

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of : DOCKET NO. 950387-SU
:
Application for :
increased Wastewater :
Rates by Florida Cities :
Water Company - North :
Ft. Myers Division in :
Lee County :



FIRST DAY - AFTERNOON SESSION

VOLUME 2

Pages 93 through 261

PROCEEDINGS: HEARING

BEFORE: COMMISSIONER JULIA L. JOHNSON
COMMISSIONER DIANE K. KIESLING
COMMISSIONER JOE GARCIA

DATE: Wednesday, April 24, 1996

TIME: Reconvened at 12:45 p.m.

PLACE: Sheraton Harbor Place
Ballroom
2500 Edwards Drive
Fort Myers, Florida

REPORTED BY: JOY KELLY, CSR, RPR
Chief, Bureau of Reporting

APPEARANCES:

(As heretofore noted.)

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION
84803 APR 29 96

FPSC-RECORDS/REPORTING

I N D E X

WITNESSES

NAME	PAGE NO.
------	----------

LARRY N. COEL

Direct Examination By Mr. Gatlin	110
Prefiled Direct Testimony Inserted	114
Cross Examination By Mr. McLean	138
Cross Examination By Ms. Walla	152

JOSEPH SCHIFANO

Direct Examination By Mr. Gatlin	154
Prefiled Direct Testimony Inserted	156

BENNIE T. SHOEMAKER

Direct Examination By Mr. Jaeger	166
Prefiled Direct Testimony Inserted	168
Cross Examination By Mr. Gatlin	171
Cross Examination By Mr. McLean	176

ANDREW BARIENBROCK

Direct Examination By Mr. Jaeger	181
Prefiled Direct Testimony Inserted	183
Cross Examination By Mr. Gatlin	187
Cross Examination By Mr. McLean	193
Cross Examination By Ms. Walla	198
Recross Examination By Mr. Gatlin	212
Recross Examination By Mr. McLean	214
Redirect Examination By Mr. Jaeger	218

TED L. BIDDY

Direct Statement	223
Prefiled Direct Testimony Inserted	226
Cross Examination By Mr. Gatlin	229
Redirect Examination By Mr. McLean	231

ROBERT DICK

Direct Examination By Commissioner Johnson	233
Prefiled Direct Testimony Inserted	236
Cross Examination By Mr. McLean	242
Cross Examination By Ms. Walla	252
Continued Direct Examination By Mr. Gatlin	256
Cross Examination By Mr. Jaeger	260

EXHIBITS			
NUMBER		ID.	ADMTD.
1	(Coel) LC-1 and LC-2	112	153
2	(Coel) Revenue Reduction Printed 4-23-96	130	153
3	(Coel) LC-6	138	153
4	(Composite) (Schifano) JS-1 through JS-3	155	
5	(Barienbrock) Recommended Standards for Wastewater Facilities	189	223
6	(Barienbrock) RMD-3	190	223
7	(Barienbrock) Wastewater Compliance Inspection Report	206	223
8	(Barienbrock) Loop Calibration Form dated 6-30-93.	208	
9	(Biddy) Wastewater Facility Plan for the City of Apalachicola	230	232
10	(Dick) RMD-1 and RMD-2	235	261
11	(Dick) Excerpts from the service availability application	245	
12	(Dick) Customer Appreciation Day and Dedication Ceremony 2/19/93	254	261

P R O C E E D I N G S

(Hearing reconvened at 12:45 p.m.)

(Transcript follows in sequence from
Volume 1.)

COMMISSIONER JOHNSON: We're going to
reconvene the hearing and begin the technical portions
of our proceeding today.

Are there any preliminary matters that we
need to address before we start?

MR. JAEGER: Yes, Commissioner Johnson.
There's a pending Motion to Strike the testimony of
Ted L. Biddy made by the Utility. Also there is a
motion on how to handle Issue 34, which was a
stipulation on the reduction in rates due to the
previous rate case expense that's expiring on June 30.
So those are the two motions that are pending right
now.

COMMISSIONER JOHNSON: And those motions
have been offered by the Utility, put forth by the
Utility?

MR. McLEAN: Yes, ma'am. And there's a
third pending motion -- item, not a motion.

A customer gave me a typewritten note which
I have furnished to the court reporter, Ms. Sikorski,
and she asked that the document be -- it is more or

1 less a position statement similar to the ones you have
2 had before. And she asked that it be inserted into
3 the correspondence side of the docket, if that's all
4 right.

5 COMMISSIONER JOHNSON: Let me address
6 Mr. McLean's third issue first. We will show that
7 admitted into the correspondence section of the
8 record. You say you have distributed copies of that
9 to the court reporter and to?

10 MR. McLEAN: I only had one copy and so I
11 gave it to the court reporter.

12 COMMISSIONER JOHNSON: We'll take care of
13 that matter.

14 MR. McLEAN: Thank you, ma'am.

15 COMMISSIONER JOHNSON: With respect to the
16 motions filed by the Utility, are you offering
17 argument on those motions?

18 MR. GATLIN: I would like to.

19 COMMISSIONER JOHNSON: Go ahead.

20 MR. GATLIN: First motion is the Motion to
21 Strike the testimony of Mr. Ted L. Biddy. This
22 testimony was filed -- a draft copy was served on us
23 at the prehearing conference. I'm not sure what date
24 it was finally filed with the Commission. However,
25 the direct testimony in this case was supposed to be

1 filed March 13th, 1996, and it was not filed as of
2 April 4th, 1996. So that was over a month late.

3 The testimony is described in the testimony
4 as direct testimony, so it was late for the direct
5 testimony filing. However, we were told that really
6 it wasn't direct, it was rebuttal.

7 So I took Mr. Biddy's deposition and asked
8 him who he was rebutting. And he said he had not read
9 anybody's testimony but Ms. Dismukes's testimony and
10 did not know that he was replying to anyone's
11 testimony.

12 His testimony in the Prehearing Order is
13 listed as going to Issue 5. Issue 5 says, "Does the
14 wastewater collection system have excessive
15 infiltration and inflow that should be removed when
16 calculating used and useful?"

17 Not any of his testimony talks specifically
18 about North Fort Myers' wastewater system. He does
19 give some discussion about Apalachicola; but as the
20 testimony now stands, there's no relationship at all
21 between Issue 5 and what his purported direct or
22 purported rebuttal, whatever it may be, is.

23 So my position is that it ought not be
24 allowed because it was not timely filed and it is not
25 indeed rebuttal testimony as it was represented to be

1 because it doesn't offer any rebuttal to anybody.

2 Thank you.

3 COMMISSIONER JOHNSON: Mr. McLean.

4 MR. McLEAN: Commissioner Johnson, I'd stand
5 primarily on my written response to that motion which
6 was filed on March 25th. Very briefly, the label on
7 the testimony doesn't determine whether it is rebuttal
8 or direct.

9 There was a lack of coordination between our
10 office and Mr. Biddy. The testimony said direct; in
11 fact it is rebuttal. The filing date of the
12 testimony, I believe I established that in my written
13 response; it was filed on April 9th. It was filed to
14 be timely as rebuttal testimony. I don't know that
15 that's still at issue, but I'm certainly prepared to
16 address that in more detail if need be.

17 I was under the distinct impression when we
18 left the prehearing conference that this was argued
19 before Commissioner Garcia and what we had was a
20 compromise settlement of the issue.

21 Ms. Walla represented that she wanted to
22 file some additional things, I represented that I
23 wanted to, and Mr. Schiefelbein represented to some
24 extent I think that if the Utility were permitted to
25 provide live responses to that testimony today, that

1 that was an amicable settlement. And I attempted, at
2 least on behalf of my testimony, to join in that. And
3 I have the transcript of the prehearing before me
4 where Mr. Schiefelbein, I believe, represented that he
5 didn't have a problem with it.

6 And let me tell you why I think that's
7 important. Because we have spent several thousand
8 dollars of public money to have Mr. Biddy here today
9 and this item was ripe for decision before we came
10 down. In the absence of a resolution of Mr. Gatlin's
11 motion, we pretty much had to bring him down. So we
12 have heavily relied on, at least my notion, that this
13 issue had been decided at the prehearing conference.
14 I thought it was resolved. I was somewhat surprised
15 to hear Mr. Gatlin's motion.

16 Another thing I forget to mention simply is
17 that Mr. Biddy rebuts notions, he does not rebut
18 testimony. I think we use the terms loosely
19 sometimes. Witness don't rebut witnesses, I think
20 witnesses rebut notions, principles and things such as
21 that.

22 So although Mr. Biddy was asked which
23 witness he was rebutting, Mr. Biddy may not even know
24 which witness he was rebutting. It's not necessary
25 that he know, his testimony stands for a proposition.

1 Back to the reliance argument for just a
2 moment. As I say, we've expended a good bit of public
3 resources to make Mr. Biddy available. We had no
4 option because, as far as I was concerned, there was a
5 ruling at the prehearing conference and I represented
6 that to you in my response.

7 However, that said, if there was to be a
8 ruling on Mr. Gatlin's motion, I think that it inures
9 to our tremendous prejudice to have an adverse ruling
10 now. Because Mr. Biddy is here; he's ready to
11 testify.

12 We are arguing over three pages of
13 testimony. And Mr. Gatlin and Mr. Jaeger deposed the
14 witness, so there is no surprises here; and I think
15 any prejudice which can flow from this process flows to
16 us. I don't see the prejudice to the Company in
17 allowing Mr. Biddy to stand up and say what he is
18 going to say.

19 Thanks.

20 COMMISSIONER JOHNSON: Thank you.

21 Staff, any comments?

22 MR. JAEGER: As Mr. McLean said, it is very
23 short testimony and they had it at the prehearing
24 conference. Mr. Schiefelbein -- and again, he did
25 agree that it was rebuttal testimony; but I believe

1 that it could be regarded as rebuttal testimony and,
2 therefore, Staff would recommend that you deny the
3 Motion to Strike.

4 COMMISSIONER JOHNSON: Any closing
5 arguments?

6 MR. GATLIN: Yes. I read the transcript of
7 the prehearing conference and I think the agreement
8 was indeed Mr. Schiefelbein would take the document.
9 I don't think there was any way we could agree to what
10 was the content of the document because we had not
11 seen it yet. So when we looked at it and then took
12 the deposition, we discovered it was not as
13 represented.

14 I don't think there is any argument
15 Mr. Biddy came down here, that he ought to be
16 testifying. Because it ought to go to the merits of
17 his testimony and the merits of the motion, not what
18 his geographic location is.

19 COMMISSIONER JOHNSON: Thank you very much.

20 I have had the opportunity to read the
21 motion and the response to that motion filed by
22 Mr. McLean. And after hearing oral arguments, I will
23 deny the Motion to Strike. I believe that the grounds
24 set forth in Mr. McLean's response are adequate; and
25 particularly Paragraphs 7, 8 and 9 as it goes to the

1 entire notion that this was rebuttal testimony and as
2 to those issues that would actually be rebutted.

3 Show the Motion to Strike denied.

4 MR. GATLIN: Madam Chairman, the way that
5 Florida Cities may be prejudiced by this testimony is
6 that questions that may be asked other than the direct
7 question -- the direct testimony and the direct
8 question has no affect on Florida Cities. However, if
9 additional testimony is elicited by somebody else, we
10 would very much like to have the opportunity to reply
11 to it.

12 COMMISSIONER JOHNSON: Well, at that point
13 in time perhaps you could object and I'll handle that
14 as we see it. But currently the testimony -- I will
15 deny your Motion to Strike Mr. Biddy's testimony. To
16 the extent there is another opportunity for you to
17 raise those objections, I'll entertain them at that
18 time.

19 MR. GATLIN: Thank you.

20 COMMISSIONER JOHNSON: And the next issue?

21 MR. JAEGER: The parties had agreed to the
22 entry of Issue 34 in the Prehearing Order about the
23 rate case expense from the prior rate case. It
24 expires on June 30th; and by statute, there's supposed
25 to be a reduction in rates. We have the order -- I

1 think it's like 24 cents on the base facility charge
2 and how much on the -- and a nickel on the gallonage
3 charge.

4 And the Utility is -- it looks like we're
5 going to go to agenda two months after the reduction
6 in rates. Instead of reducing the rates as of
7 July 1st and then going back two months later, and
8 they've come up with a proposal as to how they could
9 credit the customers' bills. And I was going to let
10 Mr. Gatlin set out that proposal in more detail.

11 But we did agree to it as an issue. And in
12 their proposal this morning when they were talking
13 about, we had problems with the original proposal.
14 But I'm not sure what's been worked out if they are
15 going to modify that proposal.

16 MR. GATLIN: I think, if I may suggest, the
17 best way to handle this would be have Mr. Coel
18 testify. He had some prepared testimony on it, just
19 when he comes up to testify; and when he completes
20 that, I'll make the motion. If that's okay.

21 COMMISSIONER JOHNSON: What will he be
22 testifying to? This is to add an issue?

23 MR. GATLIN: No. He will be testifying as
24 to the issue Mr. Jaeger just described, as to whether
25 it would be appropriate to have some immediate

1 adjudication or immediate resolution of this rate
2 reduction required by statute until this case is
3 decided. And the proposal simply -- excuse me.

4 COMMISSIONER JOHNSON: Go ahead.

5 MR. GATLIN: The proposal simply is that we
6 credit each customers's bill for all service rendered
7 on or after June 30th, 1996, each month by an amount
8 and do that each month until you decide this case.
9 And when you decide this case, you can roll in what is
10 deemed the appropriate reduction because of that lapse
11 of four years.

12 COMMISSIONER JOHNSON: Public Counsel, did
13 you have any comments on that?

14 MR. McLEAN: Just a mild one. We endorse
15 the concept. We don't think it makes a lot of sense
16 to spend a whole bunch of money getting a little bit
17 of money back to the customers. We think the
18 customers are entitled to the money; but if there's a
19 cheap and simple way to do it, we support it.

20 COMMISSIONER JOHNSON: So you would support
21 Mr. Coel testifying as to that issue and how we could
22 accomplish that in this proceeding.

23 MR. McLEAN: That's fine. Certainly. Yes,
24 ma'am.

25 COMMISSIONER JOHNSON: Okay. Staff?

1 MR. JAEGER: Staff supports that, also.

2 COMMISSIONER JOHNSON: Ms. Walla?

3 MS. WALLA: Yes. That's fine.

4 COMMISSIONER JOHNSON: Okay. Very well,
5 that's how we'll proceed. To the extent something
6 comes up that's objectionable, Ms. Walla, Public
7 Counsel, you can object at that time.

8 MR. GATLIN: Madam Chairman, I simply jotted
9 down what my motion would be when it comes time to do
10 it, just to make sure everybody follows it. The
11 parties already have this and I've discussed it with
12 the parties.

13 COMMISSIONER JOHNSON: Thank you very much.
14 Any other preliminary matters?

15 MR. JAEGER: There are six proposed
16 stipulations in the Prehearing Order and I think we
17 need to address those.

18 COMMISSIONER JOHNSON: Okay. Commissioners,
19 have you had an opportunity to review the
20 stipulations? And if so, I'd entertain a motion as to
21 those stipulations.

22 COMMISSIONER KIESLING: I move that we adopt
23 the stipulations as being supported by the evidence.

24 COMMISSIONER GARCIA: I'll second.

25 COMMISSIONER JOHNSON: Show them approved

1 without objection.

2 MR. JAEGER: That's all of the preliminary
3 matters I'm aware of. Something that is not in the
4 Prehearing Order was Commissioner Garcia did say he
5 would allow opening statements of three minutes for
6 each party; and that didn't get into the Prehearing
7 Order, but that was agreed to.

8 COMMISSIONER JOHNSON: What else did
9 Commissioner Garcia agree to -- (Laughter)

10 And that's absolutely fine. Would the
11 parties like to have an opportunity to present opening
12 statements?

13 MR. GATLIN: I do not.

14 COMMISSIONER JOHNSON: Ms. Walla, would you
15 like to make an opening statement?

16 MS. WALLA: Yes, I would.

17 COMMISSIONER JOHNSON: Public Counsel.

18 MR. McLEAN: We'll waive.

19 COMMISSIONER JOHNSON: Staff.

20 MR. JAEGER: We'll waive.

21 COMMISSIONER JOHNSON: Ms. Walla, you may
22 proceed. How many minutes did we say?

23 MR. JAEGER: Three.

24 MS. WALLA: Just cut me off if I start
25 rambling. I have it written here because there was

1 quite a bit I wanted to cover in this.

2 We are here today because of the failure of
3 the PAA order to recognize our customer testimony on
4 July 26th, 1996. The excessive infiltration, the
5 irresponsible management by the Utility, the poor
6 decision making by the Utility, the inefficiency of a
7 collection system and rates which are economically --
8 not economically feasible for our customer base.

9 We would like to also make it known the poor
10 engineering design, such as in the reuse project. The
11 governmental agencies that have been rubber stamping
12 permits; allow permits without checking the design or
13 requesting information, then not following through on
14 receiving answers from the Utility.

15 Poor public records and documentation. In
16 particular, we have found at the South Florida Water
17 Management District and the Division of Natural
18 Resources.

19 It is our contention the vague concepts
20 involved in ratemaking, there's no standards. There's
21 no standards that are met. This needs to be
22 addressed. The used and useful, what figures to use,
23 they are vague concepts there. There's infiltration,
24 what's acceptable, what's excessive? Vague concepts.
25 Rate case expense, what is prudent? This should all

1 be listed, we feel.

2 There should be -- there are standard lists,
3 rules, regulations, so that there is no deviations
4 from these. These concepts are not art forms. They
5 should not be rendered by opinion. They should be set
6 out so that there is no question of what should be
7 used in regulating a utility.

8 In conclusion, this Utility has based its
9 rate increase on an expansion that was not needed.
10 They have increased their assets based on
11 infiltration, not on added customer demand or growth.
12 They are treating infiltration rather than trying to
13 remedy the problems with the collection system.

14 We are counting on the Commissioners to take
15 a closer look this time, to weigh the evidence and not
16 allow Staff to bounce the numbers around to fit the
17 Utility's needs. We urge you to do so, as the Florida
18 statute states, to set fair, just and reasonable rates
19 and to please decide with the public interest in mind.
20 Thank you.

21 COMMISSIONER JOHNSON: Thank you. Are we
22 now prepared then to proceed with the Utility's first
23 witness?

24 MR. GATLIN: I am. Call Mr. Coel.

25 COMMISSIONER JOHNSON: Have all the

1 witnesses been sworn in? Were you all sworn earlier?

2 MR. GATLIN: It didn't notice. I had my
3 back to him.

4 COMMISSIONER JOHNSON: At this point in time
5 I want to go ahead and swear all of the technical
6 hearing witnesses that did not stand and were not
7 sworn in our earlier proceeding.

8 (Witnesses sworn.)

9 - - - - -

10 LARRY N. COEL

11 was called as a witness on behalf of Florida Cities
12 Water Company, North Fort Myers Division, and, having
13 been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. GATLIN:

16 Q Would you please state your name and
17 address.

18 A Yes. My name is Larry Coel, spelled
19 C-O-E-L. My business address is 4837 Swift Road in
20 Sarasota, Florida.

21 Q Now do you have two sets of prepared direct
22 testimony, the first filed and then the supplemental
23 direct testimony?

24 A Yes.

25 Q Let me ask you first about the earlier

1 testimony.

2 Did you prepare that testimony in the form
3 of questions and answers for presentation in this
4 proceeding?

5 A Yes, I did.

6 Q And if I were to ask you those questions,
7 would your answers be the same today?

8 A Yes, sir.

9 Q And attached to that testimony are some
10 exhibits, LC-1 which is the MFRs, and LC-2, which is
11 the rate case expense?

12 A Yes.

13 MR. GATLIN: Madam Chairman, we request that
14 this be inserted into the record as though read.

15 COMMISSIONER JOHNSON: His testimony?

16 MR. GATLIN: Yes. His direct testimony.

17 COMMISSIONER JOHNSON: Show it inserted
18 without objection.

19 MR. GATLIN: Okay. Then there are two
20 exhibits attached now numbered LC-1 and LC-2. May
21 they be identified?

22 COMMISSIONER JOHNSON: In one second.

23 (Pause) And that is LC-1?

24 MR. GATLIN: Yes, and LC-2. I suggest they
25 might be identified as a composite exhibit.

1 COMMISSIONER JOHNSON: We show LC-1 and LC-2
2 identified as Composite Exhibit 1.

3 (Composite Exhibit No. 1 marked for
4 identification.)

5 COMMISSIONER JOHNSON: Was the witness going
6 to summarize his testimony or?

7 MR. GATLIN: We can have this witness
8 summarize the testimony, if you'd like. Mr. Coel's
9 testimony?

10 COMMISSIONER JOHNSON: Yes.

11 COMMISSIONER KIESLING: When are you going
12 to do the supplemental?

13 MR. GATLIN: Right this second.

14 COMMISSIONER KIESLING: Okay.

15 Q (By Mr. Gatlin) Now have you prepared
16 supplemental testimony for presentation in this
17 proceeding, Mr. Coel?

18 A Yes, I have.

19 Q And does that consist of three pages in the
20 form of questions and answers?

21 A Yes, sir.

22 Q And would your answers be the same if those
23 questions were asked today?

24 A Yes.

25 MR. GATLIN: I would ask this be inserted

1 into the record as though read.

2 COMMISSIONER JOHNSON: It will be to
3 inserted without objection.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 FLORIDA CITIES WATER COMPANY

2 NORTH FT. MYERS DIVISION

3 WASTEWATER OPERATIONS

4 Docket No. 950387-SU

5 TESTIMONY OF LARRY N. COEL

6 Q. Please state your name and business address.

7 A. Larry N. Coel, 4837 Swift Road, P.O. Box 21597, Suite
8 100, Sarasota, Florida 34231.

9 Q. By whom are you employed and in what capacity?

10 A. I am employed by Florida Cities Water Company (FCWC)
11 as Manager of Rates and Revenues.

12 Q. Please give an overview of your educational and
13 professional background.

14 A. I graduated from Worcester Polytechnic Institute in
15 Worcester, Massachusetts, with a Bachelor of Science
16 Degree in Business Management in 1977 and from the
17 University of Hartford, in Hartford, Connecticut, with
18 a Masters in Business Administration in 1979.

19 Following graduation, I was employed for ten years by
20 three electronic systems manufacturers as a Financial
21 Analyst (The Gamewell Corp., Alden Electronics, Inc.,
22 and Waters Division of Millipore Corporation). In
23 this capacity I developed, programmed, maintained, and
24 analyzed Detailed and Consolidated Financial
25 Statements. I designed and monitored Budget/Variance

1 Reports and developed Financial Operating Plans. In
 2 addition, I conducted various Return On Investment
 3 studies, as well as, implemented many pricing
 4 structure strategies.

5 In late 1989, I was employed by FCWC as a rate
 6 analyst. Due to a reorganization, I was transferred
 7 to the Florida offices of Consolidated Water Services,
 8 Inc. (CWSI) (an FCWC affiliate) in 1990 and served
 9 through 1993 as a Rate Analyst and Senior Rate Analyst
 10 respectively.

11 In January, 1994, CWSI was dissolved and I was
 12 transferred back within the FCWC organization. I am
 13 currently Manager of Rates and Revenues. Throughout
 14 this period from 1990 through June 1995 I prepared all
 15 of FCWC's, Poinciana Utilities Inc.'s (PUI), and Rio
 16 Rico Utilities Inc.'s (RRUI), Rate Index applications
 17 and twenty four rate case Minimum Filing Requirements
 18 (MFRs), as follows:

19 PSC = Florida Public Service Commission, FL

20 Sar Co. = Sarasota County Government, FL

21 Hills Co. = Hillsborough County Government, FL

22 ACC = Arizona Corporation Commission, AZ

23	<u>Docket No.</u>	<u>Division/Company</u>	<u>Jurisdiction</u>
24	N/A	Sarasota - Water(1990)	Sar Co.
25	910477-SU	S.Ft. Myers-Wastewater(1991)	PSC

1 910756-SU N.Ft. Myers-Wastewater(1991) PSC
2 910976-WS Barefoot Bay-Water & W.water(1992) PSC
3 911194-WS Golden Gate-Water & W.water(1992) PSC
4 920200-WS PUI-Water & W.water(1992) PSC
5 920808-SU S.Ft. Myers-Wastewater(1992) PSC
6 N/A Sarasota - Water & W.water(1993) Sar Co.
7 930912-WS PUI-Water & W.water(1994) PSC
8 N/A Carrollwood-Water & W.water(1994) Hills Co.
9 940687-WU Barefoot Bay-Water(1994) PSC
10 941108-WS Golden Gate-Water & W.water(1994) PSC
11 950387-SU N.Ft. Myers-Wastewater(1995) PSC
12 U-2676-95-262 RRUI-Water & W.Water(1995) ACC
13 951258-WS Barefoot Bay-Water & W.water(1995) PSC
14 Q. Have you previously testified before the Commission?
15 A. Yes.
16 Q. What is the purpose of your testimony?
17 A. I will identify the Minimum Filing Requirements (MFRs)
18 Exhibit 1 (LC-1) filed in this proceeding on behalf
19 of FCWC, North Ft. Myers Division, wastewater
20 operations. Within the MFRs Exhibit 1 (LC-1), the
21 following witnesses will sponsor and testify to parts
22 of this Exhibit and other related issues and I will
23 sponsor the balance.

24 (Continued)

25

1			
2	<u>Name/Subject</u>	<u>MFR Sect.</u>	<u>MFR Sched.</u>
3	<u>Douglas R. Young</u>		
4	Facility Additions	A,G	A-3, G-9,
5			G-10, G-11
6	Used & Useful	F	F-6,7
7	<u>Julie Karleskint</u>		
8	Justification for		
9	Facility Additions	G	G-9
10	Additional Treatment Expenses		
11	Related to the Wastewater		
12	Facility Additions:		
13	Add'l Purchased Power	B2	B-3, Pg 2, 5
14	<u>Mike Acosta</u>		
15	Full Recognition of Margin		
16	Reserve Without Offset	----	----
17	<u>Joe Schifano</u>		
18	Financial Records	Source Data for MFRs	
19	FASB 106 Adjustment	B2	B-3, Pg 3
20		G	G-7
21	<u>Bob Dick</u>		
22	Quality of Service	-----	-----
23	Operations	-----	-----
24	Envelope Bills	B2	B-3, Pg 3
25	As the above summary shows, I will testify to the		

1 schedules that develop the revenue requirements of the
2 wastewater operations, and the rates that generate
3 these revenues.

4 Q. What test periods were used in the preparation of the
5 MFRs?

6 A. The test periods used were the Base Year ending
7 December 31, 1994 and the Projected Test Year ending
8 December 31, 1995. Rates were designed to cover the
9 cost of providing service in the Projected Test Year.

10 Q. Why has FCWC, North Ft. Myers Division, filed this
11 application for a wastewater rate increase?

12 A. The necessity for a rate increase arises from the fact
13 that for the Projected Test Year ending December 31,
14 1995, FCWC, North Ft. Myers Division, under its
15 present rates will have only a 5.68% rate of return on
16 a rate base of \$8,404,278 for its wastewater
17 operations.

18 The declining rate of return on wastewater operations
19 will be primarily due to the fact that since the prior
20 rate case (Projected Test Year ending 6/30/93),
21 additional facilities will be placed into service. In
22 addition, there are projected increases in Operating
23 and Maintenance Expenses for wastewater operations
24 since the prior rate case. While the total average
25 annual increase in expenses of 4.09% has been close to

1 the composite average annual increase in customer
2 growth and the Consumer Price Index (CPI) of 3.47%,
3 Price Indexing alone has not been able to provide
4 enough rate relief to maintain a satisfactory rate of
5 return. These expense increases are identified in the
6 MFRs in Section B2, Schedule B-8 (wastewater). In
7 order for FCWC, North Ft. Myers Division to have an
8 opportunity to earn a fair and reasonable rate of
9 return of 9.08%, FCWC seeks authority to increase its
10 rates to produce additional revenues of \$480,078 for
11 its wastewater operations based on the Projected Test
12 Year ending December 31, 1995.

13 Q. Did FCWC request the implementation of year-end rate
14 base, as opposed to a 13-month average?

15 A. Yes, in FCWC's Application For Rate Increase dated May
16 2, 1995, page 3, item 8.

17 Q. Why did FCWC request year-end rate base?

18 A. As stated in the Application, "The reason is that
19 during the projected test year FCWC will be
20 constructing major additions to its wastewater plant
21 at an approximate cost of \$1,600,000. With the
22 investment that will be placed into effect during the
23 projected test year, the rate of return will be
24 deteriorated to the point that FCWC's property will be
25 being confiscated in violation of the federal and

1 state constitutions." In this instance, an
2 extraordinary condition exists. There is a major
3 addition to the wastewater facilities, which is in the
4 public interest, without a corresponding major growth
5 in customers. Additionally, these new facilities will
6 be placed into service in December 1995, which is the
7 last month of the Projected Test Year. Utilizing a
8 13-month average rate base would allow only \$123,077
9 (1/13) of the \$1,600,000 investment to be recoverable,
10 and therefore, ".....FCWC's property will be being
11 confiscated....." and the appropriate revenue
12 requirement would be severely understated; leading to
13 FCWC's requirement of another rate case.

14 Q. Since the PAA Order No. PSC-95-1360-FOF-SU was issued
15 on November 2, 1995, after the MFRs were filed and
16 prior to this current Hearing, how did the Commission
17 treat FCWC's request for year-end rate base?

18 A. The PAA Order approved and utilized year-end rate base
19 (PAA Order, page 9, last sentence), "...we find that
20 an average rate base determination would distort the
21 revenue requirement picture. Therefore, we shall use
22 a year-end rate base."

23 Q. Were the MFR's prepared by you or under your direction
24 and supervision?

25 A. Yes, they were, based on information obtained from

1 FCWC's Operations, Engineering, and Accounting
2 Departments and except for the schedules supported by
3 the other witnesses.

4 Q. Please summarize the various sections of the MFR's.

5 A. The "Introduction" provides a general overview of this
6 rate case application. The "A-Rate Base" Section
7 provides the proposed wastewater rate base for this
8 rate increase application along with supporting
9 schedules.

10 The "B2-Op.Income (Wastewater)" Section shows North
11 Ft. Myers's Base Year and Projected Test Year net
12 operating income at present rates and the additional
13 revenues for wastewater that produce a fair and
14 reasonable rate of return on the wastewater rate base.
15 The B2 Section (Schedule B-3) also shows Projected
16 Test Year adjustments, primarily for the following:

- 17 • Annualizing revenue due to 1994 Price
18 Indexing.
- 19 • Increases in treatment costs (purchased
20 power) related to the additional facilities.
- 21 • Annualizing the 1995 wage increase.
- 22 • An increase in Post Retirement Benefits to
23 account for FASB 106.
- 24 • An increase in operating and maintenance
25 expenses to account for projected customer

1 growth and projected inflation using the
2 1995 PSC Price Index Factor.

- 3 • Current rate case expenses (MFRs assumed PAA
4 rate case).

5 The remaining Schedules in the B2 Section provides
6 additional support or summarize the information as
7 presented on MFR Schedule B-2 in Section B2.

8 The "C-Taxes" Section contains various tax related
9 schedules. The "D-Cost of Capital" Section contains
10 schedules that determine FCWC's proposed rate of
11 return for the Projected Test Year ending December 31,
12 1995, along with FCWC's capital structure and sources
13 of financing.

14 MFR Schedule E-1 in Section "E2-Rates(Wastewater)"
15 show the present and proposed rates along with typical
16 monthly bill comparisons. MFR Schedules E-2 and E-13
17 in these sections generate current and requested
18 revenues from these rates. The remaining schedules in
19 the "E2" Section are for support or summarization.

20 The "F-Operating Statistics" Section provides monthly
21 and annual statistics on revenues, number of
22 customers, gallons sold/treated, and customer growth.
23 This section also contains the Used & Useful Schedules
24 F-6 & F-7. The "G-Miscellaneous" Section contains
25 other filing requirements, additional support

1 schedules, and other pertinent documents.

2 Q. Do you have any comments about PAA Order No. PSC-95-
3 1360-FOF-SU issued on November 2, 1995, after the MFRs
4 were filed and prior to this current Hearing?

5 A. Yes. FCWC accepts the reasonableness of this rate
6 order in its entirety except for two major issues
7 (adjustments). First, FCWC does not agree with the
8 policy of Imputing CIAC to Offset Margin Reserve and
9 its corresponding amortization adjustments to
10 accumulated amortization of CIAC and CIAC amortization
11 expense. This adjustment to CIAC of (\$429,420) is in
12 the PAA Rate Order on Schedule B-1, page 1 of 1. The
13 testimony of Mr. Acosta will address this issue and
14 provide FCWC's position. The other major issue
15 (adjustment) is rate case expenses.

16 Q. Do you have any comments about the amount of rate case
17 expenses for this rate proceeding?

18 A. Yes. Since the PAA Rate Order No. PSC-95-1360-FOF-SU
19 was protested on November 27, 1995, and a formal
20 Hearing must now take place. This type of procedure
21 will involve additional legal, administrative, and
22 accounting costs (i.e. testimony, exhibits, Hearing
23 Late Filed Exhibits). An additional rate case expense
24 exhibit, Schedule B-10 (Hearing), is attached as
25 Exhibit 1 (LC-2) in order to provide an estimate

1 of total rate case expenses that will be incurred
2 through the rate case Hearing process. This amount is
3 \$88,278. Page 2 of this Exhibit is a Summary of
4 FCWC's Recent Rate Case Expenses. This Exhibit shows
5 that the Hearing process is two to three times as
6 costly as the standard PAA process without a Hearing.
7 This Exhibit is also useful in testing the
8 reasonableness of the current rate case expense
9 estimate through Hearing, without outside consulting
10 services. This schedule shows that this type of rate
11 case has been averaging \$115,257. However, since the
12 actual amount of rate case expenses will not be known
13 until after the Hearing, FCWC believes that it should
14 be allowed to file an updated Schedule B-10 to reflect
15 more of the actual expenses in this rate case
16 proceeding.

17 Q. Do you have anything further to add regarding your
18 testimony on the MFR's?

19 A. Yes. This testimony supports the MFR's filed in this
20 case as identified on page 3 herein. However, my
21 testimony may be modified at the hearing so as to
22 address or be consistent with any stipulations,
23 testimony, or other changed circumstances occurring
24 prior to the hearing.

25 Q. Does that conclude your testimony?

1 A. Yes, it does.

1 FLORIDA CITIES WATER COMPANY

2 NORTH FT. MYERS DIVISION

3 WASTEWATER OPERATIONS

4 SUPPLEMENTAL DIRECT TESTIMONY OF LARRY N. COEL

5 Docket No. 950387-SU

6 Q. Please state your name and business address.

7 A. Larry N. Coel, 4837 Swift Road, P.O. Box 21597, Suite
8 100, Sarasota, Florida 34231.9 Q. Are you the same Larry N. Coel who previously filed
10 testimony in this rate proceeding, Docket No. 950387-SU?

11 A. Yes.

12 Q. What is the purpose of this supplemental direct
13 testimony?14 A. The purpose of this supplemental direct testimony is to
15 point out to all parties in this rate proceeding that a
16 costly, inefficient, and confusing procedure is about to
17 take place in which no party benefits.

18 Q. Which procedure is this?

19 A. This procedure is the up-coming rate reduction as
20 required by PSC Order No. PSC-92-0594-FOF-SU (Docket No.
21 910756-SU) to reflect the expiration of rate case expense
22 amortization from this previous rate case (see Exhibit
23 _ (LC-6). Since this nominal wastewater rate reduction
24 (\$1,738 monthly and \$20,854 annually) is scheduled for
25 June 30, 1996 and the PSC is scheduled to vote on the

1 current rate case at the agenda conference on July 16,
2 1996, FCWC believes it would be appropriate to
3 **incorporate this rate reduction into the staff**
4 **recommendation and final rate order.** It would be
5 efficient and cost effective (one set of tariff changes,
6 one customer notice and mailing), and would **reduce**
7 **customer confusion.** If these rate adjustments can not be
8 combined, the customers will undoubtedly be confused when
9 they see an average one month decrease of \$0.55
10 (\$1,738/3,180 weighted bills) followed by a more
11 substantial increase. [3,180 weighted bills = 38,158
12 annual weighted bills per MFRs page 102 / 12 months].

13 Q. What are the actual rates to be reduced by?

14 A. I do not know the actual rate reduction in terms of rate
15 structure. PSC Order No. PSC-92-0594-FOF-SU (Docket No.
16 910756-SU) does not show the rate structure reduction as
17 do more recent PSC rate orders in other cases. If this
18 rate reduction can not be incorporated into this current
19 rate proceeding, I would not know what the actual reduced
20 rates are supposed to be without additional information.

21 Q. Will FCWC provide security for this rate reduction until
22 the final rate order is issued?

23 A. Yes. FCWC proposes to provide a corporate undertaking as
24 it has often done before for interim rates. An
25 alternative would be to establish an escrow account.

1 Q (By Mr. Gatlin) What is the purpose of your
2 supplemental testimony?

3 A The purpose of my supplemental direct
4 testimony is to point out to the parties in this rate
5 proceeding that a costly, inefficient and confusing
6 procedure is about to take place in which no party
7 benefits.

8 Specifically, I've heard at the hearing talk
9 about the rate reduction due to the expiration period
10 of the prior rate case expense. Knowing that the
11 rates are going to go down a few pennies and probably
12 a few months later they may go up or down -- I mean,
13 we're not sure, depending on this rate proceeding --
14 but I thought it was prudent to kind of combine this
15 prior issue into this rate proceeding and find a
16 solution to that problem.

17 What I've done is the revenue reduction that
18 is supposed to take place on an annual basis is \$20,854.
19 That's the prior rate order.

20 Q Excuse me Mr. Coel, let me give this exhibit
21 to the Commissioners, the other parties have it, so
22 they can follow you.

23 A Okay.

24 (Hands document to Commissioners.)

25 COMMISSIONER JOHNSON: Has this been

1 identified?

2 MR. GATLIN: No, it has not.

3 COMMISSIONER JOHNSON: We need to go ahead
4 and identify this.

5 MR. GATLIN: Yes. Please.

6 COMMISSIONER JOHNSON: Short title for this?

7 MR. GATLIN: "Reduction of Revenue Due to
8 Rate Case Expense," about as short as I can get it.

9 COMMISSIONER JOHNSON: Reduction of -- let's
10 just call it "Revenue Reduction Printed 4-23-96."

11 MR. GATLIN: Okay.

12 COMMISSIONER KIESLING: Mr. Gatlin, do you
13 have one for the court reporter?

14 MR. GATLIN: I sure do.

15 COMMISSIONER JOHNSON: That will be
16 identified as Exhibit No. 2.

17 (Exhibit No. 2 marked for identification.)

18 Q (By Mr. Gatlin) Did you prepare this
19 exhibit?

20 A Yes, I did.

21 Q Okay. Now, would you continue to explain
22 what you're talking about?

23 A Yes. What I'm showing on the schedule is,
24 the first bit of data, is a revenue reduction due to
25 the prior rate order referenced right above that

1 amount. Annual revenue reduction of \$20,854. The
2 monthly amount to be reduced is \$1,737.83. Easily
3 calculated divided by 2,582 customers, it's basically
4 a 67 cent rate reduction per all average customers.

5 To get it down to the customer class level,
6 I've done the next step and I've determined the
7 allocated portions of the revenues by customer class.
8 And in doing so, you'll see over on the far right-hand
9 side the residential customers would get a reduction
10 or credit, however this is worked out, of 41 cents.
11 Commercial, correspondingly, would get a reduction of
12 \$2.48. Public authority would get a reduction of
13 \$8.30. Multifamily would get a reduction of \$7.02.

14 By doing it that secondary way, that
15 basically would get the appropriate revenue reduction
16 by month to the appropriate customer classes.

17 Q How would you get it to credit the bill?

18 A We would basically apply, in this case of
19 the residential, a flat 41 cent credit on all
20 residential bills in that instance.

21 Q And the others as listed?

22 A My proposal was to show that the commercial
23 would get a \$2.48 reduction, and public authority
24 would get an \$8.37 reduction.

25 In these two categories -- actually, in

1 multifamily dwelling, that third category also --
2 there may be some concern about the different meter
3 sizes. So as an alternative to doing a flat rate
4 reduction for those other classes, we could tabulate
5 with a separate rate analysis or billing analysis
6 report and get it more specific to the commercial,
7 public authority and multifamily customers and give
8 them a more fine-tuned, if you will, rate reduction or
9 credit.

10 Q Does that complete your explanation?

11 A Yes.

12 MR. GATLIN: Now, Madam Chairman, on the
13 basis of that, I move that the rate reduction required
14 by Section 367.0816, Florida Statute, and ordered by
15 Order PSC-920594-FOF-SU be recognized in the final
16 order in this docket. And that in the interim,
17 Florida Cities Water Company credit each customer's
18 bill for service rendered after June 30, 1996, in the
19 amount of 67 cents and for each month thereafter until
20 the final order is entered in this docket.

21 Now, after I made that draft of that motion,
22 there was some discussion as described by Mr. Larry
23 Coel that the rates would not just be 67 cents, it
24 would be as listed on his exhibit.

25 COMMISSIONER JOHNSON: Staff.

1 MR. JAEGER: Staff has done its own
2 calculations. And they are actually showing the
3 annual revenue reduction would be \$21,001 and also the
4 monthly revenue reduction \$1,750, just a slight
5 reduction of the calculations.

6 Also in that last column down below where
7 they showed -- starting with 41 cents, it would be a
8 42 cents, and 2.50, 8.46, \$7.08.

9 I think Staff agreed that you were breaking
10 out the industrial, and the Staff said --

11 MR. GATLIN: Yes. (Pause)

12 MR. JAEGER: We agree with them about
13 breaking out the commercial, multifamily, etcetera.

14 MR. GATLIN: By meter size.

15 MR. JAEGER: By meter size, yes.

16 COMMISSIONER JOHNSON: What were your
17 numbers again? You said 42 cents, \$2.50, 8 --

18 MR. JAEGER: -- 46, \$7.08, and the number
19 \$21,001, and the monthly was 1,750. That's what we
20 have agreed to.

21 COMMISSIONER JOHNSON: I'm sorry, I
22 didn't -- the annual revenue reduction --

23 MR. JAEGER: That's right.

24 COMMISSIONER JOHNSON: -- should be?

25 MR. JAEGER: \$21,001, and 1,750 monthly.

1 MR. GATLIN: That's fine with us.

2 COMMISSIONER JOHNSON: Public Counsel?

3 MR. McLEAN: We endorse the concept. As I
4 said, we'd like to hear some assurance from the
5 witness that the customers will be apprised as to what
6 the adjustment on their bill is. We talked about it
7 off the record a little bit, but I wonder if Mr. Coel
8 could tell you how he proposes to advise the customers
9 of what this otherwise unexplained adjustment would be
10 on the bill.

11 WITNESS COEL: We have capability of putting
12 larger messages on our bills now, and that would be
13 one method; referring to the prior rate order, trying
14 to summarize that it's due to the expiration of
15 amortization of rate case expense. My concern is how
16 much detail we can get into it, but that would be my
17 proposal to put some message on the bill.

18 COMMISSIONER JOHNSON: Let me ask a
19 question. With respect to that notice, will it be
20 reviewed by the Staff?

21 MR. JAEGER: I believe we could review it;
22 and also OPC could look at it make their suggestions.

23 COMMISSIONER JOHNSON: Why don't we then
24 order that with respect to whatever notice is issued
25 that the Company submit that notice for issuance to

1 the parties for their review and comment before its
2 actually issued.

3 MR. McLEAN: If the motion is to accept a
4 stipulation, we'll certainly join in the stipulation
5 as to the concept. That's fine.

6 COMMISSIONER JOHNSON: I'm sorry, Public
7 Counsel, I didn't hear you.

8 MR. McLEAN: I'm not sure what the motion
9 is. Is the motion to accept a stipulation? If so, we
10 join in it. We stipulate.

11 We stipulate to the concept. You all work
12 out the numbers. We'll be happy with it.

13 MR. GATLIN: We will be glad to accept those
14 numbers, and we'll be glad to circulate a proposed
15 notice or whatever it is we need to do. But I think
16 we do need the authority to do this.

17 COMMISSIONER JOHNSON: Sure. Show that the
18 concept has been stipulated to, I guess, by all of the
19 parties without any objection. And I think I hear
20 Public Counsel saying that they need to be assured
21 that the numbers are correct. And Staff has made some
22 changes that I think have been recorded by our court
23 reporter with respect to what we think the actual
24 numbers should be.

25 MR. JAEGER: That's correct.

1 COMMISSIONER JOHNSON: Anything else we need
2 to do with respect to the particular stipulation?

3 MR. JAEGER: I don't know.

4 MR. GATLIN: And the Commission is approving
5 the stipulation?

6 COMMISSIONER JOHNSON: Is that something we
7 approve? I was showing it approved without objection
8 of the parties. But Ms. Walla, did you have an
9 objection?

10 MS. WALLA: Commissioner Johnson, I just
11 want -- the only thing that I think the customers
12 should be able to plainly note that this is from four
13 years ago and that this has nothing to do with this
14 rate case that is happening right now. I think they
15 should be made aware in plain language exactly what
16 this is, as plain as it can get. Because a lot of
17 people didn't even realize what this hearing was for
18 today.

19 COMMISSIONER JOHNSON: You raise a good
20 point. And when I suggested that all of the parties
21 have a opportunity to look at that particular notice,
22 Ms. Walla, that includes you in that process;
23 therefore, you'll have the opportunity to perhaps
24 evaluate what they are proposing, and you will have
25 input into how that notice is actually issued or what

1 it says, too.

2 MS. WALLA: Thank you.

3 COMMISSIONER JOHNSON: Anything else?

4 MR. GATLIN: That's all. And we'll get the
5 notice to the parties as soon as we possibly can.

6 COMMISSIONER JOHNSON: So show -- you framed
7 it in terms of a motion, so I guess show that motion
8 then approved.

9 MR. GATLIN: Okay. In an abundance of
10 caution, we'll make sure I'm not the only one
11 approving that. I'll entertain a motion by the
12 Commissioners.

13 COMMISSIONER KIESLING: I move that we adopt
14 the stipulation of the parties using the numbers that
15 our Staff presented and with a notice on the bill that
16 explains what the reduction is for.

17 COMMISSIONER GARCIA: I second the motion.

18 COMMISSIONER JOHNSON: Show it approved by
19 the full panel here without objection.

20 MR. GATLIN: Commissioners, if we may go
21 back to the first direct testimony of Mr. Coel, he's
22 available for questions.

23 COMMISSIONER KIESLING: I'm sorry, I have
24 one other question. He did have a exhibit attached to
25 his supplemental direct testimony and you didn't do

1 anything with that exhibit. I didn't know if you were
2 dropping it?

3 COMMISSIONER JOHNSON: That's LC-6?

4 COMMISSIONER KIESLING: Yes. (Pause)

5 MR. GATLIN: What's the exhibit?

6 WITNESS COEL: It's a letter from the
7 Florida Public Service Commission discussing this rate
8 reduction from the prior rate case.

9 MR. GATLIN: It was instructions to reduce
10 the rates and we would like that exhibit. I
11 overlooked it.

12 COMMISSIONER JOHNSON: Okay. Then we will
13 identify LC-6, Letter from Charles Hill, as Exhibit 3.

14 MR. GATLIN: Okay. Thank you, Commissioner.
15 (Exhibit No. 3 marked for identification.)

16 MR. GATLIN: Now the witness is available
17 for questions.

18 COMMISSIONER JOHNSON: Thank you very much.
19 Public Counsel.

20 MR. McLEAN: Thank you, ma'am.

21 **CROSS EXAMINATION**

22 BY MR. McLEAN:

23 Q Mr. Coel, you were in the room during the
24 customer testimony, were you not?

25 A Yes.

1 Q I want to ask you a couple of questions
2 about some of the things the customers said. There
3 was a customer who mentioned something about a new
4 school come on line; do you recall that?

5 A Yes, I recall.

6 Q Are you familiar with those circumstances of
7 the new school coming on?

8 A I am not.

9 Q Who would be a better witness?

10 A Probably the division manager, Bob Dick.

11 Q Mr. Dick would?

12 A Yes.

13 Q Is he the person to whom I should address
14 the question if the school's revenue is reflected in
15 your test year, if there is revenue from that school?

16 MR. GATLIN: Well, perhaps, Madam Chairman,
17 that's something we just don't carry around with us.
18 We'll have to check on it and furnish the information.
19 If you will just give us a little bit of time to check
20 on it, we'll find out if it's in there.

21 COMMISSIONER JOHNSON: Is that an objection
22 or -- hold on one second, Mr. Coel.

23 MR. GATLIN: Offer of assistance.

24 COMMISSIONER JOHNSON: Well, if the witness
25 doesn't know the answer or knows of a method by which

1 you could get that information, if you could provide
2 that in the form of testimony to Public Counsel, that
3 would be helpful.

4 WITNESS COEL: My understanding is if the
5 school is coming on line, they probably would not be
6 in the historical revenues in my MFRs.

7 Q (By Mr. McLean) Mr. Coel, do you know
8 whether any revenue from this school is accounted for
9 in this case in any way?

10 A I did not account for it in the projected
11 revenue.

12 Q Okay. Annual usage and questions such as
13 that should be addressed to Mr. Dick but not to
14 yourself; is that correct?

15 A Yes.

16 Q Do you know whether they pay the capacity
17 charge? Is that for Mr. Dick as well?

18 A I don't know if they have paid that capacity
19 charge or not.

20 Q Okay. With respect to the same inquiries
21 dealing with the low income housing project, first of
22 all, did you hear the customer mention the low income
23 housing project?

24 A Yes.

25 Q Are you familiar with any of the

1 circumstances -- can you answer any of questions I
2 just asked you about the school with respect to the
3 low income housing?

4 A No.

5 Q Mr. Dick would be the person?

6 A I believe so.

7 MR. McLEAN: Okay.

8 MR. GATLIN: What's the question now about
9 the low income housing? Is it revenue reflected --

10 MR. McLEAN: We want to know whether the
11 revenue -- was that directed to me?

12 MR. GATLIN: No, I directed it to Madam
13 Chairman.

14 COMMISSIONER JOHNSON: I'm sorry. I guess
15 it's a motion to have your question clarified?

16 MR. GATLIN: Yes.

17 COMMISSIONER JOHNSON: Would you just
18 clarify it? Repeat the question.

19 MR. McLEAN: Yes.

20 Q (By Mr. McLean) We are concerned that the
21 revenues from the school, the contribution from the
22 school and the various impacts of the school that
23 might have had in this rate case have not yet been
24 accounted for. We learned about a school coming on
25 line from customers this morning and we'd like to know

1 if that's been properly accounted for.

2 The same is true of a low income housing
3 project which customers mentioned.

4 A Okay. If you're talking about the revenue
5 from that low income housing, here, again, if they had
6 not come on line they would not be in my historical
7 revenue and I did not make any pro forma or projected
8 adjustments for that.

9 Q Okay.

10 A If they were current customers at the end of
11 the base year that I used in this filing then the
12 revenue would be included in there.

13 MR. MCLEAN: Okay. And, Madam Chairman, the
14 reason for our concern is we may want to suggest that
15 the Commission should take account of those two
16 customers -- if in fact they are customers -- and we'd
17 like to develop a record to that end. And we have to
18 know about things like, for example, whether the
19 school is actually connected; whether the low income
20 project is actually connected; and are they
21 accountable, if you will, as customers at this point
22 or they are just something that may happen in the
23 future?

24 So I have no interest in showing that
25 Mr. Coel doesn't know that, but I have some interest

1 in finding from Mr. Coel who an appropriate witness
2 for that inquiry is.

3 MR. GATLIN: Madam Chairman, I think I might
4 be able to help if it would be appropriate.

5 We will have a witness available, Mr. Dick,
6 who can answer that question relative to the school
7 and the housing later on today or whenever we get to
8 him.

9 Q (By Mr. McLean) What about the country club
10 and the golf course, Mr. Dick as well?

11 A Yes.

12 Q Okay. Thank you, Mr. Coel. Let's look at
13 Page 10 of your direct testimony, please, sir.

14 A Yes, sir.

15 Q I believe along about Line 5 you essentially
16 say that your Company agrees with the provisions of
17 the PAA order except in two respects; is that also
18 correct?

19 A Except for two major issues or adjustments.

20 Q Right, exactly. One being margin reserve
21 and the other being rate case expense, correct?

22 A Yes.

23 Q Now the PAA order as I recall establishes 21
24 cents per thousand gallons as the appropriate use for
25 reuse water?

1 A That's correct.

2 Q But I believe you have taken a position --
3 your Company has taken a position that 21 cents is an
4 inappropriate rate and that the correct rate should be
5 13.

6 A The Company basically used the 13 cents in
7 its filing since it was the last known authorized rate
8 in the Fort Myers area.

9 In essence, the rate really should be market
10 driven, probably by the area that this new reuse
11 facility is in. Obviously, if the rate is set too
12 high, the customer I don't believe is forced to
13 receive that service.

14 I merely used 13 cents since it was the last
15 known rate in Fort Myers -- and, specifically, I
16 believe it's South Fort Myers.

17 Q Okay. No, your answer is your justification
18 for the 13 cent rate; is that correct?

19 A My justification for the 13 cents was that
20 that was the last authorized rate in Fort Myers.

21 Q I understand. Now, my question, let me
22 rephrase my question. You said in your direct
23 testimony that you endorsed -- "endorse" is my word --
24 you essentially accept the PAA order except for the
25 two major areas which you list there, and you didn't

1 list the 21 cents. So I'm puzzled as to why you
2 accepted the 21 cents in your direct testimony but
3 some time later the Company seemed to have changed its
4 mind and left the 21 cents for 13 cents.

5 So my question to you is why is that so, if
6 it is so?

7 A I still support the 13 cents, unless there
8 are other market forces that would be more appropriate
9 to change that rate.

10 Q Well, the rate in the -- I surmise you would
11 say that the rate in the PAA order was not market
12 driven; is that correct?

13 COMMISSIONER KIESLING: Could I interrupt
14 and just try to get clear on the answer to the
15 question before that.

16 Your testimony says that the Utility accepts
17 the reasonableness of the PAA order except in two
18 regards. Neither of those regards involved the rate
19 for reuse water. Are you now retracting your
20 testimony?

21 I mean, you can't have it both ways. You
22 either have to have your testimony that's in here and
23 stand behind it or you have to withdraw it and answer
24 questions about why you're withdrawing it.

25 WITNESS COEL: My understanding is that 21

1 cents was the most recent rate set I believe by Lee
2 County. And I believe that was --

3 COMMISSIONER KIESLING: Maybe you are not
4 understanding my question. Do you accept the amount
5 that was set forth in the PAA order as reasonable?

6 WITNESS COEL: Yes, I do.

7 COMMISSIONER KIESLING: So it's not an issue
8 in your mind, then.

9 WITNESS COEL: Right.

10 COMMISSIONER KIESLING: Okay. Thank you.

11 Q (By Mr. McLean) Mr. Coel, turn, if you
12 will, to the issue of rate case expense as it is
13 addressed in your exhibit, Page 14, 15 and 16 of your
14 exhibit to your direct testimony.

15 It is the news video of rate case.

16 A Yes, sir. I have that.

17 Q What was the subject of those videos?

18 A Turning to Page 16 of that exhibit.

19 Q Yes, sir?

20 A There are three items listed there, and
21 these are basically TV news segments. The first one
22 showing a date of 7-19-93 was a news segment on that
23 particular TV station shown there of the FCWC customer
24 meeting. It was a customer meeting that our Utility
25 held in Fort Myers.

1 The second two were segments from the news
2 presented at those time frames on those stations in
3 reference to the Public Service Commission, their
4 customer meeting on that date, 7-26.

5 Q I see. Did the Utility retain the services
6 of Advertising Information Services to provide these
7 videos?

8 A I did not request these particular videos.
9 This is part of my exhibit as a rate case expense.

10 Q No. My question is more, did your Company
11 retain those services, or do you know?

12 A Who at the Company retained them?

13 Q Florida Cities Water Company.

14 A Florida Cities, I guess, in essence ordered
15 these segments.

16 Q Okay. And now you're seeking recovery of
17 the \$260 for those videos from the customers who I
18 represent, correct?

19 A Yes.

20 Q Okay. Now, you're familiar with the general
21 notion that expenses are permissible, at least in the
22 Commission's, view if they are incurred, reasonably
23 incurred, in the production of water and sewer
24 services to the public, correct?

25 A Yes.

1 Q Can you tell the Commission how those tapes
2 serve that end or serve that endeavor.

3 A I'm not sure of the exact purpose of why
4 these were ordered since I did not order them.
5 However, my only comment to this would be that I
6 attended the Florida Cities customer meetings as well
7 as the Public Service customer meetings, and there
8 were some, you know, issues, many issues being
9 presented at these meetings.

10 And I presume here that the Company wanted
11 this information to see if there's any things that
12 came out of those meetings or how we were videoed
13 would be a better service to the customers, or if the
14 Utility could gain some knowledge of what was going
15 on.

16 Q Well, those videos were transcribed, were
17 they not?

18 A I believe they were.

19 Q And your Company, did it get a copy of the
20 transcript?

21 A I believe so.

22 Q And did they pay for it?

23 A I believe so.

24 Q And join me in believing, if you will, that
25 they are going to ask my clients to pay for that, too?

1 A Yes.

2 Q How come -- can you illuminate for the
3 Commission why it was necessary to have both?

4 A Actually, the person's name on this invoice,
5 if you notice at the top, Ms. Bonnie Raad and she's
6 our public relations manager. She's not a witness in
7 this proceeding but I presume she'd have a whole lot
8 more knowledge of the source of why we did this and
9 about the videos.

10 Q And she'd know generally more about issues
11 dealing with public relations, would she?

12 A Yes.

13 MR. McLEAN: Okay.

14 COMMISSIONER KIESLING: Could I ask a
15 question again, Mr. McLean?

16 MR. McLEAN: Please do, ma'am.

17 COMMISSIONER KIESLING: So I can cut to the
18 heart of the matter?

19 Is it your understanding that funds expended
20 by the Company in public relations are recoverable
21 through rate case expense?

22 WITNESS COEL: I believe they should be if
23 it's directly related to a rate case, and if they are
24 prudent, and if the Utility is trying to
25 communicate -- like I mentioned before, we met with

1 the customers to try to present our position. We
2 discussed many items. They were very lengthy
3 meetings. And it was called an educational
4 informational meeting. If it's directly related to a
5 rate case, we believe that would be a prudent expense.

6 COMMISSIONER KIESLING: And you think that
7 these video tapes of those hearings, which there also
8 existed transcripts, are somehow related to the
9 educational effort of the Company?

10 WITNESS COEL: Here, again, I don't know how
11 Ms. Bonnie Raad or the source of how she determined
12 she should order these, so I really can't -- I don't
13 know why Bonnie did. But --

14 MR. McLEAN: Mr. Coel, there's no other --
15 I'm sorry, Commissioner, were you through?

16 COMMISSIONER KIESLING: No, I'm through.

17 MR. McLEAN: Thank you.

18 Q (By Mr. McLean) There's no other witness
19 being offered by the Company on the issue of rate case
20 expense, is there? I mean, if we want to know about
21 rate case expense, you're the man to ask; is that
22 correct?

23 A In the general sense, yes. I developed the
24 exhibit, which obviously is fairly voluminous, several
25 hundred pages and there's two of them. And, of

1 course, that's invoices.

2 Now if there's a specific question, for
3 example, maybe like this one, or a Mr. Ken Gatlin
4 invoice of some minute detail, I might not be the best
5 person to be the source for that information.

6 Q Okay. As one never to cower in the face of
7 minute detail, this is the charge of 27 cents a page
8 for copying by Mr. Gatlin's firm.

9 And I've heard you say you like market
10 driven prices. Is that the prevailing price for
11 copying in Tallahassee, or do you know?

12 A I do not know.

13 Q Okay. Does Florida Cities charge 20 cents a
14 page when they make copies?

15 A I do not know. I don't believe so, but I
16 don't know.

17 Q Now to whom do you suggest I ask that
18 question? If I want to know whether 20 cents per copy
19 is a reasonable fee, I can't ask you because you don't
20 sponsor whether these charges are reasonable? (Pause)

21 A I believe them to be reasonable, but I can't
22 say that the average price for copying at an
23 attorney's firm or if they'd subcontracted that out to
24 be copied in Tallahassee is a market driven reasonable
25 price.

1 MR. McLEAN: Okay. Thank you, Mr. Coel. I
2 have no further questions.

3 COMMISSIONER JOHNSON: Ms. Walla.

4 CROSS EXAMINATION

5 BY MS. WALLA:

6 Q Mr. Coel, could you please tell me who your
7 senior is, who is above you in the Company? Who do
8 you take orders from or, you know, go to?

9 A My superior is Michael Murphy, the Chief
10 Financial Officer.

11 Q Can I get you to turn to in my testimony,
12 Exhibit CW-7 please? And also your rebuttal
13 testimony, Page 19 and 20.

14 MR. GATLIN: Do you have Ms. Walla's
15 testimony?

16 WITNESS COEL: I do not have Ms. Walla's
17 testimony.

18 COMMISSIONER JOHNSON: While he's looking
19 for that, if you have questions that you want to ask
20 him regarding his rebuttal testimony, he's going to
21 get up again on rebuttal, but right now that hasn't
22 been inserted.

23 MS. WALLA: Oh, so I'm not supposed to
24 question on his rebuttal testimony yet?

25 COMMISSIONER JOHNSON: But you'll get

1 another chance.

2 MS. WALLA: Okay.

3 MR. McLEAN: Pardon us just for a moment.

4 (Pause)

5 MS. WALLA: All my questions are on his
6 rebuttal.

7 COMMISSIONER JOHNSON: Okay. Then when he
8 takes the stand again and presents that rebuttal
9 testimony, then that will be the appropriate time to
10 ask those series of questions. We just need to keep
11 the record real clear.

12 MS. WALLA: Okay. Thank you.

13 COMMISSIONER JOHNSON: Staff.

14 MR. JAEGER: No questions.

15 COMMISSIONER JOHNSON: Commissioners?

16 MR. GATLIN: I move the exhibits, Madam
17 Chairman, 1, 2 and 3, I believe.

18 COMMISSIONER JOHNSON: There's no redirect?

19 MR. GATLIN: No redirect.

20 COMMISSIONER JOHNSON: Show the exhibits
21 moved without objection.

22 (Exhibit Nos. 1, 2 and 3 received in
23 evidence.)

24 COMMISSIONER JOHNSON: Thank you, Mr. Coel.
25 You're excused for now.

1 MR. GATLIN: Call Mr. Schifano.

2 MR. JAEGER: Commissioner Johnson, he's
3 calling this witness and Staff has no problem. But in
4 the Prehearing Order, Andrew Barienbrock and Bennie
5 Shoemaker, DEP witnesses, they are here; they were
6 told to be here for 1:30 and we were planning on
7 taking them out of order this afternoon sometime.
8 They are here for the afternoon.

9 COMMISSIONER JOHNSON: Okay. Then we will
10 note that. And I think we can proceed with this
11 particular witness now; and when the time is
12 appropriate, we will then call those two witnesses out
13 of order.

14 MR. JAEGER: Okay. Thank you.

15 - - - - -

16 **JOSEPH SCHIFANO**

17 was called as a witness on behalf of Florida Cities
18 Water Company, North Fort Myers Division, and, having
19 been duly sworn, testified as follows:

20 **DIRECT EXAMINATION**

21 BY MR. GATLIN:

22 Q Mr. Schifano, have you been sworn?

23 A Yes, I have.

24 Q Would you please state your name and address
25 for the record.

1 A Joseph Schifano, 3857 Swift Road, Suite 100,
2 Sarasota 34232.

3 Q Have you prepared testimony for presentation
4 in this proceeding?

5 A Yes, I have.

6 Q If I were to ask you the same questions
7 listed in that testimony, would your answers be the
8 same?

9 A Yes.

10 MR. GATLIN: Madam Chairman, I request that
11 it be inserted into the record as though read.

12 COMMISSIONER JOHNSON: It will be so
13 inserted.

14 Q (By Mr. Gatlin) And attached to your
15 testimony are Exhibit JS-1, JS-2 and JS-3; is that
16 correct?

17 A Yes.

18 MR. GATLIN: May we have those exhibits
19 identified as a composite exhibit?

20 COMMISSIONER JOHNSON: Show JS-1, 2 and 3
21 identified as Composite 4.

22 (Composite Exhibit No. 4 marked for
23 identification.)
24
25

1 FLORIDA CITIES WATER COMPANY

2 NORTH FT. MYERS DIVISION

3 WASTEWATER OPERATIONS

4 TESTIMONY OF JOSEPH SCHIFANO

5 Docket No. 950387-SU

6 Q. State your name and business address.

7 A. Joseph Schifano, 4837 Swift Road Suite 100, Sarasota, FL,
8 34231.

9 Q. What is your profession?

10 A. I am a CPA licensed in Florida.

11 Q. By whom are you employed?

12 A. I am employed by Florida Cities Water Company (FCWC).

13 Q. What are your duties?

14 A. My duties as Comptroller include maintenance of FCWC's
15 accounting books and records, supervision of the
16 accounting department, internal and external financial
17 reporting including financial statements, cash management
18 and budgeting.19 Q. How long have you been employed by FCWC or its
20 affiliates?

21 A. Eleven years.

22 Q. Have you testified before the Commission?

23 A. Yes, under previous dockets on behalf of FCWC.

24 Q. What is the purpose of your testimony in this docket?

25 A. I am responsible for the books and records and financial

1 statements of FCWC and supplied to Larry Coel all the
2 recorded data for the Historical Base Year Ending
3 December 31, 1994. I am sponsoring the data from the
4 books and records of FCWC plus the cost related to
5 Financial Accounting Standards Board (FASB) 106.

6 Q. Then the books and records of FCWC are maintained under
7 your direction and supervision?

8 A. Yes.

9 Q. Does FCWC file annual reports with the Florida Public
10 Service Commission (FPSC)?

11 A. Yes.

12 Q. Does FCWC maintain its books and records in accordance
13 with the Uniform System of Accounts prescribed by The
14 National Association of Regulatory Utility Commissioners?

15 A. Yes.

16 Q. Does FCWC have its books and records audited annually by
17 a national accounting firm?

18 A. Yes.

19 Q. What procedure does FCWC use in maintaining its property
20 accounts?

21 A. FCWC maintains Utility Plant, Reserve for Depreciation,
22 Contributions in Aid of Construction, and Advances for
23 Construction by Operating Divisions. For example,
24 separate accounts are maintained for the water and
25 wastewater systems for N. Ft. Myers. FCWC utilizes a

1 work order system for all property additions. By that
2 method, all costs associated with a construction project
3 are assigned to the work order, and when completed, the
4 cost of the project is closed to the property accounts.

5 Q. How does FCWC account for property retirements?

6 A. The work order system is also utilized for retirements to
7 accumulate the original cost of the property to be
8 retired plus removal cost and salvage value. Upon
9 accumulation of costs, plant asset accounts are reduced
10 by the original cost of the property. The depreciation
11 reserve is then reduced by the original property cost,
12 net of any removal cost or salvage value accumulated with
13 the work order.

14 Q. Is it your opinion that the amounts now recorded on
15 FCWC's books are the original costs of those assets at
16 the time they were dedicated to public service?

17 A. Yes.

18 Q. Briefly describe the accounting procedures followed by
19 FCWC in the N. Ft. Myers Division.

20 A. Utility plant is maintained separately for the water and
21 wastewater operations as previously described. The only
22 common plant is the office equipment and furniture in
23 FCWC's general office. With respect to operating costs,
24 the cost of power, most labor for operations and
25 maintenance of central plants and for the distribution

1 system are identifiable costs, and are charged directly
2 to the water and wastewater operations, and therefore no
3 allocation of cost is necessary. The cost of billing and
4 customer accounting is assigned on a customer basis.
5 Accounting and general and administrative expenses of
6 FCWC are allocated to water and wastewater for each
7 division of FCWC on a three-factor method, which is an
8 average of payroll, customers, and utility plant of each
9 division related to the total for all divisions. This
10 method of allocation has been used for a long period of
11 time and has been accepted by the FPSC.

12 Q. Do the books and records provide a reliable source of
13 data for rate making purposes?

14 A. Yes.

15 Q. What have you been asked to do in preparation of this
16 case?

17 A. I am responsible for the financial statements of FCWC,
18 which are utilized by Larry Coel in preparation of the
19 Minimum Filing Requirements (MFR). As such, I supplied
20 all the recorded data for the Historical Base Year Ending
21 December 31, 1994 and certain financial data for the
22 Projected Test Year Ending December 31, 1995 related to
23 balance sheet accounts used in calculating cost of
24 capital. Within the MFR (Exhibit 1 (LC-1)), I am
25 sponsoring the data from the books and records of FCWC

1 plus the cost related to FASB 106, shown in MFR Section
2 B2, Schedule B-3, Page 3.

3 Q. Has there been a change in the required accounting for
4 "Post-Retirement Benefits other than Pensions" since the
5 prior wastewater rate case order issued by the FPSC?

6 A. Yes. Prior to the effective date of applying the
7 provisions of FASB 106, "Postretirement Benefits other
8 than Pensions" were charged to income on the cash basis,
9 as incurred. Thereafter, the costs of these benefits are
10 required to be recognized on the accrual basis. These
11 costs are appropriately charged to income when included
12 in water and wastewater service rates approved by the
13 appropriate regulatory authority. FASB 106 is effective
14 for fiscal years beginning after December 15, 1992.
15 Attached is an official summary of FASB 106
16 (Exhibit 4 (JS-1)).

17 Q. What is the basis of the expense associated with
18 "Postretirement Benefits other than Pensions", (FASB
19 106), included in the Projected Test Year Ending December
20 31, 1995, and how is it allocated?

21 A. Total annual FASB 106 costs used for FCWC is from the
22 actuarial study report issued by The Wyatt Company dated
23 April 4, 1994 (Exhibit 4 (JS-2)). The total annual
24 cost is allocated to capitalization and expense based on
25 FCWC's experience (lines 9 through 15)

1 (Exhibit 4 (JS-3)). The amount expensed is allocated
2 to the water and wastewater operations of FCWC's
3 divisions using its estimated 1995 payroll to expense
4 allocation factors (lines 24 through 35)
5 (Exhibit 4 (JS-3)). The amount allocated and
6 included as an expense in the Projected Test Year Ending
7 December 31, 1995 is the annual amount of \$34,850 for
8 wastewater.

9 Q. Do you have any comments regarding the annual amount of
10 FASB 106 expense, \$34,850 for wastewater, included in the
11 Projected Test Year Ending December 31, 1995?

12 A. The PAA Order No. PSC-95-1360-FOF-SU issued on November
13 2, 1995, after the MFRs were filed, accepted the amount
14 of \$34,850 as filed.

15 Q. Does that conclude your testimony?

16 A. Yes.

1 MR. GATLIN: Mr. Schifano is available for
2 questions.

3 COMMISSIONER JOHNSON: Is there no summary?

4 MR. GATLIN: We had not planned one.

5 COMMISSIONER JOHNSON: That's fine. Public
6 Counsel.

7 MR. McLEAN: No questions. Thank you,
8 ma'am.

9 COMMISSIONER JOHNSON: Ms. Walla.

10 MS. WALLA: No, no questions.

11 COMMISSIONER JOHNSON: Staff.

12 MR. JAEGER: No questions.

13 COMMISSIONER JOHNSON: Commissioners.

14 MR. GATLIN: No redirect.

15 COMMISSIONER JOHNSON: Are you moving then
16 for the admission of Composite Exhibit 4.

17 MR. GATLIN: Yes.

18 COMMISSIONER JOHNSON: Show it admitted
19 without objection.

20 (Composite Exhibit No. 4 received in
21 evidence.)

22 COMMISSIONER JOHNSON: You may be excused.

23 (Witness Schifano excused.)

24 - - - - -

25 COMMISSIONER KIESLING: See if you can keep

1 the rest of them moving like that.

2 COMMISSIONER JOHNSON: Would it be
3 appropriate now to take the DEP testimony, or what's
4 the will of the parties?

5 MR. MCLEAN: Was there some discussion about
6 calling those folks out of order? Because if there
7 was, I don't recall it. And I would very much like, I
8 have Mr. -- I understand these two folks work for the
9 government but my witnesses do, too. All of my
10 witnesses work for the government, in a sense, too.

11 Mr. Biddy is here, has three pages of
12 testimony. If we're going to take somebody out of
13 order, I'd sure like to include Mr. Biddy in that
14 parade.

15 MR. JAEGER: At the prehearing conference,
16 one of the rulings was that they would be available to
17 testify starting at 1:30 p.m. and would presume to be
18 taken sometime that afternoon. They didn't say when,
19 they would just be here at 1:30 and try to be taken
20 that afternoon.

21 So it didn't say when or exactly that they
22 were out of order, but it was understood it would be
23 before 6:00 this evening.

24 MR. MCLEAN: Well, perhaps I missed the
25 understanding. But I'd like to understand as well

1 that we could put Mr. Biddy on so we could get him
2 back to Tallahassee.

3 COMMISSIONER JOHNSON: Is there any
4 objection to taking Mr. Biddy out of order?

5 MR. GATLIN: Nothing. None of it, no.

6 COMMISSIONER JOHNSON: None of it?

7 MR. GATLIN: No. Which one would we take
8 now, I wonder?

9 COMMISSIONER JOHNSON: Is there an order --
10 I'm looking to you all for some help. If there's an
11 order that would be preferable, do we need to take the
12 DEP folks first?

13 MR. McLEAN: Commissioner, I'm indifferent.
14 I would like to apologize, I didn't get that
15 understanding.

16 COMMISSIONER JOHNSON: Okay, that's fine.

17 MR. McLEAN: Okay. We're beyond that, I
18 understand. But if there was such an understanding, I
19 apologize for missing it.

20 I have no position on the order. Any order
21 is fine with me.

22 COMMISSIONER JOHNSON: Let's proceed with
23 the DEP; then we'll take Mr. Biddy; then we'll be back
24 on track.

25 MR. JAEGER: Staff would call Bennie

1 Shoemaker.

2 MR. GATLIN: Can we have one minute?

3 COMMISSIONER JOHNSON: Let's go off the
4 record for two minutes. (Long pause)

5 We are going to go back on the record.

6 MR. JAEGER: Are we going to wait for
7 Commissioner Garcia?

8 COMMISSIONER JOHNSON: I think it will be
9 fine if we go ahead.

10 MR. JAEGER: Mr. Shoemaker, have you been
11 sworn?

12 WITNESS SHOEMAKER: I took a deposition.

13 COMMISSIONER JOHNSON: When I swore the
14 witnesses in were you here and did you stand?

15 WITNESS SHOEMAKER: No, I just walked in the
16 door just right afterwards.

17 COMMISSIONER JOHNSON: Was there another
18 DEP --

19 MR. JAEGER: We have Andrew Barienbrock out
20 there also.

21 COMMISSIONER JOHNSON: And you have not been
22 sworn? Why don't you just stand and we'll take care
23 of that right now.

24 MR. JAEGER: Has Mr. Biddy been sworn?
25 (Witnesses sworn.)

BENNIE T. SHOEMAKER

was called as a witness on behalf of the Staff of the Florida Public Service Commission and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. JAEGER:

Q Please state your name and business address for the record.

A My name is Bennie Shoemaker. I'm employed by the Department of Environmental Protection. Address is 2295 Victoria Avenue, Suite 364, Fort Myers 338910.

COMMISSIONER KIESLING: Would you please speak right into the mike?

WITNESS SHOEMAKER: Yes.

COMMISSIONER KIESLING: Thank you. Right into the mike.

WITNESS SHOEMAKER: Okay. Is this better?

Q (By Mr. Jaeger) Did you prefile testimony in this case consisting of three pages?

A Yes.

Q And do you have any changes or corrections to your testimony at this time?

A There was one line item when I read the deposition that I changed to "permit" versus

1 "permanent," I think it was a misspelled word there.
2 I think it's on Page 5, Line 21, I think.

3 Q I'm talking about your direct testimony, not
4 the deposition that was taken of you. Your three
5 pages of direct testimony that you filed at the
6 beginning of this case?

7 A No, I wouldn't change anything on that.

8 MR. JAEGER: Okay. Commissioner Johnson, at
9 this time I'd have Mr. Shoemaker's testimony inserted
10 into the record as though read.

11 COMMISSIONER JOHNSON: Show it so inserted
12 without objection.

13

14

15

16

17

18

19

20

21

22

23

24

25

PREFILED TESTIMONY OF BENNIE T. SHOEMAKER

1 |
2 | Q. Please state your name and business address.

3 | A. Bennie T. Shoemaker, 2295 Victoria Avenue, Suite 364, Fort Myers,
4 | Florida 33901.

5 | Q. Please state a brief description of your educational background and
6 | experience.

7 | A. I have a B.S. in Civil Engineering from the University of Iowa, and 15.5
8 | years of permitting experience.

9 | Q. By whom are you presently employed?

10 | A. I am employed by FDEP.

11 | Q. How long have you been employed with FDEP and in what capacity?

12 | A. Fifteen and a half years as a permitting engineer.

13 | Q. What are your general responsibilities at the FDEP?

14 | A. My responsibilities include the processing of permit applications,
15 | issuance of permits/denials, and responding to governmental agencies.

16 | Q. Are you familiar with the Florida Cities' Waterway Estates wastewater
17 | system located in the Lee County?

18 | A. Yes.

19 | Q. Was this system inspected by you, or by FDEP staff under your
20 | supervision?

21 | A. Yes. I have inspected this system.

22 | Q. Are any of the tanks or facilities at the treatment plant hydraulically
23 | capable of handling a greater flow in excess than the requested permit
24 | capacity of the 1.25 MGD plant now under construction?

25 | A. Yes, based on FDEP files for Waterway Estates, present construction

1 permit number DC36-237227, the entire facility is hydraulically capable of
2 handling 1.5 MGD which is the build-out capacity of the Waterway Estates
3 franchise area. This facility is currently being limited to 1.3 MGD due to
4 constraints on disposal capacity for the reuse system.

5 Q. Can any of the tanks or facilities be re-rated at a greater capacity
6 after historical data is presented showing a higher hydraulic capability?

7 A. This is not known. The current permit number DC36-237227 is for 1.5 MGD
8 which addresses the franchise area build-out for the Waterway Estates
9 facility. However, if a detailed engineering study were performed by the
10 utility's professional engineer that demonstrates that the facility is capable
11 of handling a higher hydraulic load in compliance with applicable Section 62-
12 600.300(1) to (4)(t), F.A.C., a re-rating may be granted. The project
13 applicant must submit a permit application with applicable fees and
14 documentation that demonstrates compliance with DEP rules and Technical
15 Guidance Manuals.

16 Q. Has Florida Cities requested re-ratings of plant components in the past?

17 A. Yes, although it is not certain for which facilities the utility has
18 requested a re-rating of the plant components.

19 Q. Were any re-ratings approved by the DEP?

20 A. Yes. All re-ratings must be approved by the DEP based upon the
21 satisfaction of the requirement contained in Section 62-600.300 Technical
22 Guidance Manuals.

23 Q. Is it likely that if Florida Cities meets criteria set forth by the DEP
24 and demonstrates that its Waterway Estates plant can treat a greater hydraulic
25 flow than 1.25 mgd and still achieve treatment standards, that a re-rating

1 | would be approved?

2 | A. Yes. Current construction permitted capacity for Waterway Estates is
3 | 1.5 MGD to accommodate future build-out of the facility's franchise area.

4 | Q. What criteria does the DEP have addressing plant re-ratings?

5 | A. DEP criteria for permit review is in Section 62-600.300(1) to (4)(t),
6 | F.A.C., General Guidance Manuals.

7 | Q. Does this conclude your testimony?

8 | A. Yes.

9 |

10 |

11 |

12 |

13 |

14 |

15 |

16 |

17 |

18 |

19 |

20 |

21 |

22 |

23 |

24 |

25 |

1 Q (By Mr. Jaeger) Have you prepared a summary
2 of your testimony?

3 A A summary of my testimony?

4 Q Yes. The three pages that you prefiled?

5 A I've only submitted that information, so I
6 don't know what you mean when you say "summary."

7 COMMISSIONER JOHNSON: That's fine. It's
8 three pages, that's summarized enough.

9 MR. JAEGER: I tender the witness for cross.

10 **CROSS EXAMINATION**

11 BY MR. GATLIN:

12 Q Mr. Shoemaker, on your testimony on Page 1
13 and on Page 2, you say the capacity of the plant is
14 1.3 MGD; is that correct?

15 A I don't know what that particular paperwork
16 says. I think it should say the permitted capacity of
17 the facility is 1.5 MGD with the disposal capacity of
18 1.3 MGD. So that's my answer.

19 Q Well, do you have your testimony there
20 before you?

21 A No, I don't.

22 COMMISSIONER JOHNSON: Do we have a copy of
23 his testimony so that he can review those three pages?

24 (Hands document to witness.)

25 I think Mr. Gatlin was referring to Page 2.

1 Bottom of 1.

2 MR. GATLIN: Bottom of 1, top of 2, yes.

3 A What I just said in my answer is the same
4 thing that this is saying. Your question was just
5 based on the disposal capacity of the plant capacity.

6 Q Your testimony is that the capacity of the
7 plant is limited by the disposal capacity?

8 A Yes.

9 Q And that makes it 1.3 that you were talking
10 about?

11 A The disposal capacity is 1.3.

12 Q Would there be a separate permit issued for
13 the plant and one issued for the disposal facility?

14 A No, sir. There is one permit issued with
15 clarification of what is actually there for the two
16 different parameters.

17 Q And what you're basing your opinion on at
18 this point is what was submitted to DEP at the time of
19 the application for the construction permit; is that
20 correct?

21 A Yes, sir.

22 Q And you have not considered any information
23 submitted to the DEP since that date?

24 A No, sir, I haven't.

25 Q For example, you have not considered the

1 engineer of record's notification of completion of
2 construction for wastewater facilities which indicates
3 that the capacity of the plant is 1.25 MGD?

4 A I was on a deposition for that information.

5 Q Yes.

6 A And I responded to that in the manner of I
7 am not the individual who received the notification
8 for review by the department staff, so I am unaware of
9 the rerating or whatever that notification is actually
10 saying is the new limit that they are considering as
11 the plant capacity.

12 Q Any of the information submitted after the
13 construction permit has not come to you for
14 consideration; is that correct? At this point.

15 A I've seen it; I have been questioned about
16 it; but in terms of the physical individual who is
17 reviewing that notification, I am not that individual.

18 Q Could it be somebody else maybe?

19 A Yes, it is.

20 Q All right. The DEP would accept the
21 certification of the engineer of record as to the
22 capacity of the plant, would it not?

23 A After the appropriate review and the
24 questions that needs to be asked to clarify whether or
25 not there is a problem between the capacities

1 mentioned here. Until that is cleared up, DEP could
2 take the opinion of the engineer but it has to be
3 cleared up in terms of what is actually there. And it
4 is confused right now by all parties to me.

5 Q DEP is not likely to rate the capacity of
6 the plant greater than the engineer of record
7 certifies, is it?

8 A DEP is going to ask the engineer of record
9 who is certifying it complete what it is they are
10 requesting of the Department by letter, with specific
11 questions on specific components to get everything
12 clarified so that when the final issuance of a
13 modified permit is granted, or a notification is
14 granted, it is actually clarified to what everyone is
15 saying is supposed to be there so that the Department
16 records can reflect that.

17 Q You agreed with me at the time of the
18 deposition that the engineer of record could certify a
19 lower number than was in the construction permit as
20 the capacity of the plant, did you not?

21 A Yes, I did.

22 Q Okay. I believe you agreed that in fact the
23 engineer of record could certify that it was not the
24 disposal facility that was limiting the capacity of
25 the plant, it was something else? Biological

1 treatment, for example?

2 A Yes. He could certify it that way but it
3 has to be clarified what is actually being certified.
4 And based on the information and the comments I heard,
5 that has not been done yet.

6 Q But you agree that all that's been done so
7 far is through the construction permits?

8 A Yes.

9 Q And then there are things that happen after
10 the plant is built that are filed by the engineer; is
11 that correct? Engineer of record?

12 A I'm aware of some items that have been
13 filed, and that's that notification you're talking
14 about.

15 Q Yes. I mean there's the notification of
16 completeness, or notification of in operation, or
17 something, isn't there?

18 A There's a notification of completion to
19 place a modified facility into operation. That has to
20 be reviewed based on the original submitted documents
21 and reviewed associated with the new submitted
22 documents, and an evaluation of all of those
23 documents, and questions asked by the Department from
24 the applicant to clarify the two different capacities
25 of concern in this project.

1 Q And that hasn't been done yet?

2 A It has not been done yet to my knowledge.

3 Q Would you agree there's a distinction
4 between hydraulic capacity and biological treatment
5 capacity, or could be?

6 A I agree that there is a lot of difference
7 between several different components of a treatment
8 process that has to be questioned.

9 Q What I'm saying, the ultimate goal of DEP is
10 that it has the capacity to treat the wastewater to
11 the standards of DEP before discharge, isn't it?

12 A Yes, that is the ultimate goal.

13 MR. GATLIN: Oak. Thank you. No questions.

14 COMMISSIONER JOHNSON: Public Counsel.

15 MR. McLEAN: Thank you, Madam Chairman.

16 **CROSS EXAMINATION**

17 BY MR. McLEAN:

18 Q Mr. Shoemaker, at some point -- let me ask
19 you something first of all, before I get into that.
20 You have got treatment capacity on the one hand and
21 disposal capacity on the other; is that right?

22 A Yes, sir.

23 Q They are not the same thing, are they?

24 A Not necessarily.

25 Q Treatment capacity deals with the capacity

1 to biologically treat inflow, and disposal capacity
2 deals with the capacity in the system to get rid of
3 the effluent; is that correct?

4 A Basically, yes.

5 Q And you might find some variation between
6 those two things; is that right?

7 A Yes, sir.

8 Q Although typically you would expect them to
9 be somewhat the same?

10 A In most cases, I can agree with that.

11 Q Now in this case, this Company told you that
12 their treatment capacity was 1.5 -- by "you," I mean
13 the DEP. They told you it was 1.5 MGD, right?

14 A They submitted a construction application to
15 modified the facility. In that construction
16 application, their proposed modification was from
17 1 MGD to 1.5 with a disposal capacity of 1.3. With a
18 breakdown of those disposal capacities of 1 MGD to the
19 surface waters; .3 to land application; and under wet
20 weather conditions, all of it to the river under the
21 allocations of the waste load.

22 Q Now, those are not numbers that you came up
23 with, those are the numbers the Company came up with
24 and handed to you in that application; is that
25 correct? And by "you," I mean the DEP.

1 A That was the way the application was
2 submitted.

3 Q Now you learn from Mr. Gatlin's questions
4 that they may have changed some of those numbers at a
5 later time?

6 A Yes.

7 Q And you're not here to tell why those
8 changes came about or what effect you gave to those;
9 is that right?

10 A Right.

11 Q You're being produced as a witness to tell
12 what the Utility told you in their construction
13 permit; is that correct?

14 A And that's what I'm here for, yes.

15 MR. McLEAN: Thank you, sir. No further
16 questions.

17 COMMISSIONER JOHNSON: Ms. Walla.

18 MS. WALLA: Nothing.

19 COMMISSIONER JOHNSON: Commissioners.

20 COMMISSIONER KIESLING: Yes, I have a
21 question.

22 Would the final approved capacity of the
23 plant be that which is set forth in the operating
24 permit that is, I guess, to be issued at some point in
25 the future?

1 WITNESS SHOEMAKER: There's a lot of
2 confusion on this project. And I think one of the
3 main criteria that the engineer who is reviewing this
4 notification is going to have to do is evaluate what
5 is the physical components of the units out there and
6 what is their ultimate capacity of treatment. Also --

7 COMMISSIONER KIESLING: Perhaps you didn't
8 understand my question. I'm just trying to find out
9 if after the construction is done, then there's an
10 operating permit that DEP has to issue. And the
11 question of what is actually out there and what the
12 capacity of each component is and what the total
13 capacity is will be finally decided by DEP when they
14 issue the operating permit.

15 WITNESS SHOEMAKER: After they ask the
16 engineer of record what is the true components, ask
17 the engineer of record to separate between disposal
18 and treatment plant component capacity, and all of
19 those things is going to be written up to address
20 those issues.

21 But it must be established what is the
22 component treatment capacity of the plant, which is
23 separate from the disposal capacity, but all of them
24 will be written up to distinguish between those two
25 components. One is plant capacity and one is disposal

1 capacity. That needs to be cleared up to make sure
2 that the permit is not issued wrongly.

3 COMMISSIONER KIESLING: Right. And that's
4 all I'm trying to understand is the final resolution
5 after all of this is done by DEP, of looking at it and
6 writing it up, is going to come in the form of an
7 operating permit.

8 WITNESS SHOEMAKER: Yeah. After they ask
9 the engineer questions about what they are doing and
10 how did they come about these values and agree to the
11 information as provided and review our technical
12 manuals, then we'll write it up accordingly based on
13 our rules and regulations.

14 COMMISSIONER JOHNSON: Redirect?

15 MR. JAEGER: No redirect.

16 COMMISSIONER JOHNSON: Thank you. You're
17 excused.

18 (Witness Shoemaker excused.)

19 - - - - -

20 COMMISSIONER JOHNSON: Now Staff you were
21 going to call the next DEP.

22 MR. JAEGER: Andrew Barienbrock.
23
24
25

ANDREW BARIENBROCK

was called as a witness on behalf of the Staff of the Florida Public Service Commission and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. JAEGER:

Q Please state your name and business address for the record.

A My name is Andrew Barienbrock. My business address is 2295 Victoria Avenue, Suite 364, Fort Myers 33901.

Q Did you prefile testimony in this case?

A Yes.

Q And do you have any changes or corrections to your testimony at this time?

A I would just order one change, which would be similar to what I did during the deposition. And that would be on Page 4, I believe I answered No. 23. Do you have that? I guess it's different on this testimony here.

COMMISSIONER JOHNSON: Are you talking about the prefled testimony?

WITNESS BARIENBROCK: Yeah, here it is, Page 4, Line 2. Where I stated the DEP allows 5% to 10% of the facility's permitted capacity. That is a

1 general rule for permitting collection systems. And
2 the DEP also uses a figure of 250 to 550 gallons per
3 day per inch in diameter per mile in accordance with
4 Manual Practice No. 9.

5 Q (By Mr. Jaeger) With that change that you
6 made in your testimony, if I were to ask you the same
7 questions today would your testimony be substantially
8 the same?

9 A Yes, sir.

10 MR. JAEGER: Commissioner Johnson, may I
11 have Mr. Barienbrock's testimony inserted into the
12 record as though read?

13 COMMISSIONER JOHNSON: Show it so inserted.
14
15
16
17
18
19
20
21
22
23
24
25

PREFILED TESTIMONY OF ANDREW BARIENBROCK

1
2 Q. Please state your name and business address.

3 A. Andrew Barienbrock, 2295 Victoria Avenue, Suite 364, Fort Myers, Florida
4 33901.

5 Q. Please state a brief description of your educational background and
6 experience.

7 A. I have a B.S. in Zoology from the Ohio State University and an MS in
8 Marine Biology from NOVA Southeastern University. I have been with the
9 Department of Environmental Protection (FDEP) for four and a half years.

10 Q. By whom are you presently employed?

11 A. I am employed by FDEP.

12 Q. How long have you been employed with FDEP and in what capacity?

13 A. Four and a half years. I began with the Department working in domestic
14 wastewater and I am currently the Environmental Manager for the Domestic
15 Wastewater Compliance and Enforcement Section.

16 Q. What are your general responsibilities at the FDEP?

17 A. My responsibilities include the supervision of professional employees
18 responsible for conducting compliance and enforcement activities and
19 permitting activities relating to domestic wastewater treatment and disposal
20 systems, residual disposal sites, and underground injection control.

21 Q. Are you familiar with the Florida Cities' Waterway Estates wastewater
22 system located in the Lee County?

23 A. Yes.

24 Q. Does the utility have current operating or construction permits from the
25 Department of Environmental Protection?

1 A. Yes.

2 Q. Please state the issuance dates and the expiration dates of the
3 operating or construction permits.

4 A. This facility is operating under Operating Permit No. D036-228850 which
5 was issued on August 25, 1993 with an expiration date of August 25, 1998; and,
6 Construction Permit No. DC36-237227 issued June 2, 1994 with an expiration
7 date of June 2, 1997.

8 Q. Are the plants in compliance with FDEP issued permits?

9 A. No. The plant has been operating above its permitted capacity.
10 However, the facility has a construction permit to expand the disposal
11 capacity of the facility. The work on this project is almost complete and
12 Florida Cities should be submitting a certification of completion of
13 construction within 30 days. This facility is in compliance with all effluent
14 limits.

15 Q. Are the wastewater collection, treatment and disposal facilities
16 adequate to serve present customers based on permitted capacity?

17 A. No, as explained in the previous answer.

18 Q. Are the treatment and disposal facilities located in accordance with
19 Rule 62-600, Florida Administrative Code?

20 A. Yes.

21 Q. Has FDEP required the utility to take any action so as to minimize
22 possible adverse effects resulting from odors, noise, aerosol drift or
23 lighting?

24 A. Yes. The facility had been receiving odor complaints from a nearby
25 restaurant. The DEP, Florida Cities, and the complainant met and all parties

1 | agreed that in order to reduce odors, the plant would stabilize residuals late
2 | at night and haul immediately in the early morning hours.

3 | Q. Do the pump stations and lift stations meet FDEP requirements with
4 | respect to location, reliability and safety?

5 | A. Yes.

6 | Q. Does the utility have certified operators as required by Rule 61E12-41,
7 | Florida Administrative Code?

8 | A. Yes.

9 | Q. Is the overall maintenance of the treatment, collection, and disposal
10 | facilities satisfactory?

11 | A. Yes.

12 | Q. Does the facility meet the effluent disposal requirements of Rules
13 | 62-600 and 62-610, Florida Administrative Code?

14 | A. As explained on page 2, the plant has been operating above its permitted
15 | capacity, but is complying with all effluent limits.

16 | Q. Are the collection, treatment and disposal facilities in compliance with
17 | all the other provisions of Chapter 62, Florida Administrative Code, not
18 | previously mentioned?

19 | A. Yes, except for the treatment plant operating above capacity as already
20 | explained.

21 | Q. Has the Waterway Estates' wastewater system been the subject of any
22 | Department of Environmental Protection enforcement action within the past two
23 | years?

24 | A. No.

25 | Q. Concerning infiltration and inflow (I & I), what is the normal allowance

1 | recognized by the DEP?

2 | A. The DEP allows 5 - 10% of the facility's permitted capacity.

3 | Q. What source document does the DEP refer to in allowing this amount of
4 | I & I?

5 | A. Tens State Standards and Manual of Practice #9.

6 | Q. What circumstances would cause the DEP to vary from this normal
7 | allowance?

8 | A. This allowance could be varied when the facility is in compliance with
9 | effluent limits and when the facility was in the process of correcting the
10 | problem.

11 | Q. If a variation occurred, how much variation would the DEP allow?

12 | A. The amount of variation allowed would be determined on a case by case
13 | basis. This would be based upon the work being done to correct or address the
14 | problem and the effluent quality.

15 | Q. Does the DEP believe this wastewater system has a problem with I & I?

16 | A. At this time the facility does not appear to have a serious infiltration
17 | problem.

18 | Q. Do you have anything further to add?

19 | A. No, I do not.

20 |

21 |

22 |

23 |

24 |

25 |

1 MR. JAEGER: And I tender the witness for
2 cross.

3 COMMISSIONER JOHNSON: Mr. Gatlin.

4 MR. GATLIN: Yes.

5 **CROSS EXAMINATION**

6 BY MR. GATLIN:

7 Q On Page 2 of your prepared testimony,
8 Line 15, there is the question, "Are the wastewater
9 collection treatment and disposal facilities adequate
10 to serve present customers based on permitted
11 capacity?"

12 Do you see that question?

13 A Yes, sir.

14 Q And your answer is, "No, as explained in the
15 previous answer."

16 I believe you testified in the deposition
17 that it would also have sufficient capacity at 1.25
18 MGD; is that correct?

19 A I stated based on flow figures that the
20 Department has and current customers, that the
21 facility would have permitted capacity to handle what
22 they have now.

23 Q At 1.25?

24 A Yes, sir.

25 Q Down at the bottom of that page you mention

1 some problems with odors, noise, aerosol drift or
2 lighting. Do you see that on the same page, Line 21?

3 A Yes, sir.

4 Q And then you mention that you met with
5 Florida Cities and worked out some program to try to
6 alleviate that problem. Has Florida Cities lived up
7 to its bargain or its responsibilities in that
8 agreement?

9 A Yes, they have.

10 Q You mention on Page 4 in addition to the
11 Manual 9, did you mean to eliminate the Ten State
12 Standards guidelines?

13 A Ten State Standards is also a manual used
14 for permitting collection systems in.

15 Q That is a standard for new design, is it
16 not?

17 A That is a standard for new design. So is
18 Manual Practice No. 9.

19 COMMISSIONER JOHNSON: Would you like to
20 have this identified?

21 MR. GATLIN: Yes, please.

22 COMMISSIONER JOHNSON: Let's identify
23 Recommended Standards for Wastewater Facilities as
24 Exhibit 5.

25 (Exhibit No. 5 marked for identification.)

1 Q (By Mr. Gatlin) Do you identify that as the
2 pages from the Recommended Standards for Wastewater
3 Facilities that you're familiar with?

4 A Yes, sir.

5 Q And you're referring to the next page, 30-6,
6 Item 33.93?

7 A Yes, sir.

8 Q And that's for newly designed systems; is
9 that correct?

10 A Yes, sir. Yes.

11 Q And you recognize Florida Cities at North
12 Fort Myers is not a newly designed system?

13 A I would recognize Florida Cities as not a
14 newly designed system.

15 MR. GATLIN: Madam Chairman, I have an
16 exhibit which would have been already introduced by
17 now but it's not.

18 I would like to have this witness speak to
19 it. What would be the preference, to identify it now
20 or wait until my witness can identify it?

21 COMMISSIONER JOHNSON: I think we'll have to
22 identify it now, but we'll admit it through your
23 witness.

24 MR. GATLIN: Okay. It's attached to
25 Mr. Dick's testimony. And it's WPCF Manual of

1 Practice No. 9.

2 COMMISSIONER KIESLING: I can't hear you.

3 COMMISSIONER JOHNSON: We're going to take a
4 five-minute break here until we can get the sound
5 system working.

6 (Brief recess.)

7 COMMISSIONER JOHNSON: I think we're about
8 ready to go back on the record. We were in the middle
9 of questioning by Mr. Gatlin. And you had
10 identified -- you had stated that there was an exhibit
11 that you'd like for us to identify.

12 MR. GATLIN: Yes.

13 COMMISSIONER JOHNSON: And that exhibit was?

14 MR. GATLIN: It's attached to Mr. Dick's
15 testimony, on his direct testimony. And it's WPCF
16 Manual of Practice No. 9, Design and Construction
17 Sanitary and Storm Sewers. And it's identified by
18 Mr. Dick's number RMD-3.

19 COMMISSIONER JOHNSON: Let's then identify
20 WPF -- WPCF Manual of Practice No. 9, RMD-3 as Exhibit
21 No. 6.

22 (Exhibit No. 6 marked for identification.)

23 Q (By Mr. Gatlin) Mr. Barienbrock, are you
24 familiar with that document?

25 A Yes, sir.

1 Q Would you turn to Page 30. And you see
2 there's a Table 7 down at the bottom of the page?

3 A Yes, sir.

4 Q Is that a standard for newly designed or for
5 the designing of new collection systems? As you've
6 testified in your deposition?

7 A I don't believe I testified that Table 7 was
8 the standard for newly designed.

9 Q Okay. What did you say?

10 A I believe that that refers to existing
11 systems.

12 Q Okay.

13 A And designing extensions to existing
14 systems.

15 Q Designing extensions to existing systems?
16 Not for existing systems though; is that correct?

17 A I believe it's referring to designing
18 extensions to existing systems.

19 Q All right. Would you look at your
20 deposition on Page 5, let me read you this question.

21 COMMISSIONER KIESLING: Please go to a mike,
22 Mr. Gatlin.

23 Q (By Mr. Gatlin) I asked you to look at the
24 manual, the insert, on Page 30, which you just looked
25 at. And I asked you if that was the design for

1 extensions of existing systems. "That would not
2 apply, would it, that's for new systems?" And what
3 was your answer?

4 A "That would be for any new collection
5 systems that are added."

6 Q And that's what you're telling us today; is
7 that correct?

8 A That's correct.

9 Q Thank you. And you indicated that there was
10 another standard that was used, Page 130 and 131 of
11 Manual 9?

12 A Yes, I did.

13 Q And is that for existing systems or new
14 design?

15 A That's for new design.

16 Q Okay. And you agreed that the Ten States
17 Standard was for the design of new systems?

18 A Yes, I did.

19 Q Specifically Paragraph 33.93?

20 A Yes, sir.

21 MR. GATLIN: Thank you. I have no further
22 questions.

23 COMMISSIONER JOHNSON: Public Counsel.
24
25

CROSS EXAMINATION

BY MR. McLEAN:

Q Mr. Barienbrock, look at that same page Mr. Gatlin was just referring you to, Page 30. And I read a sentence there that says, "Infiltration and exfiltration tests and allowances for new installations are discussed in Chapter 6."

Did you do you see those words?

A Yes, sir.

Q Do you whether this is Chapter 6?

A Page 130 and 131 are Chapter 6.

Q You're saying that this Chapter 6 in the manual?

A Page 130 and 131 are Chapter 6.

Q This isn't Chapter 6 that we have here, Pages 29 and 30?

A No, sir.

Q If this book says they are dealing with new installation somewhere else, is it logical to conclude that they are dealing with existing systems on this page.

A No, sir.

Q How so?

A On this page they are dealing with extensions to existing systems; on Pages 130 and 131

1 they deal with new systems, meaning entirely new
2 systems.

3 Q Okay. That makes sense.

4 Let me turn you to your last question and
5 answer in your direct testimony. You were asked,
6 "Does the DEP believe this wastewater system has a
7 problem with I&I?"

8 And your answer is, essentially, no; is that
9 right?

10 A I don't believe that's my last question.

11 Q You're absolutely right. And I should have
12 noticed that. Your second-to-last question?

13 A Yes.

14 Q Good. So it's your position that they don't
15 have access -- it's your position that the DEP doesn't
16 think they've got -- that they have excessive
17 infiltration?

18 A Yes, sir. After reviewing flow data from
19 both the wastewater treatment plant and water
20 treatment plant, I concluded that at this time that
21 the facility does not have a serious infiltration
22 problem.

23 Q Okay. Now, I want to know about what DEP
24 thinks is a serious infiltration problem, what their
25 concerns are. And let me tell you an impression I

1 have, and you correct me if I'm wrong.

2 DEP is concerned with infiltration and
3 inflow, number one, because of hydraulic overloading;
4 is that correct?

5 A Correct.

6 Q That's one of the problems that you can have
7 with infiltration and inflow. Another problem you can
8 have with it is pollutant loading. If the
9 infiltration and inflow gets too high, then the ratio
10 of water to pollutants get too high, then you have a
11 treatment problem, right?

12 A It would be possible to have a treatment
13 problem, yes.

14 Q And that's one of the reasons you're
15 concerned about, DEP, about excessive infiltration?

16 A Correct.

17 Q Now the third reason is the one which we're
18 sometimes concerned with here, and that is that
19 customers may be paying for the treatment of water as
20 opposed to paying for the treatment of sewage. Okay.
21 You're familiar with that one?

22 A Yes.

23 Q Now, of those three concerns, which are the
24 concerns of the DEP?

25 A The first two are concerns of the DEP.

1 Q And you would believe, would you not, that
2 it is the concern of this Agency to deal with the
3 issue of whether customers are paying for that excess
4 infiltration?

5 A I believe it probably would be the Public
6 Service Commission's responsibility, yes.

7 Q If there is excess infiltration?

8 A If there is.

9 Q Okay. Now when you suggest to the
10 Commission that they don't have excessive, from the
11 DEP's point of view you are, of course, speaking about
12 those first two issues I identified for you; is that
13 correct?

14 A I'm addressing those first two, but it could
15 also address the third one as well.

16 Q Well, does DEP know what the Commission
17 believes is excessive infiltration?

18 A I believe the Commission goes on a figure of
19 10% to 20%.

20 Q Okay. Does that translate to economic terms
21 for you or for the DEP?

22 A To economic terms?

23 Q Yes, sir.

24 A No, that doesn't translate to economic terms
25 for me.

1 Q The fact is that the DEP is not directly
2 concerned with the economic consequences of
3 infiltration, are they?

4 A The Department is not directly concerned
5 with that.

6 Q But they are directly concerned with
7 pollution sources; is that right?

8 A Yes, they are.

9 Q And if the hydraulic loading of the plant is
10 too high or if the pollutant mix of the plant is too
11 high, that is a pollutant source, correct?

12 A Would you ask that again, please.

13 Q I'm try to.

14 If the hydraulic loading of the plant should
15 turn out to be too high because of infiltration and if
16 the pollutant mix of the plant should be too low, too
17 weak, because of infiltration, both of those items are
18 of concern and direct concern to the DEP, are they
19 not?

20 A Yes, sir.

21 Q Because both are potential sources of
22 pollutants?

23 A Yes, sir.

24 MR. McLEAN: Okay. I have no further
25 questions. Thank you, sir.

1 COMMISSIONER JOHNSON: Ms. Walla.

2 CROSS EXAMINATION

3 BY MS. WALLA:

4 Q How do you say your name, Barienbrock?

5 A Yes, ma'am.

6 Q Mr. Barienbrock, you just stated you
7 reviewed the flow data from the water treatment plant
8 and the wastewater treatment plant?

9 A Yes, ma'am, for the previous five years.

10 Q For five years?

11 A Yes, ma'am.

12 Q Did you use the capacity analysis report to
13 look at something like this or did you do your own
14 study?

15 A No, ma'am. I used monthly operating report
16 data from the water treatment plant and the wastewater
17 treatment plant that the Department stores.

18 Q So did you in fact perform a study, or is it
19 just by looking at the flows that you're making the
20 decision it is not excessive?

21 A It depends what you would determine a study.
22 I did put down all the flows from the wastewater
23 treatment plant and the water treatment plant based on
24 an annual average, because that's what the plant is
25 permitted at. And a review of those flows indicated

1 that there was not excessive infiltration.

2 There was, however, a spike in 1995.

3 However, 1995 was an extreme year in which we had
4 numerous rain occurrences, and probably three
5 occurrences of rainstorms greater than the hundred
6 year flood event. So I would look at that as an
7 aberration.

8 Q How many -- are you aware that there are
9 water-only customers?

10 A Yes, I'm aware of that.

11 Q Okay. So you took that into consideration
12 when you were looking at the flows?

13 A I did not take that into consideration
14 because I'm not aware of how many there are.

15 Q Would that not be a fact to know to
16 understand what the flows are going into the plant
17 from the water/wastewater customers as opposed to
18 water-only customers because there is no flow from
19 them?

20 A It would be something to know. However, I
21 don't believe from my understanding the number of
22 water-only customers versus wastewater customers is
23 not that great a difference. And look at the numbers,
24 the numbers don't indicate that even if there was a
25 difference that that would be a problem here.

1 Q So you believe that your opinion still
2 stands now knowing there are 550 water customers that
3 don't return flows to the plant?

4 A Yes, I believe my opinion still stands.

5 Q Okay. (Pause)

6 You are aware that there are water-only
7 customers then. But did you come up with a percentage
8 of water-only customers as compared to
9 water/wastewater customers?

10 A I told you I didn't base it on that.

11 Q Okay. Now we're going to go to your
12 testimony, Page 2, Lines 21, and Page 3, Lines 1 and
13 2. Has the DEP received other complaints of odors
14 other than the nearby restaurant that you mention in
15 your testimony?

16 A Yes, sir. they have.

17 Q How many were there? And do they not carry
18 some weight to be mentioned in this testimony here
19 along with the restaurant?

20 A They do carry weight. When I included this
21 portion in my testimony they were also included in my
22 mind. It's not specifically stated here, but they are
23 included in that. The Department hasn't received odor
24 complaints recently.

25 Q Okay. So the question possible -- all

1 right. "Yes. The facility has received -- has been
2 receiving odor complaints from a nearby restaurant."
3 That in my mind -- it does not state other customers
4 as well, does it?

5 A It doesn't specifically state that.

6 Q Under the DEP Rule 62-600.400(2), it's
7 actually in the MFRs Schedule G, Page 277. Are you
8 familiar with that rule?

9 A In the MFR?

10 Q Oh, you don't know that. These are actual
11 DEP rules. It's on plant sites. Okay?

12 A Okay.

13 Q Okay. Do you need me to bring this to you?

14 A I'd like to see the rule reference you're
15 referring to.

16 Q Would you like me just to read it out to
17 you?

18 A You can do that.

19 Q Okay. The specific question -- "New
20 treatment plants and modifications to existing plants
21 shall be designed located on the site so as to
22 minimize adverse effects resulting from odors, noise,
23 aerosol drift and lighting. The permittee shall give
24 reasonable assurance," the permittee being the Utility,
25 "that the treatment plant or modifications to an

1 existing plant shall not cause odor, noise, aerosol
2 drift or lighting in such amounts or at such levels
3 that they adversely affect neighboring residents in
4 commercial or residential areas so as to potentially
5 harmful or injurious to human health or welfare or
6 unreasonably interfere with the enjoyment of life or
7 property, including outdoor recreation."

8 Is that not -- then it continues on about
9 the setbacks and what they can do to -- are you
10 familiar with that?

11 A Yes.

12 Q I have a few questions that's rounded into
13 one.

14 Upon reading that, does that statement mean
15 that anytime we, as residents, near the wastewater
16 treatment plant want to do some yard work or want to
17 perhaps take a swim in a neighbor's pool or perhaps
18 have Thanksgiving dinner on the lanai that we should
19 be able to do this without being overwhelmed by toxic
20 gaseous sewer odors interfering with our enjoyment of
21 life and property? Are they not in violation of this
22 rule when this happens?

23 A This rule refers to a permitting condition.
24 This is best answered by permitting. There are rules
25 about odors and things such as that; and if odors

1 create a problem in the neighborhood, then the
2 Department would definitely address that. But as
3 mentioned before, the Department has not recently
4 received any odor complaints.

5 Q Is the DEP representative available to come
6 out on a moment's notice to check on odors? And are
7 they available on weekend and nights? How quick can
8 we expect a response from the DEP representative to
9 smell these odors that we're smelling?

10 A The Department representatives can usually
11 be at your facility within 15 minutes because we're
12 just down the road.

13 The Department obviously isn't available on
14 the weekend or at night. However, if it's a
15 continuing problem, we can make arrangements so that
16 one of our inspectors is available to observe or smell
17 those odors at those times.

18 Q Is there a device that we can keep at the
19 neighbor's to detect what these gases are that are
20 coming from the plant and the odors?

21 A You could possibly use a hydrogen sulfide
22 meter.

23 Q So you're stating that any time we have an
24 odor we should call you immediately?

25 A Yes, ma'am.

1 Q Okay. Could you tell me what a wastewater
2 plant is supposed to smell like, if at all?

3 A A wastewater treatment plant should have an
4 earthy, musty odor.

5 Q So that doesn't mean gaseous, toxic or a
6 sewage smell. We should not smell sewer, correct?

7 A It would depend on each person's
8 interpretation of "smelling sewer."

9 Q You mean what sewer smells like?

10 A Right.

11 Q Earthy musty is quite distinctive from
12 sewer?

13 A Again, it depends on your determination of
14 what "sewer" is.

15 Q Okay. Are you in charge of the annual
16 inspections at the plant?

17 A Yes, ma'am.

18 Q Do you oversee them, do you go out yourself?

19 A I've done the inspections myself and I
20 oversee the staff that perform those inspections.

21 Q Okay. Back in 1992 there was an inspection
22 done. Along side of each of the -- the facility
23 compliance areas are evaluated, correct?

24 A Correct.

25 Q They are stated satisfactory, marginal,

1 whatever, correct?

2 A That was probably an EPA inspection in 1992,
3 if it was noted like that.

4 Q Facility inspection. This is not your form?
5 (Shows witness document.)

6 A What accompanies that?

7 Q (Shows document to witness.) These are not
8 forms that you use?

9 A That's the same form you just had, isn't it?

10 Q You're right. I'm sorry. You did not use
11 that same form -- you haven't been using the same form
12 for the last five years or so?

13 A We use a similar back page to our form as
14 that form, if that's an EPA form.

15 Q The inspector was Winston Anderson.

16 A Let me see the inspection.

17 Q Okay. (Hands document to witness.)

18 A Okay. So you're referring to this part as
19 satisfactory?

20 Q Is this your inspection form?

21 A This would be the back page of our
22 inspection form. Yes.

23 Q Okay. Could you describe what this is for
24 the record, please, so that they know that it is --

25 COMMISSIONER JOHNSON: Ms. Walla, is that

1 going to be something you're going to want to
2 identify?

3 MS. WALLA: Yes. Can we put in? Okay.

4 COMMISSIONER JOHNSON: If you can pass that
5 out, we'll mark it. We'll identify it; and that will
6 be helpful before you begin the questioning.

7 MS. WALLA: Okay.

8 COMMISSIONER JOHNSON: Ms. Walla, I'm going
9 to identify this as the Wastewater Compliance
10 Inspection Report, Exhibit No. 7.

11 (Exhibit No. 7 marked for identification.)

12 MS. WALLA: Okay.

13 Q (By Ms. Walla) There's a satisfactory
14 rating given on the flow measurement, No. 9.

15 A Yes.

16 Q Okay. How exactly is that achieved?

17 A How do we determine if it's a satisfactory
18 flow measurement?

19 Q Right.

20 A During the inspection we'll check the
21 facility's records for calibration of their flow
22 measuring devices; and during that time, we will also
23 manually check the calibration of those flow measuring
24 devices.

25 Q So the inspector manually checks it

1 themselves?

2 A Yes, ma'am.

3 Q Okay. Are they required -- back in 1993,
4 there was an inspection done by an EPA person out of
5 Atlanta. She had come down in a compliance inspection
6 and she had found inaccuracy in the flow measurements.

7 MR. GATLIN: Madam Chairman, I hesitate to
8 object, but I think she's going beyond questions now
9 and I object to this kind of questioning.

10 COMMISSIONER KIESLING: If you have an
11 exhibit that you want to put in, show it to him and
12 we'll get it authenticated and mark it.

13 MS. WALLA: Oh, okay.

14 COMMISSIONER KIESLING: But you can't read
15 from the exhibit and include that information then
16 because you're not the witness right now.

17 MS. WALLA: Okay. I'm sorry.

18 COMMISSIONER KIESLING: That's okay.

19 COMMISSIONER JOHNSON: So you have another
20 document then that you would like to have identified?

21 MS. WALLA: Yes, I would.

22 COMMISSIONER JOHNSON: We're going to
23 identify as Exhibit No. 8, Loop Calibration Form dated
24 6-30-93.

25 (Exhibit No. 8 marked for identification.)

1 MR. GATLIN: What was that date?

2 COMMISSIONER JOHNSON: 6-30-93.

3 MR. JAEGER: Those are the signatures at the
4 bottom.

5 MR. GATLIN: I don't have one with a
6 signature on it. Mine is a loop calibration form?

7 COMMISSIONER JOHNSON: Uh-huh.

8 MR. GATLIN: It's dated August 17th, 1993.

9 COMMISSIONER JOHNSON: But are you looking
10 at the stamped date received?

11 MR. GATLIN: Yes, ma'am.

12 MR. JAEGER: His is cut off at the bottom.
13 He's got -- came out on the sideways copying there.
14 The long one -- his is turned sideways somehow.

15 COMMISSIONER JOHNSON: Perhaps we can get
16 you a better copy.

17 MR. GATLIN: I'd kind of like to look at one
18 while she is asking questions about it, if I may.

19 (Hands document to counsel.)

20 Q (By Ms. Walla) Can you identify what this
21 exhibit is?

22 A It appears to be a calibration record.

23 Q Okay. Any time prior to 1993, were these
24 found -- is this what your inspector looks at prior to
25 1993?

1 MR. GATLIN: Madam Chairman, the predicate
2 hasn't been laid for identifying this exhibit and
3 asking questions about it. There needs to be some
4 questions, is he familiar with this particular one?
5 Does he know about it? Does he recognize this? Not
6 just a general statement.

7 COMMISSIONER JOHNSON: Did you understand
8 the nature of the objection? And maybe Public Counsel
9 can help you with that.

10 MS. WALLA: I'd like him to. (Pause)

11 Q (By Ms. Walla) You can identify the
12 exhibit, you have seen it within the files within the
13 DEP?

14 A I've seen similar things.

15 Q Can you tell me what exactly it is?

16 A As I said before, it appears before it
17 appears to be a calibration issue.

18 Q By whom is it prepared?

19 A I could not tell you that, because the
20 signoff is not on my sheet.

21 Q By whom are they normally prepared?

22 A They would be prepared by a contractor that
23 the Utility contracts.

24 Q Prior to 1993, was the Utility required to
25 have these calibrations done by an outside precision

1 instrument service, or whoever does calibrations,
2 prior to '93?

3 A The Utility has always been required to
4 calibrate their flowmeter annually.

5 Q And have proof of it in their file?

6 A And have records.

7 Q Where would the records be?

8 A Probably on file at the Utility.

9 Q Oh, so DEP does not require this?

10 A No. It's not required to be submitted to
11 the Department. We would look at it when we were at
12 the facility. We only have a limited amount of file
13 space.

14 Q So the fact that this was the only one that
15 was in your files means that the rest are at the
16 Utility? You don't require these to be in your file?

17 A No, we don't require them to be in our file.

18 Q Okay. Is it only when the flow measurement
19 is in doubt, the accuracy of it?

20 A The only time that we would request it be
21 sent in would be if we did not find it on site at the
22 time. They may have sent it in for that reason, but I
23 can't comment to that reason. I didn't perform that
24 inspection.

25 Q Let me ask you, in 1995, when the inspection

1 was done, they had put in two new flowmeters --

2 COMMISSIONER GARCIA: What inspection are
3 you referring to?

4 MS. WALLA: 1995.

5 COMMISSIONER KIESLING: Whose inspection?

6 MS. WALLA: The DEP's.

7 COMMISSIONER KIESLING: Thank you.

8 Q (By Ms. Walla) When you performed the
9 inspection up there -- or did you oversee it or did
10 you perform it?

11 A I'm not sure.

12 Q The 1995.

13 A Do you have a copy of it? You're asking me
14 to comment on things I'm not looking at.

15 Q I believe it's in the Utility's, in the
16 testimonies.

17 Okay. Do you recall that they had put in
18 two new flowmeters in 1995?

19 A They may have if that's what you say.

20 Q Okay.

21 A Off the top of my head, I do not recall.

22 MR. MCLEAN: Commissioners, maybe we could
23 take two, three minutes, rest in place while I figure
24 out exactly what the problem is.

25 COMMISSIONER JOHNSON: We'll go off the

1 record for a couple of minutes. (Long pause)

2 MS. WALLA: I have no further questions of
3 this witness. I'd like to keep his exhibits in for --

4 COMMISSIONER JOHNSON: Okay. It will be
5 after -- there will be an appropriate time for you to
6 try to move those into evidence.

7 MS. WALLA: Thank you.

8 COMMISSIONER JOHNSON: In just a few minutes
9 probably.

10 Any questions, Commissioners? Redirect.

11 MR. JAEGER: No redirect.

12 MR. GATLIN: Madam Chairman, I have a
13 question, if I may ask it.

14 **RECROSS EXAMINATION**

15 BY MR. GATLIN:

16 Q What has been the overall rating of the
17 wastewater treatment plant at North Fort Myers
18 Waterways Estates?

19 A Through the years?

20 Q Yes.

21 A Through the years, I believe that the
22 overall rating has been satisfactory.

23 MR. GATLIN: Okay. That's all I had.

24 COMMISSIONER JOHNSON: Any re?

25 MR. McLEAN: I don't know what it's called

1 exactly, but there was an area of inquiry raised by
2 Ms. Walla that I'd like to chase just a little bit
3 with a couple of questions. It was not this most
4 recent thing, it was the notion of the witness's
5 opinion on excess infiltration.

6 MR. GATLIN: I object, Madam Chairman.

7 MR. McLEAN: Ain't his witness.

8 MR. GATLIN: These are co-counsel that are
9 swapping back and forth here and it puts us in a very
10 distinct disadvantage in this matter.

11 I mean, Mr. McLean is assisting Ms. Walla
12 and then these questions come up that perhaps he
13 supplied Ms. Walla, I don't know.

14 MR. McLEAN: Commissioner, let me point out,
15 number one, it's not Mr. Gatlin's witness to offer an
16 objection to, it's Mr. Jaeger's witness.

17 Number two, this witness takes a position
18 very much adverse to our interests. These are not
19 friendly questions.

20 I think with the witness before him, Mr.
21 Shoemaker, I think Mr. Gatlin's observation is exactly
22 correct and I confess to being a little bit
23 uncomfortable about friendly cross anyway. But I
24 don't have in mind friendly cross with this witness.

25 This is something which Ms. Walla brought up

1 which I would like to amplify a little bit because of
2 the importance to the record. But they will not be
3 friendly questions; and again, it ain't Mr. Gatlin's
4 witness.

5 MR. GATLIN: I don't know that's a basis for
6 not allowing an objection.

7 COMMISSIONER JOHNSON: Staff, do you have
8 any?

9 MR. JAEGER: Let me think about this for a
10 minute. Because I hadn't thought -- I thought we were
11 going to be done. But Mr. Gatlin asked that one
12 question, too.

13 COMMISSIONER JOHNSON: I'll make it easy.
14 I'm going to allow the question.

15 **RECROSS EXAMINATION**

16 BY MR. McLEAN:

17 Q Mr. Barienbrock, you proposed to have
18 assessed the extent to which this Utility is currently
19 permitting or suffering, as the case may be,
20 infiltration and inflow, correct?

21 A Yes, sir.

22 Q Now, in your endeavor did you assume that
23 every water sold by the water side of the Utility was
24 treated by the sewer side?

25 A I took the figures from the water plant and

1 the wastewater plant.

2 Q So if there were a customer who used water
3 and didn't return it to the sewer system, you would
4 take no account of that; is that right?

5 A I did not take account.

6 Q Great. Now, two reasons that might be the
7 case is, number one, the customer might not have the
8 opportunity because that customer is not a sewer
9 customer, correct?

10 A Restate your question, please.

11 Q I will indeed.

12 If you failed to take account of the water
13 which was sold but did not have it find its way into
14 the sewer system, can you hold your analysis of inflow
15 and infiltration out to the Commission as a valid one?

16 A I believe I can. Because in my analysis,
17 wastewater flows during the years of 1992 and 1993
18 fell approximately 10% below those of water flows.
19 And during the period of 1994, wastewater flows were
20 1% above water flows.

21 Q Okay. Let me ask you -- go ahead, I'm
22 sorry.

23 A Taking into account any type of reasonable
24 factor, whether it be 10% to 20% of excess
25 infiltration, that would still leave 30%. And I don't

1 believe there's a difference of 30% in water versus
2 wastewater customers.

3 Q If the Utility sold ten gallons of water to
4 a customer and the customer washed his car with it and
5 you assumed that water went into the sewer system and
6 you adjudged infiltration and inflow according to the
7 numbers you got, wouldn't you have neglected that ten
8 gallons?

9 A Well, sir, aside from having a flowmeter on
10 everyone's toilet, I don't believe that there's any
11 way to adequately address it in your terms.

12 Q Well, if they washed their car, do you think
13 it went into the sewer system?

14 A It may have.

15 Q Through infiltration and inflow, perhaps,
16 but not through the sewage system, correct?

17 A It depends on the situation.

18 Q How about the customer who bought ten
19 gallons of water from this Utility and is not a sewer
20 customer? That water wouldn't have gone into the
21 sewer system, would it?

22 A No, sir.

23 Q I gather what you're saying is -- and it
24 gets back to some earlier questions that I asked you
25 about the DEP's concern. You are concerned about

1 infiltration and inflow as a source of pollution
2 because it causes treatment plants to operate
3 incorrectly, correct?

4 A Correct.

5 Q Or less efficiently, let us say. But now I
6 gather what you say is that even if you took all of
7 this stuff into consideration, you'd still be in the
8 ballpark?

9 A I would still be in the ballpark.

10 Q And isn't it true that when you say just in
11 the ballpark, you're talking about considerations of
12 concern to DEP, not to the economic considerations of
13 this proceeding; is that correct?

14 A I would say it could affect all three.

15 Q It could, indeed. But what is the focus of
16 the DEP?

17 A The focus of the DEP is to protect the
18 health and safety of the public and the environment.

19 Q Okay. And to fine-tune that issue and to
20 determine the economic consequences of inflow and
21 infiltration is a matter upon which this Agency
22 focuses as opposed to the DEP; is that correct?

23 A That's correct.

24 MR. McLEAN: Thank you, sir.

25 COMMISSIONER JOHNSON: Any redirect? Based

1 upon that questioning?

2 **REDIRECT EXAMINATION**

3 BY MR. JAEGER:

4 Q Did you do an analysis of how much
5 infiltration and inflow there was for this system?

6 A What I did was an analysis of the wastewater
7 plant flows and the water plant flows going -- based
8 on the data that has been submitted to the Department
9 by the Utility Company.

10 One thing that if Ms. Walla mentioned when
11 she was starting questions was that the EPA found flow
12 measurement at the Waterway Estate plant to be 15%
13 above normal, would be something that I could go back
14 and take into account during that period of time,
15 during that year, and that would actually reduce
16 wastewater plant flows and probably produce even lower
17 numbers.

18 However, my initial review of the different
19 flows, it appears that there is not an excessive,
20 serious problem with inflow and infiltration at this
21 facility.

22 MR. JAEGER: No further questions.

23 COMMISSIONER JOHNSON: Commissioners?

24 COMMISSIONER KIESLING: Yes. I just have
25 one question. Or it may become two, I'm not sure.

1 Is the way that you did your analysis in
2 this case and the data that you used in this case the
3 standard practice at DEP for assessing infiltration?

4 WITNESS BARIENBROCK: It is one practice
5 that would be used.

6 COMMISSIONER KIESLING: Are there other
7 practices that would take into account issues such as
8 have been raised about the number of customers that
9 are water only or anything else of that nature?

10 WITNESS BARIENBROCK: If the Department had
11 that information or was doing a very, very thorough
12 investigation where they were accounting for every
13 drop, yes, we would attempt to do that.

14 COMMISSIONER KIESLING: Okay. And certainly
15 I'm aware that the Public Service Commission and DEP
16 have a memoranda of understanding about cooperating in
17 the exchange of information in areas like this where
18 we have an overlap, and I assume you're aware of that
19 also.

20 WITNESS BARIENBROCK: Yes, ma'am.

21 COMMISSIONER KIESLING: In assessing
22 infiltration amounts at water treatment plants for
23 purposes of Public Service Commission proceedings,
24 does DEP usually perform the analysis that you have in
25 the manner in which you have performed it in this

1 case?

2 WITNESS BARIENBROCK: The DEP is very rarely
3 asked about inflow and infiltration in a rate case
4 like this.

5 COMMISSIONER KIESLING: Okay. Thank you.

6 WITNESS BARIENBROCK: You're welcome.

7 COMMISSIONER JOHNSON: I had one question
8 with respect to some questions Ms. Walla had asked
9 with respect to customers complaining about the odor,
10 and that you had stated in your testimony, you had
11 mentioned the restaurant.

12 When you have customer complaints, how have
13 those been handled in the past? I'll start there.
14 How have those been handled in the past?

15 WITNESS BARIENBROCK: The Department
16 responds immediately to the customer's complaint.
17 Goes out to the facility, does an inspection -- for
18 lack of a better method, sniffs in order to determine
19 odors. And if there is an odor problem, then the
20 Department will take appropriate action.

21 COMMISSIONER JOHNSON: And in this instance
22 have you discovered any odor problems thus far.

23 WITNESS BARIENBROCK: At the time of -- when
24 we were dealing with the restaurant situation, there
25 were some odor problems occurring.

1 We had a meeting with both parties. Florida
2 Cities agreed to do certain things to eliminate some
3 of those odors; and to this date, we haven't had a
4 complaint from the restaurant and I don't believe we
5 have had a resident complain since then.

6 COMMISSIONER JOHNSON: And that was -- when
7 was this complaint handled?

8 WITNESS BARIENBROCK: Either last year or
9 the year before.

10 COMMISSIONER JOHNSON: Okay. And you've not
11 had any complaints since then?

12 WITNESS BARIENBROCK: Not to my knowledge.

13 COMMISSIONER JOHNSON: Okay. Thank you very
14 much.

15 WITNESS BARIENBROCK: You're welcome.

16 COMMISSIONER JOHNSON: Staff, do you have
17 any re-redirect?

18 MR. JAEGER: No.

19 COMMISSIONER JOHNSON: Okay. There are some
20 exhibits.

21 MR. GATLIN: I move Exhibit 5 and 6.

22 COMMISSIONER JOHNSON: Any objection? I
23 understand that 6 was actually part of Mr. Dick's
24 direct case. Are there any objections to either of
25 those exhibits being admitted at this time?

1 MR. McLEAN: No, ma'am.

2 COMMISSIONER JOHNSON: Showing none, show
3 them admitted. Ms. Walla, you had Exhibit 7 and 8.

4 MR. GATLIN: I object to Exhibit 8.

5 COMMISSIONER JOHNSON: Let's handle them one
6 at a time. We'll start with 7. Any objection to the
7 admission of Exhibit 7?

8 MR. GATLIN: None.

9 COMMISSIONER JOHNSON: I'm sorry.
10 Ms. Walla, I'm assuming you're going to move those.
11 Are you going to attempt to move those into evidence?
12 Or were they just used for demonstrative purposes?

13 MS. WALLA: Yes, I would like Exhibit 7.

14 COMMISSIONER JOHNSON: Show Exhibit 7 moved
15 without objection.

16 Now we're on Exhibit 8. There's been an
17 objection raised to the admission of Exhibit 8.

18 MS. WALLA: Just for identification right
19 now. Don't move it.

20 COMMISSIONER JOHNSON: Okay. Show that that
21 was identified just for demonstrative purposes and
22 will not be admitted as evidence.

23 Your witness can be excused at this time.

24 (Exhibit Nos. 5, 6 and 7 received in
25 evidence.)

1 (Witness Barienbrock excused.)

2 - - - - -

3 COMMISSIONER JOHNSON: Now I think we have
4 one more witness that we were calling out of order.

5 MR. McLEAN: Citizens would like to call
6 Mr. Ted Bidy to the stand.

7 MR. GATLIN: May I have just a minute?

8 COMMISSIONER JOHNSON: Yes, we'll take a
9 minute. (Pause)

10 COMMISSIONER JOHNSON: We're going to go
11 back on the record. I think Mr. Bidy has now taken
12 the is that stand, and you have been sworn, have you
13 not?

14 WITNESS BIDY: Yes, ma'am, I am.

15 COMMISSIONER JOHNSON: Okay. Public
16 Counsel.

17 - - - - -

18 **TED L. BIDY**

19 was called as a witness on behalf of the Citizens of
20 the State of Florida and, having been duly sworn,
21 testified as follows:

22 BY MR. McLEAN:

23 Q State your name and address please, sir?

24 A My name is Ted L. Bidy, B-I-D-D-Y. The
25 address is 2878 Remington Green Circle, Tallahassee,

1 32308.

2 Q By whom and under what capacity --

3 COMMISSIONER KIESLING: Just a second. I'm
4 sorry, could you just closer to the mike. I was
5 having trouble hearing you.

6 WITNESS BIDDY: Okay.

7 COMMISSIONER KIESLING: Thank you.

8 Q (By Mr. McLean) By whom and in what
9 capacity are you employed, Mr. Biddy?

10 A I'm employed by the engineering firm
11 Baskerville-Donovan, Inc. I am vice president,
12 regional manager of the Tallahassee office.

13 Q Mr. Biddy, did you prepare testimony in the
14 form of questions and answers and cause them to be
15 filed in this proceeding?

16 A Yes, I did.

17 Q Do you have any changes to offer to that
18 testimony?

19 A No, I do not.

20 Q Mr. Biddy, if I ask you all of the questions
21 which are reflected in that testimony, would your
22 answers be the same today as they were when you
23 prepared the testimony?

24 A Yes, they would.

25 MR. MCLEAN: Madam Chairman, I move the

1 testimony of Mr. Bidby into the record as though read.

2 COMMISSIONER JOHNSON: So inserted.

3 MR. McLEAN: Thank you, ma'am.

4 Q (By Mr. McLean) I don't believe you have
5 any schedules or exhibits to that testimony; is that
6 correct, sir?

7 A That is correct.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS?**

2 A. My name is Ted L. Biddy. My business address is Baskerville-Donovan, Inc.
3 (BDI), 2878 Remington Green Circle, Tallahassee, Florida 32308.

4 **Q. BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR POSITION?**

5 A. I am Vice-President of Baskerville-Donovan, Inc. and Regional Manager of the
6 Tallahassee Office.

7 **Q. WHAT IS YOUR EDUCATIONAL BACKGROUND AND WORK**
8 **EXPERIENCE?**

9 A. I graduated from the Georgia Institute of Technology with a B.S. degree in Civil
10 Engineering in 1963. I am a registered professional engineer and land surveyor in
11 Florida, Georgia and Mississippi and several other states. Before joining BDI in
12 1991, I had operated my own civil engineering firm for 21 years. My areas of
13 expertise include civil engineering, structural engineering, sanitary engineering,
14 soils and foundation engineering and precise surveying. During my career, I have
15 designed and supervised the master planning, design and construction of thousands
16 of residential, commercial and industrial properties. My work has included: water
17 and wastewater design; roadway design; parking lot design; stormwater facilities
18 design; structural design; land surveys; and environmental permitting.

19 I have served as principal and chief designer for numerous utility projects.
20 Among my major water and wastewater facilities designs have been a 2,000 acre
21 development in Lake County, FL; a 1,200 acre development in Ocean Springs, MS;
22 a 4 mile water distribution system for Talquin Electric Cooperative, Inc. and a 320

1 lot subdivision in Leon County, FL.

2 **Q. WHAT ARE YOUR PROFESSIONAL AFFILIATIONS?**

3 A. I am a member of the Florida Engineering Society, National Society of Professional
4 Engineers, and Florida Society of Professional Land Surveyors.

5 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE FLORIDA PUBLIC**
6 **SERVICE COMMISSION (FPSC)?**

7 A. Yes. I have testified in the St. George Island Utilities, Ltd. case in Docket No.
8 940109-WU.

9 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE A STATE OR FEDERAL**
10 **COURT AS AN ENGINEERING EXPERT WITNESS?**

11 A. Yes, I have had numerous court appearances as an expert witness for cases
12 involving roadways, utilities, drainage, stormwater, water and wastewater facilities
13 designs.

14 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

15 A. The purpose of my testimony is to provide comments on the issue of inflow/
16 infiltration and wastewater treatment plant expansion for this rate increase filing.

17 **Q. IS IT CORRECT THAT IF A UTILITY CAN ELIMINATE EXCESSIVE**
18 **INFLOW AND INFILTRATION FOR 0.25 MGD AMOUNT, THEN THE**
19 **UTILITY CAN AVOID WASTEWATER PLANT EXPANSION FOR THE**
20 **SAME CAPACITY?**

21 A. Yes, it is correct. A utility can avoid unnecessary plant expansion by eliminating
22 excessive inflow and infiltration. The wastewater system of City of Apalachicola

1 is a typical example. Inflow and infiltration is excessive from the City's wastewater
2 collection system. The wastewater effluent exceeded the permitted treatment plant
3 capacity 1.0 MGD numerous times. However, the City's is not planning for plant
4 expansion because the City is in the process of rebuilding its collection system.

5 **Q. DOES THIS CONCLUDE YOUR PREFILED TESTIMONY?**

6 **A** Yes, that concludes my testimony filed on April 9, 1996.

1 MR. McLEAN: Madam Chairman, I tender the
2 witness for cross.

3 COMMISSIONER JOHNSON: Mr. Gatlin.

4 CROSS EXAMINATION

5 BY MR. GATLIN:

6 Q Mr. Bidy, do you recall at your deposition
7 we identified a document that says, "Wastewater
8 Facilities Plan for the City of Apalachicola
9 Prepared" --

10 COMMISSIONER JOHNSON: Hold up, one second,
11 I'm sorry. Ms. Walla, it may be more appropriate if
12 you do your cross of Mr. Bidy first. I apologize for
13 that. Do you have any questions of Mr. Bidy?

14 MS. WALLA: No, I don't.

15 COMMISSIONER JOHNSON: Thank you.
16 Mr. Gatlin.

17 Q (By Mr. Gatlin) Mr. Bidy, do you remember
18 identifying a document entitled: Wastewater
19 Facilities Plan for the City of Apalachicola, Prepared
20 for the City of Apalachicola, Apalachicola, Florida
21 prepared by your firm?

22 A Yes, I do, at the deposition.

23 Q Could you identify that document now?
24 (Hands document to witness.)

25 A Yes. This is the document.

1 COMMISSIONER JOHNSON: I'm going to identify
2 this as Wastewater Facility Plan for the City of
3 Apalachicola. Is that spelled right, "Apalachicola"?
4 It will be Exhibit No. 9.

5 (Exhibit No. 9 marked for identification.)

6 MR. GATLIN: That's all the questions I
7 have.

8 COMMISSIONER JOHNSON: Staff.

9 MR. JAEGER: No questions.

10 COMMISSIONER DEASON: Commissioners.

11 COMMISSIONER KIESLING: I just have one just
12 so that I understand. I haven't had a chance,
13 obviously, to read the wastewater facilities plan
14 because I just got it.

15 But in your testimony where you are
16 discussing that a utility can avoid unnecessary plant
17 expansion by eliminating excessive inflow and
18 infiltration, what do you consider excessive?

19 WITNESS BIDDY: Excessive inflow
20 infiltration is that inflow infiltration that will be
21 more costly to treat and to transport to the treatment
22 plants than to repair the lines.

23 COMMISSIONER KIESLING: You don't have a
24 percentage of inflow -- I mean, of water to wastewater
25 treatment plant?

1 WITNESS BIDDY: Well, that percentage will
2 vary, but it would probably be in the neighborhood of
3 30% to 40%.

4 COMMISSIONER KIESLING: So that's excessive,
5 30% or 40%?

6 WITNESS BIDDY: Yes, ma'am, it is.

7 COMMISSIONER KIESLING: Okay. Thank you.

8 MR. MCLEAN: I'm not sure what the exhibit
9 is designed to show, so I have some redirect directed
10 to the exhibit and what I suspect it's tendered to
11 show. I'll tell you what I'll just do, I'll ask a
12 question and see if it's objectionable.

13 **REDIRECT EXAMINATION**

14 BY MR. MCLEAN:

15 Q Mr. Biddy, has anyone brought any matter to
16 your attention that represents what the cost would be
17 to this utility to abate its inflow and infiltration,
18 the level of inflow and infiltration? Has anyone
19 brought a study to you or anything to suggest what the
20 cost would be?

21 A Not for this system, no.

22 Q All right, sir. Now, with respect to the
23 exhibit you were shown by Mr. Gatlin, do you have the
24 basis upon which to form an opinion as to whether
25 Apalachicola is in any way similar to North Fort

1 Myers?

2 A I have no basis to make that comparison.

3 Q So if it were the case that the amount of
4 money spent to alleviate Apalachicola's problem was
5 expensive, you couldn't make that same conclusion
6 here, could you?

7 A I could not.

8 Q No further questions.

9 MR. GATLIN: I move Exhibit 9.

10 COMMISSIONER JOHNSON: Show it approved
11 without objection. But for the record, city of
12 "Apalachicola" is spelled incorrectly. I'm not losing
13 my mind.

14 (Exhibit No. 9 received in evidence.)

15 MR. GATLIN: It's Mr. Biddy's fault.

16 COMMISSIONER JOHNSON: There should be an
17 "A" in there.

18 MR. McLEAN: Madam Chairman, actually I do
19 have a relevance objection. I'm not sure what this is
20 intended to show.

21 Given the witness's testimony I can probably
22 live with it, but I don't think we had any foundation
23 to show that this document was relevant to any issue
24 in this proceeding.

25 COMMISSIONER JOHNSON: Now is that an

1 objection then to its admission?

2 MR. McLEAN: No, ma'am. I'll withdraw it.

3 COMMISSIONER JOHNSON: Then I'll admit it
4 without objection.

5 MR. McLEAN: Good idea. Can Mr. Biddy be
6 excused?

7 COMMISSIONER JOHNSON: Yes. And with that
8 we're also excusing the DEP witnesses that testified.

9 Okay. I think we're back on track here and
10 our next witness would be Robert Dick for the Utility?

11 MR. GATLIN: Yes.

12 (Witness Biddy excused.)

13 - - - - -

14 **ROBERT DICK**

15 was called as a witness on behalf of Florida Cities
16 Water Company and, having been duly sworn, testified
17 as follows:

18 **DIRECT EXAMINATION**

19 COMMISSIONER JOHNSON: Mr. Dick, you have
20 been sworn, have you not?

21 WITNESS DICK: Yes, I have.

22 BY MR. GATLIN:

23 Q Would you please state your name and
24 address?

25 A Robert Dick. My business address is 7401

1 College Parkway, Fort Myers, Florida 33907.

2 Q And have you prepared testimony for
3 presentation in this proceeding?

4 A Yes, sir.

5 Q If I ask you those same questions today,
6 would your answers be the same as set forth in that
7 prepared testimony?

8 A Yes, sir.

9 MR. GATLIN: Madam Chairman, we ask that it
10 be inserted into the record as though read.

11 COMMISSIONER JOHNSON: It will be so
12 inserted without objection.

13 MR. GATLIN: And I believe you have two
14 exhibits.

15 COMMISSIONER JOHNSON: He may have three.

16 A I believe it's three.

17 Q (By Mr. Gatlin) Three exhibits attached to
18 your testimony; is that correct?

19 A Yes, sir.

20 MR. GATLIN: May we have those identified as
21 a composite exhibit, Madam Chairman?

22 COMMISSIONER JOHNSON: You're right, we
23 admitted the other one earlier.

24 MR. GATLIN: 6, right.

25 COMMISSIONER JOHNSON: So we will have RMD-1

1 and RMD-2 identified as a composite exhibit.

2 MR. GATLIN: What was the number, I'm sorry?

3 COMMISSIONER JOHNSON: RMD-1 and RMD-2

4 identified as the composite exhibit.

5 MR. GATLIN: Number?

6 COMMISSIONER JOHNSON: 10.

7 (Exhibit No. 10 marked for identification.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 FLORIDA CITIES WATER COMPANY
2 LEE COUNTY DIVISION
3 WASTEWATER OPERATIONS
4 Docket No. 950387-SU
5 TESTIMONY OF ROBERT DICK

6 Q. Please state your name and business address?

7 A. Robert M. Dick, 7401 College Parkway, Ft. Myers, Florida, 33907

8 Q. What is your position with the petitioner, Florida Cities Water Company (FCWC)?

9 A. I am employed by Florida Cities Water Company (FCWC) as Assistant Regional
10 Manager for the South Region of FCWC and Division Manager for the Lee County
11 Division.

12 Q. Would you describe your experience in the utility field.

13 A. I began my career in water treatment in 1973 with United States Steel
14 Corporation. In 1985 I relocated to Florida and began employment with FCWC
15 as a treatment plant operator and received my Florida Class A wastewater plant
16 operator license in 1989. In 1990 I was promoted to superintendent of
17 wastewater operations. My responsibilities included supervision of operations,
18 laboratory and maintenance of a 2.5 mgd advanced wastewater treatment plant
19 and a 1.08 mgd secondary treatment plant. In March of 1994 I was promoted
20 to Division Manager of the Golden Gate division. My duties/responsibilities
21 included supervision of all treatment facilities, water transmission and
22 wastewater collection systems operations, customer service and construction
23 management for the Golden Gate division. In June of 1995 I was promoted to
24 Division Manager of the Lee County Division and Assistant Regional Manager of
25 the South Region. My duties/responsibilities include supervision of all treatment

1 facilities, water transmission and wastewater collection systems operations,
2 customer service, field service and construction management for the Golden
3 Gate and Lee County operations. I am presently in this position.

4 Q. Have you testified before the Commission before?

5 A. No, I have not.

6 Q. What is the purpose of your testimony in this docket?

7 A. My testimony will describe the wastewater system, quality of service, new style
8 billing and the level of inflow and infiltration (I & I) into the collection system of
9 FCWC, Lee County Division, North Fort Myers Wastewater.

10 Q. Is FCWC, Lee County Division, North Fort Myers wastewater operation subject
11 to the jurisdiction of the Florida Public Service Commission (FPSC)?

12 A. Yes. FCWC operates in Lee County under certificate number 024-S issued by
13 the FPSC.

14 Q. What is the relationship of the Lee County division to FCWC?

15 A. Lee County is an operating division of FCWC. FCWC's general office provides
16 administrative, accounting, engineering, technical assistance and management
17 services to the Lee County Division. FCWC's general office is located at 4837
18 Swift Road Ste 100, Sarasota, Florida 34231.

19 Q. Describe the Lee County Division's North Fort Myers wastewater facilities.

20 A. The Lee County division's North Fort Myers wastewater franchise service area
21 is approximately 4.61 square miles. With the completion of the wastewater plant
22 expansion, it will be served by a 1.25 mgd advanced wastewater treatment and
23 reuse facility, 29 wastewater pumping stations, 52,388 feet of force mains,
24 155,016 feet of gravity sewer mains and 6,080 feet of effluent distribution and
25 reuse mains.

1 customer service representative. The division manager may also investigate a
2 request. The person making the investigation is to personally contact the
3 customer. The appropriate corrective action necessary is taken at that time to
4 satisfy the customer's request. The work order is signed by the customer noting
5 satisfaction or dissatisfaction and returned to the division office. If the service
6 person is unable to resolve the problem to the satisfaction of the customer, the
7 division manager personally calls on the customer. The final resolution is the
8 responsibility of the division manager. If a report is received after hours, the 24-
9 hour answering service will take the call and refer it to the person on call.

10 Q. Do you consider the quality of service that is currently being rendered by the Lee
11 County division to be satisfactory?

12 A. Yes. We believe that our customer service is excellent. We have not received any
13 inquiries from the FPSC concerning sanitary sewer service or wastewater
14 treatment during 1995.

15 Q. Does the Lee County Division attempt to maintain adequate channels of
16 communications with its customers?

17 A. Yes. I personally meet with the North Fort Myers Water Utility Committee on a
18 regular basis. We participate each year in AWWA Safe Drinking Water week; we
19 offer individual and group tours of our treatment facilities and make available
20 information on water quality, conservation and water saving ideas with leak
21 detection kits.

22 Q. Why did FCWC go to envelope style billing?

23 The Lee County Division customer service is being enhanced by the imple-
24 mentation of a laser-printed stuffed bill with a return envelope as explained by
25 Exhibit ____ (RMD-2), referred to in the MFR, Section B-2, on Schedule B-3 (page

1 Q. Is the Lee County Division, North Fort Myers Wastewater Treatment Plant in
2 compliance with regulations prescribed by the FDEP and US Environmental
3 Protection Agency?

4 A. Yes. The Department of Environmental Protection conducted a compliance
5 evaluation inspection on 11/28/95 rating all areas evaluated as satisfactory . See
6 Exhibit ¹⁰ (RMD-1).

7 Q. Is the Lee County Division, North Fort Myers Wastewater Treatment Plant under
8 any consent order by any regulatory agency?

9 A. No.

10 Q. Please explain the procedure followed by the Lee County Division to resolve
11 customer inquiries as they arise.

12 A. Reports involving water quality, low water pressure, high water usage, change
13 of address, billing inquiries, sanitary sewer service or pumping station operation
14 usually come directly from the customer. All customer inquiries are immediately
15 entered into the data base system by the customer service representative and a
16 work order/customer assurance log is generated. The work order contains the
17 customer's name, and/or the person making the inquiry, address, telephone
18 number, description of the problem, name of person taking the request, date and
19 time of request. The work order is then turned over to the appropriate
20 department. The field service department handles service connection/
21 disconnects, meter reading, high usage, water/sewer service and other
22 miscellaneous requests. Water plant operations handle water quality, hydrant
23 flushing and the wastewater operations handle wastewater plant and pumping
24 station investigations. Requests involving billing and payment collection, new
25 customer inquiries, change of address and meter reading are handled by the

1 3). We believe that our customers are better served by the improved readability
2 of the full sized, laser-printed bill. The 5x7 cards were frequently misplaced by
3 the postal service or mixed with other 4th class mail and accidentally discarded.
4 Our customers are better served as we are able to more efficiently provide them
5 with information regarding their service as well as industry communications
6 regarding water conservation, water quality and related matters. We are able to
7 send messages to the customers and inform them of changes in rates, service
8 and similar matters without the need to mail separate notifications. Return
9 envelopes make monthly payments more convenient for the customers.

10 Q. How was inflow and infiltration (I & I) calculated?

11 A. The I & I was calculated using water sold year end 1994, water customers,
12 referred to in the MFR on Schedule F-11, page 157 compared to wastewater
13 treated year end 1994, wastewater customers, referred to in the MFR on
14 Schedule F-12, page 160. Of the 3128 water customers, 2559 or 81.8% are
15 wastewater customers.

16 Based on these figures 81.8% of the water sold, or .703 mgd can be attributed
17 to the wastewater treated. Subtracting .703 mgd from the average wastewater
18 flow of .942 mgd shows an average of .239 mgd of I & I or 25% of the ADF.

19 Q. Based upon industry standards, do you consider a 25% I & I level to be
20 excessive?

21 A. No. This amount is well within the I & I guidelines developed by the Water
22 Pollution Control Federation and the American Society of Civil Engineers as
23 shown on Page 31, Manual of Practice #9. See Exhibit __ (RMD-3) which allows
24 30,000 gpd per mile for the total length of wastewater collection system mains,
25 service laterals and house connections without regard to system pipe size.

1 FCWC's North Fort Myers wastewater collection system contains over 29 miles
2 of pipe. Using the industry standard, this system has an I & I allowance of
3 870,000 gpd. The actual I & I of 239,000 gpd experienced is well below this
4 amount.

5 The manual of Practice #9 was developed from seven years work by a joint
6 committee of American Society of Civil Engineers and Water Pollution Control
7 Federation members comprised of engineers, water and wastewater
8 professionals. It is considered to be one of their most important publications.

9 Q. Does this conclude your testimony?

10 A. Yes.

1 MR. GATLIN: The witness is available for
2 questions.

3 COMMISSIONER JOHNSON: Public Counsel.

4 MR. McLEAN: Yes, ma'am. Thank you.

5 **CROSS EXAMINATION**

6 BY MR. McLEAN:

7 Q Mr. Dick, I put several questions to
8 Mr. Coel which he referred to you. Were you in the
9 room when I asked Mr. Coel those questions?

10 A Yes, sir.

11 Q Great. I had some questions about a new
12 school, a customer testified about that. Do you know
13 whether that particular school has come on line as
14 yet?

15 A Yes, sir, that school has been on line
16 approximately two to three years.

17 Q Do you know whether the revenue -- is there
18 revenue generated by that school? They're a
19 bill-paying customer, I suppose?

20 A Yes, sir.

21 Q Is that revenue accounted for in this rate
22 case?

23 A To my knowledge, it is, yes.

24 Q Do you know whether they paid a capacity
25 charge when they connected?

1 A Yes, sir.

2 Q Do you know that they did?

3 A Yes.

4 Q Do you know how much it was?

5 A No, sir, I don't.

6 Q No reason to believe it was anything other
7 than the normal service availability for an account
8 that size?

9 A That's correct.

10 Q With respect to the low income housing that
11 a customer referenced, are you aware of any account
12 such as that?

13 A I believe that was Barrett Park he referred
14 to?

15 Q I believe it was.

16 A Yes, sir.

17 Q Is that a customer of the Utility now?

18 A Yes, sir. Approximately, four years.

19 Q And with respect to revenue and so forth, I
20 expect that's accounted for in this case; is that
21 correct?

22 A That's correct.

23 Q What about the reference to the country club
24 that the customer made, are you familiar with any
25 country club which is or may become a customer of the

1 utility?

2 A No, sir, I'm not.

3 Q And likewise a customer had brief reference
4 to a new golf course. Are you aware of any new golf
5 course which is about to connect?

6 A No, sir, I'm not.

7 Q Okay.

8 COMMISSIONER KIESLING: Could I just ask one
9 question to clarify that while she's passing it out?
10 When you say you're not aware of a new golf course or
11 country club, does that mean that you are including or
12 not including the golf course and country club that's
13 a reuse customer, or is going to be a reuse customer?

14 WITNESS DICK: I believe his question was
15 any new golf course. That's an existing golf course.

16 COMMISSIONER KIESLING: That's what I was
17 trying to understand, if you meant a new customer or
18 you meant a new golf course.

19 Q (By Mr. McLean) We're not talking about
20 Lochmoor; is that correct? Lochmoor is an existing
21 reuse customer?

22 A Yes, sir.

23 Q Okay.

24 COMMISSIONER JOHNSON: Would you like to
25 have this identified?

1 MR. McLEAN: Yes, ma'am, please. I'd like
2 it identified.

3 COMMISSIONER JOHNSON: Let's identify
4 excerpts from the service availability application as
5 Exhibit 11.

6 (Exhibit No. 11 marked for identification.)

7 Q (By Mr. McLean) Mr. Dick, aside from the
8 exhibit you were just handed, I want to read you
9 something which appears to be a headline in the local
10 paper here. It says "Moody Development sells land to
11 Thailand-based AMTEL Group." Are familiar with
12 anything to do with that headline?

13 A No, sir.

14 Q You're not aware of an 18 hole, par 72, golf
15 course and clubhouse resort facility to be constructed
16 in this area?

17 A No, sir, I'm not.

18 Q Okay. Refer to the exhibit if you will.
19 The Company has a pending service availability file on
20 file with the Commission, doesn't it?

21 A I'm not sure.

22 Q You don't know whether you have a pending
23 service availability?

24 A No, I'm not sure that we have a file on file
25 with the Commission.

1 Q Okay. Who is responsible in Florida Cities
2 Water for service availability cases before the
3 Commission?

4 A I would think our engineer, Doug Young,
5 would be more qualified to answer that.

6 Q Are you aware that there is one filed, or
7 are you saying --

8 A I'm not aware of one that's filed, no.

9 Q So you know nothing about any pending
10 service availability case?

11 A No, sir.

12 Q Are you familiar with any recent case which
13 dealt with service availability?

14 A Some cases, yes.

15 Q Okay. What's the most recent one?

16 A You mean somebody who has requested service
17 or applied for service.

18 Q No, sir. Doesn't the Company have to go
19 before the Public Service Commission and have its
20 service availability rates approved from time to time
21 if they wish to change them?

22 A I have not been involved with that.

23 Q My question is not whether you are involved
24 in one, but whether you are aware of any which have
25 either recently concluded or are currently pending.

1 A No, I'm not aware of that.

2 Q Okay. Mr. Dick, let's refer to your
3 testimony, Page 5. On Page 5 of your testimony, you
4 offer for the Commission's consideration your
5 calculation of infiltration and inflow; is that
6 correct?

7 A That's correct.

8 Q Okay. Looking at Lines 11 through 18, you
9 calculate I&I based upon water sold to wastewater
10 treated; is that correct?

11 A That's correct.

12 Q And you multiply the water sold by a factor
13 of 81.8% based upon the fact that only 81.8% of water
14 customers are wastewater customers; is that correct?

15 A That's correct.

16 Q Now, given your calculation as it stands,
17 don't you necessarily conclude that all water sold to
18 wastewater customers is, in fact, returned to the
19 sewer system?

20 A Could you ask that question again?

21 Q Certainly. Doesn't your water -- doesn't
22 your infiltration calculation necessarily assume that
23 all water sold to customers who are water customers
24 and who are also sewer customers is returned to the
25 sewer system?

1 A Yes, sir.

2 Q Okay. Are you aware of any industry
3 standard or any design criteria which suggests that
4 that is, in fact, the case?

5 A No, I'm not.

6 Q Are you familiar with any criteria employed
7 by this Commission that suggests that it is reasonable
8 to conclude that residential customers, at least,
9 return 80% and only 80% of the water that they are
10 sold to the sewer system?

11 A I took that into consideration. In my
12 contacts with the North Fort Myers customers on a
13 regular basis, looking at their consumption over the
14 past five years, they are very conservation minded. I
15 believe that 80% is not accurate; I believe most all
16 that flow does come back to the wastewater system.

17 Q And that's necessarily implied in your
18 testimony that 100% of it comes back, right?

19 A That's correct.

20 Q Water used for irrigation which comes from
21 the water system which you operate, would not return
22 to the sewer system, would it?

23 A If it was used for that, no, it would not.

24 Q So it must be your position then necessarily
25 that customers here irrigate not at all, or at least

1 they don't irrigate with water --

2 A Based --

3 Q I'm sorry, I didn't mean to interrupt.

4 A Based on my dealings with our customers and
5 the decline in usage, that's what I would agree on.

6 Q So you're representing to the Commission
7 that customers in this -- customers of this utility do
8 not irrigate with water which they purchase from the
9 Utility; is that right?

10 A Based on my dealings and conversation with
11 our customers, that's what I based it on.

12 Q Do your customers have swimming pools, any
13 of them?

14 A I would assume some do.

15 Q Would you assume that they don't fill their
16 swimming -- well, let me ask you differently. If they
17 happen to swim, fill their swimming pools with water,
18 does the water which they put in their swimming pools
19 find its way to the sewers by any means you can think
20 of?

21 A Well, if they tied it into the sewer system
22 and they drain their pool, yes, it could come back to
23 the wastewater plant.

24 Q It could indeed. Do you know whether it is
25 typical for a person to drain their pool into the

1 sewer system?

2 A I have no knowledge of that.

3 Q Well, the knowledge that you hold out to the
4 Commission is that they don't; is that right? I mean
5 isn't that the representation you make to the
6 Commission?

7 A I didn't refer to swimming pools in my
8 testimony.

9 Q You do not refer to swimming pools in your
10 testimony?

11 A That's correct.

12 Q But you do invite the Commission to conclude
13 that water that goes into the swimming pool
14 necessarily reaches the sewer system, don't you?

15 A Again, I did not take swimming pools into
16 any consideration.

17 Q Well, my suggestion, of course is -- or my
18 question is, at this point do you think that you
19 should have?

20 A No.

21 Q And is that because you think it's
22 reasonable to assume that every gallon of water sold
23 to a customer, who is also a sewer customer, goes to
24 the sewer system?

25 A I thought your question was on swimming

1 pools. No, I believe the majority of this water does
2 end up in the sewer collection system.

3 Q Well, I want to make sure the Commission
4 correctly understands what your view of majority is.
5 If you take 100%, if you took no account of water
6 which sold but does not reach the sewer system, you
7 are representing to the Commission that 100% -- not a
8 majority, but all of it -- is returned to the sewer
9 system; isn't that right?

10 A That's right.

11 Q You believe that to be a reasonable
12 representation to make to the Commission?

13 A Based on any other findings, I mean, that's
14 as reasonable as I could project.

15 Q Let me ask you to accept a hypothetical.

16 And that is if you neglected to take account
17 of some water which is sold to customers, which is not
18 returned to the sewer system, then that would affect
19 the validity of your infiltration and inflow
20 calculation, wouldn't it?

21 A I didn't base it on any hypothetical.

22 Q Well, I'm asking you to consider my
23 hypothetical for purposes of an answer. Is it not
24 true, do your calculations not necessarily imply that
25 if there are, in fact, gallons of water sold to

1 customers which do not find their way to the sewer
2 system, that your calculation necessarily understates
3 infiltration and inflow?

4 A I base it on 100%.

5 Q Is that a yes?

6 A That's what I based it on. It's not a yes
7 or a no.

8 Q Okay. If all of the customers irrigated
9 their lawn tomorrow with water, which was sold by this
10 utility, and you performed the same calculation that
11 you did here, only you performed it just for that day,
12 and you didn't take account of that water that they
13 irrigated their lawns with, would you have a correct
14 infiltration and inflow calculation?

15 A These numbers were based on an annual
16 average, not a day.

17 Q Okay.

18 MR. McLEAN: Thank you, Mr. Dick. I have
19 nothing further.

20 COMMISSIONER JOHNSON: Ms. Walla.

21 **CROSS EXAMINATION**

22 BY MS. WALLA:

23 Q Mr. Dick, in your exhibit, your Manual of
24 Practice, Page 30, can you tell me if you agree with
25 this sentence: As with all other sources of unwanted

1 water infiltration must be kept to a minimum if the
2 cost of pumping and treating the sewage is to be
3 minimized?

4 A I apologize, I'm looking for -- could you
5 tell me where it's about?

6 Q It's at the bottom, third to the last
7 paragraph. Page 30, manual practice.

8 A Yes, that's where I'm at.

9 Okay, I see it.

10 COMMISSIONER JOHNSON: Do you need the
11 question repeated?

12 WITNESS DICK: No, I don't. I agree with a
13 portion of that statement. I don't agree that
14 treatment costs are necessarily increased with I&I.

15 COMMISSIONER GARCIA: Could you explain that
16 answer?

17 WITNESS DICK: Certainly. The wastewater
18 contains a certain amount of pollutants, and if it's
19 diluted with rainwater or groundwater, that does not
20 change the amount of the pollutants that come to the
21 plant; therefore, the actual treatment process would
22 not be any more costly. You would still be treating
23 this same amount of pollutants.

24 Q (By Ms. Walla) Okay. Page 5 on your
25 testimony, Line 14, you state you have 3,128 water

1 customers, 2,559 which are wastewater customers; is
2 that correct?

3 A That's correct.

4 Q Okay. We have something to hand out.

5 A Okay.

6 COMMISSIONER JOHNSON: I'm going to identify
7 this as "Customer Appreciation Day and Dedication
8 Ceremony, February 19th, 1993." No. 12, Exhibit
9 No. 12.

10 (Exhibit No. 12 marked for identification.)

11 BY MS. WALLA:

12 Q Okay, sir. Is this when the advanced
13 wastewater treatment plant opened up?

14 A Yes, that's correct.

15 Q Could you look to the left-hand side on
16 "Facts About Waterway Estates Water Reclamation
17 Facility," and on the fourth paragraph.

18 A Yes, I see that.

19 Q And the system includes a 2,712 residential
20 connections, 225, commercial connections, 53
21 multiresidential and 6 public authorities. Is this
22 not higher than the statistics today?

23 A That number is higher, that's correct.

24 Q And this treatment plant was opened at
25 1 million gallons a day?

1 A That's correct.

2 Q So are we stating here that 2,559 customers
3 need 1.25 million capacity treatment plant, as opposed
4 to this amount of customers needing 1 million?

5 A I don't think it states that, no.

6 Q What was the capacity of this plant at this
7 time, February 19, 1993?

8 A The capacity was 1 million gallons. What
9 you're referring to here is a fact sheet. I'm not
10 familiar with who compiled this information.

11 Q Florida Cities Water did?

12 A I understand that. But the person that
13 compiled it. The numbers I used came directly from
14 the MFRs.

15 Q My point is back in 1993, according to the
16 fact sheet from Florida Cities Water, were there not
17 this many customers?

18 A If you're asking my opinion, I would suggest
19 that this number is not accurate on the fact sheet.

20 MS. WALLA: I have nothing further.

21 COMMISSIONER JOHNSON: Staff.

22 MR. JAEGER: No questions.

23 COMMISSIONER JOHNSON: Redirect.

24 MR. GATLIN: Madam Chairman, I'm informed
25 that Mr. Dick can respond to two or three of those

1 customers' inquiries this morning relative to the
2 trucks passing her house and in reference to the
3 alleged slow repair of the facility and the allegation
4 that water was gushing out of a tank. And he can do
5 that now or later. If you don't want him to do it,
6 it's all right.

7 COMMISSIONER JOHNSON: Okay. Then we'll go
8 ahead and have those issues addressed at this time.

9 **CONTINUED DIRECT EXAMINATION**

10 BY MR. GATLIN:

11 Q Were you here when the customers testified
12 this morning, Mr. Dick?

13 A Yes, sir.

14 Q Did you hear Ms. Lucille Ebie, I think it
15 is, of Sonic Court testify that there was a wastewater
16 line break in her neighborhood?

17 A Yes, I did.

18 Q Do you have any knowledge of that?

19 A Yes, I do.

20 Q What is that?

21 A What had happened, the customer had
22 recognized a depression in her backyard. In
23 concurring with her neighbors, it was determined that
24 the gravity sewer line ran behind her house. She
25 called us, we investigated and found, in fact, to be a

1 sink whole depression above our gravity sewer line.
2 So we took the necessary steps to determine the extent
3 of the problem and the most economical type of repair
4 that could be completed.

5 You have to understand that that's in
6 amongst several houses with a lot of mature fruit
7 trees; very difficult to get in and make the repair.
8 It was decided to do a liner-type repair where a liner
9 is pulled into that gravity line and inflated as she
10 suggested.

11 What we did not account for, though, there
12 were a couple of hammer-taps, which are smaller pipes
13 protruding into the larger pipe and that prevented the
14 contractor from completing the repairs. We had to get
15 additional prices to have those smaller protruding
16 pipes removed. That's what we're in the process of
17 doing. Once those pipes are removed, we can complete
18 the liner repair as we had started out to do.

19 COMMISSIONER KIESLING: Could I just inquire
20 on one other item? After you get it repaired, are you
21 going to fill the hole in her backyard?

22 WITNESS DICK: Yes, ma'am. There will be
23 complete restoration.

24 Q (By Mr. Gatlin) Is that the normal practice
25 of Florida Cities to do that?

1 A Yes, it is.

2 COMMISSIONER JOHNSON: Was the customer
3 informed, or was that explanation given to the
4 customer at any point in time?

5 WITNESS DICK: I believe it was, yes.

6 COMMISSIONER JOHNSON: Okay.

7 Q (By Mr. Gatlin) Mrs. Mary Funk on St. Clair
8 Street indicated that trucks coming from the plant
9 passed by often early in the morning. Do you know
10 about that situation?

11 A The only truck traffic that would be
12 entering or leaving that plant would be chemical
13 deliveries or sludge hauling.

14 We have very distinct policies on when
15 trucks can enter and leave our residential areas, and
16 they are between 7 and 5 p.m. The only time we
17 deviate from that policy is if the conditions warrant.
18 Sometimes the sludge hauling contractor encounters
19 problems, and his trucks are not available in that
20 particular time frame, so our policy is 7 a.m. to 5
21 p.m. unless some type of emergency situation warrants
22 deviating from that time.

23 Q Mrs. Carole Mills testified concerning some
24 water gushing out of the water tank at the plant. Do
25 you know what she was talking about?

1 A Yes, sir, I'm familiar with that.

2 We have an on-site storage tank where our
3 treated water is stored prior to being pumped out into
4 the distribution system. That system is supplied by
5 groundwater wells pumping to the plant. It's treated
6 and then discharged. It's a manually operated system.
7 The operators have to try and calculate the amount of
8 water that will be used, or the demand, and meet that
9 demand with the supply of fresh water. If they
10 miscalculate that tank, they will be putting more
11 water into that tank than is being removed. So the
12 potential for an overflow exists. But we do have
13 alarm systems in place to alert the operators prior to
14 that happening. That alarm, if the plant -- that
15 plant is not manned at night. If that alarm goes off
16 stating that that tank is at a high level situation,
17 operators at other treatment facilities receive that
18 warning and they take the necessary steps to have an
19 operator go to that plant and make the necessary
20 corrections.

21 Q What would be the ultimate solution to that
22 situation? Would it be more tanks or what?

23 A Possibly more tanks or a more elaborate
24 automatic system to shut down some wells or something
25 should that tank reach that high level.

1 Q Do you have any idea what the cost of that
2 would be?

3 A No, sir, I don't.

4 Q Thank you.

5 COMMISSIONER JOHNSON: Any other questions?
6 Staff?

7 MR. JAEGER: I have just one or two.

8 **CROSS EXAMINATION**

9 BY MR. JAEGER:

10 Q You're talking about the trucks going from 7
11 to 5.

12 A Yes, sir.

13 Q And you said that only in emergency do they
14 go outside that time frame?

15 A Yes, sir.

16 Q How often do you have emergencies? Do you
17 have that figure?

18 A Too often for my liking. One is too many,
19 as far as I'm concerned if it disrupts the customer of
20 the neighborhood. But I would have to guess maybe --
21 I don't know -- once a month.

22 Q You don't have the actual figure?

23 A No, sir, I don't.

24 MR. JAEGER: No further questions.

25 COMMISSIONER JOHNSON: Exhibits.

1 MR. GATLIN: Yes, I move exhibits --I don't
2 see a number, Madam Chairman.

3 COMMISSIONER JOHNSON: You had Exhibit 10
4 which was a composite exhibit. Show it admitted
5 without objection.

6 MR. McLEAN: Exhibit 11, we will not move it
7 at this point.

8 COMMISSIONER JOHNSON: Okay. And
9 Exhibit 12. Is there any motion on Exhibit 12?

10 MS. WALLA: Could you put it into evidence,
11 please?

12 COMMISSIONER JOHNSON: That's fine. Are
13 there any objections?

14 MR. GATLIN: To Exhibit 12?

15 COMMISSIONER JOHNSON: Yes, to Exhibit 12.
16 Seeing none, show Exhibit 12 admitted.

17 (Exhibit Nos. 10 and 12 received in
18 evidence.)

19 COMMISSIONER JOHNSON: You may be excused.

20 WITNESS DICK: Thank you.

21 (Witness Dick excused.)

22 COMMISSIONER JOHNSON: We're going to take a
23 15-minute recess. We will reconvene at about 4:00.

24 (Brief recess.)

25 (Transcript continues in sequence in Volume 3.)