

Control Number: 46150



Item Number: 76

Addendum StartPage: 0

## Hank Lydick

**From:** Hank Lydick <hlydick@austin.rr.com>  
**Sent:** Wednesday, October 12, 2016 9:30 PM  
**To:** customer@puc.texas.gov; centralrecords@puc.texas.gov  
**Cc:** Hank Lydick; brian.lloyd@puc.texas.gov; pam.whittington@puc.texas.gov  
**Subject:** Request for Public Hearing : Docket # 46150, CCN # 12407, Sewer # 20948  
**Attachments:** Notice of Intent to Sell Water,Utility.pdf; ATT00001.htm; Ni America Capital \_ Edward R Wallace.pdf; ATT00002.htm; State of Florida \_ Edward R Wallace.pdf; ATT00003.htm

**TO:** **Public Utility Commission of Texas**  
**ATTN:** US Mailed to Filing Clerk responsible for Docket # 46150  
(attached Notice of Intent to Sell Water Utility)

**CC:** Brian Lloyd (Executive Director)  
Pam Whittington (Deputy Whittington)

1701 North Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

**FROM:** (1) Henry Lydick  
3711 Westlake Drive  
Austin, Texas 78746  
Mobile (512) 771-8708

I own 7012 Greenshores #2  
Travis Central Appraisal District  
Legal Description LOT 33 GREENSHORES ON LAKE AUSTIN PHS 2 AMD PLAT LTS 32-34&39

**APPLICANT: (2) PK-RE Development Company, Inc.**  
**(DBA Oakshores Water System)**  
**Hill Country Galleria, Building B**

13301 Gallaria Circle, Suite B175  
Bee Caves, Texas 78738

**RE:** (2) Docket # 46150  
Travis County  
CCN # 12407  
Sewer # 20948

**BUYER:** Undine Development, LLC  
10913 Metronome Drive  
Houston, Texas 77043

(3) I Request a Public Hearing

TO: Filing Clerk

RECEIVED  
2016 OCT 21 AM 9:39  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**(4) I will be adversely affected by the proposed transaction and transfer of the CCN**

**because:**

- a. Owners and Management of Ni America Capital have been investigated by State of Florida (**see attached letter** Office of Public Council),
- b. Numerous concerns have existed with the level of affiliate costs,
- c. Numerous concerns have existed on the allocation methodology used to allocate corporate overhead,
- d. With Water Utilities owned by the prospective Buyer of Oakshores Water System from APPLICANT,
- e. Some Owners and Management of Undine Development, LLC were involved as Owners and Management of Ni America Capital.

Specifically the existing water utility Oakshores Water System has a number of cited violations due to:

- f. Excessive Water Billing
- g. Poor Service Quality
- h. Poor Water Quality
- I. Inferior Operations Management

It is claimed by APPLICANT (PK-RE Development Company) that prospective BUYER (Undine Development, LLC) will keep water rates unchanged, will keep service quality the same or improved, and will provide sufficient service quality (as required by State of Texas regulations).

Nevertheless, I have not seen any “stress test” metrics that prospective BUYER (Undine Development, LLC):

- j. Meets State of Texas regulatory obligations as an approved buyer of a water utility,
- k. Can fulfill legal obligations to provide necessary services to my property,
- l. Maintains policies and procedures to provide billing which is not excessive,
- m. Maintains policies and procedures to ensure service quality that is not inferior,
- n. Maintains policies and procedures that operations management is reliable,
- o. Maintains policies and procedures on how cost costs are allocated or charged,
- p. Maintains policies and procedures on types of costs and basis are documented,
- q. Maintains accurate records for rate case preparation (IN PARTICULAR ACQUISITION COSTS OF OAKSHORES WATER SYSTEM)
- r. Maintains direct charge work papers, calculations and all necessary documents required for proper rate case preparation.

*Note: Many of the above (a. - r. issues) issues were raised by the Rose Law Firm (**see attached letter**) against now Owners and Management of Undine Development, LLC.*

**(5) I proposed adjustments be made to the application or CNN which would help satisfy my concerns, and help cause me to withdraw my request for a Public Hearing, including:**

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Specifically the existing water utility Oakshores Water System has a number of cited violations due to:

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- i. Inferior Operations Management

It is claimed by APPLICANT (PK-RE Development Company) that prospective BUYER (Undine Development, LLC) will keep water rates unchanged, will keep service quality the same or improved, and will provide sufficient service quality (as required by State of Texas regulations).

Nevertheless, I have not seen any “stress test” metrics that prospective BUYER (Undine Development, LLC):

- j. Meets State of Texas regulatory obligations as an approved buyer of a water utility,
- k. Can fulfill legal obligations to provide necessary services to my property,
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*Note: Many of the above (a. - r. issues) issues were raised by the Rose Law Firm (see attached letter) against now Owners and Management of Undine Development, LLC.*

**(5) I proposed adjustments be made to the application or CNN which would help satisfy my concerns, and help cause me to withdraw my request for a Public Hearing, including:**

Sufficient documentation be made available for review which reasonably describes how various levels of affiliate costs are Maintained, and the Methodology employed to ensure fair and reasonable costs will be allocated as corporate overhead directly associated with Oakshores Water System.

“Stress Test” Metrics if gathered by State of Texas be made available for review which provide reasonable assurances that in fact Excess Water Billing will not occur, Poor Service Quality will be quickly corrected, Poor Water Quality will be quickly corrected, and Inferior Operations Management will not be allowed to persist.

Undine Development policies and procedures be made available for review and maintained regarding how true costs are allocated or charged.

Audited (Generally Accepted Accounting Principles) Purchase Basis be made available and maintained that preserves true cost basis of acquisition of Oakshores Water System.

Undine Development policies and procedures be made available for review regarding direct charge work papers, calculations and all necessary documents for a proper rate case basis.

Regards,  
Henry Lydick

<http://undinellc.com/team.html>

Edward R Wallace has demonstrated outstanding capabilities for **providing rate strategy that resulted in double digit rate increases.**

<http://www.niamerica.com/personnel.htm>

Edward R Wallace has the overall responsibility for financial statements and **rate case preparation.**

Home Customers Our Team Acquisitions Developers Contact Us

## Systems

### Selling?

If you are interested in selling your business, working with us on a development project, or would like to partner with us to provide services or leads, please [contact us](#)

## News

March 18, 2016

Undine launches preliminary website to allow potential sellers and developers to contact Undine management.

## Information

March 2016

Stay tuned. More information to come ..

## Our Team

### Edward R. Wallace - President

Mr. Wallace currently serves as President and CEO of Undine, a company he founded to consolidate water and wastewater systems in the United States. Until recently Mr. Wallace served as President and CEO of Ni America, a company he also founded where he oversaw and directed the day-to-day operations of eight companies representing over 40,000 customers in three states. Mr. Wallace was responsible for the company's growth from a startup venture with no assets, revenue, or EBITDA to a vibrant utility company with assets, revenue and EBITDA of \$110, \$26 and \$15 million, respectively. During that time, Mr. Wallace demonstrated outstanding capabilities for acquisition, profit management and providing rate strategy that resulted in double digit rate increases and an overall positive reputation with regulators. In addition, in the first quarter of 2015 Mr. Wallace oversaw a robust sales process that captivated over ten bidders to the end and resulted in an ultimate sales price highest than any in recent history.

In 1996, he founded AquaSource, and led a team of individuals responsible for completing over 130 transactions in just over two years for clients involved in the water/wastewater industry and the propane gas industry. Through his leadership, the business grew from 16 employees with no revenue to over 1,100 employees and almost \$200 million in revenue.

From 1991 until 1995, Mr. Wallace was an investment banker structuring transactions for both private and public companies in the leasing and utility industries. During those years, Mr. Wallace was either a partner of or employed as a Director by CS First Boston.

Mr. Wallace had an eight-year career with Cooper & Lybrand where he became a Partner. He also served two years at the Financial Accounting Standards Board working on projects in the leasing and utility industry. Mr. Wallace graduated, cum laude, from Texas A&M University with a Bachelor of Business Administration in Accounting and has been the principal speaker for numerous accounting related presentations.

### **Carey A. Thomas – Sr. VP Acquisition Integration**

Mrs. Thomas currently serves as Sr. Vice President for Undine. She previously served as Sr. Vice President of Human Resources and Administration for Ni America. Mrs. Thomas was responsible for the day-to-day management of administrative and personnel related functions, such as benefits and payroll, as well as all the Corporate and Subsidiaries Business Insurance, as well as Corporate Governance. Mrs. Thomas also worked on special projects, she lead the implementation of a new billing system, new billing and call center and oversaw the Management of the billing process for more than 40,000 Customers. She also played a key role in the acquisition process; from the due diligence phase to producing, directing and organizing the definitive documents process, while working with in-

house attorneys, which included refinancing with Bank of America, the Senior Lending facility. Mrs. Thomas was the Vice President of Administration for AquaSource, and one of 16 original investors in this start-up water and wastewater company. Mrs. Thomas was directly responsible for Administration, Human Resources, Facilities, IT, and Public Relations. She led a team of individuals that integrated over 1,300 employees from the more than 130 acquisitions in less than three years, while responsible for designing, building and furnishing a new 68,000 square foot office building to consolidate offices and gain economies of scale. Prior to beginning AquaSource in 1996, Mrs. Thomas was a Partner with Ed Wallace in Florin Financial Services; a privately owned investment banking firm specializing in tax enhanced financing structures. Mrs. Thomas attended Houston Community College and The University of South Alabama. Mrs. Thomas is currently continuing her major in Business and Human Resource Leadership. Mrs. Thomas is active in the local chapter of the National Multiple Sclerosis Society, and has participated in the annual bike race from Houston to Austin to raise money and awareness for MS. She enjoys biking, traveling, snow skiing, and is taking pleasure in raising her six year old daughter.

***Andy Thomas – Sr. VP Capital Projects***

Mr. Thomas is currently Sr. Vice President of Operations and Capital Improvements for Undine. He served as the Sr. Vice President of Operations and Capital Improvements for Ni America where he was responsible for the Management of the Contract Operations and Capital Improvements overseeing all eight of Ni America's water and wastewater utilities. He is involved in the acquisition process and oversees the operations due diligence, and at times works closely with third parties, such as Engineering and Environmental Firms. Being cost conscious, Mr. Thomas prides himself in coordinating regulatory parties and corresponding requirements within the budgetary constraints of each project.

Mr. Thomas previously owned Bengal Supply, a sheet metal supply company serving the Greater Houston area. He started Bengal supply in 2006 with a Gross Annual Revenue of \$70K and sold the business in 2009 with at Gross Annual Revenue of \$4M. Prior to 2002, as one of the 16 original investors, Mr. Thomas was Vice President of Capital Projects and Due Diligence for AquaSource, a start-up water and wastewater company that acquired approximately 130 companies in less than 3 years. At AquaSource he was responsible for initial operations due diligence, assessing capital needs, and managing improvements for over 3,000 water and wastewater utility systems, with an annual capital budget of \$40 million. Before joining AquaSource, Mr. Thomas was the Assistant Plant Manager for Philips Services Corp Angleton, Texas rail car cleaning and water treatment facility. Mr. Thomas attended Houston Community College and obtained an Associate's degree in Fire Protection Technology, working in conjunction with the Texas A&M Fire School. Mr. Thomas is currently majoring in Construction Engineering. Mr. Thomas is the Division Chairman for the Houston Livestock Show and Rodeo, a non-profit organization benefiting youth and supporting education, which has granted \$330M in scholarships since it began. Mr. Thomas is a member of the American Water Works Association, Texas Rural Water Association, Florida Rural Water Association and the South Carolina Rural Water Association.

***Charles E. Leibold, CPA - Chief Accounting Officer***

Mr. Leibold currently serves as the Chief Accounting Officer for Undine. Prior to joining Undine, Mr. Leibold was a Consultant for Ni America in the accounting group. Previously to joining Ni America, Mr. Leibold served as Managing Director for Sperco LLC from 2010-2014 where he directed the consulting in telecommunications and information technology services. Since the Company's inception, he lead the planning and development of the finance function, legal and human resource matters and established financial and administrative objectives, internal controls, policies, programs and practices, as well as responsible for all financial and tax reporting. From 2006-2014 he was with Bluegate Corporation where he was Chief Financial Officer appointed to treasurer and secretary. He lead the



strategic planning and development of the finance function, legal and human resource matters and established company-wide financial and administrative objectives, internal controls, policies, programs and practices and served as a member of the Board of Directors. Before joining Bluegate, Mr. Leibold served as Director for Acquisition Partners, Inc.; he was responsible for managing transitional and due diligence matters relating to acquisitions. In 1998, Mr. Leibold joined AquaSource, Inc.'s M&A division. Prior to that, he managed his own consulting firm specializing in matters relating to reorganization, accounting, finance, M&A, divestitures, and income taxes. Mr. Leibold joined Aim Group, Inc. as a Vice President of Finance and Treasurer following a ten-year career with Deloitte, Haskins and Sells. At AIM, Mr. Leibold was responsible for the long-range financial matters and the establishment of company-wide financial objectives. Mr. Leibold graduated from Pace University with a Bachelor of Business Administration in Accounting, and recently served on the Board of Directors of a Catholic High School.

***Rick Melcher - Manager of Public Relations***

Rick Melcher served as Manager of Public Relations for Ni America since 2007. He was responsible for communications between the company and its various stakeholders, including customers, utility regulators, legislators and the media. As company spokesperson, he dealt with issues involving rate cases, utility acquisitions, Company presentations, crisis management and on-going customer education relating to utility matters. Mr. Melcher previously served in a similar capacity as Public Relations Manager and spokesperson for AquaSource Utilities from 1997 to 2001, when the utility grew to approximately 400,000 customers across 17 states.

Before working at AquaSource, Melcher was employed at Southwestern Bell Telephone as a Business Office Supervisor where he was responsible for sales, service and customer service training. He is a graduate of Texas A&M University, with a BBA in Finance and Marketing.

***Jeffrey O. Goebel - Manager of Business Development***

Mr. Goebel serves as the Manager of Business Development for Undine and is responsible for the identification of existing water and wastewater systems and new developments that may be potential acquisitions. In addition to his initial due diligence on those systems identified, he handles all of the submittals of TPDES permits, CCNs and STMs to the TCEQ and PUC regulatory entities. Prior to joining Undine, Mr. Goebel was the Manager of Business Development for Quadvest LP, a privately owned water and sewer utility company located in Magnolia, Texas. At Quadvest, Mr. Goebel performed similar duties cited above at Undine, as well as, handled all developer relations and managed the Construction and Engineering on all new developments. Previously, Mr. Goebel was the Project Manager for AquaSource and was responsible for, among other duties, new developer relations and the compliance with environmental regulations and permits for all operations in Texas.

Mr. Goebel is a board member of Harris County MUD #415 and former Vice President of Independent Water and Sewer Companies of Texas.

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Thursday October 13, 2016

Company      Customers      Developers      Acquisitions



### Key Personnel

If you are interested in selling your company or working with us on a development project or would like to partner with us to provide services or leads, please click below.

[CONTACT US](#)

Ni America Systems:

Ni Florida:

[Hudson](#)

[Tamiami](#)

Ni South Carolina:

[Palmetto Utilities](#)

[Palmetto of Richland County](#)

[Alpine/Woodland](#)

[Alpine/Woodland](#)

[Rate Presentation](#)

[Palmetto Utilities](#)

[Rate Presentation](#)

Ni Texas:

[Utility Regulations](#)

[Rate Case Info](#)

[Shaded Lane](#)

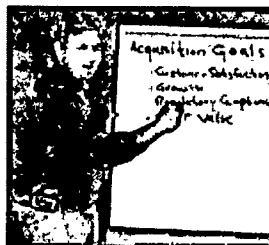
[Wise County](#)

[Rates](#)



#### **Jim McGivern / Chairman**

Jim is a seasoned executive with over 20 years of industry experience in the Utility and industrial products sectors. From July 1st 2009 Jim has been Chairman of Ni America and Executive Chairman of Sigma Corporation, a US market leader in the manufacture and distribution of pipeline fittings and related products to the Water and Wastewater industry. Prior to taking these positions, Jim was CEO of the Elster Group, the world's largest metering solutions business, and had global responsibility for all Elster business lines which operated in 38 countries worldwide. Under Jim's leadership Elster established itself as the market leader in the delivery of leading edge intelligent metering solutions to its utility customers. Prior to joining the Elster Group, Jim had more than 15 years experience in the international water and waste water industry. In early 2003, Jim was appointed Chief Operating Officer at American Water, the largest water utility in the US with executive responsibility for all of American Water's and its parent, Thames Water's businesses in North, South, and Central America. Before that Jim was President of the Thames Water international business, responsible for operations and growth in over 30 countries. Thames Water is one of the world's largest water utilities.



#### **Edward R. Wallace / President**

Mr. Wallace currently serves as President of Ni America, a company he founded to consolidate water and wastewater systems. Beginning in April 2007 Mr. Wallace has overseen the acquisition and day-to-day operations of five companies representing over 20,000 customers in three states.

As acting CFO he also has the overall responsibility for financial statements and rate case preparation. In 1996, he founded AquaSource, and led a team of individuals responsible for completing over 150

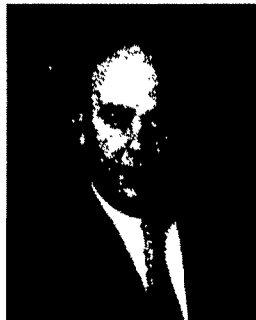
Water Conservation

Links and Resources

Capital Projects

transactions in just over two years for clients involved in the water/wastewater industry and the propane gas industry. Through his leadership, the business grew from 16 employees with no revenues to over 1100 employees and almost \$200 million in revenue. From 1991 until 1995, Mr. Wallace was an investment banker structuring transactions for both private and public companies in the leasing and utility industries. During those years, Mr. Wallace was either a partner of or employed as a Director by CS First Boston.

Mr. Wallace had an eight-year career with Cooper & Lybrand where he became a Partner. He also served two years at the Financial Accounting Standards Board working on projects in the leasing and utility industry. Mr. Wallace graduated, cum laude, from Texas A&M University with a Bachelor of Business Administration in Accounting and has been the principal speaker for numerous accounting related presentations.



***Mark Daday / Chief Financial Officer***

Mark has been Chief Financial Officer of Ni America since September of 2010. He previously was Chief Investment Officer with Ford Investment Group and President at Landmark Properties Group where he created 3 private equity funds.

For 13 years, he was with DQE, a publicly traded NYSE holding company for an electrical utility. DQE had annual revenue of \$1.3 billion and assets of \$5 billion. He was involved with all aspects of acquisitions, financing/banking, financial forecasting and analysis. Mr. Daday was chief financial officer and then president of the DQE Systems subsidiary, a \$100 million, 300 employee, propane energy distribution and telecommunications company, where he negotiated and closed over 30 acquisitions and four divestures. At DQE, he was a member of the pension management committee, which managed a \$1 billion corporate pension fund.

Prior to DQE, he was with a subsidiary of GATX, a publicly traded (NYSE) company holding the positions of Controller – Spain and then Manager of Treasury Operations. Mr. Daday graduated from Westminster College (PA), with a Bachelors of Arts degree. He received his MBA from the University of Miami. He is a member of the board of directors of the Pittsburgh Opera and a former board member of the Greater Pittsburgh Food Bank. He is also a former board member of various subsidiaries while at DQE.

***Mike Ashfield / Senior VP Operations***

Mr. Ashfield's career commenced in June 1989 with Coopers & Lybrand, where he earned his CPA, and reached Senior Manager prior to leaving in

1998 to join AquaSource's M&A division under the direction of Mr. Ed Wallace. During his time with AquaSource, he was responsible for coordinating and overseeing acquisition due diligence (financial and operational), as well as negotiating purchase agreements with utility sellers and their attorneys.

Mr. Ashfield graduated from Texas A&M University with a BBA in Accounting and Marketing and holds positions in various community entities: Chairman of the College Station Planning & Zoning Committee, Chairman of the Board of Trustees at Christ United Methodist Church, Finance Committee Chair for the Brazos Valley Fellowship of Christian Athletes, and member of the Texas A&M System's Chancellor's Century Council.



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***R. Stan Jones / Regional President***

Prior to joining Ni America, Stan Jones was co-founder and President of Wildewood Utilities, later renamed Palmetto Utilities. Mr. Jones served as president of the utility from 1983 until it was acquired by Ni America in 2010. Under his leadership and direction, Palmetto grew to be the largest

privately owned wastewater utility in South Carolina.

Mr. Jones currently serves as the Regional President of Ni South Carolina, where he is responsible for business development in South Carolina. His vision for the area includes a focus on regional planning for wastewater treatment that will provide cost effective service for the

growing customer base and eliminate the numerous wastewater spills occurring in improperly designed and poorly operated utility systems. Mr. Jones received a Bachelor of Science in Environmental Engineering from Clemson University.

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For more information please Contact Us

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©Site Design 2007

Notice to Current Customers, Neighboring Systems and Cities

**PK-RE DEVELOPMENT COMPANY, INC. DBA OAK SHORES WATER SYSTEM**

**NOTICE OF INTENT TO SELL FACILITIES AND TRANSFER OF CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NOS. 12407 AND 20948 TO UNDINE DEVELOPMENT, LLC IN TRAVIS COUNTY, TEXAS**

To: GREENSHORES ON LAKE AUSTIN

Date Notice Mailed:

September 2, 2015

(Name of Customer, Neighboring System or City)

PO BOX 92649

(Address)

AUSTIN, TX 78709-2649

(City, State Zip)

**PK-RE DEVELOPMENT COMPANY, INC. DBA OAK SHORES WATER SYSTEM Hill Country Galleria, Bldg B, 13301 Galleria Circle, Suite B175 Bee Cave, Texas 78738**

has submitted an application with the Public Utility Commission of Texas to transfer all of their water CCNs No. 12407 and sewer No. 20948 in Travis County to:

**Undine Development, LLC 10913 Metronome Dr., Houston Texas 77043**

The sale is scheduled to take place as approved by the Commission (V.T.C.A., Water Code §13.301). The transaction and the transfer of the CCN include the following subdivision: **Oak Shore, Oak Shore on Lake Austin, Briarpatch, Smokey Ridge Annex and three tracts south thereof, Pearce Annex, Skishores Restaurant and Marina, West Greenshores and Pearce Rd Area, Woods of Greenshores subdivision, Greenshores on Lake Austin**

The area subject to this transaction is located within approximately 6.5 miles Northwest of downtown Austin, Texas, and is generally located on the north by **Pearce Rd**; on the east by **Lake Austin**; on the south by **Pearce Rd**; and on the west by **City Park Road**

The total area being requested includes approximately **372** and serves **220 current customers**. This transaction will have the following effect on the current customer's rates and services:

- (1) Current customer water rates will remain unchanged; (2) service quality will remain the same or improve; and (3) Undine Development, LLC service policies will apply at the completion of this transaction when it becomes the certificated retail public water utility.

Affected persons may file written protests and/or request a public hearing within 30 days of this notice.

Docket #46150

To request a hearing, you must:

- (1) state your name, mailing address and daytime telephone number;
- (2) state the applicant's name, application number or another recognizable reference to this application;
- (3) include the statement "I/we request a public hearing";
- (4) write a brief description of how you, the persons you represent, or the public interest would be adversely affected by the proposed transaction and transfer of the CCN; and
- (5) state your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Only those persons who submit a written request to be notified of a hearing will receive notice if a hearing is scheduled. The Commission will issue the CCN requested in the referenced application unless a hearing is scheduled to consider the transaction. If no protests or requests for hearing are filed during the comment period, the Commission may issue the CCN 30 days after publication of this notice.

Persons who wish to protest or request a hearing on this application should write the:

Filing Clerk

Public Utility Commission of Texas

1701 North Congress Avenue

P.O. Box 13326

Austin, Texas 78711-3326

**Se desea informacion en Espanol, puede llamar al 1-888-782-8477.**

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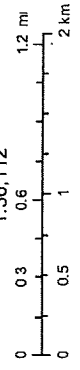
Utility Representative

PK-RE DEVELOPMENT COMPANY, INC. DBA OAK SHORES WATER SYSTEM

Docket #46150

[illegible]

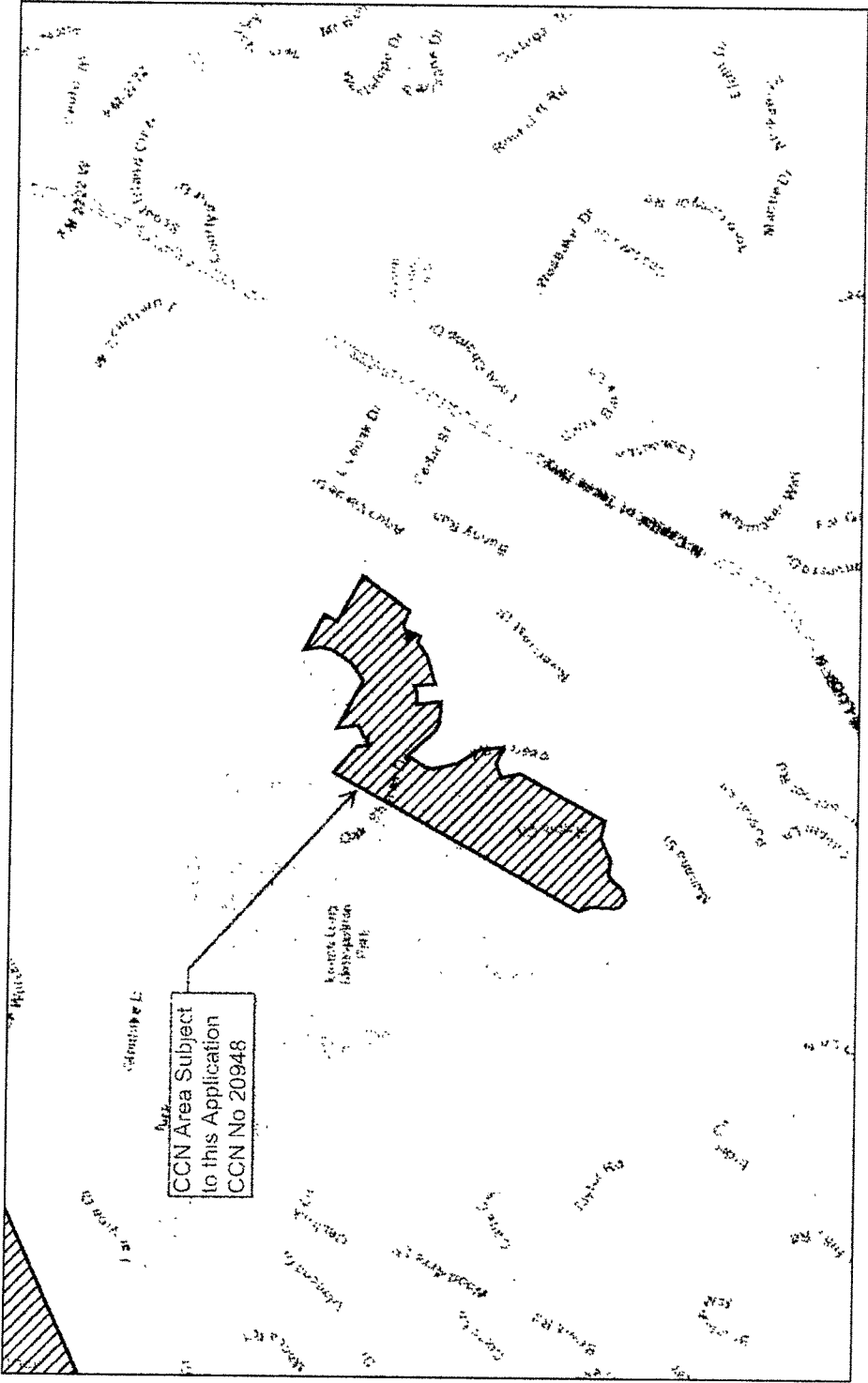
1:36,112



Sources: Esri, HERE, DeLorme, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Swis (Thailand),



PK-RE Development Company, Inc. dba Oak Shores Water System



April 4, 2016

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0 0.5 1 2 km  
Sources: Esri, HERE, DeLorme, USGS, Intermap, increment P Corp.,  
NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand).

MIKE HARIDOPOLOS  
*President of the Senate*



J.R. Kelly

Public Counsel

**STATE OF FLORIDA  
OFFICE OF PUBLIC COUNSEL**

C/O THE FLORIDA LEGISLATURE  
111 WEST MADISON ST.  
ROOM 812  
TALLAHASSEE, FLORIDA 32399-1400  
1-800-540-7039

EMAIL: OPC\_WEBSITE@LEG.STATE.FL.US  
WWW.FLORIDAOPC.GOV  
DEAN CANNON  
*Speaker of the  
House of Representatives*

November 17, 2010

Mr. Jared Deason  
Division of Economic Regulation  
Florida Public Service Commission  
2340 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0830

Re: Docket 100149-WU-Application for increase in water rates in Lee County by Ni Florida, LLC. – OPC Issues Regarding Corporate Allocations and Bad Debt Expense

Dear Mr. Deason,

The Office of Public Counsel is actively monitoring the rate case docket for the Ni America/Ni Florida-Tamiami. In our review of the minimum filing requirements and the staff audit workpapers, we have ~~numerous concerns that we believe should be addressed.~~ While several of these concerns might be addressed in response to staff's most recent data request dated November 9, 2010, we would like to bring these to staff's attention to aid staff in its review of the rate case so that staff can address these concerns as you see fit.

The majority of the areas that we have looked into deal with the level of affiliate costs and the allocation methodology Ni used to allocate corporate overhead to the few systems it owned in 2009 and the level requested to be recovered from the Ni Florida Tamiami ratepayers.

**Corporate Allocated Expenses**

Below is a partial list of the affiliate costs that Ni wants to allocate to Tamiami ratepayers:

Employee/Officer/Director Salaries & Benefits:	\$1,481,070
Corporate Accounting/Tax:	\$ 130,212
Corporate Rent for at least 2 offices:	\$ 43,829
Corporate Travel:	\$ 37,330
Computer Services:	\$ 26,880
Crime:	\$ 3,338
Telephone:	\$ 51,181
Utilities:	\$ 16,624
Meals & Entertainment:	\$ 25,032
Ni America Capital Management Corporate Governance:	\$ 250,778

The above itemized expenses total \$2.06 million of the \$2.13 corporate overhead requested. Ni has taken the \$2.13 million total of affiliate costs and allocated 47% to the 5 systems owned in 2009 as utility related costs. This is approximately \$1.00 million that was allocated to the 4,685 test year equivalent residential connections (ERC's) resulting in \$214/ERC/year (\$18 per month) for just corporate overhead. Direct costs for running each system are in addition to these requested affiliate costs. OPC has several concerns regarding these affiliate charges that Ni wishes Tamiami customers to pay.

#### Salary Overhead Concerns

The 2009 corporate salaries expensed were for 19 persons. The staff audit workpapers include a document that contains company-provided job descriptions for the 19 employees that existed in 2009. Of those 19, it appears that 9 have left the company and one had his salary drop by a third. That leaves 9 employees with an average salary of \$115,000 (only 2 under \$100,000). (See Staff audit work paper 43 and supporting schedules.) The company also appears to have a new chairman (Jim McGivern) and regional president (R. Stan Jones) based on the Ni America website. This website also provides job descriptions for the 4 key personnel, but only Edward R. Wallace, President, and Mark B. Myers, VP Business Development, were included in the 2009 payroll. In addition to the non-recurring and materially changed personnel and payroll, OPC has concerns over the need for such high payroll overhead for the size of the current systems and that several of the employees are involved in acquisitions and due diligence for future systems.

Based on the notes from the directors meetings provided in response to staff audit requests, Ni America stated on Jan 21, 2009, that it would employ 8 partners and 4 employees (Notes from BOD Minutes Audit WP 8). OPC questions whether these partners have day to day responsibilities for the management and operation of the owned utilities or if their salaries essentially represent directors' fees. Other pertinent information would be whether any of these individuals have other outside jobs and how much time each person spends working on utility related matters.

Specifically for the Tamiami system, Ni America pays FUGH a \$36,000 management fee for Water Distribution Operations, Meter Reading, Billing/Collection, Book Keeping/ Administration, and a 24-Hour Customer Call Service. The company has requested additional fees of \$7,100 to administer a line flushing program and pays for routine preventative maintenance and minor repairs on an as incurred basis. While OPC is not disputing the prudence of the FUGH contract amounts, adding an additional layer of \$175,000 for corporate overhead charges appears to be excessive given that the FUGH services represent essentially a turn-key operation.

Corporate Accounting/Tax:

Ni America recorded \$130,212 in accounting and tax fees in 2009 that it allocated 47% to the 5 utility systems. The information provided to staff auditors indicated that Ni has at least 14 limited liability corporations that are affiliated with Ni America (see list below). OPC questions why such a large accounting and tax bill is required to operate several small water and/or wastewater utilities and whether the potential for complicated accounting and tax situations arise because of the corporate structure and private equity component of the organization rather than utility-related issues.

Ni America provided an organizational chart to the auditors that reflected the following 14 entities as affiliates of Ni America:

Ni America Texas, LLC	Ni Arizona, LLC
Ni Louisiana, LLC	Ni Mississippi, LLC
Ni North Carolina, LLC	Ni Pennsylvania, LLC
Ni South Carolina, LLC	Ni Arizona Utilities, Inc.
Ni Florida Utilities, Inc.	Ni Texas Development, LLC
Wateree Utilities Holding, Inc	Palmetto Utilities, Inc.
1710 Woodcreek Farms, Inc.	Ni America Utility Holding, Corp.

Corporate Rent and Travel

Upon review of the Ni America Operating general ledger, the company incurred \$43,829 to maintain at least two corporate offices: one in Houston and one in College Station. It also expensed \$37,330 for corporate travel. Staff auditors questioned why the company paid living expenses for its former chairman and the company responded that because the chairman did not reside in Houston, it was part of the company agreement to pay his living expenses. OPC questions the reasonableness of each of these categories and why they are prudent utility related expenses.

Crime and D&O Insurance

Ni America Operating purchased a \$1 million crime policy with \$10,000 deductible and \$3 million directors and officers and employers practices liability with \$25,000 deductible. Without reviewing the individual policies currently in effect and the beneficiaries of each policy, OPC questions the reasonableness of charging ratepayers.

Telephone, Utilities and Computer Services

Ni America Operating incurred close to \$95,000 in telephone, utilities and computer services in 2009. Given the large officer/director/employee turnover that occurred in 2009 and the large percentage of due diligence work, OPC questions the recurring nature and prudence of such expenses for the small number of utility systems owned.

#### Ni America Capital

Ni America Capital charged Ni America Operations \$250,778 in corporate governance fees to be spread 47% to the 5 owned systems in 2009. Of this amount, Ni Capital paid \$100,000 for director fees for Mike Fuizat and Jim McGivern, \$100,000 for an executive search fee for Jim McGivern, transportation expenses of \$9,188 for travel to board meetings and \$10,703 for D&O Insurance. Ni America Capital was also charged \$21,840 from Metalmark Capital (which invested in Ni America) for 2008 federal and state tax preparation. These all appear to be investor related expenses which OPC questions the reasonableness and prudence of passing any portion to ratepayers.

#### Allocation Issues

Below are several concerns that OPC has regarding how the costs were allocated.

#### Informal Survey for Allocation Methodology

The company did an informal survey by each employee to determine how to allocate between utility and non-utility work performed. Based on this survey, Ni stated that the average employee works 47.0898% on utility matters. There are no workpapers to support this estimate and based on the provided job titles and descriptions, it is obvious that many of the persons listed perform due diligence work to investigate future systems that Ni might purchase. None of the provided descriptions reflect a reasonable amount of daily work performed for the few utilities that the company owns, and many of the persons that received salaries in 2009 are no longer with the company.

#### Additional Systems Purchased in 2009 and 2010

According to its website, Ni America bought a new system in early 2010 called Palmetto Utilities, Inc. in South Carolina with 11,000 customers (14,823 ERCs as of April 2009). The company also included the Brighton system in 2009 for less than a full year. These are known and measurable changes that occurred during and after the test year that OPC believes should be considered in determining whether the allocated corporate overhead should be allowed or how it should be allocated.

#### Bad Debt Expense

The last issue that OPC wishes to address at this time is bad debt expense. The company increased bad debts without sufficient support. The Company requested a bad debt expense of 1.75% of revenues. The Bad Debt Expense booked in 2009 was \$1,202 with recorded Revenues of \$220,145. This resulted in an actual 2009 Bad Debt Expense ratio to revenues of 0.55%. Bad debt expense for the first six months of 2010 totaled \$581, and doubling this equals \$1,162. The

November 17, 2010

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company has not provided sufficient support to show its requested \$3,853 proforma bad debt expense is representative or reasonable.

In conclusion, I wish to thank you in advance for your analysis and consideration of our issues. Should staff have any questions, we would be willing to discuss these in a meeting with the parties, if necessary.

Sincerely,

s/ Tricia Merchant

Tricia Merchant

Office of Public Counsel

111 West Madison Street

Pepper Building, Room 812

Tallahassee, Florida 32399-1400

Phone: 850-487-8245

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c: Division of Economic Regulation (Fletcher, Maurey)  
Office of the General Counsel (Jaeger)  
Ni Florida, LLC (Wallace)  
Rose Law Firm (Friedman)

**Marguerite McLean**

100149-WL

**From:** Dana Rudolf [DRudolf@RSBattorneys.com]  
**Sent:** Friday, November 19, 2010 4:58 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** cewallace@niamerica.com; bwilkinson@niamerica.com; donald.clayton@tangibl.com; Bart Fletcher; mdaday@niamerica.com; Martin Friedman; Christian W. Marcelli; Trina Collins  
**Subject:** Docket No. 100149; Application for increase in water rates in Lee County by Ni Florida, LLC.  
**Attachments:** PSC Clerk 14 (Filing Response to Staff's 6th Data Request) ltr.pdf

- a) Christian W. Marcelli, Esquire  
Rose, Sundstrom & Bentley, LLP  
766 North Sun Drive, Suite 4030  
Lake Mary, FL 32746  
(407) 830-6331  
cmarcelli@rsbattorneys.com
- b) Docket No. 100149-WU; Application for increase in water rates in Lee County by Ni Florida, LLC – filing the Utility's Response to Staff's Sixth Data Request dated November 9, 2010.
- c) Ni Florida, LLC
- d) 26 pages
- e) Letter to Commission Clerk and attachments – 26 pages.

11/19/2010

DOCUMENT NUMBER-DATE

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Please Respond to the Lake Mary Office

November 19, 2010

CHRISTIAN W. MARCELLI  
STEVEN T. MINDLIN, P.A.  
THOMAS F. MULLIN  
CHARITY H. O'STEEN  
WILLIAM E. SUNDSTROM, P.A.  
DIANE D. TREMOR, P.A.  
JOHN L. WHARTON

ROBERT M.C. ROSE, (1924-2006)

**E-FILING**

Ann Cole, Commission Clerk  
Office of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

Re: Docket No. 100149-WU; Ni Florida, LLC - Tamiami  
Application for an Increase in Water Rates in Lee County, Florida  
Our File No.: 43053.04

Dear Ms. Cole:

Enclosed for filing in the above-referenced docket is the response of Ni Florida, LLC - Tamiami (the "Utility") to Staff's sixth data request dated November 9, 2010. Staff has requested the following information in order to complete its analysis in the above-referenced docket.

1. Please provide a copy of the Organizational Chart for Ni America, clearly illustrating the relationships between Ni America and its subsidiaries for 2007 through 2010. For each of the subsidiaries, please describe, in detail, the corporate functions that each performs.

**RESPONSE:** The Organizational Chart for Ni America companies is attached. Corporate governance is performed by Ni America Capital Management, LLC and all other functions are performed by Ni America Operating, LLC and are as follows:

- Accounting
- Annual Reporting Requirements
- Business Development
- Capital Investment Improvements
- Cash Management
- Contract Administration
- Engineering Services

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766 N. SUN DRIVE, SUITE 4030, LAKE MARY, FLORIDA 32746 (407) 830-6331 FAX (407) 830-8522  
2548 BLAIRSTONE PINES DRIVE, TALLAHASSEE, FLORIDA 32301 (850) 877-6555 FAX (850) 656-4029  
950 PENINSULA CORPORATE CIRCLE, SUITE 2020, BOCA RATON, FLORIDA 33487 (561) 982-7114 FAX (561) 982-7116

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Ann Cole, Commission Clerk  
Office of Commission Clerk  
Florida Public Service Commission  
November 19, 2010  
Page 2

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- Finance
- Financial Reporting
- Human Resources
- Income Tax Administration
- Legal Services
- Operations Management
- Payroll Administration
- Rate Case Administration
- Risk Management (Insurance)
- Treasury Management

2. Please provide a copy of the Organizational Charts for Ni America and all other subsidiaries that allocate costs to Ni Florida, that lists the employees, their respective job titles, the salaries for each employee, and a list of the duties and responsibilities of each employee for 2007 through 2010.

RESPONSE: Attached are the following:

- Organization Chart by employee and title for Ni America Operation, LLC for 2008/2009 and 2010. This is the only company which has corporate employees.
- The monthly salaries paid to each employee for 2008, 2009, and 2010 through September.
- The duties performed by these employees in total are detailed in the response to Question 1 of Staff's Sixth Data Request.

3. Please provide a copy of any documentation (formal and/or informal) and/or policy and procedures manuals that address how all costs allocated or charged by Ni America to Ni Florida are determined and how all costs of Ni Florida are allocated to the various water and wastewater systems.

RESPONSE: Ni America does not maintain a policy and procedures manual that addresses how corporate overhead costs are allocated or charged to Ni Florida. There are no Ni Florida expenses that are allocated to the various water and wastewater systems. Please see the responses to Question 5 and Question 11 of the Staff's Sixth Data Request for a description of how corporate overhead expenses are allocated to the

utilities.

4. Please provide documentation for all costs directly assigned to Ni Florida by its affiliates including the type of cost and basis for assignment. Provide all documents related to affiliate costing guidelines and related studies utilized or relied on for comparison with or analysis of cost allocation practices affecting Ni Florida in this proceeding.

**RESPONSE:** There are no costs directly assigned to Ni Florida by any affiliates. Please see the responses to Question 5 and Question 11 of the Staff's Sixth Data Request for a description of how corporate overhead expenses are allocated to the utilities.

5. Please provide all Ni Florida system allocation workpapers, calculations, and all necessary documents that would allow an individual to recompute the amounts allocated by Ni America, and any other affiliate/subsidiary for 2007, 2008, 2009, test year twelve months ended December 31, 2009, and for each month of 2010 thereafter. The above documents should include by affiliate: the total dollars by general ledger account number to be allocated, the name of the general ledger account, the allocation factor applied to each account, the calculation of the allocation factor including the numerator for each company that is allocated a portion of the cost and the denominator of the allocation factor, and a description of the allocation factor. The information provided should allow one to recompute allocations and then redistribute or carry forward adjustments made, by system, to the expense and rate base items included in the instant rate proceeding.

**RESPONSE:** Ni America Operating, LLC, and Ni America Capital Management, LLC, are companies which contain all corporate expenses. Ni America Capital Management, LLC, owns all of the subsidiaries and manages the equity ownership. Ni America Operating, LLC is the operating company where all the employees reside and where all other corporate expenses (all expenses other than those incurred directly by the utilities and Ni America Capital Management, LLC) rest.

The corporate overhead expenses for 2009 were allocated to the utilities based on two factors: (1) the ratio of ERCs for each utility to the total ERCs for all owned utilities, and (2) all expenses, other than due diligence expenses, on the basis of payroll charges allocable to utilities. During the twelve months ended December 31, 2009 (the test year used in this rate case), Ni America estimated that 47.09% of payroll costs were allocable

to the utilities. Therefore, 47.09% of all allocable corporate expenses were allocated to the utilities. Each utility was allocated a percentage of the allocable expenses each month based on the ratio of ERCs to the total ERCs. All expenses that are direct expenses of the utilities are recorded initially to the utilities and are not included in the corporate expenses which are allocated to them.

The corporate overhead expenses for 2008 were allocated to the utilities based on the average of three factors: (1) revenue, (2) fixed assets, and (3) O&M expenses. Then, the amount was capped at 20% so as not to over-burden the utilities.

All corporate overhead expenses for 2010 (except for due diligence-related expenses) have been allocated to the utilities based on ERCs.

The Ni America companies were formed in early 2007 or subsequent to that time frame. In 2007, the only utility acquired was Shaded Lane Water Company. Since the date of the acquisition was December 11, 2007, no overhead was allocated to it for a partial month. In 2008, Ni America acquired Hudson Utilities on May 5, 2008 and Tamiami Village Water Company on September 5, 2008. Since Ni America was still a developing company, Management chose to limit the corporate overhead during 2008. This was documented in the Ni Florida, LLC - Hudson rate case filed using a twelve month test year ending December 31, 2008. In 2009, corporate overhead was allocated to the utilities based on ERCs. In 2010, Ni America acquired Palmetto Utilities, Inc. on January 7, 2010. Corporate overhead has been consistently allocated to every utility company on the same basis.

6. Please provide all Ni Florida systems direct charge workpapers, calculations, and all other necessary documents that would allow an individual to adjust the amounts directly charged by Ni America, and any other affiliate/subsidiary for 2007, 2008, 2009, test year twelve months ended December 31, 2009, and for each month of 2010 thereafter. The information provided should allow one to redistribute direct charges that have been charged by Ni Florida to its various systems in Florida.

**RESPONSE:** Neither Ni America nor Ni Florida direct charges any expenses to any other affiliate/subsidiary. Please see the responses to Question 5 and Question 11 of the Staff's Sixth Data Request for a description of how corporate overhead expenses are allocated to the utilities.

7. Please provide all Ni Florida system allocation workpapers, calculations, and all other necessary documents that would allow an individual to recompute the amounts allocated by Ni Florida for 2007, 2008, 2009, test year twelve months ended December 31, 2009, and for each month of 2010 thereafter. The above documentation should include: the total dollars by general ledger account number to be allocated, the name of the general ledger account, the allocation factor applied to each account, the calculation of the allocation factor including the numerator for each system that is allocated a portion of the cost and the denominator of the allocation factor, and a description of the allocation factor. The information provided should allow one to recompute allocations and then redistribute and carry forward adjustments made, by system, to the expense and rate base items included in the instant rate proceeding.

**RESPONSE:** Neither Ni America nor Ni Florida direct charges any expenses to any other affiliate/subsidiary. Please see the responses to Question 5 and Question 11 of the Staff's Sixth Data Request for a description of how corporate overhead expenses are allocated to the utilities.

8. Please provide Ni Florida system direct charge workpapers, calculations, and other necessary documents that would allow an individual to adjust the amounts directly charged by Ni Florida for 2007, 2008, 2009, test year twelve months ended December 31, 2009, and for each month of 2010 thereafter. The information provided should allow one to redistribute direct charges that have been charged by Ni Florida to its various systems in Florida.

**RESPONSE:** Neither Ni America nor Ni Florida direct charges any expenses to any other affiliate/subsidiary. Please see the responses to Question 5 and Question 11 of the Staff's Sixth Data Request for a description of how corporate overhead expenses are allocated to the utilities.

9. Please provide a list, by system, of activities Ni Florida employees billed to each system and the amounts booked for 2007, 2008, 2009, test year twelve months ended December 31, 2009, and for each month of 2010 thereafter. Also provide the accounts those expenses were booked to.

**RESPONSE:** There are no Ni Florida employees. Ni Florida does not direct charge any expenses to any other affiliate/subsidiary. Please see the responses to Question 5 and Question 11 of Staff's Sixth Data Request for a description of how

corporate overhead expenses are allocated to the utilities.

10. Please provide a list, by system, of sundry expenses either allocated or directly charged to each system and the activities associated with each sundry expense for 2007, 2009, 2009, test year twelve months ended December 31, 2009, and for each month of 2010 thereafter. If the sundry expenses are allocated, please provide the allocation factor for each system including both the numerator and denominator for each year requested.

**RESPONSE:** Please see the responses to Question 5 and Question 11 of Staff's Sixth Data Request for a description of how corporate overhead expenses are allocated to the utilities.

11. Please provide the Excel spreadsheet used to allocate the direct and indirect costs for the accounting units with Ni Florida for 2007, 2008, 2009, test year twelve months ended December 31, 2009, and for each month of 2010 thereafter.

**RESPONSE:** Attached are the MS Excel spreadsheets used to allocate the corporate expenses incurred by Ni America Capital Management, LLC, and Ni America Operating, LLC, to the Ni Florida, LLC utilities (Hudson and Tamiami Village) for 2008, 2009, the test year ending December 31, 2009, and for each month of 2010 thereafter. No corporate overhead expenses were allocated to any utility in 2007. Also, please see the responses to Question 5 of the Staff's Sixth Data Request for a description of how corporate overhead expenses are allocated to the utilities.

12. Please provide all documents in your possession, custody or control that demonstrate whether charges from any unregulated affiliates are provided to Ni Florida at the lower of cost or market.

**RESPONSE:** All charges allocated from Ni America Capital Management, LLC and Ni America Operating, LLC to any affiliate/subsidiary, including Ni Florida-Tamiami, is done so at actual cost.

In order to document that the Utility's allocated costs are reasonable and market-based, Ni America prepared a study to analyze Florida water and wastewater companies to determine how the O&M expenses and Earnings before Interest, Taxes, Depreciation and Amortization (EBITDA) compared to what its Ni Florida systems would experience

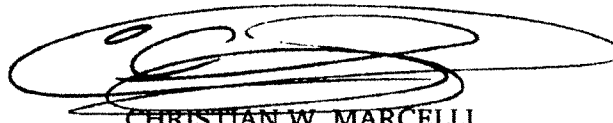
Ann Cole, Commission Clerk  
Office of Commission Clerk  
Florida Public Service Commission  
November 19, 2010  
Page 7

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after rate increases. Attached are the study and an analysis of the results. Thus, total expenses for the Ni Florida systems, including the overhead allocation, compare favorably to the companies analyzed in this study and could be considered to represent the market.

Should you or members of the Staff have any questions regarding this filing, please do not hesitate to give me a call.

Very truly yours,

A handwritten signature in black ink, appearing to read 'C. Marcelli', is written over a large, horizontal, oval-shaped line.

CHRISTIAN W. MARCELLI  
For the Firm

CWM/der

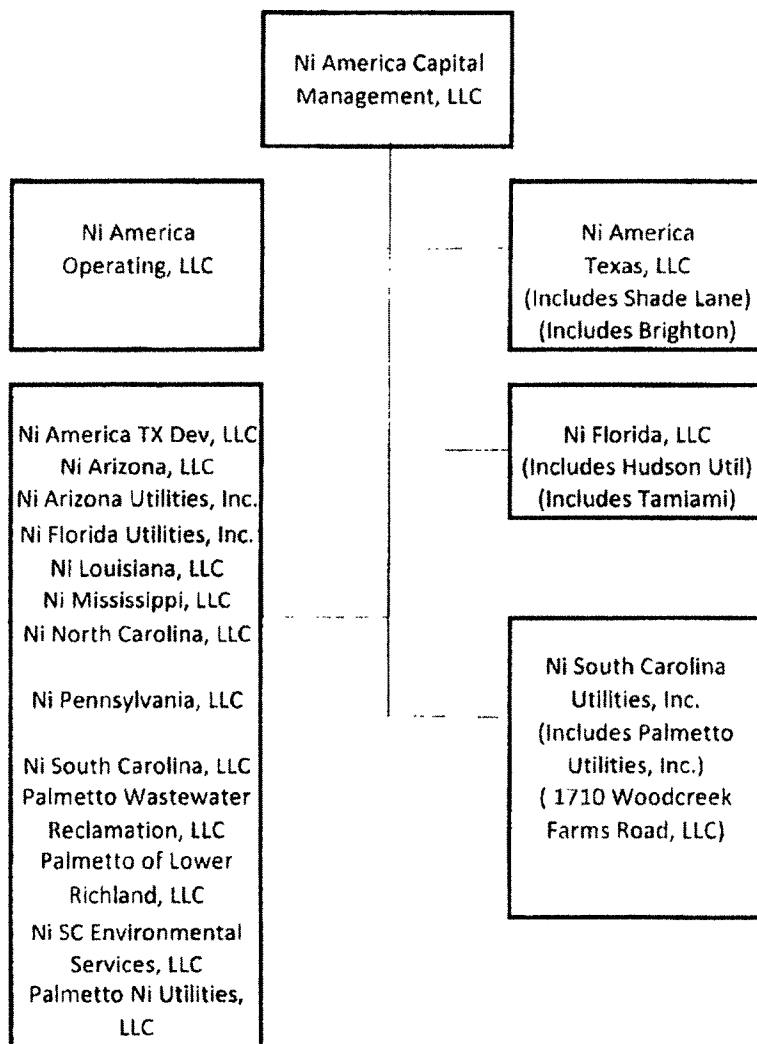
cc: Ed Wallace, President (w/enclosures) (via e-mail)  
Mr. Benny Wilkinson (w/enclosures) (via e-mail)  
Mr. Donald Clayton (w/enclosures) (via e-mail)  
Mr. Bart Fletcher (w/enclosures) (via e-mail)  
Mr. Mark Daday (w/enclosures) (via e-mail)

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NO. 1

Ni America Capital Management, LLC and Subsidiaries  
Organization Chart by Entity  
As of November 15, 2010

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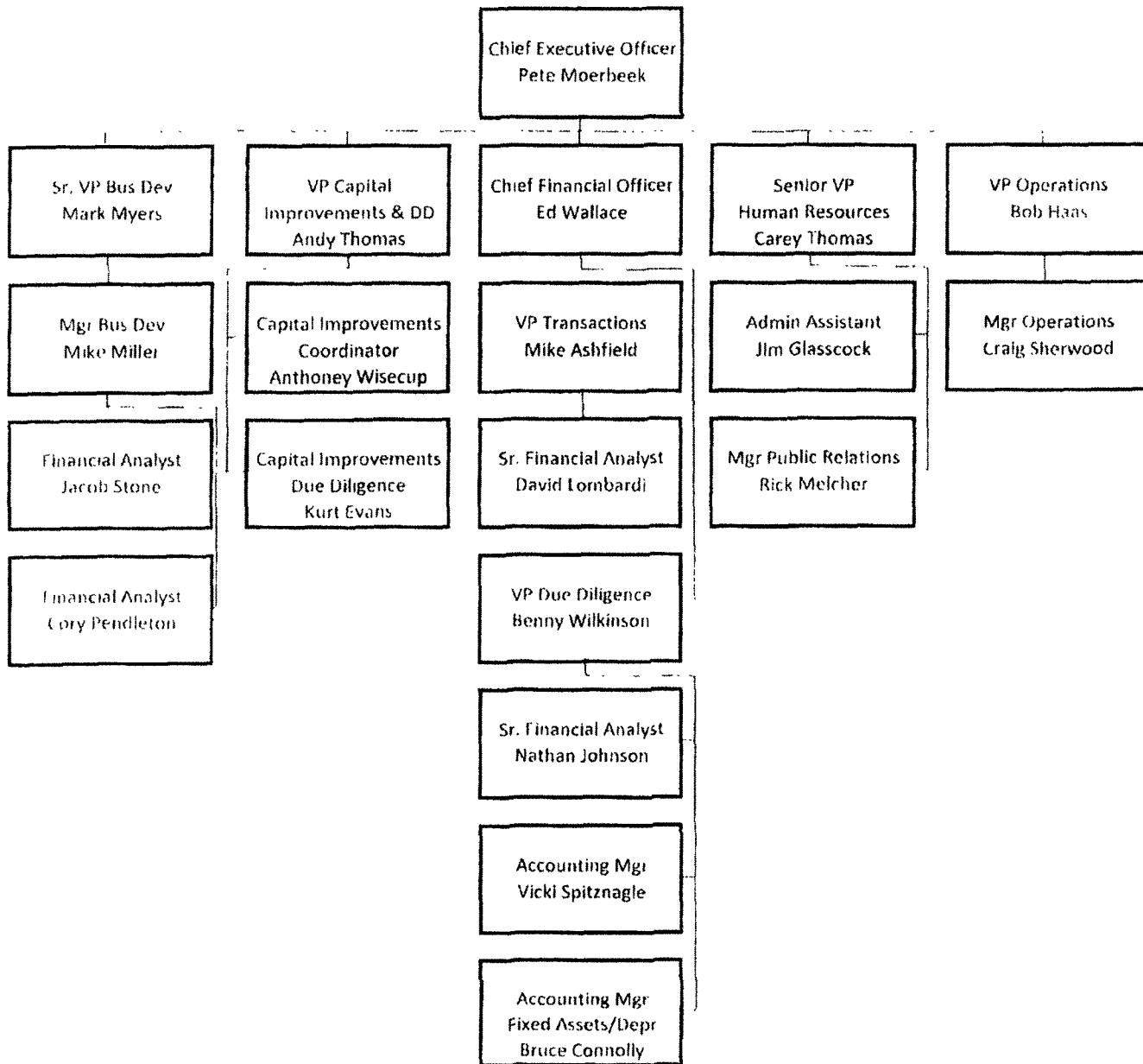




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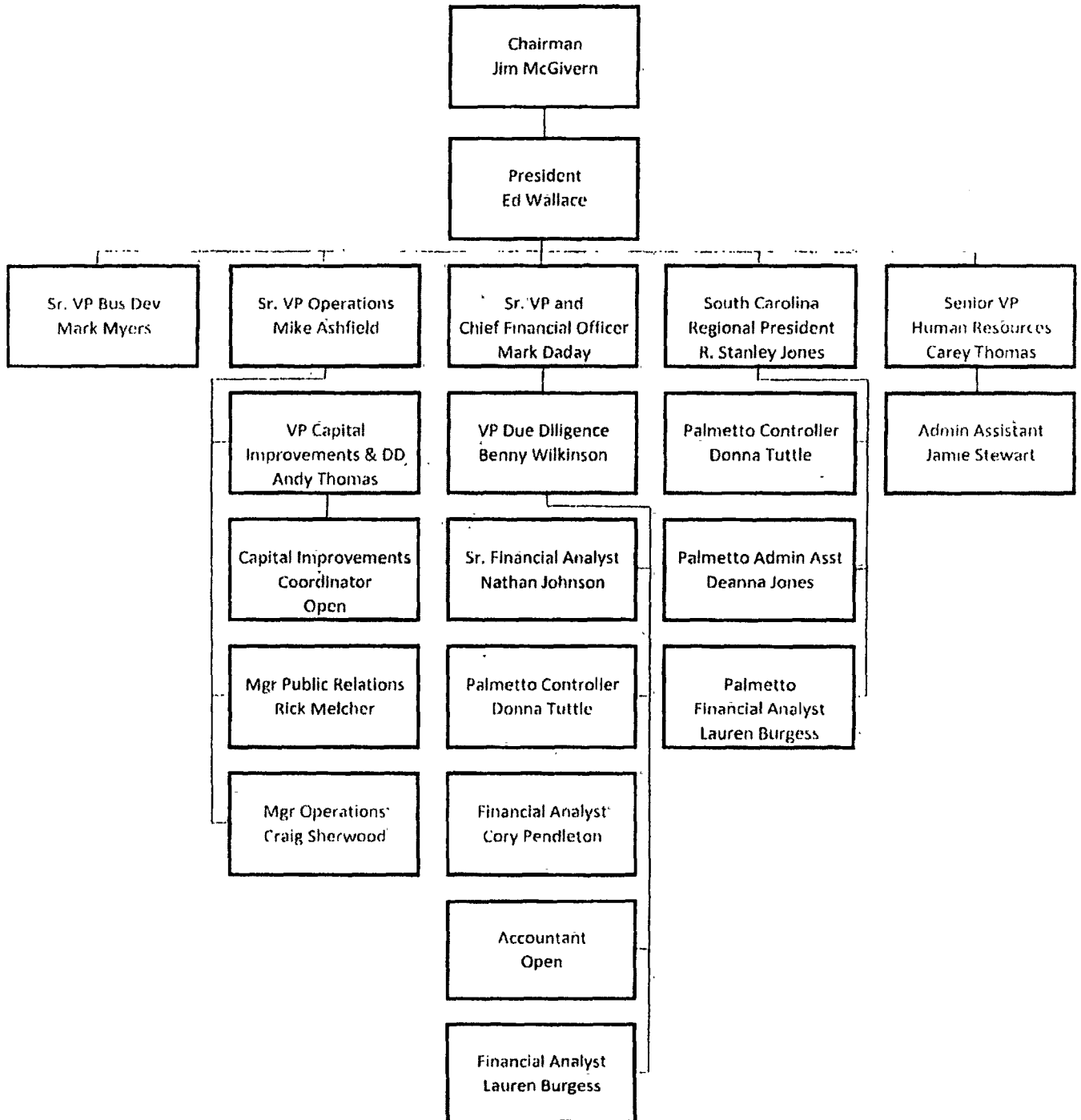
Ni America Operating, LLC  
Organization Chart by Personnel (For 2008 and 2009)

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Ni America Operating, LLC  
Organization Chart by Personnel (For 2010)

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[illegible]

NI America Operating, LLC  
Salary for Overhead Calculation  
For 2009

Employee	JAN-09	FEB-09	MAR-09	APR-09	MAY-09	JUN-09	JUL-09	AUG-09	SEP-09	OCT-09	NOV-09	DEC-09	Total
██████████	11,104.16	-	-	-	-	-	-	-	-	-	-	-	11,104.16
██████████	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	100,000.08
██████████	15,833.32	-	-	-	-	-	-	-	-	-	-	-	15,833.32
██████████	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	100,000.08
██████████	3,750.00	3,750.00	3,750.00	3,750.00	3,750.00	3,958.33	4,166.66	4,166.66	4,166.66	4,166.66	4,166.66	4,166.66	47,708.29
██████████	6,833.34	6,833.34	6,833.34	6,833.34	6,833.34	786.00	821.00	870.00	870.00	870.00	870.00	870.00	40,130.70
██████████	8,333.34	8,333.34	8,333.34	8,333.34	384.56	-	-	-	-	-	-	-	33,717.92
██████████	15,375.00	15,375.00	15,375.00	15,375.00	15,375.00	15,375.00	15,375.00	15,375.00	15,375.00	15,375.00	15,375.00	15,375.00	184,500.00
██████████	6,666.68	786.00	786.00	786.00	2,008.20	786.00	821.00	1,992.50	870.00	870.00	1,815.00	4,495.00	22,689.38
██████████	7,250.00	-	-	-	-	-	-	-	-	-	-	-	7,250.00
██████████	7,687.52	-	-	-	-	-	-	-	-	-	-	-	7,687.52
██████████	12,812.50	12,812.50	12,812.50	12,812.50	12,812.50	12,812.50	12,812.50	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	131,354.20
██████████	11,104.16	11,104.16	11,104.16	11,104.16	11,104.16	11,104.16	11,104.16	11,104.16	11,104.16	11,104.16	11,104.16	11,104.16	133,249.92
██████████	15,666.68	786.00	2,409.00	8,688.00	-	-	-	-	-	-	-	-	28,549.68
██████████	6,406.26	6,406.26	6,406.26	6,406.26	6,406.26	6,406.26	6,406.26	6,406.26	6,406.26	6,406.26	6,406.26	6,406.26	76,875.12
██████████	18,791.66	18,791.66	18,791.66	18,791.66	18,791.66	10,229.16	1,666.66	1,666.66	1,666.66	1,666.66	1,666.66	1,666.66	114,187.42
██████████	7,687.50	-	-	-	-	-	-	-	-	-	-	-	7,687.50
██████████	11,666.68	-	-	2,916.67	5,833.34	-	-	-	-	-	-	-	20,416.69
██████████	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	100,000.08
TOTAL	192,984.82	109,978.28	111,601.28	120,796.95	108,299.04	86,457.43	78,187.26	74,914.60	73,792.10	73,792.10	74,737.10	77,417.10	1,382,942.06

NI America Operating, LLC  
Salaries  
For Year-to-Date September 30, 2010

Employee	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
[REDACTED]	8,583.34	8,583.34	8,583.34	8,583.34	8,583.34	8,583.34	8,583.34	8,583.34	8,583.34	77,250.06
[REDACTED]	-	-	-	-	-	3,349.27	4,583.34	4,583.34	4,583.34	17,099.29
[REDACTED]	8,583.34	8,583.34	8,583.34	8,583.34	8,583.34	8,583.34	8,583.34	8,583.34	8,583.34	17,250.06
[REDACTED]	4,291.66	4,291.66	4,291.66	4,291.66	4,291.66	5,000.00	5,000.00	5,000.00	5,000.00	41,458.30
[REDACTED]	870.00	870.00	870.00	870.00	870.00	870.00	870.00	870.00	870.00	7,830.00
[REDACTED]	-	-	5,416.66	5,416.66	5,416.66	5,416.66	5,416.66	5,416.66	7,302.41	39,802.37
[REDACTED]	15,836.26	15,836.26	15,836.26	15,836.26	15,836.26	15,836.26	15,836.26	15,836.26	15,836.26	142,526.34
[REDACTED]	870.00	3,753.34	3,333.34	3,333.34	3,333.34	3,333.34	3,333.34	3,333.34	3,333.34	27,956.72
[REDACTED]	2,083.34	2,083.34	2,083.34	2,083.34	2,083.34	2,083.34	2,083.34	2,083.34	2,083.34	18,750.06
[REDACTED]	14,166.66	14,583.34	14,583.34	14,583.34	14,583.34	14,583.34	14,583.34	14,583.34	14,583.34	130,833.38
[REDACTED]	-	-	-	-	-	-	-	-	7,980.88	7,980.88
[REDACTED]	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	8,333.34	75,000.06
[REDACTED]	11,437.28	11,437.28	11,437.28	11,437.28	11,437.28	11,437.28	11,437.28	11,437.28	11,437.28	102,995.52
[REDACTED]	6,598.44	6,598.44	6,598.44	6,598.44	6,598.44	6,598.44	6,598.44	6,598.44	6,598.44	59,385.96
[REDACTED]	8,583.34	8,583.34	8,583.34	8,583.34	8,583.34	8,583.34	8,583.34	8,583.34	8,583.34	77,250.06
TOTAL	90,237.00	93,537.02	98,533.68	98,533.68	98,533.68	102,591.29	103,825.36	103,825.36	113,691.99	903,309.06
Billed to Palmetto	-	-	(5,416.66)	(5,416.66)	(5,416.66)	(5,416.66)	(5,416.66)	(5,416.66)	(7,302.41)	(39,802.37)
[REDACTED]	(2,083.34)	(2,083.34)	(2,083.34)	(2,083.34)	(2,083.34)	(2,083.34)	(2,083.34)	(2,083.34)	(2,083.34)	(18,750.06)
[REDACTED]	(14,166.66)	(14,583.34)	(14,583.34)	(14,583.34)	(14,583.34)	(14,583.34)	(14,583.34)	(14,583.34)	(14,583.34)	(130,833.38)
TOTAL FOR ALLOC	73,987.00	76,870.34	76,450.34	76,450.34	76,450.34	80,507.95	81,742.02	81,742.02	89,722.90	713,923.25

NO. 11

**NI America Operating LLC**

**Overhead**

**Expense**

Operation and Maintenance  
Miscellaneous Expenses  
Due Diligence Expenses  
Capitalized Acquisition Costs  
Total Expense

May-08	Jun-08	Jul-08	Aug-08	Sep-08	Oct-08	Nov-08	Dec-08	Total
203,252	232,515	227,934	255,161	208,953	244,169	222,913	350,319	1,945,216
13,880	11,324	12,342	15,460	13,467	12,045	11,905	19,266	109,688
80,139	60,608	70,516	54,985	56,617	40,856	54,199	43,451	461,371
(96,326)	(1,771)	(1,853)	(1,752)	(36,206)	(2,728)	(2,911)	54,376	(89,171)
200,945	302,676	308,939	323,854	242,830	294,342	286,105	467,413	2,427,103

**Add Backs**

Shaded Lane Allocated Overhead  
Hudson Allocated Overhead  
Tamiarni Allocated Overhead  
Total Add Backs

590	604	709	614	542	600	559	645	4,861
1,160	1,167	1,144	1,138	1,232	1,160	1,212	1,110	9,334
-	-	-	-	918	968	1,141	1,080	4,106
1,750	1,771	1,853	1,752	2,691	2,728	2,911	2,834	18,291

**Total Overhead**

Total Salaries  
Salaries Allocated to Overhead  
Allocation Factor  
Overhead to be Allocated

202,695	304,447	310,792	325,606	245,521	297,069	289,016	470,247	2,445,394.58
148,969	159,385	171,990	157,094	157,094	167,094	167,094	167,094	1,295,813
74,935	80,175	86,515	79,022	79,022	84,053	84,053	84,053	651,828
50.30%	50.30%	50.30%	50.30%	50.30%	50.30%	50.30%	50.30%	50.30%
101,961	153,145	156,336	163,788	123,504	149,434	145,383	236,547	1,230,098

**Overhead Allocation Factors**

**Revenue**

Shaded Lane  
Hudson  
Tamiarni  
Total Revenue

9,835	10,078	11,815	10,226	9,025	9,994	9,313	10,099	80,385
116,200	124,545	122,208	118,434	128,206	117,821	123,309	146,473	997,197
-	-	-	-	12,770	16,129	19,011	20,811	68,721
126,035	134,623	134,023	128,660	150,001	143,944	151,633	177,383	1,146,303

**Fixed Assets (Net Depreciation)**

Shaded Lane  
Hudson  
Tamiarni  
Total Fixed Assets (Net Depreciation)

218,741	218,680	217,726	227,272	226,318	204,667	205,000	204,450	204,450
8,482,655	8,510,462	8,516,278	8,496,413	8,486,747	8,397,265	8,476,831	8,339,757	8,339,757
-	-	-	-	781,253	777,266	773,603	789,469	789,469
8,701,396	8,729,141	8,734,004	8,723,685	9,494,318	9,379,198	9,455,434	9,333,676	9,333,676

**Operations & Maintenance**

Shaded Lane  
Hudson  
Tamiarni  
Total Operations & Maintenance

4,713	4,980	5,129	7,106	5,621	5,374	7,614	6,240	46,775
67,741	69,396	75,690	82,789	67,569	81,369	57,598	87,583	589,735
-	-	-	-	8,835	6,844	10,771	13,531	39,982
72,454	74,376	80,819	89,895	82,025	93,587	75,984	107,354	676,493

**Allocated Overhead**

Revenue  
Shaded Lane

7,957	11,464	13,782	13,018	7,431	10,375	8,929	13,468	86,424
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8.14

0.59



Hudson	94,004	141,681	142,555	150,770	105,559	122,314	118,226	195,327	1,070,437
Tamiami	-	-	-	-	10,514	16,744	18,228	27,752	73,238
Total Allocated Overhead - Revenue	101,961	153,145	156,336	163,788	123,504	149,434	145,383	236,547	1,230,098

Fixed Assets (Net Depreciation)

Shaded Lane	2,563	3,837	3,897	4,267	2,944	3,261	3,152	5,181	29,102
Hudson	99,398	149,309	152,439	159,521	110,397	133,789	130,336	211,358	1,146,547
Tamiami	-	-	-	-	10,163	12,384	11,895	20,008	54,449
Total Allocated Overhead - Fixed Assets	101,961	153,145	156,336	163,788	123,504	149,434	145,383	236,547	1,230,098

Operations & Maintenance

Shaded Lane	6,632	10,254	9,922	12,947	8,463	8,580	14,568	13,749	85,115
Hudson	95,329	142,891	146,414	150,842	101,738	129,925	110,206	192,983	1,070,328
Tamiami	-	-	-	-	13,303	10,929	20,609	29,815	74,656
Total Allocated Overhead	101,961	153,145	156,336	163,788	123,504	149,434	145,383	236,547	1,230,098

Average

Shaded Lane	5,717	8,518	9,200	10,077	6,279	7,405	8,883	10,799	66,880
Hudson	96,244	144,627	147,136	153,711	105,898	128,676	119,589	199,889	1,095,771
Tamiami	-	-	-	-	11,327	13,352	16,911	25,858	67,448
Total Average	101,961	153,145	156,336	163,788	123,504	149,434	145,383	236,547	1,230,098

Pre-overhead O&M% Best Practices (Total O&M Expenses of 74% which assumes an Overhead % of)	57.49%	55.25%	60.30%	69.87%	54.68%	65.02%	50.11%	60.52%	59.02%
	74.09%	16.60%	18.84%	13.79%	4.22%	19.41%	9.07%	23.98%	13.57%

Utilities to be acquired in the future	Revenue	Fixed Assets	O&M
Shaded Lane	5,004,190	40,746,201	2,953,231
Hudson	80,385	204,450	46,775
Tamiami	997,197	8,339,757	589,735
	68,721	789,469	39,982
0.19	6,150,492	50,079,876	3,629,724

Allocation based on best practices	1,000,838	1,000,838	1,000,838	Average
Utilities to be acquired in the future	16,077	5,022	15,852	12,317
Shaded Lane	199,439	204,847	199,859	201,382
Hudson	13,744	19,392	13,550	15,562
Tamiami	1,230,098	1,230,098	1,230,098	229,261
	1,230,098	1,230,098	1,230,098	

NI America Operating, LLC and NI America Capital Management, LLC  
Overhead Allocation Based on 2009 Actual Expenses

NI America Operating, LLC  
Operation and Maintenance

601 Salaries-Officers	\$111,297	\$29,018	\$28,958	\$40,601	\$27,224	\$13,245	\$13,040	\$14,463	\$13,255	\$13,255	\$14,465	\$16,965	\$35,776
603 Salaries-Officers & Directors	97,960	89,439	89,439	89,439	89,439	80,222	70,953	65,184	65,126	64,379	63,789	84,170	944,770
604 Employees Pensions and Benefits	24,724	24,724	20,617	18,813	17,801	17,718	15,358	5,290	12,376	11,705	12,944	12,944	185,514
620 Repairs & Maintenance	561	1,217	939	1,046	939	1,149	939	733	1,046	939	1,012	1,076	11,598
632 Contract Services-Accounting/Tax	7,440	9,356	6,773	3,956	1,364	(7,965)	-	-	-	-	294	109,000	130,213
633 Contract Services-Legal	11,636	2,240	813	1,211	313	332	2,240	-	-	-	466	510	23,641
636.1 Contract Services-Computer Svcs	2,240	2,240	2,240	2,240	2,240	2,240	2,240	2,240	2,240	2,240	2,240	2,240	26,880
636.2 Contract Services-Other	4,351	4,723	-	(3,600)	-	-	-	-	-	-	-	-	-
641/642 Rent Expense	8,772	5,440	2,820	2,858	2,820	2,820	2,820	3,320	3,570	2,075	2,820	3,293	43,830
650 Travel Expense	8,508	2,053	4,557	7,596	1,159	264	1,817	3,097	2,345	620	3,171	1,940	37,330
657 General Liability	149	138	96	206	(853)	156	64	64	62	64	62	64	269
658 Workers' Compensation	435	393	435	421	435	421	594	594	575	594	(1,888)	594	3,629
659 Crime	322	322	322	374	250	250	250	250	250	250	250	250	3,339
660 Advertising & Promotion	-	-	-	-	-	-	-	-	-	-	-	-	1,599
661 Bank Fees	527	168	214	323	218	213	233	231	244	258	245	245	3,117
Total Operation and Maintenance	\$278,921	\$171,970	\$156,523	\$165,965	\$143,350	\$111,060	\$108,333	\$97,056	\$102,023	\$100,570	\$100,365	\$234,330	1,771,987

Miscellaneous

675.1 Telephone	\$5,185	\$4,643	\$4,810	\$4,199	\$5,458	\$4,346	\$4,227	\$3,961	\$2,717	\$2,943	\$3,504	\$5,188	\$1,181
675.2 Utilities	1,351	1,016	1,264	1,089	1,467	1,759	1,719	1,775	1,486	1,399	1,071	1,228	16,625
675.3 Meals & Entertainment	1,899	1,012	9,816	766	1,095	723	704	617	909	4,369	1,368	2,944	16,032
675.4 Dues/Subscriptions/Prof Orgs	-	-	-	553	35	707	590	350	440	240	-	417	25,032
675.5 Computer/Internet Expenses	-	-	338	333	333	74	282	74	270	260	-	260	3,515
675.6 Utility Associations	441	507	-	-	-	-	-	-	-	-	-	-	410
675.7 Office Supplies	10	-	351	440	285	594	130	951	205	-	294	747	5,727
675.8 Postage/Freight/Overnight	1,303	489	65	42	324	110	78	66	205	210	339	420	1,733
675.9 Other Expenses	54	65	45	-	184	-	-	83	-	-	-	(33)	556
675.1 Education & Seminars	322	-	-	-	-	-	-	370	31	-	729	1,195	2,324
Total Miscellaneous	\$10,565	\$7,731	\$16,615	\$7,422	\$9,181	\$7,742	\$7,731	\$8,246	\$6,058	\$9,350	\$7,647	\$12,167	110,465

Total O&M

NI America Capital Management, LLC  
Corporate Governance

634 Contractual Svcs-Mgmt Fee	\$4,167	\$4,167	\$4,167	\$4,167	\$4,167	\$4,167	\$4,167	\$4,167	\$4,167	\$37,500	\$12,500	\$12,500	100,000
636 Contractual Svcs-Other	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$21,840	\$7,280	\$7,280	121,800
659 Insurance - Other	1,250	1,250	1,250	1,237	715	715	715	715	715	715	715	715	10,703
675.3 Meals and Entertainment	-	-	-	-	-	-	-	-	-	826	-	-	826
675.8 Misc Expenses	-	-	-	-	-	-	-	-	-	2,750	-	-	2,750
661.2 Bank Fees	137	171	161	264	203	195	163	197	213	211	195	216	2,326
408 Taxes Other Than Income	-	-	-	-	-	-	-	-	-	3,165	-	-	3,165
650 Travel Expense	-	-	1,561	-	-	-	-	-	-	7,280	-	-	9,188
Total Corporate Governance	\$5,553	\$5,588	\$7,139	\$5,667	\$5,084	\$5,076	\$5,044	\$5,079	\$105,094	\$74,266	\$13,410	\$13,779	250,779

Total Allocable O&M

	\$238,040	\$185,289	\$183,277	\$178,574	\$157,618	\$123,878	\$121,108	\$110,281	\$113,176	\$104,187	\$121,421	\$280,275	2,133,231
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ERCA

Shaded Line	204	204	204	205	205	205	205	203	203	202	204	200	2,444
Hudson	2,987	2,974	2,985	2,979	2,979	2,985	2,985	2,987	2,978	2,987	2,986	2,985	35,797
Tamiami	748	748	748	749	749	749	748	749	749	756	756	764	9,018
Brython	-	-	-	-	-	748	748	747	740	738	726	732	5,179

Total

	3,939	3,926	3,937	3,933	3,933	4,687	4,687	4,686	4,670	4,643	4,672	4,685	52,438
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Percentage of Allocable Payroll

	47.089%	47.089%	47.089%	47.089%	47.089%	47.089%	47.089%	47.089%	47.089%	47.089%	47.089%	47.089%	
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Allocated Overhead

Shaded Line	\$ 7,195	\$ 4,534	\$ 4,448	\$ 4,383	\$ 3,868	\$ 2,551	\$ 2,494	\$ 2,252	\$ 4,364	\$ 3,741	\$ 2,497	\$ 5,232	\$ 47,539
Hudson	105,353	86,094	85,077	83,692	56,217	37,150	36,312	33,132	64,013	55,321	36,543	78,088	175,648
Tamiami	26,382	16,623	16,308	16,014	14,134	9,322	9,113	8,308	14,002	13,668	8,885	19,149	64,305
Brython	-	-	-	-	-	9,309	9,101	8,286	15,906	13,668	8,885	19,149	64,305
Total	\$ 138,931	\$ 87,251	\$ 85,832	\$ 84,089	\$ 74,219	\$ 54,933	\$ 57,028	\$ 51,977	\$ 100,382	\$ 86,732	\$ 71,716	\$ 122,561	\$ 1,004,512

Tamiami Allocated Overhead by Account  
NI America Operating, LLC

	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09	Jul-09	Aug-09	Sep-09	Oct-09	Nov-09	Dec-09	Total
<b>Operation and Maintenance</b>													
601 Salaries-Employees	\$9,952	\$2,603	\$2,591	\$3,641	\$2,441	\$997	\$981	\$1,089	\$1,001	\$1,008	\$1,102	\$1,310	28,716
603 Salaries-Officers & Directors	8,760	8,024	8,029	8,021	8,021	6,037	5,319	4,906	4,919	4,894	4,861	6,492	78,300
604 Employees Pensions and Benefits	2,211	2,218	1,844	1,687	1,596	1,333	1,156	436	935	890	996	999	16,292
620 Repairs & Maintenance	50	109	84	94	84	86	71	55	79	71	77	83	944
632 Contract Services-Accounting/Tax	601	839	606	355	122	(600)	-	-	-	-	-	-	8,414
633 Contract Services-Legal	1,041	210	73	109	28	25	-	82	71	304	35	39	10,424
634 Contract Services-Regulatory	-	-	-	-	-	-	-	-	-	-	-	-	2,016
636.1 Contract Services-Computer Sys	200	201	200	201	201	169	169	169	169	170	171	173	2,192
636.2 Contract Services-Other	389	424	-	(322)	-	-	-	-	-	-	-	-	490
641/642 Rent Expense	784	524	252	256	253	212	212	250	270	158	215	254	3,641
650 Travel Expense	761	184	408	681	104	20	137	233	177	62	242	150	3,159
657 General Liability	13	12	9	18	(77)	12	5	5	5	5	5	5	117
658 Workman's Compensation	39	35	39	38	39	32	47	45	43	38	45	46	303
659 Crime	29	29	29	33	22	19	19	19	19	19	19	19	275
660 Advertising & Promotion	-	-	-	-	-	-	-	-	-	-	-	-	123
661 Bank Fees	47	15	19	29	20	16	18	17	18	20	19	19	256
667 Regulatory Commission Expenses	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Total Operation and Maintenance</b>	\$21,941	\$15,429	\$14,182	\$14,840	\$12,855	\$8,357	\$4,152	\$7,305	\$7,705	\$7,645	\$7,647	\$10,088	141,748
<b>Miscellaneous</b>													
675.1 Telephone	\$464	\$417	\$430	\$377	\$469	\$327	\$318	\$296	\$205	\$224	\$267	\$400	4,216
675.2 Utilities	121	91	112	98	132	133	129	134	112	106	82	95	1,344
675.3 Meals & Entertainment	170	91	878	69	96	18	53	46	69	325	104	181	2,101
675.4 Dues/Subscriptions/Prof Orgs	-	-	-	50	3	53	44	26	33	18	-	32	260
675.5 Computer/Internet Expenses	39	45	30	30	30	6	21	20	20	20	26	20	294
675.6 Utility Associations	1	-	-	-	-	-	-	-	-	-	-	-	32
675.7 Office Supplies	116	44	31	39	26	38	10	72	15	2	22	58	474
675.8 Postage/Freight/Overnight	5	6	4	4	29	8	6	5	-	16	26	32	141
675.9 Other Expenses	29	-	-	-	17	-	-	6	-	16	26	32	141
<b>Total Miscellaneous</b>	\$945	\$694	\$1,487	\$666	\$823	\$583	\$582	\$621	\$458	\$711	\$583	\$939	9,089
<b>Total OAM</b>	\$22,886	\$16,122	\$15,669	\$15,506	\$13,678	\$8,940	\$4,734	\$7,926	\$8,163	\$8,356	\$8,230	\$11,027	150,837
<b>NI America Capital Management, LLC</b>													
<b>Corporate Governance</b>													
634 Contractual Spec-High Fee	\$373	\$374	\$373	\$374	\$374	\$314	\$314	\$314	\$315	\$2,051	\$952	\$965	7,890
636 Contractual Spec-Other	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$7,552	\$1,680	\$0	\$0	9,213
659 Insurance - Other	112	112	112	111	64	54	54	54	54	54	54	55	890
675.3 Meals and Entertainment	-	-	-	-	-	-	-	-	-	-	-	-	63
675.8 Misc Expenses	12	15	14	24	18	15	12	15	16	16	15	17	208
608 Taxes Other Than Income	-	-	-	-	-	-	-	-	-	-	-	-	189
634.1 Mealmark Sponsor Fee	-	-	-	-	-	-	-	-	-	-	-	-	241
650 Travel Expense	-	-	-	-	-	-	-	-	-	-	-	-	720
<b>Total Corporate Governance</b>	\$497	\$501	\$639	\$508	\$456	\$382	\$380	\$382	\$7,937	\$5,646	\$1,022	\$1,064	19,413
<b>Total Allocable OAM</b>	\$23,383	\$16,623	\$16,308	\$16,014	\$14,134	\$9,322	\$5,113	\$8,308	\$16,100	\$14,002	\$9,252	\$12,091	170,250

**Ni America Capital Management, LLC and Subsidiaries**  
**Overhead Allocation**  
**For Year-to-Date September 30, 2010**

ERCs by Company	Jan 10	Feb 10	Mar 10	Apr 10	May 10	Jun 10	Jul 10	Aug 10	Sep 10	Total
Shaded Lane	200	198	200	197	196	196	197	195	196	1,775
Hudson	2,992	2,992	2,994	2,995	2,995	2,991	2,984	2,989	2,983	26,915
Tamiami	769	743	742	742	744	744	741	776	775	6,776
Brighton	724	720	722	729	729	725	742	736	736	6,563
Palmetto	15,399	15,463	15,517	15,566	15,662	15,685	15,735	15,736	15,755	140,518
<b>Total</b>	<b>20,084</b>	<b>20,116</b>	<b>20,175</b>	<b>20,229</b>	<b>20,326</b>	<b>20,341</b>	<b>20,399</b>	<b>20,432</b>	<b>20,445</b>	<b>182,547</b>

Ni America Operating, LLC										
O&M	\$ 159,363	\$ 117,453	\$ 250,575	\$ 46,480	\$ 185,523	\$ 96,530	\$ 181,468	\$ 180,401	\$ 188,681	\$ 1,406,474
Miscellaneous	8,182	8,073	18,362	11,362	12,528	6,385	6,427	11,834	11,508	94,660
Due Diligence Expenses	(10,271)	(10,195)	(10,194)	(10,194)	(14,015)	(12,300)	(10,194)	(14,491)	(10,708)	(102,561)
Ni America Cap Mgmt, LLC	15,148	14,941	97,382	42,794	115,115	41,350	46,804	53,308	55,052	481,894
<b>Total Overhead Expenses</b>	<b>\$ 172,422</b>	<b>\$ 130,272</b>	<b>\$ 356,126</b>	<b>\$ 90,442</b>	<b>\$ 299,151</b>	<b>\$ 131,965</b>	<b>\$ 224,505</b>	<b>\$ 231,053</b>	<b>\$ 244,532</b>	<b>\$ 1,880,468</b>

Shaded Lane	\$ 1,717	\$ 1,282	\$ 3,530	\$ 881	\$ 2,885	\$ 1,272	\$ 2,168	\$ 2,205	\$ 2,344	\$ 18,284
Hudson	25,686	19,376	52,850	13,390	44,079	19,404	32,841	33,801	35,679	277,106
Tamiami	6,602	4,812	13,098	3,317	10,950	4,827	8,155	8,775	9,264	69,800
Brighton	6,216	4,663	12,745	3,259	10,729	4,704	8,166	8,323	8,803	67,608
Palmetto	132,201	100,139	273,904	69,594	230,508	101,758	173,174	177,949	188,442	1,447,669
<b>Total</b>	<b>\$ 172,422</b>	<b>\$ 130,272</b>	<b>\$ 356,127</b>	<b>\$ 90,441</b>	<b>\$ 299,151</b>	<b>\$ 131,965</b>	<b>\$ 224,504</b>	<b>\$ 231,053</b>	<b>\$ 244,532</b>	<b>\$ 1,880,467</b>

NO. 12

## O&amp;M Analysis - Florida Utilities

Ni America

System	System Type	Utility Class	Revenue	O&M Expense	O&M %	EBITDA	EBITDA %
Crooked Lake Sewage	Wastewater	C	\$128,833	\$74,272	57.6%	\$54,561	42.4%
East Marion	Wtr & Wwtr	C	\$65,553	\$38,067	58.1%	\$27,486	41.9%
Lake Yale Treatment Associates, Inc	Wtr & Wwtr	C	\$108,184	\$63,473	58.7%	\$44,711	41.3%
Pine Harbour Utilities	Water	C	\$18,757	\$13,463	71.8%	\$5,294	28.2%
BFF Corp (Charlie deMenzes)	Wastewater	C	\$65,301	\$47,161	72.2%	\$18,140	27.8%
LP Utilities	Wtr & Wwtr	C	\$116,085	\$87,572	75.4%	\$28,513	24.6%
Highlands Ridge Utilities	Wtr & Wwtr	C	\$382,805	\$296,997	77.6%	\$85,808	22.4%
Fairmount Utilities 2nd	Wastewater	C	\$113,961	\$94,286	82.7%	\$19,675	17.3%
LWV Utilities	Water	C	\$91,511	\$86,686	94.7%	\$4,825	5.3%
Heather Hills Estates	Wtr & Wwtr	C	\$114,103	\$114,767	100.6%	(\$664)	-0.6%
W. P. Utilities, Inc	Wtr & Wwtr	C	\$88,757	\$94,588	106.6%	(\$5,831)	-6.6%
Dannon Utilities	Wtr & Wwtr	C	\$85,926	\$92,283	107.4%	(\$6,357)	-7.4%
Allen (Tropical Park)	Water	C	\$15,113	\$16,322	108.0%	(\$1,208)	-8.0%
Silver Fox Utility Co. (dba Timberwood Utilities)	Wtr & Wwtr	C	\$76,560	\$82,844	108.2%	(\$6,284)	-8.2%
Crestridge Utilities	Water	C	\$94,073	\$103,044	109.5%	(\$8,971)	-9.5%
Holiday Gardens	Wtr & Wwtr	C	\$74,713	\$86,586	115.9%	(\$11,873)	-15.9%
C & H Utilities	Wtr & Wwtr	C	\$20,670	\$25,025	121.1%	(\$4,355)	-21.1%
Sebring Ridge	Wastewater	C	\$161,880	\$197,584	122.1%	(\$35,704)	-22.1%
Rainree Utilities, Inc	Water	C	\$44,837	\$58,451	130.4%	(\$13,614)	-30.4%
Windstream Utilities Co	Water	A or B	\$561,339	\$408,127	72.7%	\$153,212	27.3%
Rainbow Springs Utilities	Wtr & Wwtr	A or B	\$1,057,416	\$769,221	72.7%	\$288,195	27.3%
Lindrick Service Corp	Wtr & Wwtr	A or B	\$2,647,433	\$2,018,301	76.2%	\$629,132	23.8%
Harbor Hills Utilities	Water	A or B	\$385,619	\$301,928	78.3%	\$83,691	21.7%
Marion Utility	Wtr & Wwtr	A or B	\$1,659,209	\$1,300,645	78.4%	\$358,564	21.6%
Mad Hatter	Wtr & Wwtr	A or B	\$2,108,798	\$1,809,604	85.8%	\$299,194	14.2%
Sunshine Utilities of Cen. FL	Water	A or B	\$1,036,737	\$901,985	87.0%	\$134,752	13.0%
Country Club of Sebring	Wtr & Wwtr	A or B	\$228,507	\$200,484	87.7%	\$28,023	12.3%
Highlands Utilities Corp	Wastewater	A or B	\$658,197	\$619,204	94.1%	\$38,993	5.9%
Venture Associates	Water	A or B	\$541,352	\$573,068	105.9%	(\$31,716)	-5.9%
Total			\$12,752,230	\$10,576,038	82.9%	\$2,176,192	17.1%
Average					90.3%		9.7%
Averages of A & B			\$10,884,607	\$8,902,567	81.79%	\$1,982,040	18.21%
Averages of C Utilities			\$1,867,622	\$1,673,471	89.60%	\$194,152	10.40%

## Notes:

[1] Data taken from 2007 Annual Reports to the Florida PSC.

[2] Class A or B Utilities - Revenue from the Total Operating Revenue line in the Annual Report to the PSC; O&amp;M expense from the Operating Expenses line

[3] Class C Utilities - Revenue from the Total Gross Revenue line in the Annual Report to the PSC; O&amp;M expense from the Operating Expenses line.

## O&M Analysis

The test year for the Ni Florida – Hudson rate case in Docket No. 090182-SU was calendar year 2008. Until October of that year Ni America Operating, LLC was engaged in a massive merger and acquisition (M&A) effort. We employed approximately 20 people and were actively attempting to acquire other water and wastewater systems throughout Florida and Texas. A portion of those individuals were involved in M&A but others were involved in accounting, operations, capital and system maintenance as well.

Because of the world wide banking crisis (the effects of which are still being felt) in October of 2008 all existing M&A activity was completed and all new activity was ceased. When preparing our rate filing in Docket No. 090182-SU two things became apparent:

1. Ni America had too many employees to allocate its overhead to its utilities in an environment in which it no longer believed that it was going to grow its revenue at double digit rates.
2. A basis should be determined to allocate overhead for use in the Hudson rate case in Docket No. 090182-SU that:
  - a. Excluded any overhead relating to M&A activity
  - b. Included normal practices within the wastewater company peer group

In order to perform that allocation the company prepared a detailed analysis of duties for every individual in the company, allocated their time, and applied the composite allocation rate to all expenses (other than those relating specifically to M&A due diligence). It then allocated the reduced total overhead balance to all companies based on Equivalent Residential Customers (ERC's).

To test the appropriateness of our overhead allocation, the company performed a detailed review of all the companies for which we had obtained financial information and grouped them within utility classes. For those companies with revenue in excess of \$200,000 a reasonable average of total overhead was estimated to be in the range of 20 to 25 percent of revenue. Based on that

analysis and the knowledge that we had too many employees in comparison to our existing revenue, management elected to cap all overhead allocations at 20 percent of total utility revenue.

In Florida, Ni America did not acquire any companies during 2009 (the test year). During the year, M&A activity was limited to those companies that were currently too far along in documentation to disengage; resulting in one company being acquired in Texas. In an effort to right size Ni America Operating, LLC to align overhead to the revenue in its existing utilities, 8 employees were terminated, laid-off, or asked to take long-term disability; including the CEO Pete Moerbeek.

In preparing the NI Florida – Tamiami rate case in Docket No. 100149-WU, we followed the same methodology that was used in the Hudson rate case in Docket No. 090182-SU. When we reviewed the financial information in our system for those companies with revenue below \$200,000, we noted (presumably because of economies of scale) that the reasonable average of total overhead was estimated to be much higher, specifically somewhere in excess of 25 percent. Based on that review and the fact that Ni America Operating, LLC had made a concerted effort to “right size” its operations, management determined that the 2009 overhead allocation should not have a cap but rather that all companies owned by Ni America should receive a full allocation of the reduced total overhead balance (other than those relating specifically to M&A due diligence) based on ERC’s.

In January 2010, we acquired a wastewater utility in South Carolina with approximately 11,000 customers and 15,000 ERC’s. That acquisition combined with our other utilities and reduced staff has forced us to further reduce our acquisition activities and focus our efforts primarily on managing our business. No additional utilities have been or will be acquired in 2010 and our business development / due diligence efforts have been reduced to a single employee. Consistent with previous years, allocations in 2010 have been made on an ERC basis including Palmetto Utilities (our South Carolina utility) and total expenses allocated has been reduced by the payroll and expenses associated with our one



business development employee. With the acquisition of our South Carolina utility we believe that we are at or approaching critical mass as it relates to our current overhead and no further caps or reductions in overhead allocation are deemed necessary.