

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in wastewater rates in Pasco County by Ni Florida, LLC.

DOCKET NO. 090182-SU
ORDER NO. PSC-10-0168-PAA-SU
ISSUED: March 23, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING INCREASE IN RATES AND CHARGES
AND
ORDER REQUIRING REFUND

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein, except for the refund of interim rates, the statutory four-year rate reduction, and the proof of compliance requirement, is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

BACKGROUND

Ni Florida, LLC (Ni Florida or Utility) is a Class A wastewater utility serving approximately 2,589 residential, 145 commercial, and one industrial customer. The Utility provides wastewater collection service to its customers and purchases wastewater treatment service from Pasco County (the County) pursuant to a Bulk Wastewater Treatment Agreement. The majority of Ni Florida's service territory is located in an area designated as a flood plain area, which is unsuitable for the use of septic tanks and drain fields. Wastewater rate base was last established for this Utility in 2007.¹

On July 21, 2009, Ni Florida filed an Application for Rate Increase. The Utility had deficiencies in the Minimum Filing Requirements (MFRs). Those deficiencies have since been

¹ See Order No. PSC-09-0017-PAA-SU, issued January 5, 2009, in Docket No. 070740-SU, In re: Joint application for approval of transfer of Hudson Utilities, Inc.'s wastewater system and Certificate No. 104-S, in Pasco County, to Ni Florida, LLC.

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reconciled. The Utility requested that the application be processed using the Proposed Agency Action (PAA) procedure and requested interim rates. The test year established for interim and final rates is the historical year ending December 31, 2008.

By Order No. PSC-09-0751-PCO-SU, issued November 16, 2009, we granted Ni Florida an interim rate increase designed to generate annual wastewater revenues of \$1,815,940. This represents a revenue increase on an annual basis of \$345,103 (23.46 percent). The Utility requested final rates designed to generate annual wastewater revenues of \$1,873,806. This represents a revenue increase of \$402,969 (27.40 percent).

By letter dated December 22, 2009, the Utility waived the statutory 5-month deadline for this case through March 2, 2010. This Order addresses Ni Florida's requested final rates. We have jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes (F.S.).

DECISION

QUALITY OF SERVICE

Pursuant to Rule 25-30.433(1), F.A.C., we determine the overall quality of service provided by a utility by evaluating three separate components of wastewater operations, including the quality of the utility's product, the operational condition of the utility's plants and facilities, and the utility's attempt to address customer satisfaction. Comments or complaints received from customers are reviewed. The utility's current compliance with the Department of Environmental Regulation (DEP) is also considered.

Quality of Utility's Product and Operational Condition of Plant and Facilities

The Utility is a wastewater collection system only. All wastewater is pumped to the County for treatment and disposal pursuant to an agreement made in 1990. Some of the original collection system lines were constructed in the 1970s using vitreous clay pipe (VCP). The majority of the collection system was constructed from 1986 through 2004 using polyvinyl chloride pipe (PVC). Due to its close proximity to the coast, the Utility's collection system has had problems with infiltration and inflow (I&I) in the past, resulting in wastewater with elevated chloride concentrations. In April 2008, a Consent To Assignment Of Agreement with the County was made, acknowledging the sale of the Utility from the former owner, Hudson Utilities, Inc. (Hudson), to Ni Florida. The agreement noted that pursuant to a Consent Order with DEP, the County must address the high level of chlorides at its Hudson Wastewater Treatment Plant (WWTP). The County identified Hudson as a source of chlorides going to its WWTP, resulting in damages attributable to Hudson of \$133,500. With potential undetermined damages pending, Hudson was also required to escrow \$200,000 from the proceeds of the sale. The agreement required Ni Florida to timely execute, adequately fund, and diligently prosecute repairs to the collection system with the goal of reducing the chloride levels to meet a 250 milligrams per liter (mg/l) level.

Ni Florida acquired this system in May of 2008. In its application, Ni Florida indicated that under the former ownership, the system had fallen into a state of disrepair. It has developed

a five-year program to restore the system to a state of good repair at a total estimated cost of \$900,000. Since it has taken over the system, Ni Florida has started to address the I&I situation by prioritizing and repairing problems that adversely impact the integrity of the collection system. Approximately \$265,000 was spent during the test year for repairs to the system, including broken pipe repairs, check valve replacements, and lift station rehabilitations. The approximately \$265,000 spent during the test year consists of two maintenance projects designed to “restore the system to a state of good repair.” The first of the two projects is aimed at addressing the I&I issues present in its collection system, including leaks in pipes, manholes, and lift stations, totaling \$143,474 for the test year. The second project, focused on repairing lift stations, pumps, and electrical equipment totaling \$121,297, is discussed below.

Although chloride levels have been reduced in the areas where repairs have been made, system wide, the overall 250 mg/l desired level has not yet been achieved. In its response to a staff data request, Ni Florida stated that it purchased the assets of Hudson with full knowledge that I&I repairs and general repairs and maintenance had been ignored for years. It pointed out that from a practical point of view, these repairs need to be spread over a number of years, as the problems were created over a number of years. The Utility expects I&I repairs to be an ongoing process that is done on a five year cycle. We believe that the Utility is positively addressing the chloride situation in its system and supports its systematic approach to achieve compliance with the agreement it has made with the County; however, because the overall 250 mg/l level has not yet been achieved, the quality of the Utility’s product and operational condition of the plant and facilities are marginal. No adjustment shall be made because of the documented improvements the Utility is undertaking to achieve the appropriate level of chlorides.

The Utility’s Attempt to Address Customer Satisfaction

Customer Meeting. A customer meeting was held on December 16, 2009, at the West Pasco Government Center in New Port Richey, Florida. Approximately twenty customers attended the meeting. The majority of those who attended were concerned with the proposed rate increase and the negative financial impact it would have on them. Although it was acknowledged that the system was in need of repair, the customers pointed out that they cannot afford the increase and that the County should have taken the system over instead of it being transferred to Ni Florida. Generally, the customers had no particular problems with the service provided by the Utility. Indicating possible improvements, one customer stated that he no longer noted any sewer odor from a nearby lift station.

Correspondence. No correspondence was received that cited quality of service problems. However, we have received numerous letters from customers, both residential and commercial, expressing concern over the proposed rate increase and the resulting negative affect it would have on them in the current troubled economic times.

In a letter from a Pasco County Commissioner expressing concern regarding the proposed increase, it was pointed out that the charges the Utility proposes seem high, since most of the cost recovery of a wastewater utility operation is typically in treatment and disposal, and this utility has only a collection system. Also, the Pasco County letter pointed out that the Utility has spent a significant amount of money on I&I repair with little to show in corresponding decreases

in the amount of flow to the County. There was also concern over costly redundancies within the Utility creating inefficiencies that increase the costs of the service. The letter noted that Pasco County has investigated the purchase of the Utility and, believing that public ownership would result in significant cost savings for the customers, the County has recently requested that the Florida Governmental Utility Authority investigate the purchase of the system.

Customer Complaints. There is currently one open complaint logged with the Commission concerning billing. There have been eight billing related complaints logged since Ni Florida took over the system, but no service-related complaints.

Summary

We find that Ni Florida’s attempt to address customer satisfaction is satisfactory. However, given the situation concerning the operational condition of its wastewater collection facilities and the quality of its product regarding the high chloride situation, the overall quality of service is marginal. As indicated earlier, we find that no adjustments shall be made because of the Utility’s current attempts to achieve the appropriate level of chlorides.

AUDIT ADJUSTMENTS

In its response to our audit report, Ni Florida agreed to the audit adjustments listed below. As such, the following adjustments to rate base are approved.

Audit Finding	Wastewater
No. 4 – Decrease Accumulated Depreciation	\$10,730
No. 5 – Increase Accum. Amort. of CIAC	\$402

PLANT-IN-SERVICE ADJUSTMENTS

Ni Florida purchased the system in May 2008, and began planning needed repairs. The Utility is currently in the process of surveying the wastewater collection system and making much-needed repairs to the dilapidated system. In the MFRs, Ni Florida has outlined a rolling five-year program that is designed to evaluate the entire wastewater collection system every five years, by addressing one-fifth of the system each year.

As reflected on MFR Schedule B-11, the Utility included a maintenance project related to its five-year program designed to “restore the system to a state of good repair.” This project focused on repairing the lift stations, pumps, and electrical equipment at a cost totaling \$121,297 for the test year. Due to the neglect of the collection system by the prior owner of the Utility, we believe that this project is prudent in order to address issues with Ni Florida’s lift stations. However, we find that the \$121,297 amount included in test year contractual services – other shall be reduced to capitalize certain items and amortize non-recurring items.

Based on information provided by the Utility, we have identified several 2008 test year items, totaling \$66,169, that shall be capitalized. Ni Florida also provided an update showing the actual expenditures for the lift station project for 2009. This update showed \$72,996 worth of

items that the Utility had capitalized and \$2,363 that had been expensed, as well as \$56,202 of work to be performed in 2010, which shall also be capitalized. Based on the above, plant-in-service shall be increased by \$195,367 (\$66,169+\$72,996+\$56,202). Accordingly, corresponding adjustments shall be made to increase accumulated depreciation and depreciation expense by \$10,854 (\$195,367/18), based on an anticipated useful life of 18 years. In addition, a corresponding adjustment shall be made to reduce contractual services – other by \$66,169.

Moreover, Ni Florida provided a revised estimate for the lift station maintenance project of \$100,000 for 2010. As stated earlier, the Utility recorded \$121,297 in the test year and budgeted \$70,000 in 2009. However, Ni Florida provided 2009 actual costs of \$75,359 (\$72,996+\$2,363). Based on the above, we believe that there is too much variation and uncertainty with this project and therefore approve a normalizing adjustment to test year expenses. Based on actual costs in 2009, we find that \$2,363 is a conservatively reasonable estimate for this project on a going-forward basis. The \$52,765 (\$121,297-\$66,169-\$2,363) difference observed in the test year is a non-recurring amount and shall be amortized over a five-year period per Rule 25-30.433(8), F.A.C. This results in a further reduction to contractual services – other of \$42,212 (($\$52,765/5$) $\times 4$). Thus, contractual services – other shall be reduced by \$108,381 (\$66,169+\$42,212).

USED AND USEFUL

The Utility has approximately 2,580 single-family residential, one multi-residential, and 144 commercial customers. Approximately 22 percent of the total residential lots in the service area are currently unoccupied. Even though the Utility asserts that the average growth rate may support total build out within five years, it maintains that the system should be considered 100 percent used and useful since the unoccupied lots are spread throughout the area. Given the fact that there are no large blocks of unoccupied lots left to be served, we believe that the existing collection system is necessary to serve the existing customer base. Therefore, we find that the wastewater collection system is 100 percent used and useful.

WORKING CAPITAL ALLOWANCE

On MFR Schedule A-17, the Utility reflected year-end balances to calculate its working capital allowance of \$99,088. Rule 25-30.433(4), F.A.C., states that the method to be used to calculate rate base and cost of capital shall be a 13-month average for Class A utilities. Based on our calculation, the Utility's working capital is negative. A negative working capital is not typical of a “normal” utility or the expected future condition of the utility. In prior decisions, we have used a zero working capital allowance in lieu of the negative amount.² Based on the above, working capital allowance is zero.

² See Order Nos. PSC-04-1110-PAA-GU, issued November 8, 2004, in Docket No. 040216-GU, In re: Application for rate increase by Florida Public Utilities Company; and PSC-97-0076-FOF-WS, issued January 27, 1997, in Docket No. 961364-WS, In re: Investigation of rates of Lindrick Service Corporation in Pasco County for possible overearnings.

RATE BASE

Based on our approved adjustments, the appropriate rate base is \$2,546,972. The schedule for rate base is shown on Schedule No. 1-A. The adjustments to rate base are shown on Schedule No. 1-B.

COST OF CAPITAL

Ni Florida's capital structure consists of long-term debt, common equity and customer deposits. Based on our 2009 leverage formula and an equity ratio of 94.76 percent, the appropriate return on equity (ROE) is 9.72 percent. An allowed range of plus or minus 100 basis points shall be recognized for ratemaking purposes. Based on the resolution of other issues addressed in this Order, the approved capital structure yields an overall cost of capital of 9.65 percent. The approved capital structure is shown on Schedule No. 2.

RATE CASE EXPENSE

In its MFRs, the Utility included an estimate of \$90,000 for current rate case expense. We requested an update of the actual rate case expense incurred, with supporting documentation, as well as the estimated amount to complete the case. On December 7, 2009, the Utility submitted a revised estimated rate case expense through completion of the PAA process of \$114,000, as shown below.

	<u>MFR</u>		<u>Additional</u>	
	<u>Estimated</u>	<u>Actual</u>	<u>Estimated</u>	<u>Total</u>
Legal and Filing Fees	\$50,000	\$19,531	\$19,680	\$39,211
Consultant Fees – Accounting	40,000	41,910	5,000	46,910
Consultant Fees – Engineering	0	22,862	5,000	27,862
Miscellaneous	<u>0</u>	<u>17</u>	<u>0</u>	<u>17</u>
Total Rate Case Expense	<u>\$90,000</u>	<u>\$84,320</u>	<u>\$29,680</u>	<u>\$114,000</u>

Pursuant to Section 367.081(7), F.S., we shall determine the reasonableness of rate case expense and shall disallow all rate case expense determined to be unreasonable. We have examined the requested actual expenses, supporting documentation, and estimated expenses as listed above for the current rate case. Based on our review, we find that several adjustments are necessary to the revised rate case expense estimate.

The first adjustment relates to costs incurred to correct deficiencies in the MFR filing. Based on our review of invoices of the Utility's consultants, a combined amount of \$2,096 was billed for correcting MFR deficiencies and revising the Utility's filing. Accordingly, we find that \$2,096 shall be removed as duplicative and unreasonable rate case expense. We have

previously disallowed rate case expense associated with correcting MFR deficiencies because of duplicate filing costs.³

The second adjustment relates to the Utility's estimated legal fees to complete the rate case. Ni Florida estimated 61.5 hours or \$19,680 in fees to complete the rate case. The specific amounts of time associated with each item are listed below:

<u>Estimate To Complete Through PAA Process</u>		
<u>Description</u>	<u>Hours</u>	<u>Fees</u>
Unbilled time through 3/31/09	10.0	\$3,200
Respond to formal data requests from staff and informal requests for information from staff	16.0	5,120
Prepare for and attend customer meeting; Discuss customer meeting with client and consultant; Discuss customer meeting with staff	8.0	2,560
Review audit staff requests; Review and prepare responses to audit staff; Review audit report; Discuss audit report with client and consultant; draft response to audit report	6.0	1,920
Review staff recommendation; conference with client and consultant regarding recommendation; conference with staff regarding recommendation	2.0	640
Prepare for and attend agenda conference; Discuss agenda with client and staff	15.0	4,800
Review PAA Order; conference with client and consultant regarding PAA Order	2.0	640
Prepare revised tariff sheets. Obtain staff approval of tariffs; Draft and revise customer notice; Obtain staff approval of notice; Coordinate mailing of notices and implementation of tariffs	<u>2.5</u>	<u>800</u>
Total Estimated Fees	<u>61.5</u>	<u>\$19,680</u>

In response to a staff data request, the Utility provided the estimated legal hours necessary to complete the case. The Utility then applied its attorney, Mr. Friedman's, hourly rate of \$320 to the estimated hours to arrive at the \$19,680 in legal costs to complete the case. However, based on the actual participation of Mr. Friedman, only about 15 percent of the hours billed through September 30, 2009, have been attributable to him (7.1/47.4), with the remaining 85 percent being attributable to an associate, Mr. Marcelli (40.3/47.4). As such, we have calculated a weighted average hourly rate of \$294.50 (($\320×15) + ($\$290 \times 85$)) to be applied to the estimated hours to completion.

It is the Utility's burden to justify its requested costs. Florida Power Corp. v. Cresse, 413 So. 2d 1187, 1191 (Fla. 1982). Further, we have broad discretion with respect to the allowance of rate case expense. It would constitute an abuse of discretion to automatically award rate case

³ See Order Nos. PSC-05-0624-PAA-WS, issued June 7, 2005, in Docket No. 040450-WS, In re: Application for rate increase in Martin County by Indiantown Company, Inc.; and PSC-01-0326-FOF-SU, issued February 6, 2001, in Docket No. 991643-SU, In re: Application for increase in wastewater rates in Seven Springs System in Pasco County by Aloha Utilities, Inc.

expense without reference to the prudence of the costs incurred in the rate case proceedings. Meadowbrook Util. Sys., Inc. v. FPSC, 518 So. 2d 326, 327 (Fla. 1st DCA 1987), rev. den., 529 So. 2d 694 (Fla. 1988).

As stated above, it is the Utility's burden to justify its requested costs. We find that the estimated 61.5 hours to complete the case is excessive, when compared to the estimated and actual hours billed to complete the 2007 rate case for Miles Grant Water & Sewer Co., a water and wastewater company that also used the Rose, Sundstrom & Bentley, LLP law firm. We granted Miles Grant 53.5 hours to perform similar activities through the completion of that rate case and 97.0 total hours.⁴ We find that 53.5 hours is a reasonable amount of time to respond to data requests, conference with the client and consultants, review staff's recommendation, travel to the Agenda Conference, and attend to miscellaneous post-PAA matters. The actual hours billed to Ni Florida through September 30, 2009, totaled 47.4. Adding our estimate of 53.5 to complete the case would result in 93.8 hours for this rate case, which we believe is reasonable. Therefore, legal fees shall be decreased by \$2,356 $[(61.5-53.5) \times \$294.5]$ to reflect estimates more consistent with the Miles Grant rate case.

The third adjustment relates to the estimated costs to complete this case by Tangibl, LLC (Tangibl) and Key Engineering Associates, Inc. (Key). In the Utility's revised estimate to complete this rate case, Ni Florida included \$5,000 for both Tangibl and Key. Tangibl's primary function in this rate case has been preparation of the MFRs. The Utility provided no detailed breakdown of Tangibl's projected future involvement in this rate case and last billed the Utility in July 2009 for services related to this case. Likewise, Key's primary duty was surveying and preparing system maps, which have been completed. In the Utility's response to our staff's second data request, Ni Florida provided a marginally more detailed description of Tangibl's future involvement with this case. The Utility listed preparation of revised exhibits, responses to data requests, and participation in conference calls and preparation of e-mails as the duties to be performed by Tangibl. However, we have no knowledge of any exhibits revised after September 30, 2009. Also, though Mr. Clayton, Tangibl's consultant, was copied on the Utility's response to staff's first data request, it appears that much, if not all, of the information for the response came directly from Ni Florida. The descriptions of duties to be performed are very vague and it appears that much, if not all, of both Tangibl's and Key's duties have already been performed. Thus, \$10,000 (\$5,000+\$5,000) shall be disallowed from rate case expense. Removing estimated costs to be included in rate case expense that appear to be unwarranted is consistent with our prior decisions.⁵

In summary, Ni Florida's revised rate case expense shall be decreased by \$15,816 for MFR deficiencies and unsupported and unreasonable rate case expense. The appropriate total rate case expense is \$98,184. A breakdown of rate case expense is as follows:

⁴ See Order No. PSC-08-0812-PAA-WS, issued December 16, 2008, in Docket No. 070695-WS, In re: Application for increase in water and wastewater rates in Martin County by Miles Grant Water and Sewer Company.

⁵ See Order No. PSC-09-0385-FOF-WS, issued May 29, 2009, in Docket No. 080121-WS, In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc., at p.100.

<u>Description</u>	<u>MFR</u> <u>Estimated</u>	<u>Utility</u> <u>Revised Actual</u> <u>& Estimated</u>	<u>Commission</u> <u>Adjustments</u>	<u>Total</u>
Legal Fees	\$50,000	\$39,211	(5,816)	\$33,395
Consultant Fees-Accounting	40,000	46,910	(5,000)	41,910
Consultant Fees-Engineering	0	27,862	(5,000)	22,862
Miscellaneous	0	17	0	17
Total Rate Case Expense	\$90,000	\$114,000	(15,816)	\$98,184
Annual Amortization	\$22,500	\$28,500	(3,954)	\$24,546

In its MFRs, Ni Florida requested total rate case expense of \$90,000, which amortized over four years would be \$22,500. Thus, rate case expense shall be increased by \$8,184, or \$2,046 per year. The approved total rate case expense shall be amortized over four years, pursuant to Section 367.0816, F.S. Based on the data provided by Ni Florida and the approved adjustments, annual rate case expense is \$24,546.

BAD DEBT EXPENSE

Ni Florida has experienced a higher level of bad debt expense during 2007 and 2008. Ni Florida's bad debt expense for the past six years is as follows:

Ni Florida's Bad Debt						
	2009**	2008	2007	2006	2005	2004
Bad Debt	29,341	46,090	19,756	9,195	7,552	7,878

** = Estimated

Ni Florida estimates bad debt expense for 2009 to be \$29,341. We recognize that bad debt expense has likely increased as a result of the downturn in the economy. We also believe that the level of bad debt expense is likely to be higher than in years 2004-2006, as customers' bills will be higher than in those years.

While Ni Florida has sought an increase based on an historical test year, the Utility also requested certain pro forma adjustments. Ni Florida has sought bad debt expense of \$32,791. We believe that it would be inappropriate to use a 5-year average to determine bad debt expense as the bad debt expense associated with years 2004-2006 skew the average. We believe that the 5-year average will not provide the Utility a sufficient level of expense to cover bad debt expense.

We believe that a significant level of bad debt expense will continue to be experienced through 2010. As a result of the impact of the downturn in the economy, a shorter horizon would be more appropriate in determining the appropriate level of bad debt expense. During periods of economic uncertainty, we believe it is more appropriate to use a 3-year average based on the most current 3-year period. We have previously approved the application of a 3-year average to

determine the appropriate level of bad debt expense; we have set bad debt expense using the 3-year average in three electric cases,⁶ two gas cases,⁷ and one water and wastewater case.⁸ We approved a 3-year average in these cases based on the premise that a 3-year average fairly represented the expected bad debt expense. In Docket No. 060253-WS, as it relates to utilities in Pasco County, we approved the use of a 3-year average based on calendar years 2001-2004, but deleted the highest year's bad debt expense in calculating the average. In other cases, we applied a 3-year average based on our previous decisions. Overall, the basis for determining bad debt expense has been whether the amount is representative of the bad debt expense to be incurred by the utility.

Based on the current economic conditions, we find that a 3-year average would typically be an appropriate time frame to determine bad debt expense. However, in this case, the 2008 bad debt expense amount of \$46,090, which is significantly higher than the 2007 or 2009 amounts, skews the 3-year average. We believe that the 2008 amount is an anomaly and could result in an overstatement of bad debt expense. Accordingly, we find that a reasonable amount of bad debt expense to include for ratemaking purposes is an amount between the 2007 amount of \$19,756 and the 2009 amount of \$29,341. While we believe that typically a 3-year average provides a better smoothing of fluctuating expenses, in this case, however, we believe it is more appropriate to average the 2007 and 2009 amounts. The average of the 2007 and 2009 bad debt expense amounts results in a bad debt expense of \$24,549.

Based on this calculation, Ni Florida shall be entitled to bad debt expense of \$24,549. As a result, Ni Florida's bad debt expense of \$32,791 shall be reduced by \$8,242.

DEPRECIATION EXPENSE

In the MFRs, the Utility recorded net depreciation expense of \$123,059 for the test year. Based on Audit Finding No. 6, the Utility did not use the appropriate composite depreciation rates as required by Rule 25-30.140(9)(c), F.A.C., which states that any composite rate used shall be recalculated each year based on the applicable plant balances and depreciation rates. In Audit Finding No. 6, the staff auditor calculated the appropriate amount of depreciation expense and recommended a decrease to depreciation expense of \$26,938.⁹ The auditor also recommended a

⁶ See Order Nos. PSC-94-0170-FOF-EI, issued February 10, 1994, in Docket No. 930400-EI, In re: Application for a Rate Increase for Marianna electric operations by Florida Public Utilities Company, at p. 20; PSC-93-0165-FOF-EI, issued February 2, 1993, in Docket No. 920324-EI, In re: application for a rate increase by Tampa Electric Company, at pp. 69-70; and PSC-92-1197-FOF-EI, issued October 22, 1992, in Docket No. 910890-EI, In re: Petition for a rate increase by Florida Power Corporation, at p. 48.

⁷ See Order Nos. PSC-92-0924-FOF-GU, issued September 3, 1992, in Docket No. 911150-GU, In re: Application for a rate increase by PEOPLES GAS SYSTEM, Inc., at p. 6; and PSC-92-0580-FOF-GU, issued June 29, 1992, in Docket No. 910778-GU, In re: Petition for a rate increase by West Florida Natural Gas Company, at pp. 30-31.

⁸ See Order No. PSC-07-0505-SC-WS, issued June 13, 2007, in Docket No. 060253-WS, In re: Application for increase in water and wastewater rates in Marion, Orange, Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of Florida, at pp. 41-42.

⁹ This net amount of \$26,938 (\$24,407+\$2,531) excludes the auditor's recommended depreciation expense adjustment of \$2,531, which the Utility agreed should not be made.

\$12,430 decrease to Amortization of CIAC expense based on the application of the correct composite rates.

In the Utility's response to the audit report, the Utility states that it calculates depreciation expense by taking the fixed asset balance for each asset and calculating depreciation over the life of each individual asset. Amortization of CIAC is calculated by continuing to amortize historical CIAC at the same amount as was done by the previous owners of the Utility in previous years. Ni Florida asserts that the method for calculating depreciation expense and amortization of CIAC expense utilizing a composite depreciation rate is more difficult and complicated than it needs to be, and would cause a new composite amortization rate to be calculated at the end of each year regardless of any changes in fixed assets or CIAC. However, we note that a composite rate was used in the Utility's last rate proceeding in 1990,¹⁰ as well as its 2007 transfer case.¹¹ As such, a composite rate shall be used for each year in accordance with Rule 25-30.140(9)(c), F.A.C.

Based on the above and the depreciation expense adjustment, net depreciation expense shall be reduced by \$3,654 ($\$26,938 - \$12,430 + 10,854$).

OPERATING INCOME

As shown on Schedule No. 3-A, after applying our adjustments, the Utility's net operating loss is \$33,172. Our adjustments to operating income are shown on Schedule No. 3-B.

REVENUE REQUIREMENT

The computation of the revenue requirement is shown on Schedule No. 3-A. This results in a revenue requirement of \$1,762,990, which represents an increase of \$292,153, or 19.86% percent. The following revenue requirement is approved:

	<u>Test</u>		<u>Revenue</u>	
	<u>Year Revenues</u>	<u>\$ Increase</u>	<u>Requirement</u>	<u>% Increase</u>
Wastewater	\$1,470,837	\$292,153	\$1,762,990	19.86%

RATES

Excluding miscellaneous service revenues, the approved rates shown on Schedule No. 4 are designed to produce revenues of \$1,762,990. Our approved revenue increase shall be applied as an across-the-board increase to the Utility's service rates in effect as of December 31, 2008.

¹⁰ See Order No. 23810, issued November 27, 1990, in Docket No. 900293-SU, In re: Application for a staff-assisted rate case in Pasco County by Hudson Utilities, Inc., at p.5.

¹¹ See Order No. PSC-09-0017-PAA-SU, issued January 5, 2009, in Docket No. 070740-SU, In re: Joint application for approval of transfer of Hudson Utilities, Inc.'s wastewater system and Certificate No. 104-S, in Pasco County, to Ni Florida, LLC., at p.3.

Ni Florida's current wastewater rate structure is a base facility charge and gallonage charge with a 10,000 gallon cap on residential customers. The Utility's current rate structure contains a differential in the gallonage charge between residential and general service. This rate differential is designed to recognize that approximately 80 percent of a residential customer's water usage will not return to the wastewater system, whereas approximately 96 percent of multi-family and general service water usage is returned. This wastewater gallonage rate differential is employed by this Commission in setting wastewater rates and is widely recognized as an industry standard. Based on the above, the gallonage rate differential shall continue to be used in this case, consistent with the differential approved in the last case.

The Utility shall file revised tariff sheets and a proposed customer notice to reflect our approved rates. The approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. The rates shall not be implemented until our staff has approved the proposed customer notice. The Utility shall provide proof of the date notice was given no less than 10 days after the date of the notice. A comparison of the Utility's original and requested rates, the Commission-approved interim rates, and our approved PAA rates are shown on Schedule No. 4.

MISCELLANEOUS SERVICE CHARGES

The miscellaneous service charges were approved for Ni Florida on November 27, 1990, and have not changed since that date. The Utility believes these charges should be updated to reflect current costs. We agree with this update. In addition, Ni Florida provided the following cost estimates for the expenses associated with connections, reconnections, and premises visits:

<u>During Business Hours</u>		<u>After Hours</u>	
Item:	Cost:	Item:	Cost:
Labor (\$32.00/hr. X 0.7 hours)	\$22.40	Labor (\$48.00/hr. X 0.7 hours) ¹²	\$33.60
Transportation	<u>5.00</u>	Transportation	<u>6.00</u>
Total	<u>\$27.40</u>	Total	<u>\$39.60</u>

We find that Ni Florida shall be allowed to increase its miscellaneous service charges from \$15 to \$27 and from \$15 to \$40 for after hours, and from \$10 to \$18 and from \$10 to \$27 for after hours for premises visits. The current and approved miscellaneous service charges are shown below.

	<u>Current Charges</u>		<u>Commission Approved</u>	
	<u>Normal Hrs</u>	<u>After Hrs</u>	<u>Normal Hrs</u>	<u>After Hrs</u>
Initial Connection	\$15	\$15	\$27	\$40
Normal Reconnection	\$15	\$15	\$27	\$40
Violation Reconnection	Actual Cost	Actual Cost	Actual Cost	Actual Cost
Premises Visit	\$10	\$10	\$18	\$27

¹² Represents time-and-a-half wage and the additional time it takes an employee to get to the customer's property after hours.

Ni Florida's miscellaneous service charges have not been updated in approximately 19 years, and costs for fuel and labor have risen substantially since that time. We have expressed concern with miscellaneous service charges that fail to compensate utilities for the cost incurred. By Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, involving Southern States Utilities Inc., we expressed "concern that the rates [miscellaneous service charges] are eight years old and cannot possibly cover current costs" and directed our staff to "examine whether miscellaneous service charges should be indexed in the future and included in index applications."¹³ Currently, miscellaneous service charges may be indexed if requested in price index applications pursuant to Rule 25-30.420, F.A.C. However, few utilities request that their miscellaneous service charges be indexed. We note that these rates are comparable to the miscellaneous service charges we approved in the 2008 rate case of Utilities, Inc. of Eagle Ridge.¹⁴ Ni Florida has also requested increased charges for premises visit fees. Even though the Utility's requested premises visit fees are lower than the requested initial connection and normal reconnection fees, the same activities are required for these functions. As a result, we find that the premises visit fees are appropriate.

In summary, we approve the Utility's miscellaneous service charge of \$27 and after hours charge of \$40 because the increased charges are cost-based, reasonable, and consistent with fees we have approved for other utilities. The Utility shall file a proposed customer notice to reflect the approved charges. The approved charges shall be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475(1), F.A.C., provided the notice has been approved by our staff. Within ten days of the date the order is final, the Utility shall provide notice of the tariff changes to all customers. Ni Florida shall provide proof the customers have received notice within ten days after the date the notice was sent.

INTERIM INCREASE REFUND

By Order No. PSC-09-0751-PCO-SU, issued November 16, 2009, we approved an interim revenue requirement of \$1,815,940. This represented an increase of \$345,103 or 23.46 percent.

According to Section 367.082(4), F.S., any refund should be calculated to reduce the rate of return of the Utility during the pendency of the proceeding to the same level within the range of the newly authorized rate of return. Adjustments made in the rate case test period that do not relate to the period interim rates are in effect should be removed. Rate case expense is an example of an adjustment which is recovered only after final rates are established.

In this proceeding, the test period for establishment of interim and final rates is the 13-month average test year ending December 31, 2008. Ni Florida's approved interim rates did not include any provisions for pro forma or projected operating expenses or plant. The interim

¹³ See Docket No. 950495-WS, In re: Application for rate increase and increase in service availability charges by Southern States Utilities, Inc. for Orange-Osceola Utilities, Inc. in Osceola County, and in Bradford, Brevard, Charlotte, Citrus, Clay, Collier, Duval, Highlands, Lake, Lee, Marion, Martin, Nassau, Orange, Osceola, Pasco, Putnam, Seminole, St. Johns, St. Lucie, Volusia, and Washington Counties.

¹⁴ See Order No. PSC-09-0264-PAA-SU, issued April 27, 2009, in Docket No. 080247-SU, In re: Application for increase in wastewater rates in Lee County by Utilities, Inc. of Eagle Ridge, at pp.12-13.

increase was designed to allow recovery of actual interest costs and the floor of the last authorized range for equity earnings.

Using the principles discussed above, we calculated a revised interim revenue requirement of \$1,737,287 utilizing the same data used to establish final rates. Rate case expense was excluded because this item is prospective in nature and did not occur during the interim collection period. The revenue of \$1,737,287 is less (a 4.33 percent or \$78,653 difference) than the interim order revenue requirement of \$1,815,940. This results in a 4.33 percent refund of interim rates, after miscellaneous revenues have been removed. The Utility shall refund 4.33 percent of water revenues collected under interim rates. The refund shall be made with interest in accordance with Rule 25-30.360(4), F.A.C. The Utility shall submit proper refund reports pursuant to Rule 25-30.360(7), F.A.C. The Utility shall treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C. Further, the escrow shall be released upon our verification that the required refunds have been made.

FOUR YEAR RATE REDUCTION

Section 367.0816, F.S., requires rates to be reduced immediately following the expiration of the four-year amortization period by the amount of the rate case expense previously included in the rates. The reduction will reflect the removal of revenues associated with the amortization of rate case expense, the associated return included in working capital, and the gross-up for Regulatory Assessment Fees (RAFs), which is \$30,663. The decreased revenue will result in the rate reduction approved on Schedule No. 4.

The Utility shall file revised tariff sheets and a proposed customer notice to reflect our approved rates. The approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. The rates shall not be implemented until our staff has approved the proposed customer notice. Ni Florida shall provide proof of the date notice was given no less than 10 days after the date of the notice.

If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease, and for the reduction in the rates due to the amortized rate case expense.

LATE FEE

Section 367.091, F.S., authorizes us to establish, increase, or change a rate or charge other than monthly rates or service availability charges. Ni Florida has requested a \$5.00 late fee. The Utility's request for a late fee was accompanied by its reason for requesting the fee, as well as the cost justification required by Section 367.091, F.S. Ni Florida's cost analysis breakdown for its proposed late fee is shown below:

COST ANALYSIS BREAKDOWN

Clerical
Office Clerk - \$22.50 per hour
Total - \$22.50 per hour, \$4.50 per 1/5 hour

Postage/Printing/Envelope - \$.50

Total Costs

Clerical - \$4.50 per 1/5 hour
Postage/Printing/Envelope - \$.50
Total - \$5.00

This cost is comprised of one-fifth of an hour of employee time at \$22.50 per hour to research and verify that the payment is late, process the bill and assess the late payment fee, or \$4.50 (22.50/5). Also, the \$5.00 cost includes an envelope, printer and printing supplies, and postage to send the notice to the customer, totaling approximately \$0.50.

The late payment fee is designed to encourage customers to pay their bills on time to ensure that the cost associated with late payment is not passed onto customers who do pay on time. The Utility's justification for the late fee is to place the burden of these costs on the cost causer rather than the general body of ratepayers. We believe the estimated cost provided by the Utility is reasonable.

Based on the above, Ni Florida's proposed late fee of \$5 is approved. This fee shall be effective on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates shall not be implemented until our staff has approved the proposed customer notice. The Utility shall provide proof of the date the notice was given no less than 10 days after the date of the notice. This notice may be combined with the notice required for rates discussed above.

NON-SUFFICIENT FUNDS FEE

Section 367.091, F.S., requires that rates, charges, and customer service policies be approved by us. We have authority to establish, increase, or change a rate or charge. Ni Florida has requested an Non-Sufficient Funds (NSF) fee in accordance with Section 832.08(5), F.S.

We believe that Ni Florida should be authorized to collect an NSF fee. Approval of an NSF fee is consistent with our prior decisions.¹⁵ As such, Ni Florida's proposed NSF fee is approved. The NSF fee shall be established consistent with Section 68.065, F.S., which allows

¹⁵ See Order Nos. PSC-08-0831-PAA-WS, issued December 23, 2008, in Docket No. 070680-WS, In re: Application for staff-assisted rate case in Pasco County by Orangewood Lakes Services, Inc.; and PSC-97-0531-FOF-WU, issued May 9, 1997, in Docket No. 960444-WU, In re: Application for rate increase and for increase in service availability charges in Lake County by Lake Utility Services, Inc., at p.20.

for the assessment of charges for the collection of worthless checks, drafts, or orders of payment. As currently set forth in Section 832.08(5), the following fees may be assessed:

- 1) \$25, if the face value does not exceed \$50,
- 2) \$30, if the face value exceeds \$50 but does not exceed \$300,
- 3) \$40, if the face value exceeds \$300,
- 4) or five percent of the face amount of the check, whichever is greater.

Ni Florida's tariff for an NSF fee shall be revised to reflect the charges set by Sections 68.065 and 832.08(5) F.S., as may be amended.

The NSF fee shall be effective on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates shall not be implemented until our staff has approved the proposed customer notice. The Utility shall provide proof of the date the notice was given no less than 10 days after the date of the notice. This notice can be combined with other notices required in this Order.

SHOW CAUSE

Pursuant to Rule 25-30.135, F.A.C., a utility may not modify or revise its schedules of rates and charges until the utility files and receives approval from this Commission for any such modification or revision. Also, Section 367.081(1), F.S., states that a utility may only charge rates and charges that have been approved by us, and Section 367.091, F.S., states:

- (3) Each utility's rates, charges, and customer service policies must be contained in a tariff approved by and on file with the commission.
- (4) A utility may only impose and collect those rates and charges approved by the commission for the particular class of service involved. A change in any rate schedule may not be made without commission approval.

Section 367.161(1), F.S., authorizes us to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated, any provision of Chapter 367, F.S., or any lawful rule or order of the Commission. Utilities are charged with the knowledge of our rules and statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, 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., having found that the company had not intended to violate the rule, we 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." 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 collection of unauthorized late payment fees, would

meet the standard for a “willful violation.” We have analyzed Ni Florida’s apparent violations using the above-noted criteria.

Unauthorized collection of late payment fees

In reviewing Ni Florida’s approved tariff, we discovered that the Utility did not have an authorized late payment fee or “late penalty fee.” However, on MFR Schedule E-5, Ni Florida reflected \$19,959 related to “Late Penalty Fees.” On September 28, 2009, we advised the Utility that it appeared to be in violation of Rule 25-30.135, F.A.C., and Sections 367.081(1) and 367.091, F.S. We informed the Utility that if it did not cease collecting late penalty fees from customers and adequately explain its collection of the apparently unauthorized fees, the Utility might be required to show cause in writing why it should not be fined for its violation pursuant to Section 367.161, F.S. By letter dated October 30, 2009, the Utility stated that the collection of the late penalty fees not authorized by an approved tariff was an oversight. The Utility was recently transferred from Hudson to Ni Florida by Order No. PSC-08-0226-FOF-SU, issued on April 7, 2008, in Docket No. 070740-SU, In re: Joint application for approval of transfer of Hudson Utilities, Inc.’s wastewater system and Certificate No. 104-S, in Pasco County, to Ni Florida, LLC. The Utility explained that Hudson had collected such fees, and Ni Florida continued collecting such fees unaware that such collection was not authorized by the tariffs. Ni Florida continued to charge the late penalty fees as the previous owner had done without knowledge that such fees were not authorized. The Utility further claimed that it ceased collecting such fees once it was made aware that it lacked authority to assess the charge.

Unauthorized collection of NSF fees

In reviewing Ni Florida’s approved tariff, we also discovered that the Utility was collecting NSF fees, although the Utility does not have an authorized NSF fee in its tariff. The Utility appeared to be in violation of Rule 25-30.135, F.A.C., and Sections 367.081(1) and 367.091, F.S., by collecting unapproved NSF fees. Normally, when we believe that a violation of statutes, rules or orders may have occurred, we contact the utility’s management in writing to determine if they are aware of the violation and give them the opportunity to comply or to explain their position. In this instance, we did not discover the unauthorized collection of NSF fees in time to notify the Utility in writing. Nevertheless, Ni Florida informed us on February 9, 2010, that it would cease collecting such fees until we determined that a tariff was not required or until an approved tariff was in place.

Analysis

We believe that the Utility’s acts were “willful” in the sense intended by Section 367.161, F.S. While the Utility’s collection of late penalty fees and NSF fees from customers could be said to be willful, we do not believe that the Utility’s actions rise in these circumstances to the level which warrants the initiation of a show cause proceeding. The Utility agrees that it erred in collecting such fees without an authorizing tariff and has properly sought approval to implement the approved fees within this docket. Therefore, we will not order Ni Florida to show cause for

its apparent failure to comply with Sections 367.081(1) and 367.091, F.S., and Rule 25-30.135(2), F.A.C.

PROOF OF COMPLIANCE

To ensure that the Utility adjusts its books in accordance with our decision, Ni Florida shall provide proof, within 90 days of the final order in this docket, that the adjustments for all the applicable National Association of Regulatory Utility Commissioners Uniform System Of Accounts primary accounts have been made.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Ni Florida, LLC's application for an increase in rates and charges is hereby approved as set forth in the body of this Order. It is further

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

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

ORDERED that Ni Florida, LLC is hereby authorized to charge the new rates and charges as set forth in Schedule No. 4 and as approved in the body of this Order. It is further

ORDERED that Ni Florida, LLC shall file revised tariff sheets and a proposed customer notice to reflect the approved rates and charges. It is further

ORDERED that the approved rates shall not be implemented until our staff has approved the proposed customer notice and the customers have received the notice. The Utility shall provide our staff with proof of the date notice was given within 10 days after the date of the notice. It is further

ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), Florida Administrative Code. The tariff sheets shall be approved upon our staff's verification that the tariffs are consistent with this Order and that the customer notice is adequate. It is further

ORDERED that the Utility shall refund 4.33 percent of revenues collected under interim rates, with interest. The refund shall be made in accordance with Rule 25-30.360(4), Florida Administrative Code, and the escrow shall be released upon our verification that the required refunds have been made. It is further

ORDERED that pursuant to Section 367.0816, Florida Statutes, the rates shall be reduced to remove rate case expense grossed-up for regulatory assessment fees and amortized over a four-year period at the end of the four-year rate case expense amortization period as set forth in the body of this Order. It is further

ORDERED that the Utility shall file revised tariff sheets and a proposed customer notice setting forth the lower rates and the reason for the reductions no later than one month prior to the actual date of the required rate reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease, and for the reduction in rates due to the amortized rate case expense. It is further

ORDERED that the decrease in rates shall become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. It is further

ORDERED that the Utility shall file tariff sheets, which are consistent with our vote. Our staff shall approve the revised tariff sheets upon staff's verification that the tariffs are consistent with our decision. It is further

ORDERED that the Utility's request for a \$5 late fee is approved. It is further

ORDERED that the Utility's request for a Non-Sufficient Funds fee is approved as set forth herein. It is further

ORDERED that the Utility shall provide proof, within 90 days of the final order in this docket, that the adjustments for all the applicable National Association of Regulatory Utility Commissioners Uniform System Of Accounts primary accounts have been made. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed administratively once our staff has verified completion of the refunds required herein and verified that the revised tariff sheets and customer notice have been filed by the Utility and approved.

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DOCKET NO. 090182-SU
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By ORDER of the Florida Public Service Commission this 23rd day of March, 2010.



ANN COLE
Commission Clerk

(S E A L)

ARW

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

As identified in the body of this order, our action is preliminary in nature, except for the refund of interim rates, the statutory four-year rate reduction, and the proof of compliance requirement. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 13, 2010. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

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

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

Ni Florida, LLC. Schedule of Wastewater Rate Base Test Year Ended 12/31/08				Schedule No. 1-A Docket No. 090182-SU	
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Commission Adjust- ments	Commission Adjusted Test Year
Plant in Service	\$7,560,838	(\$8,551)	\$7,552,287	\$195,367	\$7,747,654
2 Land and Land Rights	9,513	0	9,513	0	9,513
3 Non-used and Useful Components	0	0	0	0	0
4 Construction Work In Progress	315	(315)	0	0	0
5 Accumulated Depreciation	(3,003,678)	22,404	(2,981,274)	(124)	(2,981,398)
6 CIAC	(3,496,849)	(1)	(3,496,850)	0	(3,496,850)
7 Amortization of CIAC	1,235,992	31,659	1,267,651	402	1,268,053
8 Acquisition Adjustments	3,620,491	(3,620,491)	0	0	0
9 Working Capital Allowance	<u>0</u>	<u>99,088</u>	<u>99,088</u>	<u>(99,088)</u>	<u>0</u>
10 Rate Base	<u>\$5,926,622</u>	<u>(\$3,476,207)</u>	<u>\$2,450,415</u>	<u>\$99,557</u>	<u>\$2,546,972</u>

Ni Florida, LLC. Adjustments to Rate Base Test Year Ended 12/31/08		Schedule No. 1-B Docket No. 090182-SU
Explanation	Wastewater	
<u>Utility Plant In Service</u>		
1	To reflect capitalized items (Issue 3)	\$66,169
2	To reflect 2009 pro forma capitalized items (Issue 3)	72,996
3	To reflect 2010 pro forma capitalized items (Issue 3)	<u>56,202</u>
	Total	<u>\$195,367</u>
<u>Accumulated Depreciation</u>		
1	To reflect Audit Finding No. 4 (Issue 2)	\$10,730
2	To reflect capitalized items (Issue 3)	<u>(10,854)</u>
	Total	<u>(\$124)</u>
<u>Accumulated Amortization of CIAC</u>		
	To reflect Audit Finding No. 5 (Issue 2)	<u>\$402</u>
<u>Working Capital Allowance</u>		
	To set working capital allowance to zero. (Issue 5)	<u>(\$99,088)</u>

Ni Florida, LLC.
Capital Structure-13 Month Average
Test Year Ended 12/31/08

Schedule No. 2
Docket No. 090182-SU

Description	Total Capital	Specific Adjustments	Subtotal Adjusted Capital	Prorata Adjustments	Capital Reconciled to Rate Base	Ratio	Cost Rate	Weighted Cost
Per Utility								
1 Long-term Debt	\$233,931	\$0	\$233,931	(\$137,426)	\$96,505	4.09%	8.50%	0.35%
2 Short-term Debt	0	0	0	0	0	0.00%	0.00%	0.00%
3 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%
4 Common Equity	5,477,556	0	5,477,556	(3,217,862)	2,259,694	95.73%	9.58%	9.17%
5 Customer Deposits	10,219	0	10,219	(6,003)	4,216	0.18%	6.00%	0.01%
6 Deferred Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	0.00%	<u>0.00%</u>
7 Total Capital	<u>\$5,721,706</u>	<u>\$0</u>	<u>\$5,721,706</u>	<u>(\$3,361,291)</u>	<u>\$2,360,415</u>	<u>100.00%</u>		<u>9.53%</u>
Per Commission								
8 Long-term Debt	\$233,931	(\$93,468)	\$140,463	(\$14,615)	\$125,848	4.94%	8.50%	0.42%
9 Short-term Debt	0	0	0	0	0	0.00%	0.00%	0.06%
10 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%
11 Common Equity	5,477,556	(2,783,820)	2,693,736	(280,285)	2,413,451	94.76%	9.72%	9.21%
12 Customer Deposits	10,219	(2,545)	7,674	0	7,674	0.30%	6.00%	0.02%
13 Deferred Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	0.00%	<u>0.00%</u>
14 Total Capital	<u>\$5,721,706</u>	<u>(\$2,879,833)</u>	<u>\$2,841,873</u>	<u>(\$294,901)</u>	<u>\$2,546,972</u>	<u>100.00%</u>		<u>9.65%</u>
						LOW	HIGH	
					RETURN ON EQUITY	<u>8.72%</u>	<u>10.72%</u>	
					OVERALL RATE OF RETURN	<u>8.70%</u>	<u>10.60%</u>	

Ni Florida, LLC. Statement of Wastewater Operations Test Year Ended 12/31/08							
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Commission Adjust- ments	Commission Adjusted Test Year	Revenue Increase	Revenue Requirement
1 Operating Revenues:	<u>\$1,470,837</u>	<u>\$402,969</u>	<u>\$1,873,806</u>	<u>(\$402,969)</u>	<u>\$1,470,837</u>	<u>\$292,153</u> <u>19.86%</u>	<u>\$1,762,990</u>
Operating Expenses							
2 Operation & Maintenance	\$1,302,104	\$60,777	\$1,362,881	(\$114,577)	\$1,248,304	\$0	\$1,241,849
3 Depreciation	123,059	0	123,059	(3,654)	119,405	0	119,405
4 Amortization	0	0	0	0	0	0	0
5 Taxes Other Than Income	136,300	18,134	154,434	(18,134)	136,300	13,147	149,447
6 Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7 Total Operating Expense	<u>\$1,561,463</u>	<u>\$78,911</u>	<u>\$1,640,374</u>	<u>(\$136,365)</u>	<u>\$1,504,009</u>	<u>\$13,147</u>	<u>\$1,517,156</u>
8 Operating Income	<u>(\$90,626)</u>	<u>\$324,058</u>	<u>\$233,432</u>	<u>(\$266,604)</u>	<u>(\$33,172)</u>	<u>\$279,006</u>	<u>\$245,834</u>
9 Rate Base	<u>\$5,926,622</u>		<u>\$2,450,415</u>		<u>\$2,546,972</u>		<u>\$2,546,972</u>
10 Rate of Return	<u>(1.53%)</u>		<u>9.53%</u>		<u>(1.30%)</u>		<u>9.65%</u>

Ni Florida, LLC. Adjustment to Operating Statement Test Year Ended 12/31/08		Schedule No. 3-B Docket No. 090182-SU
Explanation	Wastewater	
<u>Operating Revenues</u>		
Remove requested final revenue increase.		<u>(\$402,969)</u>
<u>O&M Expenses</u>		
1 To reflect capitalized items. (Issue 3)		(\$66,169)
2 To reflect normalization of capital projects. (Issue 3)		(42,212)
3 To reflect normalization of Bad Debt Expense. (Issue 10)		(8,242)
4 To reflect the appropriate Rate Case Expense. (Issue 8)		<u>\$2,046</u>
Total		<u>(\$114,577)</u>
<u>Depreciation Expense - Net</u>		
1 To reflect capitalized items. (Issue 3)		\$10,854
2 To reflect the appropriate depreciation amount. (Issue 11)		<u>(14,508)</u>
Total		<u>(\$3,654)</u>
<u>Taxes Other Than Income</u>		
RAFs on revenue adjustments above.		<u>(\$18,134)</u>

Ni Florida, LLC Wastewater Monthly Service Rates Test Year Ended 12/31/08		SCHEDULE NO. 4 Docket No. 090182-SU			
	Rates Prior to Filing	Comm. Approved Interim	Utility Req. Final	Commission Approved Final	4-Year Rate Reduction
<u>Residential</u>					
All Meter Sizes:	\$15.72	\$19.45	\$19.89	\$18.91	\$0.28
Gallonge Charge - Per 1,000					
Gallons (10,000 gallon cap)	\$5.17	\$6.41	\$6.54	\$6.22	\$0.09
<u>General/Multi-Residential Service</u>					
Base Facility Charge by Meter Size:					
5/8" x 3/4"	\$15.72	\$19.45	\$19.89	\$18.91	\$0.28
Full 3/4"	\$23.56	\$29.14	\$29.80	\$28.35	\$0.41
1"	\$39.26	\$48.58	\$49.67	\$47.24	\$0.69
1-1/2"	\$78.51	\$97.13	\$99.32	\$94.46	\$1.38
2"	\$125.63	\$155.42	\$158.92	\$151.16	\$2.20
3"	\$251.25	\$310.85	\$317.84	\$302.30	\$4.41
4"	\$392.56	\$485.67	\$496.61	\$472.32	\$6.89
6"	\$785.16	\$971.38	\$993.26	\$944.69	\$13.77
8"	\$1,256.24	\$1,554.18	\$1,589.20	\$1,511.49	\$22.03
10"	\$1,805.86	\$2,234.17	\$2,284.49	\$2,172.79	\$31.67
General Service - Gallonge Charge, per 1,000 Gallons	\$6.17	\$7.66	\$7.81	\$7.42	\$0.11
Bulk Flow Meter Service - Gallonge Charge, per 1,000 Gallons	\$6.45	\$8.00	\$8.16	\$7.76	\$0.11
<u>Typical Residential Bills 5/8" x 3/4" Meter</u>					
3,000 Gallons	\$31.23	\$38.68	\$39.51	\$37.57	
5,000 Gallons	\$41.57	\$51.50	\$52.59	\$50.01	
10,000 Gallons	\$67.42	\$83.55	\$85.29	\$81.11	