BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 010503-WU

In the Matter of

APPLICATION FOR INCREASE IN WATER RATES FOR SEVEN SPRINGS SYSTEM IN PASCO COUNTY BY ALOHA UTILITIES, INC.

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VOLUME 9

Pages 1132 through 1335

PROCEEDINGS:	HEARING
BEFORE:	CHAIRMAN LILA A. JABER COMMISSIONER BRAULIO L. BAEZ COMMISSIONER MICHAEL A. PALECKI
DATE:	Friday, January 11, 2002
TIME:	Commenced at 9:10 a.m.
PLACE:	Clarion Hotel 5316 U. S. Highway 19 North New Port Richey, Florida
REPORTED BY:	LINDA BOLES, RPR Official FPSC Reporter
APPEARANCES:	(As heretofore noted.)

I N D E X

WITNESSES

EXHIBITS

NUMBER:		ID.	ADMTD.
23	Estimated Water Savings for Aloha Utilities	1139	1154
24	RCN-8 through RCN-16	1157	1230
25	Late-filed Exhibit 1 from Nixon Deposition	1210	1230
26	DWP-1 through DWP-5	1235	1334
27	Aloha's Response to Staff's Interrogatories 7 and 8	1319	1334
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P R O C E E D I N G S

(Transcript follows in sequence from Volume 8.)

CHAIRMAN JABER: Ms. Lytle, I notice that Ms. Sorenson is back at the hearing.

MS. LYTLE: Yes, ma'am.

CHAIRMAN JABER: Why don't we go ahead and put Ms. Sorenson back up on the stand.

MS. ESPINOZA: I'm sorry. May I take a few minutes to switch from Mr. Stallcup to that?

CHAIRMAN JABER: Sure.

MS. ESPINOZA: Thank you.

CHAIRMAN JABER: Uh-huh.

(Pause.)

CHAIRMAN JABER: Let me, while we're waiting for Ms. Espinoza, let me poll the parties on how much time you believe we'll need on rebuttal testimony.

MR. WHARTON: It's up to the other parties.

CHAIRMAN JABER: Yeah. Mr. Wood, can you give me a guess of how much time you'll need for Aloha's rebuttal testimony, to cross-examine on their testimony?

MR. WOOD: It shouldn't be long. I, I can't -- I have no way of estimating how long it would take, but it shouldn't be too long. I don't have too many questions.

CHAIRMAN JABER: All right. Okay. But that's for each of them; right?

MR. WOOD: Yes.

CHAIRMAN JABER: All right. Mr. Burgess, the same for you?

MR. BURGESS: Commissioner, I have a little for Mr. Nixon and a little for Mr. Watford and, and that's all I have at this point. And I'd be willing to stipulate, you know, and I know there's some information that Staff needs from each one, but if that changes, we're willing to stipulate to the testimony.

CHAIRMAN JABER: All right. Mr. Jaeger?

MR. JAEGER: I think Staff total probably has just a little bit over an hour's worth of --

CHAIRMAN JABER: Okay.

MR. JAEGER: Maybe a little bit more, an hour-and-a-half.

CHAIRMAN JABER: Ms. Espinoza, are you ready?

MS. ESPINOZA: Yes. I'm not really sure how you would like to proceed, Madam Chairman. I can give the witness the exhibit that we're seeking to enter into the record again, and I believe Mr. Wharton had voiced his objection to that yesterday. I can respond to his objection.

CHAIRMAN JABER: Well, let's take up the objection. Give me the document. Pass out the exhibit.

Okay. Now, Mr. Wharton, you've reviewed the document based on my direction last night and you want to renew your

objection?

MR. WHARTON: There may be a better way to do it. You know, I don't, I don't want to get speechy. I know we don't have time for that.

We won't object to the admissibility of this if the parties will agree that I can ask Ms. Sorenson some questions about it, and that if we deem it's necessary, and we may not, we can file a late-filed exhibit which is responsive to it.

And the only other thing is, and this is the preachy part, you know, the Administrative Procedure Act says that you can't base a finding of fact on uncorroborated hearsay. I don't think that's an admissibility standard. I, I don't want to waive my right to say, even though I'm saying I'll stipulate to the admissibility of this, that I might say in the brief based on what Ms. Sorenson says that it's uncorroborated hearsay.

CHAIRMAN JABER: Yeah. And I don't think you have to waive that right.

MR. WHARTON: Okay.

CHAIRMAN JABER: I completely agree with you. We've always been flexible in taking hearsay evidence, recognizing that it must be --

MR. WHARTON: One problem is you don't know when the corroboration comes.

CHAIRMAN JABER: Well, that's why your brief is so

critical to us when we read it.

I think Mr. Wharton has offered a very reasonable approach to handling this. Mr. Burgess, do you -- you need to see the exhibit, don't you?

MR. BURGESS: Yes, I think they were collected and then --

MS. ESPINOZA: Oh, I'm sorry. I'm sorry. I'm sorry.

CHAIRMAN JABER: That's all right. We'll give you time to look at it and think about the approach that Mr. Wharton is suggesting. I have to tell you though it sounds really good to me.

(Pause.)

MR. BURGESS: Commissioner, I have no problem with that approach.

CHAIRMAN JABER: All right. And you understand that he's also, that Mr. Wharton is also asking, after Ms. Espinoza is done with her questioning, that he would like an opportunity to cross-examine on the exhibit. Is that correct, Mr. Wharton?

MR. WHARTON: It is. But I thought yesterday Ms. Espinoza had said that she wasn't going to have any questions on the document.

MS. ESPINOZA: Well, to the extent that I believe it's necessary to lay a better foundation for the document, if you would --

MR. WHARTON: I think that's fair.

CHAIRMAN JABER: All right. Go ahead.

MR. BURGESS: Excuse me. May I alter mine? Understanding that while Mr. Wharton may argue in his brief that it should not be admissible at all, I may well argue that the fact of his cross-examination obviates his right to make that argument.

MR. WHARTON: But I don't think I'll argue an admissibility standard in my brief. I'll argue whether or not you can base a finding of fact on it.

MR. BURGESS: That's fine.

MR. WHARTON: Okay.

CHAIRMAN JABER: Thank you, Mr. Burgess. Ms. Espinoza, let's give this Exhibit Number 23, and it appears that the title is Estimated Water Savings.

MS. ESPINOZA: And that should be changed to, for Aloha Utilities.

CHAIRMAN JABER: For Aloha Utilities.

(Exhibit Number 23 marked for identification.)

And most importantly, Ms. Sorenson, do you have a copy of this document?

THE WITNESS: Yes, I was just provided one.

CHAIRMAN JABER: And I'll just remind you for the record that you were sworn last night, yesterday afternoon.

THE WITNESS: Yes, ma'am.

was recalled as a witness on behalf of the Southwest Florida Water Management District and, having been previously sworn, testified as follows:

CROSS EXAMINATION

BY MS. ESPINOZA:

Q Ms. Sorenson, looking at the document in front of you, would you agree that this document is a portion of a response to an interrogatory that had been propounded by Staff to the Water Management District?

A Yes, ma'am.

Q And would you agree that this document represents the extent that the district and its consultants have analyzed very specific water conservation measures?

A Yes, in relation to a particular study.

Q Actually, I'm sorry, let me back up.

First, can you just -- why don't you tell us about the document itself, give us a background on it.

A All right. This document is a part, portion of an appendix to a document that was the result of a consultant's effort in relation to a statutory requirement. In particular there were some changes to Chapter 373, Florida Statutes, back in 1997 which clarified the Water Management District's responsibility with regards to water supply planning.

And what it, what this change required was for each water management district to conduct a water supply assessment.

And in those areas where it determined that this assessment, essentially a needs and resources initial analysis, where this assessment, the initial results of it showed that there was an imbalance between the available supplies and the anticipated needs, that the Water Management District conduct a regional water supply plan, go through this planning process.

And one of the elements of this Water Management District's planning process was to analyze nonagricultural conservation options that could be used by public suppliers.

And this particular exhibit is an appendix to the report that Ayres Associates filed with the district as its final report in I believe it was August of the Year 2000 for that project, which then results from that particular consultant effort became part of our regional water supply plan in response to our assessment responsibilities in August of 2001.

Q And when you use the word "our regional assessment plan," you're speaking of the district, the Water Management District; is that correct?

A That's correct.

Q Okay. And looking specifically at this document in front of you, what Staff has done has printed a portion of the document to represent specifically Aloha Utilities. Now would you agree that this is an accurate representation of the document as it exists?

A If you'll give me a moment to compare it to an eye-wrenching version.

(Pause.)

With the exception of handwritten page numbering changes, yes.

Q Okay. Ms. Sorenson, you indicated that this index is a portion of the larger district's study entitled the regional, I'm sorry, the regional -- what was it?

A Well, it started with the Water Supply Assessment and then for part of the district we as part of this whole effort did a Regional Water Supply Plan.

Q Okay. And this is part of the Regional Water Supply Plan?

A It was part of the planning effort, and information from it was included in the plan. It's also part of a freestanding document. This particular exhibit is part of a freestanding document that is referenced in the plan.

Q And what is that freestanding document?

A The freestanding document's title is Development Of Water Conservation Options For Nonagricultural Water Users: Consultant's Report Submitted To The Southwest Florida Water Management District.

Q And is this a document that is readily available to the public?

A Yes, ma'am.

Q And where is it readily available?

A Among other sources, I know that a copy resides in the district's technical library.

Q And is that technical library available on the Internet?

A I do not believe the document itself is available online. There's in essence a card catalogue that one can use to identify where the physical location is. The physical location is in our Brooksville facility in our library.

MS. ESPINOZA: Okay. Thank you.

CHAIRMAN JABER: Mr. Wharton?

CROSS EXAMINATION

BY MR. WHARTON:

Q Good afternoon, Ms. Sorenson.

A Good afternoon.

Q Now this document is actually an extract from a much larger document?

A Correct.

Q This thing is part of an appendix to another document; correct?

A Correct.

Q And is it safe to say that what we're looking at here is not really Appendix D-1G, it's just part of Appendix D-1G?

A That's correct. It's the portion that relates to Aloha information.

Q Now you didn't create this document; correct?
A The exhibit itself? No.
Q And you did -- well, I guess when I refer to the document from now on, let's go ahead, since you've testified that this is an accurate excerpt, and talk about the underlying document. You weren't involved in that; right?
A I did not create the document itself; however, I was involved with that part of our supply assessment process.
Q Did you work with the consultants in putting together this information for Aloha?
A I helped select the consultants.
Q But did you actually say -- do you know why the consultants, for instance, chose these categories to the exclusion of others?
A Yes. They actually started with a much larger listing of potential measures and in consultation with Staff and through research developed a, a more moderately-sized list upon which they went and researched the literature to determine the appropriate assumptions to include in what ended up being in this document.
Q When determining the appropriate inputs for this particular exercise, was it part of either your consideration or the district's consideration or the, or the consultants' consideration in any way, shape or form whether or not a document like this was appropriate for utilization in a

rate-setting case like this?

A Not to my knowledge, because it was part of a regional water supply plan that was part of the regional water assessment project.

Q Do I correctly surmise that the Water Management District has never taken any official action to indicate that this document is appropriate for utilization in a rate-setting case like this?

A I'm not aware of any such use, sir.

Q Did this document come with some kind of an explanation of how, why the consultants chose these categories or what some of these figures mean or what footnotes mean or anything like that?

A Yes, sir.

Q Okay. And that's not part of this document; correct?

A It's not part of that exhibit, no.

Q Would you agree that if the entire document were being made part of Exhibit Number 23, that the reader of Exhibit 23 would then be able to compare these categories as they relate to Aloha to the same categories as they relate to other utilities that are in the same general area?

A There are footnotes at the end of the county portion of that document that would be useful.

Q Didn't this document, and by that I mean the larger document from which this was extracted, also include Mad Hatter

Utilities and Lindrick's Service Company and some of those other private utilities right around Pasco County?

A I don't recall the other ones by name, but whichever utilities met the criteria for a study would have been on that list, especially the part of the list for Pasco County.

Q And do you agree that this cost-effectiveness ratio for thousand dollars spent per gallon on page five of five is a calculation that utilizes the 20, the 20-year savings in, what is that, millions of gallons?

A I don't recall.

Q So you're not sure what that category means?

A I would need to look at the documentation.

Q Is it safe to say that right now as we sit here today that if I went through this thing category by category that you would not necessarily be able to explain to me what each of the categories are or why that particular category was chosen or how that particular calculation was made?

A Perhaps not every one, but several of them.

Q Some you could and some you couldn't?

A Not without the other document, the other portion of the document that contains the, the information that we spoke of.

Q How long do you think it'll take to fully implement each of the programs on here?

A Well, sir, you need to understand the use of this

document because it's not the intent of the district to say that every single utility on this list should implement every single thing on the list. The intent of this process was to determine the types of measures that would be appropriate to consider and in particular to provide some information that could be used by both the district and the utility to select appropriate measures.

Q Okay. So this document was not intended to represent that these particular things are appropriate for Aloha?

A It's not intended to show that every single one of them should be implemented for any one utility, Aloha or otherwise.

Q Do you think though in terms of implementation to the extent that you do deem these things appropriate, would it take years to implement them, months?

A That would depend on the program. Some can be done quite quickly, in particular the lower cost ones. Other ones a utility would typically want to pilot first, make sure that it is appropriate for its service area and, if so, then implement over anywhere from a two to 20-year horizon.

Q And on page three of five we've got a category on the exhibit called "Program Period" with a parenthetical reference to years.

A Uh-huh.

Q Would you agree that that reveals that some of these

program periods would be over five-year periods?

A Would you tell me the page number?

Q Page three of five.

A What that represents is the way that the consultant established one way in which the program could be implemented, that it would assume that the program period was that number of years.

Q Okay. So let me ask you a couple of questions about that.

One was that there are more than just the way reflected on this document to implement these programs.

A Would you repeat the question, please?

Q Well, you wouldn't just implement the programs in the way that the consultant recommended here. There might be another reasonable way to implement the same program.

A That's an accurate statement.

Q To the extent that, say, a program is implemented over five years, would you agree that realizing the beneficial effects of that in terms of a reduction of water usage might have a, will have a lag, that is that will come after the implementation?

A To varying degrees depending on the program, yes.

Q Do you agree that, that we don't know what the percentage of participation will be since it's largely voluntary, participation by the water users?

A Actually I believe there's at least one measure that was perceived as having a regulatory component. But, yes, that is why one of the columns in the spreadsheet contained a participation rate figure based on various communities that were, had literature, had articles in various literature indicating what, their participation rate. There was an assumption made that, for example, for a particular program, even if there were 1,000 units that were eligible for that program, maybe only 20 percent would actually participate. So certainly participation rate is a factor. Various measures have documented participation rates. But that really goes back to some of my original prefiled testimony about why it's so important for a utility to know what it can about its customer base to know what is going to have a, you know, a likelihood of success.

Q So you would agree that the implementation of some of these programs might take years?

A Yes.

Q And were you here for Mr. Stallcup's testimony?

A Only the last couple of minutes, sir.

Q Did you hear him say in essence that Aloha should go ahead and implement these programs and then they would recover the cost of those programs from savings they would realize through reduced water usage?

A I don't know that those were his exact words. I

recall hearing him say that, you know, certain conservation costs would be recoverable, but that he would take into consideration if there would be savings to the utility for not having to, for example, purchase the water at a higher rate than it cost to implement that conservation measure.

Q Would you agree with me that the conservation effects of some of these programs may not be fully realized until months or even years after the program is put into place?

A Yes. Because there are start-up costs associated with many of these measures.

Q I'm looking at that same page three of five.

A Uh-huh.

Q And I'm seeing references through this whole document, but on that page after "number of available measures" there's a four, after "program period in years" there's a five. Are those footnotes?

A Yes.

Q Okay. And the footnotes don't appear to you to be included on this document?

A No. They were in the document that was provided.

MS. ESPINOZA: I'm sorry to interrupt, but that's, we can include the entire document as an exhibit. And there's never an intention to hide any information or not include certain information except to just make it a smaller exhibit. And if we, if that will be -- we can do that, it's fine, and

actually include the whole, the entire document which will be pretty voluminous, but --

MR. WHARTON: I think, Chairman Jaber, that Staff would acknowledge they don't have the entire document, they don't have it on the disk, it's not on that disk that they provided us a copy of. That's just a piece of it. And I can't cross a late-filed exhibit. So, again, I think we're done. But I don't, I'm not asking for any kind of a further late-filed that has this whole thing on there, but it's not on here.

CHAIRMAN JABER: Staff, Mr. Wharton is not asking for any more documentation. And I think the nature of his going along with having this exhibit be made part of the record is he wants to include some reference to it in the brief and that was the nature of his cross-examination. Is that what you're saying, Mr. Wharton?

MR. WHARTON: Yeah. That -- yes. That's --

CHAIRMAN JABER: Staff is making an offer to include the footnotes and, and the index.

MR. WHARTON: And -- well, sure. Sure, we'll, you know, I'm -- my concern is that if I say no, that's, that that's going to come back to haunt me. And now we're going to be given an opportunity to do a late-filed to this, if we deem? We may not deem that it's necessary. We just need a little more time to look at it.

CHAIRMAN JABER: If appropriate, if appropriate, you can have two weeks to prepare a late-filed exhibit that will be subject to objections.

MR. WHARTON: I understand.

CHAIRMAN JABER: And the same would be true for Public Counsel. You're welcomed to respond in a late-filed exhibit and also include the discussion in the brief about this exhibit.

MR. BURGESS: Thank you.

CHAIRMAN JABER: Okay. Staff, how do you propose we include the additional -- can't we just say that the Estimated Water Savings For Aloha Utilities, Exhibit 23, will include the index and the footnote page and you can submit copies of that to the parties and to the court reporter when we get back to Tallahassee?

MS. ESPINOZA: That would be fine.

CHAIRMAN JABER: Sounds great. Anything further, Mr. Wharton?

MR. WHARTON: No, we don't have any other questions.

CHAIRMAN JABER: Okay. Now, Mr. Burgess, I didn't mean to leave you out. Do you have questions related to this exhibit?

MR. BURGESS: No. Thank you very much. I do not. As we were changing witnesses I was going to distribute the exhibit that the hotel allowed us to use their copy machine and

we made of the amended 4, 5 and 6 to Steve Stewart's testimony. So I was going to distribute that to each of the parties.

CHAIRMAN JABER: Okay. Thank you. Thank you. Ms. Lytle, do you have redirect?

MS. LYTLE: No, I have no redirect for Ms. Sorenson.

There was one matter that I'd like to comment on for the record.

CHAIRMAN JABER: Uh-huh.

MS. LYTLE: There's been quite a bit of discussion by witnesses and counsel for all the parties concerning a consent order between Aloha and the district. I just wanted to make it clear to the Commission and on the record that is a draft consent order and that some of the provisions in it that have been proposed by Aloha have not been reviewed or approved by the Water Management District.

CHAIRMAN JABER: For purposes of the record though why don't we try to get that through Ms. Sorenson, and actually she testified to that yesterday. But if you'd like to in redirect ask her the same questions so that she's testifying to it and not you.

MS. LYTLE: Okay.

REDIRECT EXAMINATION

BY MS. LYTLE:

Q Ms. Sorenson, are you familiar with the status of the draft consent order between the district and Aloha Utilities?

A Yes, ma'am.
Q That consent order is still just a draft?
A Yes, ma'am.
Q And there are provisions in that consent order that have not been approved by the district?
A That's my understanding. Yes, ma'am.
MS. LYTLE: Thank you.
CHAIRMAN JABER: Thank you. Thank you, Ms. Sorenson. Thank you for coming back today.
(Witness excused.)
CHAIRMAN JABER: All right. Exhibit 23 is admitted into the record.
(Exhibit 23 admitted into the record.)
CHAIRMAN JABER: And, Aloha, this is, here's the order of witnesses on rebuttal that I'd like to use. You tell me if you have an objection.
I'd like Mr. Nixon to go first, Mr. Porter second, Watford third and Mr. Deterding last. Any objection?
MR. WHARTON: No.
CHAIRMAN JABER: All right. So let's bring Mr. Nixon up on the stand.

ROBERT C. NIXON

was called as a rebuttal witness on behalf of Aloha Utilities, Inc., and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DETERDING:

Q Mr. Nixon, please state your name and employment address.

A Robert C. Nixon, 2560 Gulf-To-Bay Boulevard, Suite 200, Clearwater, Florida.

Q And have you previously provided direct testimony in this proceeding?

A Yes.

Q Did you prepare testimony for this proceeding titled Prefiled Rebuttal Testimony Of Robert Nixon consisting of 43 pages?

A Yes, I did.

Q And if I ask you those questions in your testimony, would your answers be the same?

A Yes.

Q Did you -- I'm sorry. Do you have any corrections to make to that testimony?

A I have a couple.

On page 15, line 19, after OP we need to insert the capitalized letter C.

And on page 36, line 15, with deference to Dr. Whitcomb and Mr. Stallcup, that should be Dr. Whitcomb's instead of Dr. Stallcup's.

And I have one number change on my rebuttal Exhibit 14, page one. The company expense amount should be changed

from $9,100 to $22,000. This will make the exhibit agree with Mr. Watford's rebuttal exhibit concerning in-house rate case costs and the --

MR. JAEGER: I'm sorry, Mr. Nixon, I didn't get that correction. Could you do that again?

THE WITNESS: The company expense, the $9,100 should be changed to $22,000. And that would change the total to $500,013.

BY MR. DETERDING:

Q Okay. That's all your corrections?

A Yes.

Q Okay. And you did prepare in conjunction with your testimony various exhibits entitled RCN-8, RCN-9, 10, 11, 12, 13, 14, 15 and 16; correct?

A Yes.

Q And you have already given us the only changes you have to those?

A Yes.

MR. DETERDING: Okay. I request that Mr. Nixon's testimony be inserted in the record as though read.

CHAIRMAN JABER: Yes. The prefiled rebuttal testimony of Robert C. Nixon shall be inserted into the record as though read.

MR. DETERDING: And have those exhibits marked for identification.

CHAIRMAN JABER: Yes. Staff, are they too large to put into a composite exhibit or with the same clarification the company in their brief and the parties could reference pages of the exhibit, if you'd like.

MR. JAEGER: I believe it can be a composite exhibit and just refer to RCN-9. If it's multiple pages, what pages of RCN-9.

CHAIRMAN JABER: All right. Then it will be composite Exhibit 24 and it's RCN-8 through RCN-16.

MR. DETERDING: Correct. Thank you.

(Exhibit 24 marked for identification.)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ALOHA UTILITIES, INC.

SEVEN SPRINGS WATER DIVISION

DOCKET NO. 010503-WU

REBUTTAL TESTIMONY OF ROBERT C. NIXON, C.P.A.

Q. Please state your name and professional address.

A. Robert C. Nixon, C.P.A., a partner in the accounting firm of Cronin, Jackson, Nixon & Wilson, P.A., 2560 Gulf-To-Bay Boulevard, Suite 200, Clearwater, Florida 33765.

Q. Have you been retained by Aloha Utilities, Inc. to provide documentary information and testimony in that company's application for increased rates for its Seven Springs Water Division?

A. Yes.

Q. Have you previously provided direct testimony in this case?

A. Yes.

Q. What is the purpose of this testimony?

A. To respond to the various issues raised in the direct testimony of witnesses for the Office of Public Counsel (OPC) and the Commission Staff.

Q. How is your rebuttal testimony organized?

A. I will indicate each witness's name and then address the issues raised by the respective witnesses in their testimony.

Hugh Larkin, Jr.

Q. What is the gist of Mr. Larkin's testimony?

A. No increase should be granted to Aloha Utilities, Inc. because it has failed to meet a competitive standard for service, based on his assertions that the quality of Aloha's water is below that available from comparable "competitive" water companies.

Q. Do you believe this to be a serious proposal by Mr. Larkin?

A. No. He provides absolutely no facts to support his contention that there is any difference in the quality of water or services provided, much less that any regulatory body has, or could legally enact such a theory. While he is proposing no rate increase, his Associate, Donna DeRonne, is recommending an increase of at least $635,169, if Mr. Larkin's theory is not accepted. In other words, he is trying to have it both ways.

Q. What is this "competitive standard for service" theory proposed by Mr. Larkin?

A. Mr. Larkin testifies that regulation is a substitute for competition and in a competitive market, the quality of the water delivered should be similar among other water utilities in the market. If, in his view, the quality of a company's water is less than that available from other companies in the market, Aloha or any other utility would not be able to raise its prices in an unregulated and competitive market.

Q. Has Mr. Larkin provided any support for his theory?

A. No. He quotes from a 1961 text written by James C. Bonbright as set forth in his testimony on Page 3, Lines 19 – 23. However, the quoted Bonbright excerpt is dealing solely with rates and charges. At his deposition on November 27, 2001, Mr. Larkin provided a copy of the chapters from Mr. Bonbright's text from which he quoted. The quote comes from Chapter VI, which is titled "Competitive Price as a Norm of Rate Regulation".

Q. What other topics are in that chapter concerning price?

A. On Page 95, there is a discussion under the heading "Association of Competitive Price with Replacement Cost". On Page 97 is a discussion under the heading "The Standard of Pure or Strict Competition".

Q. Based on the text material provided, does Mr. Bonbright believe in the quotation provided in the testimony of Mr. Larkin?

A. Only partially. He agrees that regulation is indeed a substitute for competition but does not believe it is a closely imitative substitute. On Page 107, towards the end of his chapter on Competitive Price, Mr. Bonbright writes the following:

> Regulation, then, as I conceive it, is indeed a substitute for competition; and it is even a partly imitative substitute. But so is a diesel locomotive a partly imitative substitute for a steam locomotive, and so is a telephone message a partly imitative substitute for a telegraph message. What I am trying to emphasize by these crude analogies is that the very nature of a monopolistic public utility is such as to preclude an attempt to make the emulation of competition very close. The fact, for example, that theories of pure competition leave no room for rate discrimination, while suggesting a reason for viewing the practice with skepticism, does not prove that discrimination should be outlawed. A similar statement would apply alike to the use of an original–cost or a fair-value rate base, neither of which is defensible under the theory or practice of competitive pricing. (Emphasis supplied)

> This chapter has been written under the assumption that the utility subject to regulation enjoys a monopoly, so that any emulation of competitive-price behavior would have to be imposed by governmental authority or adopted as a matter of policy. But this assumption is never strictly valid. (Emphasis supplied)

Q. Is there anything else in the Bonbright material provided by Mr. Larkin?

A. We were furnished the first page of Chapter VII, titled "Social Principles of Rate Making".

Q. Is there anything on that page which contradicts Mr. Larkin's theory?

A. Yes, in the last sentence of the first paragraph Mr. Bonbright writes the following:

> Regulation can still be regarded as a substitute for competition-probably as an inferior substitute. (Emphasis supplied)

I have attached the excerpts from Mr. Bonbright's text as Exhibit RCN ___1.

Q. From Mr. Larkin's own quotation on Page 3 of his testimony as well as the other writings of Mr. Bonbright you have noted, is there any mention of competitive "quality" standards?

A. Not that I can see.

Q. Who sets the water quality standards for Aloha and every other water supplier in the state?

A. The regulators, primarily the Florida Department of Environmental Regulation (DEP) and the Federal Environmental Protection Agency (EPA).

Q. Do they provide the water quality standards through rules and regulations as part of the Florida Administrative Code?

A. Yes.

Q. Do they have the power to enforce water quality standards?

A. Yes.

Q. Are these standards applied equally to all potable water providers in Florida?

A. Yes.

Q. Then these regulators would be one of the substitutes for quality competition mentioned by Mr. Bonbright?

A. Yes.

Q. Is Aloha in violation of any of these standards?

A. No. This is according to the direct testimony, filed in the case, of Gerald Foster from the DEP.

Q. What is the Florida Public Service Commission's (PSC) role in water quality?

A. The Commission makes quality of service findings based on the standards of DEP but is also empowered determine customer service associated with the product.

Q. Has the Commission previously considered these matters as they relate to Aloha?

A. Yes. During the period from approximately 1996 through July 2000, the Commission investigated the quality of service, the "black water" issue, and customer satisfaction.

Q. Did that investigation result in a final order?

A. Yes. On July 14, 2000, the Commission issued Order No. PSC-00-1285-FOF-WF in Docket No. 960545-WS.

Q. Did the Commission issue a finding with regard to the standards set by DEP?

A. Yes. On Page 14 of that Order the Commission found as follows:

> The record supports the conclusion that the quality of the water meets all applicable State and Federal standards.

Q. How about the Commission's determination concerning customer satisfaction with the water?

A. The Order found that customers were not satisfied with the product they received, however, on Page 16, the Commission found as follows:

> However, because a significant portion of the customers are clearly dissatisfied with Aloha's overall quality of service, we find that Aloha's customer satisfaction must be considered marginal.

Q. Did that Order direct that certain actions be taken by the Utility and the Staff of the PSC?

A. Yes. The Order required the Company to begin a pilot project to determine the best method for removing hydrogen sulfide from its water and to file monthly reports with the Commission on the progress of that project. The Commission Staff was ordered to conduct a Management Audit concentrating on the area of customer satisfaction. In

addition, the Commission stated it would initiate a Coordinated Agency Action to address the black water problem.

Q. Did the Commission Staff conduct a Management Audit?

A. Yes. The Commission Staff initiated such an audit during 2000, culminating in a report issued March 2001. I have attached a copy of that report to my testimony as Exhibit RCN_____2.

Q. What was the overall opinion of that audit?

A. The overall opinion can be found on Page 4 of the "Executive Summary", as follows:

> However, based upon employee interviews, documents, survey results, and Aloha's new customer database, the degree of satisfaction with Aloha's overall customer service function seems to be high. Additionally, customer problems reflected in inquiries to the Commission have stabilized in recent years. BR review did not identify any significant customer service inadequacies. (Emphasis supplied)

Q. The finding you just quoted mentioned a survey result. Where is that found in the report?

A. The results of that survey are found on Page 21 as Exhibit 5.

Q. What were the overall results of that survey?

A. The last question in that survey was "overall, in your personal experiences, how would you rate Aloha in providing customer service?" According to the survey, 17.5% rated the service poor while 82.5% rated overall service as fair to excellent.

Q. Assuming for the moment that you accepted Mr. Larkin's theory of a competitive standard applied to a regulated market, what do the findings of Order No. PSC-00-1285-FOF-WS and the Management Audit demonstrate?

A. Those two documents, as well as the testimony of Mr. Foster, demonstrate that the

quality of Aloha's water and quality of customer service is not below comparable service from other competing water companies. Thus, his conclusion that Aloha should not be granted a rate increase or otherwise be able to raise prices is invalid under his own theory.

Q. Speaking of Mr. Larkin's theory, has it ever been applied in the State of Florida that you know of?

A. No.

Q. Why do you suppose that is?

A. Because the State of Florida through its legislative process has long ago determined that the price for water service as well as certain other utility services are subject to economic regulation, quality of service, and environmental regulation. This determination has been codified in Chapter 367 FS, Section 25-30 F.A.C. and other applicable sections of Florida law with regard to the powers and functions of DEP and the Water Management Districts.

Q. On Page 5 of his testimony, Mr. Larkin states that it is a well-established principle of regulation that the regulatory process should act as a surrogate for a competitive market. Is this a well-established principle?

A. No. As I mentioned above, even Mr. Bonbright, who was quoted by Mr. Larkin does not believe that this is the case. In addition, I am unaware of any case law or orders issued by the PSC which establish such a principle. Although Mr. Larkin can state the logic for his theory, he fails to present any legal precedent even though he states he can do so.

Q. On Page 6, Lines 5 and 6, Mr. Larkin states that if Aloha faced any competition, it would lose customers in droves – even at the current rates. Has he presented any facts to support that statement?

A. No, this is simply opinion, although his statement does imply that Aloha's customers

currently must enjoy low rates, as compared to other "competitive" utilities.

Q. On Page 6, Line 15, Mr. Larkin states that Aloha is trying to "manipulate the regulatory process". How do you respond?

A. I believe Mr. Larkin is the one trying to manipulate the regulatory process by substituting an unfound theory for the law and rules established in this State to regulate the rates and quality of service for a utility.

Q. Does Mr. Larkin's position make any sense in light of the "poor quality of the water service provided" discussed on Page 4, Lines 4 through 18 of his testimony?

A. No. The primary reason for this rate case is to obtain rates which will enable Aloha to purchase water from Pasco County. Since Mr. Larkin seems to believe that the County's water is superior to Aloha's, I would think he would support this increase in order to improve the quality of water.

Q. On Page 7, Mr. Larkin testifies that rate case expense should be denied in its entirety. What is the basis for his recommendation?

A. Mr. Larkin believes that this water rate case should have been filed with the wastewater rate case (Docket No. 99-1643-SU), filed in February 2000. His testimony is that if that had occurred, there would have been some presumed efficiencies and a second rate case would not have been necessary.

Q. Why is Mr. Larkin wrong?

A. There are several reasons. The first is that at the time that case was filed, Aloha had no basis for requesting an increase in rates. Had Aloha done so, I am quite certain that any rate case expense associated with filing the water portion would have been disallowed since Aloha or its consultants should have known that a water rate increase could not be supported.

Q. Why do you say that Aloha could not have supported a rate case at that time?

A. On May 6, 1997, and February 13, 1998, Aloha filed limited proceedings to obtain recognition of costs associated with Seven Springs water and wastewater line relocations on State Road 54 and Little Road. On September 16, 1998, the Commission Staff began its audit of the books and records of all systems operated by Aloha. To determine whether any rate increases were warranted, the test year ended December 31, 1998 was used. On September 28, 1999, the Commission issued Order No. PSC-99-1917-PAA-WS in Dockets No. 970536-WS and 980245-WS. That Order denied any rate increases for the Seven Springs Water Division. Even after consideration of the additional water line relocation costs, the rates were found to be slightly excessive ($1,289), but the Commission declined to reduce rates, based on materiality. Therefore, based on a test year ended December 31, 1998, there was no reason to believe that filing a full revenue requirements rate case would result in any different outcome, especially since conditions had not changed at that time.

Q. What was the date of that Order?

A. September 28, 1999, just 2 days prior to the close of the test year utilized in the wastewater rate case filing.

Q. What else indicates that it would have been imprudent for Aloha to file a rate case at that time?

A. On July 18, 2000, the Commission opened Docket No. 000737-WS to investigate the rates and charges of the Aloha Gardens water and wastewater systems and the Seven Springs water system, based on the utility's 1999 Annual Report. Aloha underwent a second full Commission Staff audit for the test year ended December 31, 1999. On June 27, 2001, the Commission issued Order No. PSC-01-1374-PAA-WS in Docket No. 000737-WS. Because of the passage of time, the year ended December 31, 2000 was used as a test year to recognize customer growth and the Staff's finding that no major

changes had occurred to investment during that time. Although the Commission Staff was advised on January 23, 2001, that Aloha would need to begin purchasing water from Pasco County and that $655,810 of such costs should be recognized in that proceeding, the issue was not even mentioned in the final Order. In fact, the Order found that Aloha was overearning by $15,559. Although the Commission declined to reduce rates based on immateriality, the amount of overearnings was deferred and has been used to reduce the interim revenue increase in this Docket.

Q. So what you are saying is that from 1998 through 2000, a rate increase for the Seven Springs Water Division could not have been supported, except for the request for recognition of purchased water costs you just mentioned?

A. That is right.

Q. When did Aloha learn that it was faced with large purchased water increases from Pasco County?

A. I believe this was sometime around November 2000. Mr. Watford has provided testimony on this matter in his rebuttal testimony.

Q. What else did Aloha do to minimize regulatory costs associated with the purchase of water from Pasco County?

A. On February 5, 2001, Aloha filed a limited proceeding to recover additional purchased water costs from Pasco County. At the time the limited proceeding was filed, SWFWMD had not issued its emergency order requiring utilities to implement water conservation inclining block rate structures. When that order came out on March 20, 2001, two days before the Staff recommendation, the Commission declined to consider the Company's limited proceeding. In fact, Staff recommended that yet another full review of Aloha's Seven Springs Water earnings was required, despite the fact that there was an ongoing investigation in Docket No. 000727-WS.

Q. Assume that Aloha could have filed a rate request back in 1999 with its wastewater case, would the customers somehow have benefited?

A. No. Assuming that a rate increase similar in magnitude to the one requested in this case had been combined and granted with the wastewater case, the customers certainly would have been paying much higher interim and final rates from approximately May of 2000 to the present. It is obvious that the rates that would have been paid by the customers, including additional rate case expense for the water portion, would have been much greater than the cost of this case, amortized over four years.

Q. How about the issue of a conservation oriented inclining block rate structure?

A. It is not clear whether this issue would have been addressed at the time the wastewater rate case was filed. Certainly, I agree that Order No. PSC-97-0280-FOF-WS put Aloha on notice that a rate restructuring would be necessary. However, it is not clear if such a restructuring would simply be a base facility charge and a single block gallonage charge. If rates had been so restructured, we would still be back before the Commission seeking an inclining block rate structure in a full rate case. I would note that since the date of that Order, Staff has conducted two separate over earnings investigations and audits and has not addressed the rate restructuring issue at all.

Q. Is it your opinion that Aloha's customers have actually benefited by not combining a water rate case with the wastewater case?

A. Yes, for the reasons I have discussed above.

Donna Deronne

Q. Do you have a general comment about Ms. Deronne's testimony?

A. Well, I am somewhat confused as to the legal issues since I am not an attorney.

Q. Why is that?

A. Although her schedules result in a rate increase of $635,169, she states on Page 4, Line

9 that she does not recommend an increase. Again, on Lines 15 and 16 of Page 4, she states that, as discussed by Mr. Larkin, the OPC strongly feels that no increase in rates is appropriate at this time. As a result, I don't know if all of the testimony and appended exhibits supporting the $635,169 rate increase is moot or not.

Q. Assuming that these are questions for the lawyers to sort out, are there issues contained in her testimony with which Aloha agrees and could be the basis for several stipulations in this case?

A. Yes.

Q. Could you please list those issues?

A. These issues are as follows:

1. Interest income should be increased by $7,490.

2. Vacation bills should be extended resulting in additional test year revenue of $4,176.

3. Contributions In Aid of Construction (CIAC) should be increased by $39,341 for the months of April through December 2001, resulting in additional 13-month average CIAC of $27,236.

4. $11,552 of items expensed in Account 620 should be capitalized and accumulated depreciation and depreciation expense should be increased by $613. For the projected test year, operation and maintenance expense should be decreased by $12,396.

5. Bad debt expense should be increased by $1,079.

6. Salaries and wages should be reduced by $21,268 to reflect an allocation of the time of Charles Painter and $8,769 for the double counting of officer salaries in annualized expense.

7. Employee pension and benefits should be increased by $40,509 to

correct the allocation of expense to Seven Springs Water and recognize 2001 pension expense as determined by the plan administrator.

8. Accumulated depreciation related to computer equipment should be increased by $2,262.

9. Accumulated amortization of contributed taxes should be reduced by $10,877.

10. The amount of debt in the capital structure should be increased to include all debt components.

11. The annual amortization of debt discount on the Bank of America construction loan should be corrected to reflect 12 months of amortization, resulting in a reduction of $1,760.

12. The interest rate on the variable rate loans from L.L. Speer should be based on the prime rate plus 2% as of the latest prime rate available before completion of this case.

Q. On Pages 13 and 14 of her testimony, Ms. Deronne recommends disallowing in total, the salaries and employee benefits of the 5 new positions and 5 open positions. Is this reasonable?

A. No. Utility rates are set on a going forward basis necessary to provide safe and efficient service. Aloha has traditionally had a high turnover rate due in part to low salaries. Salary scales were increased effective July 9, 2001, which should greatly reduce turnover. Thus it is unreasonable to deny a provision for salaries of those existing positions which may be open from time to time. Mr. Watford is testifying on this in detail and has actively been recruiting and filling the open positions. With regard to the 5 new positions, Aloha believes these are necessary for continuing to provide good customer service. In particular, the addition of a utility director will enable the

Company to improve its long and short range planning by freeing up some time for Mr. Watford and Ms. Kurish. At present, each of these employees works long hours on various matters better delegated to a new position. The current workload structure leaves little time to adequately address the recommendations contained in the Staff Management Audit (Exhibit RCN ___2). I am aware that Mr. Watford had recruited a person for this position who was employed by a client of mine. Due to circumstances I don't need to cover here, the recruited individual backed out at the last minute. I am also aware that the search for a qualified utility director is continuing, as well as for the other new positions requested.

Q. Assuming some or all of the new and open positions are approved, is any adjustment to employee benefits related to these positions required?

A. Yes. The stipulated adjustments to pension expense increases the employee benefits percentage applicable to these positions. I have attached Exhibit RCN____10 which shows that the benefits percentage should be changed from 12.29% to 22.10%. This results in an increase in pension and benefits for requested proforma salaries of $10,580.

Q. At Ms. Deronne's deposition, she mentioned that she was concerned about a statement in the letter from the Stanton Group (pension administrator), furnished as a late filed Exhibit, which advised Aloha that pension expense would increase to $101,949 for 2001. What was the basis of her concern?

A. I furnished a copy of that letter to OPC as late filed Exhibit 1, to my deposition on October 29, 2001. The letter was dated July 26, 2001 and contained the following statement:

> "We have also enclosed a copy of a letter prepared by John Arveson on March 5, 1999 regarding benefits for Roy Speer. Please review and take special note of the items John pointed out at the end of his letter".

I believe Ms. Deronne wants assurance that none of the current service cost included in 2001 pension expense, as set forth in the Stanton Group letter of July 26, 2001, relates to Roy Speer, a former employee.

Q. Can you provide such assurance?

A. Yes. Mr. Roy Speer was an employee of Aloha and a member of their defined benefit plan from March 1970 until his employment termination on August 27, 1993. The Plan document stipulates the normal retirement age to be 65. Mr. Speer's normal retirement date was July 1, 1997. At this date Mr. Speer was eligible to begin receiving a monthly benefit. As of March 5, 1999, the date of John Arveson's letter to Richard Baker, Mr. Speer had not chosen to begin receiving a monthly benefit. Mr. Arveson's letter is pointing out that Mr. Speer's monthly benefit amount does not increase if he chooses to delay receiving these benefits. As of December 2001, Mr. Speer has not received retirement benefits from this Plan.

Since Mr. Speer was not an employee in 2001, none of the $101,949 pension expense calculated by the Stanton Group includes current service costs associated with providing past, current, or future benefits to Roy Speer. I have attached a copy of the March 5, 1999 letter referred to above as Exhibit RCN ___11.

Q. Please address Ms. Deronne's adjustment to purchased water expense.

A. Ms. Deronne's calculations are based on those of ~~OP~~ OPC witness, Stephen Stewart. Except for the percentage for unaccounted for water, Ms. Deronne has properly made the mathematical calculations. Thus, if the Commission does not adopt the projected gallons proposed by Mr. Stewart, Ms. Deronne's calculation would change, according to the number adopted by the Commission.

Q. What unaccounted for water percentage did Ms. Deronne use?

A. 9.2%. This compares with the 10% factor I used in the Company filing.

Q. Why did you use 10%?

A. I used 10% for a couple of reasons. First, 10% is the acceptable limit for unaccounted for water used by the Commission for many years. Second, the unaccounted for water shown on Schedule F-1, Page 100 of the MFR's indicated two months where the Company sold more water than it had pumped and purchased. I believe that this "negative" unaccounted for water distorted the percentage. If gallons pumped and sold are assumed to be equal during these two months, then the unaccounted for water percentage is approximately 10.8%. Thus, I believe use of a 10% unaccounted for water percentage is reasonable, since we are attempting to normalize the test year for going forward expenses.

Q. Could the Company accept the unaccounted for water percentage used by Ms. Deronne?

A. Yes.

Q. On Page 20, Lines 12 through 21, Ms. Deronne calculates a reduction to projected test revenue of $99,787. Is the appropriate?

A. Only if the Commission accepts OPC's projection of 2001 gallons to be sold. The original projection estimates that the Company will sell less water in 2001 than it did during the 2000 historic test year. Ms. Deronne has therefore reduced the gallonage revenue by the percentage decrease in gallons sold. I agree that an adjustment to projected test year revenue will need to be made to the extent the Commission accepts a lower figure than Aloha's for projected 2001 gallons sold and have no problem with the methodology used by Ms. Deronne.

Q. On Page 21, Lines 4 through 17, Ms. Deronne expresses concerns that the Company did not purchase water from Pasco County beyond March 2001. Do you understand her concern as expressed in her testimony?

A. No. Aloha simply could not afford to purchase any more water than it did because it had

no cost recovery imbedded in its rates. In fact, purchasing the water it did during January through March is the primary reason the Company has a net loss of approximately $198,000 as of October 31, 2001. This has put Aloha in violation of at least one of the financial ratios required in the loan covenants with Bank of America, and has led to numerous inquiries and discussions with that bank concerning the financial condition of Aloha.

Q. On Page 22, beginning at Line 9 and continuing through Page 25, Line 18, Ms. Deronne suggests that if the Company exceeds its consumptive use permit allowance after rates are set in this proceeding, the Company will receive a large windfall profit and goes on to suggest a reporting and deferral mechanism to insure that Aloha does not receive windfall profits. How do you respond?

A. First, the possibility of windfall profits by continued over pumping after this case is completed, is not grounded in reality. The reality of the situation is that the Southwest Florida Water Management District (SWFWMD) is proposing a huge penalty in the mid-six figure range for Aloha's past and present over pumping. Believe me when I say the Company would not want to be subject to continued penalties and fines for over pumping. Monthly reports are furnished by the Company to DEP and SWFWMD who will continue to closely monitor Aloha's pumping. Secondly, Aloha files an Annual Report with the Commission which is used to monitor the earnings of the Company. In fact, such monitoring has resulted in two recent overearnings investigations and two full Commission audits. Believe me when I say that the Company has no desire to continually remain embroiled in proceedings before this Commission. The windfall profit of $427,087 calculated by Ms. Deronne on Page 25 would result in a rate of return of over 30%. This would definitely attract the attention of the Commission in the year such earnings were reported in an Annual Report. In summary, it is simply not realistic

to believe that this would ever occur, once Aloha has rates to cover the cost of purchased water from Pasco County.

Q. Did Ms. Deronne make provision for any estimated costs of the reporting mechanism she has proposed?

A. No.

Q. On Pages 26 and 27, Ms. Deronne recommends adjustments to chemicals and purchased power expense. Please discuss these adjustments.

A. Ms. Deronne makes an adjustment on two grounds. First, she disagrees with using projected ERC growth as a basis to project these expenses and also does not believe that an inflation factor should be used in the projection of chemical expense. With regard to the growth rate, she believes that a more appropriate basis would be the amount of water treated and pumped. Since OPC's witness, Steve Stewart, originally projected less water to be sold in 2001 than was the case in the historic test year 2000, her proposed reductions are based on the decrease in consumption. If the Commission determines that projected consumption will be greater than 2000 consumption, then I presume an increase would be necessary. However, Mr. Stewart's projections are for consumption and not gallons treated and pumped.

Q. Why did you use ERC's?

A. ERC's were used to project base year chemicals and purchased power in the Company's recently completed wastewater rate case, and were accepted by the Commission in that case. Thus, there is some precedent for such an approach. Second, the projected ERC's are based on gallons sold as shown on Schedule F-9, Page 105 of the MFR's. The use of ERC's to project these two expenses assumes that each new customer will consume an additional amount of water for which the Company will incur an additional incremental expense. Therefore, I believe that for these reasons, using the projected

ERC growth rate is a reasonable means to project these two variable expenses.

Q. Are there other reasons to believe that the projection of these expenses is reasonable?

A. Yes. David Porter, P.E. will outline in his rebuttal testimony the reasons why both of these expenses are expected to increase above projected 2001 test year levels, regardless of the methodology used to project these expenses.

Q. Is an inflation factor appropriate to use in projecting chemical costs?

A. Yes. Ms. Deronne indicates that no price increases have occurred for the last 18 months and believes this is a reason not to provide for inflation. Because rates are set on a going forward basis, I believe that an inflation factor is appropriate, despite the fact there have been no recent increases. Sooner or later, Aloha will experience a price increase to the chemicals it purchases and I believe it is reasonable to provide for that eventuality in setting going forward rates. Use of an inflation factor is similar to the Commission's indexed rate increase procedures. All eligible operation and maintenance expenses are increased by the current GNP Price Deflator Index, without a showing on a line by line basis whether an actual increase has occurred.

Q. On Pages 29 and 30, Ms. Deronne discusses her adjustment to working capital for the pilot plant project. Is this adjustment appropriate?

A. No. We included half of the estimated cost of the pilot project ($380,000) in working capital, consistent with the Commission's treatment in the recently completed over earnings investigation of Seven Springs Water System. The project was ordered by the Commission in Order No. PSC-00-1285-FOF-WS, issued July 14, 2000. Because this project was ordered by the Commission, I believe the intent of the treatment in the recent over earnings investigation was to allow proforma recovery of the carrying costs related thereto without any out of pocket costs of this project in rates. Using Ms. Deronne's suggested overall rate of return of 8.67%, $190,000 in working capital yields

approximately $16,500 in revenue per year. This compares to the actual out of pocket costs through August 2001 of approximately $75,000. Thus, it would take approximately 4 ½ years to recover the costs incurred through August 2001. This is hardly a windfall for the utility when compared to the actual and future costs of the pilot project.

Q. Why does Ms. Deronne eliminate this proforma adjustment approved in Order No. PSC-01-1374-PAA-WS issued June 27, 2001 and not finalized until August 16, 2001?

A. I don't know for certain. She does not provide any explanation or justification. I believe her position was influenced by the testimony of OPC witness, Ted Biddy, who believes that the project is substantially complete or she somehow believes that the total project cost of $380,000 should have been substantially incurred by now. Mr. Porter and Mr. Watford are providing testimony to demonstrate that this project is far from complete.

Q. What adjustment has Ms. Deronne made to rate case expense?

A. She has relied on the testimony of OPC witness, Hugh Larkin, Jr., and removed the Company's estimate in its entirety. As noted above, this is unsubstantiated and unreasonable.

Q. On Pages 35 and 36, Ms. Deronne expresses her concerns about the rate design proposed by Aloha in this case. What is her concern?

A. Ms. Deronne is concerned about the manner in which the Company requested funds for conservation programs and the risk of higher water bills from Pasco County.

Q. Are her concerns justified?

A. No. With regard to revenues to fund conservation programs, the Company did not have any estimate of what the actual cost of such conservation programs would be at the time this case was filed. No specific program had been finalized in negotiations with

SWFWMD for a Consent Order. However, the costs proposed through the rebuttal testimony of Mr. Watford have been discussed in detail with the Water Management District Staff and they have agreed as to the appropriateness of all of them. It was certain that such costs will be mandated at some point in the very near future. I believe that the Company's proposal to provide for this eventuality in the rates proposed was reasonable.

Q. What is the risk to Aloha related to higher costs of purchased water from Pasco County and conservation measures?

A. There are three. First, Aloha is aware that Pasco County is in the process of considering massive rate increases to promote conservation, along the lines of those adopted by Sarasota County. Second, there is a substantial risk if the projection of gallons to be purchased from Pasco County is understated or the estimated repression does not occur. This risk occurs because each new connection added to Aloha's system and each additional gallon of water sold will be expensive water purchased from Pasco County. The demographics of such new customers indicates that they will use much more water than has historically been the case for the majority of Aloha's customers. At the same time, Staff is proposing a 2001 projection of gallons sold, which is less than actual sales during the historic test year of 2000. The OPC witness is proposing a small increase, but hasn't taken the demographics of Aloha's new customers into account. Third, Aloha's discussions with SWFWMD indicate that it will be required to spend substantial amounts of money developing an alternative water resource. As a result, I believe that there are significant risks to the Company and that the proposed rate structure and rates at least may ameliorate these risks. Mr. Porter and Mr. Watford have addressed these risks in detail in their testimony.

Q. Will the rate structure proposed by Aloha effectively eliminate risk to the Company at

the expense of the rate payers, as stated by Ms. Deronne on Page 36, Lines 15 through 17?

A. Not at all. As shown in the testimony of Mr. Watford, the costs associated with the risks I outlined above, far exceed the $288,918 provided for in the rates proposed by the Company.

Q. On Page 36, Lines 23 through Line 5 on Page 37, Ms. Deronne seems to indicate that an estimate of the actual cost of conservation programs should be addressed in this proceeding in place of the amount provided for through the rates proposed by Aloha. Do you agree with this approach and are such estimates available?

A. I would not object to this approach, since Aloha now has a fairly good idea of what the conservation programs will cost. These costs are outlined in detail in the rebuttal testimony of Mr. Watford. However, there are other costs associated with the risks outlined above, which should also be addressed before replacing the amount provided for in the rates proposed by Aloha.

Stephen A. Stewart

Q. What "model" has Mr. Stewart used to project consumption for 2001?

A. He has simply averaged the data in Column (6) shown on Schedule F-9, Page 105 of the MFR's and multiplied that average by the Company's projection of ERC's.

Q. What is the impact of this approach?

A. The impact of this simple averaging approach is to reduce consumption per ERC to 265 gallons per day, which is approximately the same level consumed in 1997 and 1998.

Q. How does the simple averaging approach compare to more recent consumption?

A. As shown on Schedule F-9 of the MFR's, annual consumption per ERC was approximately 101,000 gallons in 1999 and 2000. This equates to approximately 276 gallons per day per ERC. Thus, the impact of Mr. Stewart's calculation is to reduce

consumption per ERC below that actually experienced by the Company for the past two years. His calculation is not representative of the usage per ERC on a going forward basis.

Q. Is there consistency to Mr. Stewart's approach?

A. No. His "model" is very inconsistent.

Q. Please explain.

A. On the one hand, Mr. Stewart uses a simple average to determine the gallons sold per ERC and on the other, applies his result to projected ERC's based on six-year linear regression, as used by Aloha on Schedule F-9. Since the data in Column (8) on Schedule F-9 is derived from Columns (6) and (7) and then regressed over 6 years, his approach is very inconsistent.

Q. What else has Mr. Stewart ignored?

A. He has ignored the demographic shift and the characteristics of new customers presently being added to Aloha's system. Aloha's new customers are generally more affluent, homes and lots are larger, and many are families. Traditionally, Aloha's customer base has included retirees and retirement sized homes with two or less persons per household. Mr. Porter and Mr. Watford will address this issue in more detail in their testimony.

<u>Stephen B. Fletcher</u>

Q. First, describe the nature of Mr. Fletcher's testimony.

A. Mr. Fletcher's testimony deals solely with related party purchases of raw water in an effort to determine if these purchases are reasonable at their current cost of $.32 per thousand gallons.

Q. When were the agreements to purchase raw water entered into?

A. The original agreement with Tahitian was in 1977 and the agreement with Interphase was entered into in 1978. At that time, both of these agreements were based on a price

of $.10 per thousand gallons, which was identical to a similar third-party agreement with Jack Mitchell, entered into in 1975.

Q. Was the $.10 per thousand gallons required under the Mitchell agreement ever approved by the Commission?

A. Yes. In the 1976 Aloha Rate Case Order, the cost of purchased water from Mitchell was recognized at $.10 per thousand gallons.

Q. What is Mr. Fletcher proposing?

A. Mr. Fletcher wants to go back 24 years in the case of the Tahitian agreement and 23 years in the case of the Interphase agreement and second-guess the prudency of the decision to purchase raw water from these related parties at that time. He proposes that the regulatory 1977 and 1978 original cost and rate of return model be used to assess the fairness of the charges today.

Q. Has the Commission been made aware of these purchases of raw water from related parties through the years?

A. Yes. These purchases have been disclosed in the annual reports filed with the Commission since at least 1978.

Q. Has the Commission ever objected to these transactions?

A. Not until Docket No. 000737-WS, which was initiated on July 18, 2000.

Q. Was this an issue in the Commission's audit and rate investigation which culminated in Order No. PSC-99-1917-PAA-WS, issued September 28, 1999 and based on the test year ended December 31, 1998?

A. No. In fact, the Commission Audit Report dated December 14, 1998 contained Disclosure No. 6 related to purchased water. In that disclosure, covering the year 1997, the cost per gallon for related party purchases, as well as unit costs per gallon after factoring in pumping and chemical costs, were presented. Since this disclosure was not

utilized or made into an issue in Order No. PSC-99-1917-PAA-WS, one can only presume that the related party costs for purchased water were deemed reasonable, by the Commission. I have enclosed a copy of the cover page and this disclosure as Exhibit RCN ____12.

Q. What principle should come into play here?

A. I believe the principle of regulatory finality needs to be exercised in this case. Certainly, going back as far as 24 years at this time, to second guess the prudency and cost effectiveness of Aloha's 1977 and 1978 decisions, when the Commission has not objected to those decisions, is unreasonable and certainly unfair. Particularly, when one considers the alternatives available to Aloha to replace this water as discussed by Mr. Watford in his testimony.

Q. What is Mr. Fletcher proposing?

A. On Page 10, beginning at Lines 15 through Page 11, Line 2, he is suggesting that the $.32 per thousand gallons be reduced to $.10 per thousand gallons, resulting in an adjustment to purchased water of $88,330. This adjustment would reduce the price of water purchased from related parties to the same price charged under the 1975 agreement with Mitchell, a third party.

Q. In proposing this adjustment, what has Mr. Fletcher overlooked?

A. I believe he has overlooked the concept of present value and the time value of money from the standpoint of the suppliers of raw water. Obviously, a dollar or $.10 today is worth less than that same dollar or $.10 was worth 23 or 24 years in the past. In my opinion, that is why the related party agreements contained an escalation clause. The related party holders of the water rights wanted some mechanism to insure that the $.10 per thousand gallon price originally agreed to retained a value of $.10 despite the passage of time.

Q. If the current related party price of $.32 is discounted back to 1977 and 1978 for the respective agreements, what are the related parties receiving in terms of 1977 and 1978 dollars?

A. The $.32 received by Tahitian amounts to $.03 in 1977 dollars and the Interphase price equates to $.04 in 1978 dollars. I have attached Exhibit RCN ____13 showing the calculation.

Q. What discount rate is used on your Exhibit?

A. I have used a discount rate of 10%, since that was the overall rate of return established in the 1976 rate case when the 1975 agreement with Mitchell was recognized by the Commission. That approved rate of return of 10% was in effect for Seven Springs Water until it was changed on September 28, 1999 by Order No. PSC-99-1917-PAA-WS.

Q. What else does Exhibit RCN ____13 show?

A. I have shown what the prices under the two contracts should be today, in order to preserve the $.10 per thousand gallon value called for in the Original Agreements.

Q. What are those prices?

A. The prices today would need to be $.98 and $.90 per thousand gallons for Tahitian and Interphase, respectively, to equate to the original price of $.10.

Q. What discount rate applied to the current price of $.32 would result in the inception price of $.10?

A. The effective discount rate is approximately 5%. This is shown on Page 2 of Exhibit RCN____13 and is indicative of what has really occurred.

Vincent C. Aldridge

Q. Have you read Mr. Aldridge's testimony and the Commission Audit Report Appended to his testimony?

A. Yes.

Q. Does Aloha agree?

A. Yes. Aloha is willing to accept each of the adjustments contained in his testimony and audit report.

Paul W. Stallcup

Q. What issues does Mr. Stallcup cover in his testimony?

A. His testimony deals primarily with projected customer growth, projected gallons sold, and proposed rate structure.

Q. What has he concluded concerning the customer growth projection?

A. Mr. Stallcup has accepted the Company's projection of 473 new ERC's, which equates to a growth rate of 4.6888%.

Q. What methodology did the Company use to project ERC's and growth?

A. The Company used linear regression as shown on Schedule F-9 of the MFR's.

Q. Did Aloha use linear regression of the data on Schedule F-9 to project gallons sold?

A. No.

Q. Why didn't Aloha use this approach?

A. On April 10, 2001, the Commission Staff and Aloha had an informal meeting to discuss the parameters of a rate case filing. The conference was held shortly after the Commission declined to consider a rate increase for the increased costs of purchased water from Pasco County in a limited proceeding. The purpose of the meeting was to determine an acceptable test year and any special requirements Staff would be looking for in the filing. One of the things Aloha was advised of was that in projecting the gallons sold for 2001, the projection should include the impact of increased usage by new customers added to Aloha's system. Staff was aware of the demographic shift whereby new customers were using more water, as indicated by the wastewater case in

Docket No. 991643-SU. As a result, Mr. Porter developed the methodology contained in his testimony, which recognized the increased usage by Aloha's new customers.

Q. Briefly describe the methodology used by Mr. Porter.

A. Mr. Porter determined the average daily use for new customers added to Aloha's system in subdivisions created less than 10 years ago for the period July 1, 2000 through June 30, 2001. The result was 500 gallons per day per ERC. This usage was multiplied by the projected 473 new ERC's to be added to the system and added to the actual 2000 gallons sold of 1,018,747 gallons (000). This resulted in projected going forward water sales for 2001 of 1,105,068 gallons (000), before any provision for unaccounted for water.

Q. What did Aloha's projection equate to in terms of gallons per day per ERC?

A. An average demand of 286 gallons per day per ERC.

Q. How does this compare with the average gallons per day per ERC in 1999 and 2000?

A. Per Schedule F-9 of the MFR's (Page 105) Column 6 shows the annual gallons used per ERC in thousands. As indicated, average annual usage was 101,000 gallons in these years. When divided by 365 days, average usage per ERC for both 1999 and 2000 amounted to 276 gallons per day (GPD).

Q. What method has Mr. Stallcup used?

A. He has used a model based on multiple linear regression using quarterly data from January 1996 through June 2001. The model uses a moisture deficit variable, a current quarter and four-quarter lagged consumption driver and three binary variables. Mr. Porter and Mr. Watford will address the technical aspects of his model and the appropriateness of its use to project test year consumption on a going forward basis.

Q. Are you aware of any other cases where the Commission has accepted the results of Mr. Stallcup's model, utilizing the variables you just mentioned?

A. None that I am aware of. In fact, Mr. Stallcup stated in his deposition (Page 101, Lines 8 – 18) that he was not aware of any other case where the particular variables used in his model were utilized by the Commission.

Q. What were the results of Mr. Stallcup's projection of consumption?

A. His model projects 1,001,022 gallons (000) for the projected test year.

Q. What does his projection equate to in gallons per day per ERC?

A. 260 gallons per day per ERC.

Q. How does his projection compare with the gallons per day per ERC derived from Schedule F-9 of the MFR's?

A. As previously noted, actual consumption in 1999 and 2000 was 276 GPD per ERC. One has to go back to 1996 to find average daily consumption of 260 GPD.

Q. Then the forecast produced by Mr. Stallcup's model, no matter how valid statistically, results in usage per ERC experienced by Aloha in 1996?

A. Yes.

Q. Does this seem reasonable to you?

A. No. The data on Schedule F-9 indicates that daily consumption per ERC was 246 GPD in 1995 and has steadily risen to 276 GPD by the end of 1999 and 2000. His result is simply counter intuitive, especially when one considers the shift in demographics which has resulted in each new customer using much more water than has been used by Aloha's older customer base.

Q. Did Mr. Stallcup do any "sanity check" with regard to the forecast produced by his model?

A. Yes. During his deposition (Page 32, Lines 11 – 16) he stated that the model was forecasting very accurately for the first six months of the 2001 test year, because he had actual data available.

Q. What's wrong with that?

A. During the first six months of 2001, the service area was under the most severe watering restrictions in history. Irrigation was limited to one day per week, fines of $250 for first violation and water police were in the area to enforce these restrictions. At the same time, there were some periods in which high rainfall was experienced. There has only been recent discussion that these restrictions will be lifted. These restrictions were not accounted for in Mr. Stallcup's model and may explain why the gallons per day usage per ERC is so low. Mr. Porter and Mr. Watford will discuss this anomaly in greater detail in their rebuttal testimony.

Q. Did Aloha do its own "sanity check" of the projected gallons shown in the MFR's?

A. Yes. The Company performed a linear regression of the data on Schedule F-9, Column (6). This resulted in projected annual usage per ERC of 104,000 gallons. When divided by 365 days, this approach forecast daily use per ERC of 285 GPD. As I mentioned above, Mr. Porter's projection as contained in the MFR's, resulted in an average daily use of 287 GPD per ERC. Mr. Porter will discuss this linear regression in further detail in his rebuttal testimony. In any case, Mr. Porter's original result and the linear regression of gallons sold per ERC are virtually identical.

Q. Is the linear regression of gallons sold per ERC consistent with the method used to project total ERC's which has been accepted by all parties in this proceeding?

A. Yes.

Q. What type of analysis does the MFR's require?

A. Certainly, the Commission's preference is for linear regression and I believe it is now a requirement. Consistent with the data on Schedule F-9 of the MFR's, I believe that regression of the data on Schedule F-9 is what is intended for the projection of ERC's as well as gallons. To require utilities to project consumption based on a model such as

Mr. Stallcup's would drastically increase the cost of preparing MFR's and rate case expense. In my opinion, this is an undue refinement for the water and wastewater industry.

Q. What is Mr. Stallcup's objection to linear regression of gallons per ERC, gallons, or ERC's as shown on Schedule F-9 of the MFR's?

A. He believes that use of linear regression applied to this data produces a forecast explained only by the passage of time and believes a more sophisticated approach should be used.

Q. Is his concern valid?

A. Not entirely. While it is true that the data on F-9 changes with time, implied in such change are all the effects of weather, changing demographics and all other factors which affected the actual increase in ERC's, usage per ERC and total gallons sold over the past six years. So I don't believe the explanatory mechanism is simply the passage of time.

Q. How has the Commission traditionally used the data on Schedule F-9 to project ERC's and gallons?

A. The Commission has used linear regression of the data on F-9 for these projections. In fact, Rule 25-30.431 requires use of linear regression applied to average ERC's on MFR Schedules F-9 and F-10 for purposes of computing a 5-year margin of reserve.

Q. Why is it vitally important to Aloha that the projected gallons in this case not be understated on a going forward basis?

A. This case was filed primarily to obtain rates sufficient to cover the cost of purchased water from Pasco County so Aloha could meet the limitations of its Consumptive Use Permits (CUP). Since Aloha will utilize water from its wells to the maximum extent allowed by its CUP permits, each new customer added to the system will be using water purchased from Pasco County at a high marginal cost. If the gallons are understated on

a going forward basis, Aloha will not have sufficient revenues to pay the incremental costs of purchasing water from Pasco County.

Q. Why did Aloha propose a two-block inclining rate structure?

A. Adoption of an inclining block rate structure was ordered by SWFWMD to promote conservation. A two-block structure was recommended to Mr. Watford by SWFWMD's consultant, Dr. Whitcomb.

Q. Did you compute two-block inclining rates using the traditional Commission approach?

A. Yes. Once the revenue requirement was determined, I calculated such rates using 8,000 and 10,000 gallon capped blocks, with revenue recovery spread over the Base Facility Charge (BFC) and all gallons. Factors considered as a multiple for the second block were 1.25 and 1.50. In addition, BFC's were based on 38% and 35% recovery of the revenue requirement.

Q. Did you model these rates using SWFWMD's water rate model developed by Dr. Whitcomb and what were the results?

A. Yes. In each case, the model predicted revenue shortfalls. These shortfalls ranged from approximately $(139,000) to as much as $(228,000), before consideration of revenue for conservation programs. Therefore, they were considered unacceptable.

Q. What rate structure is Mr. Stallcup recommending?

A. He is recommending a BFC designed to recover 25% of the revenue requirement and three usage blocks. These blocks are 0 to 8,000 gallons, 8,000 gallons to 15,000 gallons and over 15,000 gallons.

Q. Is a 25% allocation of revenue to the BFC sufficient to cover Aloha's fixed costs?

A. No. I have attached Exhibit RCN _____15, which shows that Aloha's fixed costs are approximately $1,375,000 and represent approximately 46% of the requested revenues in this case.

Q. Does the Commission have a rule concerning what is to be recovered in the BFC?

A. Yes. Rule 25-30.437 (6) states as follows: "The base facility charge incorporates fixed expenses of the utility and is a flat monthly charge. This charge is applicable as long as a person is a customer of the utility, regardless of whether there is any usage."

Q. How does Mr. Stallcup get around this rule?

A. On Page 24 beginning at Line 22 and continuing through Page 27, Line 4, he believes that the appropriate BFC should be one that permits the utility to recover a significant portion of its fixed cost, while at the same time sending customers pricing signals to encourage them to control water usage. While admitting that this may place the utility at risk for greater revenue instability, he believes that the base line level of water sold to customers in the first block, together with the BFC and water sold to general service customers is sufficient for recovery of Aloha's fixed costs. Thus, he concludes it is not necessary for Aloha to recover 100% of its fixed costs through the BFC.

Q. What is wrong with this proposal?

A. In addition to being contrary to the rule noted above, I believe this proposal puts Aloha at risk for recovery of its fixed costs, given the high marginal cost of Pasco County water and Staff's projection of gallons, which puts them back at a consumption level per ERC experienced in 1996. This is particularly risky when Aloha can document that all of the customers added on a going forward basis will use approximately 500 GPD per ERC. In addition, a big unknown is the amount of actual repression which may result in the first block of consumption. As noted by Mr. Stallcup in his testimony on Page 23, Line 22, consumption in the first block to 8,000 gallons captures 61% of total consumption.

Q. On Page 26, Lines 4 through 10, Mr. Stallcup mentions that the Company's rate proposal resulted in 31% of revenues recovered through the BFC. Is this accurate?

A. It is mathematically correct from the calculations derived from Schedule E-13. However, The 31% is misleading since the Company requested total recovery of its revenue requirement in the first block of consumption. Thus, all of the revenue derived from the second block is revenue which dilutes the BFC percentage. If the revenue from the second block is excluded from the calculation, the BFC proposed by Aloha actually recovers slightly over 40% of the total revenue requirement.

Q. Why did Aloha choose to use a 40% level of revenue recovery in the BFC?

A. This percentage was derived from Table 2-2 of "Recommendations For Defining Water Conserving Rate Structures, August 1999", published by SWFWMD, and written by John B. Whitcomb, PhD. In that Table, fixed charges recovering 40% of revenues produced approximately a 16.7% reduction in water use. Based on this Table, which we furnished to Staff during discovery, I believe that the 40% revenue recovery in the base charge was reasonable.

Q. At his deposition, Mr. Stallcup indicated that although his rate design proposal might be risky, he did not believe that the level of risk was any greater than the risk of a company earning a rate of return on investment. Do you agree?

A. No. It is one thing for utility owners to risk earning a rate of return on their investment, but quite another to risk shortfalls in revenue to cover fixed costs, and in this case, the high marginal cost of purchased water from Pasco County. The risk that a company should breakeven should be minimal, especially when rates are being established in a rate proceeding such as this one.

Q. Mr. Stallcup's recommended rate structure is shown on Exhibit FJL-11, Page 6 of 6. What are the 4 columns of rate factors shown on that exhibit?

A. These are the multiples applied to the gallonage charge for the first block (8,000 gallons).

Q. Has Mr. Stallcup recommended an appropriate set of rate factors multiples?

A. No.

Q. Beginning on Page 27, Line 15 and continuing through Page 28, Line 5, Mr. Stallcup discusses repression and price elasticities. What is Mr. Stallcup recommending?

A. He is recommending that 50% of the price elasticities set forth in the SWFWMD "Water Price Elasticity Study", revised August 1999, by Dr. John B. Whitcomb Ph.D be used to determine repression in the first year.

Q. What are those elasticities?

A. Per Page ES-4 of the Water Price Elasticity Study (ES), the elasticities recommended by Mr. Stallcup are as follows: gallonage prices below $1.50 per thousand gallons, - 0.398; between $1.50 and $3.00, - 0.682 and over $3.00, - 0.247.

Q. What does Dr. Whitcomb recommend in his testimony?

A. Dr. Whitcomb recommends use of the price elasticity algorithm contained in the Water Rate Model or use of constant unit price elasticity of –0.5 over the long run. (Page 7, Lines 14 – Page 8, Line 8, Page 3, Lines 14 – 16). Also, he agrees that the only half (50%) of the long term elasticity impact will occur in the first year. Thus, the appropriate elasticity recommended by Dr. Whitcomb is – 0.25.

Q. Has Aloha been furnished any calculations by Staff to indicate how repression would be determined, using the price elasticities adopted by Mr. Stallcup in his testimony?

A. Yes. On Friday, December 14, 2001, Aloha took the deposition of Mr. Stallcup and he was asked to provide late filed Exhibit No. 7, which would calculate rates using the rate structure he is proposing on Exhibit FJL-11, 6 of 6. We asked that the rates be calculated on a pre-repression and post-repression basis, assuming the revenue requirement requested by Aloha. I want to thank Mr. Stallcup and his Staff for preparing this Exhibit and can appreciate the work involved on short notice. We

received that information on December 19, 2001 and I have attached it as Exhibit as RCN ____16.

Q. What was the purpose of requesting the information contained in that Exhibit?

A. First, to learn an order of magnitude estimate of the rates Staff would be proposing and the methodology employed; second, to see how repression would be calculated; and third, to input the Staff developed rates into the SWFWMD water rate model developed by Dr. Whitcomb.

Q. With regard to repression, what price elasticity did Staff use?

A. Staff used 50% of the long run elasticity of – 0.682, or – 0.341, as shown near the lower middle portion of Page 2 of Exhibit RCN ___16. This compares to -0.25 recommended by Dr. Whitcomb, as I discussed above.

Q. What would be the impact of substituting Dr. Whitcomb's recommended elasticity?

A. The repression of gallons sold (000) to residential customers would drop from 138,092 to 100,185, a decrease of (37,907) or 27.45%.

Q. What else would decrease by using Dr. ~~Stallcup~~ Whitcomb's recommended elasticity?

A. Page 2 of Exhibit RCN ___16 contains Staff's pre-repression calculations and Page 3 the post-repression calculations. The second effect is shown in the lower middle section of Page 3 and relates to the avoided purchased water costs from Pasco County, due to repression. As one can see the repressed gallons (using Staff's elasticity) outlined above is multiplied by the Pasco County charge per 1,000 gallons to arrive at avoided purchased water costs of $303,803. By using the repressed gallons noted above under Dr. Whitcomb's recommendation, (100,185) avoided costs would drop from $303,803 to $220,407, a decrease $(83,396) or 27.45%.

Q. Why is this important?

A. Staff's use of the higher elasticity reduces the revenue requirement and the resulting

gallonage charge. If repression does not occur as predicted by Staff, and is similar to the repression produced using Dr. Whitcomb's recommended elasticity, Aloha will need to purchase 37,907 gallons (000) of water at a cost of $2.35 totaling $89,081, for which no recovery is included in the revenue requirement or rates.

Q. I notice Staff used $2.20 per thousand gallons instead of the current price of $2.35. Is this a problem?

A. Not for the informational purposes of the Exhibit I discussed above. The MFR's contain a cost of $2.20 per thousand and we asked Staff to prepare rates using the revenue requested. However, as I pointed out in my direct testimony, that cost was anticipated to increase, and the known cost should be used in setting final rates. That cost is now known to be $2.35 per 1,000 gallons and I believe all parties agree that this new rate should be used in setting the revenue requirement and rates in this proceeding. In any case the impact would still be $(89,081) for the calculated differences in repression related to purchased water, in the calculation of final rates based on the final revenue requirement established in this case.

Q. Looking at Page 2 of the Exhibit, Line 4, what is the 34% "conservation and miscellaneous revenue adjustment" of $(391,792)?

A. This adjustment lowers the BFC revenue recovery percentage from 38% (as contained in the development of the BFC proposed by Aloha) to 25% as recommended by Mr. Stallcup and shifts the $391,292 to the gallonage charge.

Q. Is this really a conservation adjustment?

A. Only to the extent that increasing the gallonage charge may tend to encourage conservation, as indicated in Mr. Stallcup's testimony. It is not a true "conservation" adjustment such as repression or recovery of conservation program costs.

Q. As a result of this shift in BFC revenue to gallonage revenue, what is the amount of BFC

revenue recovered in the BFC as proposed by Staff?

A. $760,538 as shown on Page 2, Line 5, Part 2 of the Exhibit.

Q. How does this compare to Aloha's actual fixed costs?

A. As shown on Exhibit RCN____15, Aloha's actual fixed costs are approximately $1,375,000, or $614,462 higher.

Q. What rates result from the calculations shown on Page 2?

A. Staff has calculated a BFC of $6.09; a general service gallonage charge of $2.28; and inclining block rates of $1.77, $1.66, and $3.54 for the respective blocks. The rates for the respective blocks are based on block multiples of 1.00 (8,000K), 1.50 (8K – 15K) and 2.00 (over 15K). These rates and factors are shown in the top section of the page under the headings "Part 3" and "Part 1", respectively.

Q. How does Staff's calculated BFC of $6.09 compare with Aloha's existing BFC?

A. Aloha's BFC before the interim rate increase was $7.32.

Q. Does Staff's calculated BFC conflict with Mr. Stallcup's testimony?

A. Yes. On Page 25, Lines 7 – 9, he states that "due to revenue stability concerns, the BFC allocation percentage should not be decreased to the point that the new BFC is less than the current BFC" (emphasis supplied).

Q. Does it matter that Aloha's current BFC includes a 3,000-gallon minimum?

A. No. Aloha's current BFC is charged whether a customer uses zero gallons or 3,000 gallons. Thus, 100% of the revenue from BFC's is a fixed source of revenue to cover Aloha's fixed costs.

Q. What is the "Revenue Stability Analysis" shown to the left side of Part 4, in the middle of Page 2 of your Exhibit?

A. This appears to be an attempt to alleviate concerns regarding the ability of Aloha to recover its average monthly cash outflows, using the rates calculated by Staff.

Q. Is the analysis accurate?

A. No. First, cash flow is not an appropriate basis on which to gauge the sufficiency or stability of rates. Using this approach eliminates recovery of depreciation expense, which is capital recovery over the useful life of a utility's assets. It also eliminates the opportunity to earn a fair rate of return. Recovery of both these items is required by Chapter 367.081(2)(a).

Q. Mechanically, why does the cash flow approach, as depicted on this page, over state the cash flow estimate and what is the result of the cash flow estimate?

A. The minimum monthly gallons sold (000) of 70,000 gallons appears to be total repressed gallons shown on Page 3 of the exhibit (left side under Part 1, middle of page) divided by 12 months (862,929/12 = 71,911) and rounded to 70,000 gallons. This can't be an accurate estimate, since it assumes that 100% of projected gallons sold will be available as a minimum source of cash flow. Together with 100% of BFC revenue, the analysis indicates that the minimum cash flow that can be expected is $(13,254) short of Aloha's monthly requirements, and $(159,048) short on an annual basis.

Q. I want to go back to the elimination of depreciation and the rate of return from Staff's analysis. Isn't there a real cash outflow related to each of these items?

A. Absolutely. The rate of return is based on the weighted cost of debt and equity. That return is intended to provide revenue to pay the monthly/annual interest expense related to the debt component. Depreciation expense provides the cash to cover a portion of the monthly/annual cash outlay for repayment of the principal portion of debt.

Q. I notice that the gallonage charge used to calculate minimum gallonage revenue is $2.28. What is this, and what has been overlooked?

A. The $2.28 is the general service rate before factoring the residential gallons for calculation of block residential rates and before any repression. It represents the average

rate for all customer classes. What has been overlooked is that repression will cause shifts in customer usage downward to lower blocks with lower gallonage charges. Although the SWFWMD non-linear Water Rate Model developed by Dr. Whitcomb captures this effect at every consumption level, and is therefore more accurate, the linear application used by Staff does not capture these effects. As a result, I believe the use of the $2.28 gallonage charge is overstated. This would make the cash flow shortfall even greater than depicted by the Staff analysis.

Q. Moving to Page 3 of Exhibit RCN ___16, the "post repression calculations", are your comments concerning those calculations generally the same as those you have made for the "pre-repression" calculations shown on Page 2?

A. Yes, but there are a few differences I would like to point out. First, the percentage of BFC revenue has been increased from 25% to 28% (Line 4). This results in an additional $11,523 to be recovered in the BFC. The BFC increases from $6.09 to $6.18. The impact of this change is immaterial.

Second, the gallonage charges remain the same. This occurs because the reduction in revenue for avoided purchased water costs from Pasco County was based on $2.20 per 1,000 gallons and the reduction in gallons sold for repression is made at an average cost of $2.28, which is not a big difference. Together with the $11,523 shift in BFC revenue, the net increase in gallonage revenue would only be $477. This would not change the residential gallonage rates as originally calculated on Page 2.

Q. Any additional comments regarding the revenue stability analysis in Part 4 on Page 3 of the Exhibit?

A. Yes. The cash flow shortfall on Page 2 has turned into a cash flow excess of $12,999 on a monthly basis and $155,988 on an annual basis. This occurs because the revenue requirement has dropped for the impact of $303,803 in avoided costs of purchased water

from Pasco County. At the same time, the minimum monthly gallons sold and gallonage rate used in the analysis on Page 2 has not changed and has the same overstatement of cash flow previously discussed. The removal of depreciation and rate of return is inappropriate for the reasons discussed above related to the calculation on Page 2.

Q. Mr. Nixon, you do understand that the Staff calculations on Exhibit RCN ___16 are illustrative and do not represent the rates that will be proposed by Staff pending determination of the final revenue requirement in this proceeding, do you not?

A. Absolutely. My concern is with the methodology presented in this exhibit and its application to the revenues established in this case to develop final rates.

Q. Do you see an inherent difference between the methodology used by Staff and the methodology employed in the Water Rate Model developed by Dr. Whitcomb?

A. Yes. The Staff approach is linear, but attempts to obtain results similar to the approach developed by Dr. Whitcomb in his model. For example, the Staff approach attempts to forecast repression on a linear basis using a constant unit price elasticity of –0.682. This fails to account for non-linear shifts in usage at each consumption level along the price elasticity curve used in Dr. Whitcomb's model. I have discussed this previously, but would note that the –0.682 used by Staff is at the Apex of the elasticity curve developed by Dr. Whitcomb. In other words, Staff has used the highest elasticity on the curve and applied it uniformly to all consumption to predict repression. As I mentioned previously, if Aloha does not experience the repression predicted by Staff, it will not have the revenue needed to pay for purchased water from Pasco County.

Q. Has Aloha modeled the Staff calculated rates in Exhibit RCN ___16 in the water rate model?

A. Yes.

Q. What were the results?

A. The water rate model indicates a shortfall in revenue the first year of $(81,930), which increases to $(203,350) in the second year. Mr. Watford will discuss this in detail in his rebuttal testimony.

Q. Do you have anything further to add?

A. I have one other important observation concerning the illustrative rates developed by Staff. The average gallonage rate of $2.28 is less than the present Pasco County bulk water rate of $2.35. Thus, I believe Aloha would experience a revenue shortfall almost immediately, if these rates were implemented.

Q. One more question. How unique is this case in your experience?

A. I believe it is a one of a kind case. The Commission has not had a long history of developing conservation rates such as are now required by SWFWMD. To my knowledge no rules have been developed to implement procedures for determining conservation rates. Conservation rates of one form or another have probably been set in less than a dozen cases by the Commission. At the same time, Aloha will incur a huge increase in the variable cost of purchased water. Compounding the problem is the shift from a minimum gallons base charge to a gallonage charge for every gallon used. All of these factors combine to make this case uniquely complex and probably the only one of its kind ever considered by the Commission. If the risks to Aloha are not reasonably minimized, Aloha will be back before this Commission within a year or possibly less, at a high and unnecessary cost to Aloha's customers.

Q. How can this risk be minimized?

A. I recommend that the final revenue requirement and rates developed by Staff be input in the SWFWMD Water Rate Model developed by Dr. Whitcomb. To the extent a revenue deficiency is predicted, the gallonage rates should be adjusted upward to reach

the point where the revenue surplus/shortfall is zero in the first year. I believe this is a reasonable approach which does not offer any guarantees to Aloha, but is the best "guess" of what is likely to occur, using the most sophisticated tool currently available to the Commission and all parties in this case.

Rate Case Expense

Q. Is there anything else you need to address in your rebuttal testimony at this time?

A. Yes. I need to address the issue of actual and estimated rate case expense at this time. Total actual and estimated rate case expense as of the date this testimony was filed is $443,443. I have prepared Exhibit RCN _____ 14, which shows the actual and estimated expense at this time. Although the total rate case expense is in line with the estimate shown in the MFR's, final expense may be substantially higher depending on the extent to which the Company must provide answers to discovery over and above the original 100 interrogatories established as a limit in this case and the number of depositions required, including 3 separate depositions of utility witnesses. In addition, the number of witnesses is unusually large compared to other cases Aloha been involved in, which has required more extensive discovery (depositions) and rebuttal. In accordance with general Commission practice and procedures, we will furnish an updated exhibit of actual and estimated rate case expense as a late filed exhibit after hearing.

Q. Do you have anything further to add at this time?

A. No.

BY MR. DETERDING:

Q Mr. Nixon, can you give us a summary of your testimony?

A Yes. In my rebuttal I've tried to point out areas where we have disagreements with various witnesses, both of OPC and Staff.

With regard to Mr. Larkin's testimony, we, we don't believe in his competitive theory in regards to quality of service. I also conclude that the notion that rate case expense should be denied in its entirety because the company could have filed a rate case two years ago is really not in line with the facts and circumstances. And certainly I believe the customers were well served and had some cost savings by not combining those, those cases at that time.

With regard to Ms. DeRonne's testimony, most of the issues in her testimony we've stipulated to. I can't think off the top of my head which ones we're still in disagreement with. There's probably a couple.

I comment very briefly on the testimony of Mr. Stewart's use of the simple six year average as the basis of his projection of gallons.

With regard to Mr. Fletcher, who has testified on the related party purchased water agreement, I believe the concept of regulatory finality needs to come into play here. These agreements have served Aloha and its customers well for 23 and

24 years for the two agreements. If you accept the notion that a dollar today is not worth as much as a dollar was 23 or 24 years ago and do a discounted present value of the cost per thousand gallons, I think the current prices of those related party agreements are very reasonable, particularly in light of the costs and so forth of the alternatives. I just can't understand why we want to upset something that has served Aloha and its customers well for many years.

With regard to Mr. Stallcup, probably a lot of what I say in here may not be strictly on point after this testimony was prepared. We had a chance to take Mr. Stallcup's deposition and had a good interchange back and forth. And my concerns about his original computations on his late-filed deposition Exhibit 7 from his first deposition were addressed, and I think the company feels fairly comfortable with what Mr. Stallcup is proposing at least and how he's going to try to structure the rates and what the impact of his price elasticity is.

Listening to him this morning, I'm still not certain which price elasticity number he's going to use. He said he was going to use the one recommended by Dr. Whitcomb, which is different than the one he used in, in his late-filed deposition 7, but I assume that will be cleared up one way or the other.

I do think, I do think the one area I would have a significant disagreement with Mr. Stallcup on is his use of

25 percent of total revenues assigned to the base facility charge.

I think the Commission has through the years and for a long period of years recognized that the base charge should be used to cover primarily the fixed cost of the utility to provide for some revenue stability. In fact, that's even indicated in one of your rules. And I know the regulatory environment sometimes changes very fast, but I don't think it's changed so fast that we can just abandon that principle of recovery of fixed costs or a substantial portion of those fixed costs in the base facility charge.

If you start shifting a significant amount of revenue into the gallonage charge -- and Dr. Whitcomb's model as well as Mr. Stallcup's calculation of repression seems to show dramatic shifts from the higher levels of usage. In this case Staff is proposing three usage blocks. That very last block there is a major shift in consumption because of the price down into the second block and also a significant shift from the second block down into the first block. Actually the first block of consumption increases dramatically. And to leave the utility dependent or really not knowing where recovery of a significant portion of its fixed cost is going to occur I think kind of leaves the company in a, in a very risky situation because we just don't know. No one can predict with certainty.

I also point out in regard to the base charge that as

far as I'm concerned the current base charge of Aloha is the $7.32. Now while it's true that includes a 3,000 gallon minimum, in other words, the customer pays that $7.32 charge whether he uses zero gallons or 1,000, 2,000, 3,000, that base which includes the minimum charge has provided Aloha revenue stability. And Staff is proposing to utilize a base charge which is lower than the current charge because they say some portion of the current base charge is really a gallonage charge. Well, theoretically that's true, but in reality the way those revenues are collected, because the customer is charged regardless of usage, that's a fixed source of base revenue to the utility.

MR. BURGESS: Excuse me. Commissioner --

CHAIRMAN JABER: Yes, sir.

THE WITNESS: And I've gone on too long and I guess I'll end my summary there.

MR. BURGESS: I have nothing further to say.

CHAIRMAN JABER: Tender the witness for cross?

MR. DETERDING: Yes. Tender the witness for cross. Thank you.

CHAIRMAN JABER: Mr. Wood, do you have questions?

MR. WOOD: Yes, I have one.

CROSS EXAMINATION

BY MR. WOOD:

Q You believe that if the company bore all the expenses

of these rate cases, that there would be a simpler method used to bring these rate cases to fruition?

A Mr. Wood, we're somewhat at the mercy of the, the rules and so forth that have been adopted by the Public Service Commission for filing rate cases. You saw, I think, that stack of documents I had here yesterday which represented the minimum filing requirements.

I would like to see an effort and I would really volunteer my time to participate in an effort with Staff and the Commission to try to simplify the procedures that, that are used to prepare rate case filings. I certainly understand your point.

MR. WOOD: That's all I have, Commissioner.

CHAIRMAN JABER: Thank you. Mr. Burgess?

CROSS EXAMINATION

BY MR. BURGESS:

Q Mr. Nixon, you reference a Staff Management Audit Report issued in March of 2001 in your testimony. Do you recall that?

A Yes, sir.

Q Did you create that document?

A No, sir.

Q Did you perform the audit? Were you involved in performing the audit?

A No.

Q Did you participate in any way in the performance of the audit?

A No. The audit is an official document of the Public Service Commission.

Q Would I be correct in understanding then that from your knowledge you couldn't address any of the, from your first-hand knowledge you couldn't address any of the specific customer complaints described in the audit itself?

A That would be correct.

Q With regard to -- let me turn to a specific reference in your rebuttal testimony. At page 30 you talk about the, we're talking about the projection of usage anticipated, and on line ten you begin a question and a response to that question regarding a sanity check for usage for the Year 2001; is that correct?

A Yes, sir.

Q And you're speaking of a sanity check to determine the best projection for 2001 usage; is that right?

A I'm not sure it was done to come up with the best. It was done to try to determine if, if Mr. Porter's projections were way out of line, is there data within the MFRs themselves that would calculate out to come up with an answer fairly close to what Mr. Porter's projections indicated consumption would be.

Q But we are talking about a sanity check for the

projection of 2001 usage?

A Yes. It's a sanity check of our projection of 2001 gallons.

Q Would you think that actual 2001 usage might be a good sanity check for the projection of 2001 usage?

A I guess my answer to that is yes and no.

Q Want to start with one and then go to the other?

A Yes. Our projection was not an attempt to calculate with precision what the actual 2001 consumption would be. Rather, it was using data and information we had to indicate a level of customer usage which would, which we felt confident would be applicable to a going-forward basis that the Commission could set rates on. So it's not just a calculation of actual 2001. It's a, sort of a normalized 2001.

MR. BURGESS: Thank you, Mr. Nixon. That's all we have.

CHAIRMAN JABER: Thank you. Ms. Lytle?

MS. LYTLE: I have no questions.

CHAIRMAN JABER: Okay. Staff?

CROSS EXAMINATION

BY MR. JAEGER:

Q Yes. Mr. Nixon, I'm going to go, take you back to that overearnings docket, 00737. In that docket didn't the Commission issue Proposed Agency Action Order Number PSC011374 on June 27th, 2001? I can show --

A Yes, sir. And I believe that was the one that wasn't finalized until after this case was filed. Is that the one you were talking about?

Q Yes. The consummating order was issued, I think, on August 16th. I don't want to testify, but, yes.

A Okay. I just wanted to make sure we're -- because I don't have that and I want to make -- that's how I relate the two in my own mind.

Q Okay. And but in that proposed agency action order didn't the Commission determine that the utility overearned by $15,559 for the historical test year ending December 31st, 2000?

A Yes, they did.

Q And didn't the Commission make this determination at the June 12th agenda conference?

A I couldn't say.

Q If I showed you a recommendation for that agenda conference, would that refresh your memory?

A Well, I'll take your word for it, Ralph. I mean, you don't need to show me. If that was the date, that was the date.

Q Okay. And if it was a June 12th agenda conference, the recommendation would have to have been filed 12 days prior. Isn't that Commission practice?

A I presume so.

Q Okay. And doesn't counsel for Aloha get copies of the recommendation as soon as they can after they are filed?

A Yes.

Q So as early as May 31st, 2001, the recommendation was out and sometime shortly thereafter wouldn't the utility have known that Staff was recommending that, about overearnings, its recommendation on overearnings?

A That sounds reasonable, yes.

Q Okay. And then on August 10th, 2000, that's when the utility filed for its rate case; is that correct?

A Yes.

Q And they also filed for interim rate purposes on that same date?

A Yes.

Q And did they use the historical 2000 test year?

A Yes, we did.

Q And did the company subsequently withdraw its first interim request and file a revised request for interim based on the test year ended June 30th, 2001?

A Yes, we did.

Q And did the Commission approve interim rates based on this revised test year?

A Yes.

Q Okay. Mr. Fletcher is going to hand out an exhibit. It's the late-filed exhibit that we asked at your deposition on

January 3rd showing rate case expense associated with the utility's revised interim rate filing.

MR. JAEGER: I'd like to have that identified as Exhibit 25.

CHAIRMAN JABER: Exhibit 25, rate case expense associated with the utility's revised interim filing. That was late-filed deposition Exhibit Number 1 from Nixon's depo.

MR. JAEGER: That's correct.

(Exhibit 25 marked for identification.)

BY MR. JAEGER:

Q Did you put together this filing?

A Yes, sir.

Q And I think that was provided to Staff just before this hearing started; is that correct? I think it was on Tuesday?

A I presume so, yes.

Q Do you have any corrections or is that filing still correct to your knowledge?

A To my knowledge, yes.

Q Okay. Shifting gears on you.

It appears that the land on which Wells 6 and 7 are located, they were originally owned by Interphase; is that correct?

A I always get those two companies, Interphase and Tahitian -- yes, I think that's, that's correct.

Q If Interphase does not own the land where Wells 6 and 7 are located and no property tax is due for those parcels, then what investment other than the net book value of the original equipment does Interphase have on this land?

A Well, they own the right to extract the water.

Q What investment other than the net book value though of the original equipment does Interphase have?

A Well, that would seem to about cover it as far as investment goes.

Q Instead of entering into the purchased water agreements with its related parties, would you agree that if Aloha had purchased land and installed its own wells, that the utility would earn a return on the original cost of the land and wells through rate base recognition and that they would also get recognition of the depreciation expenses on the wells and would recover associated property taxes, if, if they had chosen that route instead?

A Hypothetically you mean?

Q Yes.

A Hypothetically, yes. But --

Q Other than those items, would the utility earn a return on -- I mean, excuse me. Let me back up.

A I want to -- I was thinking about my answer and I wanted to amplify that because we've heard some of this before about what the utility should have done 20 years ago looking at

it: Should they have bought land, should they have sunk the wells and constructed other, another facility?

I urge the Commissioners to look at those dockets and the orders, there's probably 30 or 40 of them, about the water, emergency water situation that existed here in Pasco County during this period of time. In fact, my, my first audit when I was an auditor with the Commission was, was at Aloha when they were forced to start purchasing, shut down a couple of the wells in the Aloha Gardens area and begin purchasing water from a company called Pasco Water Authority. And that together with the fact that Aloha was a very small company at that time, I just don't think you can -- and that hypothetical that was given to Mr. Bart Fletcher this morning was not a hypothetical. Those figures about the accumulated deficits, the amount of debt and everything else, they're a matter of record from the annual reports from 1977 and 1978. I just don't think the utility could have even had the money to buy the land and put in these facilities back in '77 and '78. So I just want to put that on the record as long as we're talking about what the utility should have done 23, 24 years ago.

MR. JAEGER: Chairman Jaber, I don't think that was responsive to my question. Let me ask this question.

BY MR. JAEGER:

Q Other than a return on the original cost of the land and wells through rate base recognition and recognition of

depreciation expense on the other wells and the recovery of any associated property taxes, is there anything else that the utility should recover or earn a return on if Aloha had purchased land and installed its own wells?

A I think I agreed with that as a hypothetical, yes.

Q Going back to that order that I first noticed, the PSC order of 011374 issued in the overearnings docket on June 27th, 2001, didn't the Commission directly consider the issue of the utility's related party purchased water transactions?

A They did then but they didn't in the previous orders.

Q In that order didn't the Commission use ten cents per 1,000 gallons for all raw water purchases to determine overearnings for the historical 2000 test year?

A I'm not sure. I think they did, yes.

Q Although the utility did not agree with this determination, didn't it decide to accept the PAA order with the caveat that it would be allowed to contest this determination in a later proceeding?

A Yes. That's what's in the order.

Q And isn't it true that utilities and OPC alike do not always protest an order even though they may not agree with all the issues?

A That's true. You have to weigh cost versus benefit.

Q In your opinion how often is it that a party to a PAA

case agrees with all the issues that the Commission decides?

A Very seldom.

Q And I think you said this, but isn't it correct that a utility may decide that the cost and effort of a hearing to protest a case is greater than the benefit gained from protesting an issue?

A Yes.

Q Could it obviously also be true that Staff may not pursue an issue if it is likely that it would force the utility to file a protest and incur additional rate case expense? Could it also be true?

A I'm not, I'm not so sure about that one, Ralph.

Q Turn to your rebuttal Exhibit Number RCN-12. And this is just an excerpt from Audit Disclosure Number 6 in the undocketed overearnings proceeding; is that correct?

A Yes. I think this was later docketed as part of that limit, the two limited proceedings because that's where the results of the audit were considered.

Q Turn to page two of three and just, if you'll look, you can go before the 12 months ended December 31st, 1997, that's when the order was forwarded; is that correct?

A Yes.

Q And what's the next thing under that?

A It says undocketed, but I believe it was, I still believe and still maintain it was incorporated later after the

audit into those two limited proceeding dockets.

Q In your rebuttal testimony at page 25, lines one through three, you state that it can only be presumed that the Commission deemed the related party transactions as reasonable; is that correct?

A Yes.

Q However, isn't it true that Staff never made this an issue in the limited proceedings?

A I think we're saying the same thing. It was disclosed in the audit report and then it was not made an issue or incorporated into the order I'm citing on page 25, line one. So the presumption is that those costs were deemed reasonable.

Q But, in fact, the Commission never specifically considered that issue in the limited proceeding, did it?

A They could have. I mean, it was in the audit report.

CHAIRMAN JABER: No. I think the question is did the Commission make a finding on that issue in the order?

THE WITNESS: They didn't -- no, they didn't make a finding.

BY MR. JAEGER:

Q Had Staff brought this issue before the Commission in that proceeding and assume that the Commission made the same decision that it made in the subsequent overearnings docket to disallow a majority of the expense, do you believe that Aloha would have protested the decision?

A I can't say with certainty, Ralph. They, they probably would have, but I just don't know.

Q Or perhaps they may have just asked that they be allowed to address it in a later docket, that might be another, the way they did it in the overearnings docket; isn't that correct?

A That's possible, yes.

Q Is the Commission bound by any decisions that its Staff makes regarding whether to bring an issue up?

A I don't know.

Q Turn to page 25, line six, of your testimony, if you would. Are you there?

A Yes.

Q You describe a principle of regulatory finality. Have you ever provided testimony on this principle before?

A No. But I don't have to.

Q Is this principle described in any recognized regulatory literature or Commission orders that you're aware of?

A I can't cite you the orders, but I've seen it referred to in some utility cases, yes.

Q You say utility cases. Before the Florida Public Service Commission?

A Yes.

Q But you can't refer me to which ones?

A No. I mean, this is, this is not a notion that comes up every, every day in my practice. But I guess the point I'm making is after 23 and 24 years and the fact that with the audit report back in those limited proceeding dockets, this, this issue was before the Staff and it was before the Commission and it was not an issue in that order. I think it's time to bring this thing to a close.

Q You say it was before the Commission, but I think you said earlier that the Commission did not directly or specifically consider this; is that correct?

A Well, I presume the Commissioners and a lot of the Staff get copies of the audit reports.

Q Now this regulatory finality, is that an accounting principle?

A No. I think it's probably more a legal principle, if you will. It's not, not like a generally accepted accounting principle or a generally accepted auditing standard.

Q What's the difference between regulatory finality and administrative finality? Is there one?

A I don't want to cross-examine you. I'm not sure what administrative, what you mean by administrative finality.

I guess if you interpret any action before an administrative agency, some issue before them should be, be put to rest because that's, that issue is handled in a certain way or things were done in a certain way for a certain number of

years. I guess, I guess that would be about the same thing.

Q Are you aware of any cases that have been before the Commission addressing administrative finality?

A No.

Q I think you also said that administrative finality is a legal and not a regulatory principle; is that correct?

A It may be, yes.

Q You state in your rebuttal testimony that Mr. Fletcher has overlooked the concept of present value and the time value of money; correct?

A Yes.

Q Further, you have testified that the reason the related party agreements contained an escalation provision was due to the time and value of money; is that correct?

A Do you have a citation? I'm not sure that's exactly what I said.

I think on page 25 of lines 22 through 25 I stated that the related party holders of the water rights wanted some mechanism to ensure that the ten cents per thousand gallon price originally agreed to retained a value of ten cents beside or despite the passage of time.

Q Okay. I stand corrected. I'll accept that as what you stated.

But Aloha was able to negotiate with Mitchell wherein that agreement did not contain an escalation provision; is that

correct?

A That's correct.

Q And how does the time value money come into play for items included in rate base?

A Well, it's not recognized.

Q It's not applicable, is it?

A No.

MR. JAEGER: That's all I have. Ms. Espinoza will take some questions now.

CROSS EXAMINATION

BY MS. ESPINOZA:

Q Good afternoon, Mr. Nixon.

A Good afternoon.

Q Page 46 of Mr. Watford's testimony, this will just be in general, he discusses a shift in base facility charge versus gallonage charge cost recovery and the increased risk it places on the utility, and he further discusses that this increased risk should be recognized as rate of return. Would you agree with that?

A He may have said that. I, I don't agree with it. I just, I don't think there's, and I said this at my deposition, that I don't think placing a premium on rate of return is the way to deal with that risk. The way to deal with that risk is to set the base facility charge at a level that covers a fairly good portion of your fixed costs.

Q Okay. And now turning to your testimony, your rebuttal testimony on page 32, you discuss using the Waterate model as a means of calculating revenues based on different usage block and rate factors. And you state that in each case the Waterate model predicted revenue shortfalls. Would you agree that reductions in water consumption would represent a reduction in the cost purchased, of purchased water from Pasco County?

A Yes.

Q And so, therefore, when calculating the cost savings associated with these reductions in water consumption, every 1,000 gallons of water saved should be calculated using the marginal cost to purchase water from Pasco County of $2.35 per 1,000 gallons; correct?

A I would agree.

Q Okay. Mr. Nixon, the utility's filing in this case was based on the requirements contained in the MFRs; correct?

A Yes.

Q And you would agree that MFRs, meaning minimum filing requirements; correct?

A I never have in my career understood where that term came from. They've always been called minimum filing requirements since I can remember. That's what the filing requirements are called. I guess, I guess you could enlarge them even more to cover, you know, a lot more things, if you

wanted to.

Q Okay. Well, in our cases MFRs means minimum filing requirement.

A I understand.

Q In this case. Okay. And you would agree that you have had many years of experience as a water utility consultant in the state?

A Yes.

Q And so you have no doubt put together tens, if not, hundreds of filings before this Commission; correct?

A Well, I can't say hundreds.

Q Okay. Less than a hundred, more than ten?

A Yeah.

Q And you're familiar with the requirements of Chapter 367, Florida Statutes, as they relate to filings before this Commission in that capacity?

A Can you tell me what --

Q In the capacity that you, that you previously testified in which you filed less than a hundred, more than ten filings for cases before this Commission, in that capacity you would be familiar with the requirements of Chapter 367, Florida Statutes?

A Yes.

Q To your knowledge nowhere in Chapter 367 does it require a utility to examine different variations of

methodologies prior to its filings; would you agree with that statement?

A Yes.

Q And along those same lines nowhere in Chapter 2530, Florida Administrative Code, does it require that different variations of methodologies be examined prior to a utility filing its case; correct?

A It's not a requirement. But I am learning rapidly that I guess we're going to need another person on our rate case team for cases such as this. We're going to have to have an econometrician or statistician. I -- it gets back maybe to my comment in response to Mr. Wood about the cost of filing a rate case. I mean, where do you draw the line? What, as far as the information the Commission will accept to consider a rate increase versus the cost of coming up with more and more exotic models, certainly the water and wastewater industry through the years was always, I think, looked at in a light where it wouldn't be overburdened with undue requirements. But I think we're, we're rapidly moving beyond that now.

CHAIRMAN JABER: Do you think your life would be easier if every time you had a rate case, you didn't fill a room of customers that were angry?

THE WITNESS: I tell you, I've been doing this, I guess, since 1981 and I can't, I really can't remember a case where we didn't have a room full of angry customers.

CHAIRMAN JABER: Mr. Nixon, I've been --

THE WITNESS: It sort of comes with the territory any time a company files for a rate case.

CHAIRMAN JABER: Mr. Nixon, I've been to most of those rate cases you're talking about. You and I have gathered in these rooms many a times, but, and I sympathize with you with making the minimum filing requirements as efficient as possible and streamlining the process. As a matter of fact, the Commission just this week has announced changes in an effort to expedite all of our processes.

But based on your experience in the water industry, how as a matter of policy do we explain to the Commission, to the customers, this is where I struggle, how do we explain to the customers that their rates need to go up before we get rid of the black water problem? It's hard, isn't it?

THE WITNESS: Well, it's a, it's a tough question and, believe me, the, the utility has problems with this. I think -- we all know there's a solution out there to this, but the solution is not something you can snap your fingers and it gets, gets done.

It's taken, I guess, a year, a little over a year to complete the first phase of the pilot project, getting, you know, a very small mock-up and getting the reports and so forth, and that has enabled the company now to proceed with the second phase of the project which will be occurring, I guess,

within the next month or two.

And then you just have plain old bad luck. I mean, nobody could have foreseen back at the time of the, all the hearings, the docket on the water quality, that Pasco County was going to change its water chemistry, which puts a further level of, of delay in having to try to analyze, okay, now the county is changing its water chemistry. What's that going to do to what we proposed to do with this, this pilot project to remove the hydrogen sulfide?

CHAIRMAN JABER: And everything you and I have just talked about the last few minutes, the economists, neither the economist nor the statistician could help; correct?

THE WITNESS: That's, that's true.

MS. ESPINOZA: We have no further questions.

CHAIRMAN JABER: Commissioners?

COMMISSIONER PALECKI: No questions.

CHAIRMAN JABER: Mr. Deterding?

MR. DETERDING: Thank you.

REDIRECT EXAMINATION

BY MR. DETERDING:

Q Mr. Nixon, you were asked by Mr. Jaeger about some issues related to the interim request of the utility. He noted that the Commission had just issued a PAA order in approximately June saying that the utility had overearned during that period of time.

Would you agree that they also found that they would likely underearn in the coming 12 months?

A Yes.

Q Why would the utility file a request based upon a 2000 test year in August when the, about a month before the PAA had come out suggesting they were overearning?

A Well, in preparing the MFRs you do a full workup of 13-month average rate base and, you know, you make a lot of, you know, adjustments to the test year data. And we considered some of the adjustments that the Commission had, had made in that order, especially those, that portion of the order which indicated that the company was going to have a revenue shortfall of, off the top of my head I want to say 60 or $70,000. It's in that range.

So after we did our work, we felt like we could support without any pro forma adjustments an interim increase of $133,000 roughly and the company was willing to accept that.

Q Okay. Do you have any feel for what Interphase or Tahitian lost in the value or specifically Interphase lost in the value of the property by retaining the property on which the well sits by retaining the water rights, the rights to withdraw water from those properties?

A What did they lose?

Q What, what reduction in value of the price they could get for those properties resulted from withholding that right?

A Well, I wouldn't think they lost anything. The value of the property they, property right they hold is the water right.

Q But I'm talking about at one time they did own that property, did they not?

A Yes.

Q And when they sold that property, they retained the right to withdraw water.

A Yes.

Q So do you, have you made an attempt to determine the amount that they, the value of that property was reduced by retaining that water withdrawal right?

A No.

Q Mr. Jaeger asked you some questions about what the utility would have gotten if they had purchased the land and constructed wells as far as what treatment they would have gotten in rate-setting. Do you recall that?

A Yes.

Q Doesn't that question presume that the utility, one, would have had the financial ability to do that?

A Yes.

Q Doesn't it also presume that it would have been prudent to do so at that time and under those circumstances?

A Yes.

Q Mr. Jaeger asked you about the difference between the

Mitchell agreement and the Tahitian and Interphase agreements. Didn't those occur at different times?

A Yes.

Q And the Mitchell agreement was entered into in 1972, was it not, originally?

A I believe that was the first Mitchell agreement, and then it was later modified in '75, I think.

Q Okay. And then the Tahitian and Interphase agreements were in September of seventy, Tahitian in '77 and Interphase in '78; is that correct?

A Yes.

Q Okay. Was there -- when did this problem that you mentioned about the concern with the water resources in the, in the US-19 corridor around Aloha's service territory present itself? When were these orders you mentioned that the Commission issued --

MR. JAEGER: Mr. Deterding, excuse me for interrupting. I'm sorry. Where in his testimony did he mention about the problems?

CHAIRMAN JABER: Mr. Jaeger, is your objection that he's gone beyond the scope of cross?

MR. JAEGER: That's my objection. I'm trying to -- I don't remember where that is and that was --

MR. DETERDING: I apologize.

CHAIRMAN JABER: Wait. Excuse me.

MR. DETERDING: I'm sorry.

MR. JAEGER: I do not believe that was discussed on cross.

CHAIRMAN JABER: Your, Mr. Jaeger, your objection is that he's gone beyond the scope of your cross-examination?

MR. JAEGER: Yes, Commissioner.

CHAIRMAN JABER: Okay. Mr. Deterding?

MR. DETERDING: Well, he was asking him about a comparison of the Mitchell agreement with the Interphase and Tahitian agreements, and what I'm asking him about is the circumstances that existed. I don't have to get into what he previously said about those. What I'm trying to do is find out if he knows about different circumstances that existed at those times that would affect that.

CHAIRMAN JABER: Preface your question with a reference to the cross. You cannot go beyond cross.

MR. DETERDING: Okay. Okay. I apologize.

COMMISSIONER PALECKI: Chairman Jaber, it's getting late in the afternoon, and I, I think you ruled correctly on that objection, but I believe the witness has already testified as to the time period here. I remember hearing the time period. I could tell you what he testified to. This is just repeating what he's already said.

MR. DETERDING: Well, I'm just trying to clarify, Commissioner Palecki, that there were very different

circumstances and whether he knows about any difference in circumstances. I'm not going to --

COMMISSIONER PALECKI: I think he's already testified that there was a water shortage emergency in the 1977, '78 period. Do we have to hear it again and again?

MR. DETERDING: No, sir, you do not. I'm just trying to make sure that that's clear in the record. I apologize if you find me to be redundant.

CHAIRMAN JABER: Apparently it's very clear.

MR. DETERDING: Okay.

BY MR. DETERDING:

Q Mr. Jaeger asked you about the referenced audit from your RCN-12.

A Yes.

Q And that was, I believe you said that was incorporated into a recommendation on a limited proceeding, did you not?

A Yes. The audit findings and so forth were the, the basis of the adjustments made in those limited proceeding dockets, yes.

Q And, in fact, there were two audits that occurred as, just prior to the or leading up to that limited proceeding conclusion.

A Yes.

Q And, in fact, the Commission has specifically looked

at the limited proceeding and said they needed those audits before they could make such a ruling.

A Yes.

Q Now I believe you mentioned the, the issue of the increased risk of shifting fixed costs to the gallonage charge. Has anybody made any proposal to recognize that change here in this rate case? Has anybody proposed to recognize that increased risk?

A Not to my knowledge.

Q Okay. And you do believe there is an increased risk?

A Yes.

MR. DETERDING: Thank you. That's all I have.

CHAIRMAN JABER: Thank you, Mr. Deterding. Any exhibits?

MR. DETERDING: We would move Exhibit 24.

MR. JAEGER: Staff would move 25.

CHAIRMAN JABER: Okay. Exhibit 24 is admitted into the record without objection. Exhibit 25 is admitted into the record without objection. Thank you, Mr. Nixon.

(Witness excused.)

(Exhibits 24 and 25 admitted into the record.)

MR. DETERDING: And we would call David Porter to the stand per your instructions.

CHAIRMAN JABER: Mr. Deterding, I recognize that the prehearing officer has allowed you all to make summaries of

testimony, but for what it's worth to you and to Mr. Porter, we have read the testimony and I personally don't need a summary. Commissioners?

COMMISSIONER PALECKI: I, I don't feel it's necessary either.

MR. WHARTON: Make it as brief as you can, Mr. Porter. Definitely do not go over the five minutes.

CHAIRMAN JABER: Because I know it's something of --

MR. WHARTON: You can do it.

CHAIRMAN JABER: What I've noticed is your witnesses are, you know, flipping through the pages of the testimony. We've read the testimony.

MR. WHARTON: Okay.

THE WITNESS: I'm ready, John.

DAVID W. PORTER

was called as a rebuttal witness on behalf of Aloha Utilities, Inc., and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WHARTON:

Q All right. State your name and professional address for the record.

A David W. Porter, PE.

Q And --

A 3197 Ryan's, R-Y-A-N-S, Court, Green Cove Springs, Florida 32043.

Q And are you the same David Porter that has been previously sworn and has given testimony in this proceeding?

A Yes.

Q Did you prepare in conjunction with our office a document referred to as the rebuttal testimony of David W. Porter consisting of 59 pages?

A I have to look. Yes.

Q And if I asked you those same questions here today, would your answers be the same?

A Yes.

Q Do you have any corrections or additions to make to that testimony?

A I have two corrections. On page 39, line number four, I have a change to the sentence that begins, "This 8.5 gallons per ERC per week." That was incorrect. It should say, "This 8.5 gallons per ERC per day," and continue from there.

The second correction -- well, I guess I have to wait for this one. It's on one of my exhibits.

Q Okay. Does that complete the corrections to your testimony?

A Yes.

Q Did you also prepare in conjunction with that rebuttal testimony five exhibits labeled DWP-1 through DWP-5?

A I did.

Q Would you very briefly summarize your testimony?

Well, do you have any corrections to those exhibits?

A Yes, I do.

Q Okay.

A On DWP-5, the second line of the title, "Six Year Data Set, January 1st, 2001 through November 30th, 2001," should read, "Six Year Data Set, January 1st, 1995, through November 30th, 2001."

Q Please briefly summarize your testimony, Mr. Porter.

A Okay. Good afternoon everyone.

In my rebuttal testimony I pointed out areas in the testimony of other witnesses in this case that I believed had errors or was incorrect or that I did not agree with.

Primarily those areas revolved around projections of the water consumption for the Year 2001 and on a going-forward basis.

Primarily with respect to all three of the witnesses, Stewart, Biddy and Stallcup, probably the largest area of disagreement I had was on the projected per ERC water use. And, again, my largest area of concern there primarily revolved around the fact that not one of those gentlemen took into account the water restrictions that were in place when my projections were taken. And that's a major component of the water use in every household that has irrigation and, therefore, the watering restrictions were very important and led their conclusions to be much too low for their projections.

Let's see. In addition, I had other areas in which I disagreed with specific witnesses. Mr. Ted Biddy, I disagreed with his characterization of the status and the previous work that was done on the pilot study and, or pilot program and the work that's progressing to date and going on in a going-forward basis.

Mr. Larkin, I disagree that Aloha's water in his opinion did not meet community standards. I wholeheartedly disagree. I state that the water does meet community standards and those standards from an engineering perspective are do they meet the rules of the Environmental Protection Agency, the Environmental Protection Agency and other agencies, and they do. And also does the water substantially deviate from others in the area? Aloha's water is every bit as good quality, if not better, than Pasco County water or any other utility in the area.

OPC witness DeRonne, I disagreed with her characterization of the fact that she thought the power and chemical costs were going to change and be lowered because of the repression in water consumption due to the, the new rates that are to be put into effect for conservation. I don't agree with that. There are other extenuating circumstances, there are going to be other costs that are going to come online because of buying the water from Pasco County that will offset those costs and it will probably even cost more.

I agreed with Gerald Foster and Van Hoofnagle to a largest extent that Aloha's water meets all standards; however, they had a couple of small errors and I discuss those.

In Mr. Stallcup's case, I disagreed with his method of projecting water use primarily based upon his statistical analysis and some of the methodologies he used but also largely because the reduction in water irrigation requirements were not taken into account. And subsequently I saw his handout today where he claims he did take into account the reduction or potential effects of the water restrictions, and I still do not agree with this characterization.

With that I also did an analysis with my, what I like to consider a, a reasonableness analysis of all of the methods or especially Mr. Stallcup's and my method trying to determine statistically in my mind whether my projection or his was more accurate, and I present those in my exhibits.

MR. WHARTON: We would request that the rebuttal testimony which has been prefiled by David Porter be inserted in the record as though read.

CHAIRMAN JABER: The prefiled rebuttal testimony of David W. Porter shall be inserted into the record as though read.

And DWP-1 through DWP-5 can be a composite Exhibit 26.

(Exhibit 26 marked for identification.)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ALOHA UTILITIES, INC.

DOCKET NO. 010503-WU

REBUTTAL TESTIMONY OF DAVID W. PORTER, P.E., C.O.

Q. Please state your name and professional address.

A. David W. Porter, P.E., C.O., Water/Wastewater System Consulting Engineer, 3197 Ryans Court, Green Cove Springs, Florida, 32043

Q. Have you been retained by Aloha Utilities, Inc. to provide testimony and assist in the preparation of exhibits in this proceeding?

A. Yes.

Q. Have your previously provided direct testimony in this case?

A. Yes.

Q. What is the purpose of this testimony?

A. To respond to the various issues raised in the direct testimony of witnesses for the Office of Public Council (OPC), the South West Florida Water Management District (SWFWMD) and the Commission Staff.

Q. How is your rebuttal testimony organized?

A. First I have a series of comments that apply to the testimony of Mr. Biddy, Mr. Stewart and Mr. Stallcup. I will begin with those comments. Then I will go on to provide additional testimony specifically related to each

witness's testimony.

Comments Related to Mr. Biddy, Mr. Stewart and Mr. Stallcup

Q. You have read the testimony provided by Mr. Biddy, Mr. Stewart and Mr. Stallcup; do you have comments that applies to testimony given by all three of these gentlemen?

A. Yes. The testimony provided by each of these gentlemen includes statements which I believe indicates that each did not understand the basis for the argument the Utility is making related to demographic shifts taking place in the water system. These demographic changes required the water consumption projections to be determined in a way that perhaps is not familiar to these gentlemen. The water consumption methodology was developed to take account of the following facts:

1. In the early days, the majority of the homes constructed in Aloha's service area were very small retirement homes with few water use fixtures, few pools, small lawns (no individual lawns if they were condos or apartments) with little or no irrigation, and one or two persons who may only live in the unit on a seasonal basis. These customers use very little water. In fact, these people make up the majority of

the number of existing customers. Later, larger, more non-seasonal units began to be constructed in the service area. These customers were more affluent retiring couples which consumed larger quantities of water. The number of these types of customers is second in overall number to the early customers. Recently (within the last 10 years), the service area gained a reputation as a desirable location for commuting professional families to relocate to from the metropolitan Tampa-St. Petersburg area. At this same time, the quantity of available developable land in the service area began to diminish because those developers with foresight had already obtained or secured options on large portions of the service area. This caused the price of building lots to increase considerably. The homes constructed during this period, and those that will be constructed in the future, are quite different from those in the past, as is the demographic of the occupants of those homes. Newly constructed homes are large with 3, 4 or more bedrooms with multiple water fixtures, many have large pools and large lawns seeded with

expensive turf requiring irrigation. There was a time when homes in the service area sold for $40,000, however, the cost of the homes being constructed today is now approaching $400,000 in some of the more prestigious neighborhoods. These homes are largely located in prestige subdivisions with homeowner's associations that require the maintenance of all turf in good health (requiring water for irrigation). The persons inhabiting these homes are younger and are families with children, including teen-aged children which consume relatively large quantities of water (as any parent of teen-agers will attest). The builders brochures for the subdivisions with lots available in the service area expound on the amenities available in their subdivision for families (such as parks, playgrounds, etc.) and describe the large number of new schools that have recently been constructed in the service area for students from elementary school through college. Pasco County has indeed constructed new elementary, middle and high schools in the area during this period of demographic change. In addition a new college has been constructed,

as have YMCA type recreational areas. None of these facilities would have been constructed if it were not the opinion of the County, the YMCA Board, the College Trusties and the developers that a large number of new families were going to be relocating to the service area.

2. None of the subdivisions constructed to serve the early customers have any remaining lots on which to build. The subdivisions with remaining lots are those that have been constructed to serve those new, highly affluent, family-type customers. Therefore, all new Aloha customers will be from those newer subdivisions.

3. The Utility management and staff live in the general area and experience the changes first-hand. In addition, the Utility management interfaces with all the developers and is well aware of their development plans. Aloha's office and field staff interface with every new customer when they sign-up for service, when they pay their monthly bill and when they call for assistance. Mr. Watford has been with the Utility for over 25 years. Many of his staff have also been with the Utility for many years. Who, other than Aloha's management and staff,

would be in a position to see the changes taking place over time to Aloha's customer demographic. Certainly not someone who has been to the service area only a few times, if at all, as has Mr. Biddy, Mr. Stewart, the OPC staff or anyone from the Commission staff.

4. In early April of 2001, the Commission Staff and Aloha attended a meeting where they discussed the parameters for a rate case filing. The purpose of the meeting was to determine an acceptable test year and to discuss any special requirements that Staff would have related to the filing. Staff advised Aloha that it would expect Aloha to include the impact of increased usage by new customers added to Aloha's system on any water consumption projections. Staff was aware of the demographic shift taking place in Aloha's service area and that new customers consumed more water. This situation had been discussed in Aloha's wastewater case, Docket No. 991643-SU. The Utility was also aware of the shift in customer demographics and their related water consumption and agreed to comply with staff's request.

5. The Utility was also well aware that this rate case was all about being able to pay for water received from a third party (Pasco County) to serve its customers. This was required because their existing SWFWMD Water Use Permit did not allow Aloha to pump enough water from its own wells to serve the existing customers, much less the large number of new, higher water using customers to be added to the system each year. Aloha also knew that the County would charge $2.35 for every 1,000 gallons of water Aloha needed to take from the County to meet the demands of its customers. Therefore, Aloha realized that it was imperative that an accurate estimate of the number of gallons of water to be purchased from the County be developed. If this estimate is understated, the economic damage to the utility would be catastrophic due to the marginal cost of each 1,000 gallons of water that is provided in excess of Aloha's existing SWFWMD Water Use Permit. If the estimate was too low, the Utility could be bankrupt before a new rate case could be completed. Also, the cost of a second rate case to "true-up" the rates to

reflect the actual water consumption values would be great and place an unfair cost on the ratepayers. Aloha realized that the consumption estimates had to be right the first time.

6. Since **ALL** new customers will come from the high water use subdivisions, Aloha and its consultants developed a methodology that would take into consideration the changing demographics of its customers and their water use. The water consumption per ERC per year was obtained from Aloha's billing records for **EVERY** subdivision in its service area. Then the subdivision water consumption use records were separated out based on whether the subdivision was constructed prior to ten years ago (representing the earlier customer type) or within the last 10 years (representing the later customer type and those to be constructed in the future). The data set included the most recent 12 monthly billing records. This time period was chosen because the goal was to determine what the later customer type water consumption was for use in projecting test year use and on a going-forward basis. This data clearly showed that those customers in the

subdivisions constructed within the last 10 years used considerably more water then the earlier customers or the average of the water use for the system taken as a whole. These recent customers demanded approximately 500 gallons/ERC/day of water. This value is for the water sold to the customers and does not include water used in the treatment process itself, water used for system maintenance or water lost from the system.

7. Aloha's records for the last ten years have shown that the trend in the quantity of water used in its system increases each year. This is largely due to the additional water used by the new customers being added to the system each year. It would be foolish to believe that the quantity of water to be used in the test year would be less than for the year before due to the fact that some 473 new customers are projected to be added to the system in the test year. Since we know that **ALL** these new customers will come from the high water use subdivisions (which use 500 gallons/ERC/day), it should be a simple matter to project water consumption for the test year and for each year

thereafter based on this water use and the projected ERC growth. This is what Aloha did. On its face, this seems very logical. What needs to be understood here is that none of the earlier customer type homes will be added to the system in 2001. Also, none of the new users will consume the average quantity of water used by all customers in previous years because all the new customers come from the new customer demographic group. To apply anything but the 500/ERC/day consumption prediction to each of the projected new ERCs is completely illogical and defies reason.

Mr. Biddy, Mr. Stewart and Mr. Stallcup have all offered alternative methodologies that they state will provide a more representative estimation of the projected water consumption for the test year. All claim, however, that their models were not designed to project water use after the test year. This is a serious flaw in all of these models. As I discussed above, from this day forward, Aloha must purchase water, at greatly elevated cost per 1,000 gallons, from Pasco County for all water quantities in excess of the present quantities allowed in the SWFWMD Water Use Permit. If Mr. Biddy's, Mr. Stewart's and Mr. Stallcup's models produce projected water consumption

values that are "tuned" for the test year and do not reflect the actual water consumption going forward, the ramifications of adopting the values estimated from those models may be profound and may seriously economically damage the utility and/or cause the expenditure of a great deal of the rate payers money in applying for and obtaining another rate increase to correct the earlier mistakes. The hearing data in this case is January 9, 2002, therefore, Aloha will not be charging the final rates approved in this case in 2001. The goal here is to set going forward rates. Mr. Biddy and Mr. Stewart all claim that Aloha's consumption projections are faulty because customer water use was elevated during the time period Aloha chose to evaluate subdivision by subdivision water use (July 2000 through June 2001) was an abnormally dry period and therefore customers were irrigating their lawns more due to rainfall shortages. They claim that this "fact" creates an artificial increase in the water sold during the period and therefore, that the future consumption based on this data has also been artificially increased. They each go on to claim in their testimony that each other's methodology is flawed but that each is more correct then Aloha's methodology. The problem with each of their claims, however, is that they have each ignored a very important piece of information. First,

during the time period in question, they are correct that the SWFWMD had designated the area in drought. This has been the case for about the last 10 years. This drought is nothing new at this point. Mr. Biddy and Mr. Stewart claim that the year 2000 was the driest year on record for many years. This is also the case. However, as Mr. Stewart discusses in his testimony, lack of rainfall alone does not control the effect of a drought on the need to irrigate. A variable, called the moisture deficit variable, takes a number of variables into account which together actually determine the irrigation need. Based on Mr. Stallcup's analysis, the year 2000 wasn't any different than previous years as far as the moisture deficit variable is concerned. We agree. The factor that they all missed was that during this time period (and for several years now) the SWFWMD has placed water use restrictions on the users of water throughout the entire Aloha service area. For part of this one year water consumption analysis period, all users of water were restricted to watering their lawns only 2 days per week. For about the last six months of the period, they were restricted to watering lawns only one day per week. Also, a number of other water uses were controlled such as washing cars, boats, and sidewalks, etc. Therefore, the fact that the drought existed during this period, and the

fact that 2000 was a dry year, actually had the opposite effect that Mr. Biddy, Mr. Stewart and Mr. Stallcup claimed. If anything, the water use projected by Aloha may be found to be low if the SWFWMD district reduces or removes the water use restrictions in the future. In fact, within the last month, the District did just that for areas not served by Tampa Bay Water.

One of the new subdivisions located in the Seven Springs Service Area in which the customers are representative of the new demographics is Thousands Oaks. For the period July 2000 through June 2001 the average water consumption (based on actual customer bills) for this subdivision was 548 gallons/ERC/day. The interesting thing to note about this subdivision is that this is one of the new subdivisions that receive reuse water from Aloha. Therefore, the irrigation needs each of these customers is provided by non-potable water and all the water consumed was for home use. This fact only goes to prove Aloha's claim that the new customers use much more water then the customers that connected to the system earlier. Another claim that each of these gentlemen make is that Aloha's data set was too small, and that one years worth of data was not sufficient to give them confidence that the new customers were indeed consuming 500 gallons/ERC/day over the long term. They cite weather

related variables among others that could cause this number to change for any one year period and they claim that they have no way to know if this one year period was a fluke. Aloha selected the one year data set because it was important that the data selected accurately reflect the demographics of the new customers that Aloha could expect to be connecting to the system in the upcoming years. An additional analysis of the water consumption data for the period January 1, 1995 through November 30, 2001 (approximately 6 years data) was performed. This data set was chosen because the current computer billing system has data back to 1995 available to be analyzed. Completing the same analysis as was completed for the one year data set (which provided the consumption projections in the MFRs) yielded an average consumption for the "new" subdivisions of 511 gallons/ERC/day for the six year period. I have provided **Exhibit DWP-5**, which presents this information. This data shows that the 500 gallon/ERC/day consumption value has long-term validity. The results of this analysis, coupled with the fact that watering restrictions were in place for all of the analysis period (which artificially lowered the consumption) and the fact that the customers in Thousands Oaks subdivisions (where customers use reuse water for irrigation) demonstrates that the arguments of Mr. Biddy,

Mr. Stewart and Mr. Stallcup regarding the inappropriateness of Aloha's methodology are incorrect and must be rejected. It is important to reiterate here that Aloha chose to utilize a demographically sensitive model in projecting water consumption in this case largely due to the requests by staff that they do so. Aloha could have easily applied the same linear regression analysis to historical gallons sold/ERC that it and many utilities have done in the past. Aloha used this type of analysis to project the number of future ERCs in this case. Mr. Biddy and Mr. Stallcup have both agreed in deposition that they have no objection to the use of this methodology to project ERCs in this case and in fact they agree that this is the Commission's preferred methodology to use in projecting future variables. We prepared a linear regression model of water consumption/ERC, as is the standard practice in these cases, which we would have used if we were not concerned with demographic shift. My exhibit DWP-1 attached shows this projection. Based on the Commission's preferred method, liner regression over a five year period, this model projects Aloha's water consumption per ERC per day for the test year to be 285 gallons/ERC/day. If one takes this value and multiplies it by the projected number of ERCs (10,560) (which all parties have agreed to) this

model projects test year water use at 1,098,504,000 gallons. Aloha's Demographically based analysis projects test year water use of 1,105,067,967 gallons. The difference in these two projections is 6,563,967 gallons over a one year period. The two models only disagree by 0.6%. Statically this is a very small variation. This value also agrees with logic. It is logical to think that if the 5 year trend in water use is upward, and if you assume that a substantial number of new connections will be added to the system, and if all these connections will be located within subdivisions that show very high water use relative to the average use by all customers due to a demographic shift, then the projected water use should continue to increase as well. The projections provided by Mr. Biddy, Mr. Stewart and Mr. Stallcup all propose substantial reductions in the consumption of water for the system for the test year. Mr. Stewart and Mr. Stallcup both provide alternative water consumption per ERC values determined by their models. Mr. Stewart's value is 265 gallons/ERC/day. Mr. Stallcup's value is 259 gallons/ERC/day. Their projections are both counterintuitive. In order for either of these projections to be correct, the water use per ERC would have to fall from 277 gallons/ERC/day for 2000 to their values. Again, my exhibit DWP-1 shows how unlikely this

would be. The light and dark bars for 1995, 1996, 1997, 1998, 1999 and 2000 show the actual water consumption per ERC values for the Seven Springs Water System. The light value for 2001 is the water consumption value projected by Aloha when linear regression of the of the actual water consumption values for the 1995 through 2000 is completed. The dark value is the water consumption value projected by Mr. Stallcup's model. It can readily be seen that for Mr. Stallcup's projection to be correct, one would have to believe that the per ERC water use for the entire Seven Springs customer base would have to drop to pre 1996 values. This makes no logical sense. Given that Mr. Stewart and Mr. Stallcup have both agreed that the projected number of customers will increase by some 473 ERCs for 2001, what could possibly drive the water consumption per ERC value back to a value less than it was 5 years earlier? I have seen nothing in any of the testimony of Mr. Biddy, Mr. Stewart or Mr. Stallcup that would explain how this could happen once the weather argument has been shown not to be a factor (as I have demonstrated above). Again, the testimony of these gentlemen is incorrect and should be disregarded.

SWFWMD Witness John W. Parker

Q. In his testimony, Mr. Parker stated that District Staff met with Aloha representatives to discuss measures to

address Aloha's alleged non-compliance with its Water Use Permit (WUP). Were you involved in those discussions?

A. Yes, I participated in those discussions.

Q. Do you agree with Mr. Parker's characterization of the substance of those discussions?

A. In general I do. However, I believe that I must elaborate on Mr. Parker's statements because they have a bearing on the comments made by others that have given testimony in this case. As Mr. Parker states, beginning in May of 1997 a number of discussions related to Aloha's water supply needs were undertaken with the District. Aloha's goal in these discussions was to secure increased withdrawal permitted capacity in its WUP if at all possible. The majority of the discussions centered around this goal. Aloha and the District explored a number of possible scenarios which would lead to Aloha's WUP being modified to allow increased withdrawals. Some of the possible scenarios included: Aloha's purchase of existing wells from others and transferring the WUP capacity to its system; obtaining the capacity of Fox Hollow Golf Course's WUP (for its irrigation wells) when Aloha began supplying Fox Hollow Golf Course with reuse water; increasing the permitted withdrawals of its existing wells based on reuse water application in its service area; and increasing the permitted withdrawals of its

wells utilizing the standard permit modification procedures of the District. Aloha aggressively pursued each of these potential solutions to the water supply problem over the next year or two. Additional discussions were undertaken with District Staff to further discuss each of these options during that period. Aloha was very hopeful that one or more of these potential solutions would work out as they represented the least cost solutions available and would therefore result in the least rate increase to its customers. Aloha spent considerable resources in having its consultants search for WUPs to purchase and in having its attorneys attempt to negotiate to purchase those WUPs. Also, Aloha asked its consultants to look into what other alternative new water supply development options were, in general, available to it. Additional discussions were undertaken related to possible solutions that were based on obtaining new water supplies from sources not within Aloha's existing system. These discussions centered around obtaining supplemental water from Pasco County or developing new water supplies from a brackish water source. In 1997, the economic feasibility of developing a brackish water supply and constructing an R/O treatment facility was very doubtful. Since 1997, the current and projected future cost of water from other sources (Tampa

Bay Water/Pasco County) has significantly changed and resulted in a greatly increased potential feasibility of such a program. Further discussions are now being undertaken with the District related to brackish water supply/treatment system development based on these changes. The Pasco County supplemental supply alternative presented a number of technical and financial feasibility issues. Aloha had been utilizing its interconnect with Pasco County's water system to supply a relatively small quantity of water to assist Aloha in meeting its peak demands. This water was very costly, compared to Aloha's own water. Due to the relatively small quantity of Pasco Water used each year, the costs were manageable. However, if the quantity of water obtained from Pasco County was to increase dramatically, those costs would be very large. Integration of large quantities of Pasco County water into the Aloha system also posed a potentially significant technical and regulatory problem as well. In 1997 Aloha was in the early stages of implementation of its USEPA/FDEP required Corrosion Control Program (part of the Lead and Copper Rule). This program, which had taken over two years to develop and obtain approval from USEPA/FDEP, required identified and fixed water quality parameters to be adhered to Aloha. The program developed for Aloha was specific to that utility (as it is for

every utility) and was based on Aloha's water supply characteristics. Pasco County's water was different from Aloha's and therefore was not totally compatible with Aloha's corrosion control program. So long as the quantity of water taken from Pasco County was small as compared to the total supply, this incompatibility could be overcome by modifying Aloha's treatment program to add additional corrosion control chemical to offset the effect of Pasco County's water. However, it was not immediately known in 1997 what the effect of adding substantially more Pasco County Water to Aloha's system would be. It was Aloha's concern that if sufficient quantities were admitted to its system, its corrosion control program may be compromised. This was of great concern to Aloha for a number of reasons. The first was that it might cause Aloha to fail in its compliance with the USEPA/FDEP Lead and Copper Rule. This would have then required Aloha to possibly completely scrap its approved Corrosion Control Program and begin again at great cost to the rate payers. The second concern Aloha had was that if the corrosion control program was compromised and rendered ineffective, the corrosion control program would not be able to assist its customer's which were experiencing "black water" in their home copper piping systems in reducing the incidence of this problem. Aloha

had given assurances to the Public Service Commission and its customers that the corrosion control program would assist the customers in solving their "black water" problems. Aloha was therefore, most anxious to find a solution that would be cost effective for its customers, provide the best long-term solution to its water supply problems, allow it to stay in compliance with USEPA/FDEP Rules, and assist those customers experiencing the "black water" problem and reduce its effect.

Q. In testimony, Mr. Parker states that in October of 1998 Aloha submitted an application with the District to renew its WUP. Do you have any comments regarding Mr. Parker's testimony related to the WUP renewal?

A. Yes. Aloha did submit a WUP renewal application with the District in October of 1998. In the renewal application, Aloha demonstrated that its present permitted WUP withdrawals were not sufficient for it to meet present as well as future customer demands. Aloha requested that the permitted quantities be increased to meet those customer demands (it is my understanding from discussions with staff at SWFWMD that Representative Fasano has recently met with SWFWMD staff and attempted to persuade them to increase Aloha's WUP, however, he was also unsuccessful). In meetings with the District, Aloha was told that no increases in existing demands would be allowed and that

Aloha would need to develop other means of providing the water demanded by its customers that exceeded its presently authorized WUP withdrawals. Some of the alternatives discussed were those listed in Mr. Parker's testimony. All of those alternatives with the exception of attempting to increase customer conservation and obtaining water from other suppliers (Pasco County) were long term solutions at best (assuming that they were financially feasible). However, in the end Aloha's new WUP would not allow for any interim increases in water use to allow Aloha to study and implement alternative long-term water source additions to its system. Therefore, the only alternatives left which could be implemented in relatively short time was to attempt to have its customers increase water conversation efforts and to again consider obtaining additional water from Pasco County (with all the associated cost, regulatory, and technical problems outlined above). Regarding water conservation, Aloha's customers overall were already using water at a rate that was very low as compared to that in other water systems. Aloha's water use was lower than SWFWMD targeted per capita water use and, therefore, only slight (perhaps 5%) reductions were possible utilizing non-rate related conservation methods. These issues were discussed with the District Staff during the

WUP renewal process. When issued, the renewed WUP stated that the water withdrawals permitted would not be sufficient to provide all the water demanded by Aloha's existing, much less future customers.

Q. Mr. Parker testifies about Aloha's actions related to the water supply problems since the WUP renewal was issued in April of 1999. Do you have any comments related to Mr. Parker's testimony?

A. Again, in general I agree with Mr. Parker's testimony. However, I feel that additional comment is needed for his testimony to be fully understood in relation to the full situation that Aloha faced from a regulatory as well as an economic perspective. Since April of 1999, I have participated in a number of discussions with Aloha management and various others (County Utility staff and consultants, FDEP staff, SWFWMD staff, etc.) related to the future configuration of the Seven Springs Water System. This is a very complicated situation. There are a number of factors, which are interrelated and interdependent, that will ultimately control how water is obtained, treated, and distributed to the Seven Springs Water System customers. First, the cost of the water provided by each potential source varies considerably. Water obtained from Aloha's wells is much less costly than water obtained from Pasco County. It is also much

less costly than the projected cost of water obtained from a brackish water source after treatment. Aloha only learned several months ago that Pasco County will soon be modifying its water treatment processes to produce a water that is disinfected using chloramine instead of free chlorine. This will cause the County's water to be incompatible with Aloha's water, requiring Aloha to make substantial changes to its treatment systems to accommodate large quantities of Pasco County water if it is to be utilized. Aloha is under order from the FPSC to investigate treatment methods to reduce the hydrogen sulfide concentration of its raw well waters in a manner different than that which is now undertaken. Assuming that one of the methods being studied is implemented, this will create a second source of water that will be different chemically from the water now produced at the Seven Springs Water System. In order to meet its water quantity needs, Aloha is currently in negotiation with the SWFWMD to enter into a Consent Order that will require Aloha to study and, if feasible, develop an additional brackish water source and provide R/O treatment facilities for that water. This will introduce a third type of water chemistry to the existing Seven Springs Water System. The problem here is that at this time, none of the potential new water source chemistries

(Pasco County water, MIEX treated water and brackish-R/O water) are defined. They will remain undefined for the time needed to complete the necessary engineering studies by both Aloha and Pasco County. Until this information is known, it would be imprudent to move ahead, from a technical standpoint, and construct any of the support facilities until a full and complete engineering analysis of the combined effects of all the chosen alternatives can be completed. To do otherwise may result in substantial capital cost expenditures that could be found to be unusable or unneeded when the final analysis is complete. This would result in substantial amounts of the ratepayers' money being wasted. Aloha is moving ahead with the studies of all of these interrelated and interdependent options as quickly as they can be undertaken. However, regulatory activities and data submissions by others (Pasco County), which are beyond Aloha's control, set the pace for the completion of the work.

SWFWMD Witness Lois A. Sorensen

Q. After having read Ms. Sorensen's testimony, do you have any comments?

A. Yes. In general, I agree with Ms. Sorensen's testimony. However, I believe that I must comment and expand on her testimony in an effort to allow her statements to be

understood as they relate to Aloha's situation. First, it is important to note that each year, Aloha must file an Annual Water Use Report with the SWFWMD. Since I have been associated with Aloha (1994) these reports have always shown the Seven Springs Water System per capita water usage to be at or below that level required by SWFWMD rules. In fact, Aloha's customers generally utilize less water than the maximum allowed. I believe that this is because a large number of Aloha's customers do practice water conservation. The purpose of the District's water conservation programs is to encourage water customers to conserve water. Based on Aloha's Annual Water Use Reports, it would appear that Aloha's water conservation efforts are appropriate and working. It is important to note, however, that customer demographics are changing in Aloha's Seven Springs Service Area. Since the early days of the water system 30 years ago, the system has been maturing. Early customers built small retirement homes with one or two retired persons residing within. The newest customers (those connecting to the system within the last 10 years) are quite different demographically from the previous customers. The newest homes are very large with many water fixtures, swimming pools abound and large lots with specialized high-end turf requiring much more irrigation.

The occupants of these homes are frequently younger families with children. In the last 10 years, two elementary schools, one large middle school, one large high school and one college have all been constructed to serve this area. This level of school construction is indicative of an area with a large number of families with children. The fact that the three of the newest large schools (the middle school, high school and college) serve older children indicates that the School District and College Trustees believe that a substantial number of older students must now be living in, or soon will be living in, the Seven Springs Area. As anyone with teenage children can attest, teens typically consume large quantities of water, much more so than the older retired persons (that previously represented Aloha's typical customer). This trend is easily seen by studying Aloha's average per ERC water use rates for each year for the last 10 years. The trend has been increasing at a steady rate indicative of a steady increase in the number of new customers which fit the new demographic and utilize much more water then previous customers. Therefore, it would be most appropriate for Aloha to target these new customers in its efforts to affect a reduction in per capita water usage overall. As Ms. Sorensen states, one very effective means of reducing

water consumption of high water users is to limit the amount of water they can utilize to irrigate their lawns. In fact, for a number of years, the SWFWMD has limited the frequency (and therefore the quantity of water used) of lawn watering in the Seven Springs Service Area. Prior to 2001 lawn watering was limited by SWFWMD to twice per week and since 2001 it was decreased to once per week. Aloha has, on a number of occasions, sent their customers water conservation related information in bill inserts. These inserts also notified customers of the SWFWMD watering restrictions. Pasco County provides enforcement officers which patrol the Seven Springs Service Area to ensure that the watering restrictions are observed. Also, the bill inserts were utilized by Aloha to tell its customers that it had available detailed pamphlets on water conservation methods, produced by SWFWMD, for its customers free pickup. Based on the new customer demographic, these actions represented the most cost effective measures that Aloha could take to reduce its water use utilizing conservation measures.

OPC Witness Stephen A. Stewart

Q. After having read Mr. Stewart's testimony, do you have any comments?

A. Yes I do. Mr. Stewart states in his testimony that he was retained to "address the methodology used by Aloha to

project test year water consumption." In his testimony, Mr. Stewart also stated that it was his opinion that Aloha utilized a "number of competing methodologies" in calculating its water use projections presented in the MFRs. He further states that "this hodgepodge of methodologies is inappropriate." He concluded that "the hybrid methodology used by Aloha in this case failed to take into consideration the abnormally dry weather in 2000 and has resulted in an inflated projection of water consumption in 2001." Mr. Stewart was asked in deposition what experience he had in developing water and wastewater demographics and did he believe that differences in demographics could affect water and wastewater consumption levels. His response was "I don't have any firsthand knowledge that those types of things would affect water consumption, but I could build a model that might show that." Further he was asked if it was fair to say that he has never previously rendered an opinion on water use projection that took into account differing demographics of the groups that were likely to use the water. His response was "That would be true." These statements show that Mr. Stewart did not understand the basic underpinnings of the methodology used by Aloha in projecting test year water consumption nor did he understand the unique circumstances that require a very

careful consideration of water consumption in this case which I discussed earlier in this rebuttal testimony. Mr. Stewart's statements that Aloha's methodologies were a "hodgepodge" was directed at the fact that Aloha utilized linear regression analysis to develop its ERC projections and used the demographics based water use method to project future water consumption. His statements were incorrect and show his lack of understanding concerning the affects that demographics can have on water consumption projections and its importance in this case. Mr. Stewart's claim that Aloha utilized "competing methodologies" is totally false on its face. The number of future ERCs is related to growth of the service area and is related to past trends. Therefore, Aloha utilized a liner regression model to determine projected ERCs because that method would correctly project future numbers of ERCs. To project water consumption of the future customers, Aloha chose to use a model that reflected the change in the demographics that was actually occurring in the area in which ALL new customers would be constructing their homes. To use any consumption method that somehow averaged the existing water consumption of customers that did not represent the future customers to be added to the system would surely cause a large error in the determination of future water

consumption. As I discussed earlier in this testimony, Aloha did complete a linear regression analysis of water consumption/ERC/day as a check against its demographics based model and found that the two approaches agreed very well. For all the reasons stated in my testimony, Mr. Stewart's analysis is flawed, his conclusions are totally incorrect and not supported by the facts and, therefore, his projections should not be relied upon. The fact that Aloha's linear regression model of water consumed/ERC/day agrees very well with Aloha's demographics based analysis must once and for all eliminate any notion that Aloha's methodology was flawed due to the use of "competing methodologies."

OPC Witness Ted L. Biddy, PE, P.L.S.

Q. Mr. Biddy states in his testimony that he does not agree with the Utility's water consumption projections presented in the MFRs for a number of reasons. Do you wish to comment on the reasons he has presented?

A. Yes. My comments presented at the beginning of this testimony apply directly to Mr. Biddy's testimony. In addition, Mr. Biddy claims that one reason he does not agree with the Utility's projections is because I relied upon water use per ERC data provided to me by the Utility to develop my projections. Mr. Biddy states "he did not make any independent investigation concerning the water

use issue." When I read Mr. Biddy's testimony I took his statements to mean that he distrusts the validity of the data provided by the Utility. Why else would he claim that use of the Utility's data somehow caused my analysis to be invalid? At deposition, Mr. Biddy was asked directly if he had any reason to believe that the data provided by the Utility was incorrect or untrustworthy. He responded that he did not. He was also asked if he had reason to believe if the data was inaccurate. He said that he did not. Data concerning customer water billing information could have been obtained from no source other than the utility unless each and every customer was to be contacted and interviewed. Given the cost of the later method, utilizing the Utility's database information was the appropriate thing to do. Therefore, his statements regarding this reason for his objection to my projections must be dismissed. He claims that Aloha's data may have been selectively chosen by stating "Mr. Watford chose the 12 most recent subdivisions which also happen to have higher monthly uses." Here I believe that he is inferring again that the data provided me by the Utility is suspect as it may have been selected to skew the analysis. As I discussed earlier in this testimony, the data set was chosen to directly address the unique situation that exists in this case and was in no way chosen to skew the

analysis. Mr. Biddy also takes issue with the data set selection based on the length of time the data represented. He states that "Using a very limited time period as a data base in determining engineering projections is always suspect because one must always guard against unusual events skewing the results of projections obtained from short period data bases." He goes on to state that "Mr. Porter totally ignored the fact that his data base of flows included the driest weather period on record and that heavy irrigation would have obviously skewed his resulting projection to the high side." Mr. Biddy's statements are totally incorrect. Just because my calculations did not implicitly include weather variables does not mean that these variables were not considered. In fact, the effects of weather on water use was specifically excluded in this analysis because we believed that the drought conditions being experienced in the area for a number of years had the opposite effect that Mr. Biddy claims. Due to the drought conditions, the Water Management District had imposed outdoor water use restrictions for the customers of the Seven Springs Water System service area for a number of years. The use of water for irrigation had been severely curtailed during the June 2000 to July 2001 time period. These water use restrictions actually depressed the use of water and, if

anything, caused Aloha's estimates to be too low. Mr. Biddy also stated that he believed that irrigation of "new lawns" was partially responsible for the high per ERC water use exhibited by Aloha's new customers. For this to be true, these lawns would have to have been entirely exempt from the watering restrictions imposed by the SWFWMD. This is not the case. There were water use restrictions specifically directed at new lawn watering. Also, the relative number of "new lawns" in the entire subdivision would have had to be great for it to influence the overall water usage number. It is important to note that "new lawns" will continue to exist into the foreseeable future and require irrigation for as long as the subdivisions have vacant lots. "New lawn" watering will affect the water demands of Aloha's customers the same next year and in succeeding years as it did during 2000 and 2001. Mr. Biddy's claim is not supported by the facts.

Q. Mr. Biddy states that one of the reasons that he does not agree with Aloha's projected 500 gallons/ERC/day water consumption rate is that the actual water consumption rate for the first six months of 2001 do not show water consumption at the rate projected. Do you have any comments related to this issue?

A. Yes. Mr. Biddy did not take into consideration the SWFWMD

water use restrictions that I spoke about earlier in my testimony. He also did not take into account the fact that water use per month can be quite variable when a utility serves seasonal customers. Also, meter reading date variability can easily affect a partial year water use summary. The data shown on my exhibit DWP-1 shows quite clearly that the trend in water consumption for the last 5 years is upward and not decreasing. Mr. Biddy is incorrect.

Q Mr. Biddy provided testimony that 350 gallons/ERC/day is "the standard design value taught in engineering schools and is the standard in the engineering profession." Do you have any comments regarding this statement?

A. Yes. The 350 gallons/ERC/day value Mr. Biddy quoted is typical of many "rules of thumb" taught in engineering school. It is based on data that has existed for many, many years. If in fact, Mr. Biddy were to project water usage based upon an average of 350 gallons/ERC/day for the entire service area it would result in a much higher projected test year water use (1,349,040,000 gallons) then has been projected by Aloha or anyone else in the case. In the engineering world, rules of thumb are only to be used to give an engineer a rough idea of what the solution to a particular might be. When I attended engineering school, we were taught that rules of thumb

were only to be used for that purpose and the engineer had a responsibility and duty to test the appropriateness of the application of that rule of thumb number before any use of it was made. As an example, it was once common to assume that wastewater generation rates were 100 gallons/person/day. I personally have seen this number range from 50 gallons per person per day to over 200 gallons per person per day in Florida. This is because local conditions (e.g. ground water levels) have a direct affect on the quantity of wastewater actually generated in the system. If an engineer was to just use the rule of thumb value in the design of the wastewater system with 200 gallons per person per day wastewater generation rates the result would be a system that overflowed and would not be capable of performing the job it was designed to do. This water consumption value Mr. Biddy quotes is no different. I worked on a project in the Middle East where the cost of water was so great that water use per ERC was far below 350 gallons/ERC/day. In another system here in Florida, I worked on a project where the water use per ERC is over 700 gallons/ERC/day for the newer parts of the service area. This was due largely to demographic shift as is occurring here. I believe that these two systems are not the only systems experiencing this change in per ERC water use as the

demographics of their customer base is changing. The rule of thumb value will eventually change to reflect this new reality as it has in the past. For now, it is what it was meant to be, just a place for a responsible engineer to start his evaluation.

Q. Mr. Biddy states that another factor that may have skewed the water consumption values is the flushing of home water systems by those customers experiencing "black water." Do you have any comment related to this statement?

A. Yes. The "black water" issue has been discussed in detail in another case so here I will only address Mr. Biddy's contention that the water volume used to flush these homes somehow contributed to the high per ERC consumption values. First, testimony given in the prior case showed that the vast majority of the customers that reported "black water" problems said they experienced it infrequently. They also stated that when they did, they would flush their system for 10 minutes of so to clean the discoloration. If we were to assume that a customer experienced that problem once per week and flushed his entire home including hot water heater, the quantity of water flushed would be approximately 60 gallons per week (2 gpm times 10 minutes for the piping and 40 gallons for the hot water tank). This would amount to about 8.5

gallons/day/ERC for that homeowner. This should be considered a worst case scenario as few customers have ever reported that they flush their entire system every week. This 8.5 gallons/ERC/~~week~~ day is very small relative to the 500 gallons/ERC/day consumption rate we used. Also, since the number of customers reporting "black water" is very small relative to all the customers in the 12 subdivisions included in the data set, the effect of the home flushing becomes negligible. There is direct proof of this fact. The data reported by Aloha shows that for the Wyndtree Subdivision, which is one of the subdivisions with the highest reported incidence of "black water" problems, the water consumption was 317 gallons/ERC/day, which is one of the lowest consumption values of the 12 subdivisions in the data set. In contrast, Riviera, a subdivision which has a very low incidence of "black water" problems, reported the highest water consumption values of 1,084. Obviously, flushing was not responsible for this value. Mr. Biddy's argument is false and should not be relied upon.

Q. Mr. Biddy states that for the first six months of 2001, water consumption decreased by 54,412,000 gallons from water sold during the same period in the year 2000. He uses this data to try to invalidate Aloha's consumption projections. Do you have any comments?

A. Mr. Biddy has assumed that water use is constant throughout a given year. He assumes that lower water use during the first six months of 2001 will result in a lower annual water use. He further assumes that this lowered water use supports his claim that Aloha's earlier consumption projections were inflated and incorrect. Mr. Biddy is incorrect for a number of reasons. First, meter reading dates can affect the number of reported gallons sold during any partial year period when compared from one year to the next. Meter reading dates are rarely the same from year to year. If only one month metered results for one year were out of sync with the previous year's data the numbers would look completely different and would lead one to conclude that water use was different from one year to the next. In addition, Mr. Biddy has not taken into account the fact that SWFWMD/Pasco Count water use restrictions were made more stringent during this entire period. Lawn watering was reduced from 2 days/week to 1 day/week which would have further reduced water use during this period over the pervious year. This fact would easily explain the reported differences and further support Aloha's contention that weather and the drought have had the opposite affect on consumption than is assumed by Mr. Biddy, Mr. Stewart and Mr. Stallcup. The tightening of watering restrictions as rainfall

diminished and the drought intensified only served to artificially depress water consumption. Again we contend that this makes it more likely that Aloha's consumption projections are lower than what the actual rate would have been without the drought and water restrictions; when the water restrictions. When the water restrictions are lessened or removed in the future, the 500 gallons/ERC/day for the new customers may prove to be too low.

Q. Mr. Biddy states that Aloha actually purchased 103,056,000 gallons of the 483,253,297 gallons of water that Aloha projected would be purchased from Pasco County for the year 2001. He claims that the fact that Aloha is purchasing Pasco County water at a rate less then projected is proof that Aloha's projected water consumption rates are inflated and incorrect. Do you have any comments related to this statement?

A. Yes. Aloha was continuing to pump water in excess of its SWFWMD Water Use Permit from its own wells during this period instead of purchasing water from Pasco County. Until Aloha obtains rates that will allow it to pay for Pasco County water it must continue pumping the water from its wells. Mr. Biddy incorrectly assumes that because Aloha's purchased water rates have not met projected purchased water rates that the overall use of

water has fallen by a like amount. In addition, Mr. Biddy has not taken into account the fact that SWFWMD/Pasco County water use restrictions were made more stringent during this entire period. Lawn watering was reduced from 2 days/week to 1 day/week which would have further reduced water use during this period.

Q. Mr. Biddy states that he has calculated that the percentage of unaccounted for water that is appropriate for the Seven Springs Water System for the part of 2001 is 14%. Do you agree?

A. No. Mr. Biddy states in his testimony that he calculates unaccounted for water by subtracting the quantity of water sold to customers from the total water pumped and purchased by the utility. This is an incorrect method for determining unaccounted for water. The water used by the utility in operating the system (such as treatment plant loss and water main flushing water) is not unaccounted for water. In fact it is accounted for and must be subtracted from the water pumped and purchased before the quantity of water sold to customers is subtracted to obtain the quantity of unaccounted for water. This is not only the calculation accepted by the Commission but is the calculation used by utilities when determining this percentage for submission in the Annual Report to the commission. When the proper calculation is used, Aloha's

unaccounted for water is 10.2% for the first 9 months of 2001. Since the quantity of water pumped, sold, and used for line flushing, fire fighting, and as treatment loss varies from month to month we have no reason to believe that the unaccounted for water percentage will exceed the 10% value generally accepted by the Commission as appropriate.

Q. Mr. Biddy states that he has first-hand knowledge related to the demographics of the Seven Springs Water Service Area by virtue of his having visited the area on several occasions and talking with several customers.

A. This statement is absurd on its face. The demographic makeup of a major portion of the service area cannot be determined by driving through the area on several occasions and talking with several of the customers. As I stated earlier in my testimony, the number of new schools, playgrounds, and recreational facilities specifically targeted at families with children and all the other factors I discussed above speak more about the current and future demographic make-up of the area then Mr. Biddy's "visits."

Q. Mr. Biddy provides several pages of testimony related to the status of the "black water problem" and the progress that Aloha has made going forward to find a solution to the problem. He also provides his opinion as to Aloha's

compliance with the Commission's order which directs Aloha to implement a pilot project to enhance the water quality and to diminish the tendency of the water to produce copper sulfide. Do you have any comments regarding Mr. Biddy's testimony?

A. Yes. Mr. Biddy's testimony is puzzling. He reports that he has read the reports provided to the Commission, as required in the Commission's Order, and states that they were submitted each month as required. He further states that they report that Aloha immediately began the pilot project work when ordered by the Commission and that substantial progress was shown until approximately July 2001 when it was reported that water supply and water chemistry incompatibility issues came to the attention of the Utility by the SWFWMD and Pasco County. He stated that the reports discussed this new information and its effect on the project. This would seem to indicate that Aloha placed a high priority on compliance with the Commission's Order and proceeded with all due diligence to undertake the pilot project as soon as it was ordered. However, Mr. Biddy states that his opinion was that Aloha complied with the "letter but not the spirit of the Commission's Order." Mr. Biddy bases this statement on the fact that Aloha's August, September, and October reports are essentially identical and provide no further

evidence of the progress of the project. He claims that these reports show that the utility's action are "disingenuous" in his opinion. He further states that in his opinion "Aloha is simply stalling on this issue." These statements show that Mr. Biddy has no conception of what is involved in undertaking this pilot project. First let me state that the goal of this project is that which the Commission ordered, to implement a pilot project to determine what additional treatment technology could be utilized to enhance Aloha's water in such a way as to lessen the tendency for copper sulfide generation in the customer's home copper water system piping. The background of this issue has been discussed in great detail in other cases and has been the subject of a joint commission made up of a number of state agencies and coordinated by the Commission. The bottom line has never changed. This "black water' problem occurs in the customer's home water piping. The water delivered to Aloha's customer's is pure, clean, color free, odorless and meets all State and Federal laws, rules and regulations. The problem is not unique to the customers of Aloha Utilities and does occur in other areas of Florida. The "black water" problem is but one manifestation of a larger problem, that of copper piping corrosion, that is prevalent in many parts of Florida and

was wide-spread enough for the Commission to sponsor and act as coordinator of the interagency study group that was formed to try to deal with this issue on a state-wide basis. Aloha's task in the pilot project is to find a cost effective way to reduce sulfate and sulfur products in the finished water being distributed to its customers. This is because the copper sulfide problem occurs when elemental sulfur and/or sulfate in the water is converted biochemically in the customer's home from harmless sulfate and elemental sulfur to hydrogen sulfide which can attack the home copper water piping and create copper sulfide which is the black substance reported by some of Aloha's customers. It is important to note that Aloha's water contains very small quantities of sulfate as it is delivered to the customer, varying from single digit values in to the 20 to 25 mg/L level. The national drinking water standards allow 250 mg/L sulfate levels so you can see that Aloha's water contains at most only one tenth of the national limit. For any pilot project water treatment technology to be technologically capable of lessening the incidence of the formation of black water in the homes of the customer's the treatment process must lower the level of naturally occurring hydrogen sulfide at the well head to virtually non-measurable quantities. In addition, the water produced by the new process must

be compatible with all the different water sources which are combined to supply water to Aloha's customers. When the pilot project was conceived, the water sources to be combined were largely those of Aloha itself with supplemental water provided by Pasco County. Pasco County's water quality was similar to Aloha in general and the disinfection methods used by both utilities were compatible. Based on these facts, the pilot project progressed at a rapid pace in the first seven months of 2001. Beginning in July 2001, complicating factors began to emerge which have a major affect on the progress of the pilot project. Pasco County conducted a meeting with all of their bulk water customers to inform them that in 2002 the County would be changing its water disinfection process and that its water chemistry was going to be substantially different from that which had been previously provided. The County stated that at that time they were still conducting engineering studies and could not provide the bulk water customers with the specifics related to when the change would occur or the water chemistry characteristics until all the engineering studies were complete and evaluated. Since Aloha was being required by the SWFWMD to begin taking much larger quantities of Pasco County water into the Seven Springs System than had previously been taken, Aloha was no

longer in a position to evaluate the appropriateness of the MIEX treatment solution it had been investigating (until the County water quality and character data could be obtained). We have been told that the County's engineering report was submitted by its engineers for review and consideration only within the last two to three weeks. The County has not yet provided its bulk water customers with the data we need to allow us to continue with the MIEX process evaluation. In addition, during the last several months, Aloha has been in negotiations with the SWFWMD related to finding solutions to the long-term water supply needs of Aloha and its customers. The District has provided Aloha with a Draft Consent Agreement that will require Aloha to study, and if feasible, implement the development of an alternative brackish water source with R/O treatment system. This further complicates Aloha's evaluation of the technical and financial feasibility of the MIEX or any other hydrogen sulfide reduction process until this issue is more well defined. Because of these late-breaking complicating factors, Aloha has been forced to deal with these other issues before it can complete its MIEX pilot project report. The monthly status reports submitted to the Commission clearly discussed each of these problems and the situation as I have described it here. It is

clear that Aloha's reports do not report "no progress," they report that progress on the MIEX pilot project completion has been delayed while the unknowns which affect the evaluation of the MIEX project are resolved. There has been no attempt on Aloha's part to stall the continued progress of the pilot project.

Q. Mr. Biddy testifies that he had interviews with SWFWMD staff and states, "The District's personnel have serious doubts as to the technical feasibility of an R/O facility in the Aloha Service Area." He further states, "One professional Geologist in the District's Water Use Section states in a memorandum that the R/O system proposal by Aloha "contain this Utility's typical delaying tactic and wait and see approach."" Do you have any comments regarding Mr. Biddy's statements.

A. Yes. What Mr. Biddy did not say in his testimony was that the response that this Geologist received from his supervisor related to his comments quoted by Mr. Biddy was that the supervisor did not agree with his underling and that the District believes that the R/O project may indeed be feasible and that the District believes a feasibility study of that option was warranted and would be required by the District. In deposition, Mr. Biddy was asked about the meetings he attended with both the Geologist and his supervisor. Mr. Biddy admitted that in

those conversations the supervisor, Mr. Parker, told him that he believed the District would support Aloha going forward with an R/O feasibility study. Mr. Biddy was asked in deposition "… you believe they [SWFWMD] would support the feasibility study?" His answer was "Yes." Based on Mr. Biddy's testimony related to his conversations with SWFWMD at deposition, I believe that Mr. Biddy received confirmation that the SWFWMD believed that Aloha should move ahead with an R/O feasibility study and that action is likely to be required by the District in any consent order entered into with Aloha.

OPC Witness Hugh Larkin, Jr.

Q. Mr. Larkin states that he believes Aloha failed to meet a competitive standard and is therefore, should not receive a rate increase. He sites the testimony of Mr. Biddy related to the "black water" problem as one example where Aloha has failed to meet this standard. Do you wish to comment?

A. Yes. Mr. Larkin is mistaken when he sites the "black water" problem as one which in some way is the result of some wrongful action on Aloha's part. I discussed the "black water" issue earlier in my testimony in great detail so I will not go into it again here. However, I will repeat that Aloha's water meets all regulatory standards. The FDEP witnesses in this case stated this in

their testimony. In addition, Aloha's water has always been shown to be clean, clear, odor free, and colorless as it is delivered to the customer at the water meter. Based on my 29 years experience in the water industry with facilities around the world, this description of a water supply is characteristic of a superior product, not an poor one.

OPC Witness Donna Deronne

Q. Ms. Deronne states in her testimony that she recommends a reduction in the chemical and purchased power expense should be made based on the testimony of Steven Stewart and his statements that test year water consumption will be reduced according to his projection model. Do you have any comments?

A. Yes. Ms. Deronne incorrectly based her testimony on the assumption that Mr. Stewart's projections are correct. As I have shown in great detail earlier in this testimony, Mr. Stewart's model is seriously flawed and produces inaccurate projections. If anything, the chemical and power cost projections provided by Aloha are potentially understated due to the following facts:

1. Once Pasco County changes it's water disinfection treatment system, Aloha's chemical costs will rise significantly when they implement similar changes in their treatment

systems to make their water compatible with the County water.

2. Power costs will increase when Aloha begins using substantially more Pasco County water because it will need to add and operate pressure boosting pumping equipment to enable the County supply to meet the peak flow water demands of Aloha's customers.

The water use and chemical cost projections of Aloha are correct, and therefore, no adjustment is necessary.

Q. Ms. Deronne states that one of the reasons she believes an adjustment to working capital is necessary is that the pilot project has been "put on hold and delayed by the Company." Do you wish to comment?

A. Yes. Ms. Deronne is incorrectly characterizing the status of the Pilot Project. She based her statements on the testimony of Mr. Biddy. I have addressed Mr. Biddy's comments earlier in the testimony. The pilot project is moving ahead and has not been but on hold in any way. I am still working with the MIEX representatives in developing the next stage in the pilot process, the demonstration scale facility. Within the last 30 days I have received a proposal from the MIEX representatives related to this phase of the project and have completed my review of their draft plan. I have within the last

week discussed my comments with the MIEX representatives and have begun discussions with Aloha related to moving ahead with the demonstration facility early next year if everything is able to be arranged by that time. No working capital adjustment is justified.

Staff Witness Gerald Foster

Q. You have read Mr. Foster's testimony. Do you have any comments?

A. Yes. In general I agree with Mr. Foster's comments. There is only one correction to his testimony that I believe needs to be made. He describes the substance found in "black water" as copper sulfate. I am sure Mr. Foster meant to say "copper sulfide" and that the use of sulfate was a typographical error. I also wish to state that Mr. Foster's testimony directly states for the record that Aloha's water meets all drinking water standards. I believe that his statements impeach Mr. Larkin's testimony as it relates to Aloha's water quality being the cause of Aloha not meeting a competitive standard.

Staff Witness Van Hoofnagle

Q. You have read Mr. Hoofnagle's testimony. Do you have any comments?

A. Yes. In general I agree with the comments of Mr. Hoofnagle except in a few areas. Mr. Hoofnagle refers to the water treatment process MIOX in his testimony. Where

this is reported I believe that he meant MIEX. Also, the list of options that Mr. Hoofnagle provides related to methods and practices that Aloha could implement to eliminate the "black water" problem is similar to those methods and practices addressed in a report produced by Aloha in a previous water docket. Mr. Hoofnagle states in his testimony that "a centralized treatment system would not be cost effective." In the earlier docket Aloha also concluded that a single centralized treatment system would not be cost effective. Aloha proposed three dispersed regional treatment facilities that would provide for maximum cost effectiveness and reliability. However, since that time, new processes (such as the MIEX process) have been developed that may change the desirability of providing a certain number of treatment facilities. Only after the engineering studies are completed will this question be answered with any certainty.

Staff Witness Paul W. Stallcup

Q. You have read the testimony of Mr. Stallcup. Do you have any comments?

A. Yes. All of the comments I made at the beginning of this testimony related to Mr. Biddy, Mr. Stewart and Mr. Stallcup will not be repeated in detail here, however, those comments form the basis of my belief that Mr.

Stallcup's testimony related to water consumption projections is totally incorrect and must be disregarded. Mr. Stallcup's testimony is based on the assumption that weather, the drought, and therefore the moisture deficit variable, somehow has a direct influence on the quantity of water that will be demanded by Aloha's customer's for the test year and beyond. It is Mr. Stallcup's contention that Aloha's water consumption projection is overstated because the method that Aloha used to project water consumption did not take this moisture deficit variable into account. He goes on, through elaborate statistical manipulation of a number of variables, to purport to show that he has developed a model that more accurately projects water consumption. I have read his testimony, listened to a multi-hour deposition, read the transcript of the deposition and reviewed his workpapers and electronic spreadsheets. I have come to the conclusion that, in my opinion, Mr. Stallcup's methodology is seriously flawed. First, he has relied heavily on "binary variables" and "lag factors" to manipulate the raw data in such a way as to adjust the fit of the data to his model so that the statistical summary output will show good correlation values. In deposition, he stated that he applied the binary variables to the data to allow for a statistically better fit between his model and the data

set. The lag coefficient he applied was designed to again adjust the data set to better fit the data to the model. Mr. Stallcup was asked to provided a late filed exhibit to his deposition showing the output of his model without the influence of adding the binary variables to the data set. This output showed that without the influence of the binary variables, the correlation coefficient for this model dropped to 0.526 which shows a very poor fit of his model to the data. One can clearly see from my exhibit DWP-1, that the outcome of plain linear regression of the water consumption/ERC/day for the last five years produces a prediction that is consistent with the actual data set with nothing removed or adjusted. The outcome predicted by Mr. Stallcup's model produces an outcome that is obviously flawed. His outcome is not consistent with the data set in any way. In fact, as I described earlier, for his model to be correct one would have to believe that some major change in the water consumption of Aloha's customers will take place to cause them to use less water then they did in 1996. The actual water use data Aloha has provided has shown that this is not the case. In actuality, the new customers being added to Aloha's water system for the last ten years have consistently consumed 500 gallons/ERC/day due to changing demographics. One way to test the credibility of both Mr.

Stallcup's and Aloha's models is to assume that the water predictions of Aloha and Mr. Stallcup actually occur in 2001 and produce the 2001 data point predicted. Then, conduct a standard linear regression analysis on the 6 year data set and each prediction and see how the data fits (correlates). We conducted such an analysis. Exhibit DWP-2 shows the data sets for the two scenarios. Aloha's (Aloha's Position) data set includes the actual water consumption system wide for 1995 through 2000 (from MFR Schedule F-9, Column (6) x 1,000 divided by 365 days) and a prediction of water consumption based on linear regression of the first five years data. Mr. Stallcup's (Staff's Position) includes the actual water consumption data for the years 1995 through 2000 (from MFR Schedule F-9, Column (6) x 1,000 divided by 365 days) plus Mr. Stallcup's water consumption prediction for 2001 from his model. DWP-3 shows the summary of output of the liner regression model of Mr. Stallcup's prediction with the actual water consumption data set for 1995 though 2000 (shown as Staff Position). DWP-4 shows the summary output for the linear regression model of Aloha's prediction and the actual water consumption data set for 1995 though 2000 (shown as Aloha's position). The summary outputs show that the liner regression of Aloha's data set (which includes Aloha's projected 2001 water consumption) has a

correlation coefficient (R^2) value of 0.913 which indicates a very good correlation between all the data points (including Aloha's prediction). Also, note that the standard error for this analysis is 4.11 gallons/ERC/day. When the same data is reviewed for the Stallcup data set, the coefficient (R^2) value is only 0.351 showing a poor correlation between the all the data points (and Mr. Stallcup's prediction). The standard error is 9.33 gallons/ERC/day for this data set which is twice the error shown for the Aloha data set analysis. What this says is that if Mr. Stallcup's projected 2001 water consumption is accepted, the chances of it being accurate are very small because his projection has a poor fit with the actual data for the last 5 years. However, the Aloha projection has a high chance of being very accurate because it agrees very well with the last five years actual water consumption data. I believe this analysis shows why Mr. Stallcup needed to apply a number of "binary coefficients" and "lag factors" to the data sets he used in this model. The truth is that his model just doesn't work without them and with them they produce projections that do not agree with the actual historical data. Mr. Stallcup's testimony related to water consumption must be disregarded in its entirety.

Q. Please summarize your rate case expense to date and your

estimate of cost to complete these proceedings and your total rate case expense.

A. To date I have billed $8,005 for my work on this case through November 5, 2001. I have earned an additional $7,750 for the period November 6, 2001 through December 7, 2001 that has not as yet been billed. I estimate that my cost to complete my work on this docket will be $16,160. Therefore, my total estimated rate case expense is #31,915. Mr. Nixon has provided an exhibit in his testimony which provides a detailed breakdown of my estimated costs.

Q. Do you have anything else to offer at this time?

A. No.

MR. WHARTON: We would tender the witness for cross.

CHAIRMAN JABER: Thank you. Mr. Wood?

MR. WOOD: Yes.

CROSS EXAMINATION

BY MR. WOOD:

Q In your rebuttal, in your rebuttal testimony you referred to the number of homes and the demographics of the people who lived in them in the early days of Aloha. Where were those homes located?

A Good afternoon, Mr. Wood.

Primarily those homes were located in the Veterans Village area and surrounding areas along Seven Springs Boulevard.

Q Are all new homes being built today are three or four bedroom ones?

A The vast majority of the homes being advertised for sale with the home builders in that area through the literature I saw and also the homes that I've been in myself talking to customers have all been three and four and more bedrooms.

Q Have you gone into any of the new neighborhoods where they're building homes?

A Yes.

Q And you've looked inside them and saw what they are?

A I've been inside some of the homes, sir, yes.

Q Have you been in Thousand Oaks?

A I have driven through Thousand Oaks. I have not been inside.

Q So you don't know whether those are three, four or two bedroom homes; is that correct?

A I can only tell you what I've seen in the literature from the builder. And the builder advertises those as family residences.

Q How many $400,000 homes do you think have been sold in the district's, the water district area there?

A Certainly many more than were built previously.

Q In 2000, in 2001.

A The actual number, I don't have any idea. But I can tell you again, looking at the advertised prices and ranges of the homes that the builders are putting forth in their documentation, the homes, the overall range of prices certainly are significantly higher than they ever were in the past and reflect that number. Of course, that's also part of the range. It is not the only number I gave.

Q Would you say that part of that price is based on inflationary tendencies?

A Whatever the reason. For a number of reasons those prices are, are being asked by the builders. I mean, certainly the primary reason is that's what the homes are worth that they're constructing. You know, they only charge, only offer the homes at the price point that they think they can sell

them. The developers have been very successful in that area, so if they tell me the homes are worth two to $400,000 and they're selling them, I can only assume that that's correct.

Q Have you ever looked in the St. Petersburg Times on Saturday and see the number of real estate transactions and the prices?

A For what area?

Q Homes sold in the New Port Richey area, which includes Trinity, Wyndtree, Chelsea Place and all the other areas serviced by Aloha.

A I can't say that I've ever done that, no.

Q I think that you -- I shouldn't say that.

Have you discussed with the school board the building of the new schools?

A Have I personally discussed it?

Q Yes.

A No, sir. But Mr. Watford --

Q Where did you get your --

A Mr. Watford has previously.

Q I'll ask Mr. Watford then.

Do you know the name of the college in the area that you refer to?

A The one I'm referring to is Trinity College.

Q And that's a big college; is that correct?

A No, sir. It's, well, Trinity College itself, I

believe, is a large institution. But they have outlying college centers and I believe that's what's in the Seven Springs area. But like all colleges, I mean, I've taught myself at colleges and universities previously and most today try to get closer to the point at which they believe they're going to provide the service so that working people, people that are, you know, find it hard to, to travel or to go full-time can take advantage of the, of the facility.

Q What is the difference between the type of customer ten years ago and the type of customer today? What's the difference between old and new?

A Well, again, Mr. Wood, my impression is based upon the numbers of things I spoke about in my direct testimony, and that is the fact that the house prices are much higher than they were previously, the type of house that's being built is different, the size of the lots are somewhat different. The fact that there's pools in place considerably different in the last ten years.

But what's most important to this case are those things that would create a customer or drive a customer to use more water such as a lot with premium landscaping and turf, the fact that the family would have children that perhaps didn't before, especially teenage daughters, I had four, I know how much water that can consume, the, the effect of pools and other water using fixtures. But all of those things are what largely

contribute to the, the rise in the water use for those customers.

Q Have you looked in the subdivisions of Wood Bend and Oak Ridge?

A Again, when you ask look into, I --

Q They're right, right, one is across the street from Aloha's office, the other is right behind it.

A I can't say that I've ever -- by looking into, I don't believe I've been in any of the homes in that area. And, again, I don't, without consulting my list, I'm not sure that those are the newer subdivisions; however, they may be one of the newer ones. Of course, they may also be those that don't have too many lots left. I'm not sure without looking.

Q You talked about Thousand Oaks.

A Yes, sir.

Q And the amount of water that is used in Thousand Oaks.

A Uh-huh.

Q Do you know how many houses are built in Thousand Oaks?

A If you'll hold on just a moment. Let me take a look.

Q And occupied.

A To be honest with you, Mr. Wood, I'm not sure. There was not very many bills for the one-year period 7/1 to 6/30/2001. That's one of the very new subdivisions. But it's

a very important one because that is a subdivision where reuse water is provided to the customers. And at this time those customers are using 500 gallons per ERC per day or more and there are 441 lots available in that one subdivision, and that's one of the subdivisions that appears is going to be growing very rapidly. So it's one of the very new subdivisions and I think very characteristic of the type of customer we're talking about. And they're a very good one also because their use to date reflects a use that would have absolutely no bearing on the weather whatsoever because there is no water, domestic water used in that subdivision for irrigation.

Q That number you quoted, how much of that gallonage could be used by the construction crews?

A Technically it shouldn't be any. The construction crews are required to go to Aloha and get a meter and pay for the water as it's used and that would not be in that number.

Q Okay. With eight, with eight --

A Okay.

Q -- models in there, in both subdivisions, and 22 finished homes --

A Okay.

Q -- on lots that are no bigger than anything surrounding it, where is the water being used other than conceivably that's where they're putting in the, the new turf?

A Okay. Mr. Wood, that's a very good point and I'm

glad you brought that up because based on the numbers you just told me, then my number is probably too low. Because if eight of those bills we've been using are models, strictly models, and the 22 are the ones that are occupied, all of the bills were used to calculate my number, so my number is probably low. It's probably greater than 500 for the families that are in there.

Q Well --

A And, again, I think that's an excellent point because that is the one subdivision where absolutely rainfall has no bearing on this case or on those, on that water use. It's all supplied by reuse water.

Q Do you know the demographics of the makeup of that neighborhood?

A Again, I know what the builders are saying or the population they are trying to sell to are families and that's what their advertisements claim.

Q But you haven't been there to see the retirees walking around there?

A No, sir. I've not seen retirees walking around there.

Q You talked about the control, corrosion control system that you have in place right now.

A Yes, sir.

Q A house that is built in there with copper pipe,

should there be any corrosion ever in that pipe?

A I think the key word you just said was "ever." And copper pipe will always corrode to some extent. And the goal is to slow that corrosion down so that the service life of the copper pipe is such that it provides the owner with a reasonable life and a value throughout its life.

Q What is a reasonable life?

A That depends on the customer's opinion.

Q Well, in your opinion.

A If it was my house -- well, to be honest with you, I don't have copper pipe. I've got CPVC in my house. But if I was to put a building material in my home, I'd like it to last 20 years. That's why I use CPVC.

Q Does this corrosion control material that you're using, does that give you 20 years of life?

A Well, there's, again, that's a question that, that requires an answer that is more complex than just a yes or a no.

The corrosion inhibitor that Aloha and many other utilities supplies is an orthopolyphosphate blend. And in order for that component or that system to work, the ortho, orthophosphate blend has to be able to be applied to the customer's piping. Now when a customer puts an in-home water treatment system on their houses, which many, many, many, many of the customers in the Seven Springs area have done, it does

two, well, it does three things. It causes great, great amounts of problems with the copper piping.

The first thing it does in many cases, depending upon the type of treatment, it can stop the orthopolyphosphate from getting into the home so, therefore, the home would be absolutely not protected in any way even though Aloha applies the corrosion inhibitor to the water.

The second thing it does is, especially with softeners, water softeners, it removes the calcium from the water. The way that the ortho, the orthopolyphosphate blend works is it ties up with calcium and forms a phosphate calcium coating on the inside of the pipe, which is a protectant. So when the calcium is removed, even if the orthopolyphosphate itself is allowed through by some water systems, it still will not function.

And a third one is a lot of the home treatment systems that are in that area have been specifically designed and advertised to remove chlorine. And when you remove the chlorine from the water going into the home, you've then subjected the house to the growth of sulphur-reducing bacteria. And that is the crux of the problem here in some cases because what happens is that the water treated by Aloha at its well sites, though they use chlorine to actually oxidize the hydrogen sulfide as it's found at the wells, so what comes out of Aloha's wells is hydrogen sulfide. It is treated with

chlorine, which is an oxidant. That chlorine will convert the sulfides to sulfates. Sulfates are absolutely not going to cause any problems in the customer's piping.

There's been a lot talked about here about the Sarah Jacobs study. And the Sarah Jacobs study specifically pointed that out, that the waters that had sulfate had no effect on the copper piping in her tests. Only those with sulfide caused the problem.

So what happens is when a customer then receives the water with sulfates, again, which you heard testimony that Aloha's sulfate level is very, very low -- as a matter of fact, in most cases Aloha's sulfate level is less than that of the county water which they'll be buying, so actually the sulfate levels are going to go up when they buy county water.

But the sulfates enter the customer's home and because the chlorine has been stripped or removed, the sulphur-reducing bacteria are able to thrive in this, well, their cold water but even more so in their hot water systems. And those sulphur-reducing bacteria undo, literally undo what Aloha did to its well. When you oxidize it initially, you've converted it from hydrogen sulfide to a sulfate, which is stable. Reduction, sulphur-reducing bacteria, they perform chemical reduction, that is the opposite of oxidation. And what they do is they then convert the sulfates, which is in the water at very low levels, to sulfides. And there is the crux

of the problem. Because if you can, you read the Sarah Jacobs study, and that's the definitive work in this area, very, very, very low levels of sulfide, very low, will corrode copper piping terribly and it does.

And, again, there's been a number of studies. I know Commissioner Palecki and Baez, you know, you weren't here for that initial water quality investigation, so I'm trying to summarize six years' worth of analysis, studies, testimony and reports and a lot of other things. But the reality is it's been shown that the homes with the on-site treatment systems or the water systems that these customers talked about are much more affected than those that are not.

CHAIRMAN JABER: Mr. Porter, let me tell you that the Commissioners, if they want you to summarize anything, they're not shy, they will ask you. I really need you to focus on the specific questions that Mr. Wood asked.

THE WITNESS: Okay. I believe that's what I was doing, but okay. Mr. Wood?

BY MR. WOOD:

Q You, in your rebuttal you talk about 8.5 gallons a day flushing per home. You also talk about taking 40 gallons to flush the tank. Have you ever read the flier that was sent by Aloha to the customers on flushing the hot water tanks?

A Mr. Wood, I wasn't really speaking to periodic or annual flushing. What, I guess what I was trying to respond to

there, again, through sitting in numerous cases and listening to the customers describe their problem and how they were trying or what they had to do to try to solve the problem and by listening to or listening to the customers when I visited their homes, and I visited many, many of the customers that have had this problem, most reported to me the scenario that you see in my rebuttal testimony. So many minutes of flushing and --

Q That's not the question I asked.

A Okay.

Q The question I asked was you refer in your testimony, rebuttal testimony --

A Uh-huh.

Q -- that it takes 40 gallons of water to flush the tank.

A Yes.

Q And my question was have you read the flier that Aloha Utility sent out on how to flush the tank and how many gallons are involved?

A No.

Q Then really the 40 that you have in here, you don't know; is that correct?

A Yes, I believe I do. Again, I'm reporting what customers say they do. Customers tell me -- I'm not telling you, I'm not saying to you that Aloha says to do this or some

tank manufacturer says. I'm telling you what the customers say they do. The customers tell me they do what I say in here and I've heard it, it's in the testimony, it's in the record. And I've also been to customers' homes, and I think I reported it in a late-filed exhibit in the last case what customers told me they did, and this is what they tell me they do. So I'm reporting to you what they say they do. Now what they're told to do, I don't know. But I can tell you what they say they do, and this is what they say they do.

Q Okay. If you're doing it right, do you know how many you're supposed to, how many gallons you're supposed to use?

A If you're doing it right. I can tell you you should only flush it to the point where you no longer have the black material. Now --

Q How many times is that?

A I would guess it depends on how much material you find.

Q Would you believe that in the Aloha flier that it says that you should do it three times, which is 120 gallons?

A Again, I think what I'm trying to tell you, Mr. Wood, is that customers tell me this is what they do. Now if the flier says to do it three times, they may be talking about a periodic flushing to try to maintain the, you know, it's called once every quarter flush it three times and try to keep the problem from occurring. What, what, what the testimony of

Mr. Biddy was is that --

CHAIRMAN JABER: Mr. Porter, may I interrupt you for just a second?

THE WITNESS: Certainly.

CHAIRMAN JABER: Mr. Wood, his testimony is he hasn't seen the flier. So any answer he gives you now is going to be speculation.

MR. WOOD: Yeah. Speculation. Okay.

BY MR. WOOD:

Q That's -- you talked a little bit about black water, and I don't want to get into a big discussion on black water. But there's hydrogen and sulfide coming into the system. There's oxygen in the water and there's sulphur in the water. Now where is the hydrogen sulfide coming from?

A Okay. In the, in the water in the aquifer naturally underneath, you know, underneath the ground where Aloha is pulling the water from in its wells there is naturally occurring hydrogen sulfide.

Now that hydrogen sulfide is formed by the decay of organic materials that contain sulphur through biological processes underground. So it's a natural component found in the water itself, in the raw water.

Now as that water -- When you say comes through the system, I want to make sure you're clear. That hydrogen sulfide is at the raw water well. So if we had a schematic of

how the system works, the water comes out of the well and then goes through a series of piping and mixers where the chlorine is mixed in at that point. From that point on there is no hydrogen sulfide in Aloha's water, none. There is only sulfate and a small amount of elemental sulphur, but largely sulfate. None of those sulphur forms I talked about from that point on can create this problem, none.

So that water as it leaves Aloha's plant and gets into the distribution system and all the way up through the meter until it reaches a customer's home, that water has no sulfide in it, has never been shown to have any sulfide in it, no one has ever found it because it's not there.

Q Why does it come out of the tap black?

A Okay. Again --

Q I'm not talking about the hot water side. I'm talking about the cold water side.

A Okay. Very fine, sir. What can happen under the right conditions, and some of those conditions I spoke about previously, so I won't go into it again, in the customer's home that sulfate can be converted back to a sulfide under specific conditions. Some of those conditions are the chlorine levels are allowed to drop in the home for whatever reason, either the home isn't being used over a period of time like somebody is away on vacation or the home treatment system takes the chlorine out of the water and allows the bacteria to thrive,

excuse me, or there's a back bedroom way back in the back of the house that's very rarely used so that the, the chlorine level in the line itself falls and when it does the bacteria growth will pick up. So -- but in order for that to happen, for the sulfate to convert to sulfide, there has to be a biochemical reaction taking place with sulphur-reducing bacteria. So something allows that sulphur-reducing bacteria to convert it, but it's happening in the home.

Now when that occurs, now there's sulfide in the system. Now in order to get the black copper sulfide that we're talking about, there has to be a source of sulfide but there also has to be a source of copper.

Now there is absolutely no sulfide in the water being provided to the customer in Aloha's distribution system and there certainly is no copper, so there's no way, absolutely none, that copper sulfide could come in from Aloha's system into the home. It's impossible.

However, when it's in the home and the sulfide is allowed to be produced, then it will react with the copper in that customer's home, as was described in Sarah Jacobs' study, and will produce copper sulfide, which is that black material.

Q Isn't that a violation of the Lead and Copper Rule?

A No, sir it's not.

Q Where do you get the water from the Lead and Copper Rule? Not at the meter.

A No, sir. You get it at a tap.

Q Right.

A However, I think you should know that in order for a site to be a valid site for measurement of the compliance with the Copper and, Lead and Copper Rule, a number of things have to be met. And that's what the DEP witness was trying to describe.

When a site is picked -- the EPA, when it originally developed the Lead and Copper Rule, was very cognizant of the fact that there was lots of conditions that could create a copper problem in the water system and tried their very best to make sure that unnatural conditions or something that wouldn't be considered, quote, normal would end up creating a big problem in the testing programs. So they developed a system whereby any home with a home treatment system on it, any, is absolutely exempt from being chosen or selected for use.

Q Mr. Porter, there was no question about treatment systems. This was direct from the meter into the --

MR. WHARTON: Chairman Jaber, I think that Mr. Porter was answering the question that time and should have been allowed to finish his answer.

CHAIRMAN JABER: Mr. Wood, let's not interrupt him. But I would also note that we've, we've asked these questions and he's answered them. It may be that he's just never going to agree with what you think --

MR. WOOD: I understand.

CHAIRMAN JABER: -- he should answer. But let him finish.

MR. WOOD: I'll stop there.

CHAIRMAN JABER: All right. You don't want him to finish it?

THE WITNESS: I'd like to finish my answer, if I may.

CHAIRMAN JABER: Excuse me.

THE WITNESS: Oh, sorry.

CHAIRMAN JABER: If you want to follow-up. You were about to ask a question.

THE WITNESS: No. I'll stop there.

CHAIRMAN JABER: All right. All right. I need to let him finish.

THE WITNESS: Thank you.

Homes with home treatment systems are absolutely forbidden. They cannot be used in the testing program for the reasons I just spoke about.

CHAIRMAN JABER: Okay. Does that complete your answer?

THE WITNESS: It can.

CHAIRMAN JABER: It does.

THE WITNESS: Okay.

CHAIRMAN JABER: Mr. Burgess?

MR. BURGESS: No questions.

CHAIRMAN JABER: Thank you. Ms. Lytle?

MS. LYTLE: No questions.

CHAIRMAN JABER: Thank you. Staff?

MR. JAEGER: Just a few.

CROSS EXAMINATION

BY MR. JAEGER:

Q Mr. Porter, is it correct that you have testified that Aloha's chemical expense will increase in order to make the utility's water compatible with Pasco County's new disinfection treatment system?

A Yes.

Q When you're talking about this new treatment, disinfection treatment system, are you talking about the proposed chloramine process?

A Yes.

Q And when is the county going to that process?

A I'm afraid I don't have the answer to that yet.

Q But they haven't gone to it yet?

A Not yet, but we've heard several different proposed time periods that range anywhere from March or April of this year to sometime later. So -- and they don't, they haven't updated it, so I don't know for sure.

Q And so you haven't started incurring that increased chemical expense yet?

A Not yet.

Q And you do not know how much specifically chemical expense will increase, do you?

A Not until they can tell you us what the quality of their water is going to be and what the characteristics are.

Q The same for purchased power expense, you don't know how, specifically how much that will increase?

A No.

Q Let's go to pilot project that we've been talking about.

A Yes, sir.

Q With regard to Aloha's pilot project, is it correct that the, beginning in 2002 the utility is preparing for installation of the scaled-down model treatment process?

A Close. We're preparing now to do a demonstration-sized facility and that is the next stage in the pilot project, yes, of the MIEX process.

Q I think you referred to two other stages in your deposition. What were the first two stages?

A Okay. The very first stage was the bench-top test or bench-top study. And that was a -- because of the cost of doing these types of studies it's imperative that you, you kind of work your way up. All right? So you start with what's called a bench-top and that's where you use relatively crude and rudimentary methods to determine if the overall impression is that it's, the process is going to be favorable, that

there's a good likelihood that the process will work. And that was done and that's done at pretty little expense.

Once that was accomplished, and it was accomplished early last year, then we went a, went on to the next size and then what we used were, it ended up being actually three different configurations of a potential type of MIEX facility. There are a number of different configurations for that facility. And I might want to add that none of them are pressure filters. There is no pressure filter version of the MIEX process. But the one that, the three that we looked at started off by using the most conventional method that they've used in Australia. It's important to note that this process has never been implemented yet here in the United States. It's a very new process. It has a heck of a lot of potential, but it's new.

So we did the, what is a stirred tank reactor type process or configuration first and that worked very well. But we found, as far as hydrogen sulfide goes, we found something with the system that would cause this to try to go to a different version. The fact was, and it's been in my reports submitted to you folks that the stirred tank reactor showed us that the MIEX process is excellent in removing dissolved hydrogen sulfide but the gaseous portion would gas off. So that had to be corrected because you just can't let it gas off.

So we looked at a different configuration, an up-flow

configuration, and then we tried to adjust the up-flow configuration to better, to better convert the or tried to convert the gaseous component to a dissolved component so the MIEX could be responsible for taking all of it out. And that didn't work, that failed. So we found that the MIEX process was very good at doing what it did but that there would have to be another configuration change.

Excuse me. Now after that we looked at the data and we talked to the manufacturer and the, their representative here in the United States that actually builds the equipment, they don't build the equipment, they provide the chemical or the resin for this process, the MIEX folks do. We worked with them for quite a while trying to come up with a configuration and a demonstration-sized facility that they could propose to us so that we could take then the data and the proposed configuration to the DEP and try to get to work with them to try to get a permit to install it. So we're at that point now where we just recently received their updated proposal and we're in the process of negotiating with them to try to come up to terms on how this would be done and how, what the cost would be.

Q And so for this third phase, what did you call it? I'm sorry.

A That would be the demonstration facility.

Q Okay. And how long is that process expected to take?

A Well, it depends somewhat on DEP. And we haven't really begun talking with them about it.

It's important to understand that we've been through three different DEP people handling this project since the inception. It started off with one individual, he left the DEP; went to another individual, she left the water division and went to the wastewater division. And now we're on a third, who's totally green as far as this process goes. So it'll probably, it'll either be six months or longer, perhaps 12 months that we'll actually operate the facility. And the purpose of that is to determine with certainty that the process is truly going to work at a particular cost. There's no way to tell that in the smaller-scaled facilities.

Q I want to be sure, is the, your -- when will the start-up be? You don't know the start-up?

A I don't know yet. We're still in that phase where we're trying to get approvals.

Q And after you get the start-up, then you want to run it six months to a year?

A Yes.

Q And do you know how much this process is going to cost?

A Well, the demonstration facility alone -- again, we just got the proposal, Ralph. I really couldn't be -- because it includes some variable costs. I couldn't tell you exactly,

but I'm sure it's going to be in the two or $300,000 range.

Q And will those amounts be plant costs or --

A Combination.

Q Okay. And so after this process is completed what is the utility's next step in the --

A Then it will be -- at that point if DEP concurs that everything meets the requirements, then we'll design a full-scale facility hopefully. Again, that's, that's the million dollar question. Hopefully to build a full-scale facility to correct the, or not to correct, but to improve the water quality as required in the previous order.

Q There's also been talk about an RO feasibility study.

A Yes, sir.

Q When will Aloha begin that?

A It's my understanding, again, when the draft consent order, that I believe within 30 days of signing the order we have to have a recognized RO expert onboard to assist us in doing that study. So I guess if you count looking for the expert, it begins immediately upon signing.

Q And how long will it take the utility to complete the RO feasibility study? Do you have any --

A My estimate is a year.

MR. JAEGER: Mr. Porter, I'd like to have -- I'm sorry.

Chairman Jaber, I'd like to have identified as

Exhibit Number 27, it's Aloha's responses to Staff's interrogatories numbers seven and eight regarding the pilot project.

CHAIRMAN JABER: Okay. Exhibit 27, Aloha's responses to Staff interrogatories numbers seven and eight.

(Exhibit 27 marked for identification.)

BY MR. JAEGER:

Q Were you responsible for drafting these responses?

A I was.

Q And do you have any changes or modifications to these interrogatory responses?

A If you'll give me a moment, please.

(Pause.)

I'd say I still materially agree with them.

MR. JAEGER: Okay. Chairman Jaber, I'd also like to have identified as Exhibit Number 28 Aloha's November and December 2001 pilot project status reports.

CHAIRMAN JABER: Exhibit 28, Aloha's November and December 2001 pilot project status reports.

(Exhibit 28 marked for identification.)

BY MR. JAEGER:

Q You believe the procedure is that you submit a report to Mr. Deterding and then he forwards that to the Commission; is that correct?

A That's correct.

Q And you're the one that's responsible for the actual report?

A That's correct.

Q Would you review these reports and advise us if you have any changes or modifications to those reports?

A No, I do not.

Q And you may have answered this. I want to make sure. When do you expect to receive the chemical makeup data for Pasco County water?

A Interesting you should ask that. Mr. Watford spoke with Mr. Bramblett again just a day or two before this hearing and we learned something very important. The county does not have the data we've requested yet, and their reasoning for that was they don't know.

Now they've also informed us that they've decided that they're going to go back and fully pilot test their MIEX process all over again to take into account the new chloramined water, so they're going to get started on that shortly. So they've recognized the same thing we have, that by the recent changes to their water chemistry that are going to be implemented, that does create very serious problems.

And they did tell us that they are going to completely repilot that system for the same reasons we've been talking about looking at the data. And we've been talking now together about working together to utilize some of their data

so that we don't have to totally repilot our system, too. So we're going to try to, to the extent possible, use their data to keep costs down.

Q Given all of the above, when do you expect to finalize any cost estimates for any plant expansion or improvements?

A Well, again, it depends on which plant we're talking about. With some hope -- we are working with the MIEX folks right now to try to come up with a review of their proposals and to come up with a price for the demonstration, the larger demonstration facility.

Now I understand the purpose of the demonstration facility, assuming we have received DEP approval, will be a plant that will actually produce water and will actually put water into the system, okay, assuming we can get DEP approval on the new process. It'll just be a smaller version of what will eventually be built. So we're hoping to have that, I hope, you know, again, as quickly as possible. I'm saying within the next couple of months hopefully.

CHAIRMAN JABER: The only location that has implemented successfully the MIEX project has been in Australia?

THE WITNESS: Yes.

CHAIRMAN JABER: Have you seen any numbers, cost estimates for the implementation of that project?

THE WITNESS: Not to the, not for the type of unit that we're providing. Quite frankly, I think the DEP person tried to touch on that, Van Hoofnagle.

This process came to the United States for a different purpose. It came here because --

CHAIRMAN JABER: Well, let me, let me -- I will let you elaborate, but I want to focus on my, an answer to my question.

THE WITNESS: Sure.

CHAIRMAN JABER: You said in responding to my initial question that not on the kind of project you're implementing.

THE WITNESS: Correct.

CHAIRMAN JABER: Well, how much did the Australia project cost and what's the difference?

THE WITNESS: Again, in the size range that we're talking about is completely different. It was many millions of dollars and it was a much, much larger facility.

As you probably are well aware, Australia is one of those countries where you get pockets of people here and pockets of people there, and that's a different thing than what we're looking at. It was a much, much larger facility. And off the top of my head, it was many, many millions of dollars.

CHAIRMAN JABER: Okay.

THE WITNESS: But, again, to just give a little background on the MIEX process. We were not aware of this

process throughout the entire water investigation and neither was anyone else.

CHAIRMAN JABER: Yeah. I read that in your interrogatories. So if you're not going to respond more about the cost, I would ask --

THE WITNESS: I am. Okay.

CHAIRMAN JABER: Well, go ahead and give it --

(Simultaneous conversation.)

THE WITNESS: In a way I am. What I'm going to say is this. The process came here initially to work with communities that were having problems meeting the Disinfection By-products Rule. And if you remember back in the case, one of the concerns I've always expressed using pure aeration was that we got something for our money but we didn't get something else, we didn't get anything else for it that would help us with the future. And when the DEP brought to our attention this process and that Pasco County was looking at it and told us that, gee, they found out that this thing seemed to deal with hydrogen sulfide, that's when we became interested in looking at the MIEX process. Because really at that point they weren't even trying to sell this as a device to remove hydrogen sulfide. They were using it as a device to remove organics and learned, much to their pleasure, that they had another application for that same process here in the United States, and then you get double bang for your buck, to coin the term.

So the data that I've seen on cost had nothing to do with hydrogen sulfide. And the quantities of resin that is required to handle hydrogen sulfide and organics, two completely different things. So I can't give you a cost relative to what's been done in Australia because they don't use it for that there.

CHAIRMAN JABER: Mr. Jaeger?

MR. JAEGER: I have no further questions.

CHAIRMAN JABER: Okay. Commissioners?

COMMISSIONER PALECKI: I just have one or two. With regard to water compatibility, do you anticipate that it will ultimately become necessary for Aloha to convert to the chloramine disinfectant process in order to maintain compatibility with Pasco County's water?

THE WITNESS: If Aloha is to take substantial portions of Pasco water, Aloha will be required to do so. That's correct.

COMMISSIONER PALECKI: And will that include water that comes from the Tampa Bay desal plant, do you know?

THE WITNESS: Yes. Well, let me rephrase that. The way the Tampa Bay Water system works, and I'm not an expert because I don't deal with those folks, but they have one great big pipeline that kind of circles the Tampa Bay area and has all their pipelines coming off the side. And what they plan to do is have a mixture of waters coming from different sources

coming into the pipeline and going to the various users. And that is the problem. That's why Pasco County can't give us an accounting of what they believe the water is going to look like, because they don't know. They're trying to find out from Tampa Bay Water, what's the water going to look like you're going to give us? And Tampa Bay Water says, I don't know, so.

The problem is the compatibility issue is very important. If we're going to go out and spend millions of dollars of the customers' money on whatever choice we make, it's absolutely imperative that we take into account not only what this MIEX process can do by itself here but what's it going to do with the rest of the water we have in our system? Because I know I heard people here say, well, you know, we need to separate out that system and let's just build it at 8 and 9. That's not feasible.

The reason Wells 8 and 9 were built to begin with was because it wanted to address supply and pressure problems in the entire system, not just in a little part of the system. And you just can't go out and break off a part of the water system and say, okay, that's all by itself because then you have, you don't have a loop system, you have all kinds of problems associated with that, it creates a flushing nightmare because you don't have enough water at the end of the system being used. It's just not feasible to think that you could just cut off a part of a water system that's a looped system

and say, okay, well, just go fix that. That's not, that can't be done. That was, that was not a rational proposal.

COMMISSIONER PALECKI: But with regard to the Tampa Bay Water water --

THE WITNESS: Sure.

COMMISSIONER PALECKI: -- that will be treated using the chloramine, chloramine process?

THE WITNESS: Yes.

COMMISSIONER PALECKI: And so you do believe that ultimately that Aloha will need to convert to that process as well?

THE WITNESS: Yes. And the word "ultimate" may be in a short time, may be, you know, may be very short. As soon as the county tells us that they're going to begin providing us with water with chloramine in it, it's going to be as soon as that happens we're going to have to deal with it.

COMMISSIONER PALECKI: Now with regard to Wells 8 and 9, do you expect the documentation phase or the demonstration phase, I think you called it, will you use that demonstration phase to treat the water from Wells 8 and 9?

THE WITNESS: That's the goal, yes.

COMMISSIONER PALECKI: Let me ask you this. I agree with you that the separation of a separate system for Wells 8 and 9, it sounds expensive and complicated to me. But if Wells 8 and 9 turn out to be the worst culprits with regard to the

hydrogen sulfide problem, could the MIEX process be focused on Wells 8 and 9 in order to, to find the most cost-effective, in order to save money rather than treating all of your water through the MIEX process?

THE WITNESS: Okay. There's two parts to the answer.

The, the first part is that the MIEX process will be used on those portions of the system. Now there's never been in a proposal to run the MIEX process on all of the water continuously through that loop. That's not, never been the process.

The proposal has been where the MIEX process would be the most cost-effective way to remove the level of sulfide found in a given well system, then that's where it would be used. Now if it's found -- when we do the study that, when we continue on and do the mock-up and, you know, do the demonstration facility that for some reason the cost of the MIEX process is very cost-effective in the one situation and not under another, we may choose another, another method like just plain aeration, you know, packed tower aeration on one particular part of the system. That's always been an option.

Because what the Commission has asked us to do, and we take it very seriously, is to go find the best solution. We're not looking for a solution, we're looking for the best solution under each part of the system that will give us the most cost-effective, best quality water that we can do in each

part of the system.

Now we've never said that the MIEX would be used everywhere. We said it would be used where it's most cost-effective. Now that doesn't mean it won't be, it just means it may or may not be. But that's what is required when you do one of these studies. It's not a very easy thing to do and it's not something you do very lightly or you're going to end up with a problem with the cost being outrageous and the benefit being very little. So we've got to be very careful here or the customers are going to pay for something they're not going to get.

COMMISSIONER PALECKI: So that's something you're still looking at?

THE WITNESS: Absolutely.

COMMISSIONER PALECKI: And your studies will determine what the best methodology will be and most cost-effective?

THE WITNESS: Absolutely. Absolutely. And, again, that was the, that was the first part.

But the second part is, again, and I guess I kind of touched on it with what I just said. The quality of all of the sources of water are going to largely determine what is and what is not cost-effective on a given part of the system. Okay? If we find that we're going to be for the long-term taking a lot of Pasco County water in a given, you know, the

water comes in in a given part of our system, then we may find like the county is that we may end up having to treat even their water with MIEX depending upon whether they choose to do it or not. Once we decide to remove hydrogen sulfide from our system to a tremendous level, they may not. We don't know what they're going to do yet, they haven't told us. But down the road all of these things are going to have to take, be taken into account.

So I can't emphasize enough that to be prudent here and to, you know, with all these different changes that are taking place, you have to be prudent and say, okay, what goes into this cake, you have to have all the pieces and all the, you know, or you're going to come out with a rotten cake. It's like anything else. When you bake a cake, if you leave something out, you get something awful. And, you know, because we're being told what ingredients, eventually are going to be told what ingredients we're going to have, we'll be able to make that cake. But until we know all of the inputs and what the effect of all the treatment possibilities are, we will not know what the most cost-effective solution is.

But that doesn't mean we're not continuing. Like I've said in my reports, we're moving ahead very rapidly trying to get a cost proposal and get a demonstration project going because we do believe that the MIEX will be one component of this system and I do believe it will be probably on Wells 8 and

9. That one I'm relatively sure of. So we're moving ahead as quickly as we can. We're going to get that demonstration facility going. But I'm telling you there's no way to determine to the finality of what you've ordered us to do, until we have all these other inputs, we will not know what the total solution is going to be. But it's very important that we know to protect the customers.

COMMISSIONER PALECKI: Thank you.

THE WITNESS: Thank you.

CHAIRMAN JABER: Mr. Wharton, redirect?

MR. WHARTON: Chairman Jaber, you had told me earlier in the proceeding that I was working too hard on something and I don't want to work too hard on this, but I hope you'll give me a chance to --

CHAIRMAN JABER: I said you were working too hard on something?

MR. WHARTON: I was about, I was making the motion and you were telling me, you don't need to say the whole rest of it. And I hope you'll give me a chance, if you're not inclined to do this, in lieu of any cross-examination I would like to ask Mr. Porter a single question about this charge about superchlorinating the wells. That's a serious, serious matter. And these two Commissioners weren't in the last case where that was the subject -- well, see, I'm doing the whole thing.

CHAIRMAN JABER: I'm sorry. You've asked me, you get to --

MR. WHARTON: I want to ask Mr. Porter a question that I acknowledge is not within the scope of his testimony. It is responsive to Mr. Biddy saying we tried to fool the Commission by superchlorinating the wells.

MR. BURGESS: I object. Mr. Biddy's testimony was in response to questions by Mr. Wharton himself, areas Mr. Wharton opened up.

MR. WHARTON: No, that's not true.

MR. BURGESS: And Mr. Wharton --

COMMISSIONER: Excuse me. Excuse me. I can only hear one of you at a time, I promise. I can do a lot, but, Mr. Burgess, go ahead.

MR. BURGESS: I'm up. Okay. If Mr. Wharton had objections to Mr. Biddy's answer not being in response to the question, he could have voiced it at the time. They had exchange, he had an opportunity to ask, he had opportunities to follow-up. I think it's entirely inappropriate for Mr. Wharton now in redirect of his own witness to go into an area about a witness that's not even here any longer. And so I think it's totally inappropriate.

CHAIRMAN JABER: Mr. Wharton, let me try to summarize what it is you would like to do and then I'll allow you to address us more.

You want to ask Mr. Porter a question related to something that came up yesterday in Mr. Biddy's cross-examination and here's my recollection. Commissioner Palecki asked a question that got that response. And you took it upon yourself to remind Commissioner Palecki that if he wanted to ask more about that, he could ask Mr. Porter a question. He has chosen not to ask that.

MR. WHARTON: That was really the filter system. That was Mr. Biddy's filter system.

CHAIRMAN JABER: Well, but Commissioner Palecki asked that question and Mr. Biddy responded. I'm going to leave it up to your good judgment, Commissioner Palecki. If you want to know more about that, we can certainly explore that.

COMMISSIONER PALECKI: I would like to give the witness an opportunity to respond. But this -- it's very late in the afternoon. If you could respond in two minutes or less, I would appreciate it.

THE WITNESS: I will do that.

CHAIRMAN JABER: And let's put a specific question to Mr. Porter. And, Mr. Porter, you know, we've done this before. You know we read the record. So I would ask that you not waste anyone's time by telling us something you've already said.

THE WITNESS: Yes, ma'am.

REDIRECT EXAMINATION

BY MR. WHARTON:

Q Mr. Porter, without criticizing Mr. Biddy in any way, shape or form, explain to the Commissioners as quickly as you can, comment to the Commissioners as quickly as you can on Mr. Biddy's testimony last night that Aloha superchlorinated the wells in the water quality case.

A First of all, Mr. Biddy was absolutely, totally mistaken. And Mr. Biddy would, Mr. Biddy's testimony would lead you to believe that the laboratory tests that he performed that he said didn't have any hydrogen sulfide or any other component in them that demonstrated that Aloha somehow rigged the wells were the only samples taken that day, and that's not correct. There were supervised split samples taken and sent to two labs that day.

The second lab found exactly what Aloha always claims, and that was an independent lab not owned or operated by Aloha, certified by the State of Florida. It was only Mr. Biddy's analyses that were incorrect.

Mr. Biddy claimed that he got his information that the wells were superchlorinated from the laboratory person at his lab. I was personally there when we, we deposed her and she said Mr. Biddy is obviously mistaken.

In addition, there was a great amount of testimony regarding that. Witnesses from the Department of Environmental Protection said it was impossible in my recollection, I said it was impossible, other people said it was impossible.

And your own comment, sir, was very well taken. It's 1,000 gallons a minute. How are you going to do that? It would take a tractor-trailer truckload of chlorine to be operating continuously at 1,000 gallons a minute to superchlorinate a well. That's just not possible. Ten of us including OPC and everybody else were there together on that day the samples were taken and no one saw such a thing. That's it.

COMMISSIONER PALECKI: Thank you.

CHAIRMAN JABER: You're done with redirect?

MR. WHARTON: I am.

CHAIRMAN JABER: Okay. Exhibits? We have Exhibit 26, Mr. Wharton.

MR. WHARTON: Yes. We would move the, we would move the composite Exhibit 26.

CHAIRMAN JABER: Admitted without objection.

(Exhibit 26 admitted into the record.)

CHAIRMAN JABER: Exhibit 27, Staff?

MR. JAEGER: Yes. Move 27 and 28.

CHAIRMAN JABER: Exhibit 27 and Exhibit 28 are admitted without objection.

(Exhibits 27 and 28 admitted into the record.)

STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, LINDA BOLES, RPR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript, constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 25th DAY OF JANUARY, 2002.

LINDA BOLES, RPR
FPSC Official Commissioner Reporter
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