

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Proposed Revisions to )  
Rules 25-30.020, 25-30.025, )  
25-30.030, 25-30.032, 25-30.033, )  
25-30.034, 25-30.035, 25-30.036, )  
25-30.037, 25-30.060, 25-30.110, )  
25-30.111, 25-30.135, 25-30.255, )  
25-30.320, 25-30.335, 25-30.360, )  
25-30.430, 25-30.436, 25-30.437, )  
25-30.443, 25-30.455, 25-30.515, )  
25-30.565, NEW RULES 25-22.0407, )  
25-30.0408, 25-30.0371, )  
25-30.038, 25-30.039, 25-30.090, )  
25-30.117, 25-30.432 to )  
25-30.435, 25-30.4385, 25-30.4415, )  
25-30.456, 25-30.460, 25-30.465, )  
25-30.470, AND 25-30.475; AND )  
REPEAL OF RULE 25-30.441, F.A.C. )  
PERTAINING TO WATER AND )  
WASTEWATER REGULATION. )

DOCKET NO. 911082-WS

VOLUME II

Pages 93 through 231

PROCEEDINGS:

HEARING

BEFORE:

CHAIRMAN J. TERRY DEASON  
COMMISSIONER THOMAS M. BEARD  
COMMISSIONER SUSAN F. CLARK  
COMMISSIONER LUIS J. LAUREDO  
COMMISSIONER JULIA L. JOHNSON

DATE:

Monday, May 24, 1993

TIME:

Commenced at 9:30 a.m.  
Concluded at 5:25 p.m.

PLACE:

101 East Gaines Street  
Tallahassee, Florida

REPORTED BY:

JANE FAUROT  
Notary Public in and for the  
State of Florida at Large

ACCURATE STENOGRAPHY REPORTERS, INC.  
100 SALEM COURT  
TALLAHASSEE, FLORIDA 32301  
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FPSC-RECORDS/REPORTING

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## ALSO PRESENT:

CHARLES H. HILL, Director, Division of Water and Wastewater.

BILL LOWE, FPSC Division of Water and Wastewater.

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P R O C E E D I N G S

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CHAIRMAN DEASON: Let's go back on the record.

We have finished the overviews from each of the parties, is that correct?

MS. MOORE: I believe that's correct.

CHAIRMAN DEASON: The procedural order indicates that the first more specific subject matter is going to be Rule 25-30.465, private fire protection rates. Now, Mr. Dewar in your overview comments, you got rather specific on the private fire protection rates. If you feel the need to enlighten us any further, I suppose that now is the opportunity. But I believe Staff has some comments first. I apologize.

Ms. Messer, do you have some comments?

MS. MESSER: Yes, Commissioner. Mr. Dewar indicated earlier that he believed that implementing private fire protection rates was discriminatory. And the Staff would suggest that not implementing private fire protection rates would be discriminatory. The Commission has identified private fire protection as a separate class of service. They have recognized it as a separate class of service because the utility provides a unique service. It requires the utility to maintain capacity over and above their peak hour consumptive needs, and the utility should be reimbursed for this excess capacity. This is capacity that



1 it cannot use for the sale of renew-producing water.

2 To the Staff, the issue in this proceeding is not  
3 whether or not there should be a charge, but what the level  
4 of that charge should be. We believe that the question is  
5 what is the appropriate pro rata share of cost recovery from  
6 providing this service.

7 Traditionally, in developing rates for private  
8 fire protection there have been two approaches. There is --  
9 or for fire production in general. There is a cost of  
10 service approach, and there is the approach based on some  
11 kind of potential -- evaluating potential demand. Fire  
12 protection, taking a cost of service approach for private  
13 fire protection would be a very detailed process. Probably  
14 not very cost-effective commensurate with the amount of  
15 revenue that that service generates to utilities. In the  
16 past, the Commission has established the methodology of  
17 taking one-third of the base-facility charge of the service  
18 rates of comparable meter sizes to develop the private fire  
19 protection rate. Based on my research, I understand that  
20 that level, that charge, the one-third was based on some  
21 historic engineering determinations that resulted in a  
22 policy that is believed that flow required with the  
23 sprinklers would not be over one-third the flow from a  
24 connection without the sprinkler.

25 The Staff has developed an alternative approach

1 which I presented in my comments, that result from further  
2 analysis and also review of the comments from the Sprinkler  
3 Association. We are continuing to follow the demand  
4 approach in developing this rate, but we are trying to take  
5 a different perspective. The one-twelfth was developed by  
6 reviewing the ISO requirements for fire flow demand. Two  
7 hours is the minimum recognized amount of time. And based  
8 on the way, the efficiency of sprinkler systems, we believe  
9 two hours was a reasonable amount of time. Two hours out of  
10 a 24-hour day is one-twelfth. Therefore, we derived the  
11 one-twelfth base-facility charge. This also happens to  
12 result in a charge that's more commensurate with the  
13 insurance savings that businesses may receive by  
14 implementing and installing sprinkler systems.

15 I would just like to add two other comments.  
16 After reviewing the information that Mr. Dewar provided, the  
17 three examples in the April 22nd filing, he provided three  
18 examples that show the reduced amount of gallons that would  
19 be used with the sprinkler system as opposed to an  
20 unsprinkled system. And two of them resulted in about a  
21 one-fifteenth amount of water used and the other one was  
22 about one-third. If you average that, you almost end up at  
23 one-twelfth, which I thought was an interesting coincidence.

24 I would also like to make the Commission aware  
25 that there is the potential for slight revenue impact on

1 changing this policy. I reviewed what the impact would have  
2 been in this last SSU docket, the 920199 docket, and in that  
3 case for all of those systems the total -- the difference  
4 between using the one-third base-facility charge approach  
5 and the one-twelfth approach would have amounted to a total,  
6 company-wide total, of \$19,365, which would have made no  
7 differences in the rates whatsoever.

8 On the other extreme, for Marco Island, a case  
9 that is currently pending before the Commission, we looked  
10 at that as an example because of the number of condos that  
11 are on the island, and using the existing rates, since that  
12 case has not come to conclusion yet, the difference between  
13 charging one-third and one-twelfth would amount to  
14 approximately \$74,000 on an annual basis. And using our  
15 rate design approach would result in about 40 cents of --  
16 potentially about a 40-cent per months increase in what the  
17 base-facility charge would have been under the one-third  
18 design.

19 CHAIRMAN DEASON: It's 40 cents per customer.

20 MS. MESSER: 40 cents per customer in the  
21 base-facility charge per month, so a total of about \$4.80  
22 annually. That concludes my comments.

23 CHAIRMAN DEASON: That concludes your comments.  
24 Now Mr. Dewar.

25 MR. DEWAR: Thank you, Mr. Chairman, I will be as



1 brief as I can.

2 I guess there is a number of questions that you  
3 need to look at. One of them is, very clearly, is the  
4 ratepayer who chooses to install a fire sprinkler system  
5 being treated fairly by this rule? Well, the answer is to  
6 that -- we will do that a little bit later because I think  
7 some of the other comments I'm going to make will make the  
8 answer to that question very clear.

9 Another question, does the fire sprinkler system  
10 reduce the demand for water needed in a fire suppression  
11 system? That's one uncontroverted. I don't think that  
12 anybody will dispute that, that there always will be a  
13 reduced needed fire flow for a sprinkler building than a  
14 non-sprinkler building.

15 Now, the water companies have taken advantage of  
16 savings, the potential savings, that can be afforded by the  
17 use of a fire sprinkler system. We will suggest no they are  
18 not. I shared with you a handout from one community that I  
19 am aware, the City of Altamonte Springs. There's a number  
20 of other communities that also offer options for fire  
21 sprinkler buildings, and the fire service community is more  
22 than willing to sit down with any waterworks company and  
23 make similar arrangements. In this specific case the City  
24 of Altamonte Springs will give any builder or developer this  
25 handout when they seek information on what their permit

1 requirements are. And they do allow changes in the water  
2 main size. They do allow changes in the hydrant spacing,  
3 and this is not uncommon. And we would encourage a  
4 waterworks company to work closer with their fire service  
5 community to take advantage of some of those options that  
6 are available to help reduce the cost to the ratepayer.

7 Does the fire sprinkler system reduce the cost of  
8 providing fire flow demands and fire service within the  
9 community? Again, that's another uncontroverted issue. We  
10 have showed a significant reduction in the gallon per minute  
11 percentages from 73 percent in the extreme case for a large  
12 industrial type structure, 15-story high-rise office  
13 building; a 93 reduction, 94 percent reduction in the amount  
14 of water. It's all substantial.

15 I also shared with you a handout from the ISO, and  
16 in there under 501, basic fire flow, what that is is the  
17 fire department's capability of providing gallons per  
18 minute. It says very clearly there, "The needed fire flow  
19 for buildings in a city-rated and coded sprinkler are not  
20 considered in determining the basic fire flow." So, the  
21 fire department very clearly, in their ISO grading, will  
22 look at a fire sprinkler building significantly different  
23 than they will a non-sprinkler building. They don't even  
24 consider it when they determine the fire department's  
25 capabilities within the community. The only thing they look

1 at is can that water provider provide that 250 gallons a  
2 minute or that 300 gallons a minute, or in cases of a very  
3 large commercial building, it could be, you know, a thousand  
4 gallons a minute or plus. So, there are substantial savings  
5 for the fire service community, the fire suppression, the  
6 ratepayers in general.

7           Who should pay for the fire flow demand? Well, we  
8 argue the person or the entities that create the fire flow  
9 demand should be the ones that pay for that fire flow  
10 demand. I used an example earlier today where we have two  
11 identical buildings, each of them non-sprinkler, creating  
12 2,415 gallons a minute fire flow demand. They are both  
13 creating; they both should pay an equal amount. And under  
14 today's rate schedule, they would, under the general rate  
15 dollars and pennies per person for the fire flow need spread  
16 out over the entire community. But when one of them  
17 sprinklers his building, when that building is sprinklered,  
18 they have to pay an additional rate. Even though they  
19 reduced the fire flow demand by 90 percent or greater, they  
20 have to pay an additional rate \$83.33 in some communities,  
21 \$50 in another a month, which is an excessive amount when  
22 they are, in essence, reducing the demand for water; they  
23 are improving life safety within their community. It's just  
24 simply not an appropriate -- an appropriate charge.

25           We addressed fire protection in our initial



1 proposal, and the language that we recommended is that in  
2 addition to the existing language in Rule 25-30.465, that  
3 the following language be included. So, we are not  
4 disputing the right to charge for private fire protection.  
5 We are asking that we single out one portion of the fire  
6 protection, overall realm of fire protection systems to be  
7 restricted, this exemption, this being for fire sprinkler  
8 systems where we clearly can demonstrate uncontroverted  
9 savings, uncontroverted safety, uncontroverted reductions in  
10 the need for water.

11 To explain that a little bit further, a private  
12 fire protection loop around an industrial park, Governor's  
13 Square Mall, you may be familiar with that. When they built  
14 there, I'm sure they put a private fire protection loop  
15 around that mall. In many cases, it's an eight-inch main.  
16 That's a substantial expense on the part of the water  
17 purveyor. They should be allowed to charge a rate for those  
18 private fire protection loops. We were not disputing that.  
19 We want that language to stay within the rule. We think  
20 it's appropriate. But when it comes to a fire sprinkler  
21 system, where we have eliminated the need for the fire  
22 service to respond, which we would in a private fire  
23 protection or any other private fire protection system --  
24 let me explain that. Sprinkler head, it works. The fire  
25 can be untenable in this room, people couldn't survive, the

1 fire sprinkler system would be there to put out the fire. A  
2 firefighter couldn't do that. You know, that is not late  
3 for work. The firefighters sometime are. And it is a very  
4 safe life-saving fire protection system device. So, what we  
5 are suggesting is that in addition to the language in the  
6 proposed rule, that there be an exemption for the fire  
7 sprinkler system connections. A two-hour rate, obviously,  
8 if you have a demand for 6,000 gallons a minute for two  
9 hours, now that's significantly more than a demand for, you  
10 know, 1,000 gallons a minute for two hours. So, there is,  
11 again, a significant reduction. I think that's  
12 uncontroverted.

13 The other issue dealing with the backflow  
14 prevention. Florida Administrative Code 17-555.360(2), in  
15 essence, requires backflow prevention. The Florida  
16 Department of Environmental Regulation recognizes AWWA M-14  
17 as an appropriate backflow prevention and cross-connection  
18 control. I've shared with you a letter from the Florida  
19 Department of Environmental Regulation that addresses  
20 backflow prevention. In this specific case we asked if we  
21 needed a backflow prevention at the service connection, and  
22 because of the design of the system and it fell into the  
23 category of a Class I system as defined in AWWA, they said,  
24 "No, you did not." This is from a Deputy Assistant  
25 Secretary of DER.

1 But, basically, to give you an overall scenario of  
2 what has happened, XYZ water purveyor, in complying with  
3 demands from DER to provide cross-connection protection has  
4 put together a package and has sent that to DER, and they  
5 have approved it. In many cases, these packages adopt  
6 simply the AWWA M-14. In other case, they have created a  
7 more stringent requirement. That doesn't mean that DER is  
8 making them enforce a more stringent requirement, it's just  
9 simply saying they must have backflow prevention in place.  
10 We have run across a number of water providers, and some of  
11 them are in this room today, that simply restrict because of  
12 ultraconservative interpretations, the backflow prevention  
13 to just one category, all sprinkler systems in this one  
14 community must use a reduced pressure zone valve. The  
15 significance? Well, again, the valve cost \$12,000, when the  
16 valve that AWWA M-14 would require may be \$4,000. And there  
17 is a significant cost increase as a result of these valves,  
18 with no increase in the level of life safety.

19 I also shared with you a document from the  
20 Environmental Planning and Economics, Inc., who did a study  
21 for the Illinois Department of Energy and National  
22 Resources, dealing with backflow prevention. And in there  
23 they clearly indicate that through a very lengthy study, in  
24 some cases the 118 fire safety systems double detector  
25 check, which we would love to be able to install in some



1 communities, but we're not because of very restrictive  
2 requirements from some of the water purveyors. They are  
3 saying there is absolutely no support of expected benefits.  
4 In Illinois they were spending \$250 million with no benefits  
5 for a double check valve. An RPZ reduced pressure valve,  
6 it's much more expensive.

7 We have a very serious problem that the fire  
8 service community is trying to address. We have had a  
9 number of fire sprinkler systems designed without backflow  
10 prevention in the past decades, designed at a specific  
11 pounds per square inch pressure. And since the design, the  
12 backflow preventer has been added, which in many cases has  
13 thrown that system out of hydraulic probability that it will  
14 function properly in case of a fire. It's something the  
15 fire service community is dealing with, but we don't know  
16 how we are going to resolve it, but it is a major problem.  
17 And there is a significant concern also with backflow  
18 prevention.

19 Basically, what we are arguing, what our position  
20 is on backflow prevention, we need it, the fire sprinkler  
21 industry pioneered backflow prevention. We were the first.  
22 In 1907, 1908, in that time frame, check valves were  
23 required in fire sprinkler systems. We pioneered it. We  
24 are concerned about cross-connection protection. We are  
25 also concerned about the dollar that the consumer has to

1 spend, and we think that the dollar should be wise and  
2 prudent. We would recommend that our language in our  
3 initial proposal be amended. We are saying cross-connection  
4 protection for fire sprinkler systems shall be limited to  
5 that required by the American Waterworks Association  
6 pamphlet, M-14, and we would like to add to that statement,  
7 "Unless on a case-by-case basis the waterworks company  
8 demonstrates a need for a higher level of backflow  
9 prevention."

10 Again, in some of our communities, if you want to  
11 install a fire sprinkler system, you have to install an RPZ,  
12 and that is just not -- that's just not correct.

13 With that, Mr. Chairman, Commissioners, there were  
14 some comments -- I didn't understand one about my comments  
15 were all based on residential -- single-family residential.  
16 I would like to be able to respond once I understand some of  
17 those other comments. I would like some time, if I could,  
18 to respond to some of the comments from the other side, if I  
19 may.

20 CHAIRMAN DEASON: We will let the other parties  
21 give their comments, and if you feel it necessary to bring  
22 it to my attention.

23 Mr. Schiefelbein.

24 MR. SCHIEFELBEIN: Commissioners, on behalf of  
25 Florida Cities Water Company, we have a gentleman here,

1 Michael Acosta, who is a little bit hampered, I think, in  
2 his presentation by a lot of the -- our late-breaking  
3 discovery of the April 23rd filing, and so forth. But I  
4 think he is well enough prepared to give it his best shot  
5 right now as far as responding to what we have been able to  
6 absorb so far.

7 MR. ACOSTA: For the record, my name is Michael  
8 Acosta. I'm the manager of Engineering and Construction for  
9 Florida Cities Water Company. I have a degree in  
10 environmental engineering from the University of Florida,  
11 and I'm a registered professional engineer in the state.

12 To begin, I'll start with the standby water fees.  
13 It has been purported that there is being -- that the  
14 standby water fees are payment for water sitting in the  
15 lines, that's not true. The standby water fees are based on  
16 the base-facility charge which incorporates, amongst other  
17 things, fixed costs that the utility has of providing  
18 service. That is, those fees are there whether or not water  
19 flows through those fire protection lines. We don't dispute  
20 the fire protection systems increase in safety and ability  
21 to put out fires in a more rapid way. There are dollars out  
22 there that if not borne by the folks benefiting from the  
23 systems, will be borne by the ratepayers at large.

24 In Mr. Dewar's earlier comments he suggested that  
25 the example needed 162 gallons per minute as opposed to



1 2,415. I have not had a chance to review this document to  
2 verify the accuracy of those numbers, so I will preface the  
3 comments based on that. I think that the number that -- the  
4 \$83.33 a month, while I'm guessing at this, comes from a  
5 six-inch fire protection system. A six-inch system could  
6 produce much more than 162 gallons per minute. And if all  
7 that is required is 162 gallons a minute from that system, I  
8 suggest that a six-inch system is not the appropriate number  
9 to be using for that fee. The existing customers without  
10 private fire protection systems are being penalized for not  
11 having those through higher insurance rates. I don't think  
12 there is any question about that.

13 In regards to the hydrant spacing and distribution  
14 system sizing, while the City of Altamonte Springs may have  
15 this document, my experience having been in Lee County for  
16 6-1/2 years prior to becoming Manager of Engineering and  
17 Construction for Florida Cities, having been in Lee County  
18 as regional engineer for Florida Cities is not the same. I  
19 have seen -- the experience that I have down there suggests  
20 that the systems are eight inch, regardless of whether there  
21 is a fire protection, private fire protection or not.

22 I have seen one case where a water main has had to  
23 be installed on both sides of the roadway to meet a looping  
24 requirement, and then fire protection systems were installed  
25 on top of that. The zoning regulations simply prohibited

1 those folks from reducing their distribution systems sizing,  
2 regardless of what their fire protection needs were. So,  
3 the supposition that you have a fire protection system, you  
4 have decreased demand on the system, you have a smaller  
5 distribution system, is not borne out by the experience that  
6 we have.

7           On the one-twelfth versus one-third, I had not had  
8 a chance to give that much thought. I got the one-twelfth  
9 number last week, and really hadn't had a chance to delve  
10 into it and find out -- if a flow demand is used, that's not  
11 necessarily what those systems are going to use out there.  
12 I would agree that the cost of service approach is probably  
13 not practical. It would have to be done on an individual  
14 system basis, and that is -- the cost benefit of that is  
15 probably prohibitive. I would -- so, I can't gather any  
16 information on that one-twelfth. I would, the one-third  
17 number while it's been standard policy, I don't have any  
18 backup for that. I don't have a good definition on that. I  
19 would just -- the one-third seems like a practical number  
20 based on the size of the system and its ability to produce  
21 the needed water supply at the time that it's required.  
22 That is basically what I have to say about standby water  
23 fees.

24           I will turn my attention now to cross-connection  
25 control. Florida Cities Water Company developed a

1 cross-connection control program, a formalized  
2 cross-connection control program, and submitted it to the  
3 DER in response to 17-555 of the Florida Administrative  
4 Code, and it has been approved. It doesn't limit a private  
5 fire protection system to reduced pressure type backflow  
6 assemblies. It is restrictive and rightly so. One instance  
7 of cross-connection control or lack of cross-connection  
8 control could put the entire distribution system in  
9 jeopardy. The pumper trucks used by, potentially used by  
10 fire departments have auxiliary sources of water, which may  
11 be potable, but may also not be potable. They can draw  
12 water from any water source that happens to be available, be  
13 that a canal, the Gulf of Mexico, the Atlantic Ocean,  
14 whatever. And the potential for that going into the  
15 distribution system is not something that a private entity  
16 can sustain. The water purveyor, in this case the private  
17 utilities, have the burden and responsibility of providing  
18 safe and sufficient service to the customers, and their  
19 authority cannot be limited in regard to that. It has to  
20 have that right to provide greater than minimum standards.

21 AWWA's M-14, Manual M-14 is a guideline setting up  
22 minimum standards. That's all AWWA does. It's a trade  
23 association for the waterworks industry, and it sets up  
24 minimum standards. It by no way sets maximum standards or  
25 anything approaching that.



1           One suggestion by Mr. Dewar was that the friction  
2 losses through the system was somehow hampering these new  
3 systems. If they are properly designed, the systems should  
4 operate just fine. They are designed by competent fire  
5 sprinkler contractors and engineers on their staffs. All  
6 the equipment used in those installations has been approved  
7 by Underwriters Laboratory and/or Factory Mutual, two of the  
8 standard bearers in the industry.

9           We have run into the same problem that Mr. Dewar  
10 did reference. Most of this equipment is pressure tested  
11 and warranted for 150 pounds per square inch. Many of the  
12 local fire departments and/or counties require a 200 pounds  
13 per square inch pressure test. That's something that's not  
14 in our control. Typically, American Waterworks Association  
15 equipment will handle 200 psi pressure tests without any  
16 problem. They are rated to four times their maximum working  
17 pressure, which in most cases is 600.

18           It should not be the utility's burden of proof to  
19 require more restrictive standards than M-14 on a  
20 case-by-case basis. We have that responsibility to protect  
21 the public health and eliminate the potential for  
22 cross-connection control. Mr. Dewar's proposed language  
23 would put that burden of proof upon the utility. That is  
24 not where that burden belongs. It belongs on the developer  
25 or the fire sprinkler contractor to show that the system

1 doesn't have a significant enough cross-connection control  
2 hazard to require the most restrictive, which is reduced  
3 pressure type assemblies.

4           To summarize, Florida Cities' position -- let me  
5 back up one step. Mr. Dewar brought before you this  
6 September 6th, 1990 Florida Department of Environment  
7 Regulation letter, and he has highlighted the fire  
8 protection system in that sentence. If you look one  
9 paragraph below that, the last sentence of that paragraph  
10 states, "The department does encourage such design to afford  
11 that extra degree of protection, if warranted, on a  
12 case-by-case project." We have just implemented that  
13 statement into our policy on cross-connection control, which  
14 has been approved by the Department of Environmental  
15 Regulation.

16           As I said, M-14 is but a guide. It is not a  
17 national standard. It's a national guide. The word  
18 "standard" has been used an awful lot, and it is not the  
19 appropriate terminology. It's a guideline.

20           To summarize now, Florida Cities would like to see  
21 the Commission leave cross-connection in the hands of the  
22 water purveyor, let the determination be made by the  
23 competent professional at each individual utility and  
24 jurisdiction, to leave standby water fees in place as they  
25 exist now at one-third of their base facility charge.

1           That is my comments. Thank you for your  
2 attention.

3           CHAIRMAN DEASON: Thank you.

4           Mr. Hoffman, Mr. Armstrong?

5           MR. ARMSTRONG: Mr. Chairman, thank you.

6           In the issue of cross-connection control and  
7 backflow prevention, the Company adopts much of the  
8 technical aspects of what Mr. Acosta has said. On a more  
9 practical level, though, we had continual reference to the  
10 utility purveyor being the one setting requirements. And  
11 for the record I'd just like to be clear that it's the DER,  
12 it's counties, it's municipalities which all set their own  
13 requirements for backflow prevention and cross-connection  
14 control programs. We have to meet, right down to the  
15 municipality, their requirements, and we have experience  
16 with counties and municipalities that have significantly  
17 more restrictive provisions than DER. So, we do dispute the  
18 question. And Mr. Acosta referred to leave it in the  
19 control of the purveyor. We believe it is really out of our  
20 control to a great extent at this point, and we would like  
21 to see uniformity. This is another area where we don't have  
22 uniformity of rules, and we have to make different plans to  
23 meet different requirements of different municipalities and  
24 counties, as well as the state. And I think that the issue  
25 that the Sprinkler Association has at this point is not with



1 the utility purveyors, but rather with getting some  
2 uniformity among the DER and the municipalities and the  
3 counties. That is all we have to say about the backflow  
4 prevention and cross-connection control.

5 On the issue of the private fire protection rate,  
6 the company has Mr. John Guastella here who would like to  
7 make some comments.

8 MR. GUASTELLA: Thank you, Commissioners.

9 I believe the predominant comment that I heard was  
10 that the ratepayer should be treated fairly. I don't think  
11 you have been give any information from anyone so far as to  
12 how you could make that decision, because to change the  
13 method that's now used for establishing fire protection  
14 rates, private fire protection rates, you really would have  
15 to know what does it cost to provide fire protection  
16 service. I agree that the studies are to some extent  
17 complex, but they are rather routine if you look around the  
18 industry as to how such studies are performed. Samples of  
19 such studies are contained in AWWA rate manuals.

20 The goal is to establish what does it cost the  
21 utility to provide fire protection service, and that would  
22 be the first step of the study. What does it cost the  
23 utility to provide all fire protection service, including  
24 fire protection service that is provided through public  
25 hydrants as well as private connection? Once you have

1 established that cost, then these studies establish  
2 methodologies in order to establish what portion of the  
3 total fire protection cost should be borne through public  
4 fire protection, which in the case of most utilities I'm  
5 familiar with in Florida, is borne by the general ratepayers  
6 through their general rates for service. And then what  
7 portion of the total fire protection cost should be borne by  
8 the private fire protection customers? No one has told you  
9 what that formula is or what it results in. And I tend to  
10 look at the one-third formula as approximating that cost. I  
11 certainly don't see any cost justification that you could  
12 use to make a determination that you are going to establish  
13 by rule some different formula, when at this point, unless  
14 there is information out there that hasn't been distributed,  
15 I don't see what basis you would have for making that kind  
16 of determination. And I think, as you already recognize I'm  
17 sure, that if you're going to change by rule a formula which  
18 shifts the cost, who's going to pay for these costs? And I  
19 think in this case the predominant payer of the cost that  
20 would be shifted from private fire protection customers  
21 would be the residential customers. Basically, you're going  
22 to have, without a cost study or without a testing of the  
23 existing one-third method, you're going to, by rule, shift  
24 costs from one class of customers, private fire protection  
25 customers, to the residential customers, when it may very

1 well be that the residential customers are already, through  
2 the rates, paying their share and possibly even more than  
3 their share of the cost of fire protection service.

4 So I think you really have an issue of -- studies  
5 may be a little bit complex and there may be a cost in  
6 establishing those studies, but unless you have a study of  
7 some kind at some point in time, I really don't think you  
8 have a basis for shifting the cost to the residential  
9 customers or any other class. Thank you.

10 MR. SCHIEFELBEIN: Excuse me, Chairman Deason. If  
11 we might sometime during the presentation, also Florida  
12 Waterworks Association would like an opportunity, through  
13 Mr. Seidman, to address you on this issue.

14 CHAIRMAN DEASON: I think now would be the  
15 appropriate time.

16 MR. SCHIEFELBEIN: All right.

17 MR. SEIDMAN: My name is Frank Seidman. I'm  
18 President of Management and Regulatory Consultants, a firm  
19 that engages in management and regulatory consulting for the  
20 utility industry. I am here on behalf of Florida Waterworks  
21 Association.

22 I didn't have an awful lot to say on this subject  
23 when the charge proposed in the rules was at one-third of  
24 the base-facility charge. But when it changed to the  
25 one-twelfth, I thought maybe I should interject something in



1 here. I would like to maybe look at this from a different  
2 viewpoint, and have the Commission think about this in terms  
3 of what it is that we are dealing with in the base-facility  
4 charge, and what type of costs are being asked to be  
5 recovered from fire line customers or from any customer.

6 As you know, the basic rate structure here in  
7 Florida is a base-facility charge and a gallonage charge.  
8 And theoretically the base-facility charge should be picking  
9 up fixed costs, and the gallonage charge should be picking  
10 up mostly varying costs. But, in reality, the basic rate  
11 that we have here in Florida really doesn't do that. The  
12 base facility charge is picking up salaries, fixed general  
13 expenses, rents, insurance and non-income taxes. And the  
14 only thing that's in that charge really now that's really  
15 related to any demand is the recovery of depreciation  
16 expense. All of the other capital costs or anything else  
17 that has to do with demand cost, as we are talking about  
18 what is the relative demand put on the system by public fire  
19 or private fire, really doesn't affect this or fall into  
20 this very much. If you look at a typical breakdown of  
21 base-facility charges, you will find out that about 70  
22 percent of those costs are non-demand related. They are  
23 fixed cost in the sense that they have to do with the cost  
24 of maintaining the system, of having personnel available,  
25 and the general expenses that have to do with the system,

1 and they are being allocated to all the customers and  
2 customer classes through that charge. But if you pull out  
3 the portions of the base-facility charge that are related  
4 directly to demand differences, you're only going to pull  
5 out about 30 percent of that charge. You will still have  
6 about 70 percent left. So, it seems to me when we talk  
7 about a customer that -- and this is a class of customers as  
8 Ms. Messer pointed out -- when you're charging only  
9 one-third of that for recovery of those general expenses, I  
10 think you're getting a fair number and dropping it below  
11 that, really, I think is going to result in subsidization  
12 from other classes.

13 CHAIRMAN DEASON: Does that conclude your remarks?

14 MR. SEIDMAN: Yes.

15 CHAIRMAN DEASON: Mr. Shreve? Mr. Mann?

16 MR. MANN: We don't have any comments nor  
17 questions, Commissioner.

18 CHAIRMAN DEASON: Staff, do you have any  
19 questions?

20 MS. MESSER: (Indicating no.)

21 CHAIRMAN DEASON: Commissioners? Is there any  
22 need for further comments? Before we do that, let me ask a  
23 question. What does the procedural order contemplate as far  
24 as responses to responses or questions to presentations?

25 MS. MOORE: The only thing the procedural order

1 says is after the participants make their presentation, they  
2 will be open for questions. They will receive and answer  
3 questions.

4 COMMISSIONER LAUREDO: Does Staff know if the  
5 Insurance Commissioner, which is also the Fire Marshal of  
6 the State, have a position on this?

7 MS. MOORE: Apparently not.

8 MR. DEWAR: If I may respond to that question, Mr.  
9 Chairman? The State Fire Marshal's Office, which is part of  
10 the Department of Insurance, is well aware of this issue,  
11 was supportive of our legislation, lobbied with us, sent  
12 notes into the floor of the House when we tried to get the  
13 bill passed in the house. We did get it passed in the  
14 Senate. Although they may not have presented a written  
15 document saying, you know, "We're in support of this  
16 concept," they very clearly did lobby with us in an attempt  
17 to get legislature passed that would prohibit standby water  
18 fees.

19 CHAIRMAN DEASON: Thank you.

20 MS. MOORE: They filed no comments and have not  
21 contacted Staff at all.

22 CHAIRMAN DEASON: Let me ask Staff a question at  
23 this point. This particular subject matter we are on right  
24 now is a fairly specific one. We are going to momentarily  
25 be embarking on more complex areas. Do you think it would



1 be helpful to allow parties to respond to the presentations  
2 that are here, or allow them to do that in writing after  
3 this hearing is concluded? I understand that the APA allows  
4 for written comments to be filed afterwards or is that just  
5 their initial comments may be filed after the hearing?

6 MS. MOORE: I'm sorry, I didn't understand the  
7 last part.

8 CHAIRMAN DEASON: Before in our discussion at the  
9 beginning of this hearing, there was a comment about the APA  
10 allows comments to be filed up to seven days after the  
11 hearing. Is that parties' initial comments or does that  
12 contemplate responses being filed?

13 MS. MOORE: No. Our own rules do provide when  
14 Staff presides at a hearing that there can be late-filed  
15 exhibits. In many of our Commission rulemaking proceedings,  
16 we have allowed post-hearing filings, due 7 days or 14 days  
17 after the transcript.

18 CHAIRMAN DEASON: I'm just trying to figure out  
19 how is the most expeditious way to handle this and reserve  
20 all the parties' rights. We've got a lot of ground to  
21 cover.

22 MS. MOORE: I think it would be perfectly  
23 appropriate here if it's not -- but I don't know how long  
24 it's going to take everyone.

25 COMMISSIONER LAUREDO: They don't have any

1 questions or --

2 MS. MOORE: No, but --

3 CHAIRMAN DEASON: Well, I understand we have one  
4 party indicate that they would like to respond to the  
5 previous presentations.

6 COMMISSIONER LAUREDO: Oh.

7 MR. DEWAR: Three minutes, two minutes.

8 COMMISSIONER CLARK: Mr. Chairman, I think in  
9 rulemaking it's perfectly acceptable to have a free flowing  
10 conversation going back and forth among the parties, the  
11 Staff and the Commissioners. This is rulemaking. It's not  
12 an adjudicatory proceeding, and to the extent people can be  
13 free to ask questions on a particular subject that is being  
14 talked about, I think the process is served.

15 MR. SCHIEFELBEIN: If I might also -- we don't  
16 need to resolve this this very second, but we would like to  
17 reserve the opportunity to respond perhaps by live testimony  
18 to this April 23rd filing that was never made available to  
19 us on this issue that I referred to earlier.

20 CHAIRMAN DEASON: I'm having a little problem with  
21 that, because we are about to conclude this general subject  
22 matter and embark upon a different subject matter.

23 MR. SCHIEFELBEIN: For today, yes, sir. But to  
24 answer Commissioner Lauredo's question, we only would like  
25 one opportunity to respond to the April 23rd, and we think

1 that the amount of notice we have been given on it today has  
2 been insufficient. There is quite a complex --

3 COMMISSIONER LAUREDO: All I meant to say is not  
4 how many times you're going to respond, but how times you're  
5 going to bring it up. We have already heard you bring that  
6 up, but I think -- I don't mean to be disrespectful, I'm  
7 just trying to move on. I think it's a good point, and you  
8 made it.

9 CHAIRMAN DEASON: Okay. When do you propose to  
10 make that response?

11 MR. SCHIEFELBEIN: If there is a July  
12 presentation, as has been discussed on certain other topics.

13 CHAIRMAN DEASON: Okay.

14 COMMISSIONER CLARK: What July presentation?

15 CHAIRMAN DEASON: We haven't made a decision on  
16 that yet. If we are confronted with that possibility, well,  
17 then we will entertain that possibility at that time.

18 MR. SCHIEFELBEIN: I was merely trying to  
19 forestall a potential vote on the rule at this point. That  
20 is why I brought it up again. I apologize.

21 COMMISSIONER CLARK: Well, Mr. Chairman, as far as  
22 I'm concerned you ought to take your best hold here, and  
23 then in the opportunity that you have to make comments after  
24 it, with respect to these rules. I would not count on  
25 another session on this particular rule.



1           COMMISSIONER LAUREDO: Well, but he has made --  
2 he's made a point several times that he is at a  
3 disadvantage, like a lot of people seem to be, by some  
4 filings. This one is the letter dated the 22nd and received  
5 on the 23rd, that his expert witness did not have time to  
6 respond to allegedly new facts. And so -- and you can't do  
7 it today, I guess, so he is reserving the right to do it.

8           CHAIRMAN DEASON: And what I'm -- I'm reserving  
9 the right for him to ask to do it, assuming we do have a  
10 July hearing, which there is no guarantee there's going to  
11 be.

12           MS. MOORE: Mr. Chairman, the comments he is  
13 referring to were filed within that 21-day period. They are  
14 filed in the docket file. There is no requirement that  
15 everybody serve everyone else.

16           MR. SCHIEFELBEIN: Yes, Commissioners, and on  
17 April 23rd the Florida Cities Water Company and the Florida  
18 Waterworks Association filed petitions to intervene in this  
19 proceeding, asking that the Commission give us some vehicle  
20 so we don't have to play daily hunt and peck with the  
21 Records and Reporting group to find out what has been filed.  
22 Those petitions to intervene have now been sat on by, I  
23 believe, the Legal Department for the last five or six  
24 weeks. We have tried to find some mechanism to keep  
25 ourselves informed without running the expense of this thing

1 up, and that has been met with no success. Perhaps if those  
2 petitions to intervene had been granted, we wouldn't be  
3 having this discussion today.

4 CHAIRMAN DEASON: Okay. We are going to move on  
5 at this point.

6 Mr. Dewar, make your closing comment.

7 MR. DEWAR: Very briefly, Mr. Chairman,  
8 Commissioners. One issue that was brought up dealt with  
9 insurance rates. And I have a problem trying to compare  
10 what monies a consumer may receive from an insurance rate or  
11 insurance break and saying, "It's okay. They are getting an  
12 insurance break here, so, therefore, we can charge them an  
13 additional rate over here in the water." That comment was  
14 made, and I just -- it doesn't set well. I don't think it's  
15 proper. I don't think that insurance savings should be  
16 addressed. And, quite frankly, in reading the newspaper,  
17 you know, they may be lucky to get insurance at all at some  
18 of these properties.

19 As far as hydrant spacing, reduced water main  
20 size, you know, I suggest that the waterworks company has an  
21 obligation to work with the fire service community, and  
22 other community leaders to ensure that the least cost system  
23 is installed in all cases.

24 COMMISSIONER CLARK: Mr. Dewar, let me interrupt  
25 you just for a minute and ask Mr. Guastella something.

1           Do I understand your position to be that we need  
2 greater study to determine if, in fact, what Mr. Dewar is  
3 representing, that on the whole it's cheaper to the general  
4 body of ratepayers to have these private systems. Was that  
5 your testimony?

6           MR. GUASTELLA: Yes.

7           COMMISSIONER LAUREDQ: Turn on the mike and say  
8 your name.

9           MR. GUASTELLA: I'm sorry. There is no -- the  
10 assumption is being made that the cost of providing  
11 sprinkler service or private fire service is less costly  
12 than the overall cost of providing fire service to the rest  
13 of the customers. The fact may very well be that the total  
14 cost of providing fire service, which is being paid for by  
15 the residential and other classes of customers through the  
16 general rates for service, not by a separate charge, is  
17 equal to or greater than the cost of serving those  
18 customers, so that there may be a shifting of the cost from  
19 -- the cost of providing private fire to the residential  
20 customers. The residential customers and the other classes  
21 of customers may already be paying more than their fair  
22 share of the cost of providing fire service, because you  
23 don't have, in most systems that I am aware of, a charge to  
24 the municipality for the public hydrants. Therefore, the  
25 cost of providing that fire protection service is being paid



1 for through all of your customers through base-facility and  
2 usage charges automatically. That cost that they are  
3 already paying for may be enough, and maybe they shouldn't  
4 be paying for added cost which may properly be the  
5 responsibility of the sprinkler service.

6 COMMISSIONER CLARK: But what if what he says is  
7 correct, that by having these private sprinkler systems you  
8 reduce the fire flow you need to have when a fire actually  
9 occurs?

10 MR. GUASTELLA: If --

11 COMMISSIONER CLARK: Then it would argue -- if  
12 you're still going to have it on the general body of  
13 ratepayers, it seems to me that these people are visiting a  
14 benefit on the ratepayers that otherwise would not be there  
15 by these people putting in private systems.

16 MR. GUASTELLA: And, what I am saying is that the  
17 cost of service study may very well show that the benefit  
18 that they should be getting because of their size sprinkler  
19 service and their ability to have a sprinkler service, they  
20 may already be getting. Because it may very well be that  
21 the one-third factor applied to the base facility charges is  
22 not recovering enough of their cost, even recognizing their  
23 proportionate share of the total cost of providing fire  
24 protection service. When you establish the overall cost of  
25 fire service, you then take the equivalent number of public

1 hydrants and the equivalent number of private fire  
2 connections based on their flow capacity requirements. Once  
3 you do that you find out what does it cost to provide  
4 private fire protection service? That study may very well  
5 show that the one-third factor is not recovering enough from  
6 them in relation to the costs so determined.

7 COMMISSIONER CLARK: Well, let me ask the question  
8 in a different way. What if I conclude that the benefits of  
9 having fire hydrants to the general community ought to be  
10 rolled into the base-facility charge? I just think it's a  
11 public policy. That's the way it ought to be. And those  
12 people who are on this system who elect to use a private  
13 sprinkler system have the effect of reducing the amount of  
14 fire flow needed in that system. Shouldn't they then not be  
15 charged for it, because they have contributed to keeping the  
16 rates up?

17 MR. GUASTELLA: The answer is yes. However, I  
18 think with what the studies do, is it makes the proper  
19 allocation of what the overall costs of providing service  
20 are.

21 COMMISSIONER CLARK: You start from the premise  
22 that fire protection ought to be a separate -- ought to be  
23 charged to the municipalities who provide the fire hydrants?

24 MR. GUASTELLA: No, I guess what I'm saying is you  
25 don't need to charge them a separate charge. You already

1 have a policy where the public fire protection that's  
2 provided is paid for through the user charges, and I don't  
3 argue with that policy.

4 But in order to establish what portion of the  
5 utility's cost of providing fire protection service should  
6 be attributed to private customers, you first have to know  
7 what is the overall cost of providing fire protection  
8 service. When one of these studies is done, you don't take  
9 just the fire demand of one building or one customer; you  
10 take the total combined coincidental fire demands that may  
11 be placed on your entire system. In effect, you give, if I  
12 may, an economy of scale because you are not going to  
13 allocate costs based on the potential of each customer's  
14 fire demand. You're going to take the system as a whole.  
15 And say that entire system requires 3,000 gallons per minute  
16 or 4,000 gallons per minute worth of fire demand. The cost  
17 of the facilities needed to meet that overall demand then  
18 has to be shared among all of the customers.

19 The way you share that cost is you take all of the  
20 hydrants and you take all the equivalent connections, so  
21 that you prorate this total fire demand that may occur. And  
22 you don't anticipate a fire demand is going to occur all at  
23 one time in every place. It's either one demand for smaller  
24 systems or coincidental demands. And I guess, in effect,  
25 what I am saying is you give the benefit of the reduced

1 potential demands to the sprinkler customer through the cost  
2 allocation process when you establish what that three-inch  
3 line or six-inch line should pay in terms of private fire  
4 cost. Once that is done, then you know whether or not  
5 enough of an economy of scale is being given to the private  
6 fire protection customer. Until that's done, you may be  
7 shifting cost from the private fire connection, recognizing  
8 the reduced flows that you would need to meet that fire  
9 demand, you may still be shifting cost for that service to  
10 the rest of customers.

11 COMMISSIONER CLARK: But if they were not  
12 providing for their own fire protection, they would be  
13 relying on the public fire protection system, would they  
14 not?

15 MR. GUASTELLA: Yes.

16 COMMISSIONER LAUREDO: Are you referring to a  
17 hypothetical study? We don't have any evidence to support  
18 what you're saying. I want to make sure I understand,  
19 because you talk about a study, but you're saying a study  
20 that would, in the future day -- if somebody were to do a  
21 study, and then you draw the conclusions in your own mind  
22 that you pretty much know what the conclusions are going to  
23 be, or is there a study going on that you refer to?

24 MR. GUASTELLA: No, I'm not aware of any study in  
25 Florida. I perform these kind of studies all the time. And



1 in other states these studies are not unusual; they are  
2 routine. So, there are cost allocation studies which  
3 establish the cost of providing fire service, as well as the  
4 cost of providing residential, commercial, industrial,  
5 municipal and other types of service. Those kinds of  
6 studies are routine. What I am saying is there is no such  
7 study here. So, I don't know how to advise you as to  
8 whether or not one-third is a better factor than  
9 one-twelfth; except to say when I look at one-third, it  
10 seems to be more in line with the kinds and levels of  
11 private fire costs that I have seen in the studies we have  
12 performed.

13 COMMISSIONER LAUREDO: In other states?

14 MR. GUASTELLA: In other states. Now, if that --  
15 if, indeed, that's the case, and if a study were done here  
16 and you find that the one-third or maybe a higher cost  
17 should be made, you are, by rule, without benefit of knowing  
18 what the cost is, shifting some unknown cost onto the  
19 residential customers.

20 COMMISSIONER LAUREDO: Well, this falls under  
21 Category Number 1, which is codifying some sort of  
22 Commission policy which is news to me, so we --

23 May I ask you, sir, Mr. Dewar, you're  
24 testifying as the Executive Director of the Florida Fire  
25 Sprinkler Association?

1 MR. DEWAR: That's correct.

2 COMMISSIONER LAUREDO: And not as President of the  
3 Florida Firefighters Association

4 MR. DEWAR: As both. As both.

5 COMMISSIONER LAUREDO: As both. Because all of  
6 your written testimony is under Florida Fire Sprinkler,  
7 which I assume is an association of private businesses in  
8 the sprinkling business.

9 MR. DEWAR: The Fire Sprinkler Association has  
10 three classes of membership. Some of the members are fire  
11 sprinkler contractors. The vast majority of the members are  
12 fire marshals and fire chiefs. That is the vast majority,  
13 300 members, 200 are fire marshals and fire chiefs.

14 COMMISSIONER LAUREDO: You are also President of  
15 the Florida --

16 MR. DEWAR: State Firemen's. We are trying to  
17 change the name.

18 COMMISSIONER LAUREDO: Fire Marshals of Florida?

19 MR. DEWAR: Firemen's, Florida State Firemen's  
20 Association.

21 COMMISSIONER LAUREDO: So, that is the association  
22 that firemens in Miami and Gainesville would join? They  
23 have taken this position?

24 MR. DEWAR: That's correct.

25 COMMISSIONER LAUREDO: By vote?

1           MR. DEWAR: That's correct, the Board of  
2 Directors.

3           MR. ACOSTA: Mr. Chairman, if I can clarify one  
4 point. What Commissioner Clark said about the reduction in  
5 fire protection from the public hydrants is not necessarily  
6 a benefit of the fire sprinkler being installed in a  
7 particular building. As I said during my comments, I am  
8 aware of several systems, one in particular, where the  
9 system is sized based on the zoning of the land and has  
10 nothing to with whether a building is sprinkled or not. So,  
11 that supposition cannot be made, that because you have a  
12 fire sprinkler system you have reduced main size and reduced  
13 hydrant spacing. And I thought when that system was  
14 designed and submitted to me for review, that it was a  
15 ridiculous system. And we did go to the zoning hearing and  
16 testified on behalf of the developer of that project, that  
17 this system would be of no benefit, having a water main on  
18 both sides of the road and hydrants on both sides of the  
19 road, one side would have done just fine. So, we have made  
20 an effort to try to alleviate those kind of standards on  
21 developers of property. And we have met with little  
22 success. The zoning board, basically, kicked us out the  
23 door and said, "Here's the ordinance, go build it."

24           COMMISSIONER LAUREDO: Let me ask you a follow-up.  
25 I'm struggling with this. Why would it be in the -- why

1 would the Florida Fire Fighters Association take a stand on  
2 an economic issue? I mean, I think I know the answer, but I  
3 want to hear it.

4 MR. DEWAR: It is an economic issue, and let me  
5 clarify this. Not only Florida State Firemen's Association,  
6 whom I represent, also the Fire Chiefs Association and the  
7 Fire Marshals Association. The main concern that they have  
8 is fire service can no longer provide the firefighters and  
9 the fire trucks to provide fire suppression services. We  
10 are right now spending an average of 470 to almost \$500,000  
11 a year per fire engine riding down the street. Where  
12 you're from, Commissioner, it's probably closer to \$600,000  
13 a year for each fire engine you see going down the street.  
14 We can't afford it anymore. The only solution to provide a  
15 level of fire safety within the community is a fire  
16 sprinkler system. That is the key solution. When we have  
17 the area sprinklered, then we have the need for less  
18 firefighters, less fire engines, less fire stations. So,  
19 the trend to move towards a more sprinklered community,  
20 retrofit fire sprinkler ordinances, we are hit with the  
21 counter, "Well, you know, everything is fine. I can get a  
22 little nickel or dime on my insurance. I can write this --  
23 depreciate the system off." And then it comes down to that  
24 standby water fee, six-inch main, \$83.33 --

25 COMMISSIONER LAUREDO: So you, basically --



1 MR. DEWAR: It's a deterrent.

2 COMMISSIONER LAUREDO: Your answer is that it is  
3 an economic disincentive?

4 MR. DEWAR: That's right. And that is why the fire  
5 service is taking a strong position on it.

6 MR. SEIDMAN: May I make one more comment. Maybe  
7 I am missing something here, but, you know, I hear this  
8 comparison about what the demand requirement is for a fire  
9 that's being fought with a sprinkler system versus going  
10 through a hydrant. And the implication seems to be that if  
11 we had lots of buildings that are -- that have fire  
12 sprinkler systems, that there will be a reduction in the  
13 firefighting capacity demands of the system. And I don't  
14 think that's true. The capacity that we have in the system  
15 is to fight one fire. It isn't lots of fires, any more than  
16 he is talking about one fire there. You are still going to  
17 have the capacity in the system, have to have the capacity  
18 in the system as long as there is a demand for public fire  
19 protection for the same amount of firefighting capacity.

20 CHAIRMAN DEASON: Let me -- I think maybe you're  
21 missing the point, or maybe I am. I thought his comments  
22 were to the effect that if there were fire sprinkling  
23 systems more predominant in an area that they could cut back  
24 on their fire protection; that is, the number of stations,  
25 the number of trucks, the number of firemen, because they

1 can still meet the requirements with a lesser expenditure on  
2 their part, not that the utility is going to have to have  
3 less of a capacity there to meet demand in case there that  
4 is a fire. Because there could be a fire at a location  
5 where there is not a sprinkler system, and that capacity  
6 would be needed. Did I understand your comments correctly?

7 MR. DEWAR: That's correct. And one step further,  
8 there are communities that have downsized the pipe of their  
9 water mains because of extensive fire sprinklers. Altamonte  
10 Springs is one of them. Sarasota County is growing east.  
11 Their east growth area, the way they have it gridded out is  
12 they are going to have a smaller size water main system  
13 because of a new development all sprinklered.

14 CHAIRMAN DEASON: But what we have here are  
15 systems that are already in place?

16 MR. DEWAR: That's correct. That's correct. We  
17 do plan to retrofit a good number of those systems, though.

18 CHAIRMAN DEASON: Has the Fire Chief Association  
19 and the other agencies, other associations that you  
20 mentioned, have they considered the fact that if it's  
21 cheaper to have sprinkler systems for the community that the  
22 community would reduce the number of fire stations and  
23 firemen and actually subsidize the installation of sprinkler  
24 systems or subsidize the cost of the standby service that  
25 the utilities charge?

1           MR. DEWAR: In essence, Mr. Chairman, that's what  
2 has happened. In Altamonte Springs, you have a document --  
3 the chief of Altamonte Springs is the President of the Fire  
4 Chiefs Association. They have done that. Altamonte Springs  
5 is a perfect example of the benefits of fire sprinklers in a  
6 community. They have reduced water main size. Their fire  
7 suppression sources -- resources, the number of  
8 firefighters, number of fire engines is almost half what you  
9 would expect in an equal size city that does not have an  
10 extensive fire sprinkler system network. They required  
11 retrofit of existing buildings within their central core  
12 city and all new growth is required to be sprinklered. And  
13 that is the trend. Collier County passed an ordinance, all  
14 new construction, residential, four units or above required  
15 to be sprinklered. The reason: Fire suppression costs.  
16 Now, state law passed this last session, all new  
17 construction, three stories and above, regardless of  
18 occupancy required to be sprinklered because of fire  
19 suppression costs. And that is the trend. That is the way  
20 we are going. Now, we are just trying to make it palatable  
21 and affordable to the number of people that are now being  
22 forced to install these fire sprinkler systems.

23           COMMISSIONER LAUREDO: Let me just understand from  
24 the firefighter's point of view, fire sprinklers is a --  
25 it's basically a containment mechanism until the real

1 firemen show up, right? I mean, it isn't a substitute?

2 MR. DEWAR: It's not a substitute. It contains  
3 it. But what you have instead of -- this building as an  
4 example, if a fire started in Ken's lap over here, you know,  
5 the sprinkler system would keep it under control. There  
6 would be smoke. The firefighters would respond. They would  
7 respond with one fire engine and a ladder truck, normally.  
8 They would come in, put the fire out, clear out the smoke,  
9 reset the sprinkler system. They're back. They probably  
10 wouldn't even put on their protective breathing apparatus.  
11 If this room was not sprinklered, it's a totally different  
12 tactic. The building -- this fire, this room would be out  
13 of control. They would have an interior entry. Hopefully,  
14 they could stop the fire in check. They would use fire  
15 hose, 2-1/2 inch for flowing, you know, in excess of 200  
16 gallons a minute out of the fire hose, with a good chance  
17 they would lose control of the fire. They would just back  
18 up, bring in their big ladder trucks, 50 firefighters,  
19 ladder trucks, flowing waters at 1,000 gallons a minute for  
20 hours. And that is the benefit of it. The fire service  
21 loves the fire sprinkler system because of their hazardous  
22 job is less. Fire sprinkler controls the fire or they put  
23 the fire out. The early suppression and fast response  
24 sprinklers are designed to put the fire out.

25 COMMISSIONER LAUREDO: Could you, maybe in a later



1 filing -- late-filing show me some evidence. I happened to  
2 have spent a lot of time on this issue in an unrelated  
3 municipality -- how the -- that would make an awful lot of  
4 public policy sense, if you can prove to me that there has  
5 been a decrease in budget and personnel related to  
6 implementation of a sprinkler system. Not to make -- I want  
7 to make sure you understand. My question is not to make the  
8 firefighter's job easier or less hazardous, but that, in  
9 fact, on a dollars and cents there has been either a  
10 decrease or a deceleration of the --

11 MR. DEWAR: Sure, be more than happy to.

12 COMMISSIONER LAUREDO: That would be a very  
13 interesting piece of information.

14 MR. SEIDMAN: Commissioners, I appreciate the  
15 fact that this may lower the cost for firefighters, but  
16 these rates don't pay for firefighters. They pay for the  
17 capacity on the utility system. And as long as there is a  
18 need for public fire protection through hydrants, that flow  
19 requirement is still going to be 500 gallons per minute or  
20 2,500 gallons per minute, whatever it is, for those places  
21 that are not on fire sprinkler systems. It will not reduce  
22 that cost.

23 MR. DEWAR: Mr. Chairman, one last comment on this  
24 issue. That is, in essence, our point is that, again, if  
25 Ken -- I'm not picking at you -- but if Ken owned a



1 non-sprinkler building, he would pay the base-facility  
2 charge plus a gallonage. If I owned a fire sprinkler  
3 building, I would pay the base-facility charge, plus a  
4 gallonage plus an additional fee, and that's not right.  
5 That is wrong.

6 COMMISSIONER LAUREDO: Plus the cost of  
7 establishing the sprinkler system.

8 MR. DEWAR: Plus the cost of the sprinkler system,  
9 which I will never recover under my insurance reduction.  
10 And so I am paying, you know, if it was fair, if everything  
11 was fair in life, then the person who is creating that 2500  
12 gallon-a-minute demand at that hydrant, that hydrant  
13 gallonage is the basis for all of your studies. The  
14 gallonage is the one that creates the demand. They go  
15 through a community and look, how many gallons a minute are  
16 we going to need? They are not looking at sprinkler  
17 buildings, they are looking at non-sprinkler buildings.

18 MR. SEIDMAN: Does that mean that people with  
19 sprinkler systems are going to sign a paper saying they will  
20 not use hydrants; they will not use the public system as a  
21 backup? As long as it's there to back it up the cost is  
22 there.

23 COMMISSIONER LAUREDO: Mr. Dewar, in summary,  
24 you're against Rule 25-30.465 passing, correct?

25 MR. DEWAR: Commissioner, let me clarify again,

1 the language in that rule, we agree. Again, there are two  
2 types of fire protection systems. A fire sprinkler system,  
3 we feel should be -- there should be a distinction made  
4 between fire protection, private fire protection systems and  
5 fire sprinkler systems. If I built an industrial park, and  
6 I needed a 12-inch fire loop because of the type of building  
7 and the commodity stored in that building, by all means, I  
8 should pay for that 12-inch fire loop. We have no problems  
9 with that base-facility charge for private fire protection  
10 loops. When it comes to a fire sprinkler connection, we  
11 feel that there should be no base-facility charge for that  
12 fire sprinkler connection. So, again, what our position is  
13 is simply we agree with the language. In addition to that  
14 language, we would like some language that says that fire  
15 sprinkler systems are exempt from the base-facility charge.

16 COMMISSIONER LAUREDO: Do you understand that?

17 CHAIRMAN DEASON: I believe I do.

18 MR. ACOSTA: Commissioner, if I may --

19 COMMISSIONER LAUREDO: I don't understand.

20 MR. ACOSTA: -- to my knowledge --

21 COMMISSIONER LAUREDO: Could you hold on a second.

22 I want to find out what their position is. There are five  
23 lines under proposed Rule 25-30.465. You are in agreement  
24 with all of that, and then you just want to add two more  
25 lines, is that what you --



1           CHAIRMAN DEASON: They want an exemption for the  
2 private fire sprinkler --

3           MR. DEWAR: Just an exemption for the -- and also  
4 we would like some language that deals with the  
5 cross-connection protection, which will place the burden on  
6 the water purveyor on a case-by-case basis.

7           Again, very clearly, I'm a firefighter, and when  
8 we go to a sprinkler building, we attach to the water main  
9 and run water through the pump into the fire sprinkler  
10 system. Very rarely we need it, but when we do, that is how  
11 we do it. The chances of cross-connection problems is  
12 nowhere near the benefits that would require the expense for  
13 this reduced pressure zone system. And we are paying the  
14 consumer, the ratepayer, the person who is building these  
15 buildings, you know, they are paying a tremendous amount of  
16 money for cross connection protection that is above and  
17 beyond. And the problem that we have is, you know, one  
18 water company may say they have three levels of  
19 cross-connection protection, but when it comes to a fire  
20 sprinkler system, they have one level because of their  
21 interpretation as a fire pump, or as a potential source of  
22 contamination, they are restricted to one level, the most  
23 expensive valve, and it is costing the consumer a lot of  
24 money. And the problem, when you bid in a community, you  
25 bid on a job, you're assuming that they are going to have

1 reasonable cross-connection protection. You end up trying  
2 to get your permits approved, and they are creating or  
3 requiring a valve that is more elaborate than what is  
4 needed.

5 CHAIRMAN DEASON: What you're saying is when they  
6 have a choice, they should pick the cheapest one. Is that  
7 what you're saying?

8 MR. DEWAR: Well, I'm saying if they don't want  
9 to, that they should justify. They shouldn't just have the  
10 right to say at any whim and whimper that, "Here, put in  
11 this more expensive valve," when there is no reason for it.  
12 What we are saying is that they should go by the national  
13 guidelines, and if they want a more elaborate valve, then  
14 let them explain why. Let them justify why they need a more  
15 elaborate valve. What we face now as a industry, is when we  
16 go to put something in the ground, we are totally at the  
17 mercy of the water purveyor. They say, "Put in this type of  
18 valve." They are not down to saying which manufacture yet,  
19 but it's close to it, "Put in this type of valve." We have  
20 no choice. We have no alternative. And we need some  
21 vehicle or some avenue that we can use to -- when we know  
22 these requirements are doing nothing but driving up the cost  
23 of the system, costing the consumer money, you know, and  
24 they are not consistent. I don't know of any other area in  
25 the state that rejects -- that classifies a system that is a

1 potential contaminant when they use a fire engine. That's  
2 the only water company I know of, is the one mentioned  
3 earlier today. I don't know of any other water company that  
4 does that.

5 COMMISSIONER LAUREDO: I would move that we -- if  
6 there is an order -- this is one of those in the Staff  
7 introduction that they wanted to hear more, themselves, more  
8 information and come back with a recommendation. Is that  
9 implied?

10 MR. HILL: We would modify the rule. But as far  
11 as the cross-connection, that is a requirement in DER. That  
12 is not a requirement of this agency. I mean, we will listen  
13 to everything that has been said and come back with a new  
14 rule with a subsequent agenda for private fire protection.

15 CHAIRMAN DEASON: Any further questions?

16 MR. HILL: Including any comments that may be  
17 filed if they are not allowed to orally present them. We  
18 will look at all of that.

19 CHAIRMAN DEASON: I think we have concluded the  
20 first and smallest segments.

21 COMMISSIONER LAUREDO: Five lines.

22 MR. HILL: The next will be much faster.

23 CHAIRMAN DEASON: On a per word basis in the rule?

24 MR. HILL: In all respects.

25 CHAIRMAN DEASON: Before we go into that, we are

1 going to take ten.

2 (Brief recess.)

3 CHAIRMAN DEASON: Let's go back on the record.  
4 Staff?

5 MS. MOORE: The next rule will be addressed by  
6 Chuck Hill, and it is 25-30.020, fees required to be paid by  
7 water and wastewater utilities.

8 COMMISSIONER LAUREDO: May I ask you a question  
9 before you start, and maybe it's a dumb procedural question.  
10 If we have two categories that are codification of  
11 legislative mandate --

12 MR. HILL: Yes.

13 COMMISSIONER LAUREDO: And a cleanup, which is  
14 just semantics.

15 MR. HILL: Yes.

16 COMMISSIONER LAUREDO: Couldn't we just identify  
17 them and move them out of the way?

18 MR. HILL: I believe that we could, but I'm making  
19 a change to the noticed, Rule Number 1, and I believe we  
20 have a party that would like to speak in opposition of it.

21 COMMISSIONER LAUREDO: Oh, okay. So, they're not  
22 as noncontroversial as I thought they would be. If the  
23 Legislature passed --

24 MR. HILL: They are not as noncontroversial as I  
25 thought they would be.



1           COMMISSIONER CLARK: Well, sometimes the  
2           Legislature says you will do something, and you will do it  
3           by rule, but it doesn't tell you specifically what to do.

4           COMMISSIONER LAUREDO: It's just an attempt to  
5           move along.

6           MR. HILL: And this is -- Commissioners, this is  
7           one of those rules where there is no waiver built in. We  
8           are tying your hands with respect to fees. What we have  
9           added here is another dimension to the fee matrix. And that  
10          is to try to recognize complexity. When we put it together  
11          and sent it out there was some comments by -- on behalf of  
12          Florida Cities, I believe that they did not like Sub (i).  
13          While looking at it, it was pointed out to me that I had  
14          made an error in the service availability. When we do  
15          service availability dockets, we look at existing capacity,  
16          but I was reminded that, "Chuck, very often people file and  
17          they have not installed capacity. They are filing in  
18          advance to adjust their service availability; and so the  
19          capacity as proposed, in addition to existing, and shouldn't  
20          the fee schedule reflect that?" And I said, "Oh, yes."  
21          That's the first change that I have recommended.

22                 The second change is there were comments that they  
23          did not like -- "they," Florida Cities, I believe, maybe  
24          it's the Waterworks Association -- did not like Sub (i) in  
25          the rule, which basically codifies current Commission

1 practices, existing practice, for the seven years I have  
2 been in the industry. That when we calculate the fees it is  
3 the summation of the capacity of all the systems in the  
4 application. And my first thought was that they had tied  
5 that with the multi-system, 435, and maybe that is why they  
6 didn't like it. I believe that is not it at all. I believe  
7 that maybe they don't like it because we are saying we are  
8 going to add up all the capacities of all the systems and  
9 that is what your fee is. But, indeed, that is really  
10 codifying the Commission practice for as long as I can  
11 remember.

12 CHAIRMAN DEASON: Okay. Mr. Schiefelbein?

13 MR. SCHIEFELBEIN: Thank you. First of all,  
14 Mr. Seidman would like to briefly address the service  
15 availability policy application fee as now revised by Mr.  
16 Hill.

17 MR. SEIDMAN: This will be very short. It's more  
18 of a matter of clarification, I think, than anything else.  
19 As proposed, the fee is set to be based on existing and  
20 proposed capacity. Now, this is for determining service  
21 availability charges. And I thought maybe we could clarify  
22 that and make it that the fee is based on the capacity of  
23 the plant for which the service availability charge applies,  
24 because that may be existing or planned for a specific  
25 amount.

1           MR. HILL: And that is really not what we want to  
2 do, because what we try to do in a service availability  
3 docket is set the charges for the entire company. And we  
4 have to look at the entire company to see, you know, what  
5 level of contribution the Company is. And so we do, indeed,  
6 look at existing and proposed.

7           MR. SEIDMAN: With that clarification, that's  
8 fine.

9           COMMISSIONER CLARK: So, no change to the rule?

10          MR. SEIDMAN: That's correct.

11          MR. SCHIEFELBEIN: Okay. If I may, on behalf of  
12 Florida Cities Water Company, I would just like to point out  
13 that we are opposed to -- and I don't have -- do you have  
14 Chuck's? Without belaboring the point, Florida Cities, as  
15 you will hear when Mr. Cardey is given an opportunity to  
16 speak, is opposed to requiring full MFR filings for all  
17 systems owned by a multi-system utility, because of the  
18 economic impact on the company. As part of that, and I  
19 don't think we need special testimony on that at this point,  
20 but this rule would require that separate filing fees for  
21 each of the systems that are included in that mandatorily  
22 multi-system filing be added up. And we think that that is  
23 a bad idea. We would ask that you defer any decision on the  
24 filing fees for that kind of a case until you have decided  
25 what you are going to do on the kind of a case you're going

1 to require.

2 COMMISSIONER CLARK: Well, wait a minute. As I  
3 understood the multi-system filing, if you're filing --  
4 seeking a rate increase for one system, we are requiring you  
5 to provide information on all of them, is that correct?

6 MR. SCHIEFELBEIN: Full MFRs, yes, under your rule  
7 proposal.

8 MR. HILL: Yes, ma'am. Could I ask you to say  
9 that again, please?

10 COMMISSIONER CLARK: If under the companies that  
11 have multi-systems, if they file for one system, they will  
12 file MFRs for all of them?

13 MR. HILL: Yes, with this follow-up. In my mind,  
14 I think the way we have written the rule, and I think we  
15 tried to come out and say it, "They can't nickel and dime us  
16 to death. They have to demonstrate they are underearning as  
17 a total company." So, I don't think they could file for an  
18 individual system unless they had one big system and a bunch  
19 of little ones, that then the one system would throw them  
20 into an underearnings posture on a total company basis.

21 COMMISSIONER CLARK: Well, maybe I misunderstood.  
22 Wayne, what problem do you have with the rule? Is it with  
23 the service availability fees or all the --

24 COMMISSIONER LAUREDO: Can you point to the page  
25 and section, so we can start -- is it 25-30.020?



1 MR. SCHIEFELBEIN: Yes, sir, that's the right one.

2 COMMISSIONER LAUREDO: Can you tell us which  
3 section thereof you're opposed to?

4 MR. SCHIEFELBEIN: Should I be referring to your  
5 notice of rulemaking, or should I be referring to Mr. Hill's  
6 proposed revision? Using your notice of rulemaking, Mr.  
7 Seidman had attempted to make his point on Rule 25-30.020,  
8 sub --

9 COMMISSIONER CLARK: H, Page 5.

10 CHAIRMAN DEASON: H?

11 COMMISSIONER CLARK: Look on Page 5.

12 COMMISSIONER LAUREDO: So, you're not working out  
13 of the original we got from Chuck?

14 COMMISSIONER CLARK: I think I am.

15 CHAIRMAN DEASON: Page 5 of Document 1. I mean,  
16 Page 5 of Item 1 in Document 1, is that it?

17 MR. SCHIEFELBEIN: Right. Mr. Seidman addressed  
18 himself to Subsection (h). I don't have the so-called  
19 Composite Exhibit 1 in front of me, but it is Subsection 8,  
20 is the service availability comment that he has made. And I  
21 guess we have now passed.

22 On behalf of Florida Cities, we are talking about  
23 what was in the rule, Subsection (i), which was on Page 29  
24 of your notice of rulemaking, and which Mr. Hill is now  
25 proposing that be changed in some sense. We are saying

1 don't require -- and I am putting the cart before the horse,  
2 but this rule has come up at this point. I'm saying don't  
3 require us to file MFRs for all systems when we want a rate  
4 increase for one system. And here, incidentally, I'm saying  
5 don't require us to file an application fee based on the  
6 combined capacities of all our systems when we are seeking a  
7 rate increase for one system.

8 COMMISSIONER CLARK: But the whole issue is  
9 whether or not we are going to have a rule that requires you  
10 to do one filing for all your systems?

11 MR. SCHIEFELBEIN: Absolutely, yes. And that is  
12 the extent of my point.

13 CHAIRMAN DEASON: But Rule .020 only requires the  
14 fee to be calculated upon the systems included in the  
15 application.

16 MR. HILL: Yes, sir.

17 CHAIRMAN DEASON: And you are not -- you're not  
18 required to have more than one system in the application.  
19 The only thing the other rule says is that before you can  
20 file for one system, you've got to be underearning on the  
21 system-wide basis.

22 MR. SCHIEFELBEIN: Well, I respectfully think it  
23 says a lot more than that.

24 CHAIRMAN DEASON: Okay. Well, we will get to  
25 that. But that raises a good question. That's the subject

1 matter Mr. Cardey is going to address, and we need to have  
2 him make his presentation today.

3 MR. SCHIEFELBEIN: If at all possible, we would  
4 appreciate it.

5 CHAIRMAN DEASON: Okay. When we finish the  
6 discussion of fees, if there is no objection, we'll probably  
7 go to the discussion of multi-system filing.

8 MR. SCHIEFELBEIN: May I ask a question, because I  
9 think I might not be getting something that Mr. Hill is  
10 trying to get to me. Is Mr. Hill's new proposal that the  
11 filing fee would be calculated only on the capacity of the  
12 system for which an increase is sought?

13 MR. HILL: That is what it says. That's included,  
14 and I think that takes care of Mr. Seidman's, as well as the  
15 Sub (i). I mean, it's the combined capacities of those  
16 systems included in the application. It does not presuppose  
17 that you have to or have not to file X number of systems in  
18 the application. It just says whatever you file, we are  
19 going to combine those capacities for purposes of the fee.

20 COMMISSIONER LAUREDO: Mr. Hill, before -- Mr.  
21 Chairman, before we were going to -- I am going to continue  
22 to interrupt you. You have to tell me which document you're  
23 working from, because I have -- both are handed to me --

24 MR. HILL: I'm working on Page 11 of my prefiled  
25 comments.

1 COMMISSIONER LAUREDO: I was just talking about  
2 the rules themselves.

3 MR. HILL: The rule itself is page --

4 COMMISSIONER LAUREDO: Yes, the blue book that we  
5 got this morning, and I have the notice of rulemaking. That  
6 is what I have been working with that I put it on on the  
7 green, Attachment 1 and 2.

8 MR. HILL: Yes, sir, that's Pages 5 and 6 of the  
9 document you're looking at.

10 MS. MOORE: Tab 1 in the notebook.

11 COMMISSIONER LAUREDO: So, what I worked through  
12 all weekend I have to put away?

13 MS. MOORE: You're looking in the notice of  
14 rulemaking, Tab 2, Page 29 in that.

15 COMMISSIONER LAUREDO: That is the document.

16 CHAIRMAN DEASON: We're going off the record.

17 (Off the record briefly.)

18 CHAIRMAN DEASON: Okay. We are back on the  
19 record. I think we are all working from the same sheet of  
20 music. I hope so, anyway.

21 MR. SCHIEFELBEIN: If I'm understanding what --  
22 I'm being particularly picked today, apparently. But if I  
23 am understanding what Mr. Hill intends his revised filing  
24 fee to say, may I suggest that I am now on Exhibit CHH-2,  
25 attached to Mr. Hill's testimony, and the shaded-in



1 language, and I am doing this off the top of my head, so I'm  
2 sure it will be short of brilliant, but perhaps it ought to  
3 say, "For purposes of this rule, capacity is determined by  
4 combining the capacities of all systems for which a rate  
5 increase is requested by the application."

6 MR. HILL: That may well be good language. I  
7 would have to check, because fees sometimes apply to things  
8 other than a rate increase, an amendment to territory. And,  
9 again, our fees would have -- you know, if you are  
10 applying --

11 MR. SCHIEFELBEIN: Oh, I -- yes.

12 MR. HILL: So, again, all we are trying to do here  
13 is say that when you file with us an application of some  
14 kind, since it has to be based on capacity, I mean, that is  
15 a requirement of statute, and we want it to be based on  
16 complexity, we are going to calculate capacity by combining  
17 the capacities of all the systems in that particular  
18 application, and it may not be artfully stated.

19 MR. SEIDMAN: Let me see if I am understanding it  
20 correctly. If you have a company with 15 systems --

21 MR. HILL: Yes.

22 MR. SEIDMAN: -- you file an MFR that has  
23 information in all 15.

24 MR. HILL: Yes.

25 MR. SEIDMAN: You only want a rate increase -- you

1     only want some type of an action on three of the systems.  
2     Would the fee be based on three systems, or the 15 systems?

3             MR. HILL: If you filed an application with all  
4     15, we would calculate using all 15.

5             MR. SEIDMAN: Okay. That's what he --

6             MR. HILL: Which does not presuppose that .435 has  
7     been adopted by this Commission.

8             MR. SEIDMAN: Right.

9             MR. SCHIEFELBEIN: To the extent that that rule  
10    proposal would apply to .435 and would require filing fees  
11    based on the capacities of all the systems that are being  
12    dragged into a rate case, even though the utility seeks an  
13    increase only in one, we oppose the rule, just as we oppose  
14    the 25-30.435 itself. And I don't think we need to beat it  
15    any further, unless there is need for --

16            MR. HILL: And, again, I would point out that is  
17    codifying current Commission -- I mean, we have done this  
18    for years, and I think the real problem is with .435, not  
19    with the fee schedule.

20            MR. SCHIEFELBEIN: I agree. Thank you.

21            CHAIRMAN DEASON: Chuck, you just got me confused,  
22    because I thought earlier we had established it was based  
23    upon the capacity of the systems for which there was a  
24    change being requested.

25            MR. HILL: Yes, sir.

1           CHAIRMAN DEASON: And he said if there were 15  
2 systems, and he only wanted to change three of the 15, you  
3 would calculate the fee on the 15.

4           MR. HILL: I think its semantics, sir. I'm sorry.  
5 The combined capacity of the systems included in the  
6 application -- now prior to any .435 ever even existing in  
7 anybody's mind -- that is current Commission practice. When  
8 somebody files something with us, and they have got two  
9 systems, we combine the capacities of the two to come up  
10 with the fee. If they file a rate increase with 127  
11 systems, we combine the capacity of 127 systems and come up  
12 with a fee. If they file with one, we use that capacity. I  
13 mean, that is whatever is included in the application is  
14 what we used to calculate the capacity for fee purposes.  
15 The problem that comes in is with .435 and any possibility  
16 of this Commission requiring a company to file every system  
17 they have. That, I believe, is where the problem comes in.

18           CHAIRMAN DEASON: I've got you.

19           Mr. Hoffman?

20           MR. HOFFMAN: We don't have any comments.

21           CHAIRMAN DEASON: Mr. Shreve? Mr. Mann? Right  
22 now we are on .020. We are going to go to .435 in just a  
23 moment.

24           MR. MANN: No, we don't have any questions or  
25 comments on .020, Commissioner.

1 CHAIRMAN DEASON: Okay. Commissioners?

2 COMMISSIONER LAUREDO: Okay. Is it appropriate to  
3 move these things, so we get on with doing something? I  
4 move approval, at least on the first reading, subject to  
5 being cleaned up for consistency and any kind of subsequent  
6 rule change that we may make today or the next few days,  
7 move 25-30.020.

8 CHAIRMAN DEASON: Is there any problem with doing  
9 that, Ms. Moore? It's not contemplated. Is that --

10 COMMISSIONER LAUREDO: Let me tell you, other  
11 governmental entities do things what they call "first  
12 reading," so we can just get it off, approved. And if  
13 something we do subsequently amends it, then you just have  
14 to clean it up and come back to us.

15 COMMISSIONER CLARK: I think we don't need to be  
16 that formal. I think you can get consensus from us that it  
17 doesn't appear that these rules need to be changed, and we  
18 can direct them when they file their final version to file  
19 as is.

20 MS. MOORE: Right. We would come back at special  
21 agenda in August with the rule just as you have seen it  
22 today.

23 MR. HILL: I certainly appreciate the guidance.

24 COMMISSIONER LAUREDO: So, you don't want to take  
25 -- you're not going to take a vote or a consensus of the



1 Commission at all on these today, each one of these?

2 CHAIRMAN DEASON: Oh, I don't mind doing that.

3 COMMISSIONER LAUREDO: Well, we've got to clean up  
4 the record.

5 CHAIRMAN DEASON: I do agree with Commissioner  
6 Clark that what we need do is, if we don't have a problem  
7 with a particular rule, is just advise Staff that we expect  
8 to see that incorporated in the final recommendation, which  
9 we will be voting on in August. And I think that direction  
10 has been give as far as .020 is concerned.

11 COMMISSIONER CLARK: But I think you're right,  
12 Commissioner Lauredo, when we do each one, we ought to sort  
13 of say -- give our position. If we think the rules are all  
14 right as is, it certainly makes Staff's job easier.

15 COMMISSIONER LAUREDO: That's why I said let's  
16 just vote on it and get it out of the way.

17 CHAIRMAN DEASON: Without objection, very well.  
18 Now, without objection, we are going to move to -- what is  
19 it, .435?

20 MS. MOORE: Marshall Willis will be commenting on  
21 this rule, followed by Chuck Hill, and then Pat Mahoney will  
22 address the EIS aspects of the rule.

23 MR. WILLIS: Commissioner, I am mainly addressing  
24 the original rule that was proposed in the order. By the  
25 way, for the record, my name is Marshall Willis, and I work

1 with the Division of Water and Wastewater.

2           The original rule as proposed basically requires  
3 that the company who has multiple systems that this  
4 Commission regulates file all the systems at one time. In  
5 that it has several parameters. One of those parameters is  
6 that if the utility company is underearning or overearning,  
7 that earnings is measured by the systems in total, not just  
8 one system. Because of that, Staff believes it's going to  
9 create some rate stability. That basically is a summary of  
10 the rule itself, of the main rule.

11           MR. HILL: Commissioners, I tried -- there was  
12 some discussion at the agenda between the Commissioners and  
13 some of the parties that the alternative maybe was a way  
14 that they preferred, having some sort of annual hearing on  
15 the appropriate allocated costs, the methodologies, and then  
16 allocate those to the systems. And then the utilities with  
17 multiple systems could file those individual systems in the  
18 subsequent year. And rather than make those mutually  
19 exclusive, pick one, you know, you can adopt one or the  
20 other, I tried to write a rule that basically offered both;  
21 that a company could either file under the 435 included in  
22 the notice, that, you know, you will file as a total  
23 company, and we'll look at you as a total company, or you  
24 could file under the alternative. And then -- and, again,  
25 this anticipates that a company would file individual rate

1 cases for their systems, but would file once a year to take  
2 care of all the joint and common cost allocations. Those  
3 seem to be issues in every proceeding, at least ever hearing  
4 that I have been in where a company has multiple systems,  
5 whether it's GDU or Southern States. We seem to spend a  
6 fair amount of time on the joint and common and overhead  
7 cost of the firm. And it just seemed that a convenient way  
8 to do that is once a year let's take care of the  
9 methodologies. Let's see what the appropriate joint and  
10 common costs are. And let's allocate them to the systems  
11 and be done with those issues, so that when a rate case is  
12 filed for a particular system, we can deal with the specific  
13 issues for that system and not the joint and common costs.  
14 And that is what I've tried to do here, is make it that you  
15 can file under either.

16 CHAIRMAN DEASON: Okay.

17 MR. MAHONEY: Commissioners, there has been some  
18 concern expressed by both the utility representatives and  
19 the Public Counsel's office about the economic impact  
20 statement as applied to .035, and we have to base our  
21 economic impact statement on the information provided to us  
22 by the other members of the Staff and by the utilities  
23 themselves. And, basically, what we had was two opinions on  
24 the meaning of this rule.

25 Mr. Hill's Staff said that they had indications

1 that there would be substantial savings on this rule based  
2 upon experience with another company or companies who had  
3 filed a rate case with multi-systems. And they could not  
4 actually quantify what the savings might be, but that there  
5 would be savings. Only one company indicated any increased  
6 cost, based on this particular rule, and that was Florida  
7 Cities Water Company. And they estimated an additional  
8 expense of 142,000 under their interpretation of the new  
9 rule, as opposed to the way they would presently file. And  
10 that was all the information we had at the time we prepared  
11 the EIS.

12 And today Mr. Schiefelbein has expressed concern  
13 that there will be greatly increased costs due to this rule.  
14 And at the same time when it got down -- and how would the  
15 company recover those costs? And at the same time, when it  
16 got down to Mr. Shreve and Public Counsel, they estimate  
17 that there will be greatly increased earnings to the company  
18 based on the rule as a whole, and what would happen with  
19 that money that the company would be earning, additional  
20 monies.

21 And our position would be whether -- whichever is  
22 correct, whether the cost will increase greatly or the  
23 earnings will increase greatly, our position would be, since  
24 we have been asked this question directly, that the  
25 Commission would at that time examine the level of the



1 increased cost. And if there is and underearnings that  
2 occurs with the company, then the company would properly  
3 file for a rate increase. And if there is greatly increased  
4 earnings, then the Commission would take that into  
5 consideration in deciding whether or not to allow the  
6 company to retain the earnings or additional earnings.

7 CHAIRMAN DEASON: Let me ask a question. Have we  
8 -- I understand Staff's concern and motivation is that it --  
9 it doesn't seem to make a lot of practical sense to have a  
10 company file for one system if they are practically  
11 overearning on all the other systems that they have. That  
12 would be the most extreme example. But it seems to me that  
13 the cure for that problem, the medicine may be worse than  
14 the disease, if we were to require a filing for all the  
15 systems for a large company with many systems.

16 Have we thought about some alternative, something  
17 along the lines of requiring the company to certify they are  
18 not overearning, the company as a whole, and that to the  
19 extent that they do overearn in the next year that they  
20 would have to refund the amount of the rate increase for the  
21 system that they did require an increase on? This is just a  
22 thought. I know that the particulars may get complicated,  
23 but we have similar provisions for indexes is my -- and that  
24 is the reference that I am making. Did Staff give any  
25 thought to some type of procedure along those lines?

1           MR. HILL: No, sir. We certainly could. We  
2 viewed it, again, in three different ways. Certainly,  
3 overearnings in another system is a concern of ours. Again,  
4 the joint and common costs, and those issues are a big  
5 concern. So, we looked at it at really three different  
6 ways. One is, "Okay, file all the systems you have in one  
7 case," or, two, "File all of your joint and common costs,  
8 and we'll take care of the allocation." And, three, "Ask for  
9 a waiver. Tell us why it is you shouldn't file under either  
10 of these, and a waiver can be granted." And there may be  
11 more ways to look at it, you know, looking at different  
12 issues, such as the overearnings. No, we have not  
13 specifically zeroed in on that, on that aspect of it.

14           MR. WILLIS: Commissioners, maybe I should  
15 elaborate on some more reasons why we came up with this rule  
16 to start with. And presently we have had two cases which  
17 were filed something similar to this. We had the original  
18 Southern States rate case that had 20-something systems in  
19 it. And then we just got through with the mega case, which  
20 had 127 systems in it. So, we have a little experience. In  
21 the past, Staff has had problems with companies like this  
22 coming before you with piecemeal rate cases. You come with  
23 one system at a time and you're going to face different rate  
24 of returns for all these systems. Every year your equity  
25 returns will go up or down. You're going to have systems

1 with different rate of returns. You have systems with  
2 different depreciation rates in the past, which we are not  
3 really faced with now, because of the depreciation rule we  
4 now have. You have the allocation problems, where you may  
5 have one system come in this year, and the Commission will  
6 decide on how to allocate all those joint and common costs.  
7 And two years down the road they come back and somebody has  
8 another idea, and the Commission at that times decides on a  
9 new allocation. And those allocations may have overlapping  
10 costs. For some they are either -- the company is either  
11 undercompensated or overcompensated. You're going to have a  
12 problem with level expenses, where the Commission may in one  
13 case grant a certain level of an expense, and in another  
14 case three months down the road, they grant another level,  
15 just because of different information for different  
16 testimony in the record. There are so many different areas  
17 that you can have different levels of expenses for the same  
18 company.

19           The reason for having the system based on a  
20 multiple filing is we are trying to eliminate all of those  
21 different areas where you have the same thing happening to  
22 the company system-wide. The rule itself doesn't require  
23 that the utility has to ask for a rate increase for every  
24 system. It doesn't require that you have to have uniform  
25 rates. That was one of the things that came out of the

1 Southern States rate case. We didn't know that was going to  
2 happen at the time, but it did. This rule doesn't  
3 contemplate that or require it. It just says that -- it  
4 just allows the Commission to get a better handle on the  
5 multiple system companies by having them file everything at  
6 one time. The other alternative, which Mr. Hill spoke of,  
7 is also a way to get a handle on all of this allocated joint  
8 cost. That would help, and that would alleviate some of our  
9 problems.

10 COMMISSIONER LAUREDO: Let me ask you this. This  
11 is on Category 4 of Staff's recommendation of changed,  
12 correct? On your introductory outline. This falls under --  
13 it's neither a codification of Commission policy nor a  
14 codification of legislative mandate, nor cleanup. It's what  
15 Staff is suggesting anew. This is all new language. Now,  
16 you say on the analysis that you gave us on Page 31,  
17 "Comments were made at several of the workshops that this  
18 proposal would do nothing but drive rate case expenses up,  
19 and subject the utility and the Commission to criticism. We  
20 do not agree." The Staff does not agree. It seems -- you  
21 do not agree.

22 MR. WILLIS: We do not agree.

23 COMMISSIONER LAUREDO: Well, let me tell you, I  
24 don't know how you define criticism, but Southern States'  
25 case has really been -- an awful lot of people, I've heard,



1 are unhappy about that case.

2 COMMISSIONER CLARK: I think he does not agree  
3 with the notion that it drives up costs.

4 COMMISSIONER LAUREDO: Well, there are two  
5 parts --

6 MR. WILLIS: Does not drive up -- I thought you  
7 were --

8 COMMISSIONER LAUREDO: Well, the sentence is one  
9 sentence. I read it verbatim from your Staff report, that  
10 we do not -- "It would do nothing but drive rate case  
11 expenses up and subject the utility and the Commission to  
12 criticism." Do you agree with the second part? You don't  
13 agree that we were subject to criticism because of doing  
14 this novel approach?

15 MR. WILLIS: I'm not sure I do agree with that.  
16 The real criticism that came out of the Southern States rate  
17 case is the fact that the Commission granted uniform rates,  
18 and that is where the biggest criticism has lied at that  
19 point. I know Public Counsel had a severe problem in the  
20 handling of the case. And I believe Mr. Shreve can speak to  
21 that. But the Staff felt that we ably handled the case. We  
22 were able --

23 COMMISSIONER LAUREDO: But the end result is  
24 uniform rates. Maybe that's where I'm confused.

25 COMMISSIONER CLARK: No, no.

1           MR. WILLIS: The end result could be, but we're  
2 not -- this rule doesn't specify, and it has nothing to do  
3 with uniform rates. All it says is that we want the utility  
4 to bring forward all their system. And it doesn't matter if  
5 the Commission sets separate rates for every single system.  
6 We'd like to see the utility bring forward those systems all  
7 at one time.

8           COMMISSIONER LAUREDO: All right. There is no  
9 proposed rule that you're proposing today that -- or the  
10 logic would flow that this rule would inherently produce  
11 uniform rates?

12           MR. WILLIS: No.

13           MR. HILL: No, sir, absolutely not.

14           COMMISSIONER LAUREDO: And there is no rule that  
15 -- in your proposal?

16           MR. HILL: No, sir.

17           COMMISSIONER LAUREDO: You know, I just wonder --  
18 I'm thinking out loud. We have had two examples, two very  
19 recent trials of this novel approach. I wouldn't call that,  
20 you know, a lot of experience. And now we are ready to  
21 close the book on it. In other words, we are putting in the  
22 rule so it's -- we are going to do it this way from now on.  
23 How do you react to that concern?

24           MR. HILL: Yes, we have had two real good examples  
25 recently. And I guess we've had several years -- you know,

1 I guess I go back to 1980, whatever. I call it the Katie  
2 project investigation into rate case expense. I mean,  
3 again, this has been going on for about six years,  
4 Commissioner.

5 COMMISSIONER LAUREDO: I understand that, but I  
6 can only deal with the stuff that I'm here. And I am just  
7 saying there are a lot of people -- there has been a lot --  
8 I don't care what you call it, uniform rates or uniform  
9 methodology, but the cases that we're -- that this  
10 Commission handles have triggered an awful lot of criticism,  
11 founded or otherwise. I'm not taking sides. And I just  
12 wonder why we need to -- why we need to move to codify that  
13 so fast, when we may very well be more prudent by exploring  
14 this for a couple of more years. I'm just --

15 MR. WILLIS: Commissioner, if I could address a  
16 little bit of that, too. These two cases, the Southern  
17 States rate cases, are really an extension of what we have  
18 been doing in the past. The Commission has taken a small  
19 leap towards that already. We have several systems or  
20 several companies that have utilities in one county, and a  
21 few that cross county boundaries. And, granted, and they  
22 are only five to nine systems, but they've all been combined  
23 in one filing. And we have never had that much flack over  
24 those cases. And sometimes uniform rates came out of those  
25 and sometimes they didn't.

1           COMMISSIONER LAUREDO: Well, there is a school of  
2 thought out there that says that uniform rates are  
3 inherently -- not unfair, but certainly there is not an  
4 equal application of the economics in each system. And if  
5 you happen to be one of those that has a negative adverse,  
6 you have a pretty strong view that the system is unfair.

7           MR. WILLIS: The other thing I would like to point  
8 out. You hit on the rate case expense earlier as part of  
9 the Staff analysis of this. In a rate case expense what we  
10 experienced in Southern States is that in the first case it  
11 came out to be about \$14,000 a system. And we are not  
12 looking at the size of the system; we are just taking the  
13 number of systems filed, divided into the rate case expense  
14 the Company received, and that came out to be about \$14,000  
15 per system. In the new case it went down to about \$10,000  
16 per system, and that involved 127 systems filed in this  
17 brand new case. Granted, when you look at the overall  
18 dollars, the dollars for the new Southern States case were  
19 well over a million dollars. But if you look at some of  
20 these other cases that have been going on in the Commission,  
21 the Lehigh, the Miles Grant, and all of our past cases,  
22 you're going to see rate case expense has run between 50,000  
23 to over 150,000 per system. And if you look at it on a  
24 system basis, there is a tremendous savings.

25           COMMISSIONER LAUREDO: Yes, but if you happen to



1 live in a system, in a subsystem, that did not on its own  
2 standing require or justify an increase in rates, you don't  
3 care about the reduction of the overall rate expense. The  
4 bottom line is that because of this new methodology your  
5 economically viable system rates are going up because of  
6 this across-the-board rate. So to you, the components of  
7 the increase are irrelevant to the total actual cash flow at  
8 the end of the month. Now, all of a sudden, you have got to  
9 pay another \$10, and you say, "Why?"

10 MR. WILLIS: I think you have to separate the fact  
11 that uniform rates is in the rule.

12 COMMISSIONER LAUREDO: Okay. Well, that's why I'm  
13 confused.

14 MR. WILLIS: This happens to be an outcome of this  
15 new mega rate case for Southern States. The rule doesn't  
16 say uniform rates are the thing to do, and it may not be.

17 COMMISSIONER LAUREDO: But it follows that if you  
18 have a system where you're considering it system-wide,  
19 you're kind of -- you're tempted to fall into uniform rates,  
20 or am I missing something here?

21 MR. HILL: I think you're missing something,  
22 Commissioner. I don't know. I think the rates that the  
23 Commissioners approved in the various cases were based upon  
24 the rate issues, and this doesn't --

25 COMMISSIONER LAUREDO: System-wide?

1           MR. HILL: No, the specific issues in the docket  
2 with respect to rates.

3           COMMISSIONER LAUREDO: All right. Let's take one  
4 case, the case of 127 or so systems?

5           MR. HILL: Yes.

6           COMMISSIONER LAUREDO: Southern States. How were  
7 those rates set, in a very brief -- were they set because of  
8 an analysis of the whole system and an across-the-board --

9           MR. HILL: The Commissioners had available to them  
10 the information to set rates any way they wanted, on a  
11 system basis, on a uniform basis or any combination in  
12 between. And what they found, based upon the evidence in  
13 the record, that it was in the best interest of the majority  
14 of the customers to have a uniform rate. That was their  
15 decision in that case, which should not be confused with  
16 .435. .435, if somehow you have gotten the impression or  
17 somebody has told that you that this is some sneaky way to  
18 get uniform rates, that's a lie. I mean, that is a real  
19 misconception. This has only to do with how it's filed and  
20 comparing rate case expense. We can do it on a per system  
21 basis. That is fine. We have got the data. We gave it to  
22 the Senate back in Sunset. It runs about \$150,000 per rate  
23 case. It can be less. When we go to hearing and we get  
24 intervenors, it can be much greater. But the per system  
25 rate case expense, the way it was handled last time, was

1 about \$10,000 per system. So, customers are saving.

2 COMMISSIONER LAUREDO: Chuck, here's my point.  
3 I'm not confused and I'm not easily frightened by anybody's  
4 point of view. I'm just saying this is -- you know, I am  
5 old enough to know the process sometimes becomes substance,  
6 and it drives you. And I want to make sure that because we  
7 embark on a process, while you're correctly saying that  
8 certainly the letter of the rule does not say that it leads  
9 into system-wide rates, certainly the inertia takes you  
10 there. It certainly can help you get there quicker. And it  
11 may be that that's what I want to do. But what I am saying  
12 is there has only been two cases since I have been here  
13 where that's happened. And I sense that there has been a  
14 lot of controversy. Why don't we play with this a little  
15 more rather than putting it -- you know, we go back to my  
16 original discussions at the beginning of today. You put it  
17 in the rule, that is it. It precludes my flexibility of --

18 MR. HILL: (Indicating no.)

19 COMMISSIONER LAUREDO: No?

20 MR. HILL: No, sir. I've got a waiver in here.  
21 I've got a specific waiver built in there so that we don't  
22 have to do this. And, again, I guess Southern States was  
23 going to file 127 systems, anyway. We could have handled  
24 them all at once or we could have had 127 different rate  
25 cases.

1 COMMISSIONER LAUREDO: Yes --

2 MR. HILL: I mean, again, they filed for increases  
3 in 127 systems. So, I mean our choice, we didn't really  
4 have one. They filed all 127, but they could have filed 127  
5 separate rate cases.

6 COMMISSIONER LAUREDO: Now, is my understanding,  
7 summary, before they get a chance to go on the record, that  
8 the companies are against this rule, as well as Public  
9 Counsel? Or is that an overly --

10 MR. HILL: That is probably a fair statement.

11 MR. MAHONEY: That may be a correct statement,  
12 Commissioner Lauredo, but on the data request, which was  
13 sent out to all the companies; only one of the companies  
14 responded in opposition to this rule.

15 MR. ARMSTRONG: And for the record, Southern  
16 States is not opposed to this rule.

17 CHAIRMAN DEASON: Let's hear from the parties.

18 Mr. Schiefelbein?

19 MR. SCHIEFELBEIN: On behalf of Florida Cities  
20 Water Company, I would like to have first Mr. Cardey and  
21 then myself talk about both the primary and the alternate  
22 recommendations on this Rule .435. Mr. Cardey?

23 MR. CARDEY: My name is Keith Cardey. I'm from  
24 near Chicago, but I have really been involved with the  
25 utility business in Florida since the mid 1960s. I have



1    been involved with Florida Cities since that time. I have  
2    also done an awful lot of work for other companies in  
3    Florida, so I am very familiar with the ratemaking process  
4    in Florida, as well as the filing requirements.

5           Just to state Florida Cities' basic position, if  
6    the Commission is moving toward statewide ratemaking -- and  
7    I am saying that only within the county they regulate -- the  
8    company has no objection to the general requirements of  
9    .435. If, however, the Commission is still going to  
10   regulate on a system-by-system basis, it's my observation  
11   that the proposed rules are both costly in time and money.  
12   And it is neither beneficial to the customer nor the  
13   company. Therefore, my comments are only going to be  
14   related to the procedure as if system-by-system ratemaking  
15   is followed. We have basically four objections.

16           The first one is that the proposal adds cost to  
17   the ratemaking procedure and, thus, produces higher rates.  
18   In some cases it would more than double the cost of the  
19   ratemaking expense.

20           Number two, in small companies with limited  
21   capital and manpower, you just divert these resources away  
22   from operating the system.

23           The third objection is that no method has been  
24   proposed by which the company can recover the added cost of  
25   ratemaking.

1           And fourth, on the question of using total system  
2 earnings as a criteria to determine whether you file or do  
3 not file for rate increases, this in many instances can be  
4 detrimental to the financial soundness of the company.

5           I want to just briefly outline Florida Cities  
6 Water Company. It operates in five counties, three of those  
7 counties are under the Florida Public Service Commission.  
8 In those three counties there are seven units of ratemaking.  
9 In Brevard County they have both water and sewer. In  
10 Collier County they have both water and sewer. In Lee  
11 County they have one water system that is regulated as a  
12 unit of ratemaking, and then they have two sewer systems.  
13 So, in total they have seven. That means that if they file  
14 for increased rates in just one of those systems, and there  
15 I'm talking about either a water or a sewer rate case, they  
16 would have to file a total of seven MFRs, plus additional  
17 data on a non-jurisdictional system. In the recent Florida  
18 Cities cases, the cases that went PAA cost about \$45,000,  
19 and those involved both water and sewer for those systems.  
20 Where the case went to hearing, it's more like 100 to  
21 \$125,000.

22           We have indicated that the added cost over and  
23 above these rate case expenses would be something in the  
24 neighborhood of \$142,000. Now, the average cost of putting  
25 the MFRs together was roughly \$6,000, so there would be an

1 extra six MFRs or a total of \$36,000. Interrogatories and  
2 data requests, even though they have not gone to hearing,  
3 cost roughly \$5,000 per system. So, that's another 30,000.  
4 The biggest item of expense is to prepare billing analysis,  
5 send out notices, and things of that nature, and that would  
6 be about 63,000. In addition, there would be some legal  
7 expense, which I've estimated \$13,000, or a total of  
8 \$142,000.

9 Mr. Willis indicated that Southern States  
10 certainly came in with a much lower cost per unit. And we  
11 do not argue with that number, just because they filed for  
12 what I call statewide rates, or at least in 127 systems.  
13 But that is not Florida Cities' problem. Florida Cities is  
14 still regulated on a system-by-system basis, so that if the  
15 proposed rule went into effect, there would be substantially  
16 more money and time spent on the necessary filing documents.

17 In the second item I mentioned, that is in small  
18 systems, they have a lack of cash, and they have a lack of  
19 manpower. And I think I can pretty well speak to that, as  
20 well as the consulting business. I was president of a small  
21 system in Illinois for 25 years. I was also the president  
22 of a holding company in Florida for about ten years. At the  
23 time, it was the second largest system in the State of  
24 Florida.

25 So that a good deal of time and money would be

1 spent in the preparation of the additional data requested by  
2 Staff. And whenever you spend money for one thing that  
3 means taking it away from another area, certainly  
4 maintenance and capital improvements could both be deferred.

5 Certainly, everyone recognizes the Commission  
6 needs all the information necessary to pass on the merits of  
7 the case, but it seems to me we ought to be looking for ways  
8 to lower the cost of ratemaking rather than increasing the  
9 cost.

10 The third item I mentioned is that who is going to  
11 pay the extra cost, and here we have estimated \$142,000.  
12 The way it's done now is that each system is based -- the  
13 rates are based upon the cost of that system. There is no  
14 cross-subsidization from one system to the other. But under  
15 the proposed rule, if the company raises rates in Lee  
16 County, should the rates in Brevard County go up? Or if you  
17 file for rates in Lee County, should they absorb the added  
18 cost of any necessary rate review in Brevard County? I  
19 think these are some legal hurdles that have to be passed, I  
20 think, before the rule should be placed into effect. Under  
21 our present ratemaking system, we just don't have that  
22 because the ratepayers produce or cover the cost in each and  
23 every system.

24 The fourth item I mentioned is that should total  
25 system earnings be used as a criteria before any rates can



1 be adjusted in any one system? I think it's just a basic  
2 principle for any company, every component of that company  
3 has to be sound before the company or business as a whole is  
4 financially sound. And I have seen experiences where you  
5 have -- well, I'll use two systems, where one is profitable  
6 and one is unprofitable, and you judge it by the total  
7 system earnings. At some point in time the profitable one  
8 is going to be -- have depressed earnings. And at that  
9 time, you're going to have a troubled company. And it takes  
10 two, three or four years before you build earnings back.  
11 And during that period, certainly, you can have all sorts of  
12 financial troubles, including some difficulties of raising  
13 capital. So if you are going to be on a system-by-system  
14 basis, each system ought to stand on its own two feet, and  
15 that is a better way to stabilize earnings for the Company,  
16 so it can finance construction over the long period of time.

17 The other point I'm going to comment on is the  
18 prior approval of joint or common costs, which Mr. Hill has  
19 proposed. Personally, I think that's a better solution than  
20 the one of filing for -- filing minimum filing requirements  
21 for all the systems when you file for one particular system.  
22 The difficulty I have with that proposal is that it could  
23 further delay necessary rate relief. Anytime you file with  
24 the Commission for approval of any particular item,  
25 certainly nobody knows the time frame in which you will get

1 a final order. In Florida Cities Water Company allocation  
2 really hasn't been a problem. The method of the allocation  
3 has been in effect since 1965, been in before the Commission  
4 on a number of occasions, and it has been approved on all of  
5 those occasions. So that it seems to me that still the best  
6 way is to follow, basically, what you're doing. It's the  
7 management's function to still run the business. Let the  
8 Commission review to see if the allocations are reasonable.  
9 And I think in the end that will produce reasonable results.

10 Just to restate what I previously said, if the  
11 Commission is moving towards statewide rate procedures, then  
12 the company has no objection to .435. If it attempts to  
13 maintain the system-by-system ratemaking procedure, we think  
14 the proposed rules are costly, time-consuming, and not in  
15 the interest of either the customer or the Company. Thank  
16 you.

17 CHAIRMAN DEASON: Mr. Schiefelbein?

18 MR. SCHIEFELBEIN: Thank you. Commissioners,  
19 first of all, there is an apparent omission in what's been  
20 referred to as Composite Exhibit 1. I guess number six,  
21 comments of Florida Cities Water Company, if you will turn  
22 to that, Subsection 1 of our comments indicates that Florida  
23 Cities has filed a petition with DOAH to challenge this  
24 rule. A copy of the petition is attached hereto and by  
25 reference made part hereof. It's not attached. Attached to

1 that petition was the input that Florida Cities gave in  
2 response to the request for an economic impact statement,  
3 which gave our best guess in the short time provided to  
4 respond as to what we guesstimated the impact would be on  
5 that. And I am sure that as we all sort ourselves -- sort  
6 our way through the hearing, that Staff will get to you that  
7 additional part of Section 6.

8 Now, one of the main arguments we have --

9 MR. MAHONEY: Mr. Schiefelbein, just one comment.  
10 You stated that the attachment to the DOAH filing was the  
11 attachment to the economic impact statement. It wasn't.  
12 The attachment to the economic impact statement is the  
13 summary sheet and that was all, just so we keep it straight.

14 MR. SCHIEFELBEIN: I'm referring to our petition  
15 filed with DOAH, and attached to our petition filed with  
16 DOAH is our response to the EIS request.

17 Now, in that response or, actually, in the  
18 economic impact statement, which I reckon is somewhere in  
19 that blue book there, they mention Florida Cities' comments  
20 that this rule would generate \$142,000 in increased rate  
21 case expense per rate case. The EIS statements indicate  
22 that this estimate, quote, "Was based upon the utility's  
23 interpretation of the proposed rule," unquote. And then  
24 conclusively dismisses the estimate on the basis that,  
25 quote, "The Staff strongly asserts that this rule would, in

1 fact, substantially decrease costs under Staff's  
2 interpretation of the rule." And that's it. That is as far  
3 as the evaluation or consideration that we have had given to  
4 our guesstimate of \$142,000 added burden by requiring eight  
5 sets of MFRs to adjust the rates for one system.

6 We acknowledge we have got a problem. We all have  
7 a problem as far as determining what is the appropriate  
8 ratemaking mechanism to use for multi-system utilities. We  
9 would be delighted to work with everybody to try to come up  
10 with some solutions. Southern States is in a little bit  
11 different situation than the rest of us, because, perhaps,  
12 they already have uniform rates, subject to appeal. We are  
13 in a position where we don't have any uniform rates, and we  
14 are looking at a real rate case expense problem. We also --  
15 I would like to -- I would also like to say that I think  
16 that the company's \$142,000 estimate is very low, and I  
17 think it would be much higher than that, but we will stick  
18 with that figure for now.

19 Mr. Willis has said that there is a waiver for  
20 just cause built into the rule. I don't know what that  
21 means. I'm sure that we can all come up with some very  
22 extreme circumstances that we would all agree would be just  
23 cause. But as far as the day-to-day company that has got  
24 eight systems and what would be just cause or not, no  
25 guidance is given in the rule, no standards for evaluation,



1    whatsoever. So, we're not terribly well-comforted by that  
2    escape clause.

3           As far as the so-called alternative allocation  
4    approach to all of this, and I would very much like to hear  
5    Staff respond to this, because I will probably have some of  
6    my estimates wrong. But if we could just assume that an  
7    application for -- a utility decides that in the coming year  
8    they are going to file a rate case among one of their  
9    systems, and they are a multi-system utility.

10           So, on January 1st you all are open for business,  
11    and you file an application. I suppose that there would  
12    probably be some kind of a Staff review of those numbers,  
13    and perhaps some kind of audit, small a, big A. I'm going  
14    to guess that a Staff recommendation might come in response  
15    to that application perhaps in 90 days. And that is being  
16    -- I'm trying to make a point of regulatory lag, and I think  
17    that is pretty quick. But let's assume that Staff can  
18    review these numbers and feel comfortable and make a  
19    recommendation on the allocation factor in 90 days.

20           To get from a Staff recommendation, to get it  
21    before you, to get to a Proposed Agency Action, you're  
22    talking about another month, rounding off. Public Counsel  
23    and the citizens, or even the utility, if they don't like  
24    what Staff has recommended, have got to have a point of  
25    entry and an opportunity to object to that. That is going

1 to be another three weeks. If there is no objection, if  
2 it's just so crystal clear no one could ever -- could  
3 possibly disagree, and I have yet to see one of those cases  
4 here, you're only talking about a four-month delay factor,  
5 give or take.

6 But if there is an objection, you're going to have  
7 a hearing. Public Counsel and everyone else, very  
8 rightfully, is going to want to do discovery. They are  
9 going to want an opportunity to dig in for themselves. I am  
10 going to conservatively say that that process is going to  
11 take, to get from the objection, to the PAA, to the hearing,  
12 of about a few months. And I am sure that Mr. Shreve will  
13 say that is not enough time, and maybe it isn't.

14 Staff, after you have the hearing, there is going  
15 to have to be an opportunity to do -- prepare a transcript,  
16 prepare briefs. Staff will look at all sides, present a  
17 recommendation to you. I think it's going to take a couple,  
18 two to three months to come back with that recommendation.  
19 Then you all vote on it, and you have an order. I want to  
20 suggest to you that if you add up all of those events, a  
21 year just went by. A year in which you were prevented from  
22 filing your rate case, because you're looking at setting an  
23 allocation factor. And I can hear when the year is up, by  
24 gosh, you've got an allocation factor you can live with.  
25 And Mr. Shreve, whom I admire a great deal, is going to say,

1 "That test year data is stale, it's a year old."

2 I don't think -- you know, it's easy to sit here  
3 and criticize Staff on a lot of things, and we'll get over  
4 this in the next few days. There is a lot of innovative  
5 ideas in here. It's easier to attack than to build. And I  
6 am not trying to be critical, but I suggest that that  
7 alternative, well-intended alternative, if there is an  
8 objection, doesn't work.

9 Let's see. We would also agree with -- we support  
10 the concept of uniform rates. We support what the pioneer  
11 Southern States people have tried to do on this. We support  
12 a lot of ideas. There is plenty of secondary issues that  
13 have to be resolved by you all on that. But we are not in  
14 that position, and we don't foresee being in that position  
15 any time soon. And, surely these rules are not the way to  
16 go at this point in time, perhaps with some more  
17 experience --

18 Understand, Commissioner Lauredo, that there are  
19 specific rules in here under the MFR requirements for Class  
20 As and Bs and for Class Cs, that say if you want uniform  
21 rates, here is what you file. And you actually file less  
22 information if you want uniform rates than if you don't  
23 under this proposal. And we are all for having the choice  
24 if you want uniform rates, to have to file general  
25 information. We are also for working with Public Counsel

1 and Staff to try to come up with something that gives you a  
2 total company picture, but I don't know how you do that  
3 without introducing all of the audit and discovery and all  
4 the complications that flow from that kind of a proceeding.  
5 And I am not all that unfamiliar with it, having been a  
6 veteran of the first Southern mega rate case, for better or  
7 for worse.

8 I appreciate the chance to be heard.

9 CHAIRMAN DEASON: Mr. Armstrong?

10 MR. ARMSTRONG: Thank you, Mr. Chairman.

11 Southern States does not oppose this rule. To the  
12 extent the rule will facilitate and endorse the  
13 establishment of uniform rates, we support the rule even  
14 further. And we would just like to make it clear that  
15 uniform rates are not new to this state. We believe that  
16 counties that operate numerous systems, which are not  
17 interconnected, also have charged uniform rates to customers  
18 on a different system. We believe another water utility has  
19 in this state for some period of time charged uniform rates.  
20 And, of course, electric and telephone utilities have  
21 uniform rates. We are in full support of the rule. Thank  
22 you.

23 COMMISSIONER LAUREDO: May I ask you a second? In  
24 your support of it, you drew the same conclusion that I was  
25 just playing devil's advocate, that this rule drives uniform

1 rates or drives you to uniform rates, in your opinion?

2 MR. ARMSTRONG: I was reacting to comments made  
3 previously. I hadn't read -- on behalf of the company, we  
4 hadn't conceived of that. You know, we did -- just by  
5 listening today, I'm hearing that and reacting to that,  
6 Commissioner.

7 COMMISSIONER CLARK: Well, let me state it a  
8 little differently. It's not that the rule drives uniform  
9 rates, but what I think the gentleman from Florida Cities  
10 Water said, it really doesn't make sense to do this rule  
11 unless you do uniform rates. That if you don't do the  
12 uniform rates, then you're going to drive up costs when they  
13 only want to deal with one system. It just doesn't make  
14 sense to do it, other than in the situation where you want  
15 to do either countywide or statewide rates. But that  
16 doesn't mean you can't do it.

17 COMMISSIONER LAUREDO: So, you're agreeing --

18 COMMISSIONER CLARK: No. His premise was from the  
19 economics of it, it will cost more money to do it when  
20 you're not looking for uniform rates, because you will have  
21 separate MFRs, additional billing analysis, and you will  
22 have to break out costs with respect to each system.  
23 Whereas, if you're doing it on a uniform basis, the  
24 rationale and the economic basis for the rule becomes more  
25 compelling.



1           COMMISSIONER LAUREDO: All I'm trying to find out  
2 -- and I don't know if we are agreeing -- is whether or not  
3 this rule -- I guess "drive" is too strong a word. I will  
4 try to come up with another one. Facilitates or gives an  
5 incentive to a movement towards uniform rates. And, in  
6 fact, if you articulate support for this rule, you're doing  
7 it like you just did, and I think the gentleman in his  
8 introduction, as well, although he calls it statewide rates.  
9 I imagine we are talking about the same thing. It kind of  
10 lends credence to my impression, that this rule, though not  
11 intended to, necessarily, will drive you towards a system of  
12 uniform rates.

13           MR. ARMSTRONG: I can't say it any better than  
14 Mr. Cardey said it. I mean, I think what you said was very  
15 accurate, and that if you're required to file the entire  
16 MFRs, and you are only seeking rate relief for one system,  
17 that -- certainly, that will increase your costs. I don't  
18 think there is much doubt of that. On behalf of Southern  
19 States, of course, we are in 100 percent agreement with the  
20 statewide uniform rate -- .

21           COMMISSIONER LAUREDO: Exactly. So, if you have  
22 that conclusion, it's easy to support the rule. Let me ask  
23 you this: Was there an oversight or did the Florida  
24 Waterworks not take a position on this?

25           MR. SCHIEFELBEIN: Then and now there are

1 different multi-system utilities that are members, and they  
2 certainly are in different stages of evolution, as far as  
3 this issue. So, given the lack of consensus among them, the  
4 Association did not take a position.

5 CHAIRMAN DEASON: Mr. Shreve? Mr. Mann?

6 MR. MANN: Commissioner, I would like, before we  
7 give a presentation, to ask a couple of questions of Mr.  
8 Hill regarding his comments, if I may.

9 MR. HILL: No.

10 MR. MANN: Okay. Then I will pass.

11 MR. SHREVE: That was his answer.

12 MR. MANN: No?

13 MR. HILL: That would be fine with me, if the  
14 Commission doesn't mind.

15 CHAIRMAN DEASON: Let's go.

16 MR. MANN: Why do you say that the rule, your  
17 alternative rule, will work better for a company with only a  
18 few large systems?

19 MR. HILL: I think that when you have a few large  
20 systems, one system can significantly impact the earnings of  
21 the total company. Whereas, if you have hundreds of small,  
22 one system will not. You know, common sense will tell you  
23 that.

24 MR. MANN: Which companies do you have in mind?

25 MR. HILL: I do not.

1 MR. MANN: Pardon me?

2 MR. HILL: I do not.

3 COMMISSIONER LAUREDO: You do not have any  
4 specific companies in mind?

5 MR. HILL: No, sir.

6 MR. MANN: This will be, or in your scheme it  
7 would be an option for a multiple system company to select  
8 either the original proposed or the alternative, correct?

9 MR. HILL: The original, the alternative or a  
10 waiver, yes, sir.

11 MR. MANN: Okay. So that if a company is  
12 overearning overall, then that company can select your  
13 alternative system, or your alternative rule?

14 MR. HILL: If a company is overearning as a total  
15 company?

16 MR. MANN: Yes, sir.

17 MR. HILL: Sure, much like they do now when they  
18 select to come in for an individual system. I see no  
19 difference.

20 CHAIRMAN DEASON: Let me ask a question at this  
21 point. What is the advantage of even having the rule?

22 MR. HILL: That we eliminate the rule -- the  
23 option of filing for a joint and common costs is so that the  
24 Commission can nail down, one, and decide what are the  
25 appropriate levels of those joint and common costs. Two, to

1 nail down what the appropriate allocation methodology should  
2 be used for that company. And, three, to determine the  
3 allocated cost to the various systems. And, therefore,  
4 eliminate those issues from any subsequent hearings. That  
5 is the whole purpose of it.

6 MR. WILLIS: Mr. Mann and Commissioners, I need to  
7 add one little bit of clarification on that. Toward your  
8 question, Mr. Mann, when the utility has filed under this  
9 rule, under the original multi-system rule, and received a  
10 rate increase under that rule, then they would be tied to  
11 the provisions of the overearnings/underearnings clause in  
12 selecting any other one they wanted to do. And that  
13 certainly would be a waiver provision if they came forward  
14 and said, "We have seven systems, and only one of these is  
15 overearning or underearning dramatically. These other ones  
16 are doing just fine. You can see our annual report and  
17 everything. We would like a waiver from having to refile  
18 under that multi-system and just file this one case."

19 MR. HILL: Does that help you so that you can now  
20 make your overall statement?

21 MR. MANN: Yes. And Kim Dismukes from our office,  
22 an analyst, will give a short presentation on this, Mr.  
23 Chairman.

24 CHAIRMAN DEASON: Thank you.

25 MS. DISMUKES: Thank you. Basically, the Office

1 of Public Counsel believes that there is some merit to the  
2 proposed original rule as opposed to the alternative rule.  
3 Primarily, the Office of Public Counsel believes that it  
4 will implement a way for which the Commission can determine  
5 whether or not a utility that has multiple systems is  
6 overearning in one system, yet they only come in and ask for  
7 a rate increase, typically, for those systems in which they  
8 are underearning. This would prevent a utility from  
9 manipulating their rate increase applications on that basis.  
10 We are concerned, however, about the increase in cost if you  
11 only have one system that does require an increase, and the  
12 other systems are all earning at an acceptable level, that  
13 it would tend to increase the cost of putting the MFRs  
14 together. In addition --

15 COMMISSIONER LAUREDO: Excuse me. Couldn't that  
16 be taken care of by the -- I don't have it here -- that  
17 clause in the rule?

18 MS. DISMUKES: The waiver.

19 COMMISSIONER LAUREDO: The waiver?

20 MS. DISMUKES: Yes, it could. But, I guess my --  
21 my concern about that is how do you determine when a waiver  
22 is valid, if it's something -- if that is --

23 COMMISSIONER LAUREDO: Well, you just gave a  
24 perfect example.

25 MS. DISMUKES: That's a good example, but I don't



1 want -- I would hate to say that the utility could not come  
2 up with another reason for a waiver, okay, that would tend  
3 to take away from the fact that one of the other systems is  
4 overearning. So that would be -- I have a concern with the  
5 waiver to some degree. And I am going to kind of move  
6 forward in terms of perhaps a solution to some of our  
7 concerns, and the concerns, I think, that have been raised  
8 by the other parties.

9           The Office of Public Counsel is also concerned  
10 about a situation where you have a Southern States case, you  
11 have 127 different systems. Mr. Willis alluded to the fact  
12 that Public Counsel was opposed to being put in a position  
13 to have to analyze 127 different systems in an eight-month  
14 file and suspend requirement. I think it's quite evident if  
15 you look at the Southern States case, the big case, and you  
16 look at the Marco Island case. And if you had put Marco  
17 Island in with the Southern States giga case, the issues  
18 that we raised in that Marco Island case, most likely, would  
19 not have been raised in the giga Southern States case. We  
20 would just not have had the resources to address the  
21 construction issues, the overruns. It just, from my  
22 personal opinion, would not have happened. We would not  
23 have had the resources.

24           COMMISSIONER CLARK: Let me ask you a question  
25 along those lines. Have you done a comparison with -- a

1 cost/benefit comparison, and now may not be the time to do  
2 it, but after the two cases are done, in terms of how much  
3 more we spend to get to that result and the impact that it  
4 has on rates? Because as I understand it, the Marco Island  
5 rate case expense is about \$100,000, or that may be  
6 conservative.

7 MS. DISMUKES: It's considerably more than that.

8 COMMISSIONER CLARK: Okay. And on a per system  
9 basis for Southern States it was ten. And I think if you  
10 compare the fact that that extra money is going to be  
11 visited on the ratepayers without any -- I mean, I guess  
12 what I keep coming to is you don't have anything to show for  
13 it, so to speak. You don't have a new plant. You don't  
14 have more employees providing service. You only have the  
15 expense of the rate case. What did we gain? And what I  
16 would like for you all to do is sort of run that analysis at  
17 the end to see -- just to see a cost/benefit. I mean, it  
18 just occurs to me that sometimes the money we spent to get  
19 to an answer -- you know, we spend \$5 to save one and that  
20 is my concern in that instance. And I would just like to  
21 see -- that is my intuitive thought, and I would like to see  
22 if that is, in fact, the case.

23 MR. SHREVE: As far as doing an analysis, I don't  
24 think you can just divide the number of systems into it and  
25 come up with one. And I see what you're saying about

1 spending \$5 to save one, but I'm not sure that is the case.

2 COMMISSIONER CLARK: I'm not, either, that is why  
3 I asked.

4 MR. SHREVE: Well, that's what I'm saying, I'm not  
5 sure you can take that and divide it and say that you're  
6 really saving that much, when you do not have the  
7 opportunity to really dig in and contest the issues and get  
8 the information that is needed. And I really think there  
9 probably was some information that you and Commissioner  
10 Beard could have used in your determinations that would have  
11 benefited -- could have been a benefit which could have far  
12 outweighed the rate case expense issue. And I have some  
13 very real concerns about bragging so much about how much was  
14 saved on that as far as the results for the customers. I  
15 think it would be great to have an analysis done that way.  
16 And Mr. Hill has talked about all the many hours and many  
17 years that have been put into reviewing the rate case  
18 expense, and I think we would like to have all of that data,  
19 and all of the information and take a look at it, and see  
20 exactly what has happened to rate case expense, because I  
21 think there are a great many ways that there can be some  
22 savings. And I think you make a good point. It may be good  
23 to have an analysis of it, because I do not accept the view  
24 that's been put at this point.

25 COMMISSIONER CLARK: I would appreciate any

1 analysis you all could do for it, because -- I mean, it's  
2 -- and putting whatever caveats and conditions on the  
3 analysis that you wish, but I would just like to see what is  
4 gained by that. I think we have to weigh the cost and  
5 benefits of doing a large case versus doing individual  
6 cases. And I think, certainly, the rate case expense is  
7 part of it.

8 COMMISSIONER LAUREDO: But what I heard you say,  
9 Mr. Shreve, let me make sure I understand it, is that while  
10 you -- let's just say that you're skeptical about the  
11 rationale for these rules that it saves rate case expense.  
12 But assuming you were willing to concede on that point, that  
13 it does, in fact, reduce rate case expense, the haste and/or  
14 the enormity of the task is such that you may overlook other  
15 parts of the expense that are actually bigger than the rate  
16 case expense. So, even if you have zero rate case expense,  
17 you're actually, from a ratepayer point of view, you come  
18 out worse, because you just don't have time to either --  
19 whether it's construction or, you know --

20 MR. SHREVE: You're exactly right.

21 MR. ARMSTRONG: Commissioners, if I might comment.  
22 With having familiarity with that giga proceeding, if you  
23 look at the list of issues, there were hundreds of issues  
24 raised, and I don't know that there is any item of expense  
25 -- I can't think of any that an issue wasn't raised where we



1 didn't have to justify that expense. So, I don't how many  
2 more issues we can come up with. But, you know, when we  
3 talk about plant in service investments, you know, we  
4 operate in other counties. And we have had three or four  
5 rate cases in these other counties. And I can say with not  
6 one instance have we had prudence of construction. We have  
7 had challenges, but we have gotten recovery of every dollar.  
8 And I am proud to say that. We have 90 percent, 100 percent  
9 recoveries, and those are one-system filings, where the  
10 counties have an opportunity to come in and look at all of  
11 our books and records. So, I mean -- you know, I just don't  
12 think you can say, "Well, if we had more time, we could find  
13 more issues and more things out there."

14 COMMISSIONER LAUREDO: Well, I think -- well, I  
15 meant -- I really am the guilty party. I paraphrased him.  
16 I don't know if that is what he said. But I think one can  
17 make the argument -- and I'm not necessarily making it --  
18 that notwithstanding how many issues you have, it's the time  
19 you have to devote to look behind the issues that is the  
20 issues, not the issues. I can list 200 issues, but, I mean,  
21 do I have really time? And I what I think he is saying is  
22 because of this -- I mean, it's too bad that they won't  
23 balance, because, you know, from an economic point of view  
24 it makes sense on first glance. You know, it's a rational  
25 system, you know, system-wide and all of that stuff. But



1 it's a concern. You know, are we overlooking something,  
2 because of the way the system is set up on the eight months,  
3 and all of that, that we just can't look behind. I don't  
4 know, I wasn't involved in that case.

5 MR. ARMSTRONG: Well, I would hesitate to say on  
6 behalf of the company that Public Counsel and their analysts  
7 looked about as deeply as we think anybody can look.

8 COMMISSIONER LAUREDO: But I was talking  
9 theoretically. I wasn't talking about your company. I  
10 didn't mean to imply that you were in any way hiding  
11 anything.

12 MR. ARMSTRONG: No, we commend that. That's the  
13 point I'm making.

14 COMMISSIONER LAUREDO: In the real world, is there  
15 any other -- Chuck, or somebody, is there any other system?  
16 I mean, there Florida Cities has eight systems. Is there  
17 anybody else that approximates Southern States in numbers?

18 MR. WILLIS: Commissioners, nobody out there  
19 approximates Southern States in numbers. There are other  
20 companies out there that would come close to Florida Cities.  
21 Jacksonville Suburban has multi-systems in three counties.

22 COMMISSIONER LAUREDO: So, what I'm saying is, I  
23 guess whatever controversy arose out of dealing with this  
24 system with the biggest one, 127, what is the next biggest?  
25 The next one is 20?

1           MR. WILLIS: The next in size with number of  
2 systems would probably be Utilities Incorporated, and I  
3 imagine they have 27 systems, 30 systems in the State of  
4 Florida. I'm not quite sure at this point.

5           COMMISSIONER LAUREDO: So that's a big drop, then.

6           MR. WILLIS: It is a big drop, it's a real big  
7 drop. But if you look at Florida Cities, their systems are  
8 a lot larger than what Southern States actually has in the  
9 majority of their systems. It's a different make-up.

10          CHAIRMAN DEASON: Ms. Dismukes, did you finish  
11 your comment?

12          MS. DISMUKES: No, I didn't.

13          CHAIRMAN DEASON: I didn't think you did.

14          MS. DISMUKES: I forgot where I was, but  
15 nevertheless, I think I was getting to somewhat of a  
16 conclusion. I would say that we did raise a lot of  
17 questions concerning the proposed rule that have been  
18 answered by the Commission Staff in their testimony, so most  
19 of those questions have been put to rest, if you will.  
20 Listening to what the parties have been saying back and  
21 forth, and just trying to come to some kind of a solution to  
22 the problems that I see, I'm almost of the opinion that  
23 perhaps something in combination with the Staff's  
24 alternative proposal in some kind of a mechanism other than  
25 filing the MFRs, and I'm not sure what that mechanism is, to

1 ensure that the other systems are not overearning might be  
2 the best solution to the problem. And that basically  
3 concludes my comments.

4 CHAIRMAN DEASON: Questions, Commissioners?

5 MR. WILLIS: Commissioner, I would like to add a  
6 few more comments, if I could, to address some of the things  
7 that the utility and Public Counsel have brought up.

8 CHAIRMAN DEASON: Okay. Go ahead.

9 MR. WILLIS: I would like to point out probably to  
10 some of Commissioner Lauredo's concerns about the small  
11 systems we have in the state. We already have several  
12 multi-systems that are small. I can think of Marion County,  
13 which has three different utilities in there, who own  
14 multi-systems. And as far as I can remember, they have been  
15 filing as one company without a multi-system rule, but they  
16 all just happen to be in one county, and nobody seems to  
17 raise any problems over that. It's when you differentiate  
18 from one county and start crossing county boundaries that  
19 you get that magical problem in there. As far as Florida  
20 Cities problem, as far as raising costs, this Commission has  
21 just concluded six different rate cases in one year with  
22 Florida Cities. They file everything that they have in  
23 Florida that we regulate. It could have all been done in  
24 one filing, every bit of it, but they chose to do separate  
25 filings.

1           COMMISSIONER CLARK: Well, you know, if that's the  
2 case, we probably ought to prohibit them from doing that.  
3 You know, in one year they have got to do it once, they  
4 can't do more than one rate case for whatever systems they  
5 have in more than one year, and let them do some planning in  
6 that respect. They ought to be able to project on that  
7 basis.

8           MR. WILLIS: I'm just talking about -- that's one  
9 of the problems we face. And they have, I have seen their  
10 plan for filing in the future, they intend to file all of  
11 these systems again, sometime in '94. I guess it's '94/'95,  
12 almost every one of these systems over again. It just so  
13 happens they filed the one we concurrently have going right  
14 now, the Florida Cities/Lee County which is happening this  
15 week is a refiling of what we already did last year. So we  
16 have seen six of those, we have seen one return already.  
17 Now, if there is a real problem in that one that is returned  
18 that a couple of the Commissioners are hearing this Thursday  
19 and Friday, they could have come before us in a waiver  
20 provision of the rule, and said, "Look, we have problems  
21 with the revenue impacts of this one system. It doesn't  
22 concern the other ones, we are going to demonstrate to you  
23 that we are not overearning in any other systems, but  
24 without looking at this one system we will be far greatly  
25 underearning." And gotten a waiver provision to bring this



1 one case by itself.

2 MR. SCHIEFELBEIN: But you know that Mr. Shreve is  
3 going to oppose that waiver. Mr. Shreve is not going to  
4 take a representation that, "Gee, everything is all right in  
5 the other eight systems, so let this one slide." Nor should  
6 he. Where is your criteria for some kind of summary  
7 verification that that is the case? Where are your  
8 standards for determining that? I mean, we consider these  
9 standards to be very, very vague. These statements that  
10 there is going to be waiver for just cause.

11 MR. WILLIS: Well, I understand your concern, Mr.  
12 Schiefelbein, but I can give you probably ten cases right  
13 now which I would consider a waiver, and I guarantee you  
14 tomorrow or this afternoon you could give me ten that I  
15 didn't even consider. And we could write up a list 100  
16 pages long of everything in the world and probably never be  
17 conclusive of every single thing that would cause a waiver  
18 of this rule. It's one of those things where you -- I have  
19 been involved in rule cases for a long time, and I have had  
20 this raised over and over again on waiver provisions, and it  
21 is very difficult in some areas to sit down and say, "This  
22 is the criteria that I consider for a waiver," because you  
23 can't. I mean, there are many cases where you just can't  
24 pick up every single case that is going to come up between  
25 now and ten years from now that would cause a waiver.



1 MR. SCHIEFELBEIN: I agree --

2 MR. WILLIS: If you do, then you're just going to  
3 bind yourself in, and it could cause a lot of problems in  
4 the future to do that.

5 MR. SCHIEFELBEIN: But we are not talking about  
6 one issue here. Your point is very well made, but we are  
7 not talking about one issue here. We are talking about  
8 turning a company upside down here and requiring eight sets  
9 of MFRs. For your Florida Cities is not -- I don't know  
10 what your picture is of Florida Cities, but this is not an  
11 army, an endless army of personnel. They have some  
12 limitations on what their capabilities are as far as doing a  
13 case at a time, or doing eight cases at a time. And you are  
14 talking about not just one rule, one policy, and for a good  
15 cause shown not applying this policy, you're talking about  
16 taking this company and taking its ratepayers with it and  
17 turning it upside down.

18 COMMISSIONER LAUREDO: Unless we tell you that we  
19 would do uniform rates, and then you would --

20 MR. SCHIEFELBEIN: And then we would be your  
21 biggest fan.

22 COMMISSIONER CLARK: Let me ask you a question.  
23 Does Florida Cities Water consider filing a single rate case  
24 when they know they are going to have to do all of their  
25 systems? I mean, it would seem to me that money is going to

1 be saved. I mean, all of those costs you enumerated as  
2 being extra costs are, in fact, going to be incurred anyway,  
3 so you're not -- to say that you're experiencing increased  
4 costs is somewhat incorrect.

5 MR. CARDEY: I was involved with Florida Cities  
6 for a long time and then backed away here for awhile, but  
7 historically each system was a unit of ratemaking, and the  
8 earnings of the system just cycle up and down, so that you  
9 go in for the system that has deficiency in earnings.  
10 Certainly, if the Commission wanted to go to what I call  
11 statewide ratemaking, where you would file for all systems  
12 at one time, certainly there is no objection to that.

13 COMMISSIONER CLARK: Well, let me ask it a  
14 different way. What about the fact if we prohibit a company  
15 that has more than one system; or several systems, that if  
16 they are going to come in -- you know, in any given year  
17 they can't come in for more than one time for all of those  
18 systems. I mean, and then you can choose if you need to do  
19 it for one. It just seems to me that there are cost savings  
20 to experience if you're going to be filing one rate case  
21 after another for the several systems.

22 MR. MANN: I might just mention some experience in  
23 Missouri. Missouri used to regulate on a system-by-system  
24 basis. Again, they regulate statewide. So they adopted a  
25 policy for the Commission as a whole that you file for a

1 total company. But, again, on a by system-by-system basis  
2 so that you would set the rates on each system with the  
3 costs in that system. That proceeded down the line and a  
4 couple of years ago they went to statewide sets of rates.  
5 But filing for the total company, either using uniform rates  
6 or not uniform rates, Florida Cities has no objection to  
7 that.

8 COMMISSIONER CLARK: You still haven't answered my  
9 question. What costs do you incur -- greater costs do you  
10 incur when instead of doing them all together you do them  
11 serially?

12 MR. MANN: Well, I missed your question.  
13 Certainly, you increase the cost of rate cases if you do  
14 them system-by-system, in contrast to doing them all at one  
15 time.

16 COMMISSIONER LAUREDO: It seems to me that if you  
17 look at this testimony there is only one company that is  
18 opposing. Public Counsel has some reservations, I guess,  
19 still. Does that mean it's something that you can work out  
20 with Staff on -- what do you call it, workshops, or before  
21 it comes back to us. I didn't get the impression there was  
22 a wall there. There was kind of a --

23 MR. SHREVE: Commissioner, I think what we feel  
24 here -- and I don't know if anything can be worked out. I  
25 think very clearly if a company is filing on one system and

1 is forced to file for all their systems, on that it's going  
2 to dramatically increase costs. That, I think, is a  
3 problem. I think there are some benefits by having all of  
4 the information that would come in, to take a look at the  
5 entire company and tell whether or not they were  
6 overearning, or at the bottom of the range, or whether or  
7 not what the situation would be. So I really think there is  
8 a mixed bag here. But I think there is a very real  
9 possibility, particularly if you are going to be talking  
10 about one system, that you are coming in for one system and  
11 forced to file the information on all the systems, there is  
12 going to be an increased cost.

13 MR. SCHIEFELBEIN: Yes, it was interesting that  
14 both Public Counsel and our comments sounded like we had  
15 been looking at each others notes regarding this. Just to  
16 read from mine, and you have almost identical comments in  
17 your comments, Mr. Shreve. We say would ratepayers of the  
18 division for which a rate increase is sought, bear the  
19 increased rate case expense associated with filing and  
20 defending the MFRs for the other seven divisions, or would  
21 ratepayers of divisions which did not need any rate increase  
22 face increased rates to allow recovery of the expense to  
23 defend an increase for one division? That is not addressed  
24 in your EIS, that's not addressed in the rule. Of course,  
25 it's a simple answer when you are, as Southern States is,



1 when you're seeking uniform rates, and there is probably  
2 some pretty rational ways to allocate rate case expense  
3 among the systems. I submit there is no rational way to  
4 answer those questions when you're dealing with one system  
5 or two systems out of a bunch.

6 COMMISSIONER CLARK: Well, Mr. Schiefelbein, let  
7 me ask you this. Do you agree that if you have six systems  
8 and you intend to file six different rates cases in a year,  
9 one after the other, will that cost more money than just  
10 filing all at once?

11 MR. SCHIEFELBEIN: I think it's a very legitimate  
12 question, and I think that some systems -- and I don't know  
13 this for a fact, so I'm grasping here, but I think that some  
14 of the systems that rate cases were filed for glided through  
15 with PAA increases and diminimus rate case expense, while  
16 some have been very heavily litigated.

17 COMMISSIONER CLARK: So it's unpredictable; you  
18 couldn't say definitely that one would be more expensive or  
19 less than the others?

20 MR. SCHIEFELBEIN: I think that that would be  
21 something that I think Florida Cities ought to address in  
22 its post-hearing filing, if that would please you. I think  
23 it's a legitimate question.

24 COMMISSIONER LAUREDO: I don't know how you can  
25 move, Mr. Chairman, I certainly have a lot more questions



1 about this than I did on the other one, because I'm still --  
2 I'm hearing even the parties opposing each other on some  
3 common ground. But on the other hand, by biggest concern,  
4 just for the record, I guess you're just going to take all  
5 of these and try to figure out where -- I don't want by  
6 applying a rule push forward the philosophy of statewide  
7 rates, because I'm not ready to cross that bridge yet. In  
8 fact, the only time that was done was with two out of five  
9 Commissioners. And that may be good, I may come to the same  
10 conclusion, but I'm not ready to -- and this scares me,  
11 because it kind of sounds close enough that I don't want to  
12 -- I want to go right up to the edge and tell you I'm not  
13 crossing. So as long as you understand that, I guess the  
14 best thing is just to move on it, right?

15 CHAIRMAN DEASON: Well, I guess the question is  
16 do you want to give any direction to Staff to incorporate in  
17 their recommendation for the August vote, or do you just  
18 want the record to stand on its own and let them formulate  
19 their own recommendation?

20 COMMISSIONER LAUREDO: Yes, if they can find some  
21 way that they can rule, I don't know how they can rule my  
22 statement, which is really a philosophy, which I don't want  
23 this to be an irreversible step towards statewide.

24 CHAIRMAN DEASON: Well, Commissioner, I  
25 understand your concern. They have stated the rule does not

1 require uniform rates, and I would have to agree that  
2 reading it, it doesn't say that. But then I think your  
3 concern goes a step further in that this would facilitate a  
4 move to statewide uniform rates if that were the  
5 Commission's desire.

6 COMMISSIONER LAUREDO: We never had that  
7 discussion, we may have it another day.

8 CHAIRMAN DEASON: There is nothing in this rule  
9 that requires uniform rates, and if that's your primary  
10 concern, I don't think that it should be. The information  
11 would be there if you wanted to go in that direction, but  
12 you would have to make the decision that you wanted to  
13 support that before you could go down that path anyway.

14 Commissioners, what is your pleasure? Do you want  
15 to let it stand on the record, that we have before us and let  
16 Staff give us their final recommendation, or do you want to  
17 offer direction? Commissioner Clark, do you have any  
18 comments? Do you want to give Staff some direction, or just  
19 let the record stand for what it stands for and let Staff  
20 formulate a final rule for our consideration in August?

21 COMMISSIONER CLARK: I do have this one comment.  
22 It seems to me that we are -- I guess one could look at the  
23 rulemaking in terms of how broad an audience it's going to  
24 impact, and certainly I think the comments here indicate  
25 today that maybe we have an audience of one that this is

1 going to impact significantly. And if that's the case, it  
2 seems to me that there is justification to say that this  
3 really isn't the kind of policy that you would need to put  
4 in a rule or be subject to challenge if you did not put it  
5 in a rule. It just seems to me that it may be that we just  
6 don't need the rule and we can continue on the policy that  
7 we have. But I would caution utilities, such as Florida  
8 Cities, that it does cause concern to me that you file  
9 serial rate cases instead of dealing at one time.  
10 Intuitively that indicates to me that there is greater  
11 expense than needs to be there. But I think it's something  
12 that can be looked at on an individual basis. If I had to  
13 vote today, I probably would say we don't need the rule at  
14 this time.

15 CHAIRMAN DEASON: Well, I just reiterate what I  
16 said earlier. I think there is a legitimate concern here,  
17 but I think that the proposed cure for this disease is worse  
18 than the disease. So that is just guidance for what its  
19 worth.

20 COMMISSIONER CLARK: Do we want to eliminate it,  
21 is it something that they need to work on.

22 COMMISSIONER LAUREDO: Mr. Chairman, so that means  
23 that you are saying that --

24 CHAIRMAN DEASON: If I had to vote on this rule  
25 today in its present form, I would vote to not have the

1 rule. Now, Staff may be very ingenious and come up with  
2 something different.

3 MR. HILL: We're burnt out.

4 MS. MOORE: I think we could use your guidance on  
5 this.

6 COMMISSIONER CLARK: I personally feel that there  
7 is merit in the procedure, and I think my vote in Southern  
8 States reflects that, but as far as needing to put that in a  
9 rule at this time, I'm not sure that we do.

10 COMMISSIONER LAUREDO: Well, I like to get things  
11 done. If you put that in a motion, I will be happy to  
12 second it.

13 CHAIRMAN DEASON: We have a motion to delete  
14 proposed Rule .435.

15 COMMISSIONER LAUREDO: I will move it.

16 CHAIRMAN DEASON: We have a motion. Do we have a  
17 motion and a second? Motion and second. All in favor say  
18 aye.

19 COMMISSIONER LAUREDO: Aye.

20 COMMISSIONER CLARK: Aye.

21 CHAIRMAN DEASON: Aye. Any opposed? Staff, you  
22 have your direction for .435. Mr. Cardey, does that  
23 complete your business before the Commission?

24 MR. CARDEY: Yes.

25 MR. SCHIEFELBEIN: Thank you, Commissioners, for

1 hearing him out of order.

2 CHAIRMAN DEASON: You're quite welcome. We are  
3 going to take ten minutes, and we are going to come back,  
4 but it's my hope to do what we are going to do this  
5 afternoon in a reasonable hour. That means somewhere  
6 between 5:00 and 6:00. I'm not planning on going past 6:00  
7 o'clock this afternoon. Anything between 5:00 and 6:00 is  
8 reasonable. It depends on if we get involved into a matter  
9 that requires some extensive discussion, we may finish it,  
10 but I'm not going to go past 6:00 o'clock. We are going to  
11 take ten minutes right now.

12 (Recess taken.)

13 CHAIRMAN DEASON: Rule .025. Staff.

14 MS. DANIEL: Commissioners, I'm going to be  
15 proposing some comments today on eight of the rules in water  
16 and wastewater which deal with certification issues. If I  
17 might, I would like to be able to quickly give an overview  
18 of all eight of those. Only the last one, I believe .037(1)  
19 is going to be terribly controversial and require a  
20 significant amount of discussion.

21 CHAIRMAN DEASON: So at this time you are  
22 proposing that you go ahead and describe in general terms  
23 your proposal for .025, .030, .032, .033, .034, .035, .036;  
24 you will be skipping .037, and doing .037(1)?

25 MS. DANIEL: If that's all right, I would like to



1 do it that way.

2 CHAIRMAN DEASON: Okay. Go right ahead.

3 MS. DANIEL: As I give an introduction,  
4 Commissioner Lauredo, I will be addressing whether or not  
5 each of these proposals has to do with a housekeeping  
6 matter, if it is a codification of Commission policy. I do  
7 not have anything that is a legislatively driven mandate to  
8 change. I do have some proposals that are different than  
9 Commission policy. In the first rule, .025, it is minor  
10 housekeeping issues having to do with establishing the data  
11 filing for the Commission. I believe Public Counsel and Mr.  
12 Seidman had some comments on those, and I will just wait to  
13 address their comments after they bring them forward. In  
14 Rule 25-30.030, in noticing, these proposals have to do with  
15 mostly housekeeping, although I do want to make one  
16 suggestion that would be a change. The process that we are  
17 currently using, it's already incorporated into the current  
18 rule that has been proposed here, and that is that we would  
19 like to remove the reference to a four-mile list in the  
20 noticing requirement. This is requiring the Commission  
21 Staff to maintain a data base of the section, township and  
22 range references of all of the utilities that we regulate as  
23 they come in as original certificates, as they are amended,  
24 and as they are transferred. It requires probably 20 to 30  
25 percent of a particular staffperson's time, and I don't

1 believe that the benefit that is derived from it justifies  
2 the costs involved. Now, what it is going to cause is that  
3 the way the new proposal reads is that our utilities would  
4 wind up noticing all utilities within a given county rather  
5 than utilities within a four-mile radius. And I have done a  
6 little research on how many cities are in particular  
7 counties, so I know that what that cost is going to be in a  
8 worse-case scenario. The other side of that is also within  
9 this noticing rule we are making some other changes that are  
10 going to save the utilities a significant amount of money,  
11 we believe. We are going to recommend that we no longer  
12 require certified mailing to utilities, and counties, and  
13 DER, and so forth, that all of that go by regular mail.  
14 That the utilities are required to provide us with a list of  
15 the entities that are noticed and so forth, and an affidavit  
16 that the noticing was accomplished so that we don't believe  
17 that the certified noticing is required. Also, we would  
18 like to change the requirement that the utility have to  
19 notice three times in a newspaper of general circulation.  
20 We would like to bring that down to just one noticing, and I  
21 believe all of the utilities have commented on this  
22 particular one, that that will be a significant cost savings  
23 to them. So while removing the four-mile list reference in  
24 the noticing is going to perhaps cost the utilities 29 cents  
25 a pop for noticing maybe 20 utilities instead of four or

1 five, in the long run we believe they will save money. I do  
2 want to, and within my testimony in Exhibit PD-1 I have  
3 offered a proposed change to the rule that was noticed in  
4 the notice of rulemaking. One of the most common problems  
5 we have in original certificates, and transfers, and  
6 amendments has to do with the style of the notice. What we  
7 would suggest in this new exhibit, this new addition to the  
8 rule is that utilities when they do come to us at the  
9 beginning of an application and request who are the  
10 utilities and cities and so forth that we must notice, if  
11 they would go on and at that time have their notice ready to  
12 go as it would be issued. That way Staff can review it and  
13 probably resolve any subsequent problems that might arise  
14 from a legal description that's not in the proper format.  
15 That has been a very frustrating problem for many of our  
16 utilities and we believe that we can nip that in the bud.  
17 It's not going to cost them anything, because they will have  
18 to notice eventually anyway. We just want to see that  
19 format up front. That's all my comments on that particular  
20 rule.

21 Let me move on then to .032, which is  
22 applications. This is simply a housekeeping change to  
23 reduce the number of copies that we will need for  
24 applications from 15 to 12 copies. And there are some other  
25 minor changes that are being suggested to that rule, I don't

1 believe I got any comments on that. In Rule 25-30.033,  
2 which is applications for original certificates, we are in  
3 this case codifying Commission policy. There are three new  
4 sections being added to that rule. One will require the  
5 base-facility charge rate structure for metered service,  
6 although there is an opportunity for the utility to justify  
7 something else, so there is an out there. And this will be  
8 consistent with Commission policy that we do want to see  
9 that base-facility charge rate structure. We are requiring  
10 the establishment of return on equity using the current  
11 leverage formula in original certificates. These are brand  
12 new utilities that generally have not been constructed yet,  
13 and have no historical data, so we are proposing the use of  
14 the equity leverage formula to set the return on equity. We  
15 are also establishing criteria that is consistent with our  
16 existing rule on allowance for funds used during  
17 construction, AFUDC. We are simply saying that we want that  
18 in original certificate applications, and we are just lining  
19 out what that criteria would be. I do have an exhibit in my  
20 testimony, PD-2, in the rule as it was noticed for this  
21 hearing on the issue of whether or not a utility should have  
22 the base-facility charge rate structure. There is a phrase  
23 in there that the record of the proceeding would demonstrate  
24 whether or not that was the appropriate rate structure. In  
25 not all original certificates do we have a record of a



1 proceeding. Most of these are done in a proposed agency  
2 action format, and I would like to just amend that to say  
3 supported by the applicant. And that proposed wording is in  
4 my testimony in Exhibit PD-2. For the Rule 25-30.034, on  
5 original and existing, that is just some very basic  
6 housekeeping additions regarding the need for service, and  
7 so forth, and consistency with the Comp Plan. I don't  
8 believe I even got any comments on that. Rule 25-30.035 is  
9 the rule for grandfather certificate applications, and this  
10 also is housekeeping. It's the same type of information for  
11 the original rule in existence, the number of customers and  
12 so forth. Rule 25-30.036 is the rule for amendments and  
13 deletions of territory. Most of this has to do with  
14 housekeeping, although we have added a new section to this  
15 that would provide for a quick amendment. Commissioners,  
16 recently we had an issue with a utility requesting emergency  
17 interim service to provide service to a little restaurant  
18 where the sewage plant had gone bad, and they needed to  
19 interconnect quickly. Our new rule would help accommodate  
20 that kind of situation. It provides that if the customer  
21 who needs service or that territory that needs service has  
22 got a maximum of 25 equivalent residential connections,  
23 trying to define that it's something small that would be  
24 addressed here. If there can be a demonstration for the  
25 need for service, we have reduced filing requirements for



1 that type of amendment. In fact, it goes so far as to say  
2 will be deemed approved if they do these things. The  
3 noticing is required, and the things that absolutely have to  
4 be done for an amendment, but there are some things that are  
5 excluded. The utility doesn't have to show their financial  
6 and technical ability to provide service and some of those  
7 kinds of things. So it's designed to help relieve some of  
8 that regulatory lag in filing an amendment. That's an  
9 entire new section that was added to the amendment rule. I  
10 believe most of the other things there are housekeeping  
11 issues.

12 And, finally, I'm offering comments on Rule  
13 25-30.037(1), which is defining net book value. And this  
14 rule addresses acquisition adjustments. Most of this is  
15 codification of current Commission policy. In fact, we had  
16 an acquisition adjustment docket several years ago, and this  
17 rule is trying to codify what the Commission decided in that  
18 docket. There are some changes being proposed in this, and  
19 I will go through this issue-by-issue.

20 For defining net book value, we have proposed that  
21 that would be utility plant in service, less accumulated  
22 depreciation, plus construction work in progress, minus  
23 contributions in aid of construction, CIAC, minus advances  
24 for construction, plus accumulated amortization. The issue  
25 that has been brought up in that particular portion of the

1 rule has to do with whether or not construction work in  
2 progress should be included in net book value. My comment  
3 to that is that if in a transfer a utility is buying an  
4 asset that is, in fact, construction work in progress, I  
5 believe that defining that as part of the net book value of  
6 the asset is simply defining what exactly the utility is  
7 acquiring. It doesn't give any merit to whether or not that  
8 construction work in progress would be included in a rate  
9 case proceeding where rates would be adjusted. It simply is  
10 defining what is included in the assets purchased. And I  
11 believe because we are clearly indicating that this is  
12 simply a definition of net book value, that it is properly  
13 included in that.

14           There is also a sentence in the proposed rule that  
15 says the Commission will consider the condition of the  
16 assets purchased. This particular issue is tied into the  
17 whole issue of acquisition adjustments. We believe that  
18 oftentimes when a utility buys a system for more or less  
19 than the net book value, it has to do with the condition of  
20 the assets. And what we would like to see happen here is  
21 that if the Commission looked at a transfer and found that,  
22 for example, a utility were being purchased at a discount, a  
23 good bit less than what the net book value would indicate, a  
24 closer review of that utility might show that perhaps some  
25 of the assets that are on the books are so far deteriorated

1 that they are not even functioning, even though they may be  
2 shown on the books as being depreciated. Perhaps that's  
3 something that the acquiring utility believes that they will  
4 have to replace when they take the system over. Those kinds  
5 of issues are what that part of the rule is designed to  
6 address. We would like to consider the condition of the  
7 assets purchased. That rule doesn't dictate the Commission  
8 will or will not write off any assets. It simply lets the  
9 buyer beware that we will be considering the condition of  
10 the assets in setting net book value.

11 As is consistent with Commission policy, we are  
12 proposing that absent extraordinary circumstances, that the  
13 purchase of a system at a premium or a discount shall not  
14 affect rate base, that is what was determined in the  
15 acquisition adjustment docket, and that is what we are  
16 proposing in the rule here. We have found in our research  
17 that over the last five years the Commission has allowed two  
18 positive acquisition adjustments and no negative acquisition  
19 adjustments. Clearly our practice has been to only consider  
20 extraordinary circumstances in granting a positive or a  
21 negative acquisition adjustment.

22 There is a Paragraph 3 in our proposed rule that  
23 says if requested by the acquiring utility, rate base and  
24 acquisition adjustment will be set. I have made a proposal  
25 in my Exhibit PD-4 that that sentence be removed. The

1 statutes say that the Commission may set rate base in a  
2 transfer case. I believe that the Commission is binding  
3 itself unnecessarily by having a rule that says if the  
4 acquiring utility requests it, rates base and acquisition  
5 adjustment will be set. We most often do set rate base in  
6 these transfers and consider acquisition adjustments. The  
7 times we have not set rate base or not considered  
8 acquisition adjustments would be when, for example, if the  
9 acquisition adjustment is a very controversial issue. We  
10 have actually had the Office of Public Counsel say, "Well,  
11 it's going to cost a lot to litigate in this transfer  
12 docket. Why don't we just take it up in the next rate  
13 case." And it has been left at that.

14 Another reason an acquiring utility would request  
15 that the Commission set rate base, and a reason the  
16 Commission might not want to be bound to do that would be in  
17 the case where the original cost records are not available.  
18 The acquiring utility is going to be in a posture of rate  
19 base is going to be set at net book value, and if we don't  
20 have the original cost records then somebody has got to do  
21 an original cost study before the acquiring utility knows  
22 for sure whether their purchased price is going to match net  
23 book value. If the Commission is in the posture of having  
24 to do that original cost study, that is a lot of time and  
25 expense for the Commission Staff. We would prefer that if



1 the acquiring utility is desperate to have rate base set,  
2 and for a good reason, that that burden be on the acquiring  
3 utility, so we don't want to bind ourselves to having the  
4 Commission Staff doing an original cost study on behalf of  
5 an acquiring utility and the Commission having to justify  
6 that resulting rate base.

7 Finally, there is a section in the proposed rule  
8 that says the Commission may set rate base based on  
9 competent substantial information, evidence, if a good faith  
10 effort has been made and the original book and records  
11 cannot be produced. And I believe that is a good policy to  
12 include in that rule. I will comment that in the 1993  
13 legislative session there was a proposed House bill on  
14 acquisition adjustments that proposed that in the absence of  
15 extraordinary circumstances there would be no positive --  
16 I'm sorry, the House bill stated that extraordinary  
17 circumstances could be used to show the need for a positive  
18 acquisition adjustment. If there were a negative  
19 acquisition adjustment that we would split the baby, so to  
20 speak. That was a proposed House bill. It did not make it  
21 to the House vote. In the Senate there was an acquisition  
22 adjustment bill that was proposed that rate base would be  
23 set at net book value or the prudent purchased price,  
24 whichever was lesser. A very extreme and restrictive  
25 proposal. It did not make it to the Senate floor at all, I



1 don't believe. I point that out to tell you that this is an  
2 issue that our legislators consider is important. This  
3 Commission has gone through a full-blown hearing on  
4 acquisition adjustments, and we have determined what our  
5 policy is, that in the absence of extraordinary  
6 circumstances, the net book value will be the rate base. We  
7 have consistently done that in the last five years, and I  
8 believe that is what our rule should reflect. Thank you.

9 CHAIRMAN DEASON: Mr. Schiefelbein.

10 MR. SCHIEFELBEIN: Thank you, Mr. Chairman. With  
11 your permission, we would like it approach this a little  
12 differently than we have been doing things up to now. We  
13 would like to limit our comments at this point right now  
14 insofar as what we object to, and what the Commission or  
15 Staff proposed rule is, which is actually very little. And  
16 I think most of the comments that we have filed in this  
17 proceeding are objecting to what Public Counsel has said.  
18 And I think it would be -- we would have no objection to  
19 either letting Public Counsel go first, and then we can  
20 object to every one, or have us just limit our objections to  
21 what we disagree with Staff on. I think it would be pretty  
22 confusing for us to start disagreeing with something that  
23 you haven't even heard. So with your permission we will  
24 limit our comments to just what we disagree to in the Staff  
25 and Commission proposals.

1           CHAIRMAN DEASON:   Go ahead. Let me ask a  
2 question after you give your presentation, and Mr.  
3 Schiefelbein then wants to respond to your presentation.  
4 Are you going to object to that at that time?

5           MR. SHREVE:   Well, I would think we would have an  
6 opportunity to follow Mr. Schiefelbein when he is finished.

7           CHAIRMAN DEASON:   Sure. I'm just trying to know  
8 what I need to anticipate.

9           MR. SHREVE:   We are starting to change the order  
10 now.

11          MR. SCHIEFELBEIN:   We can always change our seat.

12          CHAIRMAN DEASON:   Well, actually the procedural  
13 order has it set out, Mr. Schiefelbein, but I do agree with  
14 Commissioner Clark that this is not a formal proceeding and  
15 that there needs to be some exchange between the parties as  
16 well as the Staff and Commissioners. I think we will  
17 overcome this hurdle one way or the other. At this point  
18 if you want to limit your comments to your objections to  
19 Staff's proposal, that will be fine.

20          MR. HOFFMAN:   Mr. Chairman, Southern States will  
21 present the comments of Mr. Guastella on the 25-30.030(7)(1)  
22 rule provision, as well as the comments of Mr. Cresse on the  
23 same rule. And at this point we also have some questions we  
24 may want to ask of some of the participants regarding that  
25 provision.

1           COMMISSIONER LAUREDO: And you have no objection  
2 to anything else?

3           MR. HOFFMAN: No, we don't have any objections to  
4 anything else.

5           MR. SCHIEFELBEIN: Thank you. The day has been  
6 long and my mind is unraveling. But for Rule 25-30.025,  
7 official date of filing, I believe that we have no  
8 opposition to the rule as proposed by Staff. Next, Ms.  
9 Daniel sponsored Rule 25-30.030, notice of application, we  
10 have no objection to the rule proposed by Staff. We would  
11 throw out one quick worry of my own. Ms. Daniel has  
12 indicated in her testimony filed last Monday that she  
13 suggests that legal descriptions used in notices be  
14 preapproved by Staff to ensure that they are in the proper  
15 format. It's probably a good idea to do that, but I have  
16 certain misgivings about it. First of all, I don't know  
17 what a proper format is. That's nowhere suggested in the  
18 rule. Perhaps it doesn't need to be in the rule, perhaps  
19 it's something so commonsensical that reasonable people  
20 can't disagree. But at this point I don't know what that,  
21 quote, proper format is.

22           Secondly, I'm worried that -- and you do have a  
23 problem where utilities will go publish something at great  
24 expense and then be told by Staff quite legitimately that  
25 it's done wrong. But I don't know what would happen if

1 everybody started filing their legal descriptions for every  
2 type of application with Staff for prior approval. I wonder  
3 what kind of backlog would result and what kind of  
4 turnaround time we might see on that preapproval of legal  
5 descriptions. But there probably is merit to have Staff  
6 look at these. Those are our reservations about that. The  
7 rule as written we have no objection to.

8 25-30.032, regarding applications, we have no  
9 comment and no objection to the Staff proposed rule.

10 25-30.033, regarding original certificates, we have one  
11 problem with the Staff proposed rule. We have got lots of  
12 comments regarding some of Public Counsel's proposals on  
13 that, but Section -- I think it's (1)(j) of the rule, and  
14 this is a recurring theme which we will briefly bring up as  
15 we go through the other rules, as well. But what it says is  
16 that the utility -- and I'm paraphrasing -- shall  
17 demonstrate its ownership or assurance of long-term access  
18 to the land on which the treatment plant is situated. And  
19 it shall do so -- and I'm totally paraphrasing -- but it  
20 shall do so by such as a warranty deed or 99-year lease.  
21 And perhaps we can get into more of a panel discussion when  
22 we get through these the first time around, but we think  
23 that when a rule goes to the -- typically at the Commission  
24 when a rule suggests specifics as examples those tend to be  
25 the only types of instruments of conveyance that are



1 accepted. And we suggest, we have suggested for the last  
2 two years in this proceeding that there are other, perhaps  
3 something less than a 99-year lease, perhaps a 40-year  
4 lease, perhaps easements, perhaps -- there is a great many  
5 ways, and we would prefer to see, if nothing else, have the  
6 rule drop the reference to a 99-year lease, which we think  
7 in many circumstances would be commercially unreasonable.  
8 And I would be interested in hearing from Ms. Daniel as we  
9 go through this what has been their experience in the kinds  
10 of things that they have approved, have rejected, and so  
11 forth. We might get a better idea and perhaps more comfort  
12 from the examples that they are giving regarding what is  
13 acceptable documentation of that. We agree the Commission  
14 has got a very legitimate interest in making sure that there  
15 is treatment plant sites that are available over the  
16 long-term to a utility.

17 Rule 25-30.034, existing utilities. We have no  
18 objection to the proposed rule except Section (1)(e), which  
19 is that land ownership/land lease question. Same comments  
20 as before.

21 25-30.035, grandfather certificates. Again, the  
22 only objection we have to the rule as proposed is that land  
23 issue. And that is in .035(6).

24 25-30.036, amendments. Again, the only problem we  
25 have with that rule as proposed is in Subsection (2)(d)



1 regarding land ownership and long-term leases.

2           Lastly, Ms. Daniel is sponsoring 25-30.037(1), and  
3 my notes are copious on this. I think that the rule as  
4 proposed -- please nudge me if I'm wrong -- we have no  
5 objection to, but we are troubled by some of Ms. Daniel's  
6 testimony that was filed on May 17 where she says, quote,  
7 "Maybe we ought to split the baby." And the fact that a  
8 legislator -- that's a quote according to my notes. And  
9 because some legislators have sponsored a bill that was  
10 rejected by the legislature, I don't think is a basis to  
11 split the baby. Regarding acquisition adjustments, Ms.  
12 Daniel said that several years ago, or a few years ago you  
13 all did a generic proceeding. Well, the order in that  
14 generic proceeding was issued about 12 months ago. And we  
15 think that is a long-standing policy of nonrecognition of  
16 positive or negative acquisition adjustments absent  
17 extraordinary circumstances. That's a splitting the baby  
18 approach, which is something that I think the association  
19 can live with, with the opportunity to show extraordinary  
20 circumstances, and we do not support any of her proposals in  
21 her May 17 testimony to divide the baby. Other than that,  
22 really our comments are more in response to Public Counsel's  
23 filing, and we would like to reserve that right. That  
24 concludes our response to the rules as proposed by Staff.  
25 Thank you.

1 MR. SHREVE: Commissioner, could I make a  
2 suggestion for your consideration.

3 We are kind of mixing apples and oranges. .037(1)  
4 is going to be something that's going to be time consuming,  
5 and I wondered if we could possibly go ahead and finish up  
6 the other things, because I think if you get a little bit  
7 into it you are going to redo everything tomorrow that  
8 you're doing today. So if you go ahead and finish up the  
9 first part of that and then get into .037(1) a little later.  
10 If you have time tonight, okay, but I think that's going to  
11 be time consuming.

12 CHAIRMAN DEASON: I don't think we are going to  
13 have time tonight. In fact, I'm almost inclined to call it  
14 quits for this evening and we will just pick up with Mr.  
15 Hoffman's presentation in the morning, unless there is some  
16 objection to doing that.

17 MR. SHREVE: I think it makes sense. I would like  
18 to work some more, but Mr. Hoffman's ready to go home.

19 COMMISSIONER LAUREDO: He might burst into fire  
20 at any time now.

21 MR. SHREVE: Mr. Schiefelbein and I are ready to  
22 go, but --

23 CHAIRMAN DEASON: That brings me to a matter  
24 which we need to discuss. The Commission is scheduled to  
25 take a vote in a separate docket on a separate matter at

1 9:00 a.m. tomorrow morning. It's our hope that we will be  
2 concluded with that vote in time to begin this at 9:30, but  
3 that is not a guarantee that we can make. So everyone  
4 please be advised that you need to be here at 9:30, but that  
5 we may not begin precisely at that time, and just beg your  
6 indulgence. And we will end the hearing for this evening  
7 and begin tomorrow morning at 9:30 or shortly thereafter.

8 (The hearing adjourned at 5:25 p.m.)  
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## CERTIFICATE OF REPORTER

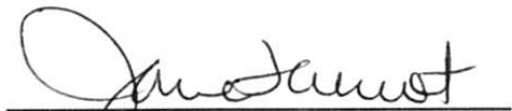
STATE OF FLORIDA )

COUNTY OF LEON )

I, JANE FAUROT, Court Reporter, do hereby certify that the foregoing proceedings was taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages are a true and correct record of the proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 10<sup>th</sup> day of June, 1993.

  
JANE FAUROT  
100 Salem Court  
Tallahassee, Florida 32301  
(904) 878-2221

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SWORN TO AND SUBSCRIBED TO before me, this 10  
day of June, 1993, in the CITY OF TALLAHASSEE, COUNTY  
OF LEON, STATE OF FLORIDA, by the above person who is  
personally known by me.



*Melanie Y. Bradford*

NOTARY PUBLIC

STATE OF FLORIDA

(SEAL)