State of Florida

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Public Service Commission

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RECORDS AND REPORTING

DATE: MAY 4, 2000

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

FROM: DIVISION OF WATER AND WASTEWATER (CASEY, EDWARDS, C. WILLIAMS, KAPROTH)
DIVISION OF LEGAL SERVICES (VAN LEUVEN)

RE: DOCKET NO. 000331-WU - INVESTIGATION OF POSSIBLE OVEREARNINGS OF MOUNTAIN LAKE CORPORATION
COUNTY: POLK

AGENDA: 05/16/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION, EXCEPT ISSUES NOS. 9, 10, 11, and 13 - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\WAW\WP\000331WU.RCM

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FPSC-RECORDS/REPORTING

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CASE BACKGROUND

On May 14, 1996, the Board of County Commissioners of Polk County adopted a resolution pursuant to Section 367.171, Florida Statutes, declaring the privately owned water and wastewater utilities in that County subject to the provisions of Chapter 367, Florida Statutes. The resolution was acknowledged by this Commission on July 11, 1996, by Order No. PSC-96-0896-FOF-WS. By Order No. PSC-97-0926-FOF-WU, issued August 4, 1997, the Commission granted Certificate No. 593-W to Mountain Lake Corporation (MLC or utility) through a grandfather proceeding.

MLC is a Class C utility established in 1918 which provides residential and general service water to approximately 128 customers in Polk County, which the Southwest Florida Water Management District (SWFWMD) has listed as a water cautionary or water restricted area. The Department of Environmental Protection (DEP) has relinquished its regulatory authority to Polk County, and Commission staff has contacted Polk County and learned that there are no outstanding notices of violation. Each residential customer has a 1 1/2" water meter, along with a non-potable well for irrigation purposes. When a review of the utility's 1998 annual report showed possible overearnings, an undocketed investigation of possible overearnings was begun through a staff audit and engineering field analysis of the utility's facilities. Staff selected an historical test year ending September 30, 1999.

The utility's annual report also indicated that the utility pumped 118,767,000 gallons of water in 1998, and sold only 21,739,000 gallons of water. This resulted in unaccounted-for water of 97,028,000 gallons (81.69%) for 1998 according to the utility's figures.

Staff's investigation showed MLC's Monthly Operating Reports (MORs) filed with the SWFWMD indicate the utility pumped 112,447,000 gallons of finished water from its wells for the test year ending 9/30/99. The audit confirms that the utility sold only 21,360,470 gallons of water (including intercompany sales), or 19% of what it pumped and treated. This resulted in unaccounted-for water of 91,086,530 gallons or 81% for the test year. The utility was aware it had an unaccounted-for water problem, but it was not aware of the volume of unaccounted-for water until discussions with the staff auditor. A follow-up investigation by the utility operator revealed the unaccounted-for water was caused by an open 8" gate valve that was accidentally left open allowing water to gravitate into the development's lake. MLC immediately closed the valve resulting in the utility's current MORs reflecting a 60%

lower flow. MLC has a separate non-potable well and pump for the development's lake.

Based on the staff analysis, the utility's test year revenue is $155,264, and test year operating expenses are $91,548. This results in an operating income of $63,716 for the test year.

DISCUSSION OF ISSUES

ISSUE 1: What percentage of the utility's water treatment plant and distribution system is used and useful?

RECOMMENDATION: The water treatment plant and the water distribution system should both be considered 100% used and useful. (EDWARDS)

STAFF ANALYSIS: Water Treatment Plant - The water treatment plant has a permitted capacity of 4,437,100 gallons per day and is a pump, chlorinate and distribution system. The utility's water treatment facility consists of two 6" steel cased wells, one 40 horsepower (hp) pump, one 50 hp pump, a 300,000 gallon concrete reservoir, two 25,000 gallon steel ground storage tanks, three high speed service pumps, a gas chlorine injection system, and a 155kw diesel powered generator. If calculated using normal procedures, this system would be 37.4% used and useful. Permitted capacity is 4.4MGD while average daily flows from five maximum days were 1.656MGD. Growth was calculated to be .064MGD based upon statutory 5 years, and Fire Flow was .120 MGD. Excessive unaccounted for water was .177 MGD.

This resulted in 1.656+.064+.120-.177/4.437 = 37.49%

Due to the unique nature of this system, however, staff recommends that the water treatment plant be considered 100% used and useful. This water treatment plant serves a unique mix of residential and general service customers with extraordinarily large meters equating to more than 767 ERCs. Most of the general service customers actually provide service and amenities to the homeowners. The 129 residential customers each have 1-1/2" meters which are the equivalent to 5 ERCs each or 645 ERCs. Most of these residential customers are stockholders in the corporation which owns the water system. This system was designed specifically to meet the abnormally high demands of their stockholders (customers). The Commission has varied from the traditional used and useful treatment in the past due to unique circumstances where the Commission authorized used and useful was greater than the calculated percentages. (See PSC-93-0901-FOF-WU, issued 6/14/93, Ravenwood; PSC-95-0129-FOF-WS, issued 1/26/95, Kings Cove). Therefore, the water treatment plant should be considered 100% used and useful.

Water Distribution System - The water distribution system includes 2", 4", 6", 8", and 10" coated steel pipe, 4", 6", and 8" PVC pipe, and several fire hydrants. The distribution system is specifically designed to serve the small customer base with abnormally high demands. There is virtually no growth anticipated in the near future. Consequently, the distribution system should be considered 100% used and useful.

ISSUE 2: What is the appropriate average amount of test year rate base?

RECOMMENDATION: The appropriate average amount of test year rate base for Mountain Lake Corporation should be $54,913. (CASEY, EDWARDS)

STAFF ANALYSIS: The Commission has not yet established rate base for this utility. The appropriate components of MLC's rate base include depreciable plant-in-service, accumulated depreciation, and working capital allowance. Utility plant and depreciation balances were able to be determined by staff auditors using the utility's books. A discussion of each rate base component follows.

Depreciable Plant-in-Service: The utility recorded utility plant-in-service balances of $480,927 at the end of the test year. Staff made an averaging adjustment of ($3,781) to utility plant. Staff recommends test year utility plant-in-service of $477,146.

Land: By Order No. PSC-97-0926-FOF-WU, issued August 4, 1997, in Docket No. 970283-WU, the Commission ordered MLC to provide a recorded warranty deed as proof of land ownership where the utility facilities are located. The utility complied with the Order, providing a certified copy of a warranty deed recorded in Polk County dated November 25, 1918, executed between Lake Wales Land Company, the seller, and Mountain Lake Corporation, the buyer. The document is silent concerning the purchase price, and there are no state documentary stamps located on the deed or an attached promissory note between the two parties that could be used to determine an original sales price. The company could not locate any historical records concerning the purchase of the property in 1918. Staff auditors were able to estimate the current value of utility land as $8,693 based on the Polk County Tax Appraiser Value. However, for ratemaking purposes, the cost of the land must be determined when first dedicated to public use in 1918. By Order No. 7020, issued November 26, 1975, in Docket No. 750128-WS, the Commission stated "The burden of proof is on the applicant to prove the original cost or appropriate value of assets included in the applicant's rate base by substantial competent evidence." In this proceeding, no land value when first dedicated to public service could be determined. Therefore, staff recommends a land value of $0.00 for determining overearnings in this proceeding.

Non-Used and Useful Plant: As discussed in Issue No. 1 of this recommendation, the utility's water treatment plant and distribution system should be considered 100% used and useful.

Contributions in Aid of Construction (CIAC): The utility books showed no CIAC balance for the test year. Order PSC-97-0926-FOF-WU states "All service availability charges are billed at actual cost." However, the staff auditors reviewed the corporation's federal tax returns and books and determined the utility has not collected any fees for new customer services. Therefore, staff has not included any CIAC or amortization for the test year.

Accumulated Depreciation: The utility books reflected an accumulated depreciation balance of ($431,435) at the end of the test year. Staff made an adjustment of ($2,964) to reflect staff calculated accumulated depreciation, and made an averaging adjustment of $2,774. Staff recommends test year accumulated depreciation of ($431,625).

Working Capital Allowance: Consistent with Rule 25-30.443, Florida Administrative Code, staff recommends that the one-eighth of operation and maintenance expense formula approach be used for calculating working capital allowance. Applying that formula, staff recommends a working capital allowance of $9,392 (based on O&M of $75,135).

Rate Base Summary: Based on the foregoing, the appropriate balance of MLC's test year rate base should be $54,913. Rate base is shown on Schedule No. 1A, and adjustments are shown on Schedule No. 1B.

ISSUE 3: What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility?

RECOMMENDATION: The appropriate rate of return on equity for MLC should be 9.02% with a range of 8.02% - 10.02% and the appropriate overall rate of return should be 8.90% with a range of 8.00% - 9.80%. (CASEY)

STAFF ANALYSIS: The audit determined a utility capital structure was not available. In the absence of a utility capital structure, it has been Commission practice to use the utility's parent capital structure to determine the appropriate utility capital structure for rate making purposes. Based on the staff audit, the parent's capital structure consists of common equity of $6,131,451, long term debt of $534,334, and short term debt of $156,748. Using the current leverage formula approved in Docket No. 990006-WS, by Order No. PSC-99-1224-PAA-WS, issued June 21, 1999, the rate of return on common equity should be 9.02% with a range of 8.02% - 10.02%.

Applying the weighted average method to the total capital structure yields an overall rate of return of 8.90% with a range of 8.00% - 9.80%. The company's test year capital structure balance has been adjusted to match the total of the water rate base.

MLC's return on equity and overall rate of return are shown on Schedule No. 2.

ISSUE 4: What is the appropriate test year operating revenue?

RECOMMENDATION: The appropriate test year operating revenue should be $155,264. (CASEY)

STAFF ANALYSIS: MLC's records indicated revenues of $123,804 for the test year ending September 30, 1999. The staff audit revealed that intercompany general service revenues, including an office building, golf pro shop, driving range, tennis court, hotel, pool, and irrigation connections, were being allocated for 21 meters in lieu of using actual meter readings. The company's allocation for the 21 intercompany connections totaled $16,620 for the test year. All intercompany general service connections have meters and meter readings were available for the test year. Staff recalculated intercompany general service revenues based on actual meter readings as follows:

Meter Location	Meter Size	Consumption (In 000's)	Total Revenues
Batchelder Triangle Irrigation	5/8"	11.83	$ 480.00
Colony House	2"	1,111.20	$ 6,654.30
Colony House Irrigation #1	5/8"	54.77	$ 486.17
Colony House Irrigation #2	3/4"	83.10	$ 508.39
Northgate Standpipe	2"	116.60	$ 561.70
Driving Range Irrigation	1"	24.78	$ 480.00
Maggard's Triangle Irrigation	5/8"	35.07	$ 484.31
Tennis Court	1 1/2"	2,531.70	$17,979.60
Colony House Irrigation #3	1 1/2"	197.00	$ 693.55
Colony House Irrigation #4	1 1/2"	901.90	$ 4,656.70
Oster Triangle Irrigation	5/8"	4.82	$ 480.00
Gooch Triangle Irrigation	1"	133.91	$ 710.50
Schoenhofen Triangle Irrigation	1"	172.75	$ 1,181.41
Grove (MLC)	4"	782.30	$ 4,353.85
Compost Pile Irrigation	1 1/2"	36.00	$ 480.15
Southgate Irrigation	1"	104.46	$ 633.02
Colony House Pool	5/8"	59.34	$ 484.49
Colony Pool	1 1/2"	244.20	$ 901.60
Colony House Irrigation #5	1"	829.28	$ 4,410.87
Pro Shop	3/4"	59.38	$ 481.88
Mountain Lake Office	4"	245.77	$ 977.74
Total Intercompany Consumption & Cost		7,740.16	$48,080.21

Company Allocated Intercompany Costs	$16,620.00
Staff Recommended Imputed Revenue	$31,460.21

Staff made an adjustment of $31,460 to reflect the appropriate intercompany general service revenues. Staff recommends test year revenues of $155,264.

ISSUE 5: What is the appropriate amount of operating expense?

RECOMMENDATION: The appropriate amount of operating expense should be $88,776. (CASEY, EDWARDS)

STAFF ANALYSIS: The utility recorded operating expenses of $115,541 for the test year. The components of these expenses include operation and maintenance expenses, depreciation expense and taxes other than income taxes. The utility's test year operating expenses have been reviewed and invoices and other supporting documentation have been examined. Adjustments have been made to reflect unrecorded test year expenses and to reflect recommended allowances for plant operations.

Operation and Maintenance Expenses(O & M): The utility charged $104,270 to O & M expenses during the test year. A summary of adjustments that were made to the utility's recorded expenses follows:

(601) Salaries and Wages - Employees - The utility recorded employee salaries and wages of $16,110 for the test year. Staff made an adjustment of $8,937 to reclassify employee salaries and wages which were recorded in miscellaneous expenses. The utility had an in-house operator for 8 months during the test year. Staff made an adjustment of ($16,110) to remove the 8 months of in-house salary cost of the licensed operator which will now be included in contractual services - other. Staff recommends employee salaries and wages of $8,937.

(604) Employee Pensions and Benefits - The utility recorded $4,764 in this account during the test year. Staff made an adjustment of $2,002 to reclassify employee pensions and benefits which were recorded in miscellaneous expenses. As mentioned above, the utility had an in-house operator for 8 months during the test year. Staff made an adjustment of ($4,764) to remove the 8 months of in-house employee pensions and benefits cost of the licensed operator which will now be included in contractual services - other. Staff recommends employee pensions and benefits of $2,002 for the test year.

(615) Purchased Power - The utility recorded a purchased power expense of $29,587 during the test year. MLC's utility plant facilities, as well as several other non-utility facilities, are provided electrical service through one meter which had a total cost of $59,174 for the test year. The company allocates the electric charges to six of its operating divisions using the following percentages:

Company Operating Division	Allocation Percentage
General and Administrative Offices	3.00%
Residential Services	2.00%
Park Services	22.00%
Golf Services	22.00%
Utility Services	50.00%
Colony House Services	1.00%

MLC has only one electric meter which measures the kilowatt consumption for the entire company including the club house, golf pro shop, maintenance buildings, residential service buildings and its general and administrative offices. In its initial filing, MLC requested that 50% of its total electric bill be allocated to the water treatment plant and the remaining 50% be split between General and Administrative offices, Residential Services, Park Services, Golf Services, and Colony House Services. After an on site inspection by a staff engineer, it is staff's recommendation that a 50-50 allocation is not reasonable, or justified. The water treatment system consists of two wells, three high service pumps to take water from the ground storage tanks and supply pressure to the system, and a simple chlorine injection pump. These wells and pumps do not operate continuously, but only come on when the level of water drops, or when the pressure in the distribution system drops to a threshold level. The other areas served off the single electric meter include several offices which are air conditioned and are equipped with computers and other electric consuming office devices. Staff recommends a 33 1/3% allocation of the total electric costs to water treatment facilities and the remaining electric expenses be allocated to the other offices and services. In Issue No. 12, staff is recommending that the utility either remove all non-utility users from the existing electric meter, or install a separate electric meter to measure power specifically consumed by the utility. The company allocation method using one meter is further discussed in Issue No. 12. Staff made an adjustment of $94 to reclassify a purchased power expense from miscellaneous expenses, $16 to reclassify a purchased power expense from chemical expenses, and ($9,992) to bring the 50% utility allocation amount to the 33 1/3% staff recommended allocation amount of $19,705 ($59,174 x 33 1/3%).

As mentioned in the case background, the utility had unaccounted-for water of 91,086,530 gallons or 81% for the test year. Allowing for an acceptable level of unaccounted-for water of 10%, staff made an adjustment to purchased power of ($13,991) to reflect the estimated purchased power expense to pump the unaccounted-for water ($19,705 x 71%). Staff recommends test year purchased power expense of $5,714.

(616) Fuel for Power Production - The utility recorded no balance in this account during the test year. Staff made an adjustment of $97 to reclassify a fuel for power production expense from transportation expenses. Staff recommends fuel for power production expense of $97 for the test year.

(618)Chemicals - The utility recorded a chemical expense of $6,574 during the test year. Staff made an adjustment of $1,314 to reclassify a chemical expense from materials and supplies, and ($16) to reclassify a purchased power expense to Account No. 615.

As stated above, the utility had unaccounted-for water of 91,086,530 gallons or 81% for the test year. Staff made an adjustment of ($5,589) to reflect the amount of chemicals used to treat the unaccounted-for water (allowing 10% for unaccounted-for water). Staff recommends test year chemical expense of $2,283.

(620) Materials and Supplies - The utility recorded materials and supplies expenses of $18,749 for the test year. Staff made adjustments of ($1,314) to reclassify a chemical expense to Account No. 618, ($253) to reclassify a testing expense to Account No. 635, ($14,599) to reclassify repair and maintenance expenses to Account No. 636, and $1,113 to reclassify a materials and supplies expense from miscellaneous expenses. Staff recommends a materials and supplies expense of $3,696 for the test year.

(631)Contractual Services - Professional - The utility recorded no contractual professional services expense in this account for the test year. Staff made an adjustment of $2,633 to reclassify a contractual professional services expense from miscellaneous expenses. Staff recommends test year professional contractual services expense of $2,633.

(635)Contractual Services - Testing - The utility recorded no water testing expenses in this account for the test year. Staff made an adjustment of $253 to reclassify a testing expense from materials and supplies. Staff recommends contractual services - testing expense of $253 for the test year.

(636)Contractual Services - Other - The utility recorded no contractual services - other expense in this account for the test year. Staff made an adjustment of $14,599 to reclassify test year repair and maintenance expenses from materials and supplies, and $28,460 to include the annualized cost of a contracted licensed operator who is replacing the in-house licensed operator whose cost was previously included in salaries & wages and employee pensions

& benefits. Staff recommends test year contractual services-other of $43,059.

(640) Rents - The utility recorded no rent expense in this account for the test year. Staff made an adjustment of $107 to reclassify rent expense from miscellaneous expenses. Staff recommends rent expense of $107 for the test year.

(650) Transportation Expense - The utility books reflected $1,596 of transportation expense for the test year. Staff made an adjustment of ($97) to reclassify a fuel for power production expense to Account No. 616. Staff recommends transportation expense of $1,499 for the test year.

(655) Insurance - The utility recorded insurance expense of $2,520 for the test year. Staff made a $645 adjustment to reclassify an insurance expense from miscellaneous expenses. Staff recommends test year insurance expense of $3,165.

(675) Miscellaneous Expense - The utility recorded $24,370 of miscellaneous expenses for the test year. Staff made adjustments of: ($249) to reclassify depreciation expense to Account No 403; ($6,900) to reclassify regulatory assessment fees to taxes other than income; ($8,937) to reclassify salaries and wages expense to Account No. 601; ($2,002) to reclassify employee pensions and benefits expense to Account No. 604; ($94) to reclassify purchased power expense to Account No. 615; ($1,113) to reclassify materials and supplies expense to Account No. 620; ($2,633) to reclassify professional contractual services to Account No. 631; ($107) to reclassify rent expense to Account No. 640; and ($645) to reclassify insurance expense to Account No. 655. Staff recommends test year miscellaneous expenses of $1,690.

Operation and Maintenance Expenses(O & M) Summary: Total operation and maintenance adjustments are ($29,135). Staff recommends operation and maintenance expenses of $75,135. Operation and maintenance expenses are shown in Schedule No. 3C.

Depreciation Expense: The utility recorded $7,671 of depreciation expense on its books for the test year. Staff calculated test year depreciation expense using the rates prescribed in Rule 25-30.140, Florida Administrative Code. Staff made an adjustment of $249 to reclassify depreciation expense from miscellaneous expenses, and made an adjustment of ($2,372) to reflect test year depreciation calculated per Rule 25-30.140, Florida Administrative Code. Staff recommends test year depreciation expense $5,548.

Taxes Other Than Income Taxes: The utility recorded test year taxes other than income of $3,600. Staff made an adjustments of $6,622 to reclassify regulatory assessment fees from miscellaneous expenses, $365 to adjust regulatory assessment fees on test year revenue, $253 to reflect Polk County taxes, and $25 to include the DEP emergency response fee. Staff recommends test year taxes other than income of $10,865.

Staff is recommending a revenue requirement decrease of ($61,600) for the utility. If staff's recommended decrease is approved, taxes other than income taxes would decrease by ($2,772) to reflect the regulatory assessment fee of 4.5%.

Income Taxes: The utility is a part of Mountain Lake Corporation which is an 1120 corporation. On a consolidated basis the corporation has reported net operating losses of ($375,720) for 1998, ($48,041) for 1997, ($202,570) for 1996, and ($344,271) for 1995. Because of continuing net operating losses on a consolidated company basis, no income tax liability is anticipated for the utility, and no income tax has been included for the utility in this analysis.

Operating Revenues: Revenues have been adjusted by ($61,600) to reflect the decrease in revenue required to cover expenses and allow the utility the opportunity to earn the recommended rate of return on investment.

Operating Expenses Summary: The application of staff's recommended adjustments to the utility's test year operating expenses results in staff's recommended operating expenses of $88,776.

Operating expenses are shown on Schedule No. 3A. Adjustments are shown on Schedule No. 3B.

ISSUE 6: What is the appropriate revenue requirement?

RECOMMENDATION: The appropriate revenue requirement should be $93,664. (CASEY)

STAFF ANALYSIS: Staff is recommending a decrease of $61,600 (or 39.67%) in the utility's revenue requirement on a prospective basis. This will allow the utility the opportunity to recover its expenses and earn the recommended 8.90% return on its investment. The calculations are as follows:

	Water
Adjusted Rate Base	$ 54,913
Rate of Return	x .0890
Return on Investment	$ 4,888
Adjusted Operation Expenses	75,135
Depreciation Expense (Net)	5,548
Taxes Other Than Income Taxes	8,093
Revenue Requirement	$ 93,664
Annual Revenue Decrease	$ 61,600
Percentage Decrease	39.67%

The revenue requirement and resulting annual decrease are shown on Schedule No. 3A.

ISSUE 7: Did Mountain Lake earn in excess of its authorized return on equity for the test year ended September 30, 1999?

RECOMMENDATION: Yes, the Commission should recognize $61,600 of water revenue which exceeds MLC's recommended authorized return on equity of 9.02%. (CASEY)

STAFF ANALYSIS: Mountain Lake's return on equity has never been set by the Commission. Issue No. 3 recommends the Commission establish an authorized return on equity of 9.02% for Mountain Lake. Staff's adjusted test year figures show water revenues of $155,264 with operating expenses of $91,548 resulting in a water operating income of $63,716 which reflects a 128.22% rate of return on equity.

The Commission should recognize $61,600 of water revenue which exceeds Mountain Lake's recommended authorized return on equity of 9.02%. Issue No. 8 recommends a reduction in utility rates along with a new rate structure to correct utility overearnings.

ISSUE 8: What is the appropriate rate structure for this utility and what are the appropriate monthly rates?

RECOMMENDATION: The appropriate rate structure for residential customers is the base facility/inclining block rate structure consisting of three tiers (usage blocks). The appropriate rate structure for general service customers is the traditional base facility/uniform gallonage charge rate structure. The recommended rates, as shown in the staff analysis, are designed to produce revenues of $93,664. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates should not be implemented until staff has approved the proposed customer notice, and the notice has been received by the customers. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice. (C. WILLIAMS)

STAFF ANALYSIS: During the year ending September 30, 1999, MLC provided water service to approximately 129 residential customers, all of whom have 1 1/2 inch meters, and 24 general service customers. The utility's facilities consist of one water treatment plant and a water distribution system.

Pursuant to the Memorandum of Understanding (MOU) between the Florida Public Service Commission (FPSC or Commission) and the Florida Water Management Districts, a joint cooperative effort is necessary to implement an effective statewide water conservation policy. Water use in the utility's service area is under the jurisdiction of the Southwest Florida Water Management District (SWFWMD). In 1989, the SWFWMD declared portions of Polk and Highlands Counties, including MLC's service area, a Water Use Caution Area (WUCA). The SWFWMD advocates rate structures that provide pricing incentives which promote water conservation. Throughout development of this issue, staff worked closely with the SWFWMD staff to ensure consistency.

In Order No. PSC-97-0926-FOF-WU, the Commission approved MLC's application for its current grandfather certificate. Under the authority of its FPSC approved tariff, MLC's current rate structure for residential customers consists of a minimum charge of $40.00, which includes 9,000 gallons of usage. In addition, there is an inclining block rate structure consisting of six tiers for usage above 9,000 gallons. The utility does not have a FPSC approved tariff to charge general service customers. Revenues from general service customers were imputed as discussed in Issue No. 4 of this recommendation.

In the instant proceeding, in an effort to continue promoting water conservation through appropriate price signals, we believe it is prudent to change the rate structure for residential customers from the minimum charge/inclining block rate structure to a base facility/inclining block rate structure. In addition, as a result of the utility's overearnings position, and subsequent revenue requirement reduction, the existing rates and number of rate tiers must be lowered. If the Commission approves staff's recommended rate structure, customers at all usage levels will experience rate reductions and monthly bill reductions, based on current usage patterns.

In designing the recommended three tiered inclining block rate structure, staff performed three significant steps, including:

1) Determining the appropriate usage blocks;
2) Determining the appropriate usage block rate factors; and
3) Making a conservation adjustment.

In determining the appropriate usage blocks, staff identified three usage levels which we believed to be significant based on our analysis of customer billing data. Through our analysis, it became evident that a small percentage of the utility's customers consume over half the water. Specifically, only 5% of the utility's customers consume more than 30,000 gallons per month, however, this consumption represents 52% of the total gallons consumed. Conversely, 95% of the utility's customers consume less than 30,000 gallons per month, representing 48% of the total gallons consumed. Staff believes it is important that stronger price signals be sent to customers with higher usage levels, particularly, those consuming greater than 30,000 gallons per month. Therefore, staff recommends usage blocks of 0 to 10,000, 10,001 to 30,000, and over 30,000 gallons, with corresponding usage block rate factors of 1, 1.5, and 2.5.

To arrive at our recommended usage block rate factors, staff made a conservation adjustment of 18%. The conservation adjustment, which involved shifting 18% of the BFC costs to the gallonage charge, permitted staff to set the usage block rate factors at higher levels than they would have been without the adjustment. Higher usage block rate factors have the effect of increasing the rate differentials between usage blocks, thereby sending stronger price signals to consumers and having a potentially greater impact on reducing consumption. No other conservation measures are deemed appropriate for this utility, because almost all of the residential customers provide their own irrigation through private wells.

As discussed earlier, the utility does not have a FPSC approved tariff to charge general service customers. Revenues from general service customers were imputed as discussed in Issue No. 4 of this recommendation. In keeping with current Commission practice, staff recommends that the base facility/uniform gallonage charge rate structure be applied to general service customers. We recommend this structure based on the fact that the general service class is comprised of customers who exhibit unique consumption characteristics. It is staff's position that before a more aggressive rate structure can be applied to the general service class, a formal distinction needs to be made between general service customers based on the nature of their commercial operation.

The recommended rates are designed to produce revenues of $93,664. A schedule of the utility's existing and staff's recommended monthly water rates are as follows:

Base Facility Charge
(Residential and General Service)

Meter Size	**Existing Monthly Rate***	**Staff's Recommended Rate**
5/8" x 3/4"	$40.00	$ 4.59
3/4"	$40.00	$ 6.89
1"	$40.00	$ 11.48
1-1/2"	$40.00	$ 22.95
2"	$40.00	$ 36.72
3"	$40.00	$ 73.44
4"	$40.00	$114.75
6"	$40.00	$229.50

Gallonage Charge

Existing Gallonage Blocks**	**Existing Gallonage Charge****
9,001 - 12,000	$1.50 per 1,000 gallons
12,001 - 20,000	$2.00 per 1,000 gallons
20,001 - 30,000	$3.00 per 1,000 gallons
30,001 - 40,000	$5.00 per 1,000 gallons
40,001 - 50,000	$7.00 per 1,000 gallons
50,001 +	$8.00 per 1,000 gallons

Staff Recommended **Gallonage Blocks*****	**Staff Recommended** **Gallonage Charge*****
0 - 10,000	$1.45 per 1,000 gallons
10,001 - 30,000	$2.20 per 1,000 gallons
Over 30,000	$3.60 per 1,000 gallons

Staff Recommended
General Service Gallonage Rate
$2.37

* Includes the first 9,000 gallons. All residential customers have 1 1/2 inch meters.
** Applicable to residential and general service customers.
*** Applicable to residential customers only.

The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates should not be implemented until staff has approved the proposed customer notice, and the notice has been received by the customers. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

ISSUE 9: In the event of a protest of the Proposed Agency Action (PAA) Order, should any amount of annual water revenues be held subject to refund?

RECOMMENDATION: Yes. In the event of a protest of the PAA Order, the utility should be allowed to continue collecting existing rates as temporary rates. However, in order to protect utility customers from potential overearnings, the utility should hold $61,600 of annual revenues subject to refund. The following amount is recommended:

	Test Year Revenue	Amount Subject To Refund	% Subject To Refund
Water	$155,264	$61,600	39.67%

(CASEY)

STAFF ANALYSIS: Staff's adjusted test year figures show utility revenues of $155,264 and operating expenses of $91,548, resulting in water operating income of $63,716, which reflects a 128.22% rate of return on equity. Staff has recommended a decrease of $61,600 (39.67%) in the utility's annual revenue which would provide it the opportunity to earn an overall rate of return of 8.90%. In the event of a protest of the PAA Order, the utility should be allowed to continue collecting existing rates as temporary rates. However, in order to protect utility customers from potential overearnings, the utility should hold $61,600 (39.67%) of annual revenues subject to refund.

ISSUE 10: In the event of a protest of the PAA Order, what is the appropriate security to guarantee the amount subject to refund?

RECOMMENDATION: The security should be in the form of a bond or letter of credit in the amount of $65,173. Alternatively, the utility could establish an escrow agreement with an independent financial institution. If security is provided through an escrow agreement, the utility should escrow 39.67% of its monthly revenues as detailed in Issue No. 9. (CASEY)

STAFF ANALYSIS: Pursuant to Section 367.082, Florida Statutes, when revenues are held subject to refund, the utility is authorized to continue collecting the previously authorized rates. As recommended in Issue No. 9, the amount of potential overearnings in the water system is $61,600 on an annual basis. Assuming a twelve-month time frame for staff to complete the hearing process, the potential refund amount would be $61,600. Interest, calculated in accordance with Rule 25-30.360, Florida Administrative Code, is $3,573, making the total $65,173, which should be collected under guarantee, subject to refund with interest.

The security should be in the form of a bond or letter of credit in the amount of $65,173. Alternatively, the utility could establish an escrow agreement with an independent financial institution.

If the utility chooses a bond as security, the bond should contain wording to the effect that it will be terminated only under the following conditions:

1) The Commission denies the rate decrease; or

2) If the Commission approves the decrease, the utility shall refund the amount collected that is attributable to the decrease.

If the utility chooses a letter of credit as security, it should contain the following conditions:

1) The letter of credit is irrevocable for the period it is in effect.

2) The letter of credit will be in effect until the final Commission order is rendered, and the amount of refund, if any, is determined.

If security is provided through an escrow agreement, the utility should escrow 39.67% of its monthly revenues as detailed in Issue No. 9, and the following conditions should be part of the escrow agreement:

1) No funds in the escrow account may be withdrawn by the utility without the express approval of the Commission.

2) The escrow account shall be an interest bearing account.

3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers.

4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility.

5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.

6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt.

7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.

8) The Director of Records and Reporting must be a signatory to the escrow agreement.

In no instance should the maintenance and administrative costs associated with any refund be borne by the customers. These costs are the responsibility of, and should be borne by, the utility. Also, by no later than the twentieth (20) day of each month, the utility should file a report showing the amount of revenues collected each month and the amount of revenues collected to date relating to the amount subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

ISSUE 11: Should MLC be ordered to show cause, in writing within 21 days, why it should not be fined up to $5,000 per day for non-payment of regulatory assessment fees (RAFs) in apparent violation of Section 350.113, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, and should the utility be required to remit the appropriate past due RAFs with penalties and interest?

RECOMMENDATION: No, a show cause proceeding should not be initiated. However, the utility should be required to file a revised 1998 RAF form to include general service revenue in the amount of $53,843.11. Additionally, MLC should be ordered to immediately remit an additional 1998 RAF payment of $2,422.93, a statutory penalty in the amount of $605.75, and $339.21 in interest for its apparent violation of Section 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, for failure to pay RAFs on intercompany revenue in 1998. As of May 16, 2000, the total amount owed by the utility is $3,367.89. Also, the utility should be ordered to submit a revised 1999 RAF form, annual report and additional RAFs if it has not included its 1999 intercompany revenue. (VAN LEUVEN, KAPROTH)

STAFF ANALYSIS: In establishing rates, the Commission includes in its determination of the revenue requirements the utility's obligation to pay RAFs.

Section 367.145, Florida Statutes, provides:

> (1) The commission shall set by rule a regulatory assessment fee that each utility must pay once a year in conjunction with filing its annual report required by commission rule.
>
> b) In addition to the penalties and interest otherwise provided, the commission may impose a penalty upon a utility for failure to pay regulatory assessment fees in a timely manner in accordance with Section 367.161, Florida Statutes.

Rule 25-30.120, Florida Administrative Code, in conjunction with Section 350.113, Florida Statutes, provides that each utility shall remit a regulatory assessment fee based upon its gross operating revenue. Pursuant to Section 350.113(4), Florida Statutes, and Rule 25-30.120(7)(a), Florida Administrative Code, a statutory penalty plus interest shall be assessed against any utility that fails to timely pay its regulatory assessment fees, in the following manner:

1. 5 percent of the fee if the failure is for not more than 30 days, with an

> additional 5 percent for each additional 30 days or fraction thereof during the time in which failure continues, not to exceed a total penalty of 25 percent.
>
> 2. The amount of interest to be charged is 1% for each 30 days or fraction thereof, not to exceed a total of 12% per annum.

Section 367.161, Florida Statutes, authorizes the Commission to assess a penalty of not more than $5,000 per day for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated any Commission rule, order, or provision of Chapter 367, Florida Statutes. Utilities are charged with the knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). Thus, any intentional act, such as the utility's continuing to charge the final rates and failing to file a motion to vacate the stay, would meet the standard for a "willful violation." In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., the Commission, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id. at 6.

According to the staff audit, MLC paid 1998 RAFs on its residential revenue but not on its intercompany general service revenue. Also, the audit stated that the company has both residential and intercompany general service meter readings available for the historical period ending September 30, 1998, and September 30, 1999. Staff calculations show that the utility's revenues for the twelve-month period ending September 30, 1999 were understated by $31,460. The auditors further calculated $53,843.11 in unbilled intercompany revenues for the 1998 calendar year. The additional revenues for 1998 were based on the consumption of 8,324,000 gallons of water by 21 intercompany general service connections. Audit exception No. 3 explained that the intercompany general service revenues represent a company allocation for water services provided to the following subsidiary operations: colony house, golf course, driving range, golf pro shop, tennis courts maintenance facilities, company offices, and several irrigation sites located throughout the company's service area.

MLC was granted a grandfather certificate by Order No. PSC-97-0926-FOF-WU, issued August 4, 1997, in Docket No. 970283-WU. The Order requires that although MLC's rates and charges were never reviewed nor approved by the Polk County Commission, MLC shall continue to charge the unreviewed rates and charges until authorized to change by the Commission. MLC has not filed any rate proceeding, limited proceeding, pass-through or index. However, MLC was required by the Polk County Commission to perform meter readings and charge for all water consumption. For the foregoing reasons, staff believes that MLC should be required to pay the additional RAFs on the 1998 intercompany general service revenues because Order No. PSC-97-0926-FOF-WU required MLC to continue to collect the rates and charges in effect on the date the Commission received jurisdiction in Polk County.

Accordingly, staff calculates the utility's 1998 RAF amount to be $9,044.91 by multiplying total company revenue of $200,998.11 by 4.5%. The utility has paid $6,621.98 in 1998 RAFs for a balance owed by the utility of $2,422.93. Also, in accordance with Rule 25-30.120, Florida Administrative Code, the utility should pay $605.75 in penalties and $339.21 in interest calculated on the delinquent RAFs through May 16, 2000. Therefore, the utility should immediately remit $3,343.67 for its failure to pay RAFs on its 1998 intercompany revenue. Additionally, the utility should be put on notice that additional penalties and interest may be assessed if payment is not made in a timely manner.

Likewise, MLC's 1999 RAF payment and RAF form should include the RAFs based on the utility's total revenue, inclusive of intercompany revenue. In the event that MLC has filed its 1999 RAF form and payment without including intercompany revenue, MLC should be ordered to file a revised form and pay the difference in accordance with Rule 25-30.120, Florida Administrative Code.

MLC's 1999 annual report is due April 30, 2000, since the utility timely filed a request for a 30 day extension to file its annual report. The utility should be put on notice that it must file its 1999 annual report appropriately reflecting intercompany general service revenue and intercompany general service units (meters) and gallonage sold.

Although the utility's failure to timely remit RAFs on its intercompany revenue is an apparent violation of Rule 25-30.120, Florida Administrative Code, staff believes that a show cause proceeding is not warranted and should not be initiated at this time. Staff does not believe that the apparent violation of Rule 25-30.120, Florida Administrative Code, under the circumstances rises to the level that would warrant the initiation of a show cause proceeding. However, the utility should be required to file a revised 1998 RAF form to include general service revenue in the amount of $53,843.11. Additionally, MLC should be ordered to immediately remit an additional 1998 RAF payment of $2,422.93, a statutory penalty in the amount of $605.75, and $339.21 in interest for its apparent violation of Section 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, for failure to pay RAFs on intercompany revenue in 1998. As of May 16, 2000, the total amount owed by the utility is $3,367.89. Also, the utility should be ordered to submit a revised 1999 RAF form, annual report and additional RAFs if it has not included its 1999 intercompany revenue. (VAN LEUVEN, KAPROTH)

ISSUE 12: Should the utility be ordered to make arrangements to remove all non-utility users from the existing electric meter or install an electric meter dedicated strictly to utility operations?

RECOMMENDATION: Yes, the utility should be required to remove all non-utility users from the existing electric meter or have an electrical meter installed which will be dedicated strictly to utility operations within 90 days of the effective date of the Order. (EDWARDS)

STAFF ANALYSIS: As discussed in Issue No. 5, the utility recorded a purchased power expense of $29,587 during the test year. MLC's utility plant facilities, as well as several other non-utility facilities, are provided electrical service through one meter. The company allocates the electric charges to six of its operating divisions using the following percentages:

Company Operating Division	Allocation Percentage	
	Requested	Recommended
Utility Services	50.00%	33.3%
General and Administrative Offices	3.00%	Remaining
Residential Services	2.00%	66.7%
Park Services	22.00%	split
Golf Services	22.00%	between
Colony House Services	1.00%	services

Since an accurate amount for purchased power could not be specifically identified, the staff engineer is recommending a 33.3% allocation as a more reasonable and prudent allowance for purchased power instead of the 50% allocation estimated by MLC. Staff believes that, from this point forward, the utility should have an electric meter solely dedicated to utility operations. Therefore, it is recommended that the utility be required to remove all non-utility users from the existing electric meter, or have an electrical meter installed which will be dedicated strictly to utility operations within 90 days of the effective date of the Order.

ISSUE 13: Should MLC be ordered to show cause, in writing within 21 days, why it should not be fined up to $5,000 per day for failure to maintain its accounts and records in conformance with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA), in apparent violation of Rule 25-30.115(1), Florida Administrative Code?

RECOMMENDATION: No. A show cause proceeding should not be initiated. However, the utility should be ordered to maintain its accounts and records in conformance with the 1996 NARUC USOA, and submit a statement from its accountant by March 31, 2001 along with its 2000 annual report, stating that its books are in conformance with the NARUC USOA and have been reconciled with the Commission Order. (VAN LEUVEN, CASEY)

STAFF ANALYSIS: Audit Exception No. 1 states that the utility did not maintain its books and records per Commission rules. Mountain Lake's accounting system does not use the prescribed accounts and accounting format as required by the USOA. The company also depreciates all utility assets in its capital asset ledger using various service lives depending on the individual asset instead of using the prescribed asset lives set out in Rule 25-30.140, Florida Administrative Code. However the company did reconcile its accounting system to the USOA for the audit investigation.

Rule 25-30.115(1), Florida Administrative Code, states "Water and wastewater utilities shall, effective January 1, 1998, maintain their accounts and records in conformity with the 1996 NARUC Uniform Systems of Accounts adopted by the National Association of Regulatory Utility Commissioners."

Section 367.161, Florida Statutes, authorizes the Commission to assess a penalty of not more than $5,000 per day for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated any Commission rule, order, or provision of Chapter 367, Florida Statutes. Utilities are charged with the knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). Thus, any intentional act, such as the utility's continuing to charge the final rates and failing to file a motion to vacate the stay, would meet the standard for a "willful violation." In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., the Commission, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id. at 6.

Although the utility did not maintain its books and records in accordance with Commission rules, staff was able to readily audit the utility's books. Staff auditors believe the utility books can be easily converted using in-house personnel at no additional cost. Even though the utility's failure to maintain its books and records is an apparent violation of Rule 25-30.115, Florida Administrative Code, staff believes that a show cause proceeding is not warranted and should not be initiated at this time. Staff does not believe that the apparent violation of Rule 25-30.115, Florida Administrative Code, under the circumstances rises to the level that would warrant the initiation of a show cause proceeding. However, based on the foregoing, staff recommends that the utility be ordered to maintain its accounts and records in conformance with the 1996 NARUC USOA, and submit a statement from its accountant by March 31, 2001 along with its 2000 annual report, stating that its books are in conformance with the NARUC USOA and have been reconciled with the Commission Order.

ISSUE 14: Should this docket be closed?

RECOMMENDATION: No. If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of the Consummating Order. However, this docket should remain open for an additional 120 days from the effective date of the Order to allow staff to verify that the utility has paid all past due regulatory assessment fees (including penalties and interest), amended its annual report(s) to include intercompany metered revenues, removed non-utility users from the electric meter or installed an electrical meter dedicated to utility operations, and submitted revised tariff sheets as recommended in Issue No. 8. Once staff has verified that this work has been completed, the docket should be closed administratively. In the event of a protest, the utility should be allowed to continue collecting existing rates as temporary rates, but the utility should hold $61,600 of its annual revenues subject to refund, as set forth in Issue 9 of this recommendation. (VAN LEUVEN, CASEY)

STAFF ANALYSIS: If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of the Consummating Order. However, this docket should remain open for an additional 120 days from the effective date of the Order to allow staff to verify that the utility has paid all past due regulatory assessment fees (including penalties and interest), amended its annual report(s) to include intercompany metered revenues, removed non-utility users from the electric meter or installed an electrical meter dedicated to utility operations, and submitted revised tariff sheets as recommended in Issue No. 8. Once staff has verified that this work has been completed, the docket should be closed administratively. In the event of a protest, the utility should be allowed to continue collecting existing rates as temporary rates, but the utility should hold $61,600 of its annual revenues subject to refund, as set forth in Issue 9 of this recommendation.

MOUNTAIN LAKE CORPORATION
TEST YEAR ENDING SEPTEMBER 30, 1999
SCHEDULE OF WATER RATE BASE

SCHEDULE NO. 1-A
DOCKET NO. 000331-WU

DESCRIPTION	BALANCE PER UTILITY	STAFF ADJUST. TO UTIL. BAL.	BALANCE PER STAFF
1. UTILITY PLANT IN SERVICE	$480,927	($3,781)	$477,146
2. LAND & LAND RIGHTS	0	0	0
3. NON-USED AND USEFUL COMPONENTS	0	0	0
4. CIAC	0	0	0
5. ACCUMULATED DEPRECIATION	(431,435)	(190)	(431,625)
6. AMORTIZATION OF CIAC	0	0	0
7. WORKING CAPITAL ALLOWANCE	0	9,392	9,392
8. WATER RATE BASE	$49,492	$5,421	$54,913

MOUNTAIN LAKE CORPORATION
TEST YEAR ENDING SEPTEMBER 30, 1999
ADJUSTMENTS TO RATE BASE

SCHEDULE NO. 1-B
DOCKET NO. 000331-WU

	WATER
UTILITY PLANT IN SERVICE	
1. To reflect averaging adjustment.	($3,781)
Total	
ACCUMULATED DEPRECIATION	
1. To reflect staff calculated accumulated depreciation.	($2,964)
2. To reflect averaging adjustment.	2,774
Total	($190)
WORKING CAPITAL ALLOWANCE	
1. To reflect 1/8 of test year O & M expenses.	$9,392

MOUNTAIN LAKE CORPORATION
TEST YEAR ENDING SEPTEMBER 30, 1999
SCHEDULE OF CAPITAL STRUCTURE

SCHEDULE NO. 2
DOCKET NO. 000331-WU

CAPITAL COMPONENT	PER AUDIT	SPECIFIC ADJUST-MENTS	BALANCE BEFORE PRO RATA ADJUSTMENTS	PRO RATA ADJUST-MENTS	BALANCE PER STAFF	PERCENT OF TOTAL	COST	WEIGHTED COST
COMMON EQUITY	$6,131,451	$0	6,131,451	(6,082,101)	49,350	89.87%	9.02%	8.10%
LONG TERM DEBT	534,334	0	534,334	(530,033)	4,301	7.83%	7.88%	0.62%
SHORT TERM DEBT	156,748	0	156,748	(155,486)	1,262	2.30%	7.88%	0.18%
CUSTOMER DEPOSITS	0	0	0	0	0	0.00%	6.00%	0.00%
TOTAL	$6,822,533	$0	$6,822,533	($6,767,620)	$54,913	100.00%		8.90%

RANGE OF REASONABLENESS	LOW	HIGH
RETURN ON EQUITY	8.02%	10.02%
OVERALL RATE OF RETURN	8.00%	9.80%

MOUNTAIN LAKE CORPORATION | **SCHEDULE NO. 3-A**
TEST YEAR ENDING SEPTEMBER 30, 1999 | **DOCKET NO. 000331-WU**
SCHEDULE OF WATER OPERATING INCOME

	TEST YEAR PER AUDIT	STAFF ADJ. TO AUDIT	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1. **OPERATING REVENUES**	$123,804	$31,460	$155,264	($61,600)	$93,664
				-39.67%	
OPERATING EXPENSES:					
2. OPERATION & MAINTENANCE	104,270	(29,135)	75,135	0	75,135
3. DEPRECIATION (NET)	7,671	(2,123)	5,548	0	5,548
4. AMORTIZATION	0	0	0	0	0
5. TAXES OTHER THAN INCOME	3,600	7,265	10,865	(2,772)	8,093
6. INCOME TAXES	0	0	0	0	0
7. **TOTAL OPERATING EXPENSES**	$115,541	($23,993)	$91,548	($2,772)	$88,776
8. **OPERATING INCOME/(LOSS)**	$8,263		$63,716		$4,889
9. **WATER RATE BASE**	$49,492		$54,913		$54,913
10. **OVERALL RATE OF RETURN**	16.70%		116.03%		8.90%
11. **RATE OF RETURN ON EQUITY**	17.69%		128.22%		9.02%

MOUNTAIN LAKE CORPORATION
TEST YEAR ENDING SEPTEMBER 30, 1999
ADJUSTMENTS TO OPERATING INCOME

SCHEDULE NO. 3-B
DOCKET NO. 000331-WU
PAGE 1 OF 2

	WATER
OPERATING REVENUES	
To reflect unbilled intercompany revenues.	**$31,460**
OPERATION AND MAINTENANCE EXPENSES	
1. Salaries and Wages - Employees	
To reclassify salaries and wages from miscellaneous expenses.	$8,937
To remove salary of in-house licensed operator.	($16,110)
Subtotal	($7,173)
2. Employee Pensions & Benefits (EP&B)	
To reclassify employee benefits from miscellaneous expenses.	$2,002
To remove EP&B of in-house licensed operator.	($4,764)
Subtotal	($2,762)
3. Purchased Power	
To reclassify purchased power from miscellaneous expenses.	$94
To reclassify purchased power from chemical expense.	$16
To adjust purchased power allocation per staff engineer.	($9,992)
To adjust for unaccounted water purchased power expense.	($13,991)
Subtotal	($23,873)
4. Fuel for Power Production	
To reclassify fuel for power production from transp.expenses.	$97
5. Chemicals	
To reclassify chemical expense from Account No. 620.	$1,314
To reclassify purchased power expense to Account No. 615.	(16)
To adjust for unaccounted water chemical expense.	(5,589)
Subtotal	($4,291)
6. Materials and Supplies	
To reclassify chemical expense to Account No. 618.	($1,314)
To reclassify testing expense to Account No. 635.	($253)
To reclassify contractual services-other to Account No. 636.	($14,599)
To reclassify materials & supplies expense from Account No. 675.	$1,113
Subtotal	($15,053)
7. Contractual Sevices - Professional	
To reclassify contractual services expense from Account No. 675.	$2,633
8. Contractual Services - Testing	
To reclassify testing expense from Account No. 620.	$253

(O & M EXPENSES CONTINUED ON NEXT PAGE)

MOUNTAIN LAKE CORPORATION | **SCHEDULE NO. 3-B**
TEST YEAR ENDING SEPTEMBER 30, 1999 | **DOCKET NO. 000331-WU**
ADJUSTMENTS TO OPERATING INCOME | **PAGE 2 OF 2**

	(O & M EXPENSES CONTINUED)	WATER
9.	Contractual Services - Other	
	To reclassify contractual services-other exp. from Acct. No. 620.	$14,599
	To include annualized cost of new contracted licensed operator.	$28,460
	Subtotal	$43,059
10.	Rent Expense	
	To reclassify rent expense from Account No. 675.	$107
11.	Transportation Expense	
	To reclassify fuel for power production to Account No. 616.	($97)
12.	Insurance Expenses	
	To reclassify insurance expense from Account No. 675.	$645
13.	Miscellaneous Expenses	
	To reclassify depreciation expense to Account No. 403.	($249)
	To reclassify RAFs, DEP fees, & Polk County taxes to T.O.T.I.	($6,900)
	To reclassify salaries and wages expense to Acct. No. 601.	($8,937)
	To reclassify employee benefits expense to Acct. No. 604.	($2,002)
	To reclassify purchased power expense to Acct. No. 615.	($94)
	To reclassify materials & supplies expense to Acct. No. 620.	($1,113)
	To reclassify contractual services expense to Acct. No. 631.	($2,633)
	To reclassify rent expense to acct. No. 640.	($107)
	To reclassify insurance expense from Acct. No. 655.	($645)
	Subtotal	($22,680)
	TOTAL OPERATION & MAINTENANCE ADJUSTMENTS	**($29,135)**
	DEPRECIATION EXPENSE	
1.	To reclassify depreciation expense from Acct. No. 675.	$249
2.	To reflect test year depreciation calculated per 25-30.140, F.A.C.	($2,372)
	Total	($2,123)
	TAXES OTHER THAN INCOME	
1.	To reclassify RAFs from Acct. No. 675.	$6,622
2.	To adjust regulatory assessment fees on test year revenue.	$365
3.	To reclassify Polk County taxes from Acct. No. 675..	253
4.	To reclassify DEP emergency response fee from Acct. No. 675.	25
	Total	$7,265

MOUNTAIN LAKE CORPORATION
TEST YEAR ENDING SEPTEMBER 30, 1999
ANALYSIS OF WATER OPERATION AND MAINTENANCE EXPENSE

SCHEDULE NO. 3-C
DOCKET NO. 000331-WU

	TOTAL PER PER AUDIT	STAFF PER ADJUST.		TOTAL PER PER STAFF
(601) SALARIES AND WAGES - EMPLOYEES	$16,110	($7,173)	[1]	$8,937
(603) SALARIES AND WAGES - OFFICERS	0	0		0
(604) EMPLOYEE PENSIONS AND BENEFITS	4,764	(2,762)	[2]	2,002
(610) PURCHASED WATER	0	0		0
(615) PURCHASED POWER	29,587	(23,873)	[3]	5,714
(616) FUEL FOR POWER PRODUCTION	0	97	[4]	97
(618) CHEMICALS	6,574	(4,291)	[5]	2,283
(620) MATERIALS AND SUPPLIES	18,749	(15,053)	[6]	3,696
(630) CONTRACTUAL SERVICES - BILLING	0	0		0
(631) CONTRACTUAL SERVICES - PROFESSIONAL	0	2,633	[7]	2,633
(635) CONTRACTUAL SERVICES - TESTING	0	253	[8]	253
(636) CONTRACTUAL SERVICES - OTHER	0	43,059	[9]	43,059
(640) RENTS	0	107	[10]	107
(650) TRANSPORTATION EXPENSE	1,596	(97)	[11]	1,499
(655) INSURANCE EXPENSE	2,520	645	[12]	3,165
(665) REGULATORY COMMISSION EXPENSE	0	0		0
(670) BAD DEBT EXPENSE	0	0		0
(675) MISCELLANEOUS EXPENSES	24,370	(22,680)	[13]	1,690
	$104,270	($29,135)		$75,135

ISSUE AND RECOMMENDATION SUMMARY

ISSUE 1: What percentage of the utility's water treatment plant and distribution system is used and useful?

RECOMMENDATION: The water treatment plant and the water distribution system should both be considered 100% used and useful. (EDWARDS)

ISSUE 2: What is the appropriate average amount of test year rate base?

RECOMMENDATION: The appropriate average amount of test year rate base for Mountain Lake Corporation should be $54,913. (CASEY, EDWARDS)

ISSUE 3: What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility?

RECOMMENDATION: The appropriate rate of return on equity for MLC should be 9.02% with a range of 8.02% - 10.02% and the appropriate overall rate of return should be 8.90% with a range of 8.00% - 9.80%. (CASEY)

ISSUE 4: What is the appropriate test year operating revenue?

RECOMMENDATION: The appropriate test year operating revenue should be $155,264. (CASEY)

ISSUE 5: What is the appropriate amount of operating expense?

RECOMMENDATION: The appropriate amount of operating expense should be $88,776. (CASEY, EDWARDS)

ISSUE 6: What is the appropriate revenue requirement?

RECOMMENDATION: The appropriate revenue requirement should be $93,664. (CASEY)

ISSUE 7: Did Mountain Lake earn in excess of its authorized return on equity for the test year ended September 30, 1999?

RECOMMENDATION: Yes, the Commission should recognize $61,600 of water revenue which exceeds MLC's recommended authorized return on equity of 9.02%. (CASEY)

ISSUE 8: What is the appropriate rate structure for this utility and what are the appropriate monthly rates?

RECOMMENDATION: The appropriate rate structure for residential customers is the base facility/inclining block rate structure consisting of three tiers (usage blocks). The appropriate rate structure for general service customers is the traditional base facility/uniform gallonage charge rate structure. The recommended rates, as shown in the staff analysis, are designed to produce revenues of $93,664. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates should not be implemented until staff has approved the proposed customer notice, and the notice has been received by the customers. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice. (C. WILLIAMS)

ISSUE 9: In the event of a protest of the Proposed Agency Action (PAA) Order, should any amount of annual water revenues be held subject to refund?

RECOMMENDATION: Yes. In the event of a protest of the PAA Order, the utility should be allowed to continue collecting existing rates as temporary rates. However, in order to protect utility customers from potential overearnings, the utility should hold $61,600 of annual revenues subject to refund. The following amount is recommended:

	Test Year Revenue	Amount Subject To Refund	% Subject To Refund
Water	$155,264	$61,600	39.67%

(CASEY)

ISSUE 10: In the event of a protest of the PAA Order, what is the appropriate security to guarantee the amount subject to refund?

RECOMMENDATION: The security should be in the form of a bond or letter of credit in the amount of $65,173. Alternatively, the utility could establish an escrow agreement with an independent financial institution. If security is provided through an escrow agreement, the utility should escrow 39.67% of its monthly revenues as detailed in Issue No. 9. (CASEY)

ISSUE 11: Should MLC be ordered to show cause, in writing within 21 days, why it should not be fined up to $5,000 per day for non-payment of regulatory assessment fees (RAFs) in apparent violation of Section 350.113, Florida Statutes, and Rule 25-30.120, Florida

Administrative Code, and should the utility be required to remit the appropriate past due RAFs with penalties and interest?

RECOMMENDATION: No, a show cause proceeding should not be initiated. However, the utility should be required to file a revised 1998 RAF form to include general service revenue in the amount of $53,843.11. Additionally, MLC should be ordered to remit an additional 1998 RAF payment of $2,422.93, a statutory penalty in the amount of $605.75, and $314.99 in interest for its apparent violation of Section 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, for failure to pay RAFs on intercompany revenue in 1998, by April 30, 2000. Also, the utility should be ordered to submit a revised 1999 RAF form, annual report and additional RAFs if it has not included its 1999 intercompany revenue. (VAN LEUVEN, KAPROTH

ISSUE 12: Should the utility be ordered to make arrangements to remove all non-utility users from the existing electric meter or install an electric meter dedicated strictly to utility operations?

RECOMMENDATION: Yes, the utility should be required to remove all non-utility users from the existing electric meter or have an electrical meter installed which will be dedicated strictly to utility operations within 90 days of the effective date of the Order. (EDWARDS)

ISSUE 13: Should MLC be ordered to show cause, in writing within 21 days, why it should not be fined up to $5,000 per day for failure to maintain its accounts and records in conformity with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts(USOA), in apparent violation of Rule 25-30.115(1), Florida Administrative Code?

RECOMMENDATION: No. A show cause proceeding should not be initiated. However, the utility should be ordered to maintain its accounts and records in conformance with the 1996 NARUC USOA, and submit a statement from its accountant by March 31, 2001 along with its 2000 annual report, stating that its books are in conformance with the NARUC USOA and have been reconciled with the Commission Order. (VAN LEUVEN, CASEY)

ISSUE 14: Should this docket be closed?

RECOMMENDATION: No. If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of the Consummating Order. However, this docket should remain open for an additional 120 days from the effective date of the Order to allow staff to verify that the utility has paid all past due regulatory assessment fees (including penalties and interest), amended its annual report(s) to include intercompany metered revenues, removed non-utility users from the electric meter or installed an electrical meter dedicated to utility operations, and submitted revised tariff sheets as recommended in Issue No. 8. Once staff has verified that this work has been completed, the docket should be closed administratively. In the event of a protest, the utility should be allowed to continue collecting existing rates as temporary rate, but the utility should hold $61,600 of its annual revenues subject to refund, as set forth in Issue 9 of this recommendation. (VAN LEUVEN, CASEY)