

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In re: Petition for a rate : DOCKET NO. 900816-WS  
increase in Martin County by :  
Sailfish Point Utility :  
Corporation : HEARING  
providers to LECs :  
-----  
SECOND DAY - MORNING SESSION

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Pages 408 through 553

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Sailfish Point Clubhouse  
2201 Southeast Sailfish Boulevard  
Hutchinson, Florida

Thursday, June 27, 1991

Met pursuant to adjournment at 8:30 a.m.

BEFORE: COMMISSIONER BETTY BASLEY  
COMMISSIONER J. TERRY DEASON

APPEARANCES:

(As heretofore noted.)

REPORTED BY:

JOY KELLY, CSR, RPR  
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Official Commission Reporters

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06936-91

FLORIDA PUBLIC SERVICE COMMISSION

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**P R O C E E D I N G S**

(Hearing reconvened at 8:30 a.m.)

**COMMISSIONER EASLEY:** The magic hour having arrived, I believe we had reached the point where, Ms. Bedell, you may inquire.

**MS. BEDELL:** Thank you, Madam Chairman, we have a composite exhibit that we need to have marked.

The exhibit is the Utility's responses to several of Staff's First Set of Interrogatories.

**COMMISSIONER EASLEY:** Wait one moment.

(Pause) Do the parties all have that?

**MS. BEDELL:** I believe the parties received copies of these yesterday.

**COMMISSIONER EASLEY:** All right. This will be Exhibit No. 6. "Responses to Staff's First Set of Interrogatories." Nos. 16, 19, 21, et cetera.

(Exhibit No. 6 marked for identification.)

**FRANK SEIDMAN**

having been previously called and duly sworn as a witness on behalf of Sailfish Point Utility Corporation, resumed the stand and testified as follows:

**CROSS EXAMINATION**

**BY MS. BEDELL:**

**Q** Mr. Seidman, do you have a copy of that?

1 unaccounted for, in a sense, not sold. However, since  
2 doing the schedule, and in response to Staff  
3 interrogatories, we reevaluated what these nonsold  
4 members would be.

5 Q And what was your conclusion?

6 A As a result we would see that the  
7 unaccounted-for water, after accounting for other uses,  
8 is going to be in the 10% or less level.

9 Q Okay. And isn't it true that the  
10 unaccounted-for water in 1990 was actually 15%?

11 A I believe that's correct. (Pause) Excuse  
12 me, in what year?

13 Q '90, 1990.

14 A For the calendar year for this -- ending  
15 June?

16 Q Calendar year.

17 A I don't have the calculation for calendar  
18 year.

19 Q Okay. Thank you. Would you agree that the  
20 treatment cost of unauthorized construction water use  
21 should not be borne by the Utility customers?

22 A I think that's fair. Construction water is  
23 supposed to be metered. I think that the Utility has a  
24 responsibility to try to monitor that. I guess it's a  
25 question of whether you can monitor all of it, and



1 there is going to be some type of use that's going to  
2 get away.

3 Q Can you tell us what measures the Utility has  
4 taken to reduce the unauthorized construction water  
5 use?

6 A Well, the unauthorized construction water use  
7 that we noted took place in only two occasions during  
8 the test year and they haven't recurred. So, to my  
9 knowledge, I don't know whether they are monitoring  
10 more closely or those were just incidents.

11 Q In the adjustments that you made to the 208  
12 unaccounted-for water, did you take into account the  
13 unauthorized construction water use?

14 A Yes. For the year ending -- for the  
15 historical period, yes, I took that into account.

16 Q Would you agree that during the break-in  
17 phase of the new calcite contactor in 1989, that  
18 625,000 gallons per month was used in line flushing?

19 (Pause)

20 A Let me look at my schedule.

21 Q I think you may want to look at Interrogatory  
22 No. 35.

23 A 35. Thank you. (Pause)

24 The attachment for it not in my copy. I have  
25 it here in my notes. That's okay.

1           WITNESS SEIDMAN: There is no estimate. It  
2 just falls into it.

3           COMMISSIONER EASLEY: Is it a number?

4           WITNESS SEIDMAN: Well, all I'm saying is  
5 that in the difference between the water pumped and the  
6 water sold, it falls into that amount.

7           COMMISSIONER EASLEY: It's a fallout number?

8           WITNESS SEIDMAN: Yes.

9           COMMISSIONER EASLEY: Thank you.

10          Q    (By Ms. Bedell) In Interrogatory 36, did you  
11 estimate that amount?

12          A    No, I did not.

13          Q    In the attachment, Page 18 of Exhibit 6 --

14          A    Let me modify that. We did make an estimate  
15 for the plant use as it was concerned with the calcite  
16 contactor itself, but not any other part of plant use.

17          Q    Okay. Thank you. And if you could refer to  
18 Schedule F-8, Page 1.

19          A    Yes, I have it.

20          Q    Okay. Isn't it correct that to obtain the  
21 margin reserve in gallons per day for water treatment,  
22 that you applied the margin reserve percentage to peak  
23 day flows rather than using yearly growth?

24          A    Rather than using what?

25          Q    Yearly growth. (Pause)

1           A     Well, I think it comes out the same. We're  
2 determining what the peak day requirements are  
3 associated with growth.

4           Q     This gives you a percentage answer?

5           A     Yes. We took the growth in the peak day --  
6 excuse me -- the growth in average sales from year to  
7 year and applied that same percentage to the peak day.

8           Q     And why do you use this method?

9           A     I'm assuming that the relationship of peak  
10 day to total use is going to remain the same and,  
11 therefore, as the customer growth increases, the peak  
12 day will increase at the same rate.

13          Q     Okay. Are you aware that margin reserve is  
14 normally calculated using yearly flows and not peak day  
15 averages -- peak day flows, excuse me?

16          A     It's normally --

17          Q     Calculated using yearly flows and not peak  
18 day?

19          A     I wasn't aware that there was any norm.

20          Q     Okay. If you had used a five-year average,  
21 such as that found in Schedule F-9, on Page 1, isn't it  
22 true that your percentage growth and percentage margin  
23 reserve would be larger than those presented in MFR  
24 Schedule F-8, Page 1?

25          A     Based on the information of F-9, yes. The



1 F-9 information is incomplete anyway. The average  
2 growth there that says the five years is really only  
3 two years because the information was not sufficiently  
4 available to produce the percent increase in ERCs from  
5 year to year in terms with this schedule for the years  
6 '85 through '87.

7 Q And why was that information not available?

8 A In order to make this type of determination,  
9 you have to have the billing information so that you  
10 can break out the gallons sold just to single-family  
11 residents, and I didn't have that readily available  
12 from the records.

13 Q Would you consider that to be a measure of  
14 poor record keeping?

15 A I don't know if it's a measure of poor record  
16 keeping. It may be a measure of poor record storage.

17 We were able to go back and, as indicated in  
18 the response to interrogatories, we did find some of  
19 the information but not all of it.

20 Q Okay. In your determination of margin  
21 reserve for wastewater treatment, you calculated that  
22 in the same fashion as we have just discussed on the  
23 water treatment?

24 A Yes, basically so, yes.

25 Q Okay.

1           A     Except it isn't on a peak-day basis, it's an  
2 average flow.

3           Q     Peak month instead of -- okay.

4                     Referring still to MFR Schedule 8, Page 1,  
5 would you agree that projected growth based on recent  
6 customer lot sales is not a good projector of growth  
7 since recent sales could reflect a fluctuation in  
8 growth and, therefore, would not be representative of  
9 future development?

10          A     No, I wouldn't necessarily agree with that.  
11 I think it depends on the stage the development is in  
12 whether or not the average of several years is more  
13 indicative of future growth than recent happenings.

14                     MS. BEDELL: Thank you.

15                     COMMISSIONER EASLEY: Are you leaving that,  
16 Ms. Bedell?

17                     MS. BEDELL: Yes, ma'am.

18                     COMMISSIONER EASLEY: Could I ask one  
19 question?

20                     In some of the exhibits yesterday offered by  
21 Mr. King, I noticed that there are 765 units,  
22 residential units, referred to in this development.  
23 Does that sound about right? That was in -- it was in  
24 the zoning document, I believe.

25                     WITNESS SEIDMAN: That, I believe, may have

1 been the original density build-out.

2 COMMISSIONER EASLEY: What's the correct  
3 number for the total number of residential units now?

4 MR. KING: Madam Chairman, I can answer that  
5 for you. It was amended, I think it's the 27th  
6 amendment or something, but 600 is the current  
7 build-out.

8 WITNESS SEIDMAN: I have in my filings 565.

9 COMMISSIONER EASLEY: All right. You're  
10 showing 565 as being build-out.

11 WITNESS SEIDMAN: As being build-out, yes.

12 COMMISSIONER EASLEY: And you're showing 600  
13 as build-out. That may be close enough for government  
14 work.

15 MR. KING: 600 is what is authorized by PUD.

16 COMMISSIONER EASLEY: Mr. Seidman, do you  
17 know of that number how many are sold?

18 WITNESS SEIDMAN: No, I don't.

19 COMMISSIONER EASLEY: Do you know of that  
20 number how many are currently customers?

21 WITNESS SEIDMAN: Yes. 331 were customers at  
22 the end of June '90 the end of the historical test  
23 year, and we projected for the projected test year  
24 ending 6-92 that there would be 391 residential  
25 customers then.



1 COMMISSIONER EASLEY: Right. Can you give me  
2 -- do you have the number of customers at June '89?

3 WITNESS SEIDMAN: Yes, ma'am, 271.

4 COMMISSIONER EASLEY: And just for fun, June  
5 '88?

6 WITNESS SEIDMAN: I don't have that.

7 COMMISSIONER EASLEY: Okay. Thank you.

8 Q (By Ms. Bedell) Did you verify that the 690  
9 figure is an actual figure? Is the annual growth  
10 through 6-90 an actual figure?

11 A From 271 to 331, yes, that is -- yeah, that  
12 comes off the billing analysis.

13 Q If you could refer to MFR Schedule F-6, Page  
14 1. Could you please explain the two different sets of  
15 wastewater used and useful calculations presented in  
16 this schedule?

17 A Yes. The wastewater treatment plant, which  
18 is currently operating under a construction permit, had  
19 a rating, was to have a rating of 125,000 gallons per  
20 day. The modifications that are being made to the  
21 plant will result in it being rerated at 250,000  
22 gallons a day.

23 The two used and useful calculations shown on  
24 Page F-6 show the used and useful based on the 125,000  
25 gallon rating and then, again, on the 250,000 gallon

1 rating.

2 Q In the narrative portion of F-6, Page 1, in  
3 the first paragraph, you discuss the DER redundancy  
4 requirements?

5 A Yes, ma'am.

6 Q And you refer to there being an alternative  
7 to meeting those requirements which would be to  
8 subdivide the basin into two parts. Isn't it true that  
9 this is not a viable option for this Utility?

10 A It may not be, and I think Mr. Reese is the  
11 one to speak to that.

12 Q Okay. Thank you.

13 Why is the 125,000 gallons per day being used  
14 in the used and useful calculation is not twice the  
15 average day peak month flows? (Pause)

16 A The question is why is the rating used? I  
17 guess I don't understand the question. (Pause)

18 Q Would you like for me to repeat this?

19 A Yes, please repeat it.

20 Q Given the that DER requires redundancy in  
21 flow capacity, why is the 125,000 gallons per day being  
22 used in the used and useful calculation is not twice  
23 the average month peak day flows?

24 A I don't understand that concept of using  
25 twice the average peak day flow as the basis against

1 which to measure the utility flows?

2 Q Let me rephrase the question.

3 A Okay.

4 Q On Schedule F-6, why did you use the 125,000  
5 rating in the schedule?

6 A Because it's the -- it was the applied-for  
7 rated capacity of the plant.

8 Q And what does that have to do with customer  
9 flows?

10 A It's the denominator for determining used and  
11 useful. The customer flows would be measured against  
12 that rating to determine used and useful.

13 Q Okay.

14 COMMISSIONER EASLEY: Well, I've got to ask,  
15 because you left out a part of it, I think, when you  
16 reasked it: Does DER have a requirement for fire flow?

17 WITNESS SEIDMAN: This is sewer we're  
18 talking.

19 COMMISSIONER EASLEY: I thought I heard DER  
20 in there. Maybe I misunderstood -- on redundancies?

21 Ask that part of the question again because I  
22 don't know what you're looking for well enough to ask  
23 it. But I missed something about the DER, and I need  
24 to understand that.

25 Q (By Ms. Bedell) Does DER have a redundancy



1 requirement for the wastewater?

2 A Yes, it does.

3 Q What is that?

4 A The specific portions, I am not familiar  
5 with. Mr. Reese can answer that, but there are  
6 requirements for redundancy of certain facilities  
7 within the plant to assure that the plant will operate  
8 if part of it goes down and we don't have sewage  
9 overflow.

10 Q I want to shift gears to the gray water.

11 Isn't it true that the only recipient of  
12 spray effluent is Sailfish Point golf course?

13 A That's correct.

14 Q And isn't it also true that the utility does  
15 not charge a fee for providing spray effluent to the  
16 golf course?

17 A That's correct.

18 Q And do you believe that the utility should  
19 charge for the spray effluent?

20 A No, I don't believe they should.

21 Q Thank you. I'm going to shift again.

22 Would you agree that the cost of capital, as  
23 determined by the Commission, should only reflect the  
24 cost of providing water and wastewater utility service?

25 A Yes.

1 Q If the capital structure for the June 30,  
2 1992 test year, as filed in the MFRs, is based on data  
3 from the December 31, 1989 Mobil Annual Report?

4 That's a statement. The capital structure as  
5 filed is based on the 1989 Mobil Report, is that  
6 correct?

7 A That's correct.

8 Q Okay. And isn't it true that the December  
9 31, 1990 Annual Report has been released?

10 A It has been released now, yes.

11 Q Would you agree the most currently available  
12 information should be used?

13 A Yes, I would.

14 Q To develop the projected capital structure?

15 A Yes, ma'am.

16 Q If the Commission were to accept your  
17 methodology for allocating investor capital to the  
18 Utility, would you agree it would be more appropriate  
19 to use the level of investor capitalization maintained  
20 by Mobil as of December 31, 1990?

21 A Yes, I would.

22 Q Okay. In your response to Interrogatory No.  
23 16, and in your rebuttal testimony, you cite a  
24 reference from a Staff memorandum dated March 17, 1986,  
25 regarding an appropriate capital structure to use for

1 ratemaking purposes, is this correct?

2 A I did, yes.

3 Q Wouldn't you agree that only the Commission  
4 can set policy and not Staff? (Laughter)

5 COMMISSIONER EASLEY: I suggest you agree  
6 with that one. (Laughter)

7 A Absolutely.

8 Q In your response to Interrogatory No. 19, you  
9 provided a schedule that details the embedded cost of  
10 debt for the Mobil Corporation as of the year end 1988,  
11 '89 and '90. Is this correct?

12 A Yes. And which one was that?

13 Q 19. Do you want to check?

14 A Yes, I have it. Thank you.

15 Q Would you agree that the embedded cost of debt  
16 for Mobil declined 119 basis points from '88 to '89.

17 A Yes, I'd agree to that.

18 Q Would you agree that the embedded cost for  
19 Mobil declined 150 basis points from '89 to '90?

20 A Yes, I would.

21 Q Would you agree that if the Commission were  
22 to use Mobil's capital structure as a proxy for  
23 allocating investor-supplied capital to SPUC, the  
24 Commission should use the more current 1990 embedded  
25 cost of debt as opposed to the 1989 figure?

1           A     Yes, I would agree with that.

2           Q     Okay. In your response to Interrogatory No.  
3 21 regarding the Utility's assumption of projecting  
4 future additions of long-term debt at an incremental  
5 cost of 10.5%, you state this assumption was based on a  
6 telephone conversation with quote "someone in the  
7 corporate treasurer's department" close quote.

8                     Do you have any other justification for the  
9 10.5%?

10          A     No.

11                     MS. BEDELL: Madam Chairman, I also have  
12 another exhibit that are selected pages from Mobil's  
13 Annual Report and from their annual reports to the  
14 Commission that I'd like to have identified.

15                     COMMISSIONER EASLEY: The document with a  
16 cover page saying "Mobil Annual Report 1990,"  
17 consisting of 14 pages, will be Exhibit 7.

18                     (Exhibit No. 7 marked for identification.)

19          Q     (By Ms. Bedell) Referring to the pages from  
20 the Mobil Annual Report, do you recall being asked to  
21 read passages from these pages during your deposition  
22 on May the 29th, 1991?

23          A     Yes, I do recall that.

24          Q     Okay. Would you agree that these passages  
25 indicate that Mobil has is redeemed all of its high



1 coupon debt and is issuing long-term debt to lock in  
2 the lower interest rates?

3 A Yes.

4 Q Okay. Is it reasonable to assume that Mobil  
5 would borrow a substantial amount of money at a very  
6 high rate in order to raise its embedded cost of debt  
7 to 10.5%?

8 A No.

9 Q Could you please refer to Schedule A-16, Page  
10 2, of the MFRs? (Pause)

11 A I have it.

12 Q Does this schedule accurately reflect the  
13 actual manner in which Mobil has capitalized the  
14 Utility?

15 A Yes.

16 Q Would you agree that Mobil could have  
17 capitalized the Utility with the same relative capital  
18 structure that Mobil maintains on a consolidated basis?

19 A Yes, it could have.

20 Q Referring again to Schedule A-16, Page 2.  
21 The amount on Line 20 labeled "Retained Earnings,"  
22 decreases from negative \$1,453,730 at year-end June 30,  
23 1991, to negative \$937,144 at the end of June 30, 1992.  
24 Is this change due solely to anticipated receipt of  
25 rate relief requested in this proceeding?

1           A     Yes. That would reflect the net income  
2 anticipated after the rate increase for a full year.

3           Q     Also, referring to Schedule A-16, Page 2.  
4 The amount reported on Line 29 as "Miscellaneous  
5 Current and Accrued Liabilities," is basically what is  
6 reported as short-term advances from affiliated  
7 companies on the annual report that the Utility files  
8 with the Commission, is that correct?

9           A     That's correct.

10          Q     The account on Line 9 also decreases  
11 substantially from year-end June 30, 1991, to year-end  
12 June 30, 1992. Is this change due solely to the  
13 anticipated receipt of the rate relief requested in  
14 this proceeding?

15          A     Yes. It's basically a balancing out of the  
16 impact of the net income and the changes in cash flow  
17 from depreciation and CIAC receipts, and whatever.

18          Q     Do you know whether Mobil plans to invest  
19 equity into the Utility during the projected test year  
20 ending 6-30-92?

21          A     I've spoken to the Company about that and  
22 they see no problem with investing equity in the  
23 Utility.

24          Q     To whom did you speak?

25          A     I spoke to some corporate officers.

1 Q Is there any -- other than having a  
2 conversation, is there any other form of verification  
3 of that?

4 A There's nothing in writing.

5 Q Does SPUC incur interest expense on the  
6 long-term debt advances from associated companies?

7 A Repeat that.

8 Q Does SPUC incur interest expense on the  
9 long-term debt advances from associated companies?

10 A Only on one portion, about an \$800,000  
11 portion.

12 Q Does SPUC incur interest expense from the  
13 short-term advances from the associated companies?

14 A No, no interest expenses are recorded or  
15 passed on.

16 Q Okay. Please refer to Exhibit 7, the back  
17 portion that has the 1989-1990 annual reports that the  
18 Utility filed with the Commission.

19 At the bottom of Page 10, on the bottom of  
20 Page 10 of that, of Exhibit 7, if you could refer to  
21 that, please, the note states down at the very bottom  
22 of the page --

23 A My pages are not numbered on the bottom.

24 Q I'm sorry. It would be F-6. Well, if you  
25 could go back ten pages from the front page, we'll make

1 sure we're all on the same page.

2 A Ten pages from the front?

3 COMMISSIONER EASLEY: Five pages from the  
4 back.

5 WITNESS SEIDMAN: Okay.

6 Q (By Ms. Bedell) Down at the very bottom of  
7 the page there is a note.

8 A Yes.

9 Q Okay. The note states that, "The long-term  
10 advances from affiliated companies are repaid as CIAC  
11 funds are collected"?

12 A That's correct.

13 Q Is this the matter in which all long-term  
14 advances from affiliated companies are repaid?

15 A Nothing else is repaid. It remains there.  
16 There is nothing to repay it with. It's due.

17 Q Okay. Is there some other manner in which  
18 long-term advances from affiliated companies are paid  
19 or repaid?

20 A Hopefully. Get a rate increase there will be  
21 a means to do that but there are no funds to do that.

22 Q And how are short-term advances from  
23 affiliated companies repaid?

24 A They are not repaid either. They just  
25 accumulate.



1 Q I want to shift for a minute to prior rate  
2 case expense. (Pause)

3 Could you please refer to NFR Schedule B-7,  
4 Page 2 of 2?

5 A I have it.

6 Q Isn't it true that the requested rate case  
7 expense for this proceeding includes \$68,374 of prior  
8 rate case expenses?

9 A Yes, that's correct.

10 Q Am I correct in assuming this \$68,000  
11 represents the entire rate case expense from the  
12 previous rate case?

13 A Yes.

14 Q Could you please refer to the bottom of Page  
15 15 and the top of Page 16 of your prefiled direct  
16 testimony, which discusses why the Commission dismissed  
17 the prior rate case?

18 A Yes.

19 Q Is it correct that your testimony could be  
20 interpreted to mean that you disagree with the reason  
21 why the Commission dismissed the prior rate case?

22 A I disagree with the information that was  
23 provided to the Commission on which that decision was  
24 based.

25 Q You also state in your testimony that A

1 substantial portion of the work done to support the  
2 original cost and CIAC collections from the previous  
3 rate case was used in preparing for this rate case?

4 A That's correct.

5 Q Can you quantify the number of hours spent by  
6 your firm to prepare the original cost and CIAC  
7 collection information?

8 A I've looked back at my records and the  
9 billings do not designate whether I was working on  
10 preparing the original cost information or not. But  
11 just knowing from what was involved and having to put  
12 that first case together, my estimation is anywhere  
13 from 50 to 60% of the time was to build up all of this  
14 original information through that test year, and that  
15 information was necessary to carry into this one, too.

16 Q That gets me to my next question.

17 Isn't it true that you were not able to use  
18 any prior rate case schedules except for the rate base  
19 schedules in preparing for the current rate case?

20 A That's correct. I cannot use the schedules  
21 because the MFR rules changed and new schedules were  
22 designated.

23 Q And we were using a different test year as  
24 well?

25 A Well, that would affect the schedules, yes.

1 It wouldn't affect the fact that the information  
2 buildup to get there was still necessary.

3 Q And did you actually use any of the prior  
4 rate base schedules for this case?

5 A You mean the actual schedules? No.

6 Q Did you use them as a starting point?

7 A I used the numbers. When you said  
8 "schedules," I assumed you're referring to these  
9 schedules. The case that was filed based on an '89  
10 test year was based on no normal schedules but using  
11 the PSC rules to determine what information was  
12 required. And it's a method we had used up through  
13 that time. Then when the Commission adopted new MFR  
14 rules they set out designated schedules that must be  
15 used. Of course, we had to shift for that.

16 MS. BEDELL: Could we have just a minute?

17 COMMISSIONER EASLEY: Surely. (Pause)

18 Q (By Ms. Bedell) Mr. Seidman, did you state  
19 in response to a question by Mr. King that when Utility  
20 property is purchased, it is transferred to the books  
21 of the purchaser at net book value? (Pause)

22 Would you like me to repeat it?

23 A Yes.

24 Q Yes? Okay.

25 Isn't it true that only for regulatory book



1 treatment, that is only for regulatory book treatment,  
2 not for tax purposes?

3 A Yes, that's correct.

4 Q Okay. If you could please turn to MFR C-2,  
5 Page 2 of 2, which is Page 90 of Volume I.

6 A Yes, I have it.

7 Q Did you add one-fortieth of taxable CIAC book  
8 income to arrive at book net income on Line 8?

9 A Yes, I did.

10 Q Could you please turn to MFR C-2, Page 1 of  
11 2, on page 80, the previous page, Page 89?

12 A Yes, I have it.

13 Q Do the numbers on the unlabeled line between  
14 1 and 2 also represent that same portion of CIAC?

15 A Yes, that's correct.

16 Q Isn't it correct that although CIAC is  
17 taxable, it is not included in book revenues for  
18 ratemaking purposes?

19 A That's correct.

20 Q Isn't it correct that this Commission does  
21 not allow the recovery in rates of income tax expense  
22 on CIAC?

23 A Yes, that's correct. It does it -- that's  
24 correct.

25 Q Would you agree that the additional



1 one-fortieth of CIAC should not be added to the taxable  
2 income in calculating the revenue requirement?

3 A Yes I'd agree with that adjustment.

4 Q Would you also agree that no income tax  
5 expense would be appropriate if there is no equity in  
6 the capital structure?

7 A Yes, that's correct.

8 Q Would you agree that the existing balance of  
9 deferred income taxes should be included in the capital  
10 structure even if no income tax expense is allowed in  
11 rates?

12 A Yes, it would still have to be there.

13 Q If you could refer again to MFR C-2, Page 2,  
14 to Page 90, Lines 30 through 32.

15 Was deferred tax expense calculated using  
16 only the 34% federal rate?

17 A Yes, it was.

18 Q Could you please refer to your response to  
19 Staff Interrogatory No. 33?

20 A I have it.

21 Q Does this state that "Mobil Land Development  
22 Corporation has historically ignored the state tax rate  
23 for depreciation timing differences"?

24 A Yes.

25 Q Would this be for ease of calculation since

1 some of its subsidiaries are in states with a unitary  
2 tax assessment?

3 A Yes, that's my understanding.

4 Q Please refer to Page 1 of NFR C-2, Lines 18  
5 through 20. (Pause)

6 Would it be correct to state that only the  
7 federal tax rate was used in the calculation of current  
8 tax expense?

9 A That's correct.

10 Q On Page 2 of NFR C-2, Lines 12 through 14,  
11 would it be correct to say that the federal rate of 34%  
12 was used in Column 1?

13 A That's correct.

14 Q And was the combined rate of 37.63% used in  
15 Columns 2 through 5?

16 A Yes.

17 Q Was the debit deferred tax associated with  
18 CIAC calculated at the combined rate on Lines 25  
19 through 27?

20 A Yes.

21 Q Is it correct that Sailfish Point is subject  
22 to Florida income taxes?

23 A Yes, it is subject to them.

24 Q Wouldn't it be correct, then, to calculate  
25 all income taxes at the combined state and federal rate

1 of 37.638?

2 A I think that would be correct; especially for  
3 ratemaking purposes, it should be taken into  
4 consideration.

5 Q In your response to Interrogatory No. 31,  
6 does this show the calculation of interest expense on  
7 MFR C-2?

8 A Yes, it does.

9 Q Does this interest expense show the effect of  
10 the parent debt adjustment?

11 A Yes, it does.

12 Q Would you agree that Rule 25-14.004 of the  
13 Florida Administrative Code requires a parent debt  
14 adjustment if the Utility's capital structure is used  
15 but not if the parent's capital structure is used?

16 A Yes, that's correct.

17 MS. BEDELL: Just a moment. (Pause)

18 COMMISSIONER EASLEY: All right.

19 Cathy, would it be helpful to take a short  
20 break?

21 MS. BEDELL: No. I think we've got this  
22 here.

23 COMMISSIONER EASLEY: All right. (Pause)

24 MS. BEDELL: Madam Chairman, we would like to  
25 inquire of the parties if they would have an objection



1 to our requesting judicial notice of an Order of the  
2 Commission. The particular Order is the Florida Water  
3 Works Association Order No. 23541.

4 COMMISSIONER EASLEY: We will take official  
5 notice of our own orders.

6 MR. GIRTMAN: Okay.

7 MS. BEDELL: And I apologize. We don't have --

8 COMMISSIONER EASLEY: I don't need their  
9 permission to take judicial notice of our own orders.

10 MS. BEDELL: We do not have copies for  
11 everyone, but certainly after inquiry, this will be  
12 available if somebody would like to refer to it.

13 Q (By Ms. Bedell) Did you include total debit  
14 deferred taxes in rate base and total credit deferred  
15 taxes in the capital structure without netting them?

16 A Yes, that's correct.

17 Q And are you familiar with the Order that I  
18 have just referred to, Order No. 23541 issued on  
19 10-1-1990 concerning CIAC?

20 A Yes, I'm familiar with them.

21 Q Okay. And on Page 16 and 17 of this Order  
22 would it be a correct statement to say that it states  
23 that deferred taxes should be netted with net credits  
24 being included in capital structure and net debits in  
25 rate base?



1           A     Yes, it does state that.

2           Q     Thank you. (Pause)

3                     And why is it that you do not net?

4           A     Why I did not net in this case?

5           Q     Uh-huh.

6           A     When I was preparing the case, that Order  
7 came out in October we were working on that case, while  
8 that was still under consideration, and we did not  
9 modify it. (Pause)

10          Q     Mr. Seidman, if the Commission were to  
11 approve a different allowance for used and useful  
12 plant, would you agree that the test year provision for  
13 property taxes should be adjusted accordingly?

14          A     Yes.

15          Q     And what is the Utility's current plant  
16 capacity charge for water?

17          A     \$2500.

18          Q     And sewer?

19          A     \$1500.

20          Q     And does the Company have a main extension  
21 fee?

22          A     No, it does not.

23          Q     In your response to Interrogatory No. 1,  
24 would it be correct to say that you stated that  
25 regarding service availability charges, it would not be

1 fair to have remaining customers pay a higher charge  
2 than the earlier customers?

3 A That's correct. I did state that.

4 Q Are you familiar with Rule 25-30.580, Florida  
5 Administrative Code, which establishes the guidelines  
6 for minimum and maximum levels of CIAC?

7 A Yes, I am familiar with it.

8 Q Would the Company's currently authorized  
9 service availability charges be sufficient to bring the  
10 Utility to 75% at build-out?

11 A No. But I don't read the rule as requiring  
12 to come up to 75, it's a maximum of 75.

13 Q Do you believe that it is appropriate for  
14 Commission Staff to modify service availability charges  
15 if it's determined that the utility will not be in  
16 compliance with the rule, based on the fallout numbers  
17 resulting from this proceeding?

18 A No, I don't think it's appropriate. I think  
19 the Rule is set up for how you would apply for a  
20 change. I guess if the Staff felt that the fees were  
21 inappropriate, they should request the Utility to make  
22 an application or to show why their rates shouldn't be  
23 changed.

24 Q In MFR Schedule E-3, isn't it correct that  
25 the Utility has requested a late payment charge of \$10?

1           A     Yes, it has.

2           Q     And when will this late payment charge be  
3 applied to a customer's bill?

4           A     Excuse me. I don't understand.

5           Q     When --

6           COMMISSIONER EASLEY: At what point is it a  
7 late charge and it would be charged to the customer?

8           WITNESS SEIDMAN: It would be charged,  
9 basically, after the waiting period in the Commission  
10 rules.

11          Q     (By Ms. Bedell) I was asking like did they  
12 get it on the 10th after they haven't paid, after they  
13 are 10 days delinquent or --

14          A     After the notice period.

15          Q     If a customer doesn't pay for 25 days, would  
16 a late charge be applied?

17          A     Yes.

18          Q     Would there be a separate \$10 charge for  
19 water and wastewater, or would there just be a \$10  
20 charge on a total bill?

21          A     It's one charge.

22          COMMISSIONER EASLEY: One \$10 charge or one  
23 \$20 charge?

24          WITNESS SEIDMAN: One \$10 charge.

25          COMMISSIONER EASLEY: One \$20 charge?



1           WITNESS SEIDMAN: No. One \$10 charge.

2           COMMISSIONER EASLEY: All right.

3           Q     (By Ms. Bedell) Can you give us an estimate  
4 as to how many of these charges you believe would be  
5 made by the Utility during the course of a year?

6           A     I can get that for you. I can provide it  
7 later in the day.

8           Q     Did you plan -- is there anything in the MFRs  
9 that would indicate that you had planned to have some  
10 revenues related to this?

11          A     Some remedies?

12          Q     Revenues.

13          A     Yes.

14          Q     Do you know how much you estimated the  
15 revenue would be?

16          A     Well, the revenues are --

17          Q     From the charge?

18          A     No, I can't pull it right directly from the  
19 MFR, I don't believe, because they are tied in with  
20 some other miscellaneous revenues. I could take a  
21 look. (Pause)

22                As I recall, it's not broken out. I couldn't  
23 take it directly. That's why I'd like to look back and  
24 give it to you later.

25          Q     Okay. We can come back to that. Isn't it



1 true that the Utility charges customers a base facility  
2 charge for water and wastewater for the months they  
3 spend away from the service area?

4 A Yes. The base facility charge is charged  
5 regardless of whether the occupants are in residence or  
6 not.

7 Q Okay. And do you bill customers -- do you  
8 bill customers each month or do you accumulate their  
9 charges during the time that they are away from  
10 Florida?

11 A They are billed monthly.

12 Q Okay. (Pause)

13 Do you believe that charging a \$10 late fee  
14 is something that would be fair to the customers?

15 A It's probably too low. I don't know what you  
16 mean by "fair."

17 The option that we presented was that in lieu  
18 of turning people's water off because they had not  
19 paid, especially when many of them are not in residence  
20 all during the year, it would be better to put a  
21 penalty on the payment for late pay rather than to go  
22 ahead and do these turn-offs.

23 Q Do you collect customer deposits?

24 A No. They don't collect customer deposits.

25 There is not a high degree in this area of nonpay.

1           **COMMISSIONER EASLEY:** I've got to tell you,  
2 one of the -- I'm looking at the total number of  
3 customers and if everybody didn't pay their bill once a  
4 year, we are talking about a minuscule amount of money  
5 in the overall scheme of things and of the percentage  
6 of that I suspect we're down into maybe something less  
7 than a \$1,000 a year, and could we -- thank you.

8 (Pause)

9           **MS. BEDELL:** Madam Chairman, we have no  
10 further cross questions of this witness at this time.  
11 However, we would like to be able, have the opportunity  
12 to ask him a couple of additional questions if the tax  
13 fellows from Dallas can't answer them for us.

14           **COMMISSIONER EASLEY:** I'm sure Mr. Seidman  
15 will remain available throughout the course of the day,  
16 and will be subject to recall.

17           Do you have any questions, Commissioner?

18           **COMMISSIONER DEASON:** Yes, I do.

19           **COMMISSIONER EASLEY:** Now is the time.

20           **COMMISSIONER DEASON:** Now is the hour.

21           Mr. Seidman could you refer to the MFRs,  
22 specifically Page 1, and then Pages 40 and 41? The  
23 calculation of rate base that appears on Page 1,  
24 correct?

25           **WITNESS SEIDMAN:** That's correct.

1           **COMMISSIONER DEASON:** For the amount of  
2 utility plant in service, that was taken from the  
3 balance sheets which appear on Pages 40 and 41, and  
4 averaged between the test year and the intermediate  
5 year, is that correct?

6           **WITNESS SEIDMAN:** Well, the numbers on Pages  
7 1 and 2 were not taken from 40 and 41.

8           **COMMISSIONER DEASON:** All right. Would you  
9 agree, then, that if you took the utility plant in  
10 service, which appears on Page 40, and averaged those  
11 two numbers in Columns 2 and 3 that you would get the  
12 total utility plant in service for water and wastewater  
13 which appears on Pages 1 and 2 of the MFRs?

14           **WITNESS SEIDMAN:** I believe that should be  
15 the case.

16           **COMMISSIONER DEASON:** And the same would be  
17 true for accumulated depreciation?

18           **WITNESS SEIDMAN:** Yes.

19           **COMMISSIONER DEASON:** What about CIAC? Would  
20 that also hold, would there be a difference in the  
21 calculation?

22           **WITNESS SEIDMAN:** No, it should hold.

23           **COMMISSIONER DEASON:** Could you calculate  
24 that and see if that holds?

25           **WITNESS SEIDMAN:** Any particular year?



1 COMMISSIONER DEASON: I'm interested in the  
2 test year, which I assure is the average of the  
3 balances on 6-30-91 and 6-30-92. (Long pause.)

4 I believe it's correct, I just wanted to make  
5 sure.

6 WITNESS SEIDMAN: Okay. I'll take your word  
7 for it, if you want.

8 COMMISSIONER DEASON: All right. Fine.

9 So most of the rate base calculations are  
10 taken from the balance sheet?

11 WITNESS SEIDMAN: That's correct.

12 COMMISSIONER DEASON: But not all?

13 WITNESS SEIDMAN: It's the other way around  
14 in this. We prepared what the rate base would be and  
15 we took those numbers and transferred them to this  
16 balance sheet.

17 COMMISSIONER DEASON: You're saying that you  
18 basically backed into the balance sheets.

19 WITNESS SEIDMAN: That's correct.

20 COMMISSIONER DEASON: That's because you're  
21 using a projected test year, is that correct?

22 WITNESS SEIDMAN: That's correct.

23 COMMISSIONER DEASON: If we were using  
24 historic test year, though, you would take actual  
25 historic numbers that appear on the balance sheet,



1 take your averages and calculate your rate base, is  
2 that correct?

3 WITNESS SEIDMAN: Right. And on Pages 40 and  
4 41 the historic and prior year should be per books.

5 COMMISSIONER DEASON: Yes.

6 WITNESS SEIDMAN: There wouldn't be any  
7 adjustments or anything until you get to the adjusted  
8 year.

9 COMMISSIONER DEASON: Could you identify what  
10 items in your recommended rate base do not come  
11 directly from the balance sheet, realizing that you  
12 backed into the balance sheet numbers?

13 WITNESS SEIDMAN: What items in my rate base?

14 COMMISSIONER DEASON: Yes. Is working  
15 capital the only item which is not really a rate base  
16 component? I mean, I'm sorry, is really not a balance  
17 sheet component?

18 WITNESS SEIDMAN: Right. That's correct.  
19 It's in deferred debits.

20 COMMISSIONER DEASON: Are you recommending  
21 that there be deferred debits in the rate base?

22 WITNESS SEIDMAN: No. They would just -- the  
23 working capital is basically a -- excuse me. Working  
24 capital is basically cash that would be represented in  
25 the current assets and liabilities.

1           **COMMISSIONER DEASON:** And you used the  
2 formula method for working capital?

3           **WITNESS SEIDMAN:** Yes. So that working  
4 capital number wouldn't transfer over to the balance  
5 sheet.

6           **COMMISSIONER DEASON:** I'm sorry. Could you  
7 repeat that?

8           **WITNESS SEIDMAN:** That working capital number  
9 that's in the rate base calculation does not appear  
10 specifically on the balance sheet.

11           **COMMISSIONER DEASON:** So you found it  
12 necessary to go away from the balance sheet to  
13 calculate that component of rate base then, using the  
14 formula method?

15           **WITNESS SEIDMAN:** That's correct.

16           **COMMISSIONER DEASON:** Have you done a balance  
17 sheet method of calculating working capital component?

18           **WITNESS SEIDMAN:** No, sir.

19           **COMMISSIONER DEASON:** Why did you not?

20           **WITNESS SEIDMAN:** Commission rules require us  
21 to use the formula method now.

22           **COMMISSIONER DEASON:** I think for the record,  
23 Counsel, you can inject however you want to. I think  
24 that's an incorrect answer. Our Commission rules do  
25 not require this Commission to use the formula method

1 for ratemaking purposes, and I think that needs to be  
2 stated on the record.

3 MR. GIRTMAN: Could we have a reference to  
4 that specific rule?

5 COMMISSIONER DEASON: I'll let the witness,  
6 he's the one that testified that it's in the rules and  
7 requires it, so I'll let him reference it.

8 WITNESS SEIDMAN: It's in the instructions to  
9 the MFRs, and I'll have to paraphrase without it in  
10 front of me, but my recollection is that you use the  
11 formula method and if you desire to use another method,  
12 you do so at your own expense.

13 COMMISSIONER DEASON: That's for MFR purposes,  
14 is that correct?

15 WITNESS SEIDMAN: Well, the MFR is part of the  
16 rule, it's incorporated.

17 COMMISSIONER DEASON: And does that -- is the  
18 Commission required to accept everything as filed in  
19 the MFRs for ratemaking purposes?

20 WITNESS SEIDMAN: It's not required to accept  
21 everything we calculate in there, but we're required to  
22 accept what the rule says.

23 COMMISSIONER DEASON: So you filed it that  
24 way and you think that's the appropriate way to  
25 calculate working capital?

1           WITNESS SEIDMAN: Well, I happen to think it  
2 is, but that's beside the point, Commissioner. The  
3 rule -- the MFR instructions which are incorporated in  
4 the rule say use one-eighth O&M. And if you don't,  
5 then you perform the other calculations at your own  
6 expense and it's not recoverable.

7           COMMISSIONER DEASON: How expensive is it to  
8 perform a balance sheet calculation?

9           WITNESS SEIDMAN: Offhand, I don't know. You  
10 know, it could be a few thousand dollars.

11          COMMISSIONER DEASON: Would you be surprised  
12 if I tell you I just did one here this morning in about  
13 five minutes?

14          WITNESS SEIDMAN: I wouldn't be surprised, no.

15          COMMISSIONER EASLEY: Commissioner, I think  
16 the difficulty is that sometimes the parties are caught  
17 in the result of a vote on the Commission. In other  
18 instances in which -- in this case, as you are aware,  
19 one of our colleagues had a continual battle going on  
20 this particular subject. For a while it looked like  
21 maybe we might have a different outcome, but at the  
22 moment the vote has been to go with this methodology.

23          COMMISSIONER DEASON: I don't disagree with  
24 that. I do think it needs to be clear that the rules,  
25 though, I think, speak for themselves; that a certain



1 methodology is prescribed for filing in MFRs, but that  
2 certainly does not bind the Commission in any way.

3 COMMISSIONER PASLEY: I understand. I  
4 understand. For the benefit of those who hadn't sat  
5 through some of these arguments, I thought it might  
6 explain what has gone on before.

7 COMMISSIONER DEASON: Referring to Page 41 of  
8 the MFRs, specifically Line 29.

9 WITNESS SEIDMAN: Yes, sir.

10 COMMISSIONER DEASON: Are the intercompany  
11 payables and receivables cost-free loans, or advances, or  
12 whatever you want to refer to those between SPUC and SPI,  
13 is that where that's accounted for in the books of --

14 WITNESS SEIDMAN: A portion is in Line 29 and  
15 a portion is in Line 23.

16 COMMISSIONER DEASON: The portion that  
17 appears in Line 29, do you know what portion of that  
18 has a cost rate and what portion does not?

19 WITNESS SEIDMAN: None of it has an interest  
20 expense that's charged to the Company. It would be my  
21 position that the cost rate is the cost rate of the  
22 parent, Mobil. (Pause)

23 COMMISSIONER DEASON: In looking on Pages 40  
24 and 41, would you agree that the current liabilities of  
25 this company exceed current assets? (Pause)

1                   WITNESS SEIDMAN:     Yes.

2                   COMMISSIONER DEASON:   Would you also agree  
3   that's primarily because of the advances from the  
4   parent?

5                   WITNESS SEIDMAN:   That's correct.

6                   COMMISSIONER DEASON:   How do you treat the  
7   advances from the parent in the capital structure, or  
8   do you ignore them in that your recommendation is for a  
9   consolidated capital structure?

10                  WITNESS SEIDMAN:   That's correct.   My  
11   recommendation is that the capital structure of the  
12   parent be used as a substitute for this because it more  
13   truly reflects what capital is being put into the  
14   Company.

15                  COMMISSIONER DEASON:   Why do you believe that  
16   SPI made cost-free advances to the Utility?

17                  WITNESS SEIDMAN:   I think they merely just  
18   book the advances -- book the money they put in as  
19   advances as a convenience between intercompany  
20   subsidiaries.

21                  COMMISSIONER DEASON:   Is it in any way related  
22   to the transfer of assets to the Utility from SPI?

23                  WITNESS SEIDMAN:   I'm not quite sure I  
24   understand it.

25                  COMMISSIONER DEASON:   Well, I think earlier

1 there was an exhibit provided, I believe it was the  
2 last page of Exhibit 3, which I think was a copy of the  
3 voucher or journal entry of the transfer, and there was  
4 a certain amount of debt or advances which basically  
5 went along with that transfer. Are these basically the  
6 same advances we're talking about here in this balance  
7 sheet?

8 WITNESS SEIDMAN: Yes. A portion of it and  
9 the portion of the advances, for instance, the current  
10 advances, would be covering operating costs, losses.

11 COMMISSIONER DEASON: Has the Company  
12 provided a reconciliation between the balance sheets  
13 and the capital structure and the rate base?

14 WITNESS SEIDMAN: It's only provided a  
15 reconciliation between the proposed Mobil capital  
16 structure and the rate base. Those start on Page 110  
17 of the MFRs.

18 COMMISSIONER DEASON: Are you familiar with  
19 the Commission's policy as to the imputation of CIAC  
20 between affiliated parties, primarily between a  
21 developer and a utility company that are affiliated?

22 WITNESS SEIDMAN: I believe so. Basically,  
23 if -- what I'm familiar with would be that if it's  
24 shown that assets were transferred that were written  
25 off as cost of goods sold, they would be imputed as

1 CIAC.

2 COMMISSIONER DEASON: Do you know the basis  
3 for that policy, if you understand it?

4 WITNESS SEIDMAN: No. But if it's been  
5 written off, it's not -- basically, is a contribution.  
6 So it would come in that way.

7 WITNESS SEIDMAN: So the benefit that the  
8 developer receives by writing it off is the tax  
9 deduction of that write-off, is that correct?

10 WITNESS SEIDMAN: Yes.

11 COMMISSIONER DEASON: Why else -- do you know  
12 of any other reason why a developer would want to write  
13 off the assets instead of having them earn a return and  
14 depreciation in the utility regulatory environment?

15 WITNESS SEIDMAN: I really never participated  
16 in a developer's evaluation of which choices they've  
17 made. The only thing we've done is if a developer has  
18 come in and set up a utility and asked us to go in and  
19 determine rate base, you know, we would go ahead and  
20 verify whether or not it was written off.

21 COMMISSIONER DEASON: Have you ever  
22 participated in that very question and made  
23 recommendations to management as to the question of  
24 writing it off for tax purposes or transferring it to a  
25 regulated utility company?



1           WITNESS SEIDMAN: No, sir. Anytime we've  
2 worked for anybody, we've told them that we,  
3 specifically, I am not a tax expert and decisions you  
4 make on taxes you make with your own people.

5           COMMISSIONER DEASON: So you have not done it  
6 for this company and you have really not made  
7 recommendation to that effect for any utility?

8           WITNESS SEIDMAN: No, sir. The only thing we  
9 would do if somebody asked us to determine what would  
10 be the best way to capitalize, we would normally  
11 recommend the Commission looks for capitalization, such  
12 and such an equity ratio as being the best way, you  
13 know, more representative of what their CIAC policy is.

14          COMMISSIONER DEASON: This Company, though,  
15 did receive tax benefits from its investment in utility  
16 assets, did it not, before they were transferred to the  
17 utility?

18          WITNESS SEIDMAN: Apparently that tax --  
19 deferred tax credit.

20          COMMISSIONER DEASON: Well, wasn't there  
21 actual depreciation expense taken on utility assets for  
22 at least a couple of years before they were transferred  
23 to the Utility Company?

24          WITNESS SEIDMAN: Depreciation expense was  
25 taken.

1           **COMMISSIONER DEASON:** That is a tax benefit  
2 to SPI, is it not?

3           **WITNESS SEIDMAN:** It resulted in a tax-timing  
4 benefit to them.

5           **COMMISSIONER DEASON:** And what is the  
6 difference between that tax benefit and the tax benefit  
7 which the developer receives by costing it off in lot  
8 sales? Or is there no difference; a tax benefit is a  
9 tax benefit?

10          **WITNESS SEIDMAN:** Well, my understanding is  
11 if they write it off in cost sales, there's no longer a  
12 depreciable asset. It's just an expense to the cost of  
13 goods, and maybe Mr. Olson could speak to that more  
14 plainly but --

15          **COMMISSIONER DEASON:** So a developer has the  
16 option of writing it off in lot sales or taking  
17 depreciation on those assets, or doing something  
18 nothing with them and transferring them to a utility  
19 company and having that company handle it for tax  
20 purposes and for regulatory purposes?

21          **WITNESS SEIDMAN:** That's correct.

22          **COMMISSIONER DEASON:** But this Company chose  
23 to capitalize those costs, depreciate them for at least  
24 a couple of years and then transfer them to a utility  
25 company, is that correct?

1           WITNESS SEIDMAN: Well, basically, I think  
2 what they did is the utility corporation was set up,  
3 ready to take over the utility, and during the initial  
4 stages of construction, it was still under the parent  
5 corporation. And as far as I know, you know, I think  
6 the books, tax records, show that they had always  
7 separated it as an asset and not a cost of goods with  
8 the intent of merely just changing the corporate  
9 identity to set those assets out more clearly. It's as  
10 if they had operated, set it up initially as a division  
11 of the developer and not a separate corporation  
12 initially.

13           COMMISSIONER DEASON: I believe you testified  
14 yesterday that SPI took \$405,245 of taxable  
15 depreciation on these assets before they were  
16 transferred to the Utility, is that correct?

17           WITNESS SEIDMAN: That's correct.

18           COMMISSIONER DEASON: I think you also  
19 testified you don't know what the tax benefit would  
20 have been if they had decided to do it in the cost of  
21 lot sales. You don't know whether it's more than the  
22 \$405,000?

23           WITNESS SEIDMAN: I have no idea.

24           COMMISSIONER DEASON: Do you think it could  
25 have possibly been a cognizant decision upon management

1 to do it this way, that the deduction may have been  
2 higher depreciating it than writing it off in lot  
3 sales?

4 WITNESS SEIDMAN: I have no idea. (Pause)

5 COMMISSIONER DEASON: Mr. Seidman, you were  
6 here yesterday when the public witnesses testified,  
7 were you not?

8 WITNESS SEIDMAN: Yes.

9 COMMISSIONER DEASON: We had a number of  
10 witnesses who had concerns about the level of the rate  
11 increase and the fact that there had been a prolonged  
12 length of period before this increase was requested.  
13 Do you know if this was a cognizant decision on  
14 management to delay this rate request until this  
15 particular time?

16 WITNESS SEIDMAN: They did delay it. Whether  
17 they made a conscious decision to delay it or they just  
18 procrastinated, I don't know.

19 COMMISSIONER DEASON: Do you believe it was  
20 an attempt to keep utility rates low while the  
21 developer continued to market and sell lots in the  
22 development?

23 WITNESS SEIDMAN: It's possible. You know,  
24 it's --

25 COMMISSIONER DEASON: Is that something that



1 regulators should be concerned with?

2 WITNESS SEIDMAN: Only in the sense that it  
3 sends wrong signals during that period but other than  
4 that, I don't think there is much to be concerned  
5 about. I mean, it obviously causes tremendous change  
6 at one time in the rates, and I certainly wouldn't  
7 defend that as a good way to do things. But during  
8 that period of time, you know, the customers enjoyed a  
9 lower-than-cost rate, so there is some trade off.

10 COMMISSIONER DEASON: There also was  
11 testimony from numerous witnesses who said they may not  
12 have written documentation but it was their belief that  
13 they paid for the Utility assets as part of the  
14 amenities of the development, and that if they did not  
15 have that belief they would have not paid the price  
16 they had for the lots. What is your response to that  
17 reasoning that the customers have?

18 WITNESS SEIDMAN: I don't think it's an  
19 unusual response in this type of development.

20 COMMISSIONER DEASON: You're saying it's not  
21 unreasonable for customers to have that feeling, but it  
22 really depends on how the Company booked those costs?

23 WITNESS SEIDMAN: I understand, you know,  
24 their feelings. To say whether it's reasonable or  
25 unreasonable, I don't know, I think there is enough

1 caveats in the papers we looked at that indicated that  
2 the developer had no control over future rates.

3 COMMISSIONER DEASON: And you believe that  
4 the pricing the developer -- the pricing of the lots by  
5 the developer contemplated the recovery of the  
6 investment in utility assets?

7 WITNESS SEIDMAN: I would assume the pricing  
8 of the lots was a market pricing, you know, what it  
9 could sell for.

10 COMMISSIONER DEASON: Part of the market  
11 would be whether there are amenities such as water and  
12 sewer, would they not?

13 WITNESS SEIDMAN: Oh, sure. Everything is  
14 more valuable if it has utilities.

15 COMMISSIONER DEASON: There was a -- excuse  
16 me for just a moment. (Pause)

17 One of our public witnesses yesterday was an  
18 individual by the name of Morris Cohen, and that  
19 witness referred to an ongoing problem with pipe  
20 replacements, and that this was necessitated by, I  
21 think, what was referred to as faulty pipes or pipes  
22 that were exposed to the elements for a period of time  
23 before they were installed and then they had to be  
24 replaced. Are you familiar with this problem?

25 WITNESS SEIDMAN: Yes.

1           **COMMISSIONER DEASON:** What's the Company's  
2 position on this? Was this problem caused by faulty  
3 pipes or was it a problem due to the manner in which  
4 these pipes were installed?

5           **WITNESS SEIDMAN:** I don't think there's -- I  
6 don't think it was the manner in which they were  
7 installed. And I'm not too sure that there is any  
8 conclusion that the pipes were faulty or what happened  
9 to them. They have had leakages in those, those are  
10 services running off the main, running down Marina Way,  
11 and --

12           **COMMISSIONER DEASON:** I guess my question  
13 then is, are these costs part of the cost of service  
14 that's a part of this rate case, or has that somehow  
15 been adjusted out?

16           **WITNESS SEIDMAN:** No. There hasn't been any  
17 adjustments. They're not the capitalized, those  
18 repairs. The repairs are done by in-house personnel  
19 so, to the extent that their salary is, you know, paid  
20 whether they are doing that work or some other work,  
21 it's still in there. And so whatever the cost of pipe  
22 is, that from time to time would show up as materials  
23 in the expense. I don't think it's --

24           **COMMISSIONER DEASON:** Do you think it is a  
25 material amount or relatively immaterial?

1           WITNESS SEIDMAN: I think it's a pretty small  
2 amount, considering, because the number of repairs that  
3 are done in a period of time, they are not all done in  
4 one particular year. There wouldn't be that much  
5 expense showing up in any particular year.

6           COMMISSIONER DEASON: Okay.

7           Thank you, Mr. Seidman.

8           COMMISSIONER EASLEY: Redirect?

9           MR. GIRTMAN: Could we have a short five  
10 minutes?

11           COMMISSIONER EASLEY: I'd be glad to. We're  
12 going to take 10 minutes.

13           (Brief recess.)

14           - - - - -

15           COMMISSIONER EASLEY: Mr. Girtman, you were  
16 going to inquire on redirect?

17           MR. GIRTMAN: Yes, ma'am.

18           COMMISSIONER EASLEY: Just a minute, Mr. Girtman.

19           Ladies and gentlemen, please, we have  
20 reconvened. Take your conversations to the back of the  
21 room, please. Thank you very much.

22           REDIRECT EXAMINATION

23           BY MR. GIRTMAN:

24           Q     Mr. Seidman, on the direct examination, you  
25 were asked some questions regarding the earlier



1 certification of Sailfish Point Utility Corporation by  
2 the Florida Public Service Commission. During the  
3 break, have you examined your files and found an Order  
4 relating to that certification?

5 A Yes, sir.

6 MR. GIRTMAN: Commissioners, we request that  
7 you take official notice of Order No. 11673, issued  
8 March 4, 1983.

9 COMMISSIONER EASLEY: Take official notice of  
10 the Order.

11 Q (By Mr. Girtman) Mr. Seidman, would you  
12 please summarize for us the contents of that Order?

13 A This is the Order that granted a certificate  
14 in 1983. This would be the second time around for the  
15 Utility between its jurisdictional changes from PSC to  
16 Martin County and back to the PSC. And it's an Order  
17 granting the certificates and setting rates at that  
18 time.

19 Q When was the application filed?

20 A The application was filed in July of '81.

21 Q And when was the Order eventually issued?

22 A In March of '83.

23 Q Now, you mentioned that Martin County  
24 originally had jurisdiction over this Utility, is that  
25 correct?

1           A     I think the Commission had jurisdiction and  
2 Martin took it back; and then the Commission, and then  
3 they gave it back to the Commission within a very short  
4 period of time.

5           Q     If you look at the style of that Order, the  
6 Company is designated as Sailfish Point Utility  
7 Company, is that correct?

8           A     That's correct.

9           Q     And was that not changed in an Amendatory  
10 order No. 11673-A issued in March 1983?

11          A     That's correct.

12               MR. GIRTMAN: We request the Commission also  
13 take official notice of that Order.

14               COMMISSIONER EASLEY: Take official notice of  
15 the Order.

16          Q     (By Mr. Girtman) Is there anything else in  
17 that Order that you would like to bring to the  
18 Commission's attention?

19          A     Yes. I think there was a question when Mr. King  
20 was cross examining me about the authority for rates prior  
21 to this 1983 certification. And this Order refers back;  
22 in setting rates in this case it says, and I quote, "We  
23 find it appropriate to approve those rates that were  
24 previously approved by this Commission in 1980 prior to  
25 this Commission losing jurisdiction to Martin County."

1           So it's an indication that the Commission had  
2 already set rates in 1980, and those were the same  
3 rates that were maintained through the transition and  
4 back into certification the second time.

5           Q     Thank you. During Mr. King's cross  
6 examination, he asked you after SPUC took over was work  
7 contracted out by SPUC or SPI or perhaps by either?  
8 Have you had a chance to review that issue?

9           A     Yes, I've looked back at some of the  
10 contracts.

11           MR. GIRTMAN: We request that this material  
12 that we have prepared here be marked for identification  
13 as an exhibit.

14           COMMISSIONER EASLEY: When I get it.

15           MR. REILLY: Has counsel made copies  
16 available so that we can follow this?

17           COMMISSIONER EASLEY: I think we're all about  
18 to get one, Mr. Reilly.

19           This will be marked as Exhibit No. 8. Short  
20 title, "Contract Dated 8 October '87 Between Sailfish  
21 Point and Dickerson, Florida, Inc." (Pause)

22           (Exhibit No. 8 marked for identification.)

23           Q     (By Mr. Girtman) What is the significance of  
24 the contract, please?

25           A     The significance of this is just to show

1 procedurally how contracts for additions were handled  
2 for the Utility post-1983.

3 This happens to be a contract in '87 to put  
4 some lines in; and the exhibit contains the first page  
5 and the signature pages of the contract showing that  
6 the contract is between Sailfish Point Utility  
7 Corporation and the contractor in this case, Dickerson,  
8 Florida.

9 Then it's followed up with some of the  
10 schedules that are attached to the contract, the scope  
11 of work and the insurance and terms of payment, which  
12 all tie the obligations to Sailfish Point Utility.

13 And then there is a copy of the final payment  
14 request by the contractor with the certification of the  
15 contractor that everything is done in accordance with  
16 the terms and conditions of the Utility. And attached  
17 to that is a detail of the work that was done, showing  
18 that it's water and sewer lines.

19 And there's some payment estimates and  
20 contractor's affidavits. And, finally, a total of the  
21 final cost of the contract versus the initial  
22 commitment on that contract.

23 Like I say, the only significance is to show  
24 that procedurally the contracts were being done through  
25 SPUC.



1           Q     A few moments ago you were asked some  
2 questions by Commissioner Deason on inclusion of cost  
3 of utilities, some examples of the inclusion of those  
4 costs in lot sales. And your answer, part of your  
5 answer, was that the availability of a utility made the  
6 other land more valuable and the other properties more  
7 valuable.

8                     There seemed to be some confusion about the  
9 question that was asked and the answer that was  
10 provided. There may have been a misinterpretation  
11 there. It seemed to be, at least on my part, it seemed  
12 to be that that question and the answer to it could  
13 have been confused to suggest that you were saying it  
14 would be appropriate, or it was done, or it could be  
15 done, or it was prudent to be done to include the cost  
16 of Utility assets in lot sales. Is that what you meant  
17 to say?

18                   MR. REILLY: It seems as though the counsel  
19 is suggesting the answer to the questions he's posing.  
20 If he could just possibly pose the questions and seek  
21 the answers?

22                   COMMISSIONER EASLEY: Try it again, Mr. Girtman.

23                   MR. GIRTMAN: Okay.

24           Q     (By Mr. Girtman) Would you please clarify  
25 your answer to Mr. Deason's question regarding the

1 inclusion of Utility assets in lot sales, the price of it.

2       A     I'll try to recall what transpired. I think  
3 Commissioner Deason first asked -- this was a two-part  
4 question. If, in fact, the Utility costs were a cost  
5 that was considered when the developer priced the lots?  
6 And I said in response that the pricing of the lots was  
7 a market price. That's whatever they can sell on the  
8 market, if it covers the -- and I didn't expand on  
9 that. But, basically, that just means they get for the  
10 lots what they can, and if it covers their cost, fine;  
11 if it doesn't, that's their problem.

12               I think then there was a question after that,  
13 doesn't the presence of utilities, I guess, enhance the  
14 value of lots? And I answered that by saying yes, the  
15 presence of utilities enhances the value of anything.  
16 And that would be water or sewer or electric or  
17 whatever it is.

18               I didn't mean it to come out, if you thought  
19 that, that was the same as saying that the cost of the  
20 utilities was in the lot price.

21               MR. GIRTMAN: Thank you, no further questions.

22               COMMISSIONER EASLEY: Thank you. We will  
23 show Exhibit 1 as having been moved into evidence.  
24 Exhibits?

25               MR. REILLY: I would like to also move

1 Citizens' cross examination exhibits into the record.

2 COMMISSIONER EASLEY: That was Composite  
3 Exhibit 3?

4 MR. REILLY: Yes, ma'am. And I think we also  
5 had a late-filed exhibit.

6 COMMISSIONER EASLEY: That exhibit has not  
7 been specifically requested. The Company was asked to  
8 provide information from Mr. Lundquist, et cetera, and  
9 the Company was to ascertain if that information was  
10 available. Has the Company been able to so ascertain?

11 MR. GIRTMAN: We are still working on that,  
12 Commissioner. And we are hoping to have some  
13 information when Mr. Olson takes the stand.

14 COMMISSIONER EASLEY: All right. We will  
15 revisit the issue, but you are going to have to ask for  
16 it, Mr. Reilly.

17 MR. REILLY: Okay. And I think we also had  
18 Exhibit 4 that she mentioned. Is that --

19 COMMISSIONER EASLEY: Yes, you have Exhibit 4.  
20 Without objection --

21 MR. REILLY: And all exhibits be moved. I  
22 think Mr. King had --

23 COMMISSIONER EASLEY: Hold it a minute.  
24 Without objection, Exhibits 3 and 4 are moved into  
25 evidence.

1           Mr. Seidman, you have Exhibits 2 and that's  
2 it. Without objection, Composite Exhibit 2 will be  
3 moved into evidence. Mr. King?

4           MR. KING: Yes. I wanted to move Exhibit 5  
5 that was identified during cross examination.

6           COMMISSIONER EASLEY: Without objection, I  
7 keep wanting to say "exception." Without objection,  
8 Exhibit 5 will be moved into evidence.

9           Mr. Girtman, I left out your Exhibit 8. I'm  
10 not going to move these for you guys, now. I'm doing  
11 it this time, that's the last time I'm going to do  
12 this. You can move your own exhibits. Show Exhibit 8  
13 without objection.

14           (Exhibits Nos. 1, 2, 3, 4, 5 and 8 received  
15 in evidence.)

16           MR. KING: May I inquire one moment?

17           COMMISSIONER EASLEY: Yes, sir.

18                       RE CROSS EXAMINATION

19 BY MR. KING:

20           Q     Mr. Seidman, with regard to Exhibit 8, is it  
21 your contention that this is just a form that is  
22 typical of the contracts that have been used throughout  
23 the scope of this work and throughout the 10 years?  
24 Why was this one in 1987 pulled, if it was pulled from  
25 anything?



1           A     It was just pulled. I, when you were  
2 questioning me --

3           Q     That answered my question. The next question  
4 is did you do it or did you ask somebody else to do it?

5           A     I asked somebody else to do it.

6           Q     And what did you ask them to get?

7           A     Okay. I went and asked them to verify: are  
8 the contracts for work that are done between you and  
9 the contractor, or are they under Sailfish Point, or  
10 are they mixed? And they said, "They're under SPUC."  
11 I said "Well, will you pull me a contract that shows  
12 all of the parts, you know, that would indicate that  
13 it's between SPUC and the contractor?"

14           MR. KING: Well, I would object to this  
15 document showing that it has any significance other  
16 than this particular one contract was done that way.

17           COMMISSIONER EASLEY: I'm going to allow the  
18 exhibit into evidence and give it the weight to which  
19 its entitled. Staff?

20           MS. BEDELL: Staff would like to move  
21 Exhibits 6 and 7.

22           COMMISSIONER EASLEY: Without objection,  
23 Exhibits 6 and 7 are moved into the record.

24           (Exhibits Nos. 6 and 7 received in evidence.)

25           COMMISSIONER EASLEY: Call your next witness.

1 Thank you, Mr. Seidman. You will remain available?

2 MR. SEIDMAN: Yes.

3 COMMISSIONER EASLEY: Thank you, sir.

4 (Witness Seidman excused.)

5 - - - - -

6 MR. GIRTMAN: Call Mr. Reese.

7 COMMISSIONER EASLEY: As Mr. Reese is coming  
8 up, gentlemen, I would like to ask you sometime in the  
9 next hour, if you can't do it right now, I would like  
10 to take a sense of timing how long you think you are  
11 going to need to finish. I'm talking about all  
12 witnesses for cross examination and redirect. In fact,  
13 I think I'll give you a little bit to contemplate that.

14 If there is the possibility that we can  
15 finish today without having to continue this matter in  
16 Tallahassee, it would be my desire to do so. But I  
17 need to have some sense of whether that is doable. So  
18 if you would take a look at your questions, take a look  
19 at what we can pare it down to. And the witnesses are  
20 asked to take a look at their answers and what they can  
21 pare it down to and still get the information we need.  
22 And see if we can come up with some kind of a time  
23 frame and I'll ask you that question again at the next  
24 break.

25 Mr. Reese, you were sworn yesterday, were

1 you?

2 WITNESS REESE: Yes, I was.

3 WILLIAM D. REESE

4 appeared as a witness on behalf of Sailfish Point  
5 Utility Corporation, and after being previously duly  
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. GIRTMAN:

9 Q State your name and address, please.

10 A William D. Reese, 3003 South Congress Avenue.

11 Q By whom and in what capacity are you employed?

12 A Reese, Macon and Associates and I'm the  
13 President.

14 Q Have you prepared and have caused to be filed  
15 in this proceeding prefiled direct and rebuttal  
16 testimony?

17 A Yes, sir.

18 Q For identification, is that testimony, direct  
19 testimony, contained in the document also containing  
20 the direct testimony of Mr. Seidman, which is marked as  
21 Volume IV of the first four volumes previously submitted?

22 A Yes, sir. That's correct.

23 Q And is also your rebuttal testimony included  
24 with the document also including the rebuttal testimony  
25 of Mr. Seidman previously submitted in this case?

1           A     Yes, sir. That's correct, also.

2           Q     And your additional rebuttal testimony  
3 consisting of three pages?

4           A     Yes, sir. That's correct.

5           Q     Do you have any corrections or changes you  
6 would like to make to your testimony?

7           A     Yes, sir. I do.

8           Q     What are those corrections?

9           A     My direct testimony, Page 4, starting on Line  
10 6, it states that "A third well is currently available  
11 for standby but its water quality is extremely poor."  
12 I have since determined that is not the case. It  
13 should read, "A third well is currently available for  
14 standby, but it does not produce sufficient flow to  
15 meet plant demands."

16          Q     If you were asked the same questions as are  
17 contained in your prefiled testimony, would your  
18 answers be the same?

19          A     Yes, sir. They would.

20               MR. GIRTMAN: I move that Mr. Reese's direct  
21 and rebuttal testimony be inserted into the record as  
22 though read.

23               COMMISSIONER EASLEY: Will be inserted into  
24 the record as though read.

25          Q     (By Mr. Girtman) Have you also prepared



1 exhibits previously identified as WDR-1, which is  
2 attached to your rebuttal testimony?

3 A Yes, sir, I have.

4 MR. GIRTMAN: Request that it be marked for  
5 identification.

6 COMMISSIONER EASLEY: WDR-1 will be marked as  
7 Exhibit 9.

8 (Exhibit No. 9 marked for identification)

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**TESTIMONY OF WILLIAM D. REESE. P.E.****BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION  
REGARDING THE APPLICATION FOR INCREASED RATES FOR  
SAILFISH POINT UTILITY CORPORATION****DOCKET NO. 900816-WS**

1  
2  
3  
4  
5  
6  
7 **Q. Please state your name and address.**

8 **A. My name is William D. Reese. My business address**  
9 **is 3003 S. Congress Avenue, Suite 1E, Palm Springs,**  
10 **Florida 33461.**

11  
12 **Q. What is your profession and by whom are you**  
13 **employed?**

14 **I am a Professional Engineer, Florida Registration**  
15 **No. 30882. I am President and Principal with Reese,**  
16 **Macon and Associates, Inc., Consulting Engineers.**

17  
18 **Q. Please summarize your education and experience.**

19 **A. I have a Bachelor of Science Degree in Civil**  
20 **Engineering and a Master of Science Degree from the**  
21 **Ohio State University. These were obtained in 1972**  
22 **and 1977, respectively. From 1973 - 1977 I worked**  
23 **for the Ohio Environmental Protection Agency where**  
24 **I was in charge of the drinking water program in one**

1 of the Districts. From 1977 - 1980 I was a Senior  
2 Engineer in the Concept Design and Operations Group  
3 with Betz, Converse, Murdoch, Inc. in Philadelphia,  
4 PA. From 1980 - 1986 I was in the water and  
5 wastewater department with Gee and Jenson of West  
6 Palm Beach, FL. The last two years of that period  
7 I was the Department Manager. From 1986 - present  
8 I have been with Reese, Macon and Associates, Inc.  
9 The focus of my working experience has been water  
10 and wastewater.

11  
12 Q. Have you or your firm provided engineering services  
13 to the Applicant, Sailfish Point Utility  
14 Corporation?

15 A. Yes. I first became involved with Sailfish Point  
16 in approximately 1981 to help resolve a corrosive  
17 water problem. Since that time I have worked on a  
18 wide variety of projects and problems associated  
19 principally with the water and wastewater plants.

20  
21 Q. Are you familiar with the existing water and  
22 wastewater facilities at Sailfish Point and also  
23 with the plans for expanding those facilities?

24 A. Yes, I am.  
25

1 Q. On whose behalf are you appearing in this proceeding  
2 and for what purpose?

3 A. I am appearing on behalf of the Applicant for the  
4 purpose of describing the water and wastewater  
5 treatment systems at Sailfish Point and to explain  
6 some of the specific environmental problems faced  
7 by the utility because of the location of its  
8 service area and its impact on the cost of providing  
9 service. I will also address the plans to increase  
10 the treatment capacity of the water and wastewater  
11 plants.

12  
13 Q. Please describe the location of the service area.

14 A. The service area is located on the end of an island  
15 between the Atlantic Ocean and the Indian River.  
16 It is considered to be in an environmentally  
17 sensitive area with little or no water available for  
18 conventional water treatment. Portions of the site  
19 are surrounded by Class II shellfish harvesting  
20 waters. Reverse osmosis (R/O) reject disposal has  
21 been a particular disposal problem. Also, rules for  
22 Wastewater Treatment Plant (WWTP) requirements have  
23 recently become much stricter with regard to plant  
24 equipment and tankage redundancy.

25



1 Q. Please describe the water supply and treatment  
2 arrangement.

3 A. The plant is supplied by two wells. The wells are  
4 approximately 1000 feet deep and provide water which  
5 exceeds DER standards for many dissolved mineral  
6 elements. A third well is currently available for  
7 standby, but ~~it does not produce sufficient flow to meet~~  
8 ~~its water quality is extremely poor~~ plant demands.  
9 The well water is treated using a reverse osmosis  
10 process. The R/O facility is currently rated at  
11 250,000 GPD capacity. R/O is the most common method  
12 for treating this type of water in Florida. R/O is  
13 a relatively new technology. When this plant was  
14 originally constructed the hollow fine fiber  
15 membrane design was state of the art. Today the  
16 spiral wound membrane configuration is virtually the  
17 only style available. Since membranes have a  
18 limited life expectancy it has been necessary to  
19 commence membrane change out using spiral wound  
20 membranes. This has caused the need for  
21 reconfiguring the plant internal piping. To reduce  
22 costs, the membranes are being changed out in  
23 phases. The modification for the second stage has  
24 been completed. The modification for the first  
25 stage is planned for 1992. It is noted this change  
is required at this time to maintain compliance with

1 DER standards on Total Dissolved Solids (TDS). The  
2 initial design was sufficiently conservative to  
3 allow sufficient building space to permit this  
4 change out without structural modifications or  
5 expansion. The reject stream from the process  
6 initially was directed to the Intracoastal. It now  
7 goes to the storm drainage system.

8  
9 Q. Have you made any efforts to minimize disposal cost?

10 A. Yes. We had rather protracted negotiations with DER  
11 regarding regulatory interpretations and treatment  
12 requirements concerning the R/O reject. Without  
13 getting too technical, their position has been that  
14 the reject requires treatment for hydrogen sulfide  
15 removal due to acute toxicity concerns. Our  
16 position, after extensive research and testing was  
17 that the problem could be resolved with nominal  
18 treatment. DER ultimately agreed with our approach  
19 but continues to typically require hydrogen sulfide  
20 removal for other entities.

21  
22 Q. Are there any recurring costs associated with the  
23 R/O system and maintenance of membranes?

24 A. Normal membrane life is 3-5 years. The initial  
25 membranes at SPUC had exceptional performance, with

1       some lasting ten years. We have recommended cycled  
2       replacement of two vessels (12 membranes) about  
3       every two years. The estimated annual cost is  
4       approximately \$ 25,000 a year. A regular changeout  
5       program will help to maintain a high level of  
6       treatment efficiency and water quality.

7  
8       Q.   Have there been any problems with water quality?

9       A.   Yes. R/O product water has corrosive tendencies  
10       due to the low solids and nature of the  
11       constituents. The corrosive nature was causing  
12       deterioration of any metallic piping and the water  
13       quality deteriorated from the corrosion byproducts.  
14       This is a problem that the R/O industry had not  
15       addressed effectively in the past. We have  
16       recommended and installed, a low operational cost  
17       passive system to introduce calcium into the water  
18       and reduce corrosive tendencies (a calcite  
19       contactor). It should be noted that if the raw  
20       water quality permitted, the corrosiveness could be  
21       reduced by simply blending untreated water with R/O  
22       product. The high raw water chloride concentration  
23       prevents effective blending without exceeding the  
24       chloride and/or TDS standard.

25

1 Q. Is this unusual with an R/O system?

2 A. The aggressive nature of product water is not  
3 unusual. In fact there is great interest in the use  
4 of the calcite contactor concept on other similar  
5 plants as a cost effective corrosion control method.  
6

7 Q. Is the water treatment and storage adequate?

8 A. At present, the water quality satisfies all  
9 applicable standards however, based on projected  
10 growth, the plant needs to be expanded in 1992. An  
11 additional 100,000 GPD of treatment capacity is  
12 being planned. This expansion, in conjunction with  
13 the existing storage capacity, will be sufficient  
14 to meet the needs of Sailfish Point at buildout.  
15 The storage capacity satisfies DER requirements and  
16 is reasonable for fire protection requirements.  
17

18 Q. Please describe the wastewater treatment system.

19 A. The wastewater treatment facility consists of a  
20 conventional extended aeration treatment process and  
21 filtration using precast concrete tankage. Treated  
22 effluent is stored in a storage reservoir and  
23 ultimately sprayed on the golf course. The existing  
24 plant was built with a single 125,000 GPD aeration  
25 basin. Although the plant has been allowed to



1        operate under a construction permit, it has never  
2        received an operating permit.

3  
4        Q.    Why was an operating permit never issued?

5        A.    There has been some disagreement with DER regarding  
6        the golf course spray irrigation and the  
7        interpretation of the back-up requirements in the  
8        case of a plant upset. In addition, the regulatory  
9        requirements for equipment redundancy changed  
10       significantly after the design for the plant was  
11       initially approved.

12  
13       Q.    Have these areas of disagreement been resolved?

14       A.    Yes. They have. As a result of extensive  
15       negotiations, DER will extend the construction  
16       permit rather than issuing an operating permit for  
17       the plant as it stands; the utility will implement  
18       the modifications necessary to meet DER  
19       requirements; and as a result of these  
20       modifications, the plant will be rerated to  
21       250,000 GPD.

22  
23       Q.    Is it an economical choice to modify the plant in  
24       such a way that its capacity is doubled?

25       A.    Yes. During the negotiations, it became evident

1 that much of the cost to meet DER requirements was  
2 associated with providing equipment redundancy. To  
3 meet the redundancy criteria, DER could have  
4 required dual chlorine contact basins, dual  
5 clarifiers, a separate off line storage tank for  
6 process upset containment and, somehow, the  
7 subdividing of the existing 125,000 GPD aeration  
8 basin. Through negotiations, DER agreed they would  
9 issue a construction permit leading to an operating  
10 permit if, instead of the above, the utility would  
11 construct another 125,000 GPD aeration basin,  
12 related filters and an on line process  
13 instrumentation and monitoring system. The cost of  
14 this negotiated approach is approximately the same,  
15 and in addition, the plant will be rerated at  
16 250,000 GPD. Since it will be necessary to expand  
17 the plant anyway, this approach takes care of both  
18 problems. Most importantly, the chosen approach  
19 meets all of DER's objectives for this plant.

20  
21 Q. I understand that the effluent holding tank is below  
22 ground level, so as to blend in with the surrounding  
23 area. Does this result in any advantages or  
24 disadvantages to the utility?

25 A. It should be noted that this tank is technically

1 below ground surface but is not below natural grade.  
2 In essence, earth has been mounded up over the tank.  
3 This is significant because it eliminates the higher  
4 costs normally associated with below grade  
5 construction in Florida, namely, high ground water  
6 and associated design to prevent buoyancy and uplift  
7 forces. The only real extra cost of this approach  
8 was the relatively nominal earthwork which is  
9 significantly offset by savings on painting.

10  
11 Q. Did you take part in the determination of used and  
12 useful for this rate case filing?

13 A. Yes I did, although I did not perform the  
14 calculations. I provided Mr. Seidman with my  
15 opinions as to the adequacy and usefulness of the  
16 water and wastewater treatment facilities, the need  
17 for and timing for expansion, and the economics of  
18 the choice available. He then performed the used  
19 and useful calculations in the format familiar to  
20 this Commission.

21  
22 Q. Have you reviewed these calculations and do you  
23 agree with the results?

24 A. Yes. I believe they are a reasonable representation  
25 of the usefulness of the treatment and related

1 facilities.

2

3 Q. Does that conclude your testimony?

4 A. Yes it does.

5

6

7

8

9

10



1                   **REBUTTAL TESTIMONY OF WILLIAM D. REESE**  
2                   **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**  
3                   **REGARDING THE APPLICATION FOR INCREASED RATES FOR**  
4                   **SAILFISH POINT UTILITY CORPORATION**  
5                   **IN MARTIN COUNTY**  
6                   **DOCKET NO. 900816-WS**

- 7
- 8    **Q.    Please state your name, profession and address.**
- 9    **A.    My name is William D. Reese. My business address**  
10           **is 3003 S. Congress Avenue, Suite 1E, Palm Springs,**  
11           **Florida 33461.**
- 12
- 13   **Q.    Are you the same William D. Reese that has**  
14           **previously submitted direct testimony on behalf of**  
15           **the Applicant in this proceeding?**
- 16   **A.    Yes I am.**
- 17
- 18   **Q.    What is the purpose of your rebuttal testimony?**
- 19   **A.    The purpose of my testimony is to rebut the direct**  
20           **testimony of Mr. William J. Thiel and Mr. Francisco**  
21           **Perez of the State of Florida Department of**  
22           **Environmental Regulation.**
- 23
- 24   **Q.    Mr. Perez states that the utility is not meeting**  
25           **the appropriate levels for the Langelier Index and**

1 the pH range. Mr. Perez also states that recent  
2 chemical analysis of raw and finished water  
3 suggests the need for additional treatment with  
4 calcium carbonate. Are all of these factors  
5 related?

6 A. Yes. These factors are all related to the  
7 corrosivity/stability of finished water from the  
8 reverse osmosis R/O treatment facility.

9  
10 Q. What is the utility doing to control corrosivity?

11 A. The utility has been issued a permit to take action  
12 to correct this situation. Its efforts have been  
13 to reduce the pH level required to stabilize the  
14 finished water through the introduction of calcium.  
15 The objective is to satisfy the Langelier Index and  
16 still meet the pH level requirement. The first  
17 step taken was the addition of a calcite contactor  
18 to introduce calcium into the finished water.  
19 Tests were then made, the results of which  
20 indicated that the calcite contactor alone was not  
21 sufficiently effective in reducing the Langelier  
22 Index. We subsequently added a carbon dioxide feed  
23 to introduce carbon dioxide into the water prior to  
24 it entering the calcite contactor. This allows  
25 more calcium to be dissolved in the contactor. The

1 first samples taken indicate that the Langelier  
2 Index is -0.1 and the pH level is 8.5. Both of  
3 these measures are within the DER required limits.  
4 We are now in the process of formally requesting a  
5 release from DER.

6

7 Q. Is it difficult to balance the Langelier Index and  
8 the pH factor?

9 A. Yes it is. DER officials have recognized that  
10 meeting the pH standard is secondary to controlling  
11 corrosivity. Exhibit (WDR-1)\_\_\_\_\_ is a copy of a  
12 letter from DER to the Miami-Dade Water and Sewer  
13 Authority that acknowledges the problems inherent  
14 in controlling corrosivity.

15

16 Q. Do other R/O plants have this problem?

17 A. Virtually every plant that does not blend its R/O  
18 water has this problem to some extent. The fact is  
19 that Sailfish Point Utility Corporation has been  
20 progressive and inventive in its efforts to address  
21 the problem. Other similar facilities have shown  
22 an interest in SPUC's approach and, I believe, will  
23 be installing similar equipment in the future.

24

25 Q. Does the finished water satisfy all standards with

- 1           the carbon dioxide feed?
- 2    A.    Yes, it does, based on the initial test results.  
3           But, obviously it is close to the allowable limits.  
4           The standards are not particularly applicable to  
5           R/O product water.  
6
- 7    Q.    Mr. Reese, have you reviewed the prefiled testimony  
8           of Mr. Thiel regarding the wastewater treatment  
9           plant?
- 10   A.    Yes I have.  
11
- 12   Q.    Do you agree with his statements?
- 13   A.    I do, in general. However, I believe the portions  
14           regarding compliance may be somewhat misleading to  
15           someone not familiar with the permitting process.  
16
- 17   Q.    What part of Mr. Thiel's testimony do you believe  
18           may be misleading?
- 19   A.    The part at page 3, line 19 where he indicates that  
20           the plant is in substantive compliance with its  
21           permit.  
22
- 23   Q.    Why are you concerned with this statement?
- 24   A.    SPUC is in the process of investing a substantial  
25           amount of money to modify and enlarge the



1 wastewater treatment plant. It would be misleading  
2 if the Commission were to conclude that since the  
3 utility is in compliance with its permit, that the  
4 work now being done is not necessary.

5  
6 I want to clarify for the Commission that the  
7 permit with which SPUC is in compliance is a  
8 construction permit, not an operating permit. SPUC  
9 is in compliance with its construction permit  
10 because it is carrying out the construction  
11 required under the permit. SPUC does not have an  
12 operating permit for its plant and cannot qualify  
13 for an operating permit until the plant  
14 modifications now being carried out are completed.  
15 In essence, the plant will not fully comply with  
16 Chapter 17-600, Florida Administrative Code until  
17 the construction is completed, as I previously  
18 discussed in my prefiled direct testimony.

19  
20 In addition, based upon the most recent flow data,  
21 which indicates significantly increased flows, the  
22 plant would not be in compliance with permitted  
23 flow limitations unless the expansion were  
24 underway.

25 Q. Does that conclude your rebuttal testimony?

A. Yes it does.

**1        ADDITIONAL REBUTTAL TESTIMONY OF WILLIAM D. REESE**  
**2        BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**  
**3        REGARDING THE APPLICATION FOR INCREASED RATES FOR**  
**4        SAILFISH POINT UTILITY CORPORATION**  
**5        IN MARTIN COUNTY**  
**6        DOCKET NO. 900816-WS**

**7**  
**8    Q.    Please state your name, profession and address.**

**9    A.    My name is William D. Reese. My business address**  
**10        is 3003 S. Congress Avenue, Suite 1E, Palm Springs,**  
**11        Florida 33461.**

**12**  
**13   Q.    Are you the same William D. Reese that has**  
**14        previously submitted direct and rebuttal testimony**  
**15        on behalf of the Applicant in this proceeding?**

**16   A.    Yes I am.**

**17**

**18   Q.    What is the purpose of your additional rebuttal**  
**19        testimony?**

**20   A.    The purpose of my additional rebuttal testimony is**  
**21        to respond to the supplementary testimony of Mr.**  
**22        DeMeza.**

**23**

**24   Q.    Mr. DeMeza states that the history of operation for**  
**25        the original membrane system must be considered in**  
**26        the life of the new membrane system. Is there any**

1        **direct correlation between the life of the old**  
2        **membranes system and the new membrane system?**

3  
4        **A. No. Not on the basis of years of service. There is**  
5        **a correlation when the volume of water treated is**  
6        **considered. The plant started up in 1981 but very**  
7        **little water passed through the system. The**  
8        **original membrane system operated for eight years,**  
9        **1982 - 1989. The volume of water sold was very low**  
10       **in the earlier years, so the membranes were not**  
11       **fully utilized. When the total volume of water sold**  
12       **for the period 1982 -1989 is compared to the volumes**  
13       **sold in 1990 and 1991, it is apparent that the new**  
14       **membrane system may be treating as much water in**  
15       **four years as the old membrane system did in eight**  
16       **years. This higher volume flow will contribute to**  
17       **a much shorter calendar life for the new membranes.**

18  
19       **Q. Mr. DeMeza recommends a four year change out program**  
20       **compared to your recommendation for a three year**  
21       **change out program. Why do recommend the shorter**  
22       **change out period?**

23       **A. Although one cannot be certain just how long a**  
24       **membrane can function satisfactorily, manufacturers**  
25       **typically provide a three year warranty for these**

1 membranes. It is more prudent to schedule the  
2 change-out period to match the warranty period  
3 rather than to speculate as to whether the membranes  
4 may or may not outlast the warranty period.

5

6 Q. Does that conclude your testimony?

7 A. Yes it does.

8

9



1           Q     (By Mr. Girtman) Were you here during the  
2 customer testimony yesterday?

3           A     Yes, sir.

4           Q     Were you here when the letter was provided by  
5 one of the customers relating to the testing for lead  
6 in the pipes?

7           A     Yes, I was.

8           Q     Do you have a copy of that letter?

9           A     Yes, I do.

10           MR. GIRTMAN: Request that it be marked for  
11 identification.

12           COMMISSIONER EASLEY: When I get a copy of it.

13           MR. GIRTMAN: We only have one.

14           COMMISSIONER EASLEY: Well, I can't mark it  
15 until -- my problem now, Mr. Seidman -- Mr. Girtman, I  
16 need copies for the court reporter. Can you get  
17 somebody to make it real quick and come back to  
18 that?

19           MR. GIRTMAN: That's the last matter I have  
20 to inquire about. Can we go ahead with cross  
21 examination and I'll come back to that?

22           COMMISSIONER EASLEY: Yes.

23           MR. GIRTMAN: Thank you. I tender the  
24 witness.

25           COMMISSIONER EASLEY: Mr. Reilly?

## CROSS EXAMINATION

BY MR. REILLY:

Q Mr. Reese, on Pages 5 and 6 of your direct testimony, you discuss the recurring cost associated with the reverse osmosis water treatment plant? Would you explain how you arrived at a 12-membrane replacement every two years and a breakdown on that \$25,000 cost per year?

A Yes. Generally, I would say it was an estimate. I do not have all the figures in front of me, but generally, the calculation was done based on the total number of membranes anticipated for the plant at its flow capacity, which, if memory serves, would be 42. Simply divided that by 3 and said we will be replacing, I think we said 12 here, 12 to 14 would be the correct estimated number to be precise.

We then used prices obtained from a previous contract that we had administered on the cost of membranes and associated costs to install them. I again, if memory serves, the number is in the vicinity of \$1,700 per membrane. \$1,700 times 12 plus some installation costs is how we arrived at the 25,000.

Q These membranes, they're located in long cylinders?

A That's correct.

1 Q And there are six membranes per cylinder?

2 A That's correct as well.

3 Q You say that these new membranes are designed  
4 to last three to five years and that they are  
5 guaranteed for three years, is that correct?

6 A I'm reading that. I said "normal membrane  
7 life is three to five years." It is true that they are  
8 typically guaranteed at three years.

9 Q Do you recommend that the Utility replace  
10 these membranes when the warrantee runs out whether or  
11 not the membranes, in fact, need to be replaced?

12 A No. You would replace them when they're  
13 needed.

14 Q So the Utility has no historic experience  
15 with these new membranes?

16 A Not with this particular design, that is  
17 correct.

18 Q And, in fact, the Utility's experience with  
19 the other membranes, is it not true that they lasted  
20 close to 10 years?

21 A Yes, they did. They were a different design  
22 of membrane, and I would point out that the flow rates  
23 that were occurring in the early years were  
24 substantially less than they are now. The membranes  
25 have a physical life that is related to flow, as well

1 as chronology.

2 Q Notwithstanding that flow qualification, is  
3 there something particularly superior about these new  
4 membranes, even though they may last a shorter period  
5 of time, that would justify the Utility to go to that  
6 type of membrane system as opposed to the old?

7 A I'm not sure I follow you.

8 Q What makes these new membranes superior to  
9 the old membranes that appear to have lasted so much  
10 longer?

11 A There are several things. I suppose the most  
12 significant would be that they are more tolerant of  
13 silt density index is what they're more tolerant of.  
14 What that is is a measure of their ability to tolerate  
15 more suspended solids in the water.

16 Q You indicated that, although you are  
17 proposing to build into the rates this replacement cost  
18 -- which, now, to the extent that experience results in  
19 those membranes not being replaced after three years,  
20 that the customers would be required to pay for an  
21 expense that the Utility, in fact, did not incur?

22 A If they're not replaced and it is budgeted  
23 for replacement and included in the rate, that is  
24 correct.

25 Q Okay. Do you agree that to meet the fire



1 flow requirements to put out a fire anticipated for the  
2 multistory condo projects, the system must be able to  
3 supply water at 1500 gallons per minute for two hours?

4 A Yes, sir.

5 Q Have you prepared a hydraulic analysis of the  
6 water distribution system to determine if the system  
7 can produce this quantity of water at the condo  
8 projects at a minimum of 20 pounds per square inch?

9 A No, sir, I have not.

10 Q Can this fire flow, this 1500 gallons per  
11 minute for two hours, be provided with the largest pump  
12 out of service and provide the maximum daily flow of  
13 124 gallons per minute?

14 A Not with the largest pump out of service,  
15 no, sir.

16 Q Yesterday, a customer testified that,  
17 although one of the condo projects called for an  
18 eight-inch water line, the contractor, in fact,  
19 installed a six-inch water line. Did you hear that  
20 testimony yesterday?

21 A Yes, sir, I did.

22 Q Do you agree with that testimony, or do you  
23 have any knowledge about this situation?

24 A I am unaware of that situation.

25 Q Even if the Utility increased its high

1 service pump capacity and made any other changes that  
2 would be necessary to permit it to meet this 1500-  
3 gallon-per-minute requirement, would the presence of  
4 the six-inch line instead of the eight-inch line  
5 preclude the Utility from ever being able to meet the  
6 1500 gallon per minute fire flow requirement?

7 A Not necessarily, no.

8 Q As an engineer, are you concerned that the  
9 Utility is not able to meet the fire flow requirements  
10 for the multi-story condo projects?

11 A Well, I wouldn't say that they can't meet it.  
12 What I testified to was that they can't meet it with  
13 the largest pump out of service. It would be typical  
14 to design for the largest pump out of service, but the  
15 fact that it isn't designed that way it doesn't mean  
16 they can't meet the fire flow requirement. In fact,  
17 with the pump in service, they can, and the max-day  
18 flow. It is appropriate to include an additional pump  
19 in the next expansion, yes.

20 Q Do I understand that answer to mean that  
21 you're not that concerned that they don't meet these  
22 requirements that are required for fire flow, because  
23 it presupposes that the largest pump might be out which  
24 you're thinking perhaps is not such a great  
25 possibility?

1           A     To the best of my knowledge, that pump has  
2 not been out for any significant period of time. I  
3 don't think it would be fair to say that I'm not  
4 concerned. I think it is a valid point and it warrants  
5 inclusion of the pump in the next expansion.

6           Q     Would you be more concerned if you lived on  
7 the top floor of one of those condo projects?

8           A     I don't think so.

9           MS. REILLY: I have for further questions.

10          COMMISSIONER EASLEY: Thank you. Mr. King?

11                           CROSS EXAMINATION

12   BY MR. KING:

13          Q     Mr. Reese, the permit status of the water  
14 treatment plant is a construction permit, is that  
15 correct?

16          A     Yes. That's true, sir. There is no  
17 operating permit for the water plant ever.

18          Q     Well, what kind of -- is there something  
19 other than a construction permit?

20          A     Not for the water plant. There is for the  
21 wastewater plant.

22          Q     The water plant always operates under a  
23 construction permit. There's never an operating permit  
24 issued?

25          A     You get a construction permit from DER.

1 (Pause)

2 Q You had commented that the 6-inch pipe would  
3 be adequate to sustain the pressure.

4 A No, sir. I said it wasn't necessarily not  
5 adequate.

6 Q The smaller the diameter of the pipe the higher  
7 the pressure to sustain a particular flow, isn't it?

8 A That's correct.

9 Q Do you know anything about the tensile  
10 strength of what that -- you know nothing about that  
11 pipe?

12 A I have no familiarity with that pipe, no.

13 Q But it's designed -- they are designed for  
14 certain pressures?

15 A Yes. It would be designed and, in all  
16 probability, tested at certain pressures, yes.

17 Q And so an attempt to put the flow through that,  
18 you would have to increase the pressure. If you --

19 A You would have to have more pressure to go --  
20 the same flow through a 6-inch as you would an 8-inch.  
21 Yes.

22 Q All right. There is a requirement for the  
23 reverse osmosis discharge to be treated as industrial  
24 waste, isn't that correct?

25 A Yes, that's true.



1 Q And is there an industrial waste discharge  
2 permit required?

3 A Yes, there is.

4 Q And do we have such a permit?

5 A Yes, you do.

6 Q And that permit was allowed because rather  
7 than discharge that waste directly into the state  
8 waters, namely the Indian River, you discharge it into  
9 the harbor, is that correct?

10 COMMISSIONER EASLEY: Into the what?

11 MR. KING: There is within the facility, and  
12 a part of the function of the POA ultimately will be  
13 what they call the "inland harbor" and it is part of  
14 the common areas.

15 COMMISSIONER EASLEY: I just didn't  
16 understand the word.

17 MR. KING: Is our contention.

18 Q (By Mr. King) Right now it's still owned by  
19 the developer, but the way that that industrial waste  
20 discharge permit was achieved was to discharge into  
21 that harbor so that you would have dilution in that  
22 harbor before it was then discharged into the state  
23 waters, is that not correct?

24 A What I'm familiar calling "the harbor" is at  
25 the marina. It does not go there. It does go into the

1 lakes that are on the golf course. I'm not sure if  
2 there is a distinction between that and what is  
3 officially called "the harbor" or not.

4 Q So do you know whether or not the residents  
5 were consulted about that plan of discharge before it  
6 was implemented before the developer?

7 A No, I do not.

8 Q The fact that the developer is still in  
9 control of all of those facilities permits the  
10 developer who also controls the -- is a stockholder of  
11 the Utility to make decisions and utilize those  
12 facilities for the developer's interest in that regard,  
13 is that correct?

14 A I would assume that is correct, yes.

15 Q If they wanted to discharge in somebody  
16 else's lake, they would have to have some sort of an  
17 agreement or something of that nature.

18 A Presumably, they would.

19 COMMISSIONER EASLEY: Would they not need a  
20 DER permit?

21 WITNESS REEVES: Yes, they would. I would  
22 point out that the permit, like any permit, does  
23 require public notice which was accomplished.

24 MR. KING: All right. Thank you.

25 COMMISSIONER EASLEY: Let me ask you a

1 question about that 6- and 8-inch line before we leave  
2 it so that I'm clear in my mind on this fire flow  
3 issue. Your statement originally was that the fire  
4 flow can be met with the assumption that the largest  
5 pump does not go out.

6 WITNESS REEVES: That's correct.

7 COMMISSIONER EASLEY: Is that true when --  
8 you said you had no knowledge of the 6-inch versus the  
9 8-inch pipe installation. Assuming that the 6-inch  
10 pipe is what is there while the specs call for 8-inch,  
11 does that affect your statement about being able to  
12 meet fire flow if the largest pump does not go out?

13 WITNESS REEVES: I believe there is a  
14 distinction between being able to deliver it to a given  
15 site and being able to deliver it from the plant. My  
16 statement was intended to say that we can't generate  
17 and meet fire flow leaving the plant. The size of the  
18 mains clearly impact how it is delivered and where it  
19 is delivered. The reality is that it depends on how  
20 many feet of 6-inch pipe we have as to whether or not  
21 it has so much head loss that it can't get the flow  
22 through it, and I do not know how many feet we have.

23 COMMISSIONER EASLEY: I'm not even sure --  
24 the requirement to meet fire flow, is that a  
25 requirement that is -- how is that stated? How do you



1 demonstrate that you can meet fire flow? Is it as it  
2 leaves the plant or is it as it is delivered to any  
3 destination that the plant serves?

4 WITNESS REEVES: No. It would be at the  
5 hydrant at some point on the system defined as most  
6 controlling.

7 COMMISSIONER EASLEY: Okay. Thank you.

8 WITNESS REEVES: You're welcome.

9 COMMISSIONER EASLEY: Staff.

10 CROSS EXAMINATION

11 BY MS. BEDELL:

12 Q Mr. Reese, I'd like for you to look at  
13 Exhibit -- it's Staff's Exhibit No. 6, and the page  
14 that is marked is part of the response to Interrogatory  
15 No. 36, Page 18 of the exhibit, and that is a response  
16 to a question about unaccounted-for water. Are you  
17 familiar with that interrogatory or that response?

18 A I've looked at it; I have not prepared this,  
19 but I have looked at it.

20 Q If you could hang on to that for just a  
21 minute, I'm going to -- if you could refer to MFR  
22 Schedule F-5. (Pause)

23 A Is there a page number?

24 Q Yes. Page 138.

25 A Okay.



1           Q     Isn't it correct that the peak day of the  
2 month is being used in the used and useful calculation  
3 and not the five-day average?

4           A     Yes, I believe that's accurate.

5           Q     In your opinion, would you agree that a 5-day  
6 average would represent less variance in the  
7 calculation of projected peak days than using just the  
8 one single peak day?

9           A     I'm not sure I know what you mean by less  
10 variance." It would certainly result in a lower  
11 number.

12          Q     Okay. If you could refer again to that Page  
13 18 of Exhibit 6, it shows on there a -- I think I  
14 marked that one -- it shows the unauthorized  
15 construction water usage.

16          A     Yes.

17          Q     Okay. And is that not what is used in  
18 Schedule F-3, the month of that high unauthorized  
19 construction usage, is that not the same month that's  
20 included in the calculation in F-3 for the maximum peak  
21 day flow?

22          A     I'm --

23          Q     Am I going around in circles?

24          A     I don't know. I didn't prepare this so I'm --

25          Q     Does the 600 figure for the unauthorized

1 construction usage fall in the month of March, 1990?

2 A I don't know. I'm --

3 Q Is that not on that schedule on page --

4 A Yes. I'm looking at the 600 here, and it does  
5 occur in March of 1990, if that's your question, yes.

6 Q Okay. And is it also true that on F-3 that  
7 the maximum -- the peak day is also in March of 1990?

8 A Yes, that's correct.

9 Q Would it be possible to conclude from those  
10 figures, both the one on Page 18 of Exhibit 6 and on  
11 F-3, that with March 1990 being a month of high  
12 unauthorized construction usage, that it isn't  
13 representative of peak usage?

14 A It would be possible to conclude that, yes.

15 Q I need to ask you just a couple of questions  
16 about the spiral-wound membranes. Could you please  
17 explain to us why it was that the hollow fiber  
18 membranes were replaced with the spiral-wound  
19 membranes?

20 A They were replaced because they had reached  
21 their useful life. The first part of the question.  
22 The reason we changed to spiral wound is the  
23 availability of the hollow fine fiber had all but  
24 disappeared. The industry has, for this type of  
25 brackish water treatment, almost universally gone to

1 the spiral-wound membrane; availability as much as  
2 anything.

3 Q It is true that you all enjoyed a long useful  
4 life of the hollow fiber membranes?

5 A It was a long chronologic life, yes.

6 Q Okay. But you don't anticipate having a  
7 longer-than-average useful life for the spiral-wound  
8 membranes?

9 A I think we're getting into the definition of  
10 "long" in terms of gallons versus time. I certainly  
11 expect the spiral-wound membranes to perform well here.  
12 Whether or not they will go 10 years, chronologically,  
13 I suspect they will not.

14 Q I really wanted to know if there was a  
15 particular reason why you chose the three years life  
16 expectancy as opposed to anything higher?

17 A Three years is the industry standard for  
18 establishing projections on the performance of  
19 membranes. It is the time that if you get a warranty  
20 guarantee from the manufacturer that they will warrant  
21 it at.

22 Q And does the Company anticipate a longer  
23 usage than the three years that's warranted?

24 A I will speak for myself. I don't know what  
25 the Company expects. I don't know. I mean, to be just

1 very honest about it, I do not know.

2 Q Okay. And you couldn't reach a conclusion  
3 based on the experience with the hollow fiber  
4 membranes?

5 A Well, if you used that I think you would  
6 conclude three years. Simply because if you look at  
7 the volume of water treated over the previous 8 or 10  
8 and compare it to what you probably will treat over the  
9 next three years, you have almost the same volume  
10 treated in the next three years as you did in the  
11 previous ten.

12 Q Thank you. Are you familiar with DER  
13 requirements for redundancy?

14 A Yes, I am.

15 Q Okay. There is reference in Schedule F-6 to  
16 alternatives to meeting DER redundancy requirements.  
17 That alternative that was referred to was to subdivide  
18 the basins into two parts. Is this a viable option for  
19 this Utility?

20 A We don't think it is at this point, given the  
21 flows and the negotiations that were completed with DER  
22 to expand the plant.

23 Q Would it be safe to conclude from that that  
24 expansion of the wastewater treatment plant is the only  
25 solution to meeting the DER requirements for



1 redundancy?

2 A No. I wouldn't say it was the only solution.  
3 We think it was the best solution.

4 Q On Schedule F-5 there is a statement that the  
5 quality of one well is extremely poor. Is the Utility  
6 presently using this well?

7 A No, they are not. That is the statement I  
8 corrected in my direct testimony.

9 Q Is the well out of service? Is the well out  
10 of service?

11 A The well is not in use.

12 Q If that well is out of use, how is it that  
13 you're meeting fire flow requirements?

14 A Well, fire flow requirements come from high  
15 service pumping and storage, not from the treatment  
16 plant capacity.

17 MS. BEDELL: I tender the witness.

18 COMMISSIONER EASLEY: Are you through?

19 MS. BEDELL: Yes.

20 COMMISSIONER EASLEY: Okay. Mr. Girtman, do  
21 you want to go back to this exhibit before we -- this  
22 is a letter to Water Customer, Sailfish Point Utility  
23 dated May 22, 1988. It will be marked as Exhibit 10.

24 (Exhibit No. 10 marked for identification.)  
25

**CROSS EXAMINATION**

1

2 **BY MR. GIRTMAN:**

3       **Q**     Mr. Reese, you heard some testimony yesterday  
4 regarding your concern about lead contamination in  
5 pipes. Is there a problem at Sailfish Point with lead  
6 contamination in pipes?

7       **A**     None that I'm aware of.

8       **Q**     Why was this notice then sent to the  
9 customers?

10       **A**     This notice was issued as part of a mandate  
11 by the USEPA. It came at a time when they were quite  
12 concerned about lead in drinking water in general. And  
13 they effectively dictated that all systems above a  
14 certain size, and I've forgotten the size, needed to  
15 notify their residents of the concern of the items  
16 listed. A, B and C on there, as I recall, were  
17 mandatory requirements in terms of the language, was  
18 put forth as part of the requirement by the USEPA.

19       **Q**     To whom did EPA require notice of lead  
20 contamination be sent?

21       **A**     All utility customers, and, again, I believe  
22 there was a size criteria in there.

23       **Q**     Is that throughout the United States?

24       **A**     To the best of my knowledge, it was through  
25 the entire United States, yes.

1           Q     Okay. In the fourth paragraph of the first  
2 page, could you tell us the measure of the quality of  
3 water regarding lead here at Sailfish Point.

4           A     Yes, sir. It states there that "The  
5 concentration of lead in Sailfish Point's water is  
6 0.002 parts per million --"

7           Q     And continue that sentence, please.

8           A     "-- which is 25 times less than the current  
9 maximum contaminant level."

10           MR. GIRTMAN: Thank you.

11           WITNESS REESE: You're welcome.

12           COMMISSIONER EASLEY: Are there any follow-up  
13 cross examination questions on the letter?

14           Hearing none.

15           MR. GIRTMAN: Move Exhibits 9 and 10 into  
16 the record.

17           COMMISSIONER EASLEY: Hold on just a minute.  
18 Do you have redirect?

19           Now, without objection, Exhibits 9 and 10  
20 will be moved into the record.

21           (Exhibit Nos. 9 and 10 received into evidence.)

22           MR. KING: Might I inquire of this witness  
23 about the extent of -- his knowledge of the extent of  
24 the breakage matter that Commissioner Deason inquired  
25 about yesterday in which Mr. Seidman said, and I

1 realize -- I have something here and I don't know if  
2 he's aware of it, but it does give a quantification on  
3 that. It's the only thing I've seen.

4 COMMISSIONER EASLEY: Briefly, Mr. King.

5 FURTHER CROSS EXAMINATION

6 BY MR. KING:

7 Q Mr. Reese, are you aware of the problem about  
8 the line breakage on southeast, South Marina Way?

9 A No, sir. I'm not.

10 MR. KING: All right, that answers my question.

11 COMMISSIONER EASLEY: All right. All right,  
12 Mr. Reese, thank you very much.

13 (Witness Reese excused.)

14 COMMISSIONER EASLEY: Mr. Reilly, I believe  
15 the next witness is yours.

16 MS. GIRTMAN: We have Mr. Olson.

17 COMMISSIONER EASLEY: I'm sorry, I forgot we  
18 were going to take them now. I beg your pardon.

19 MR. GIRTMAN: Call Mr. Terry Olson.

20 WITNESS OLSON: I wasn't sworn before.

21 COMMISSIONER EASLEY: You weren't sworn yesterday?

22 CHARLES TERRY OLSON

23 was called as a witness on behalf of Sailfish Point  
24 Utility Corporation and, having been first duly sworn,  
25 testified as follows:



## DIRECT EXAMINATION

BY MR. GIRTMAN:

Q Please state your name and business address.

A Charles Terry Olson, 1201 Elm Street, Dallas, Texas 75207.

Q By whom and in what capacity are you employed?

A I work for Mobil Administrative Services Company, Inc. I'm the Federal Income Tax Compliance Manager for Tax Administration, Dallas.

Q Would you generally describe your duties for Mobil?

A The group I supervise is responsible for preparing and filing Mobil's consolidated tax return and seeing that all of our units are advised of any tax law changes and properly report the federal income tax information on an annual basis.

Q Do you have the responsibility for the maintenance of certain tax records for Mobil Corporation?

A Yes.

Q Did you host the representatives of the Office of Public Counsel, Mr. Reilly and Mr. DeWard, on their visit to the Dallas Accounting Offices on June 13th of this year?

1           A     Yes.

2           Q     What was the purpose of their visit to  
3 Dallas?

4           A     My understanding was they were going to come  
5 in and confirm that the depreciation deductions that  
6 were taken on the utility assets by Sailfish Point  
7 Utility Corporation and Sailfish Point, Inc. for the  
8 years 1981 through 1989 were, in fact, reported as  
9 depreciation on Mobil's consolidated return.

10          Q     Didn't that review go back to 1979?

11          A     Yes. But the depreciation wasn't started  
12 until 1981.

13          Q     But they did review it?

14          A     They did review the '79 and '80 workpapers,  
15 also, yes.

16          Q     To your knowledge, was the information  
17 satisfactorily presented to them to show that the  
18 information was included in the returns as  
19 depreciation?

20          A     Yes. I believe we even asked them as they  
21 were leaving whether we had shown that the deductions  
22 were -- had been properly rolled up, and, I believe;  
23 Mr. DeWard nodded and acknowledged that they had.

24          Q     Did he verbally state in the affirmative that  
25 you had?

1           A     I believe so.

2           Q     Okay. Would you please describe the process  
3 that you go through in taking tax information from SPI  
4 and SPUC and consolidating it into the Mobil  
5 Corporation consolidated federal income tax return?

6           A     Each one of our subsidiaries, there is about  
7 300 of them, which include SPI and SPUC, go in and  
8 generate their book income and any tax adjustments  
9 necessary to come up with taxable income. And those  
10 items are accumulated on a line-by-line basis with all  
11 other subsidiaries and are reflected as consolidated  
12 numbers in the tax return filed with the IRS annually.

13          Q     What IS a M-1?

14          A     M-1 is a, I guess, a tax acronym for -- it's  
15 a tax adjustment that goes from the book basis to the  
16 difference between the book number and the tax number  
17 that is shown on the tax return.

18          Q     During the visit, were the OPC representatives  
19 able to trace, from the information on the individual tax  
20 materials from SPUC and SPI, trace into the consolidated  
21 Mobil return and confirm that those depreciation numbers,  
22 in fact, got into the final return?

23          A     I believe so. I believe even Mr. Reilly  
24 added up the various numbers for depreciation and  
25 reconciled that total to the consolidated number.

1           Q     Was information provided to the OPC  
2 representatives made available at least to confirm  
3 questions of contributions?

4           A     The information was made available. I'm not  
5 sure whether they actually looked at the information on  
6 a consolidated level. But I'm sure they reviewed it in  
7 the separate company workpapers.

8           Q     Are you the same C.T. Terry Olson who  
9 prepared an affidavit dated May 29, 1991, which was  
10 forwarded to the representatives of the Office of  
11 Public Counsel regarding the tax treatment of the  
12 assets of Sailfish Point Utility Corporation?

13          A     That was me.

14          Q     Rather than have you read the whole thing  
15 into the record, would you, in your own words,  
16 summarize what your comments were in that affidavit?

17          A     I believe I've gone over the first couple of  
18 items, my responsibilities.

19                 The 1990 information -- the reason it wasn't  
20 able to be reviewed is because it is still in  
21 preparation. That information will be filed with the  
22 IRS on September 16th of this year.

23                 I've worked with Joe O'Gorman at the Mobil  
24 Land Development Offices in Florida in response to two  
25 prior requests for production in providing various tax



1 adjustment workpapers. In addition, I've basically  
2 confirmed that those tax adjustment workpapers were  
3 filed with the IRS on a timely basis for the years 1979  
4 through 1989.

5 Q And how were all the Utility assets treated  
6 during the years 1979 through the last year examined  
7 during the years in which depreciation was taken or  
8 which they were treated in any way?

9 A Every year it was treated as depreciation  
10 expense, not as cost of sale.

11 Q So is it correct to state that you haven't  
12 seen any indication that any of these assets were  
13 written off as cost of goods sold?

14 A That is correct, anything that was identified  
15 as a utility asset on our tax depreciation schedules.

16 Q Was there any ITC recaptured on the sale from  
17 SPI to SPUC?

18 A No, there was not. And the reason there  
19 wasn't any is because the consolidated return  
20 regulations do not specifically state you do not have  
21 to recapture ITC as if it was sold to a third party.  
22 It was sold within the consolidated group.

23 Q Why did Mobil treat as depreciable assets  
24 these assets versus treating them as a cost of sales?

25 A I believe there were many alternatives looked

1 at in the early, probably around the 1980s as some of  
2 the records indicate. But from a business point of  
3 view, I believe Nobil wanted to maintain the  
4 flexibility of either donating them to the POA or  
5 selling them to a third party or the County. And the  
6 only way to do this was to set them up as a separate  
7 business unit. And by doing that, we would have to  
8 depreciate the assets.

9 Q As a predicate for my next question, what is  
10 the master plan?

11 A My understanding -- and my real estate  
12 background is limited -- but the master plan would be  
13 all the basically the common facilities, like the  
14 roads, I guess this clubhouse, and those sorts of  
15 things that would be allocated out to the lots and  
16 recovered as the lots are sold.

17 Q Was the Utility property treated as a  
18 separate cost center from this master plan?

19 A That's my understanding, along with the  
20 marina and the golf course.

21 Q In your view, are the Utility assets treated  
22 as a donated property between SPI and SPUC?

23 A No. I guess the way I view donations is a  
24 donation would be a gift or something like that, and it  
25 would be no basis transferred to the donee. And any

1 time I have ever seen a donation, the donor has written  
2 those expenses off on their books and the no basis was  
3 transferred.

4 Q Is it common in Mobil Corporation to transfer  
5 funds intercompany, between one subsidiary and another,  
6 without having a cost attached?

7 A Yes, it's common to have intercompany  
8 advances between two members, parent/sub.

9 Q Do you consider that as a gift or  
10 contribution when you have this?

11 A No, not at all.

12 Q Commissioner Deason had asked some questions  
13 yesterday on some of the documents and there was a  
14 gentleman's name, Mr. Pizzaza, P-i-z-z-a-z-a. Have you  
15 been able to identify who that person is?

16 A I believe he was an outside attorney that was  
17 attending some of the discussions.

18 Q Is he currently employed by Mobil --

19 A No, he's not.

20 Q -- or any of its subsidiaries, do you know?

21 A As far as I know, he's not.

22 COMMISSIONER EASLEY: And not retained as an  
23 outside attorney?

24 WITNESS REESE: As far as I know, he's  
25 currently not.

1 MR. GIRTMAN: Tender the witness.

2 COMMISSIONER EASLEY: Mr. Reilly?

3 MR. REILLY: I would like to ask for five  
4 minutes if possible because I thought the motion was to  
5 make this man a rebuttal witness, and it was granted.  
6 And my understanding of the Prehearing Order was that  
7 rebuttal witnesses would come after all the direct  
8 witnesses, so we need a couple of minutes to prepare a  
9 question or two --

10 COMMISSIONER EASLEY: I'm going to let do you  
11 that because I had it the wrong way as well. I thought  
12 we would be putting it at the end. I think what  
13 happened is we combined -- when we first got started,  
14 we combined direct and rebuttal so we sort of tripped  
15 over our own feet again. We're going to take a  
16 ten-minute break.

17 When you come back, please be prepared to  
18 answer my questions about the length of time.

19 (Brief recess.)

20 - - - - -

21 COMMISSIONER EASLEY: Before we begin the  
22 cross examination process, let me ask about the time  
23 frame. If we took Mr. Rasmussen out of order, let's  
24 deal with Mr. Rasmussen's testimony first. How long do  
25 we anticipate that we will take for Mr. Rasmussen?



1 MR. GIRTMAN: Very short.

2 COMMISSIONER EASLEY: What's that mean?

3 MR. GIRTMAN: A minute, two minutes.

4 MR. REILLY: No questions.

5 COMMISSIONER EASLEY: Mr. King, will you have  
6 much on direct?

7 MR. KING: He is going to summarize his  
8 testimony and put the exhibits in, and that will be it.

9 COMMISSIONER EASLEY: All right. Staff?

10 MS. BEDELL: 45 seconds.

11 COMMISSIONER EASLEY: 45 seconds?

12 MS. BEDELL: We just wish for him to adopt  
13 his deposition.

14 COMMISSIONER EASLEY: I'm going to write down  
15 15 minutes for Mr. Rasmussen, because I don't think --

16 MR. REILLY: Anything can happen in 45  
17 seconds.

18 COMMISSIONER EASLEY: You got that right.

19 All right. Having dealt with the one I  
20 thought was going to take the longest, Mr. Girtman,  
21 tell me how much longer you think for the rest of the  
22 witnesses then. Give me an estimate including your  
23 second rebuttal witness.

24 MR. GIRTMAN: Depending on what happens on  
25 cross examination, I may not call my second rebuttal

1 witness.

2 COMMISSIONER EASLEY: Okay. Then how about  
3 the other witnesses?

4 MR. GIRTMAN: Mr. DeWard is sort of a  
5 question. I would anticipate not more than 10 to 15  
6 minutes at the very most, if that.

7 COMMISSIONER EASLEY: All right. How about  
8 Staff witnesses? I'm trying to do one attorney at a  
9 time and get some time here.

10 MS. BEDELL: They're not going to be here.

11 COMMISSIONER EASLEY: That's right.

12 MR. GIRTMAN: We stipulated. Zero.

13 MS. BEDELL: I need to make a phone call if  
14 you want us to have them.

15 COMMISSIONER EASLEY: Panic just set in,  
16 didn't it? (Laughter)

17 Okay. All right. Mr. Reilly, how are we  
18 doing on time for you, do you think?

19 MR. REILLY: Concerning our -- we're in  
20 pretty good shape. (Laughter)

21 COMMISSIONER EASLEY: Well, outside of the  
22 editorial, can you quantify that shape for me?  
23 (Laughter)

24 MR. REILLY: Are you asking how much time  
25 with this witness?

1           **COMMISSIONER EASLEY:** How much time with the  
2 rest of the witnesses do you think? I've got an  
3 approximation now from Mr. Girtman that we're looking  
4 at maybe another half hour on his behalf. How about  
5 you?

6           **MR. REILLY:** Basically our witnesses are left  
7 and I would have very little redirect. You haven't  
8 mentioned DeMeza yet as far as you what might have for  
9 him, our engineering witness; I have a few questions  
10 for this witness; I will not be taking up a lot of time  
11 asking a lot of questions from this point forward.

12           **COMMISSIONER EASLEY:** This witness, how long?

13           **MR. REILLY:** Just a matter of several  
14 minutes, 10 minutes or so, 15 minutes.

15           **COMMISSIONER EASLEY:** Mr. King, do you have  
16 an idea?

17           **MR. KING:** I anticipate no more than 10  
18 minutes. About 10 minutes in direct with Mr. Rasmussen,  
19 and I would say no more than five for the cross of the  
20 remaining witnesses.

21           **COMMISSIONER EASLEY:** All right, Staff?

22           **MS. BEDELL:** Staff estimates about five  
23 minutes cross for DeWard, ten minutes for DeMeza.  
24 Depending on what a good job Mr. Reilly does on cross  
25 examining these witnesses, we have, probably, maybe

1 five to 10 minutes on the additional Utility witness  
2 and a negligible amount of time for Mr. Rasmussen.

3 COMMISSIONER EASLEY: Gentlemen, sounds to me  
4 if I can hold you all's feet to the fire, we can finish  
5 this sucker today within a reasonable period of time.

6 Let's get at it and we will take an  
7 abbreviated lunch, and I'm not even sure it's necessary  
8 to take Mr. Rasmussen out of order. If you feel that it  
9 is necessary to do so, we will.

10 Why don't we proceed for a while and see how  
11 it goes. If we get bogged down, we'll take Mr.  
12 Rasmussen before we leave, because that's obviously not  
13 going to take very long. Is that -- beg your pardon?

14 MR. GIRTMAN: One point -- excuse me, are we  
15 through on this one?

16 COMMISSIONER EASLEY: I think so.

17 MR. GIRTMAN: I was thinking there has been  
18 some questions raised about the question of a six-inch  
19 or an eight-inch line, or whatever it is, at one of  
20 these condominiums. And I was trying to think of a way  
21 to get the factual information to you on what, in fact,  
22 is the in-ground, you know, and what the problem is.  
23 And the problem I've got right now is getting the man  
24 here -- or I don't know whether you would allow that to  
25 be presented. Or we could file a late-filed exhibit



1 telling you exactly what's there?

2 COMMISSIONER EASLEY: As a matter of fact,  
3 that's precisely what we'll do. We'll ask for a  
4 late-filed exhibit which will be No. 11. That will be  
5 a "Description of the six- versus eight-inch pipe  
6 that's in the ground." Is that a good short  
7 title?

8 MR. GIRTMAN: That's great.

9 (Late-filed Exhibit No. 11 identified.)

10 COMMISSIONER EASLEY: We'll put a date for  
11 the late-fileds in the end.

12 MR. GIRTMAN: I believe that was -- was that  
13 the 2800 Condominium?

14 COMMISSIONER EASLEY: I suggest you don't  
15 limit it to 2800. But if there is any other in the  
16 system where eight-inch specs have been called for and  
17 six-inch exist, I suggest you include those.

18 MR. GIRTMAN: All right, thank you.

19 COMMISSIONER EASLEY: Now we're all clear  
20 what's going to be on that one, right?

21 Okay. All right. Ready for cross,

22 Mr. Reilly?

23 You might, before we get started, if we need  
24 to let the restaurant know, it would be my intent to  
25 break for lunch as close to 12:00 as possible; take no

1 more than 45 minutes; if we can accomplish it in a  
2 shorter period of time, we'll reconvene.

3 Go ahead, Mr. Reilly.

4 CROSS EXAMINATION

5 BY MR. REILLY:

6 Q Mr. Olson, how long have you been employed by  
7 Mobil Corporation?

8 A For ten years.

9 Q Prior to this rate case, what's been your  
10 involvement with SPUC and SPI?

11 A Very limited.

12 Q Where are the detailed SPI and SPUC records  
13 kept?

14 A They're kept here in Florida.

15 Q Let me read just a portion of your affidavit  
16 that interests me, and I would like to get your response  
17 on a couple of things. In the affidavit, you said, "The  
18 cost of assets, land, plant, mains, lines --"

19 A Could you give me a reference, please?

20 Q We're talking about the second page -- the  
21 third page, actually. In fact, really, the last part  
22 of the last sentence?

23 A No. 6?

24 Q That's correct. And in there, after you talk  
25 about the consolidated returns and the Schedule Ms, you

1 say, "The cost of the assets, land, plant, mains,  
2 lines, pumps, equipment and other assets presently  
3 owned by Sailfish Point Utility Corporation and  
4 currently or previously used to provide water and  
5 wastewater utility services to customers at Sailfish  
6 Point has not been deducted as a cost of doing  
7 business, or as a cost of sales, or as any other cost  
8 or expense on the consolidated Mobil Corporation tax  
9 returns except for depreciation of nonland assets."

10 My question is, what steps did you take to  
11 verify your statement that the assets were not deducted  
12 as a cost of sales?

13 A I looked at the, basically, the work papers,  
14 files, which starts with the book accounting. And the  
15 assets that are recorded on SPUC's books for those  
16 years were depreciated under the tax rules, I believe  
17 under ACRS, and they were depreciated and treated as  
18 depreciation expense on the tax returns. They were not  
19 in any way, that I could tell, taken as a cost of sale.

20 Q So you only reviewed the documents that were  
21 in the position of the Dallas Accounting Center?

22 A That is correct.

23 Q And where -- excuse me?

24 A One other thing is I am familiar with, you  
25 know, Mobil's accounting procedures and basically I



1 guess I have some comfort in the fact that these are  
2 depreciable assets based on Mobil's accounting  
3 procedures.

4 Q But may I assume then that the details that  
5 would make up the support for the cost of sales would  
6 be kept at the offices --

7 A If you're asking if I looked at the local  
8 ledgers, no, I have not.

9 Q Mr. Girtman asked you to comment on the  
10 conclusions you understood the Office of Public Counsel  
11 team reached after their inspection on 6-13-91. And  
12 you basically said that they seemed to be satisfied  
13 that the schedule Ms previously provided were, in fact,  
14 utilized by Mobil in its consolidated tax returns,  
15 which reflected the capitalization and the depreciation  
16 treatment.

17 However, is it not also true that after the  
18 team reviewed the memos much discussed in this hearing,  
19 Items 16 through 19, that Mr. DeWard asked to see the  
20 detail that comprised the cost of goods sold numbers  
21 for SPI for the years 1980 through 1984?

22 A It's my understanding that was in the  
23 document to compel or whatever it is, Motion to Compel?

24 Q But was that question asked and was not the  
25 answer that that detail would have to be found at the



1 Mobil Land Development Corporation's offices in Palm  
2 Beach Gardens?

3 A That's the way I understood it, yes.

4 Q That was the question and the answer?

5 A Yes, sir.

6 MR. REILLY: Okay, thank you. Excuse me one  
7 second. (Pause)

8 Okay, thank you.

9 COMMISSIONER EASLEY: Mr. King?

10 MR. REILLY: Excuse me?

11 COMMISSIONER EASLEY: I'm sorry. (Pause)

12 Q (By Mr. Reilly) Okay. Is it true that you  
13 have no knowledge of any of the memos that were  
14 discussed yesterday, memos, Items 16 through 19?

15 A I have no knowledge? What do you mean by  
16 that?

17 Q No additional knowledge. I think several  
18 times the witness Mr. Seidman was asked, "Do you have  
19 any more information about what the reasons were that  
20 the policies changed and so forth?" And he looked  
21 around and everybody drew a blank?

22 A I think I alluded to that earlier in my, when  
23 Mr. Girtman asked me why we would have treated as  
24 Utility property versus -- or recovering it through  
25 depreciation versus the cost of sale. Is that what

1 you're talking about?

2 Q This is something you're surmising then from  
3 your knowledge of Mobil's handling of its tax returns  
4 as opposed to any particular knowledge you have about  
5 those memos. Is that correct?

6 A I believe, based on -- yeah, based on the way  
7 that I interpreted the documents that I read. And then  
8 I would assume that that's what Mobil's management had  
9 in mind as to why they determined --

10 Q But no first-hand knowledge of those memos?

11 A No.

12 MR. REILLY: Okay, thank you.

13 COMMISSIONER EASLEY: Mr. King?

14 CROSS EXAMINATION

15 BY MR. KING:

16 Q Mr. Olson, you had mentioned about the master  
17 plan and I think I missed that. But what is the effect  
18 of the master plan on the way it's treated from  
19 accounting purposes?

20 A My understanding is that the master plan  
21 would be the roads, the common facilities, this  
22 clubhouse, and so forth, are treated all in one cost  
23 center and those costs are allocated out to the various  
24 lots. And as the lots are sold, then they are  
25 recovered, the expense is recovered as the lots are

1 sold.

2 Q Is there any sort of document that you  
3 referred to to determine whether the master plan at  
4 Sailfish Point may have also included the SPUC or the  
5 Utility facilities?

6 A My understanding, based on the way it's  
7 accounted for --

8 Q Could you answer first whether there's any  
9 document that you have looked at?

10 A No. I have not seen a document.

11 Q All right. Do you want to explain about your  
12 understanding?

13 A It's my understanding that the master  
14 facilities were accounted for separate and apart from  
15 -- or as a separate cost center, as I said earlier,  
16 from the Utility, the marina and the golf course.

17 Q And where did you get that understanding  
18 from?

19 A In discussions I had with the MLDC accounting  
20 personnel.

21 Q But you have never seen their documentation  
22 on it?

23 A No. I have not.

24 MR. KING: Thank you.

25 COMMISSIONER EASLEY: Ms. Bedell?



1 MS. BEDELL: Thank you.

2 CROSS EXAMINATION

3 BY MS. BEDELL:

4 Q Mr. Olson, would you please refer to Page 12  
5 of Exhibit 3, if you have it there? (Pause)

6 A Okay.

7 Q Does the last sentence of Paragraph 4 state,  
8 "Tax would defer gain and recognize as SPUC depreciated  
9 the assets"?

10 A Can you repeat the question? I'm sorry, I --

11 Q Can you read the last sentence?

12 A Yes. "Tax would defer gain and recognize as  
13 SPUC depreciated the assets."

14 Q Is it correct that Sailfish Point, Inc., took  
15 tax depreciation under ACRS?

16 A ACRS? Yes.

17 Q Isn't it correct that IRC Section 168-E  
18 requires that public utility property placed in service  
19 after 1980 be normalized to qualify for ACRS  
20 depreciation?

21 A I'm not that familiar with that section. I'm  
22 sorry.

23 Q Was the Utility property placed in service by  
24 SPI prior to the transfer to SPUC?

25 A Yes, it was.



1 Q Isn't it correct that the Internal Revenue  
2 Code Section 46 requires normalization of ITC taken on  
3 utility property?

4 A I'm not familiar with that section -- with  
5 that aspect of that section.

6 Q Who knows about ITCs?

7 A I know about certain aspects of ITCs; but the  
8 normalization rules, I'm not familiar with.

9 Q Who would know about normalization rules? Is  
10 there anyone here?

11 A I don't believe so.

12 Q Was the ITC used on the consolidated tax  
13 return?

14 A Yes, it was.

15 Q Was the transfer of assets from SPI to SPUC  
16 structured as a taxable sale or as a nontaxable  
17 transaction?

18 A My understanding is it was treated as a sale.

19 Q Do you know why that was?

20 A Normally, when you have a sale -- or, excuse  
21 me, an exchange and there is a note exchanged, some  
22 value consideration, even an advance, it would be  
23 treated as a sale as opposed to a contribution to a  
24 subsidiary. Contribution meaning a contribution of  
25 capital, not a donation.

1 Does that answer your question? (Laughter)

2 Q Yes. Thank you.

3 Why weren't ITCs associated with Utility  
4 assets transferred to SPUC? Why were not ITCs  
5 associated with the Utility assets transferred to SPUC?

6 A I'm not sure what you mean by "transferred."  
7 I would think that if the property were sold outside of  
8 the consolidated group prior to the qualifying period  
9 expiring that SPUC would end up having to repay the  
10 ITC, investment tax credit, at that time.

11 Q Do you know whether SPI took ITCs before the  
12 transfer to SPUC?

13 A I think I've already said that they did, in  
14 1981.

15 Q Okay. But those -- and why were those ITCs  
16 not transferred to SPUC?

17 A I don't know what you mean by "transferred."  
18 I'm sorry.

19 Do you mean did SPI recapture and then SPUC  
20 take the investment credit in the same year, in the  
21 year they were, of the assets were transferred?

22 Q Can you answer that?

23 A I've never heard of that being done before.

24 COMMISSIONER EASLEY: That's a great  
25 question. Would you care to try the answer?

1 (Laughter)

2 A That may take a lot of research.

3 COMMISSIONER EASLEY: If we don't know where  
4 we're going, we may not be able to get there.

5 MS. BEDELL: The train is just going a little  
6 faster than I am, Commissioner.

7 COMMISSIONER EASLEY: I understand.

8 Q (By Ms. Bedell) Did the decisions made  
9 related to these ITCs have -- did the fact that this is  
10 a related transaction or a transaction between related  
11 companies have some bearing on why these were handled  
12 this way?

13 A I believe I said that earlier when Mr.  
14 Girtman asked that question that the consolidated  
15 regulations do not require a recapture on a sale  
16 between consolidated subsidiaries. That's under the  
17 1502-3 regs, I believe.

18 Q Referring back again to the ITCs that SPI  
19 took, do you know what happened to those, how they were  
20 treated?

21 A They were included with all the other  
22 investment tax credits generated by other Mobil  
23 subsidiaries, and they were taken against the  
24 consolidated tax return liability for 1981.

25 Q And is it correct that you do not know if



1 they were normalized?

2 A That is correct. I'm not that familiar with  
3 the normalization rules.

4 Q Could you please refer to Page 7 of Composite  
5 Exhibit 3? And could you, once you get there, please  
6 explain Paragraph D, which is at the top of the page?

7 A Okay, you're going to have to help me a  
8 little bit. Page 7?

9 Q Yes. It is also No. 17, Page 4.

10 A Okay, I'm there.

11 Q It starts with "Further tax problem exists --"

12 A Do you want me to read that?

13 Q Can you offer any, can you enlighten us any  
14 on what that might mean?

15 A I have no idea what it means.

16 Q Okay. On Page 3 of Exhibit 3, which is Item  
17 No. 16 up at the top of the page, it's dated December  
18 14, 1979?

19 A Right.

20 Q There is a Paragraph 3 on the bottom of Page 3?

21 A Yep.

22 Q Could you please explain the last sentence on  
23 there that reads, "Sailfish will drop land into SPUC  
24 and will try to translate its investment in SPUC into  
25 its land basis"?



1 A I don't know what that means at all.

2 Q On Page 8, there is a note, the last note,  
3 about six lines up from the bottom of the page.

4 A Uh-huh. Item B?

5 Q It says "1," and then there's "A, B, C"?

6 A Right.

7 Q Could you read that for us?

8 COMMISSIONER EASLEY: Into the record? It's  
9 already in the record.

10 MS. BEDELL: Staff tells me they're unable to  
11 read it at all.

12 COMMISSIONER EASLEY: I see. For  
13 clarification, please?

14 A The way I read it is -- do you want me to  
15 read the whole thing?

16 Q Starting with No. 1 down there at the bottom.

17 A 1-A?

18 Q 1-A.

19 A "SPUC stock in assets to third party on not  
20 for resale tax basis problems. B, May include in SP  
21 basis and depreciate on SPUC." And then C is blank.

22 Q Do you have any idea what "SP" is on B?

23 A I really don't know. I mean "SP" in the  
24 other places seem to indicate Sailfish Point, but --

25 Q So it could be Sailfish Point, Inc., but you

1 don't know, is that correct?

2 A That's true.

3 Q Do you have any idea what 1-A, does that mean  
4 anything to you?

5 A No, it does not.

6 MS. BEDELL: Those are all the questions we  
7 have.

8 COMMISSIONER EASLEY: Thank you.  
9 Commissioner? I forgot to ask you on the time frame.

10 (Laughter)

11 COMMISSIONER DEASON: Not long, Commissioner.  
12 It always depends on the answers you get, though.

13 COMMISSIONER EASLEY: All right.

14 COMMISSIONER DEASON: Mr. Olson, the  
15 documents that are contained in Exhibit 3, those were  
16 provided by you or through your office at the time of  
17 of Public Counsel's --

18 WITNESS OLSON: They were in the work papers  
19 when Mr. DeWard and Mr. Reilly came to visit.

20 COMMISSIONER DEASON: But you did not  
21 participate in the actual writing or the discussions  
22 that went into the production of these memos?

23 WITNESS OLSON: No. Those memos were  
24 evidently prepared many years ago. I was not around.

25 COMMISSIONER DEASON: But you would agree

1 that some of the language or the majority of the  
2 language in these memos at least contemplates the  
3 possibility of a certain tax treatment, that being  
4 including the cost of the Utility assets in the cost of  
5 lot sales?

6 WITNESS OLSON: I would agree that there were  
7 various, they indicate various alternatives were  
8 considered.

9 COMMISSIONER DEASON: And it's your testimony  
10 that, while those alternatives were considered, they  
11 were not adopted and that in reality the cost of the  
12 Utility assets were not part of the lot sales for tax  
13 purposes or for book purposes?

14 WITNESS OLSON: That is correct.

15 COMMISSIONER DEASON: Somewhere during this  
16 process, then, there had to be a decision by management  
17 to take that course of action. Is there any  
18 documentation which describes the considerations and  
19 the discussions and the decisions of management to  
20 follow that course of action?

21 WITNESS OLSON: I haven't seen the  
22 documentation or letters.

23 COMMISSIONER DEASON: Is it because it's not  
24 in Dallas but may be somewhere else, or you're just not  
25 sure of it, that they're being anywhere?



1           WITNESS OLSON: I don't believe it's in any  
2 of the files that I have reviewed. It may be in some  
3 MLDC files, but I'm not aware of that.

4           COMMISSIONER DEASON: Earlier, Staff asked  
5 you a question concerning one of the paragraphs in one  
6 of these memos, and I believe you answered that you  
7 really didn't understand what that meant. I was going  
8 to ask you that same question, so I'm not going to  
9 repeat it. But there is another paragraph that I am  
10 going to ask you about. And I don't know the page  
11 number of the exhibit, but it's Document No. 19, Page  
12 4, which is typewritten.

13           WITNESS OLSON: Page 4?

14           COMMISSIONER DEASON: Yes, Page 4. I'm  
15 looking at Paragraph No. 3. And approximately midways  
16 in that paragraph, it reads, "Therefore, it is  
17 recommended that any short-term loan be made to SPUC in  
18 a tax year other than a year in which the assets are  
19 transferred to SPUC without consideration."

20           Now, what does that sentence mean to you?

21 (Pause)

22           WITNESS OLSON: It doesn't really mean  
23 anything to me. It seems like someone at the time  
24 thought there may be a problem with entering into a  
25 short-term loan between the two companies, but I don't



1 know what -- I'm not familiar with why that would be a  
2 problem.

3 COMMISSIONER DEASON: The term "without  
4 consideration," do you think that applies to the loan  
5 or does that apply to the sale of assets, or rather to  
6 the transfer of assets?

7 WITNESS OLSON: I would say "without  
8 consideration," it would have been considered possibly  
9 as a contribution to capital to the subsidiary versus  
10 actually being a sale from the parent to the sub.

11 COMMISSIONER DEASON: But, here again, you're  
12 saying this was -- apparently, this was a consideration  
13 that to the best of your knowledge was not -- this  
14 proposal was not actually adopted?

15 WITNESS OLSON: Based on what I know, it was  
16 not adopted.

17 COMMISSIONER DEASON: Would you turn to the  
18 very next page, Page 5, Paragraph 5, the last sentence  
19 reads, "The requirement of the Florida Public Service  
20 Commission that SPUC hold its assets directly creates  
21 some unique tax problems which we will address in the  
22 near future."

23 I have two questions. First, do you know  
24 what those unique tax problems are; and, secondly, do  
25 you know if they were addressed in the future?

1           WITNESS OLSON: First, I do not know what the  
2 unique tax problems are, and I don't know if they were  
3 addressed or not. I mean I don't know of anything, so  
4 --

5           COMMISSIONER DEASON: Okay.

6           WITNESS OLSON: If there is any problem.

7           COMMISSIONER DEASON: I think Mr. Seidman,  
8 yesterday, maybe even some today, testified that the  
9 assets of the Utility were first depreciated by SPI,  
10 and that they were transferred to SPUC at a net book  
11 value, that being net of the depreciation that was  
12 taken.

13          WITNESS OLSON: On a book basis.

14          COMMISSIONER DEASON: Yes, on a book basis.  
15 And that there was a difference between the book  
16 depreciation and the tax depreciation, and I think he  
17 quantified that amount.

18                 That would result in deferred taxes, would it  
19 not?

20          WITNESS OLSON: The difference between book  
21 depreciation and tax depreciation, assuming tax is  
22 higher than book, yes.

23          COMMISSIONER DEASON: And that is certainly  
24 the case in the early years of a development or early  
25 years of an asset but not --

1           WITNESS OLSON: Assuming that the ACRS is  
2 faster than the book depreciation, which is normally  
3 the case, yes.

4           COMMISSIONER DEASON: How was that treated on  
5 the consolidated return? Were those deferred taxes  
6 normalized or the benefit of those immediately  
7 recognized on the consolidated level?

8           WITNESS OLSON: On the consolidated return we  
9 report on the balance sheet on a book basis which, I  
10 believe, is the requirement, and we don't really get  
11 into deferred taxes on the return itself. It's a  
12 taxable income number and we talk about current tax  
13 only.

14          COMMISSIONER DEASON: Are you familiar -- I  
15 think you've testified here today that you're really  
16 not that familiar with normalization, and that's fine.  
17 But are you aware that for regulatory purposes it's the  
18 policy of this Commission and, as far as I know, most  
19 state commissions to adopt a normalization procedure  
20 and have that reflected? Is that true or not? Or are  
21 you aware?

22          WITNESS OLSON: I'm not aware of it.

23          COMMISSIONER DEASON: Would it be fair to  
24 recognize those deferred taxes for regulatory purposes  
25 for SPUC? Or you have no opinion on that?

1                   WITNESS OLSON: I don't know.

2                   COMMISSIONER DEASON: Could that problem be  
3 solved by just recognizing for ratemaking purposes the  
4 net of tax depreciation value of the assets for  
5 regulatory purposes? What I'm saying is, what was  
6 transferred was net book value, that being book.  
7 You've already established that tax depreciation was  
8 higher. Couldn't it probably be solved by just, for  
9 regulatory purposes, recognizing the net value, that  
10 being net of tax depreciation, or you have no opinion  
11 on that either?

12                  WITNESS OLSON: I'm sorry, I don't know what  
13 you mean.

14                  COMMISSIONER DEASON: Okay. In your  
15 affidavit, the the last page which we referred to  
16 earlier, and I'm trying to locate that if you'll bear  
17 with me just a moment. (Pause)

18                  In Paragraph 6, the second line, it reads,  
19 "Including the Schedule M work papers, as filed and/or  
20 amended." The term "amended," does that mean that the  
21 cost of the Utility assets may have been included in  
22 lot sales in earlier years but amended returns were  
23 filed to change that?

24                  WITNESS OLSON: No. What I meant by that was  
25 that Mobil obviously files on a timely basis every



1 year, and for whatever reason we may have to amend, it  
2 doesn't mean we are amending it for the Utility assets,  
3 but we have 300 subsidiaries that we have to include  
4 also.

5 COMMISSIONER DEASON: So it's not uncommon to  
6 file amendments, and it could address any of a number  
7 of different amendments?

8 WITNESS OLSON: It's not uncommon at all. I  
9 wish it was uncommon. It's a lot of work.

10 COMMISSIONER DEASON: I'm sure you do.

11 (Laughter)

12 Mobil has numerous other developments besides  
13 Sailfish Point, is that correct?

14 WITNESS OLSON: Yes. We have -- I don't know  
15 the number but there are many.

16 COMMISSIONER DEASON: And these other  
17 developments, of course, have utility operations?

18 WITNESS OLSON: To my knowledge, this is the  
19 only one that I'm aware of, as far as having Utility  
20 property. But I'm just not familiar with any other  
21 subsidiary or development having any utility assets.

22 COMMISSIONER DEASON: It's a little  
23 troubling. Does Mobil put in developments and leave  
24 the development of the utility to an outside person who  
25 is not affiliated with Mobil?

1           WITNESS OLSON: I don't know. Maybe there is  
2 no -- maybe there is already a utility company, you  
3 know, in the area that's already providing service. I  
4 don't know.

5           COMMISSIONER DEASON: So there has really not  
6 been an established policy at Mobil as to how utility  
7 assets are treated for tax and regulatory purposes?  
8 This was basically --

9           WITNESS OLSON: I believe we try to follow  
10 the guidelines in the Code as far as how we depreciate  
11 utility assets, and so forth.

12          COMMISSIONER DEASON: So it's not a standard  
13 policy, one way or the other, to include or exclude  
14 utility cost in the cost of lot sales for tax purposes?  
15 Is there a policy, Mobil policy, one way or the other  
16 as to how that is done?

17          WITNESS OLSON: Not that I'm aware of, no.

18          COMMISSIONER DEASON: But you're convinced,  
19 obviously, it was done a certain way for Sailfish  
20 Point; and that is, that it was not part of lot sales?

21          WITNESS OLSON: That is correct.

22          COMMISSIONER DEASON: Do you know who would  
23 have made the decision to not include the cost of the  
24 Utility assets in lot sales?

25          WITNESS OLSON: If you mean who would have

1 made a decision to treat the Utility assets as a  
2 separate business unit and thereby depreciate it, I  
3 guess it would be somebody in NLDC management, both  
4 local and headquarters.

5 COMMISSIONER DEASON: But that's not you, and  
6 you did not participate in that?

7 WITNESS OLSON: That's not me, no. No.

8 COMMISSIONER DEASON: Thank you. That's all  
9 the questions I have.

10 COMMISSIONER EASLEY: Thank you, sir.

11 Redirect?

12 MR. GIRTMAN: Yes, ma'am. Just a couple of  
13 questions.

14 REDIRECT EXAMINATION

15 BY MR. GIRTMAN:

16 Q As a follow-up to Commissioner Deason's  
17 questions about policy and who may have made a decision  
18 to treat the utility assets one way as opposed to  
19 another, have you tried diligently since yesterday to  
20 find out?

21 A Yes. We tried to make several telephone  
22 calls with people that may know that are currently --  
23 may work in the real estate portfolio and whatever.  
24 And, unfortunately, those people don't have any more  
25 history than I do as far as why something was done one

1 way versus the other.

2 Q But you tried?

3 A Yes.

4 Q Okay. Separate matter. Let me give you a  
5 hypothetical: Assume that the OPC representatives  
6 visited your office on June the 13th, and that they  
7 filed a motion to compel a response to discovery on  
8 June the 25th, the day before the hearing started in  
9 this case. And let's further assume that they inquired  
10 of you about, or of your people, about 1980 to '81 cost  
11 of goods sales records. And let's further assume that  
12 they were told that those records would be in Florida  
13 and not in Dallas. And finally, let's assume that  
14 during that period of time that there was no request  
15 made from the Office of Public Counsel to this  
16 attorney, who is responsible for managing this case for  
17 the Utility, and to whom such a request would have had  
18 to have been given.

19 Now with those assumptions --

20 MR. REILLY: I have a question. Is this a  
21 hypothetical question?

22 MR. GIRTMAN: That's a hypothetical question.

23 Q (By Mr. Girtman) With those assumptions do  
24 you have any idea why they wouldn't have asked me for  
25 the records?



1 A No.

2 MR. GIRTMAN: Thank you.

3 MR. REILLY: And this is redirect?

4 MR. GIRTMAN: Yep.

5 MR. REILLY: Okay.

6 COMMISSIONER EASLEY: Anything further?

7 MR. GIRTMAN: I finally understand his motion  
8 to compel, Commissioner.

9 COMMISSIONER EASLEY: Thank you, Mr. Girtman.

10 MS. BEDELL: Staff has two questions to  
11 follow up Commissioner Deason's questions.

12 COMMISSIONER EASLEY: Briefly, please.

13 RECROSS EXAMINATION

14 BY MS. BEDELL:

15 Q Mr. Olson, were the deferred taxes resulting  
16 from SPI accelerated depreciation reflected in the  
17 financial statements?

18 A I haven't seen the financial statements. I  
19 don't know.

20 MS. BEDELL: Okay. Thank you.

21 COMMISSIONER EASLEY: Nothing further of this  
22 witness. Mr. Olson, you may be excused.

23 (Witness Olson excused.)

24 - - - - -

25 COMMISSIONER EASLEY: Mr. Girtman, what is

1 your intention concerning your second rebuttal witness?

2 MR. GIRTMAN: We don't feel a need to call  
3 him.

4 COMMISSIONER EASLEY: Fine. I think in that  
5 -- yes?

6 MS. BEDELL: I'm sorry. I was just going to  
7 go on the record to say that we would like to ask Mr.  
8 Seidman some of the normalization questions that we  
9 couldn't ask of this witness.

10 COMMISSIONER EASLEY: We had held Mr. Seidman  
11 subject to recall. I think this would be a good time  
12 to stop for lunch. We will announce a 45-minute lunch  
13 break. If the participants finish prior to that time  
14 we will reconvene prior to that time.

15 (Recess.)

16 - - - - -

17 (Transcript follows in sequence in Volume  
18 IV.)

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