

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 950387-SU
Increased Wastewater Rates by) ORDER NO. PSC-96-0540-PHO-SU
Florida Cities Water Company -) ISSUED: April 17, 1996
North Ft. Myers Division in Lee)
County.)
_____)

Pursuant to Notice, a Prehearing Conference was held on April 4, 1996, in Tallahassee, Florida, before Commissioner Joe A. Garcia, as Prehearing Officer.

APPEARANCES:

Wayne L. Schiefelbein, Esquire, Gatlin, Woods & Carlson, 1709-D Mahan Drive, Tallahassee, Florida 32308
On behalf of Florida Cities Water Company, North Fort Myers.

Cheryl Walla, 1750 Dockway Drive, North Fort Myers, Florida 33903
Appearing by telephone on behalf of herself.

Harold McLean, Esquire, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Suite 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of Florida.

Ralph R. Jaeger, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0862
On behalf of the Commission Staff.

PREHEARING ORDER

I. CASE BACKGROUND

Florida Cities Water Company (FCWC or utility) is a Class A utility that has two wastewater service divisions in Ft. Myers, Florida: a northern division and a southern division. The North Ft. Myers wastewater system, the applicant in this proceeding, was serving about 2,559 customers at December 31, 1994. Because many multi-family units are master-metered, about 4,590 equivalent residential connections (ERCs) were actually being served. The utility serves an area that has been designated by the South

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Florida Water Management District (SFWMD) as a critical use area. Wastewater treatment is provided by a 1.0 MGD (million gallons per day) advanced wastewater treatment (AWT) facility, presently being expanded to 1.25 MGD. Effluent is disposed of by discharge to the Caloosahatchee River, and will soon be provided to a golf course in the service area.

On May 2, 1995, the utility filed an application for increased rates pursuant to Section 367.081, Florida Statutes. The petition did not satisfy the minimum filing requirements (MFRs) and submission of additional data was necessary. The missing information was received on May 19, 1995, which date was declared the official date of filing pursuant to Section 367.083, Florida Statutes. The utility's last rate case was finalized on July 1, 1992, by Order No. PSC-92-0594-FOF-SU, Docket No. 910756-SU. In 1994, the utility's rates were increased due to an index proceeding. The utility has asked the Commission to process this application under the proposed agency action (PAA) procedures identified in Section 367.081(8), Florida Statutes.

The utility did not request interim rates. Schedules in the filing indicate receipt of a 6.71 percent return on average investment in 1994. The utility's last allowed overall rate of return was 9.14 percent. The utility reported that rate indexing procedures helped it maintain a satisfactory rate of return. However, the utility now maintains that rate increases are needed to reflect added investments and expenses, including an expenditure of approximately \$1,600,000 in 1995 to increase the capacity of its wastewater plant from 1 MGD to 1.25 MGD. This construction project is scheduled to be completed prior to the close of 1995. The utility believes the magnitude of this investment justifies an end-of-period rate base determination.

The test year for this proceeding is the twelve-month period ending December 31, 1995. This period is based upon actual costs for the historical base year ended December 31, 1994, with applicable adjustments. During the base year, the utility's wastewater revenues were \$2,085,157, with a corresponding net operating income of \$474,319. The utility's proposed rates are designed to generate \$2,591,990 in annual revenues, reflecting a \$480,078 (22.73 percent) overall increase. The requested net operating income amount of \$763,108 will yield a 9.08% return on the projected \$8,404,278 rate base balance.

On November 2, 1995, the Commission issued Proposed Agency Action Order No. PSC-95-1360-FOF-SU. However, this order was timely protested by twelve customers and this case has been scheduled for an April 24-25, 1996, administrative hearing.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 367.156, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 367.156, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 367.156, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to

examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.

- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting's confidential files.

III. Post-Hearing Procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

IV. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties and Staff has been prefiled. All testimony which has been prefiled in

this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

V. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct</u>		
Larry N. Coel	FCWC	7, 8, 10, 11, 12, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 29
Joseph Schifano	FCWC	Matters raised not at issue
Robert Dick	FCWC	3, 5, 17
Douglas R. Young	FCWC	4, 6
Julie L. Karleskint	FCWC	4
Michael Acosta	FCWC	7, 9
Cheryl Walla	SELF	All Issues
Jerilyn Victor	WALLA	27, 28

Kimberly H. Dismukes	OPC	4, 5, 6, 7, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27
Bennie T. Shoemaker	STAFF	4
Andrew Barienbrock	STAFF	4, 5, 17
James A. McPherson	STAFF	The Audit Report

Rebuttal

Thomas A. Cummings	FCWC	4
Michael Acosta	FCWC	7, 9
Julie L. Karleskint	FCWC	3, 4, 27, 28
Douglas R. Young	FCWC	4, 5, 6, 17
Robert Dick	FCWC	1
Joseph Schifano	FCWC	9
Larry N. Coel	FCWC	1, 13, 14, 19, 20, 21
Ted L. Bidy	OPC	5

VI. BASIC POSITIONS

UTILITY: Annual operating revenues should be increased by \$480,078 for wastewater. This would result in a rate of return of 9.08% on a rate base of \$8,404,278 for wastewater.

OPC: The rates proposed by Florida Cities Water Company, North Ft. Myers Division, are excessive. Florida Cities Water Company, North Ft. Myers Division, has overstated its rate base, projected operating and maintenance expenses, and cost of capital. Florida Cities Water Company has failed to demonstrate that costs charged or allocated to it by its affiliates are reasonable. Florida Cities Water Company, North Ft. Myers Division, has overstated

its rate base by including more working capital than required, and by overstating the used and useful percentage of its wastewater treatment plant.

WALLA: The rates Florida Cities Water Company are seeking for increase in capacity and their reuse facility from the Commission are based on flows to their plant inflated by infiltration. Therefore the existing means of effluent disposal was adequate had the 1992 implemented I & I program of FCWC been successful. The reuse facility was not economically feasible for the 2500 customer base and all the variable cost that went with it. FCWC service is not satisfactory to its customers. The rate case expense is exorbitant not prudent.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all of the evidence in the record and may differ from the preliminary positions. The information gathered through discovery and prefiled testimony indicates, at this point, that the utility is entitled to some level of increase. The specific level cannot be determined until the evidence presented at hearing is analyzed.

VII. ISSUES AND POSITIONS

QUALITY OF SERVICE

ISSUE 1: Did FCWC misrepresent with less than truthful statements in three public documents?

UTILITY: There was no intentional misrepresentation. (Dick, Coel)

OPC: Agrees with Ms. Walla.

WALLA: Yes, the three documents are CW-7, CW-8 & CW-10. (Walla)

STAFF: No position pending further development of the record.

ISSUE 2: Should the Commission seriously consider customers' testimony on service when rendering its decision on quality of service?

UTILITY: The Commission should consider all substantial competent evidence in the record of this proceeding.

OPC: Yes.

WALLA: The Commission should consider the 1065 letters, the 54 name odor petition, the testimony of the customers at the customer meeting on July 26, 1995, and all subsequent testimony. (CW-6, Walla)

STAFF: Yes.

ISSUE 3: Is the quality of service satisfactory?

UTILITY: Yes. (Dick, Karleskint)

OPC: No position pending further development of the record.

WALLA: No, it is inefficient and there is leakage in the pipes - infiltration, and the service does not comply with Section 367.111(2), Fla. Stat. The Public should not be compelled to pay increased wastewater rates because of an inefficient wastewater collection system. As in the case of North Florida Water Co. v. Bevis, 302 So. 2d 129 (1974). (Walla)

STAFF: No position pending further customer testimony.

RATE BASE

ISSUE 4: What capacity of the wastewater plant and what flows should be used to calculate used and useful?

UTILITY: The WWTP capacity is 1.25 MGD based on annual average daily flows. The flows that should be used in calculating used and useful are as shown in the MFR Schedule F-6. (Young, Cummings, Karleskint)

OPC: If the Commission uses the peak month flow to calculate used and useful, then the peak month capacity of the plant should likewise be used. However, if the Commission uses the average annual daily flow capacity to calculate used and useful, then the average annual daily flow of the system should be used. (Dismukes)

- WALLA: Whether you use annual average daily flows or peak flows, the flows shown by the utility include infiltration, and, therefore, used and useful is overstated. (Walla)
- STAFF: The capacity of the plant is as permitted by the DEP (1.3 mgd). Flow data to be used will be determined from the record. (Shoemaker, Barienbrock)
- ISSUE 5: Does the wastewater collection system have excessive infiltration and inflow that should be removed when calculating used and useful?
- UTILITY: No. (Dick, Young)
- OPC: Yes. Excessive inflow and infiltration for the peak month was at least 13,408,794 gallons, and an attending rate base adjustment is required. (K. Dismukes, Schedule 13)
- WALLA: The Public should not be compelled to pay increased wastewater rates because of an inefficient wastewater collection system. Moreover, if the Utility's existing Infiltration and Inflow (I & I) reduction program has not been vigorously pursued, then customers should not pay those costs. (Walla)
- STAFF: According to witness Barienbrock, the wastewater system does not appear to have excessive I & I. (Barienbrock)
- ISSUE 6: What is the appropriate amount of used and useful plant?
- UTILITY: 100% Used & Useful. (Young)
- OPC: The wastewater treatment plant is 49.34% used and useful. The wastewater rate base should be reduced by \$3,668,429 for non-used and useful plant and depreciation expense should be reduced by \$232,848. (Dismukes, Schedules 2, 11, 14, 15, and 16)
- WALLA: The Used and Useful Plant is 54%, as per testimony. This is a difficult and vague concept. It should not be rendered as a matter of opinion but should be a written standard that all concerned can use the same methodology. It should always have infiltration amounts taken out to give truer used and useful plant. (Walla)

STAFF: The Proposed Agency Action (PAA) order states that the plant is 100% used and useful, but staff has no position pending further development of the record.

ISSUE 7: Should a margin reserve be allowed?

UTILITY: Yes, as per MFRs. (Coel, Acosta)

OPC: No. Margin reserve is for the benefit of future customers; it does not benefit current customers. (Dismukes, Testimony)

WALLA: This policy of including margin reserve should be totally excluded from rate making practices. The present customer base should never have the burden of the cost to provide for future customers. (Walla)

STAFF: The Commission's PAA Order allowed an amount equal to 292 ERCs. Staff takes no position pending further development of the record.

ISSUE 8: Should the Commission approve a year-end rate base value in this proceeding?

UTILITY: Agrees with staff. (Coel)

OPC: No position.

WALLA: No position.

STAFF: Yes, the Commission should approve a year-end rate base value in this proceeding. The utility's investment in rate base is substantially enlarged under year-end considerations. Further, the improvements are in the public interest.

ISSUE 9: If the Commission does allow a margin reserve, should it impute CIAC associated with the margin reserve?

UTILITY: No. (Acosta, Schifano)

OPC: Yes. (Dismukes, Testimony)

WALLA: Agrees with Public Counsel. (Walla)

STAFF: Yes. Consistent with Commission practice, CIAC should be imputed as a matching provision for the rate base

component created by the margin reserve factor. Pursuant to this imputation adjustment, CIAC is increased by \$429,420, accumulated amortization is increased by \$22,845, and depreciation expense is reduced by \$22,845.

ISSUE 10: Should working capital be adjusted?

UTILITY: Yes, working capital should be reduced by Other Deferred Credits of \$10,217. (Coel)

OPC: Adjustments should be made. (Dismukes)

WALLA: No position at this time. (Walla)

STAFF: Yes. Agree with utility, but other adjustments may be appropriate pending development of the record. A reduction to working capital is recommended to include unfunded pension costs in the utility's deferred credit balance.

ISSUE 11: What rate base amount should be approved?

UTILITY: \$8,404,278, as per MFRs. However, the final amount is subject to the resolution of other issues. (Coel)

OPC: The final amount is subject to the resolution of other issues.

WALLA: The final amount is subject to the resolution of other issues.

STAFF: The final amount is subject to the resolution of other issues.

COST OF CAPITAL

ISSUE 12: What is the appropriate rate of return on equity?

UTILITY: 11.88%, under the current leverage graph. (Coel)

OPC: Will not produce evidence contrary to the leverage graph.

WALLA: Agrees with OPC.

STAFF: The cost of equity should be set using the leverage formula in effect at the time of the vote at the Agenda

Conference for the final order in this case. The range for the cost of equity should be plus or minus 100 basis points.

ISSUE 13: Should any adjustments be made to the equity component of the Company's capital structure?

UTILITY: Yes, equity should be increased by a \$2,000,000 parent company equity investment made in December 1995. (Coel)

OPC: No. (Dismukes)

WALLA: No position. (Walla)

STAFF: No position pending further development of the record.

ISSUE 14: Should any adjustments be made to the debt component of the Company's capital structure?

UTILITY: Yes, the debt component of the capital structure should be adjusted to reflect the December 1995 issuance of \$18 million in senior notes at 7.27% (Coel)

OPC: Yes. The adjustments reflected on K. Dismukes Schedules 4 and 5 should be made. These adjustments reduce the embedded cost of debt to 8.34% and increase the debt ratio to 48.41%. (Dismukes, Schedules 4 and 5)

WALLA: Agrees with OPC. (Walla)

STAFF: Yes. The composition and capital cost rates should be adjusted.

ISSUE 15: Should any adjustments be made to the cost of investment tax credits?

UTILITY: Yes, the customer deposit component should be removed from the calculation. (Coel)

OPC: Yes. The cost of investment tax credits should be calculated using the cost of investor supplied funds only. (K. Dismukes, Schedule 5)

WALLA: Agrees with OPC (Walla).

STAFF: Yes. The cost of investment tax credits should be calculated using the cost of investor supplied funds only. The final amount is subject to the resolution of other issues.

ISSUE 16: What is the appropriate overall cost of capital?

UTILITY: As per MFRs. However, the final amount is subject to the resolution of other issues. (Coel)

OPC: The final amount is subject to the resolution of other issues. (K. Dismukes, Schedule 5)

WALLA: The final amount is subject to the resolution of other issues. (Walla)

STAFF: The final amount is subject to the resolution of other issues.

NET OPERATING INCOME

ISSUE 17: Should chemical and purchased power expense adjustments be made to recognize inflow and infiltration?

UTILITY: No. (Dick, Young)

OPC: Yes. (Dismukes)

WALLA: Yes. (Walla)

STAFF: No. Per witness Barienbrock, there appears to be no excessive I & I. (Barienbrock)

ISSUE 18: Are the proposed adjustments to water and wastewater expenses to reflect customer growth and the PSC index appropriate?

UTILITY: Yes. (Coel)

OPC: No. The Commission should not automatically assume that expenses will increase by this factor. The Commission should reduce the Company's proposed adjustments as reflected on the Citizens' witness Dismukes Schedule 7. (K. Dismukes, Schedule 7)

WALLA: Agrees with OPC (Walla).

STAFF: Adjustments to reflect customer growth and the price index are appropriate.

ISSUE 19: Is the Company's adjustment to increase expense for postage and envelope billing costs appropriate?

UTILITY: Yes. (Coel)

OPC: No. (K. Dismukes, Schedule 7)

WALLA: Agrees with OPC (Walla).

STAFF: No position pending further development of the record.

ISSUE 20: Should any adjustment be made to affiliate expenses charged to the Company?

UTILITY: No, the charges are reasonable. (Coel)

OPC: Yes. The Commission should reduce test year expenses by \$36,795. (K. Dismukes, Schedule 8)

WALLA: Agrees with OPC (Walla).

STAFF: No position pending further development of the record.

ISSUE 21: What is the appropriate provision for rate case expense?

UTILITY: As reflected in Exhibit LC-2 and as updated by prefiled rebuttal testimony and exhibits. (Coel)

OPC: Test year expenses should be reduced by \$3,487. (Dismukes, Schedule 9)

WALLA: No position pending answers to interrogatories and further discovery and development of the record. There should be a detailed list of prudent expenses allowed by a utility. Here again this should not be an opinion by the Commission. (Walla)

STAFF: Only prudently incurred rate case expense should be allowed. Staff takes no position on the final amount pending further development of the record.

ISSUE 22: What personal property tax expense is appropriate?

UTILITY: As per MFRs. However, the final amount is subject to the resolution of other issues. (Coel)

OPC: As per schedules for K. Dismukes. (Dismukes)

WALLA: Agrees with OPC. (Walla)

STAFF: The final amount is subject to the resolution of other issues.

ISSUE 23: What regulatory assessment fee expense is appropriate?

UTILITY: As per MFRs. However, the final amount is subject to the resolution of other issues. (Coel)

OPC: The final amount is subject to the resolution of other issues. (Dismukes)

WALLA: The final amount is subject to the resolution of other issues.

STAFF: The final amount is subject to the resolution of other issues.

ISSUE 24: What income tax expense is appropriate?

UTILITY: As per MFRs. However, the final amount is subject to the resolution of other issues. (Coel)

OPC: The final amount is subject to the resolution of other issues. (Dismukes)

WALLA: The final amount is subject to the resolution of other issues.

STAFF: The final amount is subject to the resolution of other issues.

ISSUE 25: What is the test year operating income before any revenue increase?

UTILITY: As per MFRs. However, the final amount is subject to the resolution of other issues. (Coel)

OPC: The final amount is subject to the resolution of other issues. (Coel)

WALLA: The final amount is subject to the resolution of other issues.

STAFF: The final amount is subject to the resolution of other issues.

REVENUE REQUIREMENT

ISSUE 26: What is the appropriate revenue requirement?

UTILITY: \$2,591,990, as per MFRs. However, the final amount is subject to the resolution of other issues. (Coel)

OPC: The final amount is subject to the resolution of other issues.

WALLA: The final amount is subject to the resolution of other issues.

STAFF: The final amount is subject to the resolution of other issues.

RATES AND CHARGES

ISSUE 27: What reuse rate should be approved?

UTILITY: The market price in north Lee County. (Karleskint)

OPC: A rate of \$.21 should be used. (K. Dismukes, Schedule 6)

WALLA: Agrees with OPC (Walla, Victor).

STAFF: The reuse rate should be \$.21 per 1000 gallons.

ISSUE 28: Was Lochmoor Golf Course a prudent choice for the reuse site?

UTILITY: Yes, Lochmoor Golf Course is the nearest reuse site to the treatment plant (Karleskint).

OPC: No position pending further development of the record.

WALLA: No position pending further development of the record.
(Walla, Victor)

STAFF: No position pending further development of the record.

ISSUE 29: What are the appropriate wastewater rates for Florida Cities Water Company - North Ft. Myers Wastewater Division?

UTILITY: As stated in the MFRs. However, the final amount is subject to the resolution of other issues. (Coel)

OPC: No position.

WALLA: No position.

STAFF: The final rates are subject to the resolution of other issues.

ISSUE 30: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

UTILITY: The appropriate rate reduction is subject to the resolution of issue 21.

OPC: The final rates are subject to the resolution of other issues.

WALLA: The final rates are subject to the resolution of other issues.

STAFF: The final amount is subject to the resolution of other issues.

ISSUE 31: Should the utility be required to refund a portion of the revenues implemented pursuant to Order No. PSC 95-1360-FOF-SU, issued November 2, 1995?

UTILITY: The final amount, if any, is subject to the resolution of other issues.

OPC: The final amount, if any, is subject to the resolution of other issues.

WALLA: The final amount, if any, is subject to the resolution of other issues.

STAFF: Staff has no position pending further development of the record. The final amount, if any, is subject to the resolution of other issues.

POLICY ISSUES AND POSITIONS

ISSUE 32: Does the Order Establishing Procedure facilitate the participation of lay customers in the hearing process?

UTILITY: Due process safeguards must be preserved.

OPC: Agrees with Ms. Walla.

WALLA: This procedure does not allow an average customer to successfully protest an order of the Commission without outside assistance of professionals. (Walla)

STAFF: Section 350.0611, Florida Statutes, states that it is the duty of the Public Counsel to represent the Citizens of the State of Florida before the Commission.

ISSUE 33: Does the Commission waive, to the extent legally possible, its charges for documents provided to intervening customers?

UTILITY: No position.

OPC: The OPC believes that all accommodations should be made to intervening customers.

WALLA: A person whom intervenes in a case should not be charged for documents that are needed for discovery purposes from the Commission. After all, unlike the utility the expense is all out of pocket and cannot be recovered in rate case expense like the utility. (Walla)

STAFF: Section 350.06(7), Florida Statutes, requires the Commission to collect for copying, examining, comparing, correcting, verifying, certifying, or furnishing orders, records, transcripts of testimony, papers, or other instruments the same fees that are allowed clerks of the circuit courts of Florida.

ISSUE 34: Should the rate decrease required by Order No. PSC-92-0594-FOF-SU to reflect rate case expense amortization from Docket No. 910756-SU be implemented as scheduled on June 30, 1996?

UTILITY: No. The rate increase that will be granted on July 16, 1996 in the pending rate case will far exceed said rate decrease. (Coel)

OPC: Normally, strict adherence to the statute is to be expected. However, in this limited instance, the spirit of the statute may be able to be observed by means of an escrow or other security arrangement which isolates the funds in question from the utility.

WALLA: Agrees with OPC. (Walla)

STAFF: Agrees with OPC, except any security should be provided through either an escrow account or bond.

VIII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Douglas R. Young Joseph Schifano Michael Acosta Robert M. Dick Julie L. Karleskint	FCWC	<u>LC-1</u>	MFRs
Larry N. Coel	FCWC	<u>LC-2</u>	Estimated Rate Case Expense
Larry N. Coel	FCWC	<u>LC-6</u>	Letter from Charles Hill dated March 29, 1996 noticing requirement for reduction in rates
Joseph Schifano	FCWC	<u>JS-1</u>	Summary of FASB Statement of Financial Accounting Standards No. 106

Joseph Schifano	FCWC	<u>JS-2</u>	Actuarial Study Report issued by the Wyatt Co. dated April 4, 1994.
Joseph Schifano	FCWC	<u>JS-3</u>	Estimated 1996 FASB 106 Expense
Douglas R. Young	FCWC	<u>DRY-1</u>	Professional Work Experience
Julie L. Karleskint	FCWC	<u>JLK-1</u>	S u m m a r y o f Professional Work Experience
Julie L. Karleskint	FCWC	<u>JLK-2</u>	Letter from M. Willis dated August 21, 1995 and FCWC's response dated August 31, 1995
Julie L. Karleskint	FCWC	<u>JLK-3</u>	Abbreviated Master Plan for wastewater in the Waterway Estates Service Area
Michael Acosta	FCWC	<u>MA-1</u>	Capacity Analysis Requirements
Robert M. Dick	FCWC	<u>RMD-1</u>	FDEP Compliance Evaluation Inspection dated November 28, 1995
Robert M. Dick	FCWC	<u>RMD-2</u>	Laser-Printed stuffed bill sent to customers
Robert M. Dick	FCWC	<u>RMD-3</u>	Excerpt from Water Pollution Control Federation Manual of Practice No. 9
Kimberly H. Dismukes	OPC	<u>KHD-1</u>	16 Schedules
Cheryl Walla	WALLA	<u>CW-1</u>	FDEP Letter to Johnnie Overton dated November 9, 1992 from Philip R. Edwards

Cheryl Walla	WALLA	<u>CW-2</u>	Out of the Capacity Analysis Report, Page 2 of 3, Addressing the Infiltration Problem
Cheryl Walla	WALLA	<u>CW-3</u>	Tom Walden workpapers stating that 292 ERCs should be allowed in Margin Reserve
Cheryl Walla	WALLA	<u>CW-4</u>	Excerpts from February 1995 issue of Public Works
Cheryl Walla	WALLA	<u>CW-5</u>	C. Walla's calculations of infiltration
Cheryl Walla	WALLA	<u>CW-6</u>	Petition of 54 customers about odor problems
Cheryl Walla	WALLA	<u>CW-7</u>	FCWC Billing Insert
Cheryl Walla	WALLA	<u>CW-8</u>	FCWC Utility Committee Summary dated January 30, 1995, concerning whether 12 of 13 protestors had withdrawn
Cheryl Walla	WALLA	<u>CW-9</u>	Memorandum dated August 3, 1995 from Vandiver to Records and Reporting with attached Audit Report
Cheryl Walla	WALLA	<u>CW-10</u>	Pages 128 & 129 of the Exhibit to direct testimony of L. Coel
Cheryl Walla	WALLA	<u>CW-11</u>	Letter dated January 24, 1996 from C. Walla to Robert Dick and his response dated February 20, 1996

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Cheryl Walla Jerilyn Victor	WALLA VICTOR	<u>CW-12</u>	13 photographs of Lochmoor Golf Course
Cheryl Walla	WALLA	<u>CW-13</u>	Two workpapers disputing staff margin reserve and used and useful formulas
Cheryl Walla Jerilyn Victor	WALLA VICTOR	<u>CW-14</u>	Two page letter to Mr. Ruth of South Florida Water Management District accompanied by Technical and Economic Evaluation for the Reuse of Reclaimed Water, from FCWC received by SFWMD January 4, 1990, 5 pages. Memorandum to Steve Lamb, Director Water Use Division, 2 pages received on January 31, 1990
Cheryl Walla	WALLA	<u>CW-15</u>	Two maps of reuse site from DER
Cheryl Walla	WALLA	<u>CW-16</u>	Change Order Issued on June 7, 1993
Cheryl Walla	WALLA	<u>CW-17</u>	Contract Bid of \$10,295 Between FCWC and Stephens & Layton, Inc.
Cheryl Walla	WALLA	<u>CW-18</u>	Documents Dealing with Contract Between Ridin Pipeline Services and FCWC
Cheryl Walla	WALLA	<u>CW-19</u>	Documentation for Phase I and Phase II repair of manholes
Cheryl Walla	WALLA	<u>CW-20</u>	Bid prices from Williams Testing, Construction Pay

Country Club, with
signed Reuse
Agreement

Thomas A. Cummings FCWC

TAC-1

Notification of
completion of
construction

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

IX. POSSIBLE STIPULATIONS

Category A

Those areas where OPC, the Utility, Cheryl Walla and Staff are agreed and are possible stipulations are set forth below:

1. Plant in service should be reduced by \$223,175 to remove capitalized legal fees and incorrect allocations of engineering fees. This will also cause accumulated depreciation to be reduced by \$24,622, and depreciation expense to be reduced by \$11,718.

2. To correct accounting errors, the following adjustments should be made:

	<u>Plant</u>	<u>Accum Depr.</u>	<u>Depr. Exp.</u>
Retirement	\$ (9,057)	\$ (9,057)	\$ (482)
Reclassification			
Incorrect Depr. Rate		9,127	3,028
Double Posting Error			118
Capitalized Equipment	1,352		72
Projected Retirements	<u>(26,130)</u>	<u>(26,130)</u>	<u>(1,390)</u>
Totals	<u>\$(33,835)</u>	<u>\$(25,942)</u>	<u>\$1,228</u>

3. CIAC should be reduced by \$85,792 to reflect reduced connection charges. This correction yields a corresponding \$927 reduction to Accumulated Amortization of CIAC and a \$4,564 net increase to depreciation expense.

4. Since post-retirement benefits are currently unfunded, an \$81,855 reduction to rate base is recommended to reflect the average balance associated with the unfunded balance.

5. Working capital should be reduced by Other Deferred Credits of \$10,217.

6. The testimony of James A. McPherson shall be inserted into record as though read and all parties have waived cross-examination of the witness.

X. PENDING MOTIONS

1. Motion of FCWC to Strike Testimony of Ted L. Bidy.

XI. RULINGS

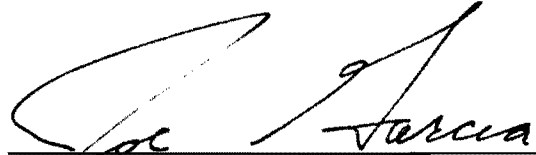
1. That Ms. Walla shall have up to and including April 11, to file Supplemental Prefiled Testimony, and that any witnesses would be made available for deposition by no later than April 17, 1996.
2. That OPC would provide FCWC, at least informally, with the rebuttal testimony from a registered engineer, by the end of the day on April 4, 1996.
3. That witnesses Bennie Shoemaker and Andrew Barienbrock shall be available to testify starting at 1:30 p.m. on April 24, 1996.
4. That FCWC should be given wide latitude in presenting oral rebuttal testimony at the hearing.
5. That FCWC shall be allowed to add Issue 34 set out above, and that FCWC be allowed to file Supplemental Direct Testimony from Coel for that issue.

It is therefore,

ORDERED by Commissioner Joe A. Garcia, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

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By ORDER of Commissioner Joe Garcia, as Prehearing Officer,
this 17th day of April, 1996.



JOE GARCIA, Commissioner and
Prehearing Officer

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described

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above, pursuant to Rule 9.100, Florida Rules of Appellate
Procedure.