MODULAR ESTATES, INC.

DOCKET NO. 900025-WS
COUNTY: PASCO
CASE: STAFF-ASSISTED RATE CASE

AGENDA: APRIL 21, 1992 - CONTROVERSIAL - PROPOSED AGENCY ACTION
FOR ISSUES 4 AND 5 - PARTIES MAY PARTICIPATE ON ISSUES 1,
4 AND 5

PANEL: FULL COMMISSION

CRITICAL DATES: NONE

TABLE OF CONTENTS

<u>ISSUE NO.</u>	<u>DESCRIPTION</u>	<u>PAGE NO.</u>
---	Case Background	2
1	Show Cause for Noncompliance	4
2	Levy of \$2,000 Fine	12
3	Collection of Fine	14
4	Change in Rate Structure	15
5	Customer Credits	18
6	Close Docket	19

<u>ATTACHMENT</u>	<u>DESCRIPTION</u>
A	Staff's Letter to Sims (01/22/92)
B	Sims' Response to Staff's Letter (02/16/92)
C	Sample of Utility's Bill to its Customers
D	Shady Oaks Owners Association Letter to D. Vandiver re: Quality of Service (03/25/92)
E	Copy of a Customer Complaint Taken by Division of Consumer Affairs (01/14/92)
F	Shady Oaks Owners Association Letter to Commission re: Water Outage (03/25/92)
G	Copy of a Customer Complaint Taken by Division of Consumer Affairs (02/24/92)

DOCKET NO. 900025-WS
APRIL 9, 1991

CASE BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) is a Class C water and wastewater utility located in Pasco County. It is a 242 lot mobile-modular home park developed in 1971. Its service area is approximately 1 1/2 miles south of the City of Zephyrhills.

On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. On February 8, 1991, the Commission issued PAA Order No. 24084, which approved a rate increase and required the utility to file or perform the following items:

- 1) File a request for acknowledgement of a restructure and a name change.
- 2) Bring the quality of service to a satisfactory level.
- 3) Spend at least 85% of the allowance for preventative maintenance, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance.
- 4) Install meters for all its customers.
- 5) Escrow a certain portion of the monthly rates.

In March 1991, the owners of the utility, Mr. and Mrs. Richard D. Sims, filed bankruptcy under Chapter 13 with the United States Bankruptcy Court for the Middle District of Florida - Tampa Division. On June 24, 1991, in response to a suit filed by the homeowners, Judge Lynn Tepper with the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida granted an emergency temporary injunction enjoining and restraining the utility from charging or attempting to collect the new utility rates.

On July 5, 1991, Judge Wayne L. Cobb with the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida issued an Order to Show Cause why Shady Oaks should not be punished for contempt of Court for willfully and deliberately violating a 1983 order of the Court. The July 5, 1991 order further enjoined the utility from collecting the utility rates established by this Commission and ordered that the \$25.00 per month service maintenance fee be tendered to the Clerk of the Circuit Court. In August, both injunctions were lifted and the utility was able to begin collecting revenues. However, the homeowners' lawsuit is still pending.

On July 8, 1991, in a case entitled State of Florida Department of Environmental Regulation v. Shady Oaks Mobile-Modular Estates, Inc., Judge Tepper signed a stipulation reached between

the parties, whereby the utility agreed to remove its sewage treatment plant and divert all flows to Pasco County's sewage collection system within six months.

On November 4, 1991, the Commission issued Order No. 25296 which determined the utility's noncompliance with Order No. 24084. Order No. 25296 reiterated Order No. 24084 by requiring the utility to:

- 1) Submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name.
- 2) Immediately place in the escrow account all funds necessary to bring said account to its proper balance.
- 3) Install water meters for all its customers.
- 4) Improve the quality of service and interconnect with the Pasco County wastewater treatment system.

At this time, Staff believes the utility remains in substantial noncompliance with Orders Nos. 25296 and 24084. Therefore, Staff performed a review of the utility's revenues and expenses from March 1991 to February 1992. As a result, this recommendation discusses the items of noncompliance, as well as other matters that require the Commission's attention.

DOCKET NO. 900025-WS
APRIL 9, 1991

SHOW CAUSE FOR NONCOMPLIANCE

ISSUE 1: Should the Commission order the utility to show cause in writing why it should not be fined up to \$5,000 per day per violation for each item of noncompliance with Orders Nos. 25296 and 24084, and if so, what are the specific items of noncompliance?

RECOMMENDATION: Yes, the Commission should order the utility to show cause in writing within 20 days of the date of the order why it should not be fined up to \$5,000 per day per violation for each item of noncompliance with Orders Nos. 25296 and 24084. Specific items of noncompliance are the utility's failure to: 1) submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name; 2) install water meters for all its customers; 3) spend at least 85% of its \$1,700 monthly allowance for preventative maintenance for that specified purpose, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance; 4) improve the quality of service and interconnect with the Pasco County wastewater treatment system; and 5) immediately place in the escrow account all funds necessary to bring said account to its proper balance. (D. VANDIVER, LINGO, RIEGER)

STAFF ANALYSIS: As discussed in the case background, Order No. 25296 determined the utility to be in noncompliance with Order No. 24084. However, due to the unusual circumstances in the case, the Commission allowed the utility additional time to complete the required items. A discussion of the specific items of noncompliance follows.

Name Change and Restructure

In August 1990, Mr. Sims transferred the title of the utility land from Shady Oaks Mobile-Modular Estates, Inc. to Richard D. and Caroline Sue Sims. Mr. Sims stated that the purpose of the transfer was to spin-off the utility from the mobile home park. However, this transfer was not approved by the Commission. Therefore, in Order No. 24084 the Commission ordered Shady Oaks to file within 60 days a request for acknowledgement of a name change and restructure.

On March 17, 1991, the Commission received a letter from Mr. Sims requesting that the Commission recognize the change in name from Shady Oaks Mobile-Modular Estates, Inc. to S & D Utility. The utility had begun billing the customers and operating under the name of S & D Utility. On April 1, 1991, Staff responded that certain information was needed before the name change could be recognized. This information included evidence that the utility

and its assets were properly transferred and that the new utility name had been properly registered as a fictitious name. Specifically, Staff wanted the title to reflect that the land was owned by Mr. and Mrs. Sims d/b/a the utility.

Mr. Sims subsequently provided the evidence that the fictitious name had been registered. However, because Mr. and Mrs. Sims were in the midst of a bankruptcy filing, the title to the land could not be corrected to reflect the name of the utility. At the time of the last staff recommendation, Mr. Sims had entered into a payment plan under the bankruptcy proceeding and believed that he would be able to correct the name on the title.

By Order No. 25296, issued on November 4, 1991, the Commission allowed the utility additional time to complete the name change and restructure requirements. Specifically, the utility was ordered to submit within 60 days all necessary information for changing its certificated name, including evidence that the title to all the utility land and personal property has been properly transferred to S & D Utility, or revert to operating under its currently certificated name of Shady Oaks Mobile-Modular Estates, Inc.

By letter dated January 22, 1992, Staff restated to Mr. Sims what information was necessary to complete the name change. In the letter, questions asked of Mr. Sims were for specific information, such as whether a contract was drawn up transferring both the land and all other utility assets to the new entity called S & D Utility. Staff's letter is included in this recommendation as Attachment A, and Mr. Sims' response is included as Attachment B.

Not all of Staff's questions were answered by Mr. Sims, and Staff believes the answers provided by Mr. Sims were nonresponsive. For example, Mr. Sims' response to the name change question was that the original name change request had been made with the Commission, but the bankruptcy proceeding was the reason why the name change and restructure has not been completed. However, on November 14, 1991, (two months before Staff's January 22, 1992 letter to the utility), the Bankruptcy Judge issued an order dismissing the case. The Sims' filed a motion for reconsideration, and on December 17, 1991, the Bankruptcy Judge issued an order denying the motion for reconsideration or, in the alternative, conversion to Chapter 11. Based on the foregoing, the bankruptcy proceeding would not have prevented the utility from completing the restructure requirements once the related bankruptcy orders had been issued.

It is apparent that the utility is not in compliance with Orders Nos. 24084 and 25296 with regard to the name change and restructure requirements. Therefore, Staff recommends that the

DOCKET NO. 900025-WS
APRIL 9, 1991

utility be ordered to show cause why it should not be fined up to \$5,000 per day for failing to complete the name change and restructure request.

Not only has the utility refused to complete the requirements for the name change, it has disregarded the Commission's order to revert to operating under its certificated name. Attachment C to this recommendation is a copy of a February customer bill under the heading of S & D Utility. In addition, Staff has verified that the utility makes deposits into and writes checks from a bank account in the name of S & D Utility. The Commission's Division of Consumer Affairs has also repeatedly called the utility's business phone and reports that the recorded message left on the answering machine is in the name S & D Utility.

Order No. 25296 allowed the utility 60 days to complete the name change and restructure requirements, or else revert to operating under the currently certificated name of Shady Oaks Mobile-Modular Estates, Inc. The 60 day period expired January 3, 1992. Since Staff has confirmed that the utility is operating under the name of S & D Utility, Staff recommends that the utility is in violation of Commission Order No. 25296 in this regard. Therefore, the utility should be ordered to show cause why it should not be fined up to \$5,000 per day for continuing to operate under a name other than its certificated name.

Installation of Water Meters

In Order No. 24084, the Commission determined that six months was sufficient time to install meters for the utility's 185 customers. During the six month installation period, the utility was authorized to charge a flat rate of \$14.70 for water service and \$28.28 for wastewater service, for a total of \$42.98 per month.

As stated in that order, if all water meters were installed within six months, the utility would then be allowed to charge all customers the base facility and gallonage charges approved in the order. As incentive for the utility to complete the installations within the prescribed time, the order further stated that if all of the water meters were not installed within six months, the utility would be required to bill the appropriate water and wastewater base facility charges of \$6.34 and \$12.50, respectively, (for a total of \$18.84) to all customers. However, the utility could bill the gallonage charges only to those customers who had a functioning water meter installed at the respective customer's service site. In this case, the base facility charges automatically went into effect on October 1, 1991.

Pursuant to Commission Order No. 24084, the utility had begun the process of installing water meters for its customers. However, as a result of a dispute and ongoing litigation during most of 1991, the utility collected less than half of the revenues allowed in the rate case. The majority of customers withheld payment to the utility during a substantial portion of the year. Staff believes the arrearages resulting from the customers' nonpayment of utility services are in fact due and payable to the utility. Staff has conservatively calculated the arrearages to be over \$15,000. As of mid-September 1991, seven months after Order No. 24084 was issued, the utility had installed meters for only 31 out of 185 customers.

Staff's review of the utility's billing records indicated that by the end of 1991, the vast majority of the customers were paying the Commission-approved rates. In addition, in Order No. 25296 the Commission recognized that the likely cause of the utility's failure to install meters was its reduced revenues. Consequently, by Order No. 25296, the utility was given an additional five months in which to complete the meter installations. In addition, the utility was allowed to revert to the flat rates set forth in Order No. 24084 until the Commission reevaluated the case in five months. It was contemplated that the resulting increase in revenues associated with the flat rates (\$42.98 v. \$18.84) would further assist the utility in its efforts to comply with the meter installations requirement.

Staff's January 1992 letter requested the utility's plans for installing the water meters and a time schedule indicating the proposed dates and the number of meters for future installation. The utility's response simply stated it intended to install additional meters in February. As of the end of March 1992, the utility has only installed an additional 16 meters, which brings the total number of meter installations to 47. Because the utility has not completed the installation of the meters within the prescribed time frame and was not responsive to Staff's request for a time schedule, Staff recommends that the utility be ordered to show cause why it should not be fined up to \$5,000 per day for failing to install the water meters.

Preventative Maintenance

The rates approved in Order No. 24084 include a monthly allowance of \$1,700 for preventative maintenance. Commission Order No. 24084 further states that if at six months from the effective date of the order the utility has not expended at least 85% of the amount allowed (at least \$1,445 per month), the utility shall submit a written schedule to show what monthly maintenance will be adopted along with a statement of the reason such funds were not

DOCKET NO. 900025-WS
APRIL 9, 1991

expended and a detailed statement of its future plans to maintain the system. The order continued that if the maintenance was not performed, the Commission would consider initiating a show cause proceeding to fine the utility for not performing the maintenance as ordered.

The utility did not spend the required maintenance allowance during the months of March through August of 1991. In Order No. 25296, the Commission determined that the utility's failure to spend the maintenance allowance was likely caused by decreased revenues. The utility was ordered to henceforth comply with the preventative maintenance aspect of Order No. 24084. This issue would be reviewed in five months' time.

Staff has reviewed the utility's expenditures for the months of September 1991 through February 1992. Staff's analysis indicates that the utility spent approximately \$3,300 during that period, compared to the ordered minimum expenditure of \$8,670 (\$1,700 x 85% x 6 months). The \$3,300 figure represents less than 40% of what the utility was ordered to spend. In addition, the utility has failed to submit to Staff the required statement of the reason such funds were not expended and a detailed statement of its future plans to maintain the system.

Based on Staff's review of the utility's expenditures, the utility has not complied with Order No. 25296 regarding the maintenance requirement. Therefore, the utility should be ordered to show cause why it should not be fined up to \$5,000 per day for failing to spend at least 85% of its \$1,700 monthly allowance for preventative maintenance on that specified purpose.

Quality of Service

Commission Order No. 24084 imposed a \$2,000 penalty on the utility for its unsatisfactory quality of service. However, the order stated that after six months, the Commission would reinspect the plant and assess the performance of the utility to determine the quality of service. If satisfactory, the Commission stated that it may suspend the fine permanently. The order further stated that to improve the quality of service, the utility should construct a new effluent disposal system, obtain the necessary permits, and operate the wastewater facilities within DER standards. The DER-required plant improvements were included in rate base as pro forma plant.

Staff visited the utility in September 1991 and found that the quality of service had not improved. In fact, the quality of service had deteriorated. The Commission recognized that the

deficiencies were at least partially attributable to the low level of revenues collected by the utility.

Because the utility had entered into a settlement agreement with the DER, the requirement for the effluent disposal system was modified to require an interconnect of the utility's wastewater system with Pasco County within six months of the signed settlement with DER. Therefore, Order No. 25296 allowed the utility additional time to make quality of service improvements. The order restated the requirements for improving the quality of service, and modified Order No. 24084 to require the utility to interconnect with Pasco County within the prescribed time frame of January 8, 1992. To date, the utility has neither interconnected with the county, nor begun construction or design of the required interconnect facilities.

In addition, the Commission found that the quality of service regarding customer relations had reached an all-time low, and that in order to improve the quality of service the utility must improve customer relations.

Staff does not believe that the utility has improved customer relations. There are several attachments that relate to this issue. Attachment D is a statement from the Shady Oaks Owners Association regarding the quality of service provided by the utility. Attachment E is a copy of a customer complaint filed with the Commission's Division of Consumer Affairs. With regard to the customer complaint, while Mr. Sims denies that he used the profane language quoted in the letter, Staff believes that while the words may be in dispute, it is evident that the customer was insulted.

In addition, we received numerous complaints on January 22, 1992 regarding a service outage. The customers also claimed that the utility did not respond to their calls on the day the outage occurred. The customers' account of what happened is included with this recommendation as Attachment F. Service apparently was restored only when the guest of one of the customers climbed the fence at the plant and switched the breaker on. The customers are concerned that Mr. Sims did not respond timely to their calls. In addition, it is a long-distance call for customers to report any service outages or other trouble. In response to Staff's inquiry, Mr. Sims responded that he could not have responded any sooner, as he had been out of town on the day the outage occurred.

Also, on February 24, 1992, Staff received a complaint that Mr. Sims was installing several meters on one person's property. A copy of the complaint is included in this recommendation as Attachment G. Staff visited the utility and found that the utility was placing the individual meters as close to the water main as

DOCKET NO. 900025-WS
APRIL 9, 1991

possible, even when that meant that the meter was on someone else's property. Staff directed the utility to place the water meters on the individual properties associated with the consumption. Rule 25-30.260 of the Florida Administrative code requires the "utility to locate meters at or near the customer's curb or property line (except) when it is impractical." In this instance, Staff believes that it is practical for the utility to place each meter on the respective property it serves.

It is evident to Staff that the utility has made no substantial improvement in the total quality of service. Therefore, as the utility is in violation of Commission Orders Nos. 24084 and 25296 in that regard, it should be ordered to show cause why it should not be fined up to \$5,000 per day for continuing to provide unsatisfactory quality of service.

Escrow Requirement

The utility's rate increase became effective on March 2, 1991. By Order No. 24084, the utility was required to place in escrow the portion of the rate increase related to the pro forma plant and the \$2,000 penalty. Specifically, the utility was required to escrow \$333.34 per month. However, as previously discussed, the utility collected substantially less revenues during 1991 than was allowed in Order No. 24084. By July 1991, the utility was receiving so few utility payments from customers that it unilaterally decided to discontinue placing money in escrow.

Although the Commission understood the utility's difficulty in escrowing the required amount, Order No. 25296 admonished the utility for ceasing to escrow without the Commission's approval. The utility was then ordered to immediately place enough money in the escrow account to bring the balance up to the proper level. The utility was warned that if it did not immediately correct the escrow deficiency or did not continue placing the appropriate portion of revenues in the escrow account, the Commission would take appropriate action.

The vast majority of the utility's customers are now paying their utility bills. Based on a review of the utility's cash collections from customers since the issuance of Order No. 25296 (December 1991 to February 1992), Staff has conservatively calculated an amount of \$5,600 as what the utility should have placed in escrow during that three month period. However, a review of the bank statements indicates only \$3,500 was deposited into the escrow account during the same period. In addition, the utility has failed to place enough money in the escrow account to correct the escrow deficiency that resulted from the utility's ceasing to place funds into the account.

The utility has failed to comply with Orders Nos. 24084 and 25296 regarding the escrow requirements. Therefore, the utility should be ordered to show cause why it should not be fined up to \$5,000 per day for not maintaining the appropriate balance in the escrow account.

Summary of Noncompliance/Recommendation to Show Cause

Based on the foregoing discussion, the utility is in substantial noncompliance with Orders Nos. 25296 and 24084. Specifically, the utility has failed to: 1) submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name; 2) install water meters for all its customers; 3) spend at least 85% of its \$1,700 monthly allowance for preventative maintenance on that specified purpose, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance; 4) improve the quality of service and interconnect with the Pasco County wastewater treatment system; and 5) immediately place in the escrow account all funds necessary to bring said account to its proper balance. Therefore, the Commission should order the utility to show cause in writing within 20 days of the date of the order why it should not be fined up to \$5,000 per day per violation for each item of noncompliance with Orders Nos. 25296 and 24084.

OTHER ISSUES

ISSUE 2: Should the Commission levy the \$2,000 fine that was imposed and suspended by Order No. 24084 for unsatisfactory quality of service?

RECOMMENDATION: Yes, the Commission should levy the \$2,000 fine that was imposed and suspended by Order No. 24084 for unsatisfactory quality of service. However, the utility should be ordered not to pay the fine from the escrow account, as the utility has failed to escrow sufficient monies to cover both a potential refund and the fine. (LINGO, D. VANDIVER, FEIL)

STAFF ANALYSIS: Commission Order No. 24084 imposed a \$2,000 fine for unsatisfactory quality of service, but suspended the fine for a nine-month period. By the end of this period the utility was expected to improve its quality of service, and the Commission would then dispose of the fine.

In Order No. 25296, the Commission found that the utility's quality of service remained unsatisfactory. Order No. 25296 required the utility to improve its quality of service within five months. Stated conditions for improving the quality of service were that the utility must both complete the interconnect with the Pasco County wastewater treatment system within the designated time and improve customer relations.

As further discussed in Order No. 25296, the Commission stated that it did not take lightly either the utility's continued unsatisfactory quality of service or its continued failure to comply with the other requirements of Order No. 24084. However, the decreased revenue situation made this a somewhat exceptional case. Therefore, Order No. 25296 extended the suspension of the fine for 45 days beyond the Pasco County interconnection date (February 21, 1992). A final review of the quality of service would begin at that time. In addition, Order No. 25296 reminded the utility that it was not relieved of its obligation to accumulate the fine in escrow as required in Order No. 24084.

As discussed in detail in Issue 1, the utility is in substantial noncompliance with Orders Nos. 24084 and 25296 regarding the areas of quality of service and the escrow account. Therefore, Staff recommends that the \$2,000 fine be levied.

Although the utility was ordered to place money in the escrow account in part to accumulate the fine, the appropriate balance of the escrow account is much greater than the actual balance in the account. In fact, in response to Staff's January 22, 1992 letter, Mr. Sims stated that, "... it is obvious that the fine certainly

DOCKET NO. 900025-WS
APRIL 9, 1991

EXHIBIT FJL-1
[Staff Rec]

could not be placed in any type of an escrow account since the Utility is operating at a deficit monthly." (Please refer to Attachment B, page 1.) It is evident that should the Commission require a refund to the utility's customers, most if not all the money in the escrow account would be needed to satisfy the refund requirement. Therefore, since the utility has failed to escrow sufficient monies to cover both a potential refund and the fine, the utility should be ordered not to pay the fine from the escrow account.

ISSUE 3: If the Commission assents to Staff's recommendation in Issue 2, should this Commission forward collection of the fine to the Comptroller's Office in the event the utility fails to respond to reasonable collection efforts by Commission Staff?

RECOMMENDATION: Yes, in the event that reasonable collection efforts are unsuccessful, the collection of the fine should be forwarded to the Comptroller's Office. (LINGO)

STAFF ANALYSIS: In 1988, Shady Oaks Mobile-Modular Estates, Inc. went through a reorganization under Chapter 11 of the Bankruptcy Code and a final judgement was issued on August 2, 1988. In addition, in March 1991, the utility owners filed for personal bankruptcy under Chapter 13. Although the Bankruptcy Judge issued orders both dismissing the case and denying the Sims' motion for reconsideration in the Chapter 13 filing, the fact that the utility owners felt the need to file for bankruptcy is of concern to Staff.

In view of the utility owners' history of bankruptcy filings and failing to comply with Commission Orders, Staff recommends that collection of the \$2,000 fine be referred to the Comptroller's Office for further collection efforts should the utility fail to respond to reasonable collection efforts by Commission Staff. Reasonable collection efforts shall constitute two certified letters requesting payment. The referral to the Comptroller's Office would be based on the conclusion that further collection efforts by the Commission would not be cost-effective.

ISSUE 4: Should the rate structure be changed at this time?

RECOMMENDATION: Yes, the rate structure should revert back to the base facility and gallonage charge rate structure. The utility should submit revised tariff pages within seven days of the date of the order. The revised rates shall be effective for meter readings on or after thirty days from the stamped approval date on the revised tariff sheets. The tariff sheets will not be approved until Staff verifies that the tariffs are consistent with the Commission's decision, and that the customer notice is adequate. (D. VANDIVER, LINGO)

STAFF ANALYSIS: By Order No. 24084, the utility was authorized to charge flat rates for water and wastewater service of \$14.70 and \$28.28, respectively. The utility was authorized to charge the flat rates for six months, at the end of which time the base facility charge (BFC) rate structure became effective. In this case, the BFC rates automatically became effective on October 1, 1991.

However, because numerous customers did not pay the utility bills during the court dispute over jurisdiction to set the utility's rates, Order No. 25296 allowed the utility to charge the flat rates for an additional five months. The Commission believed that the revenue deficiency was a significant factor that contributed to the meters not being installed on a timely basis.

Beginning in December 1991, the utility once again began charging the combined flat rate of \$42.98. Staff has reviewed the utility's records and found that the majority of customers have been paying the current portion of their bills on a timely basis. However, as discussed in Issue 1, the utility has not completed the installation of the water meters. Therefore, Staff believes now is an appropriate time to reconsider which rates the utility should be charging.

Staff recognizes that the utility must be allowed sufficient funds to operate. Staff believes the utility has in fact been allowed sufficient funds, but these funds have not been used to install the water meters. It appears that the customers were correct in their concern that the utility owner would need a strong incentive in order to install the water meters in a timely fashion. Therefore, Staff now believes that the utility should be ordered to revert to the base facility charge rate structure.

In addition, beginning in May of each year, a significant number of the utility's customers go on an extended vacation and request a disconnection or vacation rate. In fact, approximately 65 customers (or 35% of the customer base) are disconnected for

DOCKET NO. 900025-WS
 APRIL 9, 1991

each of the months of May through September. If the utility is on a flat rate, the tariff does not allow for a vacation rate, and the customers are not charged a minimum charge.

Based on the number of customers on vacation last year, Staff compared the monthly summer revenues using flat rates to revenues that would have been generated from the base facility charge rate structure. Assuming 65 customers are out of town, the utility would collect approximately \$5,000 from the remaining customers if the flat rate structure is utilized. Using the base facility charge rate structure, and assuming estimated average usage of 6,000 gallons per customer, the utility will collect approximately the same amount of revenues if 66 customers have meters installed so that the utility may also bill for the usage. The comparison is shown below:

	<u>Revenues Generated From Flat Rates</u>
Current customers	181
- Vacationing customers	<u>65</u>
= Customers subject to bill	116
x Combined flat rate	<u>\$ 42.98</u>
= Total monthly revenues	<u>\$ 4,986</u>

	<u>Revenues Generated From Base/Gallongage Rates</u>
Current customers	181
x Combined BFC	<u>\$ 18.84</u>
= Revenues derived from BFC	\$ 3,410
Customers with meters	66
x Combined gallonage charge	\$ 4.02
x Estimated usage (gals/customer)	6,000
/ 1,000 gallons	<u>1,000</u>
= Revenues derived from gallonage	\$ 1,592
+ Revenues derived from BFC	<u>3,410</u>
= Total monthly revenues	<u>\$ 5,002</u>

The utility has installed 47 meters, and has recently indicated that another 40 will be installed in April. Assuming most of the meters installed in April are for nonvacation residences, the

DOCKET NO. 900025-WS
APRIL 9, 1991

utility should collect approximately the same amount of revenues using the base facility charge rate structure as would be collected using flat rates.

Therefore, Staff recommends that the utility revert to the base facility/gallongage charge rate structure. This means that the utility is required to bill all customers without water meters the water base charge of \$6.34 and the wastewater base charge of \$12.50. The utility may charge the gallongage rates to each customer who has an installed meter.

The utility should submit revised tariff pages within seven days of the date of the order. The revised rates shall be effective for meter readings on or after thirty days from the stamped approval date on the revised tariff sheets. The tariff sheets will not be approved until Staff verifies that the tariffs are consistent with the Commission's decision, and that the customer notice is adequate.

DOCKET NO. 900025-WS
APRIL 9, 1991

ISSUE 5: Has the utility properly credited all customers who contributed to the payment of the utility's delinquent electric bill?

RECOMMENDATION: No, the utility has not credited all customers who contributed to the payment of its delinquent electric bill. The utility should be ordered to issue credits to those customers who have not yet received credits. The credits should be issued on the first bill subsequent to the date of the order. (LINGO)

STAFF ANALYSIS: During the time the injunction was in effect, Shady Oaks was unable to pay its electric bills for the months of May and June of 1991. On July 25, 1991, the Withlacoochee River Electric Cooperative discontinued electric service to the utility. All of the pertinent governmental agencies, including this Commission, were given prior notice. The Shady Oaks homeowners were without water and wastewater service as a result of the discontinuance of electric service.

With no opposition from the utility or this Commission, the Circuit Court issued an order which allowed the homeowners to pay the electric bill, provided that such payments would be credited to their water and wastewater bills. The homeowners paid the electric bill and Shady Oaks' power was restored.

The electric bill was paid by 114 homeowners. The utility was provided with a list of those homeowners' names so that the appropriate credit would be posted to their accounts. Although the Circuit Court order does not specify that only the homeowners who paid a portion of the delinquent electric bill would be entitled to a credit on their water and wastewater bills, Staff believes this is a reasonable approach. Even absent the Circuit Court order requiring customer credits, Staff believes the customer credits are appropriate.

The appropriate credit per contributing homeowner is \$9.59. As of mid-March of this year, the utility had issued the appropriate credits to 86 customers. However, there are still 28 homeowners who have yet to be credited the proper amount; the resulting outstanding credits total approximately \$270. Therefore, Staff recommends that the utility be ordered to issue the remaining 28 credits to those homeowners who contributed to paying the utility's delinquent electric bill. These credits should be issued on the first bill subsequent to the date of the order.

DOCKET NO. 900025-WS
APRIL 9, 1991

ISSUE 6: Should this docket be closed?

RECOMMENDATION: No, this docket should not be closed. (LINGO,
D. VANDIVER)

STAFF ANALYSIS: Staff has recommended that the utility be ordered to: 1) show cause why it should not be fined for being in substantial noncompliance with Commission Orders Nos. 24084 and 25296; 2) pay a \$2,000 fine; 3) revert to the base facility/gallongage charge rate structure; and 4) issue customer credits relating to the customers' payment of the utility's delinquent electric bill. Therefore, this docket should remain open pending further proceedings.

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THOMAS M. BEARD, CHAIRMAN
BETTY EASLEY
J. TERRY DEASON
SUSAN F. CLARK



DIVISION ATTACHMENT A
WAS
CHIEF Page 1
DIRECTOR
(904) 488-8482

EXHIBIT FJL-1
[Staff Rec]

Public Service Commission

January 22, 1992

Richard O. Sims
Shady Oaks Mobile-Modular Estates, Inc.
1315 Eckles Drive
Tampa, Florida 33612

Dear Mr. Sims:

On November 4, 1991, the Commission issued Order No. 25296 which determined your noncompliance with Commission Order No. 24084 and allowed additional time for compliance. Most of these actions were to be accomplished within five months of the effective date. However, certain of the actions were to be completed prior to this date and the deadline for the remaining actions is rapidly drawing to a close. Therefore, this letter reviews the requirements placed on the utility and requests additional information regarding the status of these requirements.

At this time, staff is preparing to draft a recommendation to the Commission regarding the continued violations. We plan to recommend that the previously suspended fine of \$2,000 for unsatisfactory quality of service be levied. In addition, we plan to recommend that Shady Oaks be show caused why it should not be fined up to \$5,000 per day for failure to comply with the items contained in Order No. 25296. Therefore, please respond to each of the following requests as fully as possible. Your complete response to this letter will enable staff to make a fully informed recommendation to the Commission regarding the disposition of the issues in this case.

- 1) Order No 24296 required Shady Oaks to file within sixty days a request for acknowledgement of a name change and restructure.

In order to acknowledge a name change and restructure, the Commission needs evidence that the utility and all of its assets are in the same name. What is the intended name of the utility? Is this a corporation or a sole proprietorship? In what name is the utility land recorded? Has the utility drawn up a contract selling or transferring the utility assets from Shady Oaks Mobile-Modular Estates, Inc. to the new name? Have these steps been put on hold due to the filing of the bankruptcy proceedings? Is it true that the bankruptcy proceedings were thrown out of court? Have any other proceedings affected the completion of this requirement? The order required that the utility revert to operating under the name Shady Oaks Mobile-Modular Estates, Inc. if the required information was not filed. Has the utility ceased operating under the name S & D Utility?

- 2) The approved rates include a monthly expense of \$1,700 for preventative maintenance. If the utility has not expended at least 85% of the amount allowed, the utility shall submit a written schedule to show what monthly maintenance will be adopted along with a statement of the reasons such funds were not expended.

Please list the monthly maintenance expenditures for September 1991 through January 1992. Provide copies of all invoices and checks supporting these expenditures. If the monthly amount is less than \$1,700 per month, please submit a schedule as required by the Order. This would include a written schedule to show what monthly maintenance will be adopted along with a statement of the reasons such funds were not expended.

- 3) The utility was ordered to place monies in an escrow account in order to accumulate a \$2,000 fine for unsatisfactory quality of service and to put aside the revenues associated with the pro forma plant. Order No. 25296 recognized that the utility had ceased placing money in escrow and ordered the utility to place sufficient money in the escrow account to bring the balance up to the proper level.

Staff has not received evidence of any of these deposits. Nor has staff received any monthly reports required by Order No. 24084 since May 1991. Please submit these reports for June 1991 through January 1992.

- 4) The order stated that the utility must install water meters for all customers within five months.

It does not appear that any water meters have been installed since the order was issued. What plans do you have for installing the remaining water meters? Please provide a time schedule indicating proposed dates of installation and the number of meters to be installed on each date.

- 5) The utility was ordered to escrow the portion of the increase related to the pro forma plant. After six months, the utility shall submit to the Commission copies of the invoices to verify the costs to complete the construction.

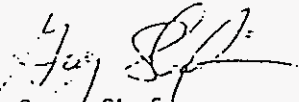
Considering the stipulation you reached with DER regarding the wastewater connection with Pasco county, the interconnection was to be completed January 8, 1992. Please explain what action DER is currently taking and what action you are taking?

- 6) The utility was also ordered to improve customer relations. Order No. 25296 suggested several steps that the utility could take to accomplish an improvement.

Please provide a discussion of the steps you have taken to improve customer relations. Specifically address if you have implemented the three suggestions included in the Commission order.

The upcoming recommendation will address the penalty imposed in the last order, future utility actions which the commission should monitor, the disposition of the escrow account and whether the docket should be held open. The more information you are able to give us concerning these issues, the more informed recommendation staff can make to the Commissioners. Please submit the requested information no later than February 17, 1992 in order that staff can complete its recommendation.

Sincerely,



Greg Shafer
Bureau Chief

cc: Charles H. Hill
Hank Landis
Denise Vandiver

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S & D UTILITY
P. O. Box 280012
Tampa, Fla. 33682-0012

February 16, 1992

RECEIVED

FEB 21 1992

Fla. Public Service Commission
Division of Water and Sewer

Mr. Greg Shafer, Bureau Chief
Division of Water & Wastewater
Florida Public Service Commission
101 E. Gaines Street
Tallahassee, Florida 32399-0850

Dear Mr. Shafer:

Concerning your letter of 1-23-92, we were waiting for a letter from Tri-Community Council, which, as you know from our prior correspondence, we have had Nancy Bartek who represents S & D Utility. I talked to Mrs. Bartek, and it is our understanding that we have been approved by Tri-Community for a complete analysis of our water system. Subject to her letter, we understand that this will involve the following analysis: upgrading our water system, which would include an analysis of the electrical system and pumps and water storage facilities, any leakage in any lines, replacement of any cut-off valves, and installation of water meters. Anything that we can do to cut down the cost of providing top-notch service to our consumers. When we receive this letter from her, we will forward it to you. This analysis will be conducted by Florida State University. We wish to especially bring to your attention that upon completion of this analysis this will be a 50/50 proposition. Also we are waiting for a letter of confirmation from Mr. Vora, D.E.R. Wastewater Financial Assistance, concerning the financial assistance afforded by them. He is to contact David Thulman, Chief Legal Counsel, D.E.R..

Concerning your question # 1, name change was filed. Intended name of the Utility is now and has been S & D Utility, the Corporation cannot be a sole proprietorship at present. Utility name is recorded in the name of Richard D. Sims, these steps have been put on hold due to Bankruptcy proceedings. Concerning the Bankruptcy proceedings, a matter of record. The possibility of additional potential proceedings, the Utility will continue to operate under the name of S & D Utility. The name S & D Utility is recorded and the Federal Tax Number has been applied for and received, as this was recommended by your audit and we have done so.

Question # 2, it appears that since we became under your jurisdiction in 1985, the Utility is still operating under a deficit.

Question # 3, it is obvious that the fine certainly could not be placed in any type of an escrow account since the Utility is operating at a deficit monthly. We believe that you have received copies of the prior escrow account. Enclosed are the copies to bring this information up to date.

This account will be brought up to date by an addition of \$100.00 a month from the General Operating account to be put in the escrow account, if possible. This has been done for February. [Staff Rec]

Question # 4, we intend to install additional water meters the latter part of this month.

Question # 5, extremely informative deposition with the D.E.R. on 1-8-92. They were completely astounded as to why the Utility could not shut off water for non-payment. I advised them that this was the Circuit Judges' decision and that your Mr. Feil was handling this with the Circuit Court. They did ask me a particular question, what would I do when these funds are released by the customers if the Judge states I can shut off water for non-payment. I told them that the largest majority of these funds would be used to install water meters and for the expansion of the sewer plant, to hook into the Pasco County Wastewater System. I do believe that you have prior correspondence regarding this. If you have any questions concerning this please contact Mr. David Thulman, Chief Legal Counsel, D.E.R., Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Fla., 32399-2400.

Question # 6, concerning question 6, number 5 answers it. Concerning customer relations, very shortly we will have all our billing stamped "It's our privilege to serve you, have a nice day." A total amount of 8 people visited the office during the month of January. There have been several people in the Park who have been ill, and the Utility has endeavored to express its compassion.

We have made application with a Mr. Gary Sica for a large loan to take care of the necessary problems with the D.E.R. and the P.S.C. His reaction has been extremely favorable.

Very truly yours,


R. D. Sims

RDS:ss

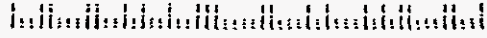
S & D UTILITY
P.O. BOX 280012
TAMPA, FLA 33682-0012

EXHIBIT FJL-1
[Staff Rec]



Mr. & Mrs. Robert Bird
38553 Monet Dr.
Zephyrhills, Fla.
33540-6526

© USPS 1991



2-1-92

Service from 2-1-92 to 2-29-92.
Residential flat rate - Water & Wastewater

\$42.98

Due within 20 days from the above date.


S&D UTILITY
P. O. Box 280012
Tampa, Fla. 33682-0012

1-11-1279
2/5

TO: Denise Vandiver, Regulatory Analyst
Florida Public Service Commission
Division of Water and Wastewater

Page 1

EXHIBIT FJL-1
[Staff Rec]

FROM: Shady Oaks Owners Association 

RE: Docket No. 900025-WS, staff-assisted rate case
Shady Oaks Mobile-Modular Estates, Inc. (aka S&D Utility)

STATEMENT OF CONCERN REGARDING QUALITY OF SERVICE
September, 1991 through March 25, 1992

DATE: March 25, 1992

We wish to address the following areas of concern with regard to the performance of the above-named utility in the five month period following Commission Order #25296 on November 4, 1991.

MAINTENANCE

The condition of the existing percolation pond and surrounding area gives no evidence that any maintenance has been performed in this period, nor have we observed any being done. The grass is very high and tree roots and grass grow into the water from the edges. The color of the water is a very bright green. Effluent overflow onto the surrounding areas is also evident.

We are concerned that construction of the interconnect to the county sewer line has not even been started. Commission ordered rates have been consistently paid by all of the residents of Shady Oaks since August 1, 1991 following court orders to do so.

Chlorination of the water system has been noticeably heavy on several occasions, the most recent being the past several days. It is almost undrinkable.

OPERATIONS

As we mentioned in our last report, we are concerned that the entire park is being shut down unnecessarily for work on one segment of the system. There are separate shut-off valves to various service loops in the system, and it is our feeling that installation of meters or repairs on any given section should only necessitate the shutdown of that section.

Meter installation seems to follow a very random pattern. While Block H's installation has now been completed, there have been some random meters installed for no apparent reason in other areas, one of which is on one of the vacant lots in an undeveloped area of the subdivision. Digging to find the lines has resulted in landscape being disturbed in several instances.

CUSTOMER RELATIONS

We are still concerned about hours of access to the utility's office, whether for bill paying or other inquiries. Currently the office is scheduled to be open only two (2) hours per week, and these are not consistent - they change from month to month, and sometimes during the month. This inconsistency creates a difficulty in knowing when the office will be open, which we feel creates a hardship especially for the older residents of Shady Oaks.

Our greatest concern at this time is access to the utility in the event of an emergency situation. At present the only telephone number being provided is that of Mr. Sims' home in Tampa, which can be called collect, but not if being answered by machine. If a customer wishes to leave a message on the machine he must pay a toll charge. But even this is not of prime concern; in the event of emergency we need to talk to a human being. Can the utility not provide a 24 hour service for the customers immediate needs, whether it be by hired service or by personal beeper carried by the owner or his representative?

We would appreciate your attention to our concerns. We cannot apply elsewhere for service; we would like this utility to pay attention to our concerns.

Name SHADY OAKS OWNERS ASSOCIATION, INC.

Company SHADY OAKS MOBILE-MODULAR ESTATES,

Request No. 1365L

Address ROBERT W. LINDAHL

Attn. _____

By SMM Time 10:06 AM Date 01/14

P. O. BOX 1006

Consumer's _____

Telephone # _____

To _____ Time _____ Date _____

City/zip CRYSTAL SPRINGS 33524 County PAS

Can Be _____

Reached _____

Complaint type g1-99

Account Number _____

Note _____

Has consumer contacted company? Yes No _____ Who _____

Justification _____

Closed by _____ Date _____ / /

Reply Received _____

See attached letter from Shady Oaks Owners Association, Inc. complaint about the behavior of utility owner of Shady Oaks Mobile-Modular Estates.

Per Denise Vandiver, Research, referred to her for her files.

(Hand carried to her)

CONSUMER REQUEST

FLORIDA

PUBLIC

SERVICE

COMMISSION



101 EAST GAINES STRE
TALLAHASSEE, FLORIDA

PLEASE RETURN THIS FI
WITH REPORT OF ACTION

Stella Maloy

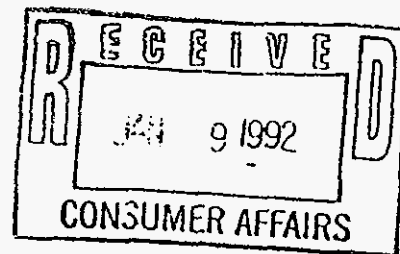
DUE: _____ / /

EXHIBIT FCL-1
[Staff Rec]

ATTACHMENT E
Page 1

January 3, 1992

Florida Public Service Commission
Division of Consumer Affairs
101 East Gaines Street
Tallahassee, Florida 32399-0867
Attention: George Hanna



Dear Sir:

We are writing to report the behavior of the owner of the utility serving Shady Oaks Mobile-Modular Estates, Mr. Richard Sims, towards Mr. Alvin Lachapelle, a Shady Oaks resident and customer of said utility.

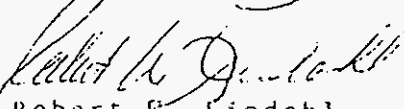
As stated on the utility bill for December 1991, the last day to pay this bill without being delinquent was December 20. On Thursday, December 19, Mr. Lachapelle noticed Mr. Sims was in the subdivision and went to the office to pay his bill. Although the door was open, the payment drop box was not in evidence, and the hours posted on the door for December read: "Monday, 10 to 11 and Friday, 10 to 11". Mr. Lachapelle returned to the utility office on Friday at the posted time to find it closed. He then mailed his check, although he was somewhat upset about it now being delinquent.

Therefore, on Thursday morning, January 2, when Mr. Sims was again in the office, Mr. Lachapelle approached him to request a statement from the utility crediting the payment as having been made timely. After listening to Mr. Lachapelle, Mr. Sims proceeded to harangue him, using extremely profane and vulgar language. We are enclosing a copy of Mr. Lachapelle's account of the incident.

We have protested this type of behavior by Mr. Sims before. We believe that no one should be subjected to this kind of verbal assault from anyone, and certainly not from an individual who is providing a public utility service sanctioned by the state of Florida that we are required to patronize, having no other choice.

We thank you for your attention to this matter.

Sincerely yours,


Robert W. Lindahl
President

RWL/dkb

cc: Gregory Shafer, Chief/Special Assistance
Denise Vandiver, Staff Analyst
Gerald A. Figurski, Esquire
Alvin J. Lachapelle

This morning I saw Mr. Sims and asked for an amended copy of my delinquency account (his estimate). My check for the current payment was in transit (42.08) and that amount was added to the amount he claims I am in arrears. His answer to my request was "Alvin FUCK YOU". His parting shot as he walked away was Alvin I don't talk to white niggers.

Alvin J. Lachapelle

TO: Florida Public Service Commission
Division of Water and Wastewater

Page 1

FROM: Shady Oaks Owners Association *Reed*

EXHIBIT FJL-1
[Staff Rec]

RE: Water Outage at Shady Oaks, Zephyrhills
January 22, 1992

DATE: March 25, 1992

We would like to submit the following account of what occurred in Shady Oaks on January 22, 1992 (based on notes made by Dorothy Bird, community representative.)

At approximately 9:30 a.m. there was a water outage to the entire subdivision that lasted for the entire day. Mr. Sims had been seen in the park and on the utility premises shortly before the water outage occurred, but calls to his office in the park were not answered, except by answering machine. These were the first calls made, by several of the residents. When there was no response to the Shady Oaks office number (782-2686), customers then called the utility's Tampa number. (This incurs a long distance charge to the calling party, unless the call is made collect.) The collect calls were unable to be completed as the utility's phone, which is also the owner's home phone, was being answered by an automatic answering device. Several customers placed direct calls and left a message on the machine along with their name, and in most cases their telephone number. Among these were Association president Robert Lindahl, whose wife Gloria left a message with her name and number at approximately 10:20 a.m., and Dorothy Bird, who left word at the Zephyrhills number about 10 a.m. and a message at the Tampa number at 11:40. Calls were made by various customers throughout the day. A number of calls were also made to the PSC Consumer Affairs 800 number during the course of the day.

In the meantime, the clubhouse bulletin board had been checked thoroughly for notice of a shutdown; there was no notice posted. Presuming that electric service may have been cut off for some reason, a call was made to Withlacoochee River Electric Company. Their representative checked and found no problem with the electric service.

At noon, Mrs. Bird explained the situation to Neil Bethea, assistant to Greg Shafer, at the Water and Wastewater Division in Tallahassee. Mr. Bethea said he would look into it and call back. At 1:05 p.m. Mrs. Bird received a call from Hank Landis, the engineer handling Shady Oaks. Mr. Landis said he would try to locate either Mr. Sims or his certified operator to have the water restored. It was recommended that we contact the DER and the Health Department to see if any type of assistance was available.

The residents were of the opinion that the outage was probably caused by a tripped breaker and that if we could gain access to the pumphouse it would be easy to alleviate the situation. Since the pumphouse was locked, and due to the volatile nature of the situation at Shady Oaks, no one was willing to commit trespass.

At 3:53 p.m. Mr. Landis again contacted Mrs. Bird, after several unsuccessful attempts at reaching either Mr. Sims or Mike Dailey, the certified operator for Shady Oaks. Mr. Landis suggested we call the Sheriff's Department to request assistance in gaining access to the pump house. We did; Deputy Sanderson of the Sheriff's office told us they are not allowed to give authority to trespass and cannot assist or accompany anyone for that purpose.

Water was restored to Shady Oaks about 4:23 p.m. on January 22, but not by Mr. Sims or any employee or representative of the utility. A visitor to the park, who felt he was helping us out of a very inconvenient and unnecessary situation, somehow gained access to the premises and flipped a switch that restored power.

Mr. Sims did not return calls to anyone who had left their names and/or numbers on his answering machine. At approximately 7:30 p.m. a call was received by Mr. and Mrs. Clarence Kellnhofer (neither of whom had left their names) from Mr. Sims, who explained that he and his wife had been away for the day, his car broke down and he had just arrived home, and he would be out to fix the water. Mr. Kellnhofer told him the water was on. Mr. Sims did not come out to Shady Oaks.

At least one of our residents received a letter in late February from John Plescow, PSC Consumer Affairs representative, in which he stated that the PSC investigation showed that water was restored the same day, which was true although not by any efforts of the utility; and that the cause of the interruption in service was a burned out transformer and capacitor, according to information obtained from the utility. We dispute this finding, since service was able to be restored by a flip of a switch.

This water outage was a great inconvenience to all of the customers of this utility, but especially hazardous to those who have special needs due to advanced age or medical disabilities. There are several residents of Shady Oaks in their 90's and many in their 80's, and there are some who require special care for strokes and heart conditions. This situation would not have happened if proper provisions had been made by the utility to handle emergencies.

Note to Hank Landis: Re: telephone number to reach Mike Dailey - his car telephone number is 813-480-5435.

Name BRAIDWOOD, RONALD

Company SHADY OAKS MOBILE-MODULAR ESTATES,

Request No. 6992P

Address 3758 CASTLE DRIAVE

Attn. RICHARD SIMS

By SMM Time 4:40 PM Date 02

Consumer's Telephone # (813)-788-2835

To CO Time mail Date 02

City/Zip ZEPHYRHILLS 33540 County PAS

Can Be Reached: (813)-788-2835

Complaint Type WS-50

Account Number _____

Note _____

Has consumer contacted company? Yes No _____ Who RICHARD SIMS

Justification _____

Closed by _____ Date _____

Reply Received _____

Co. is installing meters on 2-26. Mr. Braidwood says that co. is installing his meter in Mr. Chaney's back yard. This is apx. 75 feet from property line, two lots away. Upset because if he needs to read his meter he'll have to go to a neighbors. When approached Mr. Sims, he said "I'm a former drill instructor in the Marines & if you don't like where I'm installing the meters, call the Public Service Commission." Also water company cut TV cable. The Cable TV co. has repaired & says will send Mr. Braidwood a bill. Mr. Braidwood approached Mr. Sims about it & Mr. Sims just snickered. Mr. Braidwood wants water co. to pay the bill & water meter installed on his property.

CC: Hank Landis, W&W
Denise Vandiver, RRR

CONSUMER REQUEST

FLORIDA

PUBLIC

SERVICE

COMMISSION



101 EAST GAINES STREET
TALLAHASSEE, FLORIDA

PLEASE RETURN THIS FC
WITH REPORT OF ACTION

Stella Maloy

DUE: 03/11/92

ATTACHMENT G
EXHIBIT FJL-1
[Staff Rec]

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-) DOCKET NO. 900025-WS
assisted rate case in Pasco) ORDER NO. 24084
County by SHADY OAKS MOBILE-) ISSUED: 2-8-91
MODULAR ESTATES, INC.)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
BETTY EASLEY
GERALD L. GUNTER
FRANK S. MESSERSMITH
MICHAEL MCK. WILSON

FINAL ORDER GRANTING TEMPORARY RATES
IN EVENT OF PROTEST

AND

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING INCREASED RATES AND CHARGES, AND
REQUIRING IMPROVEMENTS AND REPORTS

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the actions discussed herein, except the granting of increased rates on a temporary basis in the event of a protest, are preliminary in nature, and as such, will become final unless a person whose interests are substantially affected files a petition for a formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

CASE BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) is a Class C water and wastewater utility located in Pasco County. It is a 242 lot mobile-modular home park developed in 1971. Its service area is approximately 1-1/2 miles south of the City of Zephyrhills.

On July 11, 1972, the provisions of Chapter 367, Florida Statutes, became applicable in Pasco County, Florida, whereby those utilities not qualifying for exemption from regulation became subject to the Commission's jurisdiction. Order No. 14540, issued on July 8, 1985, found Shady Oaks subject to the Commission's

DOCUMENT NUMBER DATE

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ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 2

jurisdiction. By Order No. 15633, issued February 6, 1986, the Commission issued Water Certificate No. 451-W and Sewer Certificate No. 382-S to Shady Oaks.

Commission Order No. 14540 took note of the Final Judgment of the Circuit Court of the Sixth Judicial Circuit upholding restrictive covenants included in the deeds of existing lot holders receiving service from Shady Oaks. A covenant in each deed requires the developer, Shady Oaks, to provide certain services at a fixed annual cost. These services include water, wastewater and other services. Based upon the data presented at that time, the Commission decided that the utility should continue billing its customers based on the deed restrictions.

On January 10, 1990, Shady Oaks applied for this staff-assisted rate case and has submitted the filing fee. We reviewed the utility's books and records to determine those components necessary for rate-setting, conducted an engineering investigation, and a field inspection of the service area. The test period is the average twelve-month period ended June 30, 1990.

A customer meeting was held on November 28, 1990 in the service area. The customers concerns are addressed subsequently in this Order.

NAME CHANGE AND RESTRUCTURE

During the test year, the land and all the utility facilities were owned and operated by Shady Oaks Mobile-Modular Estates, Inc. In August, 1990, the owner of Shady Oaks transferred the title of the utility's land to himself and his wife. He has indicated that he intends to transfer the entire utility, land, buildings and related supplies, from the mobile home park to a separate entity. According to the owner, this will assist in accounting for the utility separately as well as protecting the property from any liens that could result from future unpaid property taxes on mobile home property.

The land transfer was made without Commission approval. The utility states that it was not aware of the requirement of prior Commission approval. We note that the utility has been cooperative in attempting to correct the problem. Upon consideration, we will not penalize the utility for the unauthorized transfer. However, the utility is hereby put on notice that no future transfers of

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 3

utility land or property shall be made without prior Commission approval.

Because the utility is merely "spinning off" the utility portion of the mobile home park and there will be no change in control of the utility, we find that this sort of restructure is not a transfer within the intent of Section 367.071, Florida Statutes. The utility is still owned by the same persons in the same percentages. Therefore, the utility is hereby directed to file a request for acknowledgement of a restructure and a name change within 60 days from the date of this Order.

QUALITY OF SERVICE

We contacted the Department of Environmental Regulation (DER) and our Consumer Affairs and Water and Wastewater Divisions to determine if the utility had active complaints or violations against it. The Commission had no active complaints. However, DER had numerous complaints and violations on file. To settle the issues, DER and the utility entered into a Consent Order whereby the utility will make specific repairs and improvements to its system by March, 1991, which should improve the quality of service to a satisfactory level. We are informed that the utility is behind schedule on the needed improvements.

During the customer meeting held on November 28, 1990, the customers complained of low pressure, water shut-offs, line breaks, bad taste (chlorine) in the water, leaks left unrepaired, and excessive vegetation around the wastewater plant. The utility acknowledged these problems but added that it has responded as diligently as possible considering its lack of needed financial resources. It asserts that the deed restrictions that prevented the utility from increasing its rates have been the main cause of the utility's quality of service problems.

Upon consideration of the foregoing, we find that the quality of service is unsatisfactory. Accordingly, we hereby levy a fine of \$2,000, but suspend the fine for a period of nine months. This will provide the utility with six months to demonstrate its willingness to comply with the DER consent order and complete the needed repairs, and give the Commission three months to investigate compliance after the six month period. The utility shall place \$333.34 each month into an escrow account for the next six months to accumulate the \$2,000 fine.

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 4

To bring the utility's quality of service to a satisfactory level, the utility should comply with DER's consent order within that order's prescribed deadline. Specifically, it should construct a new effluent disposal system, obtain the necessary permits to operate, and operate the wastewater facilities within DER Standards. In addition, as discussed later in this Order under the section on preventative maintenance, if at the end of six months the utility has not expanded eighty-five percent of its maintenance expense allowance, the utility shall submit a written schedule showing what monthly maintenance the utility will implement. After six months, we will reinspect the plant and assess the performance of the utility to determine the quality of service. If found to be satisfactory, we may suspend the fine permanently.

RATE BASE

Our calculation of the appropriate rate base for the purpose of this proceeding is depicted on Schedule No. 1. Our adjustments are itemized on Schedule No. 1-A. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on those schedules without further discussion in the body of this Order. The major adjustments are discussed below.

Used and Useful

The system has two wells; each well has a rated capacity of 125 gallons per minute (GPM). The plant has no storage capacity, therefore, both wells are required to meet maximum hour demand, which is approximately 115 GPM. One of the two wells must function as a backup well, therefore, we find that the plant is 100 percent used and useful.

This utility does not have a flow meter. Flows reported to DER are estimated. We shall use a designed capacity for mobile homes of 150 gallons per day (GPD) and equivalent residential connection (ERC), whereby the total capacity necessary to serve the existing 185 ERCs is approximately 27,750 GPD. Estimated flows reported by Shady Oaks to DER average about 17,641 GPD. Using the average of these two estimates, daily flows are 22,695 GPD. The wastewater plant has a capacity of 20,000 GPD; therefore, we find that it is 100 percent used and useful.

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 5

The collection and distribution systems provide service to 242 platted lots in the service area. Considering the distribution of the 185 connections, we find that the collection and distribution systems are 100% used and useful.

Plant-in-Service

Shady Oak's application reflects water utility plant of \$13,888 and wastewater utility plant of \$45,632. The utility does not have original cost documentation to support these figures. We reviewed tax returns, several cost estimates, and plant components. The 1972 tax return indicates a water plant cost of \$11,588 and a wastewater plant cost of \$45,632. We find that the tax return reflects reasonable estimates of the original cost. The utility also provided invoices to support two additional items of plant: a master meter installed in 1984-1985 and a replacement pump installed in 1989-1990. The master meter cost \$1,300 and the pump replacement was a \$151 net reduction to plant. The year-end balance of the water plant has been adjusted to reflect this test year retirement and addition. We will use these estimates and costs to establish utility plant-in-service.

In fiscal year 1980/1981, the utility added the second stage of its transmission/distribution system and collection lines. The utility's estimate indicates that the water transmission and distribution lines cost \$25,060 and the wastewater collection lines cost \$47,129. We accept these estimated costs as reasonable. Based on the foregoing, we find that the utility plant balance at June 30, 1990 is \$37,797 for the water system and \$103,546 for the wastewater system.

Projected Plant Improvements

On March 7, 1989, Shady Oaks signed a Consent Final Judgment with the DER. The utility agreed to construct an additional effluent disposal system to eliminate discharge from the plant. The construction permit sets a March 31, 1991 deadline for this construction. The utility has received several estimates for the work. The latest estimate was for \$199,725. We believe that a reasonable estimate to complete the work is \$125,000. This includes the relocation of the existing pond, installation of a pump station, installation of a main from the wastewater treatment plant to the new pond site, additional engineering work, materials, construction of the pond, and improvements to the wastewater

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 6

treatment plant. Accordingly, we find that this \$125,000 cost should be included in rate base.

During the test year, the utility spent \$2,265 on engineering costs related to the development of the plans for the new percolation pond. These costs shall be removed from expenses and capitalized and added to the \$125,000 estimated cost of the pro forma plant.

As discussed subsequently in this Order, Shady Oaks will convert from a flat rate to a base facility/gallongage charge rate structure. This change will require the installation of water meters. \$100 is a reasonable estimate of each water meter installation, including the meter, meter box, labor, all valves and other appurtenances. Therefore, \$100 multiplied by the existing 185 customer sites results in a cost of \$18,500, which shall be capitalized and included in the rate base.

When pro forma plant is included in rate base, our policy is to increase accumulated depreciation by one year's depreciation on that plant. Therefore, following this policy, we find that accumulated depreciation attributable to the pro forma plant is \$1,092 for the water system and \$4,709 for the wastewater system.

Shady Oaks' percolation pond is not percolating properly. The Shady Oaks area has a high water table. A new percolation pond is to be constructed in an area where the water table is lower, on a site owned by the utility's President. Because the new site has not been previously dedicated to public use, the utility requests that the value of this land be placed in rate base at its current market value. The utility provided us with a copy of a contract for a sale of 4.65 acres of this land in 1985. The stated sale price per acre was \$68,817. Several customers at the customer meeting pointed out that the sale was never consummated. The same property is currently for sale at approximately \$32,895 per acre. We do not believe the 1985 contract price for a sale that never occurred is a valid basis for determining the current market value of the land.

We have considered several methods in arriving at our decision on the cost of the additional land to be included in rate base. The first method would allow the actual price paid for the land. This method determines the "original cost" of the land to the owner. Using this method would include in rate base the "actual"

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 7

cash investment that the owner has in the property, but the value applied to the land will not necessarily equal the land's value at the time the land is first dedicated to public use.

Commission policy has been to consider the value of the property at the time it is first dedicated to public use. The utility's President developed his system in the early 1970's and set aside the land required for the utility. Due to the fact that the current percolation pond is no longer operating properly, the President now finds himself in the position of acquiring additional land or setting aside some of his other property for utility use. We do not believe that the retirement of the old pond is through any negligence on the part of the owner, nor that he used poor judgment in choosing the initial site. Through no fault of the owner, the utility now requires additional land. Therefore, we believe that the value of the land when it is first dedicated to public use is the current value. If the full value were to be included in rate base, it would have a serious impact on this small system.

We have considered as another option, the possibility of indexing forward the original cost of the land. For instance, using the CPI as an index, the original cost of \$1,460 an acre would be increased to approximately \$4,400 an acre. Order No. 22166, issued November 9, 1989 (Poinciana Utilities, Inc.), discussed this issue of the valuation of land. We believe that Order No. 22166 clearly states the preference of the Commission to use the value of the land at the time the property is dedicated to public use. Further, the Commission discussed the methodology of using an index and stated that the methodology resulted in an unreasonably low and unrealistic per acre cost. Therefore, in that case, the Commission chose an independent appraisal as the basis for the determination of the land cost.

The best evidence we have in this case on which to base the current fair market value of this land is to start with the value placed thereon by the County Property Appraiser, which is \$11,803.53 per acre. We believe this value represents at least 65 percent of the land's actual current market value. Accordingly, we find it appropriate to increase the property appraiser's value, based on an assumed appraisal at 65 percent of current market value, to calculate a full market value of \$18,160 per acre. We multiply this per acre value by the four acres needed for the

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 8

percolation pond site, to establish a current total market value of \$72,640.

The transfer of the four acres from the utility to the utility's President is a related party transaction and not a "sale" of land in the tax sense. The President will not recognize a gain on this transfer for tax purposes. He will, however, be acquiring the "benefits" of the transfer because he will be earning a return on the increased value of the land added to rate base. Therefore, it is appropriate to reduce the current value per acre by the "tax savings" that the President receives from the increased value. We have calculated this "tax savings" by multiplying the increase in value of \$16,700 per acre (\$18,160 less \$1,460) by the tax rate of 28 percent. This results in a total reduction of \$20,339, for a net value of the four acres of \$52,301, which we find to be the appropriate value of the four acres to be added to rate base.

The site of the old percolation pond must be retired from rate base and a gain recognized. The current percolation pond occupies approximately one acre. Because this land may be reclaimed after the new percolation pond is built, it can be sold or used for other purposes. We adjust the revenue requirement to match the retirement of the one acre with the purchase of the additional four acres. The current market value of the one acre is \$16,700 more than its original purchase price. This gain will be recognized in the revenue requirement. The one acre has been owned by the utility and included in rate base. Therefore, any financial benefits from the sale of the one acre should accrue to the ratepayers. Commission policy is to amortize such a gain over a period of time. In prior cases, the Commission has chosen the amortization period by allowing the amortization expense to equal the depreciation and return on investment in rate base of the retired item. Utilization of this method results in an amortization period of seven years. Based on the foregoing, we find that a yearly amortization of \$2,386 should be included in the revenue requirement.

Because the utility has not acquired contracts for the construction, we find that the rate increase related to the pro forma plant and land shall be placed in an escrow account with an independent financial institution established pursuant to a staff-approved written escrow agreement. Any withdrawals of funds from this escrow account are subject to the prior approval of this Commission through the Director of Records and Reporting. Six

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 9

months from the effective date of this Order, the utility shall submit to the Commission copies of the invoices to verify the costs to complete the construction. Staff will make a recommendation regarding the escrowed funds after reviewing the invoices and the completed construction. We expect staff's recommendation to be complete within eight or nine months from the effective date of Order.

Land Currently Owned

In 1971, Shady Oaks Mobile-Modular Estates, Inc. purchased 63 acres for \$92,000, or \$1,460 per acre. The water system is located on approximately 1/2 acre and the wastewater system currently occupies approximately 2.1 acres. During the test year, land and all utility facilities were owned and operated by Shady Oaks Mobile-Modular Estates, Inc. The owner of Shady Oaks transferred the title of the land to himself and his wife in August, 1990. The owner has indicated his intention to transfer all utility property from the mobile home park to a separate entity. Although the name on the utility's certificate does not currently match the name of the land title because of the recent transfer, the land and plant shall be included in rate base. We find that the original cost of \$1,460 per acre shall be applied to the acreage for a land cost of \$730 in the water system and \$3,066 in the wastewater system.

Accumulated Depreciation

We have calculated an accumulated depreciation balance using the estimated plant costs and the estimated construction dates. We find that a forty year life (a 2.5 percent depreciation rate) is an appropriate estimate for calculating the accumulated depreciation. Using these facts and including the retirement of two minor plant items, we have calculated a year end test year balance of accumulated depreciation of \$9,408 for the water system and \$37,286 for the wastewater system. We find that averaging the test year changes results in an average test year balance of \$8,936 for the water system and \$35,992 for the wastewater system.

Contributions-in-Aid-of-Construction (CIAC)

As discussed earlier, the utility was unable to provide original cost documentation for utility plant-in-service. While we did not perform an original cost study, we reviewed engineering estimates and tax returns. The utility's tax returns for the years

ORDER NO. 24084
--DOCKET NO. 900025-WS
PAGE 10

1971 - 1983 show a water plant balance of \$11,588 and a wastewater plant balance of \$45,632. We find that the difference between the tax returns and the original cost estimates for plant additions prior to 1985 shall be imputed as CIAC. This results in a 1983 balance of \$25,060 for the water system and \$57,914 for the wastewater system.

In addition, the federal tax return for the fiscal year ended July 31, 1989 includes an impact fee collected in the amount of \$2,085. The \$2,085 shall be included in the test year balance of CIAC and be divided evenly between the water and wastewater systems. We find that this increases the year-end balance of CIAC for the water system to \$26,103 and for the wastewater system to \$58,956. The utility did not change its CIAC balance during the test year; therefore, no averaging adjustment is needed.

Accumulated Amortization of CIAC

Using the same methodology to calculate the accumulated depreciation balance, we have calculated a year-end balance for accumulated amortization of CIAC of \$5,991 for the water system and \$16,220 for the wastewater system. This balance has been adjusted to an average for the test year. We find that the resulting balance of \$5,665 for the water system and \$15,483 for the wastewater system shall be included in rate base.

Working Capital Allowance

Using the formula method (one-eighth of operation and maintenance expenses) to calculate the working capital allowance, we find that the appropriate amount of working capital to be included in rate base is \$3,176 for the water system and \$3,613 for the wastewater system.

Test Year Rate Base

After incorporating all adjustments, we find that the average test year rate base is \$29,812 for the water system and \$204,157 for the wastewater system.

COST OF CAPITAL

Our calculation of the appropriate cost of capital, including our adjustments, is depicted on Schedule No. 2, attached to this

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 11

Order. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on that schedule without further discussion in the body of this Order.

During the test year, Shady Oaks had three issues of short-term debt. The first issue was from the 1st National Bank of Pasco for \$2,492, issued on June 25, 1990 for 24 months. The second issue was from Mark Sims for \$2,000, issued on December 22, 1989 for 12 months. The third issue was also from the 1st National Bank of Pasco for \$975, and issued on November 21, 1988 for 24 months. These issues will be classified as short-term debt. The average balance of these three debt issues for the test year is \$1,121, which shall be included in the capital structure at the average interest rate paid during the test year of 16.80 percent.

At the end of the test year, Shady Oaks had a balance of long-term debt outstanding of \$172,542. In December, 1989, \$3,000 in debt was added to the balance. The \$3,000 has been averaged to determine the average test year balance. The entire balance of the long-term debt is owed to the owners of the utility. The utility has not paid interest or principal on any of these notes. This debt is a total of approximately 90 promissory notes made in varying amounts since 1973. Each note has an individual interest rate stated on its face. There is no direct correlation between the prime rate and the stated interest rates. The average rate for this debt, based on the stated rates, is 17.254 percent. We believe it appropriate to recalculate the average rate by substituting the prime rate plus 3 percent for each of the stated rates. Based on this analysis, we find that the average rate is 13.4 percent.

In 1988, Shady Oaks Mobile-Modular Estates, Inc. went through a reorganization under Chapter 11 of the Bankruptcy Code and a final judgment was issued on August 2, 1988. This judgment listed the debts of the company and stated the debts would bear interest at the rate of 11.5 percent. We find that the interest rate on all the debts incurred before the final judgment shall be adjusted to the 11.5 percent interest rate specified in the judgment. The small portions of debt incurred after the bankruptcy court's final judgment will be included at their averaged actual interest rates. This brings the total average rate to 11.55 percent. Therefore, considering all adjustments, we find that the average long-term debt for the test year is \$171,157 at an average interest rate of 11.55 percent.

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 12

Return on Equity

At the end of the test year, the utility/mobile home park had a \$5,000 balance in common stock, a \$1,785 balance in paid-in capital, and a negative retained earnings of \$290,577. While the entire balance of negative retained earnings does not belong to the utility, the utility's share is significantly higher than its investment through common stock and paid-in capital. Commission policy is to include a zero equity balance when a negative balance of retained earnings is larger than the investment through stock. Accordingly, we find that a zero equity balance exists for the test year.

Earlier in this Order we held that a substantial amount of plant shall be included in rate base as a pro forma item. The utility will need financing to pay for this plant. The most likely source of funding is through equity or personal loans. Therefore, the best measure of the cost of this financing is to include the pro forma item as equity and use our leverage graph to determine the cost of the financing. The Commission's leverage graph was last adjusted in Docket No. 900006-WS, Order No. 23318 on August 7, 1990. Using that graph, the proper cost of this equity is 12.49 percent. Therefore, we find that the pro forma equity shall be included in the capital structure at a cost of 12.49 percent, with a range of 11.49 percent to 13.49 percent.

Overall Rate of Return

Considering all adjustments, the appropriate overall cost of capital is calculated by using the utility's capital structure with each item reconciled to rate base on a pro rata basis. We find that this results in an overall cost of capital of 12.10 percent.

NET OPERATING INCOME

Our calculation of net operating income is depicted on Schedule No. 3, with our adjustments itemized on Schedule No. 3-A. Those adjustments which are self-explanatory or which are essentially mechanical in nature are reflected on those schedules without further discussion in the body of this Order. The major adjustments are discussed below.

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 13

Test Year Revenues

Shady Oak's tariffs do not specify a stated rate for water and wastewater service. As discussed in the Case Background, the utility has certain deed restrictions which required the developer, Shady Oaks, to provide certain services at a fixed cost of \$25 per month. These services include water, wastewater, and other services. Based upon data presented in the original certificate case in 1986, the Commission decided that the utility should continue billing its customers in accordance with the deed restrictions. Therefore, the utility's existing tariffs reflect that the water rate and the wastewater rate are part of the monthly \$25 charge.

Currently, some of Shady Oak's customers are paying \$25 rate for water and wastewater. Some are paying a \$35 rate for water, wastewater, and garbage. Others are paying a \$40 rate for water, wastewater, garbage and streetlights. It appears that \$25 per month rate is all that is being charged to cover water and wastewater service. Therefore, we have calculated annualized revenues using \$25 per month multiplied by the 185 test year customers, which results in an annualized revenue of \$55,500. We find that this revenue shall be split equally between water and wastewater, resulting in annualized revenue of \$27,750 for water service and of \$27,750 for wastewater service.

Operation and Maintenance Expenses (O & M)

The test period ending June 30, 1990 was used to determine the appropriate expense levels which follow. The audited totals and detailed components of each expense account were examined for reasonableness, taking into consideration both average test period customers and year-end customers. Reclassification adjustments, annualizing adjustments, adjustments for appropriate levels and known changes were made to arrive at expense allowances. The results of our analysis are detailed below. Schedule No. 4, attached, includes a summary of each account.

1) Salaries and Wages - Employees - The utility pays its Secretary \$250 a month for an average of ten hours a week for office expense incurred relating to delinquent customer billing, record keeping and other duties. This amount is reasonable. However, because the utility is changing to a base facility/gallonage charge rate

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 14

structure, we estimate an additional 8 hours of work each month will be required to calculate and prepare customers' bills. This results in a \$50 per month increase, for a total annual expense of \$3,600, to be divided equally between water and wastewater.

2) Salaries and Wages - Officers - The utility pays its President for the day-to-day operation of the utility system. His rate of pay is \$1,500 a month for an average of thirty hours each week. He may be spending close to 30 hours a week at the present time because of the DER Consent Order, however the normal course of business should require only 10 hours a week for his services. The utility is changing to the base facility/gallonage charge rate structure. Therefore, we estimate that the President will spend additional time each month reading meters. We believe an allowance of \$100 per month is a reasonable amount to compensate for those additional duties. These adjustments result in a total annual expense of \$7,200, which is a reduction of \$10,800 per year. Accordingly, we find that the total salaries and wage expenses for Officers shall be \$3,000 for water and \$4,200 for wastewater.

3) Employee Pensions and Benefits - During the test year, the utility spent \$4,205.40 for employee benefits, including \$3,528 for hospitalization insurance for its President and Secretary and \$677 for other medical expenses. Several customers did not agree that the rates should include a provision for hospitalization insurance for "part-time" employees. These two employees are the officers of the mobile home park and a portion of their hours are spent on the utility. It is reasonable for the company officers to receive hospitalization insurance, but the utility should not pay the entire expense. The number of hours spent on utility work indicates that a majority of the Officers' labor hours are spent on other duties. Accordingly, the test year expenses are hereby reduced to reflect 20 hours of labor per week, combined total of both Officers, which is a 75 percent reduction. Effective February 10, 1991, the insurance premium will be increased to \$670 a month, or \$8,040 per year. The expected insurance premium of \$670 a month plus the other miscellaneous expenses are hereby allowed; however, only 25 percent of these amounts shall be allocated to the utility. These adjustments decrease test year expenses by \$796 for the water system and a like amount for the wastewater system.

4) Purchased Power - The electric meter that meters the water treatment plant also meters the power usage at the mobile home park's recreation center. We have analyzed the power requirements

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 15

of the water treatment plant pump and have prorated these expenses. This proration results in the purchased power expense for the water system to be reduced by \$3,302, to \$730 per year. No adjustment is necessary to wastewater purchased power expense.

5) Preventative Maintenance - The utility must increase its preventative maintenance because of the unsatisfactory level of service. Maintenance expenses are hereby authorized to be increased to \$1,700 a month to allow for the extra maintenance. The test year maintenance expenses include materials, supplies, and labor for maintenance performed during the test year that totalled \$1,242 for the water system and \$1,700 for the wastewater system. These expenses are hereby increased by \$8,958 for the water system and \$8,500 for the wastewater system, for an annual total of \$20,400.

This increase in allowed expenses is substantial. We will monitor the expenditure of these funds to insure they are used for their intended purposes. Therefore, at the end of six months from the effective date of this Order, the utility shall provide to the Commission a detailed record of its maintenance expenditures. We will review these records to determine if the funds are being used as intended. If the utility has not begun to spend a substantial amount (85 percent) of the allowance, the utility shall submit a statement as to the reasons why a substantial amount of these funds have not been utilized and a detailed statement of its future plans to maintain the system. If the maintenance is not performed, we will consider initiating a show cause proceeding to fine the utility for not performing as ordered.

6) Contractual Services - During the test year, Shady Oaks paid \$11,737 for contractual services; \$4,347 in the water system and \$7,391 in the wastewater system. These expenses are hereby adjusted to \$3,217 in the water system and \$7,488 in the wastewater system. The specifics of several adjustments are noted below.

\$114.76 was found in accounts payable for accounting services during the test year. This is an expense and is hereby transferred to the contractual service expense account, to be divided evenly between water and wastewater.

Four invoices for a total of \$500 were paid during the test year for services received in the prior period. These invoices are

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 16

removed from test year expense, resulting in a reduction of \$225 to water expense and \$275 to wastewater expense.

Test year expenses included \$2,000 in attorneys' fees for settlement in a bankruptcy proceeding. This is an extraordinary, non-recurring item that is disallowed. Accordingly, we reduce water expenses by \$1,000 and we reduce wastewater expenses by \$1,000.

The contractual services expenses also included \$2,755 for items which should more appropriately be included in other accounts: telephone bills (\$44.06), gasoline charges (\$9.75), repayment of principal and interest (\$436.49) and engineering costs related to the development of the plans for the new percolation pond (\$2,265.00). The telephone and gasoline charges are hereby reclassified to the appropriate expense account. Further, the debt and interest charges are removed as expenses and will be recovered as discussed in the Rate Base portion of this Order. Moreover, the expense related to the development of the percolation pond is removed from contractual services and reclassified to the wastewater system as a part of the pro forma plant addition.

The largest part of the contractual services account is paid to Mathis Water and Wastewater, Inc. for operation of the facilities. During the test year, the utility was charged \$350 per month for the contract service, \$126 for chemical samples, \$306 for chlorine, and \$907 for miscellaneous items. This fee is being increased by the contractor from \$350 per month to \$450 per month. This reasonable increase is approved. The chlorine cost is reasonable, but has been reclassified to chemical expense. The miscellaneous charges include \$320 for sludge hauling; this item has been reclassified to the sludge removal expense account. The utility's books do not appear to reflect the total expense for the test year on an accrual basis. The expense must be adjusted to reflect the increased contractual services fee and the same test year related expense - samples, and miscellaneous charges. After these adjustments, we approve an increase to the contractual services expenses of \$767 for the water system and \$1,042 for the wastewater system.

7) Rents - In 1985, the utility signed a lease to rent office space for \$250 each month. This expense should be allocated partially to the mobile home park. The utility allocates 35 percent of transportation expense to the mobile home park. This is

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 17

a reasonable allocation for the office space. Allocation of 35 percent of the rent expense to the park reduces the utility's rent expense to \$975 per year for the water systems and \$975 per year for the wastewater system.

8) Transportation - The utility records indicate a transportation expense of \$2,042 (plus \$10 reclassified from another account) for the water system and \$2,040 for the wastewater system. This expense includes expenditures for gasoline, auto insurance and auto repairs. We find that the transportation expense is reasonable, provided it is properly allocated among the various activities.

Shady Oaks' gas expense included all payments the utility had made during the year, with thirty-five percent allocated to the mobile home park, which is reasonable. The utility paid \$924 for auto repairs during the year. Thirty-five percent of these expenses, or \$323, should be allocated to the mobile home park. Therefore, we remove \$155 from water system expenses and \$168 from wastewater system expenses. Finally, the insurance expense of \$1,262 must be reclassified to the insurance expense account. These adjustments result in a balance for the transportation expense of \$1,266 in the water system and \$1,241 for the wastewater system.

9) Insurance - The utility paid \$1,262 for automobile insurance for the President's and the Secretary's automobiles during the test year. The Secretary's car is not used to any material extent for utility business. The President's car is used approximately 65 percent of the time for utility business. We will allow only the insurance expense relating to the President's car and allocate 35 percent of that expense to the mobile home park. \$571 of the insurance premiums were for the President's car. After allocating 35 percent of this expense to the mobile home park, the utility's expense is \$370, which shall be divided equally between water and wastewater.

The utility has requested that liability insurance be included in its revenue requirement. The utility provided a policy for the period 7/16/85 to 7/16/86 with premium costs of \$4,168 for the utility premises, the recreation building, and the office. The utility requests that this policy be used as an estimate of the liability expense. We believe that the policy provides a reasonable estimate of the expense. The utility should acquire the liability insurance and the expense should be allocated based on

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 18

the limits of liability shown in the policy for each of the structures. Also, 35 percent of the cost of the coverage for the office shall be allocated to the mobile home park. We find that these adjustments result in an expense for liability insurance of \$144 for the water system and \$198 for the wastewater system.

10) Regulatory Commission Expense - The only cost related to this case is a filing fee of \$300. This amount shall be amortized over four years, consistent with Section 367.0816, Florida Statutes. This results in a reduction to the expense of \$1,882 for the water system and a like amount for the wastewater system. We find that the proper expense is \$37.50 for water and \$37.50 for wastewater, for a four year period.

11) Other Regulatory Expense - The utility's books reflected \$1,800 in other regulatory expenses. This entire amount was paid to the DER Pollution Recovery Fund for fines assessed by DER. Commission policy is to disallow any fines incurred by a utility. Therefore, we find that this expense should be reduced to zero.

12) Office Supplies and Expense - The utility recorded office supplies and expense for the test year in the amount of \$683 (plus \$44 reclassified from another account) for the water system and \$727 for the wastewater system. We find that the water expense should be reduced by \$35 and the wastewater expense should be reduced by \$36 to eliminate out of test year telephone expenses.

Depreciation Expense

Using the rates prescribed by Chapter 25-30.140, Florida Administrative Code, we calculate depreciation on test year plant of \$1,232 for the water system and \$3,705 for the wastewater system. Using the same rates, the amortization of CIAC totals \$791 for the water system and \$2,181 for the wastewater system. The same rates as applied to the proforma plant add \$1,092 to the water system and \$4,709 to the wastewater system. We find that the appropriate depreciation expense to include in the revenue requirement is \$1,533 for the water system and \$6,233 for the wastewater system.

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 19

Amortization Expense

Earlier in this Order we held that the gain on the retirement of one acre of the wastewater land will be amortized over seven years. The gain totalled \$16,700. Amortizing that amount over seven years results in an annual amortization amount of \$2,386. We find that this amortization shall be used to offset a portion of the wastewater revenue requirement by including it as a negative amortization expense.

Taxes Other than Income Taxes

The utility's records do not reflect any taxes other than income. However, earlier in this Order, we held that certain salary expenses for the President and Secretary be allowed. The related payroll taxes will also be allowed. These taxes result in a payroll expense of \$923.

In the past, the utility has been delinquent in paying its tangible and real property taxes. This expense will nevertheless be included in rates to eliminate a risk that any utility property could be lost to the tax collector. We allow \$347 for tangible property taxes. The utility's ad valorem tax millage rate of .019 percent results in a total test year real estate tax of \$14 for the water system and \$58 for the wastewater system. Applying the .019 rate to the pro forma land for the new percolation pond results in a pro forma real estate tax expense of \$1,772.

We find that the regulatory assessment fees, at 4.5 percent of the test year revenues, total \$2,498, which we hereby approve.

Based on the above considerations, we find that the test year taxes other than income are \$1,870 for the water system and \$3,742 for the wastewater system.

Income Tax Expense

Shady Oaks is a Subchapter S corporation. No income tax expense should be included in the rates of a Subchapter S corporation as the corporation itself does not pay taxes. Therefore, we find that the income tax expense for Shady Oaks shall be zero.

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 20

Based on the previous adjustments, we find that the test year operating loss is \$1,061 for the water system and the test year operating loss is \$8,744 for the wastewater system.

REVENUE REQUIREMENTS

Based on the utility's books and records and the adjustments discussed above, we find that the annual revenues required are \$32,639 for the water system and \$62,799 for the wastewater system. This is an increase of \$4,889, or 17.6 percent for the water system and an increase of \$35,029, or 126.2 percent for the wastewater system. This will allow the utility the opportunity to recover its expenses of \$28,811 in the water system and \$36,494 in the wastewater system and earn a 12.10 percent return on its investment in rate base.

RATES AND CHARGES

Commission Authority to Increase Rates

The developer, Shady Oaks, entered into contracts for the sale of land which contain certain provisions regarding utility service. The charge for utility service is included as an unspecified portion of an annual fee of \$300 for a variety of services.

As previously stated, Order No. 14540, issued July 8, 1985, found that Shady Oaks is subject to the jurisdiction of this Commission. By Order No. 15633, issued February 6, 1986, we issued Water Certificate No. 451-W and Sewer Certificate No. 382-S. Order No. 15633, issued March 7, 1986, stated that the utility should file tariff pages consistent with its then current rates. The specific language in the tariff states that "the customers pay an annual fee of \$300 (\$25/month) that is fixed by deed restriction. An undetermined portion of this amount applies to water service."

The Florida Supreme Court recognized the Commission's exclusive jurisdiction to establish rates for utility service in Storey v. Mayo, 217 So.2d 304 (Fla. 1968). All private contracts with a utility are regarded as entered into subject to the reserved authority of the State acting through the Public Service Commission under the police power to modify the contract in the interest of public welfare, State ex rel. Ellis v. Tampa Waterworks Co., 48 So. 639 (Fla. 1908); State ex rel. Triay v. Burr, 84 So. 61 (Fla. 1920); Miami Bridge Co. v. Railroad Comm., 20 So.2d 356 (Fla.

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 21

1945); and Midland Realty Co. v. Kansas City Power & Light Co., 300 U.S. 687 (1937). In the Midland case, the court opined that rates which were approved subsequent to the contract were proper, although they were higher than an existing contract rate between the parties. The Court stated:

"A state has the power to . . . prohibit service at rates too low to yield the cost rightly attributable to it." Midland, supra.

In Cohee v. Crestridge Utilities Corp. 324 So.2d 155 (Fla 2nd DCA 1975), the Court held that the Commission has authority to raise, as well as lower, rates established by a pre-existing contract when deemed necessary in the public interest. The Commission's power to establish rates supersedes preexisting agreements that establish such rates. Hampton Utilities Co. v. Hampton Homeowners Ass'n, 252 So.2d 286 (Fla 4th DCA 1971) and H. Miller & Sons, Inc. v. Hawkins, 373 So.2d 913 (Fla 1979). While a state may exercise its power to modify or abrogate private rate contracts, it is under no obligation to do so merely to relieve a contracting party from the burden of an improvident undertaking; rather, the power to fix rates . . . in contravention of a contract must be exercised solely for the public welfare. Arkansas Natural Gas Co., v. Arkansas R. Comm., 261 U.S. 67 (1936). We believe that adequate service cannot be provided to customers through the year 2000 at an annual rate of \$300. The system is already approaching a critical need for additional funds to not only maintain the system, but to maintain a satisfactory quality of service. This Commission has the authority to establish rates irrespective of the pre-existing contract, and must do so in order to maintain a satisfactory quality of service to the Shady Oaks' customers.

We are not without concern for the ratepayers. However, this result is required under the mandates of Section 367.081(2), Florida Statutes, which requires rates that are just, fair, compensatory and not unfairly discriminatory. The fact that there exists a Circuit Court judgement styled Emerson French and Louisa Ann French v. Shady Oaks Mobile-Modular Estates, Incorporated issued on October 7, 1983, in Case No. 83-430 in the Circuit Court (Pasco County) does not alter our decision. The judgement does not address these issues and the Commission was not a party to that lawsuit. There is no indication the Trial Judge was aware of the

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 22

Commission's primary jurisdiction over the subject matter of these rates.

For purposes of this case and in determining the test year revenues, we have assumed the entire \$300 yearly payment charged to most of the park residents was for utility services. This may or may not be the case. The rates listed below are the total rates necessary to give the utility the opportunity to recover its expenses and a reasonable rate of return on its investment in rate base. The Commission has no authority as to what portion of the \$300 yearly payment which the customers may or may not still owe to the mobile home park. This question must be discussed between the customers and the utility President and, if not resolved, it would be a matter for the circuit court. The utility is reminded that pursuant to Rule 25-30.320, Florida Administrative Code, service cannot be discontinued if the customers pay their utility bills and comply with the utility's rules and regulations which are set forth in its tariff.

RATES AND CHARGES

The rates established by this Order have been designed to allow the utility the opportunity to recover its expenses and earn a 12.10 percent return on its investment. The utility's current rate structure is a flat rate. Flat rates are not conducive to conservation. We find that the utility shall employ the base facility/ gallonage charge rate structure, which establishes a fixed charge for each customer to recover a proportionate share of fixed operating costs and a variable gallonage charge to recover the variable costs of providing the services.

We have used an average of 6,000 gallons per month per customer and the average test year number of customers to compile a billing analysis for the test year and to calculate rates. Because the customer usage has not been previously metered, there is no historical data to determine the customers' actual consumption. Our estimate of usage is based on average usage in other mobile home parks in Florida. While not every customer resides in Shady Oaks for twelve months, and not every household has two persons who use 100 gallons per day each, we believe that the estimated 6,000 gallons per month is a reasonable average. Although the swimming pool, laundry and office are not typical household users of water, the total of 6,000 gallons per month per customer is a good estimate of all water used by all sources. We

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 23

find the following rates and rate structure to be fair, just and reasonable. .

WATER

MONTHLY RATES

Residential

<u>Base Facility Charge</u>	<u>Commission Approved</u>
<u>Meter Size</u>	
5/8" x 3/4"	\$ 6.34
3/4"	9.51
1"	14.84
1-1/2"	29.01
2"	46.02
3"	91.36
4"	142.36
6"	284.05
<u>Gallorage Charge</u>	
Per 1,000 gallons	\$ 1.39

General Service

<u>Base Facility Charge</u>	<u>Commission Approved</u>
<u>Meter Size</u>	
5/8" x 3/4"	\$ 6.34
3/4"	9.51
1"	14.84
1-1/2"	29.01
2"	46.02
3"	91.36
4"	142.36
6"	284.05
<u>Gallorage Charge</u>	
Per 1,000 gallons	\$ 1.39

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 24

WASTEWATER

MONTHLY RATES

Residential

<u>Base Facility Charge</u>	<u>Commission Approved</u>
All Meter Sizes	\$ 12.50
<u>Gallonage Charge</u>	
Per 1,000 gallons (6,000 gal. maximum)	\$ 2.63

General Service

<u>Base Facility Charge</u>	<u>Commission Approved</u>
<u>Meter Size</u>	
5/8" x 3/4"	\$ 12.50
3/4"	18.75
1"	31.08
1-1/2"	62.02
2"	99.15
3"	198.16
4"	309.55
6"	618.96
<u>Gallonage Charge</u>	
Per 1,000 gallons (No maximum)	\$ 3.15

The utility has requested that it be allowed to implement the rate increase prior to the installation of the water meters. The utility states that it will be difficult to find financing to purchase meters and install them without revenues produced by the increased rates. We find that implementation of the rate increase prior to the installation of the meters is a reasonable solution.

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 25

We will approve flat rates as follow, until the water meters are installed.

Monthly Water Flat Rate	\$ 14.70
Monthly Wastewater Flat Rate	\$ 28.28

The utility must install water meters for all customers as quickly as possible. We believe that six months is more than adequate time to install 185 water meters. If all water meters have been installed at or before six months of the effective date of this Order, the utility may begin to charge all customers the base facility and gallonage charges, effective not earlier than 30 days after approval of new tariffs. If all of the water meters have not been installed within six months of the effective date of this Order, the utility shall begin billing the appropriate base facility charges to all customers, but shall charge the gallonage charge only to those customers who have a functioning water meter installed at the respective customer's service site. In no event shall the gallonage charge be applied to any customer earlier than for meter readings taken on or after 30 days following the stamped approval date of the revised tariff pages implementing the base facility charge rate structure.

The Commission's investigation in this case indicated that there are a couple of lots which are not being charged the same as other lots. Rule 25-30.135(2), Florida Administrative Code, states that no utility may modify or revise its rates until the utility files and receives approval from the Commission for any such modification or revision. Accordingly, we find that the rates approved herein should be applied, without discrimination, to all customers.

Customer Access to Information

Customers have questioned whether the utility has a policy and procedures manual. No manual is maintained by the utility. However, the tariff includes the rates, charges and various operating rules required by the Commission. Rule 25-30.135(3), Florida Administrative Code, requires that the utility maintain for customer inspection, a copy of Chapter 25-30, Florida Administrative Code, and a copy of the utility's tariffs, rules, regulations and schedules at the utility office in the service area and make them readily accessible to the customers during office hours. The utility must comply with these requirements.

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 26

Rates After Amortization of Rate Case Expense

The only rate case expense incurred by the utility for this case was a \$300 filing fee. Following the requirements of Section 367.0816, Florida Statutes, the appropriate recovery period for this fee is four years which allows the utility to recover approximately \$37 per year per system through its rates. This revenue recovery grossed up to account for regulatory assessment fees results in an annual revenue of \$39 per system. Therefore, at the end of four years the utility's rates for water and for wastewater should each be reduced by \$39 annually. Based on the existing circumstances, the effect of this rate reduction is a \$.01 reduction in the utility's water base facility charge and a \$.01 reduction in the utility's wastewater gallonage charge. The utility shall file revised tariff pages no later than one month prior to the actual date of the required rate reduction. The utility also shall file a proposed customer letter setting forth the lower rates and the reason for the reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

Miscellaneous Service Charges

Currently, the utility's tariff has no provision for miscellaneous service charges. Miscellaneous service charges are designed to provide revenues to a utility for services other than the direct provision of potable water and wastewater collection and treatment. These fees are designed to more accurately defray the costs associated with each service and place the responsibility for the cost on the persons creating it rather than the ratepaying body as a whole. The four types of miscellaneous service charges are as follows:

Initial Connection: This charge is to be levied for service initiation at a location where service did not exist previously.

Normal Reconnection: This charge is to be levied for transfer of service to a new customer account at a previously served location, or reconnection of service subsequent to a customer requested disconnection.

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 27

Violation Reconnection: This charge is to be levied prior to reconnection of an existing customer after disconnection of service for cause according to Rule 25-30.320(2), Florida Administrative Code, including a delinquency in bill payment. (Actual cost is limited to direct labor and equipment rental.)

Premises Visit Charge (in lieu of disconnection): This charge is to be levied when a service representative visits a premises for the purpose of discontinuing service for nonpayment of a due and collectible bill and does not discontinue service because the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill.

We approve the following miscellaneous service charges as being appropriate.

	<u>WATER</u>	<u>WASTEWATER</u>
Initial Connection:	\$ 15.00	\$ 15.00
Normal Reconnection	\$ 15.00	\$ 15.00
Violation Reconnection	\$ 15.00	Actual Cost(1)
Premises Visit (in lieu of disconnection)	\$ 10.00	\$ 10.00

(1) Actual cost for a wastewater violation reconnection is limited to materials and equipment rental.

When both water and wastewater services are provided, only a single charge is appropriate unless circumstances beyond the control of the utility require multiple actions.

Service Availability Charges

The utility's tariff does not include any service availability charges. However, in 1989 the utility collected an impact fee of \$2,085. While this was not an authorized charge, we believe that it is beneficial to the contribution level of the utility and should not be refunded. However, the utility is admonished to collect only those charges approved in the tariff.

Rule 25-30.580, Florida Administrative Code states that:

(1) A utility's service availability policy shall be designed in accordance with the following guidelines:

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 28

- (a) The maximum amount of contributions-in-aid-of-construction, net of amortization, should not exceed 75 percent of the total original cost, net of accumulated depreciation, of the utility's facilities and plant when the facilities and plant are at their designed capacity; and
- (b) The minimum amount of contributions-in-aid-of-construction should not be less than the percentage of such facilities and plant that is represented by the water transmission and distribution and sewage collection systems.

We estimate that the utility will add approximately 57 additional customers and that it will take 11 years before the system is built out. Considered along with the current depreciation rate of 3.26 percent for the water system, we believe the guidelines in the rule would require a water charge within the range of \$28 to \$210. Because the maximum is a relatively low charge, it is hereby approved as the water service availability charge.

Considering the same facts and a composite depreciation rate of 3.70 percent for the wastewater system, the rule would require a wastewater charge within the range of \$677 to \$2,854. This range is unusually high because of the high cost of the pro forma plant and land that the utility is required to add. If the maximum charge is approved, it would in effect be making all new customers pay 75 percent of not only their share of the new construction, but 75 percent of the current customers' share of the new construction. This is not reasonable. It is more appropriate for future customers to pay their share of the construction and for the current customers to pay for their share through rates.

Based on charges for similar utilities, we find that a service availability charge of \$1,200 for wastewater is appropriate. That charge places the utility at a 30 percent contribution level at build-out.

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 29

ESCROW ACCOUNT - PLANT AND PENALTY

We have held that the portion of the increase related to the pro forma plant and the penalty be placed in escrow until the construction is complete and our final review of the quality of service is complete. The portion of rates which relates to the pro forma plant is \$.17 for the water gallonage charge or \$.99 of the water flat rate. The wastewater portion related to the pro forma plant is \$1.65 of the gallonage charge, or \$9.90 of the flat rate. The portion of the rates which relates to the proposed penalty is \$.15 for the water gallonage charge and \$.90 for the water flat rate. The wastewater portion related to the proposed penalty is \$.15 for the wastewater gallonage charge and \$.90 for the wastewater flat rate. Therefore, we find that a total of \$.32 of the water gallonage charge, or \$1.89 of the water flat rate be escrowed and a total of \$1.80 of the wastewater gallonage charge, or \$10.80 of the wastewater flat rate be escrowed to accumulate the proper sums as required.

RATES IN THE EVENT OF PROTEST

This Order proposes an increase in water and wastewater rates. A timely protest could delay what may be a justified rate increase, pending a formal hearing and final order in this case, resulting in an unrecoverable loss of revenue to the utility.

Accordingly, in the event a timely protest is filed by anyone other than the utility, we authorize the utility to collect the rates approved herein, subject to refund, provided that the utility furnishes security for such a potential refund. The security should be in the form of a bond or letter of credit in the amount of \$40,000. Alternatively, the utility may establish an escrow account with an independent financial institution pursuant to a written agreement. If this alternative is chosen, all revenue collected under the rate increase will be subject to the escrow. Any withdrawals of funds from the escrow account shall be subject to the written approval of the Commission through the Director of Records and Reporting. Should any refund ultimately be required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), Florida Administrative Code.

In addition, Shady Oaks shall file reports with the Division of Records and Reporting no later than the twentieth day following the monthly billings, after the increased rates are in effect,

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 30

indicating the amount of revenue collected under the implemented rates. Shady Oaks must also keep an account of all monies received by reason of the increase authorized herein, specifying by whom and in whose behalf such monies were paid.

EFFECTIVE DATE OF RATES AND CHARGES

The approved flat rates shall be effective for service rendered on or after the stamped approval date on the revised tariff pages provided the utility has provided its customers with a written notice explaining the new rates. The approved flat rates shall be discontinued as soon as the utility has installed meters for each of its customers or at the end of six months following the effective date of this Order, whichever comes first. The utility shall then file revised tariff pages to reflect the base facility/gallongage charge rates approved herein. These rates shall be effective for meter readings taken on or after 30 days after the stamped approval date on the revised tariff pages. All customers not then having a functioning water meter properly installed at the service site shall be charged only the base facility charge with no gallongage charge. Each such customer shall be required to pay the gallongage charge only after the utility properly installs the customer's water meter.

The service availability charges approved herein shall be effective for connections on or after the stamped approval date on the revised tariff pages. Miscellaneous service charges will be effective for service rendered on or after the stamped approval date on the revised tariff pages.

The revised tariff pages will be approved upon staff's verification that the tariffs are consistent with the Commission's decision, that the proposed customer notice is adequate, and that the required security, if needed, has been provided.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the application of Shady Oaks Mobile-Modular Estates, Inc. for an increase in its water and wastewater rates in Pasco County is approved to the extent set forth in the body of this Order. It is further

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 31

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

ORDERED that all matters contained in the body of this Order and in the schedules attached hereto are by reference incorporated herein. It is further

ORDERED that the provisions of this Order issued as proposed agency action shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc. shall, within sixty (60) days after the effective date of this Order, file with the Commission a request for acknowledgement of a name change and restructure. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc. is authorized, subject to stated prerequisites, to charge the new rates and charges set forth in the body of this Order. It is further

ORDERED that the flat rates approved herein shall be effective for service rendered after the stamped approval date on the revised tariff pages. It is further

ORDERED that the metered rates approved herein shall be effective for meter readings taken on and after thirty (30) days after the stamped approval date of the revised tariff pages. It is further

ORDERED that the miscellaneous service charges approved herein shall be effective for services rendered on or after the stamped approval date on the revised tariff pages. It is further

ORDERED that the service availability charges approved herein shall be effective for connections made on or after the stamped approval date on the revised tariff pages. It is further

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 32

ORDERED that prior to its implementation of the rates approved herein, Shady Oaks Mobile-Modular Estates, Inc. shall submit and have approved revised tariff pages and a proposed notice to its customers of the increased rates and charges and the reasons therefor. The revised tariff pages will be approved upon Staff's verification that they are consistent with our decisions herein and that the protest period has expired. The proposed customer notice will be approved upon Staff's determination of its adequacy. It is further

ORDERED that if at six months after the effective date of this Order, Shady Oaks Mobile-Modular Estates, Inc. has not expended at least 85 percent of the increase approved herein for maintenance, it shall then submit a written schedule to the Commission to show what monthly maintenance schedule will be adopted along with a statement of the reasons such funds were not expended for preventative maintenance. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc. shall establish an escrow account with an independent financial institution, pursuant to a written agreement, to escrow the fine imposed and to escrow the maintenance allowance as set out in the body of this Order. It is further

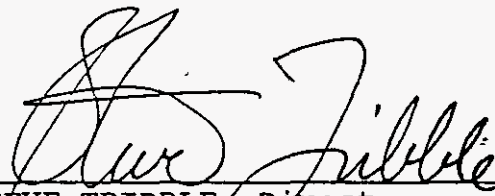
ORDERED that in the event of a protest by any substantially affected person other than Shady Oaks Mobile-Modular Estates, Inc., the utility, is authorized to collect the rates approved herein on a temporary basis, subject to refund in accordance with Rule 25-30.360, Florida Administrative Code, provided that Shady Oaks Mobile-Modular Estates, Inc., has established the required security for any potential refund and provided that it has submitted and staff has approved revised tariff pages and a proposed customer notice. It is further

ORDERED that after the expiration of the protest period, this Order shall become final if no timely protest is filed. It is further

ORDERED that this docket will not be closed, but will remain open until the contingencies specified in this Order have been accomplished.

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 33

By ORDER of the Florida Public Service Commission this 8th
day of FEBRUARY, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

TCP

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 34

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.

As identified in the body of this order, our actions other than granting of temporary rates in the event of a protest, are preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on March 1, 1991. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by 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 of the effective date 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.

ORDER NO. 24084
DOCKET NO. 900025-WS
PAGE 35

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.

ORDER NO. 24084
 DOCKET NO. 900025-WS
 PAGE 36

SCHEDULE NO. 1

COMPONENT	(A) AVERAGE TEST YEAR PER UTILITY	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) PRO FORMA ADJUSTMENTS	(E) PRO FORMA TEST YEAR
1					
2					
3 UTILITY PLANT IN SERVICE	\$ 13,888	\$ 23,984	\$ 37,872	\$ 18,500	\$ 56,372
4 LAND	0	730	730		730
5 C.W.I.P.	0	0	0		0
6 NON-USED AND USEFUL COMPONENTS	0	0	0		0
7 C.I.A.C.	0	(26,103)	(26,103)		(26,103)
8 ACCUMULATED DEPRECIATION	(11,599)	2,663	(8,936)	(1,092)	(10,028)
9 AMORTIZATION OF C.I.A.C.	0	5,665	5,665		5,665
10 ADVANCES FOR CONSTRUCTION	0	0	0		0
11 WORKING CAPITAL ALLOWANCE	0	3,176	3,176		3,176
12					
13 RATE BASE	\$ 2,289	\$ 10,115	\$ 12,404	\$ 17,408	\$ 29,812
14					
15					

COMPONENT	(A) AVERAGE TEST YEAR PER UTILITY	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) PRO FORMA ADJUSTMENTS	(E) PRO FORMA TEST YEAR
1					
2					
3 UTILITY PLANT IN SERVICE	\$ 45,632	\$ 57,914	\$ 103,546	\$ 127,265	\$ 230,811
4 LAND	0	3,066	3,066	50,841	53,907
5 C.W.I.P.	0	0	0		0
6 NON-USED AND USEFUL COMPONENTS	0	0	0		0
7 C.I.A.C.	0	(58,956)	(58,956)		(58,956)
8 ACCUMULATED DEPRECIATION	(32,275)	(3,717)	(35,992)	(4,709)	(40,701)
9 AMORTIZATION OF C.I.A.C.	0	15,483	15,483		15,483
10 ADVANCES FOR CONSTRUCTION	0	0	0		0
11 WORKING CAPITAL ALLOWANCE	0	3,613	3,613		3,613
12					
13 RATE BASE	\$ 13,357	\$ 17,403	\$ 30,760	\$ 173,397	\$ 204,157
14					

SCHEDULE 1-A
 PAGE 1 OF 2

ADJUSTMENT	WATER	SEWER
-----	-----	-----
1 UTILITY PLANT IN SERVICE		
2 -----		
3 1. To adjust the utility's balance to the		
4 original cost estimate.	\$ (2,300)	\$ 10,785
5		
6 2. To include Phase 2 line additions.	25,060	47,129
7		
8 3. To record installation of master meter.	1,300	
9		
10 4. To reflect replacement of pump in 1989.	(151)	0
11		
12 5. To reflect the average test year balance.	75	
13		
14 TOTAL ADJUSTMENTS TO UTILITY PLANT	\$ 23,984	\$ 57,914
15	=====	=====
16		
17 LAND		
18 ----		
19 1. To include land based on the original		
20 purchase price.	\$ 730	\$ 3,066
21	=====	=====
22		
23 CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION		
24 -----		
25 1. To reflect cash contribution shown on the		
26 tax return.	\$ (1,043)	\$ (1,042)
27		
28 2. To reflect lines imputed based on tax		
29 return plant balance (1971-1972).	0	(10,785)
30		
31 3. To include Phase 2 lines not reflected		
32 on tax return.	(25,060)	(47,129)
33	-----	-----
34 TOTAL ADJUSTMENTS TO CIAC	\$ (26,103)	\$ (58,956)
35	=====	=====
36		
37 ACCUMULATED DEPRECIATION		
38 -----		
39 1. To adjust accumulated depreciation		
40 using the adjusted balance of U.P.I.S.		
41 and a 2.5% composite depreciation rate.	\$ 2,191	\$ (5,011)
42		
43 2. To reflect the average test year balance.	472	1,294
44	-----	-----
45 TOTAL ADJUSTMENTS TO ACCUMULATED DEPRECIATION	\$ 2,663	\$ (3,717)
46	=====	=====

ORDER NO. 24084
 DOCKET NO. 900025-WS
 PAGE 38

SCHEDULE 1-A
 PAGE 2 OF 2

ADJUSTMENT	WATER	SEWER
-----	-----	-----
1 AMORTIZATION OF C.I.A.C.		
2 -----		
3 1. To reflect accumulated amortization on		
4 the adjusted balance of CIAC		
5 and a 2.5% composite depreciation rate.	\$ 5,991	\$ 16,220
6		
7 2. To reflect the average test year balance.	(326)	(737)
8	-----	-----
9 TOTAL ADJUSTMENTS TO AMORTIZATION OF CIAC	\$ 5,665	\$ 15,483
10	-----	-----
11		
12 WORKING CAPITAL ALLOWANCE		
13 -----		
14 1. To record the working capital allowance		
15 using the formula method.	\$ 3,176	\$ 3,613
16	-----	-----
17		
18 PRO FORMA PLANT		
19 -----		
20 1. To include projected cost of percolation pond.	\$ 0	\$ 125,000
21		
22 2. To include estimated cost of meters.	18,500	0
23		
24 3. To include the engineering costs spent		
25 for the perc pond design.	0	2,265
26	-----	-----
27 TOTAL ADJUSTMENTS TO PRO FORMA PLANT	\$ 18,500	\$ 127,265
28	-----	-----
29		
30 PRO FORMA LAND		
31 -----		
32 1. To include the current cost of the		
33 land required for the new percolation pond.	\$ 0	\$ 52,301
34		
35 2. To retire the original cost of the land for the		
36 old percolation pond.	0	(1,460)
37	-----	-----
38 TOTAL ADJUSTMENTS TO PRO FORMA LAND	\$ 0	50,841
39	-----	-----
40		
41 PRO FORMA ACCUMULATED DEPRECIATION		
42 -----		
43 1. To include one year's depreciation on		
44 pro forma plant.	\$ (1,092)	\$ (4,709)
45	-----	-----

SCHEDULE NO. 2

COMPONENT	AVERAGE TEST YEAR	COMMISSION ADJUSTMENTS	COMMISSION ADJUSTED TEST YEAR	PRO RATA ADJUSTMENTS	ADJUSTED BALANCE	WEIGHT	COST	WEIGHTED COST
1								
2								
3 LONG-TERM DEBT	171,157		171,157	(72,406)	98,751	42.21%	11.55%	4.87%
4 SHORT-TERM DEBT	1,121		1,121	(474)	647	0.28%	16.80%	0.05%
5 CUSTOMER DEPOSITS	0		0	0	0	0.00%	0.00%	0.00%
6 COMMON EQUITY	0	233,242	233,242	(98,671)	134,571	57.52%	12.49%	7.18%
7 ITC'S	0		0	0	0	0.00%	0.00%	0.00%
8 DEFERRED INCOME TAXES	0		0	0	0	0.00%	0.00%	0.00%
9 OTHER CAPITAL	0		0	0	0	0.00%	0.00%	0.00%
10								
11								
12 TOTAL	172,278	233,242	405,520	(171,551)	233,969	100.00%		12.10%
13								
14								
15								
16								
17								
18								
19								
20								

	RANGE OF REASONABLENESS:	HIGH	LOW
EQUITY		13.49%	11.49%
OVERALL RATE OF RETURN		12.68%	11.53%

ORDER NO. 24084
 DOCKET NO. 900025-WS
 PAGE 40

SCHEDULE NO. 3

DESCRIPTION	(A) AVERAGE TEST YEAR PER UTILITY	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) CONSTRUCTED ADJUSTMENTS	(E) CONSTRUCTED TEST YEAR
1					
2					
3 OPERATING REVENUES	\$ 27,750	\$	\$ 27,750	\$ 4,889	\$ 32,639
4 OPERATING EXPENSES:					
5 OPERATION & MAINTENANCE	\$ 17,268	\$ 8,140	\$ 25,408	\$	\$ 25,408
6 DEPRECIATION	0	1,533	1,533		1,533
7 AMORTIZATION	0	0	0		0
8 TAXES OTHER THAN INCOME	0	1,870	1,870	220	2,090
9 INCOME TAXES	0	0	0	0	0
10					
11 TOTAL OPERATING EXPENSES	\$ 17,268	\$ 11,543	\$ 28,811	\$ 220	\$ 29,031
12					
13 OPERATING INCOME	\$ 10,482	\$ (11,543)	\$ (1,061)	\$ 4,669	\$ 3,608
14					
15 RATE OF RETURN	457.93%		-8.55%		12.10%
16					
17					

DESCRIPTION	(A) AVERAGE TEST YEAR PER UTILITY	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) CONSTRUCTED ADJUSTMENTS	(E) CONSTRUCTED TEST YEAR
1					
2					
3 OPERATING REVENUES	\$ 27,750	\$	\$ 27,750	\$ 35,029	\$ 62,779
4 OPERATING EXPENSES:					
5 OPERATION & MAINTENANCE	\$ 18,022	\$ 10,883	\$ 28,905	\$	\$ 28,905
6 DEPRECIATION	0	6,233	6,233		6,233
7 AMORTIZATION	0	(2,386)	(2,386)		(2,386)
8 TAXES OTHER THAN INCOME	0	3,742	3,742	1,576	5,318
9 INCOME TAXES	0	0	0	0	0
10					
11 TOTAL OPERATING EXPENSES	\$ 18,022	\$ 18,472	\$ 36,494	\$ 1,576	\$ 38,070
12					
13 OPERATING INCOME	\$ 9,728	\$ (18,472)	\$ (8,744)	\$ 33,453	\$ 24,709
14					
15 RATE OF RETURN	0.00%		-28.43%		12.10%
16					

SCHEDULE 3-A
 PAGE 1 OF 3

ADJUSTMENT -----	WATER -----	SEWER -----
1 OPERATION AND MAINTENANCE		
2 -----		
3 1. To estimate the salary for the secretary.	\$ 1,800	\$ 1,800
4		
5 2. To estimate the salary for the president.	3,000	3,000
6		
7 3. To allow additional expense for meter reading.	1,200	
8		
9 4. To recognize the increased cost of		
10 hospitalization insurance.	2,254	2,254
11		
12 5. To remove 75% of medical costs		
13 to match benefits to utility work-hours.	(3,050)	(3,050)
14		
15 6. To reduce the purchased power expense		
16 to the staff engineer's estimate.	(3,302)	0
17		
18 7. To adjust materials and supplies expense		
19 to properly accrue expenses.	5	60
20		
21 8. To accrue an accounting services invoice.	57	57
22		
23 9. To remove four invoices for services		
24 in a prior period.	(225)	(275)
25		
26 10. To remove costs to settle bankruptcy.	(1,000)	(1,000)
27		
28 11. To remove non-expense items - perc pond		
29 engineering costs and debt/interest payments.	(530)	(2,171)
30		
31 12. To recognize the projected increase in the contrac-		
32 tual services rate and accrue the yearly expense	767	1,042
33		
34 13. To accrue rental expense for the office.	975	975
35		
36 14. To allocate a portion of the auto repairs		
37 to the mobile home park.	(155)	(168)
38		
39 15. To adjust automobile insurance.	(446)	(446)
40		
41 16. To include liability insurance.	144	198
42		
43 17. To remove out of period reg. comm. exp.	(1,770)	(1,770)
44		
45		
46		
47		
48		
49		

ORDER NO. 24084
 DOCKET NO. 900025-WS
 PAGE 42

SCHEDULE 3-A
 PAGE 2 OF 3

ADJUSTMENT	WATER	SEWER
-----	-----	-----
1 OPERATION AND MAINTENANCE (CONT'D)		
2 -----		
3 18. To amortize the filing fee over four years.	(112)	(112)
4		
5 19. To remove fines and penalties.	(950)	(900)
6		
7 20. To increase expenses to allow additional		
8 amounts for preventative maintenance.	8,958	8,500
9		
10 21. To allow mowing costs for the percolation pond.		2,925
11		
12 22. To remove telephone expense		
13 related to prior period.	(35)	(36)
14		
15 23. To allow postage for mailing bills.	555	
16	-----	-----
17 TOTAL ADJUSTMENTS TO OPERATION		
18 AND MAINTENANCE	\$ 8,140	\$ 10,883
19	=====	=====
20		
21 DEPRECIATION		
22 -----		
23 1. To reflect depreciation expense		
24 on test year plant.	\$ 1,232	\$ 3,705
25		
26 2. To reflect amortization		
27 on test year CIAC.	(791)	(2,181)
28		
29 3. To include depreciation expense		
30 on pro forma plant.	1,092	4,709
31	-----	-----
32 TOTAL ADJUSTMENTS TO DEPRECIATION	\$ 1,533	\$ 6,233
33	=====	=====
34		
35 AMORTIZATION		
36 -----		
37 1. To amortize the gain on the retirement		
38 of the old percolation pond land.	\$ 0	\$ (2,386)
39	=====	=====

ORDER NO. 24084
 DOCKET NO. 900025-WS
 PAGE 43

SCHEDULE 3-A
 PAGE 3 OF 3

ADJUSTMENT	WATER	SEWER
1 TAXES OTHER THAN INCOME		
2 -----		
3 1. To reflect regulatory assessment		
4 fees on test year revenues.	\$ 1,249	\$ 1,249
5		
6 2. To include tangible property tax.	94	253
7		
8 3. To include real estate taxes		
9 on utility plant sites.	14	58
10		
11 4. To include real estate taxes on the		
12 pro forma land.	0	1,772
13		
14 5. To include federal and state unemployment taxes		
15 on salaries.	54	43
16		
17 6. To include FICA taxes on salaries.	459	367
18		
19 TOTAL ADJUSTMENTS TO TAXES OTHER THAN INCOME	\$ 1,870	\$ 3,742
20	=====	=====
21		
22 OPERATING REVENUES		
23 -----		
24 To reflect recommended increase (decrease)		
25 to allow a fair rate of return.	\$ 4,889	\$ 35,029
26	=====	=====
27		
28 TAXES OTHER THAN INCOME		
29 -----		
30 To reflect regulatory assessment		
31 fees on revenue change.	\$ 220	\$ 1,576
32	=====	=====

ORDER NO. 24084
 DOCKET NO. 900025-WS
 PAGE 44

SCHEDULE NO. 4

ACCT NO.	ACCOUNT TITLE	(A) UTILITY BALANCE PER BOOKS	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) PRO FORMA ADJUSTMENTS	(E) PRO FORMA TEST YEAR
1	601 SALARIES AND WAGES - EMPLOYEES	\$ 0	\$ 1,800	\$ 1,800	\$ 0	\$ 1,800
2	603 SALARIES AND WAGES - OFFICERS	0	4,200	4,200	0	4,200
3	604 EMPLOYEE PENSIONS & BENEFITS	2,103	(796)	1,307	0	1,307
4	615 PURCHASED POWER	4,032	(3,302)	730	0	730
5	618 CHEMICALS	0	145	145	0	145
6	620 MATERIALS AND SUPPLIES	1,040	8,963	10,003	0	10,003
7	630 CONTRACTUAL SERVICES	4,347	(1,130)	3,217	0	3,217
8	640 RENTS	0	975	975	0	975
8	650 TRANSPORTATION EXPENSES	2,042	(776)	1,266	0	1,266
9	655 INSURANCE	0	329	329	0	329
10	665 REGULATORY COMMISSION EXPENSE	1,920	(1,882)	38	0	38
11	668 OTHER REGULATORY EXPENSE	950	(950)	0	0	0
12	675 MISCELLANEOUS EXPENSES	151	0	151	0	151
13	680 OFFICE SUPPLIES & EXPENSE	683	564	1,247	0	1,247
14						
15	TOTAL	\$ 17,268	\$ 8,140	\$ 25,408	\$ 0	\$ 25,408

20 SEWER OPERATION & MAINTENANCE EXPENSES

ACCT NO.	ACCOUNT TITLE	(A) UTILITY BALANCE PER BOOKS	(B) ADJUSTMENTS TO THE TEST YEAR	(C) ADJUSTED TEST YEAR	(D) PRO FORMA ADJUSTMENTS	(E) PRO FORMA TEST YEAR
27	701 SALARIES AND WAGES - EMPLOYEES	\$ 0	\$ 1,800	\$ 1,800	\$ 0	\$ 1,800
28	703 SALARIES AND WAGES - OFFICERS	0	3,000	3,000	0	3,000
29	704 EMPLOYEE PENSIONS & BENEFITS	2,103	(796)	1,307	0	1,307
30	711 SLUDGE REMOVAL EXPENSE	0	320	320	0	320
31	715 PURCHASED POWER	2,457	0	2,457	0	2,457
32	718 CHEMICALS	0	161	161	0	161
33	720 MATERIALS AND SUPPLIES	286	8,560	8,846	0	8,846
34	730 CONTRACTUAL SERVICES	7,391	97	7,488	0	7,488
35	740 RENTS	0	975	975	0	975
36	750 TRANSPORTATION EXPENSES	2,040	(799)	1,241	0	1,241
37	755 INSURANCE	0	383	383	0	383
38	765 REGULATORY COMMISSION EXPENSE	1,920	(1,882)	38	0	38
39	768 OTHER REGULATORY EXPENSE	900	(900)	0	0	0
40	775 MISCELLANEOUS EXPENSES	198	0	198	0	198
41	780 OFFICE SUPPLIES & EXPENSE	727	(36)	691	0	691
42						
43	TOTAL OPERATION AND MAINTENANCE	\$ 18,022	\$ 10,883	\$ 28,905	\$ 0	\$ 28,905

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-)
 assisted rate case in Pasco County)
 by SHADY OAKS MOBILE-MODULAR)
 ESTATES, INC.)

DOCKET NO. 900025-WS
 ORDER NO. 25296
 ISSUED: 11/04/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 SUSAN F. CLARK
 J. TERRY DEASON
 BETTY EASLEY

ORDER DETERMINING NONCOMPLIANCE WITH
 PRIOR COMMISSION ORDER AND APPROVING
 TEMPORARY RATES IN EVENT OF PROTEST

AND

NOTICE OF PROPOSED AGENCY ACTION ORDER
 APPROVING CHANGE IN RATES AND RATE STRUCTURE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein regarding changing rates and rate structure is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Case Background

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. By resolution of the Pasco County Commission, the provisions of Chapter 367, Florida Statutes, became effective in Pasco County as of July 11, 1972. By Order No. 14540, issued July 8, 1985, this Commission found that Shady Oaks was subject to Commission jurisdiction.

DOCUMENT NUMBER-DATE

10955 NOV -4 1991

FPSC-RECORDS/REPORTING

On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. On February 8, 1991, this Commission issued proposed agency action (PAA) Order No. 24084, wherein we approved a rate increase for Shady Oaks. In that Order, we also required Shady Oaks to do the following: file a request for acknowledgement of a restructure and a name change, improve its unsatisfactory quality of service, expend 85% of the allowance for preventive maintenance on systems maintenance or provide written explanation for not doing so, provide a detailed record of maintenance expenditures, install meters for all of its customers, and escrow a certain portion of the approved monthly rates to account for a fine and proforma plant allowances. The primary purpose of this Order is to evaluate Shady Oaks' compliance with Order No. 24084.

On March 1, 1991, several utility customers filed a timely protest to Order No. 24084. In their protest, the customers objected to the location of percolation pond proposed by the utility. Because we have no jurisdiction to dictate the location of the proposed percolation pond, by Order No. 24409, issued April 22, 1991, we dismissed the protest and revived Order No. 24084, making it final and effective.

After the new rates became effective, the homeowners in the Shady Oaks park, on June 21, 1991, filed suit against Shady Oaks in Circuit Court attacking, among other things, the increased water and wastewater rates approved by this Commission. Each deed whereby the developer (Shady Oaks) transferred property in the Shady Oaks mobile home park to a buyer contained a covenant which requires Shady Oaks to provide certain services at a fixed annual cost. The listed services include water and wastewater service. In Order No. 14540, whereby we certificated Shady Oaks, we noted a 1982 decision of the Circuit Court for the Sixth Judicial Circuit in and for Pasco County which upheld the restrictive covenants included in the deeds. Shady Oaks did not request new rates upon certification, and we decided that the utility should continue billing its customers the rate established in the deed restrictions.

On June 24, 1991, Circuit Court Judge Lynn Tepper granted the homeowner's request for an emergency temporary injunction enjoining Shady Oaks from charging or attempting to collect the Commission-approved rates. In addition, on July 5, 1991, the Circuit Court issued an order requiring Shady Oaks to show cause why it should not be found in contempt for violating the 1982 Court Judgment.

ORDER NO. 25296
DOCKET NO. 900025-WS
PAGE 3

This order also enjoined the utility from collecting the Commission-approved rates and ordered that the monthly service fee paid by the homeowners be deposited into the registry of the Clerk of the Court. In August, both injunctions were lifted, and the utility was able to begin collecting the Commission-approved rates; however, the homeowner's lawsuit is still pending.

During the time that the injunction was in effect, Shady Oaks was unable to pay its electric bills for May and June, 1991. On July 25, 1991, the Withlacoochee River Electric Cooperative discontinued electric service to the utility. All of the pertinent governmental agencies, including this Commission, were given prior notice. The Shady Oaks homeowners were without water and wastewater service when electric service was discontinued. In order to get service restored, the homeowners proposed paying the utility's electric bill. With no opposition from the utility or the Commission, the Circuit Court issued an order which allowed the homeowners to pay the electric bill, provided that payment would be credited to the homeowner's water and wastewater bills. The homeowners paid the electric bill, and Shady Oaks' power was restored.

In looking at all of the circumstances surrounding this case, we note two other relevant factors. First, on March 13, 1991, Shady Oaks' owners, Mr. Richard D. Sims and his wife Caroline S. Sims, filed for personal bankruptcy under Chapter 13 with the United States Bankruptcy Court for the Middle District of Florida, Tampa Division. Secondly, on July 8, 1991, the Circuit Court issued an order approving the stipulation of the parties in an action initiated by the Florida Department of Environmental Regulation (DER) against Shady Oaks. In the approved stipulation, Shady Oaks agreed to remove its wastewater treatment plant and to divert all flows to Pasco County's wastewater collection system within six months.

Noncompliance With Order No. 24084

Name Change

In August, 1990, Shady Oaks transferred the title of the utility land from the Shady Oaks corporation to its owners individually. Shady Oaks undertook this transfer without the prior approval of the Commission. As stated earlier, in Order No. 24084

ORDER NO. 25296
DOCKET NO. 900025-WS
PAGE 4

we ordered Shady Oaks to file a request for acknowledgment of a name change and restructure within sixty days. ..

On March 17, 1991, we received a letter from the utility wherein it requested official recognition of the utility's new name, S & D Utility (S & D). On April 1, 1991, we wrote the utility that the name change could not be recognized until we received evidence that utility land and assets had been properly transferred to S & D and that S & D had been properly registered as a fictitious name. The utility submitted evidence that S & D was registered as a fictitious name; however, it explained that because of the pending bankruptcy proceeding, title to the utility land and assets could not yet be transferred to S & D. Subsequently, the Shady Oaks' owners informed us that under the payment plan entered into in the bankruptcy proceeding, they will soon be able to correct the title to utility land and assets.

In consideration of the foregoing, we hereby require Shady Oaks' owners to submit within sixty days of the date of this Order evidence that the title to all the utility land and assets has been corrected.

We are concerned, as are the customers, that the utility has been billing the customers and operating under the name of S & D, even though we have not yet officially approved this name. However, this would appear to be an exceptional case. We believe that it is only a matter of time before the utility provides sufficient information for us to process the name change. Nonetheless, if for any reason, title to the utility land and assets cannot be corrected within sixty days, the utility shall revert to operating under the name currently shown on its certificate: Shady Oaks Mobile-Modular Estates, Inc.

Escrow Requirement

The utility's new rates under Order No. 24084 became effective on March 2, 1991. Pursuant to that Order, on March 26, 1991, the utility began placing a portion of its increased rates into an escrow account. From March until August, 1991, the utility escrowed the following amounts: March, \$284.18; April, \$350.88; May, \$256.38; June, \$243.19; July, \$61.18; August, \$0. The total amount escrowed was \$1,195.81

ORDER NO. 25296
DOCKET NO. 900025-WS
PAGE 5

The utility did not comply with Order No. 24084, wherein we required it to escrow \$333.34 per month in order to accumulate the \$2,000 fine assessed and the revenues associated with the proforma plant improvements. We believe that the utility's failure to escrow the proper sums was caused by the failure of many Shady Oaks' customers to pay their water and wastewater bills.

As discussed in the Case Background, the customers filed suit against the utility regarding the increased water and wastewater rates. A majority of the customers withheld payment of their utility bills. As of mid-September, 1991, 98 customers (out of 185 total customers) owed \$100 or more and 50 customers owed over \$200. The utility had \$21,185 in total receivables. Revenues were also depleted by some \$13,861 because 71 customers had service discontinued during the summer while they were out of town. By July, 1991, the utility was receiving so few utility payments, that it unilaterally decided to discontinue placing money in escrow in order for it to pay its bills.

Although we understand the utility's difficulty in escrowing the required amount, we admonish it for ceasing to escrow without our approval. The utility should immediately place enough money in the escrow account to bring the balance up to the proper level. Although we will not order the utility to show cause why it should not be fined for violating a Commission Order at this time, if the utility does not immediately correct the deficiency or does not continue placing the appropriate portion of revenues in the escrow account, we shall take appropriate action.

Installation of Water Meters

By Order No. 24084, we required the utility to install water meters for all its customers. As of mid-September, the utility had installed 31 of the 185 meters required, and had dug holes for 41 more.

Although not in complete compliance with our Order, Shady Oaks' installation of the 31 meters indicates that it has made an effort to comply. As indicated above, Shady Oaks has been receiving less than half the revenues allowed in the rate case. Considering the insufficient funds on hand to purchase meters, we believe that the utility has done a reasonable job.

ORDER NO. 25296
DOCKET NO. 900025-WS
PAGE 6

As noted in the Case Background, the Circuit Court lifted its injunction in August. Our review of the utility's books indicates that most of the customers have begun paying the Commission-approved rate. Indeed, as of mid-September, only twelve active customers have not made a payment in either August or September. Although the customers are currently paying their bills, they have not brought their accounts up-to-date. There is still some dispute about bills owing from March through July. Now that the utility appears to be collecting its appropriate level of revenue, we shall allow the utility another five months to complete the installation of the water meters.

Quality of Service

By Order No. 24084, we imposed a \$2,000 fine against the utility for its unsatisfactory quality of service, but suspended the fine for a nine-month period, by the end of which we would dispose of the fine. With six months passed from the time of Order No. 24084, we find that the utility's quality of service remains unsatisfactory.

In September, we conducted a site inspection of the utility and found that the physical condition of both the water and wastewater systems had deteriorated. Neither system had a certified operator for the period of July 12 through August 27, 1991. Virtually no maintenance other than emergency repairs had been performed on either system.

Very heavy vegetation had grown in and around the berms of the percolation pond causing the ponds to function improperly. In addition, the wastewater treatment plant equipment looked derelict and in need of maintenance. The cost of making the necessary improvements to the wastewater system would be significant. However, as stated in the Case Background, Shady Oaks has agreed to interconnect with Pasco County. The interconnection is scheduled to take place in five months. We believe that Shady Oaks should maintain the system according to DER standards until the interconnection takes place. We anticipate that the interconnection will cost at least as much as the amount we allowed in Order No. 24084 for a new percolation pond and the associated land. We shall compare the costs when we reevaluate the quality of service in five months.

As for the water system, we are specifically concerned with the holes in the pump house roof being significantly worse than in our prior inspection. This condition leaves the equipment unprotected from the environment and subject to corrosion and accelerated attrition.

All of the above conditions are at least partially attributable to decreased revenues. Now that revenues have increased, we expect the utility to improve its quality of service with respect to plant condition; in meeting this goal, the utility should complete its interconnection with Pasco County within the designated time.

The other aspect of quality of service which has deteriorated since the issuance of Order No. 24084 is customer relations. On November 17, 1991, we received a letter from the Shady Oaks Homeowners Association wherein the customers listed numerous complaints against the utility. For instance, the customers complained that when they asked a question of the utility owner, he would refer them to our staff. Our staff verifies that they have encountered this situation directly on more than one occasion. In addition, the customers assert that the utility owner is generally unresponsive, profane, abusive, and insulting.

The customers also complain about the utility's limited and inconsistent office hours. The office hours change from week to week, and the customers point out that they are inconvenienced by having to call the utility just to be told that the office hours are posted or that the office is currently open. Even when the office is open, the utility owner has refused to accept hand-delivered payments.

The customers also complain about the utility's billing format. Prior to the Commission's approving increased rates, the utility did not issue bills because utility service was part of the monthly service fee the customers had to pay. The customers want the utility's bills to show the previous balance, payment received, new charges, and total due. According to Rule 25-30.335, Florida Administrative Code, each bill need only contain the billing period, the applicable rate, the amount due, and the delinquent date. Our rules do not require the level of detail requested by the customers because our rules do not contemplate overdue balances. Normally, unpaid bills result in disconnection. The utility may, but is not required to, provide the detail which the

ORDER NO. 25296
DOCKET NO. 900025-WS
PAGE 8

customers request. Indeed, it may be wise to do so in order to eliminate customer confusion and unnecessary bill inquiries.

In order to improve its quality of service, the utility must improve customer relations. Although customer relations is a somewhat subjective matter, we note several concrete steps the utility should undertake in this regard.

The utility should keep a complaint log which should list each customer complaint received and the corrective action taken. Customer complaints or inquiries should be responded to, if not resolved, within forty-eight hours. If the problem cannot be resolved within this time, the customer should be given the timetable for resolution.

The utility should maintain reasonable and dependable office hours. Although the expense we allowed in the rate case for the utility president and secretary was not intended to account for office hours only, we expect the utility's office to be open at least two to three hours, twice a week. The most important aspect in this case is consistency. The utility should maintain consistent hours. If the utility officers are not able to be in the office on a consistent basis, they should consider alternative staffing.

Finally, the utility shall stop referring customers to our staff to solve problems. We recognize that our staff is needed on occasion to explain Commission rules and procedures; but our staff should not be relied upon by the utility or its customers as a substitute for utility management.

Preventative Maintenance

As indicated in the Case Background, in Order 24084, we ordered the utility to spend 85% of the monthly allowance for preventive maintenance for its stated purpose. We have reviewed the utility's disbursements for March through August, 1991, and note the following outlays: March, \$193; April, \$366; May, \$0; June, \$294; July, \$0; August, \$300. As with its other failures, the utility's failure here was likely caused by decreased revenues. The utility shall henceforth comply with this aspect of Order No. 24084. We shall revisit this issue in five months' time.

ORDER NO. 25296
DOCKET NO. 900025-WS
PAGE 9

Fine Suspension

In Order No. 24084, we imposed a \$2,000 fine, but suspended same for a nine-month period during which we expected the utility to improve its quality of service. We do not take lightly the utility's continued unsatisfactory quality of service or its continued failure to comply with other requirements of our prior order. However, this is a somewhat exceptional case because of the decreased revenue situation.

According to the utility's stipulation with DER, the utility should complete its interconnection with the Pasco County wastewater treatment system by January 8, 1992. We will extend our suspension of the \$2,000 fine for forty-five days beyond the interconnection date, until February 21, 1992, by which time we will begin our final review of the utility's quality of service. We remind the utility that it is not relieved of its obligation to accumulate the fine in escrow as required above and in Order No. 24084.

Change in Rates and Rate Structure

In Order No. 24084, we allowed the utility to charge a flat rate for the six months which we expected it would take the utility to install meters for all customers. At the end of six months, the base facility charge rate structure would become effective and any customers without water meters would only pay the base facility charge. In this case, the base facility charge rate structure became effective automatically on October 1, 1991.

The customers request that the tariff be adjusted so that only the base charge would be billed to all customers until all water meters have been installed. The customers state that the utility is not in such dire straits as it claims to be. In support of their claim, the customers estimated their payments for January through December, 1991. The customers' estimate includes monthly payments for utility services as well as a \$25 maintenance fee, which the Commission does not regulate.

Not considering the \$25 maintenance fee, we calculate that for the six months of March through August, 1991, the customers paid a total of \$28,371. This amount is considerably less than one-half of the \$98,592 annual revenue requirement which we approved in

ORDER NO. 25296
DOCKET NO. 900025-WS
PAGE 10

Order No. 24084. Therefore, we will not adjust the tariff as requested by the customers.

Because we recognize that the likely cause of the utility's failure to install meters was its reduced revenues, we hereby allow the utility to continue to collect the flat rate set forth in Order No. 24084 until we reevaluate this case in five months. The applicable rate is as follows.

	<u>WATER</u>	<u>WASTEWATER</u>
Flat Monthly Rate	\$14.70	\$28.28

The approved flat rates shall be effective for service rendered on or after the stamped approval date on the revised tariff sheets. The utility shall submit revised tariff sheets reflecting the approved rates along with a proposed customer notice listing the new rates and explaining the reasons therefor. The revised tariff sheets will be approved upon staff's verification that the tariffs are consistent with the Commission's decision, that the proposed customer notice is adequate, and that the protest period has expired.

Temporary Rates in the Event of Protest

As discussed above, we are continuing the flat rate structure, rather than implementing the base facility charge rate structure. A timely protest could delay what may prove to be a justified revenue level pending the completion of a formal hearing and issuance of a final order, thus resulting in an unrecoverable loss of revenue to the utility. Therefore, in the event that a timely protest is filed by anyone other than the utility, we hereby authorize the utility to collect the rates approved herein, on a temporary basis, subject to refund. All revenue related to the difference in the base facility charge rate currently in the tariff and the flat rate approved above will be escrowed. This amount shall be escrowed in addition to the funds escrowed pursuant to Order No. 24084. Any withdrawals of funds from the escrow account shall be subject to the written approval of the Commission through the Director of Records and Reporting.

Once the temporary rates become effective, the utility shall deposit the funds to be escrowed into the escrow account within

ORDER NO. 25296
DOCKET NO. 900025-WS
PAGE 11

seven (7) days of the utility's receipt thereof. The utility must keep an accurate and detailed account of all monies received as a result of its implementing the temporary rates, specifying by whom or on whose behalf such amounts were paid. By the twentieth day of the month for each month that the temporary rates are in effect, the utility shall file a report showing the amount of revenues collected pursuant to the implementation of the temporary rates and the amount of revenues that would have been collected under the prior rates. Should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

The temporary rates shall be effective for service rendered or after the stamped approval date on the revised tariff sheets. The utility shall submit revised tariff sheets reflecting the temporary rates along with a proposed customer notice listing the temporary rates and explaining the reasons and conditions for their implementation. The revised tariff sheets will be approved upon our staff's verification that the tariff sheets are consistent with our decision herein. The proposed customer notice will be approved upon our staff's determination that the notice is adequate.

It is, therefore

ORDERED by the Florida Public Service Commission that Shady Oaks Mobile-Modular Estates, Inc., shall submit within sixty days of this Order all necessary information for changing its certificated name, including evidence that title to all utility land and assets has been properly transferred to S & D Utility, or revert to operating under its currently certificated name. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., shall immediately place in the escrow account established pursuant to Order No. 24084 all funds required to be deposited in said account by said Order. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., shall within five months of the date of this Order install water meters for all of its customers. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., shall within five months of the date of this Order improve its quality of service and interconnect with the Pasco County wastewater treatment

ORDER NO. 25296
DOCKET NO. 900025-WS
PAGE 12

system within the time designated therefor and improve its customer relations as set forth herein. It is further

ORDERED that the provisions of this Order regarding a change in rates and rate structure is issued as proposed agency action and shall become final, unless an appropriate petition in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., is authorized to charge flat rates as set forth in the body of this Order. It is further

ORDERED that the rates approved herein shall be effective for service rendered on or after the stamped approval date on the revised tariff pages. It is further

ORDERED that prior to its implementation of the rates and charges approved herein, Shady Oaks Mobile-Modular Estates, Inc., shall submit and have approved a proposed notice to its customers of the increased rates and charges and the reasons therefor. The notice will be approved upon Staff's verification that it is consistent with our decision herein. It is further

ORDERED that prior to its implementation of the rates and charges approved herein, Shady Oaks Mobile-Modular Estates, Inc., shall submit and have approved revised tariff pages. The revised tariff pages will be approved upon Staff's verification that the pages are consistent with our decision herein and that the protest period has expired. It is further

ORDERED that in the event of a protest by any substantially affected person other than the utility, Shady Oaks Mobile-Modular Estates, Inc., is authorized to collect the rates approved herein on a temporary basis, subject to refund in accordance with Rule 25-30.360, Florida Administrative Code, provided that Shady Oaks Mobile-Modular Estates, Inc., has furnished satisfactory security for any potential refund and provided that it has submitted and Staff has approved revised tariff pages and a proposed customer notice. It is further

ORDER NO. 25296
DOCKET NO. 900025-WS
PAGE 13

EXHIBIT FJL-3
[Order No. 25296]

ORDERED that this docket shall remain open pending further proceedings.

By ORDER of the Florida Public Service Commission, this
4th day of NOVEMBER, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

MJF

by: Kary Ferguson
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.

As identified in the body of this order, our action approving a change in rates and rate structure is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This

ORDER NO. 25296
DOCKET NO. 900025-WS
PAGE 14

petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on 11/25/91. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by 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 of the effective date 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.

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.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-
assisted rate case in Pasco
County by SHADY OAKS MOBILE-
MODULAR ESTATES, INC.)

DOCKET NO. 900025-WS
ORDER NO. PSC-92-0367-FOF-WS
ISSUED: 05/14/92

The following Commissioners participated in the disposition of
this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

AND

FINAL ORDER IMPOSING FINE

BY THE COMMISSION:

CASE BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. On February 8, 1991, this Commission issued proposed agency action (PAA) Order No. 24084, wherein we approved a rate increase for Shady Oaks. In that Order, we also required Shady Oaks to do the following: file a request for acknowledgement of a restructure and a name change, improve its unsatisfactory quality of service, expend 85% of the allowance for preventative maintenance on systems maintenance or provide written explanation for not doing so, provide a detailed record of what monthly maintenance will be implemented, install meters for all of its customers, and escrow a certain portion of the approved monthly rates to account for a fine and pro forma plant allowances. By Order No. 24409, issued April 22, 1991, we dismissed a timely protest to the PAA Order and revived Order No. 24084, making it final and effective.

After the new rates became effective, the homeowners in the Shady Oaks park filed suit against Shady Oaks in Circuit Court complaining of, among other things, the increased water and

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

wastewater rates approved by this Commission. The deeds whereby the developer (Shady Oaks) transferred property in the Shady Oaks mobile home park to a buyer covenanted that Shady Oaks would provide certain services, including water and wastewater service, at a fixed annual cost; the homeowners sought to have the Court enforce the covenant.

On June 24, 1991, Circuit Court Judge Lynn Tepper granted the homeowners' request for an emergency temporary injunction enjoining Shady Oaks from charging or attempting to collect the Commission-approved rates. In addition, on July 5, 1991, the Circuit Court issued an order requiring Shady Oaks to show cause why it should not be found in contempt for violating a 1983 Court Judgment upholding the restrictions. This latter order also enjoined the utility from collecting the Commission-approved rates and ordered that the monthly service fee paid by the homeowners be deposited into the registry of the Clerk of the Court. In August, 1991, both injunctions were lifted, and the utility was able to begin collecting the Commission-approved rates; however, the homeowners' lawsuit is still pending.

In Order No. 25296, issued November 4, 1991, we determined that the utility failed to comply with the requirements of Order No. 24084. In Order No. 25296, we ordered the utility to comply with what was previously ordered and, specifically, to do the following: submit all necessary information for changing its certificated name or revert to operating under its currently certificated name, immediately place in the escrow account all funds necessary to bring said account to its proper balance, install water meters for all its customers within five months, to improve its quality of service, and (as is discussed further below) to interconnect with the Pasco County wastewater treatment system.

SHOW CAUSE

Prior to our considering action against the utility, we reviewed the utility's revenues and expenses from March, 1991, to February, 1992, and made a field inspection. By this Order, we are requiring the utility to show cause why it should not be fined for its substantial noncompliance with Orders Nos. 25296 and 24084. Our discussion of the specific items of noncompliance follows.

Name Change and Restructure

In August, 1990, Shady Oaks transferred the title of the utility land from Shady Oaks Mobile-Modular Estates, Inc. to its shareholders individually. Shady Oaks undertook this transfer

ORDER NO. PSC-92-0367-FOF-WS
DOCKET NO. 900025-WS
PAGE 3

without the prior approval of the Commission. In Order No. 24084, we ordered Shady Oaks to file a request for acknowledgement of a name change and restructure within sixty days. On March 17, 1991, we received a letter from the utility wherein it requested official recognition of the utility's new name, S & D Utility. On April 1, 1991, we wrote the utility that the name change could not be recognized until we received evidence that the utility land and assets had been properly transferred to S & D Utility and that S & D Utility had been properly registered as a fictitious name. The utility submitted evidence that S & D Utility was registered as a fictitious name; however, it explained that because of the pending bankruptcy proceeding, title to the utility land and assets could not yet be transferred to S & D Utility.

Since the utility's owners informed us that under the payment plan entered into in the bankruptcy proceeding they would soon be able to transfer the title to the utility land and assets, we allowed the utility additional time to complete the name change and restructuring. By Order No. 25296, we ordered the utility to submit within 60 days all necessary information for changing its certificated name, including evidence that the title to all the utility land and assets had been properly transferred to S & D Utility. If it did not timely submit that information, the utility was to revert to operating under its currently certificated name, Shady Oaks Mobile-Modular Estates, Inc.

By letter dated January 22, 1992, we reminded the utility of the information necessary to complete the name change and asked several questions regarding the utility's progress. In its February 16, 1992, reply, the utility was largely unresponsive to the questions in our letter. For example, the utility stated in its response that the name change request had already been made with the Commission, and it also indicated that the bankruptcy proceedings still presented an impediment. However, we are aware that on November 14, 1991, the Bankruptcy Judge issued an order dismissing the utility owner's case and on December 17, 1991, issued an order denying the owner's motion for reconsideration or, in the alternative, conversion to Chapter 11.

Not only has the utility failed to file the information necessary for the name change, it has disregarded our Order to revert to operating under its certificated name. We have verified that customer bills bear the heading of S & D Utility and that the utility makes deposits into and writes checks from a bank account in the name S & D Utility. When our Division of Consumer Affairs has called the utility's business phone, the recorded message answers in the name S & D Utility.

ORDER NO. PSC-92-0367-FOF-WS
DOCKET NO. 900025-WS
PAGE 4

It is apparent that the utility is not in compliance with Orders Nos. 24084 and 25296 with regard to the name change and restructure requirements. Therefore, the utility is hereby ordered to show cause why it should not be fined up to \$5,000 per day for such noncompliance.

Installation of Water Meters

By Order No. 24084, we required the utility to install water meters for all its customers within six months. As of mid-September, 1991, the utility had installed 31 of the 185 meters required. In Order No. 25296, we stated that although Shady Oaks was not in complete compliance with our Order, its installation of the 31 meters indicated an effort to comply. We acknowledged that prior to August of 1991, the utility collected less revenue than we had allowed it to collect, as the customers' refusal to pay and the Circuit Court litigation ensued. We estimate arrearages from past nonpayment to be over \$15,000. By Order No. 25296, we allowed the utility an additional five months in which to complete the meter installations.

However, from our recent review of the utility's billing records, we have determined that by the end of 1991, the vast majority of the customers were paying the Commission-approved rates. In a January, 1992, letter, we requested the utility to provide plans and a time schedule for installing the remaining water meters. The utility responded that it intended to install additional meters in February, 1992. As of the end of March, 1992, the utility had only installed an additional 16 meters, which brings the total number of installed meters to 47.

Since the utility has not completed installation of the meters within the prescribed time frame and was unresponsive to our request for information, we hereby order the utility to show cause why it should not be fined up to \$5,000 per day for its failure to install water meters.

Preventative Maintenance

As indicated above, in Order No. 24084, we ordered the utility to spend 85% of the monthly allowance of \$1,700 for preventative maintenance for its stated purpose. In Order No. 25296, we evaluated the utility's disbursements for March through August, 1991, and noted that the utility did not spend what was required. We thought that the utility's failure to comply was likely caused by decreased revenues, but ordered it to thereafter comply with the preventative maintenance aspect of Order No. 24084.

ORDER NO. PSC-92-0367-FOF-WS
DOCKET NO. 900025-WS
PAGE 5

We have reviewed the utility's expenditures for the months of September, 1991, through February, 1992. During this period, the utility spent approximately \$1,300--less than 40% of the \$8,670 which the utility was required to spend. Also, the utility did not explain its failure to meet the spending requirement for preventative maintenance as required by Order No. 24084.

We do not believe the utility has complied with Order No. 25296 regarding maintenance expenditures. Therefore, we order the utility to show cause why it should not be fined up to \$5,000 per day for failing to spend at least 85% of its \$1,700 monthly allowance for preventative maintenance.

Quality of Service

By Order No. 24084, we imposed a \$2,000 fine against the utility for its unsatisfactory quality of service, but suspended the fine for a nine-month period, by the end of which we would dispose of the fine. We directed the utility to improve its quality of service by constructing a new effluent disposal system, obtaining the necessary permits, and operating its wastewater facilities within Florida Department of Environmental Regulation (DER) standards. DER-required plant improvements were included in rate base as pro forma plant.

In Order No. 25296, we found that the utility's quality of service remained unsatisfactory and, in fact, had deteriorated. However, for two reasons, we allowed the utility additional time to make quality of service improvements. First, we recognized that the quality of service deficiencies were at least partially attributable to the decreased revenues collected. Second, the utility had entered into a court-approved settlement agreement with DER wherein the utility agreed to interconnect its wastewater system with Pasco County within six months of the agreement, which was approved by Court Order on July 8, 1991. Accordingly, in Order No. 25296, we ordered the utility to improve its quality of service as prescribed by Order No. 24084, ordered it to interconnect with Pasco County within the designated time frame, and ordered it to improve deteriorating customer relations.

The interconnect with the County was scheduled to take place on or before January 8, 1992. To date, the utility has not only failed to interconnect with the County, but it has not even begun the design or construction of the required interconnect facilities. In addition, customer relations have not improved at all.

On the latter point, we note three incidents of concern.

ORDER NO. PSC-92-0367-FOF-WS
DOCKET NO. 900025-WS
PAGE 6

First, on January 9, 1992, we received a customer complaint describing an incident between the utility's owner and a customer. The customer went to pay his water and wastewater bill during posted office hours, but the owner was not present. After mailing his bill, the customer went to discuss the matter with the owner. The customer claims to have been verbally abused by the owner. Although the owner denies using the profane language the customer claims he used, we think it evident that the customer was insulted.

On January 22, 1992, we received numerous complaints regarding a service outage. The customers claimed that the utility did not respond to their calls on the day the outage occurred. Apparently, service was restored only when the guest of one of the customers climbed the fence at the plant and switched on a circuit breaker. The customers are rightfully concerned that the utility did not promptly respond to their calls. In the utility's reply to our inquiry regarding the incident, the utility's owner stated that he could not have responded to the customer's calls any sooner, as he had been out of town on the day the outage occurred.

Finally, on February 24, 1992, we received a customer complaint regarding the utility's installation of several water meters on one customer's property. We conducted a field investigation and found that the utility was placing individual meters as close to the water main as possible even when that meant that the meter was on another customer's property. The utility was then directed to place the water meters on the individual properties associated with the consumption. Rule 25-30.260, Florida Administrative Code, requires utilities to locate meters at or near the customer's curb or property line except when doing so is impractical. It would appear in this instance that it is practical for the utility to place each meter on the property it serves.

It is evident that the utility has made no substantial improvement in the total quality of service as required by Orders Nos. 24084 and 25296. Therefore, we hereby order the utility to show cause why it should not be fined up to \$5,000 per day for continuing to provide unsatisfactory quality of service.

Escrow Requirement

The utility's new rates under Order No. 24084 became effective on March 2, 1991. By Order No. 24084, we required the utility to place in escrow the portion of the rate increase attributable to the pro forma plant and a portion of the \$2,000 penalty we imposed for poor quality of service; specifically, the utility was required

ORDER NO. PSC-92-0367-FOF-WS
DOCKET NO. 900025-WS
PAGE 7

to escrow \$333.34 per month. In Order No. 25296, we found that the utility had not been escrowing the proper amounts primarily because it had not been collecting sufficient revenues. We admonished the utility for ceasing to escrow the proper amount without our prior approval and ordered it to immediately place enough money in the escrow account to bring the balance up to the proper level.

As stated earlier, the vast majority of the utility's customers are now paying their utility bills. From our review of the utility's cash collections from customers from December, 1991, to February, 1992, we calculate that the utility should have escrowed approximately \$5,600 during that three month period. However, the bank statements indicate that only \$3,500 was deposited into the escrow account in that time. In addition, the utility did not place enough money in the escrow account to correct the deficiency that resulted from the utility's prior failure to place funds into the account.

We think the utility has failed to comply with Orders Nos. 24084 and 25296 regarding the escrow requirements. Therefore, we hereby order the utility to show cause why it should not be fined up to \$5,000 per day for not maintaining the appropriate balance in the escrow account.

IMPOSITION OF FINE

As referenced above, by Order No. 24084, we imposed a \$2,000 fine against the utility for its unsatisfactory quality of service, but suspended the fine for nine months, at the expiration of which we would review the situation. As was also previously stated, in Order No. 25296, we found that the utility's quality of service remained unsatisfactory, and we again required the utility to improve its quality of service, suspending the fine for another five months.

As discussed in detail above, the utility remains in substantial noncompliance with Orders Nos. 24084 and 25296 with regard to its quality of service. Therefore, the suspension on the \$2,000 fine previously imposed is hereby lifted, and said fine is due and payable.

By Order No. 24084, we ordered the utility to escrow a portion of the \$2,000 fine. Since the utility has not been escrowing the required amounts, the funds in the escrow account are insufficient to pay both the \$2,000 fine and a refund to the customers in the event one is required. Therefore, we prohibit the utility from paying the \$2,000 fine from the escrow account.

ORDER NO. PSC-92-0367-FOF-WS
DOCKET NO. 900025-WS
PAGE 8

In the event that reasonable efforts to collect this fine fail, we hereby authorize its referral to the Comptroller's Office, as further collection efforts on our part would not be cost-effective. At a minimum, two certified letters demanding payment shall be sent.

It is, therefore,

ORDERED by the Florida Public Service Commission that Shady Oaks Mobile-Modular Estates, Inc., shall show cause in writing why it should not be fined up to \$5,000 a day for violating Orders Nos. 24084 and 25296 as described in the body of this Order. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc.'s written response to this Order must be received as set forth in the Notice below. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc.'s response to this Order must contain specific allegations of fact and law. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc.'s opportunity to file a written response to this Order shall constitute its opportunity to be heard prior to final determination of noncompliance and assessment of penalty by this Commission. It is further

ORDERED that a failure to file a timely response to this Order shall constitute an admission of the facts alleged in the body of this Order and a waiver of any right to a hearing. It is further

ORDERED that in the event that Shady Oaks Mobile-Modular Estates, Inc., files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57, Florida Statutes, further proceedings may be scheduled before a final determination on these matters is made. It is further

ORDERED that the suspension of the \$2,000 fine previously imposed by Order No. 24084 is hereby lifted, and said fine is due and payable. The utility is hereby prohibited from paying said fine from escrowed funds. Our action in imposing this fine is final agency action. If reasonable collection efforts prove ineffective, further disposition of the fine will be referred to the Comptroller's Office. It is further

ORDER NO. PSC-92-0367-FOF-WS
DOCKET NO. 900025-WS
PAGE 9

ORDERED that this docket shall remain open pending further Order of the Commission.

By ORDER of the Florida Public Service Commission, this 14th day of May, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

by: Kay Flynn
Chief, Bureau of Records

MJF

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.

The show cause portion of this order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 3, 1992.

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 pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida

ORDER NO. PSC-92-0367-FOF-WS
DOCKET NO. 900025-WS
PAGE 10

Administrative Code. Such default shall be effective on the day subsequent to the above date.

.. If an adversely affected person fails to respond to the show cause portion of 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 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.

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.

State of Florida

Commissioners:
THOMAS M. BEARD, CHAIRMAN
BETTY EASLEY
J. TERRY DEASON
SUSAN F. CLARK
LUIS J. LAUREDO



DOCKET NO. 900025-WS

[Correspondence]

DIVISION OF WATER & WASTEWATER
CHARLES HILL
DIRECTOR
(904) 488-8482
EXHIBIT FJL-5

Public Service Commission

July 21, 1992

Mr. R. D. Sims
Shady Oaks Mobile-Modular Estates, Inc.
Post Office Box 280012
Tampa, Florida 33682-0012

Re: Request for name change of Shady Oaks Mobile-Modular Estates, Inc. to S & D Utility

Dear Mr. Sims:

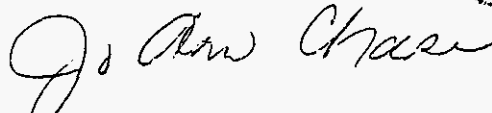
Your request for an application for a name change has been referred to this office for response. We do not currently have an application form or administrative rules governing the filing requirements for a change in name of a utility. In order to process a name change, staff must verify that the utility's name has changed with no change in ownership or control of the utility or its assets, and that ownership of the utility assets are in the new name of the utility. Therefore, you must submit the utility's complete new name, proof of ownership of the utility's property in the new name of the utility, and the effective date of the name change. In addition, you must submit a complete new tariff reflecting the new name of the utility on each page of the tariff, including all standard forms, such as the billing statement and the application for service. The utility's certificate must be returned so that it can be re-issued in the new name.

If the name change also involves a change in the structure of the utility, such as a change from a corporation to a partnership with a change in the control of the utility, this would be considered a transfer of majority organizational control and the filing requirements are more extensive. If that is the case, please contact this office before you file for a name change so that we can send you the appropriate application form and administrative rules.

Mr. R. D. Sims
July 21, 1992
Page Two

If you have any further questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "JoAnn Chase". The signature is written in dark ink and is positioned above the printed name.

JoAnn Chase
Regulatory Analyst Supervisor

/jc
cc: Division of Water and Wastewater (Hill, Lingo)
Division of Legal Services (Feil)

P. 02

Tab stop 1 for address

Adams
PREMIER

2 PART

carbonless
FORM 9042

MEMORANDUM

TO
MISS Jeni Lingo
P.S.C.
101 E. Gaines St.
Tallahassee, Fla. 32399-0864

FROM
S & D UTILITY
P.O. BOX 280012
TAMPA, FLA 33682-0012

DATE
9-28-92

SUBJECT

MESSAGE

Dear Miss Lingo:

Pursuant to your conversation with Sue today (9-28-92), please print
this in writing.

Very truly yours,

R. D. Sims

R. D. Sims

FAX

PLEASE REPLY BY

NO REPLY NECESSARY

Memorandum

813 979 1683

OFFICE DEPOT 54

MEMORANDUM

Mr. Greg Shafer, Bureau Chief
P.S.C.
101 E. Gaines St.
Tallahassee, Fla. 32399-0864

S & D UTILITY
P.O. BOX 280012
TAMPA, FLA 33682-0012

9-9-92

Dear Mr. Shafer:

In chronological order, we have reviewed our memo's to the P.S.C. Tell us if we are right or wrong? On July 20, 1992, we sent the P.S.C. four tariff sheets and the customer letter, on August 24, 1992, we received stamped approval on the tariff sheets. On September 1, 1992 we mailed out our customer letters with the monthly billing of \$42.98. It appears that between our mailing of August 24th, 1992, that we possibly may have lost a months receipts, and it appears that actually we won't get any type of income above the \$18.84 for water and wastewater until November. Now, to me this is not right in the Church. These people are going to go ahead and use tens of thousands of gallons of water for nothing. We borrowed the money to put the water meters in and they are going to suck us dry. Please comment.

But yet, we keep getting phone calls from your staff, "when are you going to do this and when are you going to do that?" You have some extremely highly intelligent people up there.

Very truly yours,

FAX
cc: Lingo

R. D. Sims

002

15:16

09/10/92

MEMORANDUM

TO
Miss Jeni Lingo
P.S.C.
101 E. Gaines St.
Tallahassee, Fla.

EXHIBIT FJL-6
[Correspondence]

FROM
S & D UTILITY
P.O. BOX 280012
TAMPA, FLA 33682-0012

DATE
8-31-92

SUBJECT

MESSAGE

Dear Miss Lingo:

~~Sue advised me that you are rather insistant that we refund for credit the money that was expended for the electric bill because the consumers refused to pay the Utility that particular month. We must abide by the Commissions decision and intend to do so, but would prefer to give credit, as you are aware there is in excess of \$18,000.00 out-standing which is in the hands of the Appellate Court. We would appreciate your allowing us to give credit when this money is released to us. Many thanks.~~

~~We are enclosing the Notice To Customers which we are sending to all the residents in the Park.~~

Very truly yours,

R. D. Sims
R. D. Sims

RECEIVED

SEP 02 1992

Fla. Public Service Commission
Division of Water and Sewer.

PLEASE REPLY BY _____

NO REPLY NECESSARY _____

Memorandum

DOCKET NO. 900025-WS
 EXHIBIT FJL-7

SHADY OAKS MOBILE-MODULAR ESTATES, INC.
 DOCKET NO. 900025-WS

ANALYSIS OF PREVENTATIVE
 MAINTENANCE EXPENDITURES

Month/Year =====	Required Expenditures =====	Actual Expenditures =====	Amount Over (Under) Expended =====	Cumulative Amount Over (Under) Expended =====
September 1991	\$1,445	\$261	(\$1,184)	(\$1,184)
October 1991	1,445	52	(1,393)	(2,577)
November 1991	1,445	203	(1,242)	(3,819)
December 1991	1,445	143	(1,302)	(5,121)
January 1992	1,445	1,445	0	(5,121)
February 1992	1,445	1,187	(258)	(5,379)
	-----	-----		
	\$8,670	\$3,291		

DOCKET NO. 900025-WS

EXHIBIT FJL-8

SHADY OAKS MOBILE-MODULAR ESTATES, INC.
DOCKET NO. 900025-WS

ANALYSIS OF BALANCE
IN ESCROW ACCOUNT

Month/Year	Amount to be Escrowed	Actual Amount Escrowed	Amount Over (Under) Escrowed	Cumulative Over (Under) Escrowed
March 1991	393	284	(109)	(109)
April 1991	216	351	135	26
May 1991	191	256	66	92
June 1991	229	245	16	108
July 1991	194	65	(129)	(21)
August 1991	1,383	0	(1,383)	(1,404)
September 1991	1,429	0	(1,429)	(2,833)
October 1991	470	0	(470)	(3,302)
November 1991	114	0	(114)	(3,417)
Subtotal	4,618	1,201		
December 1991	1,561	879	(682)	(4,099)
January 1992	2,132	1,351	(781)	(4,880)
February 1992	1,955	1,307	(648)	(5,529)
March 1992	2,001	861	(1,141)	(6,669)
Subtotal	7,649	4,396		
April 1992 (1)	2,272	1,807	(465)	(7,134)
May 1992 (1)	1,891	871	(1,020)	(8,154)
June 1992 (1)	1,548	924	(624)	(8,778)
July 1992 (1)	1,447	51	(1,396)	(10,174)
August 1992 (1)	1,497	0	(1,497)	(11,671)
September 1992 (1)	1,688	0	(1,688)	(13,359)
Subtotal	10,342	3,653		
TOTALS	22,609	9,251		

(1) Estimated.