

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 5

Pages 536 through 693



PROCEEDINGS: HEARING

BEFORE: CHAIRMAN LILA A. JABER
COMMISSIONER BRAULIO L. BAEZ
COMMISSIONER MICHAEL A. PALECKI

DATE: Thursday, January 10, 2002

TIME: Commenced at 8:38 a.m.

PLACE: Clarion Hotel
5316 U. S. Highway 19 North
New Port Richey, Florida

REPORTED BY: TRICIA DeMARTE
Official FPSC Reporter
(850)413-6736

APPEARANCES: (As heretofore noted.)

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8 JWP-1

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P R O C E E D I N G S

(Transcript follows in sequence from Volume 4.)

CHAIRMAN JABER: Let's reconvene the hearing where we left off. Mr. Burgess, you were about to cross-examine Mr. Watford.

MR. BURGESS: Yes, Commissioner. The microphones have been adjusted. I just had one area that I wanted to cross-examine Mr. Watford on on his direct testimony here, and it is on Exhibit 7.

Now, my understanding is that Aloha's counsel wanted the opportunity to have Mr. Watford address this, and Mr. Watford was looking forward also to the opportunity to address this. What I'm getting at is, this is only peripherally falling out of his direct testimony, and I was intending to go ahead and go forward without too much concern for that based on what I understood to be all parties', more or less, agreement of his testifying on it. So with that, I'm going to go ahead and begin, but just understand, I understand that it may well be better posed in some of the issues that he addresses on rebuttal.

STEPHEN G. WATFORD

continues his testimony under oath from Volume 4:

CROSS EXAMINATION

BY MR. BURGESS:

Q Mr. Watford, you heard testimony referencing an

1 undated newsletter; is that correct?

2 A Yes.

3 Q It was addressed by Representative Fasano and a
4 couple of other witnesses? You heard that testimony?

5 A Yes. I'm not sure that they were all referring to
6 the same memo but generally speaking to the newsletter, yes.

7 Q And while the newsletter is undated, can you tell me
8 approximately when it was issued?

9 A I believe -- I'd actually have to look at it. I
10 believe we have the dates penciled in up top. I believe it was
11 in February, possibly March, of this year.

12 Q And am I correct in understanding that a great deal
13 of this was referencing the Aloha Seven Springs wastewater case
14 that was going on at that point?

15 A To be honest with you, Mr. Burgess, I'd like to see
16 the exhibit.

17 Q Oh, I'm sorry. I thought after all of that -- I was
18 supplied an exhibit by your counsel, so I assumed that you had
19 also received it.

20 A I probably did, and it's probably over there.

21 MR. DETERDING: (Tendering document.)

22 MR. BURGESS: Now, may I ask, do the Commissioners
23 have copies?

24 CHAIRMAN JABER: Yes.

25 COMMISSIONER PALECKI: Yes.

1 BY MR. BURGESS:

2 Q Okay. Do you have two pages, Mr. Watford?

3 A No, I don't. I think I was just given the wrong
4 memo.

5 MR. DETERDING: (Tendering document.)

6 THE WITNESS: I think I have the correct memo.

7 BY MR. BURGESS:

8 Q All right. Are you familiar with this? This is
9 signed by you, is it not?

10 A Yes, it is.

11 Q Are you familiar with this document?

12 A Yes, I am.

13 Q Is it a letter that was sent out by you on behalf of
14 Aloha Utilities to the utility's customers?

15 A Yes. We do a monthly insert informing all of our
16 customers on what's going on in our service area, things that
17 are in front of the company and so forth, and this was one of
18 those.

19 Q If I look on the second page of this, you reference
20 something in a newspaper referencing Representative Fasano; is
21 that correct?

22 A That's correct.

23 Q Now, the case that is being referred to there, that
24 is the wastewater case, is it not?

25 A I believe it was, yes.

1 Q Now, was an appeal taken in the wastewater case?

2 A No. And actually, that's not what it says, I don't
3 believe. It's a response -- we had received several calls, and
4 a lot of these newsletters end up getting formulated based upon
5 comments and questions we get from customers about the
6 newspaper article, just like it says. It was stated in the
7 newspaper article by Mr. Fasano that he planned to appeal the
8 process, and there were some other quotes by other parties
9 about costs and so forth. And that's the reason we tried to
10 address that.

11 Q Right. And I do want to get to questions on that,
12 but first, I want to understand what did ultimately happen.
13 There was no appeal taken to that case, but there was a
14 reconsideration taken; is that correct?

15 A As I recall, that's correct, yes.

16 Q And is it correct that Aloha had asked for \$12,100 in
17 legal costs to respond or to participate in that
18 reconsideration and file its own cross motion for
19 reconsideration?

20 A Subject to check, I would agree with that number. I
21 believe that's what was stated yesterday. I haven't
22 particularly reviewed that expense item.

23 Q Do you recall that the Public Service Commission
24 allowed Aloha one half of that, or \$6,050, to be an
25 above-the-line expense?

1 A I believe that's correct, yes.

2 Q Do you recall that in the order that allowed that the
3 Commission noted that the amount was of such a level that it
4 would not affect rates?

5 A I really don't recall that, Steve. I'd have to go
6 back and review the order.

7 Q So based on this information, there was a letter sent
8 out to the customers saying that -- well, I'm sorry. Let me
9 back up.

10 What did the newspaper article say that you're
11 referencing here?

12 A Again, I don't recall the entire newspaper article,
13 but I believe it referenced a comment made by Representative
14 Fasano, that he was intending to appeal the order. And we had
15 several calls on that. Of course, we read the newspaper
16 article as well, and we had customers asking questions. And as
17 we do with all of these, we try to address issues that we think
18 are relevant to our customers.

19 Q Did you call Mr. Fasano and ask him what his comments
20 actually were?

21 A No, I can't say that I did. This was in response to
22 calls that we were getting from customers as well as to -- you
23 know, we read the newspaper article as well.

24 Q So presumably, a reporter called Mr. Fasano as a
25 decision was being rendered in this case, and he said he

1 thought it should be pursued further, something to that effect?

2 A I can't remember the exact words that were in the
3 article. It was, I think, about a year ago now. I believe the
4 statement that he made was that he intended to appeal the
5 order, but that may not be the exact phraseology.

6 Q Well, given the nature of that case, and of course,
7 you participated in that, and the issues that could be
8 appealed, do you think that hundreds of thousands of dollars
9 would have been a likely number to expect for Aloha to have to
10 spend in responding to any appeal or pursuit of the case?

11 A I think it's entirely possible that that was the
12 case, and I believe that was the same conclusion Staff came to
13 after they reviewed it. I mean, I asked my counsel, you know,
14 what kind of costs could be associated with that, and that was
15 the response I got. And I believe Staff came to the same
16 conclusion when they wrote the letter in response to
17 Mr. Fasano's question.

18 Q Now, if Mr. Fasano is not a party, do you know how he
19 would appeal?

20 A I would assume he would, in essence, try to urge it
21 through your office.

22 Q Well, that wouldn't be Mr. Fasano appealing, would
23 it?

24 A But that was the statement that was quoted, I
25 believe, in the newspaper, and that's what we were responding

1 to, to our customers' inquiries.

2 Q And in fact, though, the totality of what was
3 involved on Aloha's part amounted to \$6,000 of expense?

4 A Well, actually, it amounted to double that, but what
5 was ultimately approved was less than that.

6 Q Well, part of Aloha's legal action was involved in a
7 cross motion for reconsideration. It had nothing to do with
8 the issues that were raised by the Office of Public Counsel,
9 was it not?

10 A No. I was responding to what the cost was. The cost
11 of the proceeding, I believe, was the 12,000 you mentioned
12 earlier. And of course, the appeal was not filed, so of
13 course, that cost was not realized.

14 Q Did you ask counsel how much it would be if it was
15 only a motion for reconsideration and not an appeal?

16 A No, because that really wasn't the issue that had
17 been presented to us because that's not the issue that was in
18 the newspaper and the quote that people were responding to.

19 Q But you didn't call Representative Fasano to find out
20 whether he was speaking of an appeal or reconsideration or
21 whatever was on the table; is that correct?

22 A No, I did not.

23 Q And you did not have your counsel call Public
24 Counsel's Office to find out what its plans were with regard to
25 appeal?

1 A No, I didn't.

2 MR. BURGESS: That's all I have. Thank you very
3 much, Mr. Watford.

4 CHAIRMAN JABER: Thank you, Mr. Burgess. Staff. The
5 District. Ms. Lytle, I'm sorry, go ahead. I thought I had
6 already asked you.

7 CROSS EXAMINATION

8 BY MS. LYTLE:

9 Q Good afternoon, Mr. Watford. How are you?

10 A I'm good.

11 Q Would you agree that Aloha Utilities is currently not
12 in compliance with its water use permit from the District?

13 A Yes, ma'am.

14 Q Do you agree it's necessary for Aloha to come into
15 compliance with its permit?

16 A Yes, I do.

17 Q Would the purchase of water from Pasco County allow
18 Aloha Utilities to comply with the permit?

19 A Yes, it would.

20 Q Would you agree that at least in the short term Aloha
21 has no alternative source of water to replace excessive
22 groundwater withdrawals other than purchased water?

23 A That is my understanding, and nobody else has
24 presented any other alternatives.

25 Q Are you aware that Aloha Utilities' service area is

1 located within the Northern Tampa Bay Water Use Caution Area?

2 A Yes, it is.

3 Q And that area is an area where the water resource is
4 under stress from excessive groundwater withdrawals?

5 A I know that is clearly the position of the District,
6 and I believe that's the case.

7 Q Would you agree that conservation programs such as
8 education, water audits, and the provision of water
9 conservation devices have the potential to reduce water use?

10 A Well, as I mentioned earlier, I'm not exactly an
11 expert in that regard, but everything that I've read says that
12 they do, and I believe that's the point of implementing them.
13 And from the vast amount of information on your database that's
14 on-line, that surely seems to be the case.

15 Q Would you also agree that implementation of a water
16 conservation oriented inclining-block rate structure can result
17 in significant reductions in water use by the customers of the
18 utility?

19 A Yes, I do. I believe that's probably the single
20 biggest factor.

21 Q And would you also agree that there is a benefit to
22 the public and the environment in reducing water used in
23 stressed areas?

24 A Yes, I do.

25 Q Have you reviewed in detail the Waterate 2001 model

1 developed by Dr. John Whitcomb for the Southwest Florida Water
2 Management District?

3 A In agonizing detail, yes.

4 Q Do you believe that that model appropriately
5 identifies the expected repression of consumption from the
6 implementation of such an inclining-block rate structure?

7 A I sure hope so because we're betting an awful lot on
8 that in this case. I can say that from all the various
9 scenarios we model, it seems to react as you logically think it
10 would. I can't say that when the model actually predicts
11 17 percent or 15 percent that it wouldn't be 10 or 12. I'm
12 sure Mr. Whitcomb will be able to much better address that
13 issue. But certainly everything that we've looked at, and
14 we've looked at a multitude of scenarios, it seems to make
15 sense and produces results that I think pretty much everybody
16 has looked at and concurred is what they believe. Now, as to
17 the magnitude issue, I honestly don't know that.

18 MR. JAEGER: Chairman Jaber. Sometimes you're
19 trailing off where I can barely hear you.

20 MS. LYTLE: I'm sorry.

21 MR. JAEGER: If you'll keep that mike close to the
22 lips, I'd appreciate it.

23 MS. LYTLE: I'll try to speak up a little.

24 BY MS. LYTLE:

25 Q Does Aloha Utilities intend to resolve its compliance

1 problems with the District by entering into a consent order
2 with the District?

3 A Yes. We have a lot of time and effort invested in
4 that process, and hopefully that will be forthcoming very soon.

5 Q And will part of that consent order include a
6 compliance plan which will specifically identify and require
7 conservation measures?

8 A Yes. And I believe it's been provided to all the
9 parties in this docket.

10 MS. LYTLE: Thank you. I have no further questions
11 for this witness.

12 CHAIRMAN JABER: Thank you, Ms. Lytle.

13 CROSS EXAMINATION

14 BY MS. ESPINOZA:

15 Q Mr. Watford, you relied on the Waterate model to
16 calculate changes in revenues and costs that result from
17 changes in rates; correct?

18 A Yes, to a certain extent. We use that to obviously
19 check against what -- it's kind of a multi-tiered process, but
20 we originally went through the normal MFR calculation process,
21 then we applied the rate model to it, yes, and then ultimately
22 to determine the parameters you've just mentioned.

23 Q So would you agree that you've relied on the model to
24 formulate your testimony regarding the risk of revenue
25 deficiencies and revenue stability?

1 A I believe as a part of it, yes.

2 MS. ESPINOZA: I believe Mr. Jaeger has a few
3 questions.

4 MR. JAEGER: Yes.

5 CROSS EXAMINATION

6 BY MR. JAEGER:

7 Q Mr. Watford, yesterday, some customers testified
8 about this vacation policy. Did you hear that testimony?

9 A Yes, as it related to the tariffed rate being
10 excessive. Yes.

11 Q And I think there was some confusion as to exactly
12 what your vacation policy is. Could you explain that?

13 A Well, for the Southern Springs system, which won't be
14 the case, I presume, after this docket closes, but for the
15 Southern Springs system, we still have two different types of
16 rate structures. One, in our wastewater side is a base
17 facility charge and gallonage charge structure. In the water
18 side, it is still a minimum structure. And the vacation rate
19 is the base facility charge and one-half the minimum, which is
20 stated in our tariff. Now, again, after we're done with this,
21 we will not have a minimum anymore, so I assume it will just
22 become the base facility charge.

23 Q And how do you verify a customer's on vacation or is
24 actually gone? What do they have to do?

25 A They fill out a request for vacation status, and we

1 have the service turned off to the home while they're gone.
2 And then when they return, they notify us that they're
3 returning, and we restore the service to the house.

4 Q When you turn it off, that doesn't involve pulling
5 the meter, though?

6 A It can. In a lot of instances, it depends. Some of
7 the older locations where meters are installed up on the sides
8 of houses, yes. In that case, it would involve removing the
9 meter. Where there's actually a meter box in a locking
10 apparatus where it can be locked up out in the ground, they're
11 most of the time not unless the lock happens to be broken or
12 the actual ears that the lock is inserted into.

13 Q And as you say, the wastewater rate is just the base
14 facility charge; is that correct?

15 A Yes.

16 Q And in the future, it looks like you're going to go
17 to a water base facility charge. So that would be what you
18 foresee as being the -- you know, you would do away with a
19 vacation rate and just have a base facility charge; is that
20 correct?

21 A That's correct.

22 Q Going to one other question. Does Aloha allow
23 payment by preauthorized debit on a bank account?

24 A No. And actually, I was kind of interested to hear
25 the customer raise that issue. We did explore that at one time

1 with our bank. They have that ability. And one of the notes I
2 made over is possibly that's something for a future newsletter
3 to put out and kind of test the waters and see what kind of
4 response we would get.

5 We actually sat down with our bank and discussed that
6 through the ACH process, and they said that in this area they
7 have had very little uptake. They have other clients, mobile
8 home parks and so forth, that do utilize that. And they
9 said -- and I'm going from memory here, Ralph, but I believe
10 they said they had, like, 17 percent participation if the
11 monthly charge was the same every month. For instance, a lot
12 rent for a mobile home park. But if the charge was variable,
13 like a water bill would be based upon usage, unless obviously
14 they're away, then there was a much lower utilization rate of
15 that, because the perception was, if that is varied, people
16 don't want that debit authorization being issued, I suppose.
17 We're not at all adverse to that at all.

18 Q Okay. Besides the variableness and just the
19 customers not want to take you up, do you see any other
20 problems with implementing that preauthorized debit?

21 A No, not at all. As a matter of fact, like I said,
22 our bank does offer that service.

23 Q Do you see any additional costs to the utility to
24 going to this, or would it save costs?

25 A There is some cost, but I honestly don't remember

1 what they were.

2 Q Would it also maybe save some costs just because it
3 is automatic and you'd have that guarantee without having to
4 maybe save late payments?

5 A Certainly. I think there's a potential there, but
6 honestly, Ralph, I don't have an analysis of that to really
7 discuss as far as the numbers, but it makes sense to me.

8 MR. JAEGER: Okay. I have no further questions.

9 CHAIRMAN JABER: Thank you, Mr. Jaeger.

10 Commissioners.

11 COMMISSIONER PALECKI: No questions.

12 CHAIRMAN JABER: Redirect.

13 MR. DETERDING: I have a few.

14 REDIRECT EXAMINATION

15 BY MR. DETERDING:

16 Q These are basically on this newsletter issue. I have
17 just a few questions for you, Mr. Watford. To your
18 recollection, was the word used in the newspaper article that
19 Mr. Fasano may seek further proceedings or was the word
20 "appeal" used?

21 A My recollection of the newspaper article, which is
22 very vague at this point, was that he used the word "appeal."

23 Q Okay. The \$12,000 figure that was presented to you,
24 was that the actual cost incurred by Aloha related to
25 reconsideration or an estimate of that cost?

1 A I believe that was an estimate that we had prepared.

2 Q Do you know whether that estimate included responses
3 to a cross motion?

4 A I really don't, not without reviewing the
5 documentation.

6 Q Now, there is one phrase, as I understand it, that is
7 the concern -- that has been with which there had been concern
8 expressed. Is that your understanding, to begin with?

9 A There's only the one phrase that I've heard stated by
10 those who seem to make it an issue, yes.

11 Q And is that the phrase at the end of the third to
12 last paragraph that begins, "And required Aloha to expend"?

13 A Yes, that's the one that I've heard repeated.

14 Q Okay. Just roughly, tell me what portion of this
15 newsletter is composed of that phrase, that offensive phrase.

16 A I don't know. One line or one and a half lines of a
17 hundred lines, maybe.

18 Q So a couple percent, maybe?

19 A Yes. And, I mean, if you read the newsletter, it
20 runs through a list of issues, all of which we thought were
21 important issues relating to our customers. And, I mean, the
22 goal of the newsletter is not to certainly produce a legal
23 document in any sense of the word but to try to comply with the
24 recommendation of the management audit that says we should
25 educate and inform our customers on current issues affecting

1 this company. And that was our attempt, that's what we set out
2 to do.

3 I don't think -- first of all, I can't give legal
4 advice. I'm not an attorney, but it was in a response to
5 questions we were receiving from customers and trying to be
6 responsive to the issues that are in front of our customers and
7 to educate and inform them.

8 Q Has anyone else suggested that this utility ought to
9 utilize newsletters, any other agency?

10 A Yes, the Water Management District.

11 Q And that is, in fact, part of the proposed
12 conservation plan, is it not?

13 A Yes, it is.

14 MR. DETERDING: That's all I have.

15 CHAIRMAN JABER: Thank you, Mr. Watford. And let's
16 see, are there exhibits?

17 MR. DETERDING: We can move Exhibit 7. Or did we
18 already --

19 CHAIRMAN JABER: Actually, I think we have already
20 done that. Okay.

21 MR. DETERDING: Okay.

22 CHAIRMAN JABER: Thank you, Mr. Watford.

23 (Witness excused.)

24 CHAIRMAN JABER: Staff, the next witnesses are SWFWMD
25 witnesses.

1 MR. JAEGER: That's correct.

2 CHAIRMAN JABER: Ms. Lytle.

3 MS. LYTLE: Yes. The first witness will be
4 Mr. John Parker, and he was not present this morning during the
5 swearing.

6 CHAIRMAN JABER: Thank you. Mr. Parker, would you
7 please raise your right hand.

8 (Witness sworn.)

9 CHAIRMAN JABER: Thank you. Go ahead, Ms. Lytle.

10 JOHN W. PARKER

11 was called as a witness on behalf of the Southwest Florida
12 Water Management District and, having been duly sworn,
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MS. LYTLE:

16 Q Would you please state your name, place of
17 employment, and employment address for the record.

18 A My name is John W. Parker. I'm employed by the
19 Southwest Florida Water Management District. The address is
20 2379 Broad Street, Brooksville, Florida 3460-- I forget the zip
21 code.

22 Q 34609, is that it?

23 A I think they changed it.

24 Q 04, 34604.

25 A Yes, 04. Thank you.

1 Q Okay. Did you prefile testimony of nine pages and
2 one exhibit in this matter?

3 A Yes, I did.

4 Q Do you wish to update or change that testimony?

5 A No, I have no changes.

6 Q Could you briefly summarize your testimony?

7 A Yes. To summarize my testimony, in -- Aloha
8 Utilities operates under a water use permit. The most recent
9 revision or renewal was in April of 1999. The quantities are
10 2.04 million gallons per day, annual average,
11 2.47 million gallons per day, peak month. And the utility
12 serves a population on the order of 25,000
13 people/customers/persons.

14 The Water Management District assesses compliance
15 with the annual average quantity based upon a 12-month running
16 average that would be recalculated each month. Peak month
17 compliance is -- well, actually, it's not mentioned here, so I
18 won't mention it. Aloha Utilities began to consistently exceed
19 the permitted annual average day withdrawal in 1996. There had
20 been an exceedence in 1995, then '94. Then they had come back
21 into compliance, and then began to consistently exceed in
22 '96 through 2000.

23 The withdrawal rate for the period October 2000
24 through September 2001 was 36.7 percent over the permitted
25 rate, and 17 percent over on the peak month withdrawal rate.

1 The withdrawals of Aloha Utilities are located within an area
2 that's formally established as the Northern Tampa Bay Water Use
3 Caution Area. They are also within an area that's informally
4 know as the Northern Tampa Bay Wellfield Impact Area. The
5 water use caution area was established to address groundwater
6 withdrawals and to enhance conservation activities and
7 withdrawal reductions where those withdrawals resulted in
8 affecting lake levels, wetlands, and stream flow and salt water
9 intrusion. The wellfield impact area is an area where
10 cumulative groundwater withdrawal impacts are already presently
11 exceeding the performance standards on a cumulative basis that
12 are identified in the rules and the basis of review for water
13 use permits of the District. For these reasons, because of the
14 location of the withdrawals and the circumstances of cumulative
15 impacts, Aloha is not able to resolve its noncompliance with
16 the water use permit by simply modifying the permit to increase
17 the authorized withdrawal quantities.

18 In 1998 Aloha filed a permit application to renew the
19 permit. That was the permit renewal that I mentioned was
20 issued in 1999. At that time, it was our understanding, the
21 Water Management District's understanding, that Aloha would
22 begin to utilize and interconnect with Pasco County to bring
23 their existing withdrawals into compliance to meet their demand
24 by using another source of water in addition to what their
25 permit covers.

1 The overpumping continued. Compliance notices were
2 issued by the District in 1999 and 2000. A notice of violation
3 was issued on November 21, 2000. A consent order was proposed
4 January 5, 2001, and to this point, the parties have not
5 reached a settlement of that case or entered into a consent
6 order that the parties have all agreed to.

7 Aloha is required to take measures to conserve water.
8 Those measures, some of them are standard rule requirements for
9 permits in the water use caution area. Those measures include
10 development of water conserving rate structures, periodic water
11 audits of the system, educational activities and other
12 measures.

13 Conservation measures would be expected in the case
14 of Aloha because of the magnitude of the overage above the
15 permit quantity. Conservation measures would be expected to
16 eliminate only a portion of the overpumping, and Aloha would
17 still need to address the overpumpage through additional steps,
18 including connecting to some other source of water to replace
19 the overage, and that could include purchasing excess quantity
20 from Pasco County or developing an alternative other water
21 source that would be economically and technically feasible and
22 permittable. And that summarizes my prefiled testimony.

23 MS. LYTLE: At this time, I would ask that the
24 testimony of this witness be entered into the record as though
25 read.

1 CHAIRMAN JABER: The prefiled direct testimony of
2 John W. Parker shall be admitted -- inserted into the record as
3 though read.

4 MS. LYTLE: And I would also ask that the exhibit
5 marked for identification as JWP-1 be entered.

6 CHAIRMAN JABER: Okay. We'll identify as Exhibit 8
7 JWP-1.

8 (Exhibit 8 marked for identification.)

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1 DIRECT TESTIMONY OF JOHN W. PARKER

2 Q. Please state your name and professional address.

3 A. John W. Parker, 2379 Broad Street, Brooksville, Florida, 34604-6899.

4 Q. Where are you employed?

5 A. The Southwest Florida Water Management District (SWFWMD).

6 Q. What is your position with the District?

7 A. Water Use Regulation Manager.

8 Q. Please describe your duties in this position.

9 A. I manage the Water Use Permitting and permit compliance work for the
10 parts of the District located north of the Tampa Bay area, including
11 Pasco, Hernando, Citrus, Sumter, and parts of Lake, Marion and Levy
12 Counties.

13 Q. Please describe your training and experience.

14 A. A copy of my current resume is attached as Exhibit 1.

15 Q. In the course of your duties with SWFWMD, have you become familiar with
16 Aloha Utilities, Inc. (Aloha)?

17 A. Yes. Aloha is a company whose activities fall within the regulatory
18 jurisdiction of SWFWMD. Aloha holds a Water Use Permit (WUP), WUP No.
19 203182.004, from the District authorizing the withdrawal of groundwater
20 for public water supply purposes.

21 Q. How long has Aloha held a WUP from the District?

22 A. Aloha has been permitted to withdraw groundwater to supply the customers

1 of their service area since 1979.

2 Q. Please describe Aloha's current WUP.

3 A. WUP No. 203182.004 was issued on April 27, 1999, authorizing the
4 withdrawal of 2,040,000 gallons per day (gpd) on an annual average day
5 and a peak month day withdrawal quantity of 2,470,000 gpd. Aloha
6 currently maintains a service area of about 7,173 acres with a
7 population of about 25,000 persons. Aloha pumps groundwater from the
8 Floridan aquifer, using eight production wells separately distributed
9 throughout the service area.

10 Q. How is compliance with the quantity limitations of a WUP determined?

11 A. A 12-month running average is used to determine compliance with the
12 average annual day quantity, in accordance with the provisions of the
13 Water Use Permit Information Manual, Part B, Basis of Review, Section
14 6.2, which is incorporated by reference in Rule 40D-2.091, Florida
15 Administrative Code (F.A.C.).

16 Q. Is Aloha currently in compliance with its WUP?

17 A. No. Aloha exceeded the permitted annual average day withdrawal by up to
18 about five percent or less for a series of months in 1994, but brought
19 the withdrawal back within the permit limits by the end of the 1994
20 calendar year. Aloha began consistently exceeding the permitted annual
21 average day withdrawal in November 1995, and the percentage of
22 exceedance increased each year from 1996 to 2000. During the past

1 twelve months, from October 2000 through September 2001, the Aloha's
2 average day withdrawal rate has been 2,788,770 gpd, or approximately
3 36.7 percent over the permitted rate. The peak month withdrawal rate
4 was 2,893,622 gpd, or about 17 percent over the permitted rate.

5 Q. What measures has SWFWMD taken to address this noncompliance?

6 A. In May 1997, District staff met with the Aloha's representatives to
7 discuss measures to address the noncompliance. A point of major concern
8 to SWFWMD was that Aloha's service area and groundwater withdrawal
9 points (wells) are located within the Northern Tampa Bay Water Use
10 Caution Area (NTB-WUCA) and the Northern Tampa Bay-Wellfield Impact Area
11 (NTB-WIA).

12 Q. Why was this a reason for concern?

13 A. The District declared portions of Hillsborough, Pasco, and Pinellas
14 Counties a Water Use Caution Area (WUCA) on June 28, 1989. The area
15 designated is provided in Rule 40D-2.801(3)(c), F.A.C. The NTB-WUCA was
16 established to address groundwater withdrawals that have resulted in
17 lowering of lake levels, destruction or deterioration of wetlands,
18 reduction in streamflow, and salt water intrusion. Aloha's withdrawals
19 also take place within the area known informally as the NTB-WIA, where
20 the cumulative groundwater withdrawal impacts from existing sources
21 already exceed the performance standards identified in the Water Use
22 Permit Information Manual, Part B, Basis of Review. The adverse impacts

1 to this area have been well researched and documented. New groundwater
2 withdrawals would have the potential to exacerbate the existing adverse
3 cumulative impacts, and are generally not approved. Therefore, Aloha
4 cannot resolve its noncompliance with its WUP by modifying the WUP to
5 increase the authorized withdrawal quantities.

6 Q. Were other measures to achieve compliance with the WUP discussed?

7 A. Yes. Several options were explored, including the possibility of Aloha
8 acquiring other WUPs and modifying and changing those permitted existing
9 uses to public supply, and additional effluent/reuse projects.

10 Q. What steps did Aloha take to address the noncompliance?

11 A. On October 21, 1998, Aloha submitted a permit application to renew its
12 WUP. During the renewal process, potential alternative water sources
13 other than new groundwater were discussed, including additional water
14 conservation measures, desalination, aquifer storage and recovery, and
15 interconnection to other water suppliers. At the time, Aloha rejected
16 as infeasible all alternative water source options except additional
17 water conservation measures, reuse supply opportunities, and
18 interconnection to Pasco County's water system. The interconnection to
19 Pasco County was advanced by Aloha as the best short-term solution to
20 resolving the over-pumping situation since Aloha already maintained an
21 existing interconnect with the County. It was SWFWMD's understanding
22 that upon issuance of the renewal permit, Aloha would begin utilizing

1 the interconnect to bring its pumpage into compliance with the permitted
2 withdrawal rates. However, to date Aloha has only used the interconnect
3 to obtain relatively small amounts of water, and has continued to
4 significantly overpump its permitted quantities.

5 Q. What was SWFWMD's response to Aloha's continued noncompliance?

6 A. SWFWMD's concern over Aloha's overpumping reached a critical level
7 during the severe drought experienced in west-central Florida between
8 1999 and 2001. Aloha was sent Compliance Notices on April 2, 1999 and
9 June 6, 2000, advising it that pumpage data indicated it had exceeded
10 the quantity authorized by its WUP, and directing it undertake efforts
11 to bring its withdrawals into compliance, such as utilization of the
12 interconnect with Pasco County, searching for other external sources, or
13 implementing other appropriate water use strategies to reduce
14 withdrawals. When Aloha failed to comply with the Compliance Notices, a
15 Notice of Violation was sent November 21, 2000. The Notice of Violation
16 directed Aloha to bring its water withdrawals into compliance with the
17 Permit within 30 days of the notice. When Aloha failed to comply with
18 the Notice of Violation, a Consent Order was proposed on January 5,
19 2001.

20 Q. What is the status of the proposed Consent Order?

21 A. After several meetings and a formal mediation, the parties have been
22 unable to reach a settlement.

1 Q. Is Aloha required to take measures to conserve water?

2 A. Yes. Section 7.3 of the Water Use Permit Information Manual, Part B,
3 Basis of Review, requires special water conservation measures be taken
4 by all permittees located in the NTB-WUCA. Public supply permittees
5 using annual average day quantities of 100,000 gpd or more, in addition
6 to the standard requirements of a WUP holder, are subject to special
7 requirements such as implementation of a water-conserving rate structure
8 and periodic water audits of the water supply system. Additionally,
9 Standard Condition No. 10 of Aloha's WUP requires Aloha to "... practice
10 water conservation to increase the efficiency of transport, application,
11 and use, as well as to decrease waste ...".

12 Q. Is Aloha currently taking adequate measures to conserve water?

13 A. No. Aloha needs to implement a water conserving rate structure, and
14 water conservation programs to comply with SWFWMD rules and its WUP.
15 Aloha has applied to the Public Service Commission for authorization to
16 implement a conserving rate structure, and for funding for water
17 conservation programs, which application is the subject of the
18 proceeding. However, to date Aloha has not taken adequate measures to
19 conserve water.

20 Q. What kind of water conservation programs could Aloha implement to meet
21 SWFWMD rule and WUP requirements?

22 A. Aloha has provided SWFWMD with a draft Compliance Plan containing

1 proposed water conservation programs. The proposed programs include:
2 customer education measures; periodic water audits of the water
3 distribution system; retrofit kits and rebates for indoor plumbing
4 modifications, including a study of the effectiveness of these devices;
5 developing a Internet website containing water conservation information;
6 hiring additional staff to oversee water conservation programs; and
7 expanding reuse measures. If Aloha implemented these programs, in
8 addition to a water conserving rate structure, it would be in compliance
9 with the rule and permit requirements for water conservation.

10 Implementation of the rule and permit requirements for water
11 conservation would be expected to have the effects of reducing the water
12 demands of existing customers, and slowing the rate of growth of demands
13 caused by new customers. However, conservation measures would be
14 expected to eliminate only a portion of the overpumping, and Aloha would
15 still need to address its failure to comply with the water quantity
16 limitations of its WUP, through additional steps.

17 Q. What additional steps could Aloha take to comply with the water quantity
18 limitations of its WUP?

19 A. Aloha must find a source of water to replace the groundwater quantities
20 it is currently withdrawing in excess of the quantities authorized by
21 the WUP. Aloha may do this by purchasing the excess quantity from Pasco
22 County through the interconnect, or by developing an alternative water

1 source such as a reverse osmosis facility or other source of water which
2 is both economically and technically feasible and permittable.

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1 MS. LYTLE: At this time, I would tender this witness
2 for cross-examination.

3 CHAIRMAN JABER: Thank you. Aloha.

4 MR. WHARTON: Chairman Jaber, I don't mean to be an
5 obstructionist, but I don't have -- we do not intend to solicit
6 any information from this witness which is favorable to Aloha.
7 However, there is a chance because of the exhibits to
8 Mr. Biddy's testimony that the other parties, the Staff, and
9 OPC are going to solicit information from this witness which is
10 detrimental to Aloha. Now, I'm going to deal with that with
11 Mr. Biddy.

12 CHAIRMAN JABER: That's the nature of
13 cross-examination; right?

14 MR. WHARTON: Pardon?

15 CHAIRMAN JABER: That would be the nature of
16 cross-examination.

17 MR. WHARTON: True. But if I say there are no
18 questions, and they get into it, I won't have a chance to
19 revisit it. I have no questions, I mean, unless they're going
20 to get into it. And it's -- Mr. Biddy has put in something
21 with Mr. Parker's name on it. I hope it doesn't come up except
22 in Mr. Biddy's testimony.

23 CHAIRMAN JABER: Why didn't you file rebuttal
24 testimony to Mr. Biddy's testimony?

25 MR. WHARTON: Well, I think I've satisfied myself

1 with Mr. Bidy's deposition, and Mr. Bidy will talk about
2 that. But I just -- it may be that all this can be avoided and
3 I won't have any questions if the Staff and OPC aren't going to
4 get into it. If they are, all I'm saying is, I think I would
5 like to reserve -- to go last in cross because of the
6 juxtaposition of the three parties. I don't intend to solicit
7 anything -- I have no questions.

8 CHAIRMAN JABER: Would that be your position as it
9 relates to all of the Water Management District witnesses?

10 MR. WHARTON: I do have a few questions for
11 Ms. Sorensen, and no, I would go first if that was your
12 pleasure.

13 CHAIRMAN JABER: Mr. Burgess, your response, your
14 concerns, if any.

15 MR. BURGESS: My concerns are more general; that is,
16 everybody would like to go after they've heard a certain amount
17 from other parties. It's happened to me in this case already.
18 It's just something that happens. Somebody has to be first.
19 I'm not sure I agree with the logic that Mr. Wharton is saying.
20 However, with regard to this specific witness, I don't mind
21 going prior to Mr. Wharton if that would help things out.

22 CHAIRMAN JABER: You know what, Mr. Wharton? I don't
23 agree with you either. So if you have questions, ask them. If
24 you don't -- it's the nature of the cross. You never know what
25 may come out in another person's cross-examination.

1 MR. WHARTON: Just one moment.

2 CHAIRMAN JABER: Uh-huh.

3 MR. WHARTON: We don't have any questions.

4 CHAIRMAN JABER: Okay. Thank you, Mr. Wharton.

5 Public counsel. Mr. Wood.

6 MR. WOOD: Yes.

7 CROSS EXAMINATION

8 BY MR. WOOD:

9 Q Mr. Parker, you talked about conservation methods.
10 What conservation methods should a utility be using in its
11 operation?

12 A You may be speaking of leak detection and repair,
13 those type of system operation --

14 Q Whatever the 10 to 14 percent unaccounted for loss is
15 created by which more than offsets your shortfall. What should
16 they be doing?

17 A Well, it would depend upon the nature of the problem
18 they're dealing with. If they have leaks, obviously those
19 should be detected and repaired. If they're having to flush
20 lines, they might look at ways to minimize that.

21 Q Why isn't the utility given a target of reducing the
22 unaccounted for loss by 5 percent -- to 5 percent, not by, to
23 5 percent?

24 A Five percent for unaccounted would be below the
25 standard that we would expect them to meet.

1 Q What makes the standard correct? If you're a
2 business person, aren't you trying to improve your business all
3 the time?

4 A Certainly. And that would be the purpose of the
5 water audits that are required of a utility, including Aloha,
6 each year. It's an ongoing process.

7 Q If you don't require the utility with a written
8 number and goal to meet, why should you be dumping it on the
9 customer's back?

10 A I believe we do have standards for unaccounted water
11 uses for utilities to meet within our basis of review, and to
12 my knowledge, Aloha meets those.

13 Q What other industry are you aware of that accepts a
14 10 percent loss, unaccounted for loss?

15 A As I sit here, I don't know what the loss is, the
16 unaccounted numbers, the leakage numbers would be for Aloha.
17 I'm not prepared to testify as to that.

18 Q As part of the record, it has been 10 percent, and
19 that's why I'm asking you, why aren't they given a figure to
20 reduce the loss by?

21 A I think I've answered that. To my knowledge, they
22 are within the standards that we expect them to meet for
23 unaccounted uses for losses.

24 Q Your standards are inflexible?

25 A I --

1 CHAIRMAN JABER: Mr. Wood, let me try to address that
2 for you in this way. He has testified that they are within the
3 standards. So I don't think he understands your question.

4 Q Okay. If your standard is 10 percent in a continuous
5 improvement program, why isn't it targeted to be 5 percent with
6 gradual decreases per year?

7 A I'd have to answer your question with a question.
8 Why 5 percent?

9 Q You want the customers to reduce 5 percent, don't
10 you?

11 A I don't know what 5 percent you're speaking of.

12 Q I'm talking about, you want to reduce usage, as I
13 understand it from your testimony, that the customers are to be
14 reduced 5 percent. Why isn't the utility required a
15 corresponding amount?

16 A I'm still confused as to what 5 percent you're
17 speaking of.

18 CHAIRMAN JABER: Mr. Wood, you're referring to
19 Mr. Parker's testimony? Are you referring --

20 MR. WOOD: I thought so.

21 CHAIRMAN JABER: Okay. It might be helpful if you
22 could refer him exactly to where in his testimony --

23 MR. WOOD: I don't have it here with me.

24 CHAIRMAN JABER: Okay. That's what he's having
25 trouble -- he doesn't understand what 5 percent you're

1 referencing.

2 MR. WOOD: What I am referring to, what I am
3 referring to is the conservation number that is throughout the
4 testimony has been what the customers have been asked to
5 reduce, as I understand it. And my question is, why isn't the
6 utility who is wasting 100 million gallons of water a year
7 required to make a corresponding reduction?

8 CHAIRMAN JABER: Mr. Parker, we heard just in the
9 last day, yesterday in the customer service part of the
10 hearing, concerns raised by customers related to some
11 anticonservation behavior that they have to participate in just
12 to get the sludge-looking substance out of their water. That
13 was one level of testimony.

14 The other level of testimony was, they believed that
15 there is an excessive -- some customers believe there was an
16 excessive amount of line flushing, for example. Other
17 customers testified that they see irrigation systems and
18 sprinkler systems go on in the Aloha service territory. And
19 the specific question the customers had of us was, how can
20 Aloha engage in these alleged practices and not be required to
21 account for that excessive use of water? And I think that's
22 what Mr. Wood is referring to.

23 THE WITNESS: Thank you. I can attempt to address
24 that. It's not a subject I believe that was presented in my
25 direct testimony.

1 Mr. Wood, in the water auditing aspects of
2 conservation requirements through water use permits that Aloha
3 would have to abide by would be an audit of the system. It's
4 an ongoing process. It's usually done on an annual basis, and
5 through that audit, account for where water is going comparing
6 what's billed to customers to total production from wells, line
7 flushing, losses, leaks, all of those things. And in the
8 process of accounting for those things, you find out where your
9 opportunities are to reduce losses. So when you ask about a
10 5 percent or some standard, we don't apply -- we don't have
11 afore knowledge to know what the appropriate target is. What
12 we're interested in and the utility is interested in is where
13 are the losses, where's the opportunity to cut losses.

14 BY MR. WOOD:

15 Q My question is, why isn't the agency interested?

16 A Well, we are interested, as I said, very interested.

17 Q What are we doing about it?

18 A We require the audits for all permit holders for
19 systems of this sort in the water use caution area and in many
20 cases beyond.

21 Q And how much has it been reduced in the last year,
22 the usage?

23 A I'm not prepared to answer that. As you said,
24 though, in a continuing program, you would always be striving
25 to minimize and reduce. Obviously, if you reach optimum

1 reduction, you have no more to reduce.

2 Q Do you think that 100 million gallons of water a year
3 is a reasonable number?

4 CHAIRMAN JABER: Mr. Wood, you have to tell him what
5 you're referring to with respect to the 100 million gallons --

6 Q Okay. What Aloha is using is a little over 1 billion
7 gallons of water. That is what is in all the documentation.
8 Ten percent of that is 100 million gallons. Now, is that a
9 reasonable number in a so-called drought area?

10 A You're making an assertion to me that something is
11 happening. I don't know what number you're talking about. You
12 seem to be asserting that that water is going to waste. I
13 don't know that that's factual. I don't know what the
14 circumstances are you're speaking of.

15 Q It's not --

16 MR. WHARTON: Chairman Jaber --

17 CHAIRMAN JABER: Mr. Parker, let me try to reword the
18 question this way based on what I heard the customers testify
19 to yesterday. There was a question raised to us, why does the
20 State allow Aloha to service any more people if it requires
21 them to pull more water out of the aquifer than they have been
22 permitted for? And that's the nature of the question. What is
23 that point or limit that the Water Management District would
24 say, your demand exceeds our supply?

25 THE WITNESS: And I guess I'd have to answer that

1 saying that's just not an area that we have the authority to
2 control. We don't make the land use decisions nor issue the
3 building permits. So when a utility is taking on new customers
4 and they are exceeding their permit, we address it through a
5 notice of violation and through a consent order. You might
6 also ask the question, why won't we shut off that amount of
7 water which they are overpumping and prohibit them? And that's
8 not within our ability to control. We don't turn off water
9 supplies to people. That would solve one problem but create
10 quite another. So it's not within our authority to do that.

11 What we can do is exercise our authority within the
12 water use permitting to work with the permit deed to bring them
13 into compliance through exercising penalties, consent orders as
14 necessary.

15 CHAIRMAN JABER: But then what would be the state
16 agency that would look at the development in the area and sort
17 of the comprehensive planning related to whether there was
18 sufficient water resources to accommodate the development in
19 the area?

20 THE WITNESS: The local governments, the regional
21 planning councils, the Department of Community Affairs, as I
22 understand it, and I'm speaking a little bit out of my realm of
23 expertise in saying that.

24 COMMISSIONER PALECKI: Mr. Parker, let me follow up
25 on one of the answers that you gave to Mr. Wood. You stated

1 that there would be audits that will take place on the usage by
2 Aloha and its customers?

3 THE WITNESS: Yes.

4 COMMISSIONER PALECKI: Has an audit taken place
5 already? Has there been one that you've already done?

6 THE WITNESS: Well, the utility provides the
7 information and conducts the audit. There have been ongoing
8 public supply survey type audits and use audits by the utility
9 comparing their withdrawals to their system losses, their
10 unaccounted to accounted uses and those sort of the things.
11 Those take place regularly.

12 COMMISSIONER PALECKI: And so when is your next audit
13 scheduled for?

14 THE WITNESS: I don't recall when they're due. They
15 are annually conducted.

16 COMMISSIONER PALECKI: But if you saw in a future
17 audit that you have a high level of unaccounted for water, you
18 could place a restriction on Aloha, could you not?

19 THE WITNESS: We could certainly ask and require that
20 they pursue that. I think a key point, following back here, is
21 that I do not recall unaccounted water uses or an inordinate
22 amount of system losses from line flushing or leaks or that
23 sort of thing ever having become an issue with Aloha. I
24 certainly remember cases with utilities where that has been an
25 issue, where leakage losses severely needed to be addressed and

1 line flushing was a chronic problem. I don't recall that being
2 a problem that we addressed through the water use permit or
3 ever had any flags go up as to that needing to be a major issue
4 with Aloha.

5 COMMISSIONER PALECKI: I guess it's fresh in our
6 minds right now because we heard three or four customers
7 yesterday. One who described graphically thousands and
8 thousands of gallons coming out for many -- several hours
9 coming out of the hydrants. And they questioned us as to, you
10 know, how -- when we're talking about conservation and
11 conserving, how we can allow the utility to do that sort of
12 practice. And so it is something that has come to issue here.

13 THE WITNESS: I certainly understand that. And I
14 know that when you're standing at the end of your block and
15 looking at a line discharging water or flushing a line, that
16 seems quite important. For me, I look at it in a perspective
17 of looking at a lot of different utilities. I know there are
18 circumstances when lines are flushed, and I know there are
19 circumstances where it is necessary. For a utility to do that
20 in order to comply with a system constraint or regulation, that
21 is not within my control. What I can do, though, is if I see
22 that the loss of water is inordinate, and ask that they address
23 it through a conservation program.

24 COMMISSIONER PALECKI: So a level of 10 percent of
25 total usage unaccounted for is not an unusually high level?

1 THE WITNESS: Not terribly high. We would expect the
2 utility to look at, well, can that be further reduced?
3 Certainly.

4 COMMISSIONER PALECKI: Thank you.

5 THE WITNESS: If I could add, please, to that.
6 Unaccounted in my vernacular does not necessarily mean that
7 water has gone to waste. It may mean water that is not billed
8 to a particular customer. It might be used at a utility plant.
9 It might have a use other than just being lost. On the other
10 hand, if it's entirely from a broken pipe that's leaking,
11 that's something that should be clearly addressed.

12 CHAIRMAN JABER: Mr. Wood.

13 MR. WOOD: Yes.

14 BY MR. WOOD:

15 Q If flushing is a necessary part of the system, then
16 why don't you require meters when they flush and account for
17 that water?

18 A Some of what you're speaking of as far as line
19 flushing are requirements -- is a utility meeting requirements
20 of the distribution system permitting authority which would be
21 not the Water Management District, and so you're going into a
22 realm that I don't necessarily address. I'm interested in
23 those quantities, but I do know myself personally that many
24 times utilities do meter what they flush because they want to
25 know the volume of water they have purged from the system so

1 they know when they've adequately purged a line and the
2 necessary volumes. Those things are routine practice.

3 Q Does Aloha do that?

4 A I'm sorry?

5 Q Does Aloha do that?

6 A I couldn't speak to that. I don't know.

7 Q When you talk about water in the treatment system,
8 I'm making an assumption, this is the wastewater system, do
9 they meter the water going into the wastewater system or any
10 other treatment system?

11 A I couldn't speak to Aloha's practices there. I don't
12 regulate those.

13 Q Shouldn't this be part of a conservation program?

14 A I don't know.

15 Q Well, you're the one that's setting up the
16 conservation program. I would hope that you have standards, or
17 are there standards for your conservation program?

18 A To that I can say yes.

19 MS. LYTLE: This might be helpful. The District will
20 be presenting another witness following Mr. Parker,
21 Ms. Lois Sorensen who may have some more specific information
22 about conservation programs. Mr. Parker is our water use
23 regulation manager. His primary responsibilities are in
24 permitting and enforcement, not necessarily development of
25 water conservation programs.

1 CHAIRMAN JABER: I think that's very helpful.
2 Mr. Wood, remember, we have to ask questions limited to the
3 scope of his testimony.

4 BY MR. WOOD:

5 Q Under that category, has anybody from SWFWMD ever
6 gone to the county and pleaded the case to ceasing building
7 permits in the Aloha district?

8 A Not to my knowledge.

9 Q Where -- and this is a hypothetical case, and this is
10 going to be a reality, but with the new 288 apartment complex
11 that will be built next year -- or this year, it should be in
12 service this year, where is the water going to come for that --
13 come from for that?

14 CHAIRMAN JABER: Do you mean what source would Aloha
15 use?

16 MR. WOOD: What source are we using for that? We're
17 constantly increasing the number of people.

18 BY MR. WOOD:

19 Q Now, how do we increase the number of people and not
20 increase the amount of water drawn from the earth?

21 A Well, to my knowledge, Aloha has two potential
22 sources right now. That's the withdrawals that are authorized
23 under their water use permit, those sources, and their
24 interconnection with Pasco County.

25 Q If Pasco County and Tampa Bay Water have extra water,

1 why aren't the permits switched?

2 A I can't make sense of your question.

3 Q Again, if Tampa Bay Water, which is the main
4 supplier, as I understand it, for Pasco County --

5 A That's correct.

6 Q -- and Pasco County, they may have some wells of
7 their own --

8 A That's correct.

9 Q -- if they have got extra water, then why don't you
10 reduce their amount of water and give it to Aloha?

11 A And the answer is, they do not have extra water.

12 Q Then how can Aloha withdraw water from Pasco County
13 if they don't have extra?

14 A Pasco County is served by Tampa Bay Water. They are
15 a member of Tampa Bay Water. Tampa Bay Water's -- I mean, your
16 questions are going to Tampa Bay Water's charge as a regional
17 water supply authority to meet the water supply and water
18 supply growth demand needs of the number of governments, and
19 there's nothing in my direct testimony that relates to that.

20 Q Okay. That's a question. When you're starting to
21 cut back in talking about overpumping and where you're getting
22 it from I think has to be answered. So where -- you know,
23 where are we going to get the water?

24 A Well --

25 CHAIRMAN JABER: Mr. Wood, he's tried to answer that

1 question for you.

2 MR. WOOD: He hasn't done a good job.

3 CHAIRMAN JABER: Well, it's outside the scope of his
4 testimony. He can't answer questions that he hasn't testified
5 to.

6 MR. WOOD: Okay. That's all I have.

7 CHAIRMAN JABER: Okay. Thank you, Mr. Wood.

8 Go ahead, Mr. Burgess.

9 CROSS EXAMINATION

10 BY MR. BURGESS:

11 Q Mr. Parker, as I understand your testimony, what
12 you've presented is two fundamental areas where you have issues
13 with Aloha Utilities; that is, their conservation program that
14 you believe there are additional measures to be taken and their
15 overpumping their water use permit; is that correct?

16 A Those two factors, yes, they are there, and they are
17 correct.

18 Q And as I understand from what you are saying is that
19 there have been a number of communications that have taken
20 place that you anticipate will result in a consent decree
21 between the District and Aloha; is that correct?

22 A I expect a consent eventually to be reached and
23 agreed upon, yes.

24 Q And that consent will deal with the two issues I have
25 spoken to and perhaps somewhat related with the long-term water

1 use -- or water source questions as well; is that correct?

2 A Yes. It's correct that principally that Aloha would
3 be able to come into compliance with their existing water use
4 permit.

5 Q And one of the -- but one of the requirements of
6 the -- or one of the points of the consent decree will also be
7 a requirement of Aloha to bring about feasibility studies on
8 various potential sources of water; is that correct?

9 A That's -- those are options that are at their
10 disposal to bring forth alternative or other sources of water
11 that would allow them to come into compliance with the water
12 use permit. For our purposes, that could be taking it through
13 an interconnect, or it could be from other sources.

14 Q Now, one of the things that I have received, and I've
15 only received it today, or yesterday, is what I understand to
16 be the latest draft of the anticipated consent order; is that
17 right? Is there a latest draft of that that includes various
18 provisions?

19 MS. LYTLE: I don't believe Mr. Parker has that
20 document.

21 CHAIRMAN JABER: I think Mr. Burgess is just trying
22 to introduce it.

23 MS. LYTLE: Oh, okay.

24 MR. BURGESS: Let me withdraw that question.

25 BY MR. BURGESS:

1 Q Are there various -- have there been drafts of a
2 consent order to deal with all the issues that you've spoken of
3 that the District has with Aloha Utilities?

4 A Yes, there have been.

5 Q And is there a current draft that you're working
6 from?

7 A I don't know what the latest draft is, even whether I
8 have the latest draft that's been discussed.

9 Q Are you involved in what it would contain or what the
10 District believes it needs to contain?

11 A Yes, I am.

12 Q Okay. Well, let me go over then just the various
13 points of that. With regard to conservation, as I understand,
14 there is an array of programs that the District intends to
15 insist upon Aloha to undertake; is that correct?

16 A I don't know what programs. Are you referring to
17 conservation activities?

18 Q Conservation activities, that's correct.

19 A Yes, there are certain activities that we expect them
20 to pursue.

21 Q Do you have any familiarity with the -- and you may
22 have answered this earlier. Do you have any familiarity with
23 the most recent draft of the consent order?

24 A I don't know what the most recent draft is. I have
25 or have had drafts, but I don't know the -- necessarily that

1 I've seen the latest.

2 Q Have you seen drafts of the conservation activities
3 that would be agreed to by Aloha for the District to agree and
4 sign on to the consent order?

5 A I have seen conservation elements that are in drafts,
6 yes.

7 Q Do you have any understanding or any notion as to the
8 amount of usage suppression that you would anticipate from the
9 conservation programs that you would anticipate being required
10 for Aloha to be in compliance?

11 A No, I don't.

12 Q Do you know whether one of the points of the consent
13 order will be a requirement that Aloha engage in some type of
14 feasibility study for a reverse osmosis plant?

15 A No. I don't know that that will be an element of the
16 consent order.

17 Q Do you know whether that is one of the elements of
18 the current most recent draft of consent order?

19 A No, I don't.

20 Q What is the District's intention for forcing Aloha to
21 come in compliance with its pumping restriction on an immediate
22 basis?

23 A Could you -- would you please repeat the question.
24 I'm sorry.

25 Q How about if I withdraw that question and try to

1 rephrase it.

2 Right now, Aloha is in violation of the amount of --
3 in violation of the limitation of gallonage that it should be
4 pumping from its wells; is that correct?

5 A That's correct.

6 Q How do you intend to bring them into compliance?

7 A Through the notice of violation and the consent order
8 process to agree upon a plan which will result in them coming
9 into compliance.

10 Q Okay. Is there any intent to time that or tie that
11 to the rates that are established in this rate case?

12 A Not that I am aware of.

13 MR. BURGESS: Thank you very much. That's all I
14 have.

15 CHAIRMAN JABER: Staff.

16 CROSS EXAMINATION

17 BY MS. ESPINOZA:

18 Q Good afternoon, Mr. Parker. I have a few questions
19 relating to what Mr. Burgess was asking you. You would agree
20 that you are one of the persons involved with the District's
21 negotiations with Aloha regarding their water demand side
22 conservation measures; correct?

23 A Yes. Of course, primarily the Office of General
24 Counsel and myself advising.

25 Q Okay. And the water demand side conservation

1 measures are then part of a compliance plan; is that correct?

2 A Yes.

3 Q And then the compliance plan is what is going to
4 eventually be the final consent order; correct?

5 A Yes, the critical element of that order. Yeah.

6 Q Okay. And can you give us any kind of time frame, to
7 your knowledge, that that final consent order might be issued?

8 A No, I can't. I would say as soon as possible, but I
9 can't give you a time frame.

10 Q And is it true that once the consent order is issued
11 by the District that the effectiveness of that order is still
12 subject to review and approval by the District's governing
13 board?

14 A Yes, it is.

15 Q And in the event the governing board does not approve
16 the consent order, then the consent order is rendered null and
17 void and of no legal effect; is that correct?

18 A Yes. I'm not in my realm of expertise. That's my
19 understanding, yes.

20 Q Would these questions better asked of Ms. Sorensen?

21 A Perhaps. I mean, you're asking procedural questions
22 that I think would be better asked of our Office of General
23 Counsel, but --

24 Q Okay. Well, just in general, to the extent that you
25 know. Do you know the typical time frame from the issuance of

1 a consent order until it's brought before the governing board's
2 final approval?

3 A You mean from point of like an initial proposed
4 consent order to the point that it's consented to by the
5 parties and then brought before the board?

6 Q Well, once you have a final consent order that's been
7 agreed to by the parties, then is there a time frame that has
8 to go to the governing board for the governing board's
9 approval?

10 A I don't know what that would be.

11 Q Okay. Is it true that even without a governing board
12 approved consent order and the associated compliance plan, that
13 there are several conservation measures contained in the
14 compliance plan that are already requirements of both Aloha's
15 water use permit and the District rules?

16 A Yes, the conservation elements specifically.

17 Q Okay. And finally, with regard to the Seven Springs
18 water system, would the District consider a request by Aloha to
19 modify its water use permit in order to transfer the withdrawal
20 allocation limits of Wells 3, 4, 6, and 7 to newly installed
21 wells in the Seven Springs system service area?

22 MR. WHARTON: I'm going to object that that's outside
23 the scope of direct, Chairman Jaber.

24 CHAIRMAN JABER: See, here's the deal. This person
25 is represented by his attorney, Margaret Lytle.

1 MR. WHARTON: Well, Chairman Jaber, I respectfully
2 disagree with that. If -- a party is allowed --

3 CHAIRMAN JABER: You disagree that that's his
4 counsel?

5 MR. WHARTON: No. I disagree with your inference
6 that that is the only person who can object to the scope of
7 direct. If that counsel allows the testimony to come in, then
8 I'm denied the opportunity to engage in cross which I would
9 have if it would have been said on direct.

10 CHAIRMAN JABER: All right. Ms. Lytle, do you
11 believe that the question raised by Staff goes beyond the scope
12 of your witness's testimony?

13 Ms. Espinoza, ask the question again.

14 BY MS. ESPINOZA:

15 Q With regard to the Seven Springs water system, would
16 the District consider a request by Aloha to modify its water
17 use permit in order to transfer the withdrawal allocation
18 limits of Wells 3, 4, 6, and 7 to newly installed wells in the
19 Seven Springs system service area?

20 CHAIRMAN JABER: Mr. Parker, don't answer yet,
21 please.

22 MS. LYTLE: That issue was actually addressed by the
23 District, and Mr. Parker participated in that through
24 interrogatories, but it is not in his prefiled direct
25 testimony.

1 CHAIRMAN JABER: And now, are the interrogatories
2 made part of the testimony at all, or are they exhibits
3 attached to any of the District testimony?

4 MS. LYTTLE: No. We answered the interrogatories
5 subsequent to filing testimony.

6 CHAIRMAN JABER: Okay. Staff, if you have the
7 interrogatory, since Mr. Parker participated in them, I think
8 it's fair for to you use them for cross-examination purposes.
9 Do you have them?

10 MS. ESPINOZA: I do, and that's actually a question
11 directly. That was an interrogatory that was directed to the
12 District.

13 CHAIRMAN JABER: Why don't you show that to
14 Mr. Parker?

15 MS. ESPINOZA: May I approach the witness?

16 CHAIRMAN JABER: Sure.

17 MR. WHARTON: May I inquire, Chairman Jaber?

18 CHAIRMAN JABER: Uh-huh.

19 MR. WHARTON: I mean, is your ruling that even if
20 something is outside the scope of direct, if it is in an
21 interrogatory response, it may then be used in
22 cross-examination?

23 CHAIRMAN JABER: Here's the problem, Mr. Wharton.
24 The direct testimony addresses this issue on the periphery. In
25 addition to that, Staff has discovery that Mr. Parker's

1 attorney agrees that he responded to it in discovery related to
2 his direct testimony. His counsel has not raised an objection
3 with respect to the question being outside the scope of direct,
4 and I'm going to rely on her guidance for that. To the degree
5 you want to try to do cross-examination based on this line of
6 questioning, I'm going to take that up in just a minute.

7 Now, what's your question, Ms. Espinoza, related to
8 the discovery in this issue?

9 MS. ESPINOZA: I'm sorry, what was the question?

10 CHAIRMAN JABER: What was your question related to
11 the discovery in this issue?

12 MS. ESPINOZA: Would you like me to repeat myself?

13 CHAIRMAN JABER: Yes.

14 MS. ESPINOZA: Okay.

15 BY MS. ESPINOZA:

16 Q With regard to the Seven Springs water system, would
17 the District consider a request by Aloha to modify its water
18 use permit in order to transfer the withdrawal allocation
19 limits of Wells 3, 4, 6, and 7 to newly installed wells in the
20 Seven Springs system service area?

21 CHAIRMAN JABER: Now, Mr. Parker, is that anywhere
22 addressed in your direct testimony or in anything related to
23 your direct testimony that you've responded to in discovery?

24 MS. ESPINOZA: Mr. Parker -- I'm sorry.

25 THE WITNESS: I don't believe it's addressed in the

1 direct testimony that was prefiled. Clearly, the question is
2 addressed in -- these are the interrogatories, I believe.

3 BY MS. ESPINOZA:

4 Q Yes, sir. And if I may direct you to your direct
5 testimony on Page 8, the last couple of lines.

6 A I see that.

7 Q I believe that this might go to that issue.

8 A I believe you could say it does. Can I read these
9 couple of lines?

10 Q Please.

11 A Aloha -- well, the preceding lines. "Aloha must find
12 a source of water to replace the groundwater quantities it is
13 currently withdrawing in excess of those authorized by the
14 permit. Aloha may do this by purchasing the excess quantity
15 from Pasco County through the interconnect or by developing an
16 alternative source such as a reverse osmosis facility or some
17 other source which is economically, technically feasible and
18 permittable."

19 CHAIRMAN JABER: Do you believe that Staff's question
20 goes to what you just read on Page 8?

21 THE WITNESS: Yes. I believe it can be construed
22 to -- in that any new potential source that's available,
23 permittable, feasible could go to resolving the overpumping
24 under the permit.

25 CHAIRMAN JABER: Mr. Wharton, I understand --

1 MR. WHARTON: I'll withdraw the objection,
2 Madam Chairman.

3 CHAIRMAN JABER: But help me understand --

4 MR. WHARTON: I had thought the question was, could
5 you move the wells, but I guess it was, could you increase the
6 allocation.

7 CHAIRMAN JABER: All right. Mr. Wharton, let's try
8 to be flexible. I cannot answer your question until I
9 understand where --

10 MR. WHARTON: I understand.

11 CHAIRMAN JABER: -- the other questions are coming
12 from, but answer this for me for my benefit. Who have you
13 filed rebuttal testimony for to address this limited issue?

14 MR. WHARTON: I believe that there is testimony from
15 Mr. Watford and Mr. Porter about the wells and about the Water
16 Management District and the allocation and what we have been
17 told.

18 CHAIRMAN JABER: All right. Ms. Espinoza, as it
19 relates to additional questions, it would be helpful if you
20 could keep referring back to the testimony so that I'm clear on
21 where the issues are.

22 MS. ESPINOZA: Actually, we have no further
23 questions. Thank you. Thank you, Mr. Parker.

24 CHAIRMAN JABER: Redirect, Ms. Lytle.

25 COMMISSIONER PALECKI: Did he answer the question?

1 MS. ESPINOZA: Oh, I'm sorry. Did he --

2 CHAIRMAN JABER: Do you feel like you have a response
3 to your question?

4 COMMISSIONER PALECKI: I would like to hear --

5 MS. ESPINOZA: I think he did answer. Thank you.

6 CHAIRMAN JABER: And what was it? Because the
7 Commissioners missed it.

8 MS. ESPINOZA: Let me ask the question again. How
9 about that?

10 BY MS. ESPINOZA:

11 Q Do you want me to repeat the question, Mr. Parker?

12 A I have the question from the interrogatories before
13 me.

14 Q I'll just repeat it just for your benefit.

15 A Thank you.

16 Q With regard to the Seven Springs water system, would
17 the District consider a request by Aloha to modify its water
18 use permit in order to transfer the withdrawal allocation
19 limits of Wells 3, 4, 6, and 7 to newly installed wells in the
20 Seven Springs system service area?

21 MR. WHARTON: And I'm sorry, Madam Chairman, but it
22 is what I thought at first. The question is merely to move the
23 wells, not to increase the allocation, and therefore, I don't
24 think it relates to the last two lines of the testimony. If
25 I'm wrong, I apologize. This question really relates to

1 another issue in the case. Can the WUPs be moved to other
2 land? But it's not a question about, can you get a bigger
3 allocation?

4 CHAIRMAN JABER: What other issue would Staff's
5 question relate to?

6 MR. WHARTON: There's this question about the wells
7 on the related party property.

8 CHAIRMAN JABER: And who from the Water Management
9 District is supposed to testify on that issue? Give me the
10 issue number.

11 MR. WHARTON: I don't believe that anyone did from
12 the Water Management District testify --

13 CHAIRMAN JABER: All right. Well, let me have the
14 issue number. That would help me out.

15 MR. WHARTON: Just one moment, Chairman.

16 CHAIRMAN JABER: Okay.

17 COMMISSIONER PALECKI: I guess the question I have
18 is, wouldn't this not relate to the number of gallons that you
19 are required to purchase from Pasco County?

20 MR. WHARTON: And if it does, Commissioner Palecki, I
21 withdraw my objection and apologize for the delay. I'm just
22 not hearing anything -- it sounds to me like the exact same WUP
23 limit moved to another spot. Maybe that's not the question.

24 MR. JAEGER: The issue is the related party issue,
25 Issue 15, purchased water transactions.

1 CHAIRMAN JABER: Staff, here is my confusion in
2 addressing this objection. To the degree it relates to Pages 8
3 and 9, I don't have any problem with you rephrasing your
4 question and making it more clear so the witness can answer it.
5 If it relates to another issue that no Water Management
6 District witness has testified to, then I have to agree with
7 Mr. Wharton, but that's the clarification I need from someone.
8 We can take a few minutes if you want to reword the question.

9 MR. JAEGER: One minute.

10 MR. BURGESS: Commissioner, while there's some time,
11 may I address this as just a party interested in the issue?

12 CHAIRMAN JABER: I think so.

13 MR. BURGESS: As Mr. Wharton -- he's not my witness,
14 and I just want to respond to that. My understanding is that
15 it's talking about an issue that Staff believes this witness
16 has particular -- by his experience and his position has the
17 ability to offer the Commission useful information for the
18 Commission to arrive at a proper determination on that
19 particular issue.

20 And, you know, I just don't think that in an
21 administrative proceeding, and especially my experience with
22 the Commission, that the Commission has nor should straitjacket
23 itself, prevent itself from capturing that type of information.
24 Certainly if the Commissioners wanted this information, they
25 could simply ask Mr. Parker, and if he's able to answer, he

1 could, or unable to, he could. But, you know, that's what it
2 appears to me is happening here a little bit, is some -- I
3 think procedurally it should be fairly easy to address and make
4 sure Mr. Wharton's rights are kept intact, but at the same
5 time, I'd be concerned if the Commission is being prevented
6 from obtaining information that would be useful to it to arrive
7 at a proper conclusion.

8 CHAIRMAN JABER: Yeah, I absolutely agree, but let me
9 tell you something. I balance all of that with being fair.
10 And I just spent the first few minutes before this witness took
11 the stand explaining to Mr. Wharton why he would go first on
12 cross-examination. And if I expect the parties to respect the
13 Commission's wishes in wanting to be fair and keep a developed
14 record, then I have to expect that from our Staff as well.

15 MR. BURGESS: I understand.

16 CHAIRMAN JABER: And to the degree that this issue
17 was not noticed or testified to by this witness, then I have to
18 be fair in allowing Mr. Wharton his opportunity to
19 cross-examine. I'm trying to look for the best approach to
20 handle it, but I absolutely agree. I never want to jeopardize
21 this Commission's need for information and a need for a
22 developed record, but I have to balance that with everyone's
23 rights.

24 And if you can't reword the question, but this is
25 information we need, we will get it, and I will allow

1 Mr. Wharton to cross-examine on this issue. But I need to
2 know, do you want to rephrase the question and limit it to Page
3 8, or is your question really broader than that? If it's
4 broader, that's okay.

5 MR. JAEGER: Our question is actually less than that.
6 SWFWMD has said, and this has been the thing, they cannot get
7 an increase in their WUP, and they cannot -- and the testimony
8 has been, you know, I think you are going to have to drag an
9 iceberg in -- that was at some of the depositions -- if they
10 were going to get any more water. That's about the only way
11 other than going with the county, and all we're wanting to --

12 CHAIRMAN JABER: Mr. Jaeger, let's do this. Instead
13 of you testifying, we'll do this. Ms. Espinoza, ask your
14 question. If the Water Management District witness can answer
15 it, fine, and I will allow Mr. Wharton to follow up on cross.

16 MS. ESPINOZA: I think that it's a related party
17 issue, so I think it would be more appropriate to have
18 Mr. Jaeger ask the question or rephrase it.

19 CROSS EXAMINATION

20 BY MR. JAEGER:

21 Q We really would like to know -- we've been advised --
22 we can't rephrase it. We would like to know if you just can
23 transfer the WUP that Aloha has, are now pulling water from a
24 lot of wells. Wells 3, 4, 6, and 7 are owned by a related
25 party. If they wanted to go to the Mitchell property, may they

1 transfer their WUP, close those wells down, and go to the
2 Mitchell property and put wells down there and use the WUP that
3 they now have?

4 A As I understood the question as first phrased to me
5 is, would we consider that request, and the answer to that is,
6 definitely, yes, we would consider it. Whether or not it could
7 be approved if it does not result in the causing of new
8 additional withdrawal impacts within that area to redistribute
9 the withdrawals from some wells to other wells, if that's a
10 beneficial thing, if it doesn't cause additional harm
11 somewhere, then, yes, we consider it, and yes, it could
12 possibly be approved. Point being, not more withdrawals but
13 some desirable or beneficial redistribution.

14 Now, we'd have to look at that hydrologically, make
15 sure that it didn't cause additional harm in some part of this
16 affected area to redistribute that way, but it could be done,
17 possibly.

18 MR. JAEGER: Thank you. That's the only question we
19 had, Commissioner.

20 CHAIRMAN JABER: Commissioners, do you have any
21 questions before I let Mr. Wharton cross?

22 COMMISSIONER PALECKI: Yes, I have one question. And
23 I just need a little bit of education because I'm having a hard
24 time figuring out how the whole area benefits by telling Aloha
25 that you cannot take more water out of these wells but then

1 allowing them to purchase from Pasco County which is -- you
2 know, it's right here. So they're taking water from wells that
3 might be a few miles away and pumping it to Aloha. Does that
4 really work to the net benefit of the area?

5 THE WITNESS: It's a good question, a very good
6 question, and my answer is, yes, it does work to the net
7 benefit. Now, part of the dilemma that drives your question
8 is, the withdrawals that Pasco County is primarily relying upon
9 through Tampa Bay Water are coming from wellfields that are
10 stressed, and they are a principal part of the cumulative
11 impact problem that we're dealing with here that prevents us
12 from being able to continue to add new withdrawals. And so
13 those withdrawals, those wellfields are the subject of a
14 reduction plan, a groundwater withdrawal reduction agreement.
15 It's called an order in Tampa Bay, New Water Supply and
16 Groundwater Withdrawal Reduction Agreement. And by that
17 agreement, those very wellfields that are the principal source
18 right now are eventually by 2008, 2010 being reduced by as much
19 as 40 percent in their withdrawals.

20 But while that's being done, there are new water
21 supplies being developed which are alternatives, desalinization
22 facilities, seawater desal, off-line storage reservoirs,
23 alternatives to groundwater, and so in the overall regional
24 plan, by 2003 even the first increment of reduction of the
25 wellfield takes place and the first alternative sources begin

1 to come on-line. So that regional Tampa Bay Water system is
2 the source that is moving aggressively in the direction of
3 alternative water sources and less reliance on groundwater.

4 If Aloha moves toward that interconnection, if that
5 winds up being the feasible source to meet their additional
6 demand, that is moving them toward a source of water that's
7 going to be fed by the latest state-of-the-art blend of
8 interconnected regional sources that include desal, off-line
9 storage, reuse facilities, et cetera.

10 COMMISSIONER PALECKI: What about for today? Is
11 there any benefit -- I guess what I'm trying to understand is
12 how localized is the aquifer depletion issue? Or is -- if, for
13 example, Aloha purchases at very high cost from Pasco County
14 and we find out that the water is coming from a well that's,
15 let's say, three or four miles away from Aloha's wells, doesn't
16 it still suck the aquifer just as dry and these customers of
17 Aloha are still causing the same problem as far as aquifer
18 depletion is concerned?

19 And I understand in the future there is movement, and
20 I'm very aware of the new desal plant, which I believe will be
21 the largest in the country. But before we start seeing those
22 alternate supplies, is there really a benefit to the aquifer?

23 THE WITNESS: Well, a key would be location and
24 distribution of the withdrawals as to whether there's a net
25 benefit or an improvement. Certainly the Pasco County

1 interconnect that would be the most immediate potential source
2 is supplied largely by two wellfields that are within the
3 wellfield impact area that are a source of part of the stress.

4 Whether or not the redistribution of that withdrawal
5 from where it's taking place at Aloha to one of those
6 wellfields would be a net benefit, I couldn't really say right
7 now. It could serve -- potentially serve to spread out the
8 effect. Those wellfields are the subject of what's referred to
9 as an optimized distribution program where among the
10 11 wellfields that Tampa Bay Water has, the withdrawals are
11 carefully managed to even the harm, so to speak, to even the
12 impact out in an optimal way. So in the immediate term, I
13 couldn't tell you whether it's a net improvement or not to
14 shift it, but it certainly moves us in the direction of the
15 solution. And the quicker, the better if you have to deal with
16 compatibility of waters issues and all to make that happen, and
17 let's get on with that. That's kind of inevitable as you deal
18 with multiple sources of water to have to deal with different
19 treatment and compatibilities.

20 By a year from now, or by 2003, that desal plant is
21 beginning to come on-line, and the first phase of reduction of
22 the wellfields is underway, so we're pretty close to that time
23 frame when more water is coming to that system, and we could
24 benefit from that.

25 COMMISSIONER PALECKI: Thank you.

1 CHAIRMAN JABER: Mr. Wharton.

2 CROSS EXAMINATION

3 BY MR. WHARTON:

4 Q Mr. Parker, let's go back to the question that the
5 Staff asked you that we had a discussion about. Isn't it true
6 that the Water Management District has not issued any new water
7 use permits per transfer or otherwise in the water use caution
8 area?

9 A I don't believe I'm prepared to answer that. I don't
10 know about transfer or otherwise or modification or
11 redistribution.

12 Q Can you think of anything, as we sit here today?

13 A Not in the area that I deal with, which is that part
14 of the water use caution area that's in Pasco County.

15 Q Would you agree that anything that is submitted to
16 the Water Management District that is within the jurisdiction
17 of the Water Management District in terms of an application or
18 a request, the Water Management District would consider?

19 A Yes. If we receive an application, we have to
20 consider it.

21 Q Mr. Parker, I believe you were personally involved.
22 Do you require that Aloha approach the Water Management
23 District and requested whether a water use permit could be
24 transferred from an unrelated entity, Adam Smith, to Aloha, and
25 the Water Management District indicated that it could not?

1 A I remember discussions about potentially transferring
2 quantities. I don't remember specific permits or circumstances
3 or a final answer. As I sit here, I don't recall.

4 Q You don't recall the outcome of that particular
5 discussion?

6 A No, not from the information you've given me. It
7 might be that names or something aren't lining up in my mind.

8 Q Do you recall Aloha approaching the Water Management
9 District requesting to transfer the water use permit allocation
10 to Aloha from any third party and the Water Management District
11 indicating that that could not occur?

12 A I recall related to a use of water that had been at
13 least partially replaced by reuse or reclaimed water that had
14 been delivered and shifting that allocation of replaced water
15 to Aloha, and I remember us not having a mechanism nor -- that
16 that didn't happen.

17 Q Okay. Would you agree that, as we sit here today, it
18 would be pure speculation on your part that an application to
19 transfer water use permits such as the Staff has asked you
20 about would be ultimately approved?

21 A I think I'm unclear on the question.

22 Q Would it be speculation on your part that such an
23 application would be approved in some future date?

24 A Yes.

25 Q Would you agree that if Aloha moved its wells from

1 one location to another, that it might affect the water
2 chemistry of the water that was pumped out of the well?

3 A It could. It's possible.

4 Q Would you agree that if Aloha moved its wells from
5 one location to another, that it would have to comply with all
6 of the standards and rules and regulations that are in effect
7 on the date that the application was approved?

8 A Yes.

9 Q Do you know how much it would cost to move a well
10 like that, what the facilities would cost and what kind of
11 costs would be involved?

12 A No.

13 Q What about permitting costs?

14 A I don't know.

15 Q Study costs, you're not sure about those either?

16 A No.

17 MR. WHARTON: That's all we have, Chairman Jaber.

18 CHAIRMAN JABER: Ms. Lytle.

19 MS. LYTLE: I don't have any redirect.

20 CHAIRMAN JABER: Okay. Thank you, Mr. Parker.

21 THE WITNESS: Thank you.

22 (Witness excused.)

23 CHAIRMAN JABER: Exhibits, Ms. Lytle. We will admit
24 Exhibit 8 without objection.

25 (Exhibit 8 admitted into the record.)

1 CHAIRMAN JABER: Call your next witness.

2 MS. LYTLE: Our next witness is Lois Sorensen.

3 LOIS A. SORENSEN

4 was called as a witness on behalf of Southwest Florida Water
5 Management District and, having been duly sworn, testified as
6 follows:

7 DIRECT EXAMINATION

8 BY MS. LYTLE:

9 Q Would you please state your name, place of
10 employment, and employment address for the record.

11 A Yes. My name is Lois A., as is in Ann, Sorensen.
12 I'm with the Southwest Florida Management District, and my
13 employment address is 2379 Broad Street, Brooksville, Florida
14 34604-6899.

15 Q Have you been sworn in this matter?

16 A Yes, ma'am.

17 Q Do you prefile testimony of 15 pages with no exhibits
18 in this matter?

19 A Yes, ma'am.

20 Q Do you wish to update or change that testimony?

21 A No, ma'am.

22 Q Can you briefly summarize your testimony for us?

23 A Certainly. A water utility has many different water
24 conservation options open to it, can be categorized in various
25 ways, and which measures a utility chooses to use that is based

1 in part on its demographics as well as the kinds of regulations
2 that it must comply with. One of many measures is a
3 water-conserving rate structure which in and of itself can be a
4 conservation tool and can also be used as a source of revenue
5 from which to be able to fund additional conservation efforts.

6 MS. LYTLE: At this time, I would ask that the
7 testimony of this witness be entered into the record as though
8 read.

9 CHAIRMAN JABER: The prefiled direct testimony of
10 Lois A. Sorensen will be entered into the record as though
11 read.

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1 DIRECT TESTIMONY OF LOIS A. SORENSEN

2 Q. Please state your name and professional address.

3 A. Lois A. Sorensen, 2379 Broad Street, Brooksville, Florida, 34604-6899.

4 Q. Where are you employed?

5 A. The Southwest Florida Water Management District (SWFWMD).

6 Q. What is your position with SWFWMD?

7 A. Water Shortage Coordinator.

8 Q. Please describe your duties in this position.

9 A. I coordinate implementation of SWFWMD's Water Shortage Plan and related
10 demand management activities.

11 Q. What is the Water Shortage Plan, and what are your main duties in
12 relation to it?

13 A. The Water Shortage Plan is a Rule of the SWFWMD. This plan provides the
14 framework for SWFWMD's responses to droughts and other water shortage
15 events. My main duties in relation to the plan involve participation
16 in, and coordination of, several staff efforts, including: monitoring
17 hydrologic conditions, detecting each water shortage event, determining
18 and tracking each event's level of severity, recommending condition-
19 appropriate education messages, recommending condition-appropriate water
20 shortage declarations, and implementation and enforcement of water use
21 restrictions related to each water shortage declaration. These duties
22 all require ongoing and frequent interaction with water utilities, local

1 governments and the general public in order to assure and improve the
2 effectiveness of the plan and its water use restrictions.

3 Q. What do you mean by "related demand management activities" and what are
4 your main duties in relation to these activities?

5 A. SWFWMD staff use the term "demand management" when referring to
6 mandatory water conservation efforts. As such, in addition to the Water
7 Shortage Plan duties described above, my demand management duties
8 include: administering SWFWMD's Year-Round Water Conservation Measures
9 (basic water use restrictions which are in full force and effect when a
10 water shortage declaration is not applicable) and advising Water Use
11 Permits holders and SWFWMD regulatory staff on permit-related water
12 conservation requirements.

13 Q. Please describe your training and experience.

14 A. I have a B.S. in Engineering and a Masters in Business Administration.
15 I also am a graduate of the University of Florida Institute of Food and
16 Agricultural Science's Master Gardener Program. I have worked for
17 SWFWMD in various water conservation capacities since 1988, and have
18 been in my current position since 1994. My previous positions at SWFWMD
19 included work on water use estimates and projections, population data
20 and other demographics, water conservation grant project administration,
21 and reclaimed water cooperative funding project administration.

22 Q. In the course of your duties with SWFWMD, do you evaluate and promote

1 the use of water conservation programs for water utilities?

2 A. Yes.

3 Q. In the course of your duties with SWFWMD, have you become familiar with
4 Aloha Utilities, Inc. (Aloha)?

5 A. Yes.

6 Q. In general, what water conservation requirements are placed on a water
7 utility by the SWFWMD?

8 A. Water utilities must develop and implement a utility-specific water
9 conservation plan or program.

10 Q. Why does SWFWMD promote water conservation programs by utilities?

11 A. There are two closely-tied reasons that SWFWMD promotes utility-specific
12 water conservation programs. First, utility-specific water conservation
13 programs can supplement and compliment SWFWMD's regional water
14 conservation efforts. Second, and more importantly, Section 373.621,
15 Florida Statutes requires all water management districts to incorporate
16 water conservation concepts into their regulatory and non-regulatory
17 programs, including rules which are used to implement provisions of Part
18 II of Chapter 373, Florida Statutes and the State of Florida Water
19 Policy. Specific to water conservation efforts needed to respond to
20 droughts and other water shortage events, each water management district
21 is required by 373.246, Florida Statutes to have a Water Shortage Plan.

22 Q. What are the typical elements of a water utility's water conservation

1 program?

2 A. Elements of a water utility's water conservation program can be broken-
3 down into four main types of measures: (1) education, (2) operation, (3)
4 regulation, and (4) incentive.

5 Q. Please describe some typical education measures.

6 A. Education measures includes things like direct mail ("billstuffers" or
7 separate mailings to customers), brochures on display racks, newspaper
8 ads, radio or television announcements, newspaper articles, shows on
9 cable television and other means of informing customers about why they
10 need to conserve and how to do it. In addition to being a stand-alone
11 water conservation measure, education is also used to enhance the
12 effectiveness of regulation and incentive measures by increasing
13 people's awareness of those other measures.

14 Q. Are education measures effective in conserving water?

15 A. Yes. The exact effect on water demand depends on the demographics and
16 the aggressiveness of implementation in a particular community. Water
17 savings on the order of 4% have been attributed to education measures.

18 Q. Are such programs cost effective?

19 A. Yes. The exact cost in relation to water savings depends on the
20 demographics and the aggressiveness of implementation in a particular
21 community, plus the degree to which one can separate the effect of
22 education from other water conservation measures that occur during the

1 same time frame. Education is often used to enhance the effectiveness
2 of other water conservation measures, so it can be difficult to
3 determine where the education effect ends and where the incentive or
4 regulation effect begins. One combination education and regulation
5 effort that has been studied by the SWFWMD for possible implementation
6 within Aloha's service area, the "water budget" lawn watering
7 restriction alternative, is estimated to have a cost effectiveness ratio
8 as low as \$0.11 program cost per thousand gallons saved. In other
9 words, the "water budget" alternative would cost approximately one-sixth
10 to one-eighth the amount of money that most utilities pay to pump and
11 chlorinate the same amount of groundwater.

12 Q. Are customer education programs appropriate for both privately owned and
13 publicly owned utilities?

14 A. Yes, to some extent. However, private utilities generally have access
15 to fewer education avenues than a public utility -- unless they pay for
16 them. In addition, except for customer-specific direct mail pieces and
17 information at utility offices, it can be difficult for a private
18 utility to spend money on "mass education" efforts efficiently (in other
19 words, only reach its customers, instead of a broader group of readers
20 or listeners).

21 Q. Please describe some typical operation measures which can be taken to
22 conserve water.

1 A. Operation measures focus on how efficiently the utility system is
2 managed and maintained. Examples include meter calibration and
3 replacement programs, system-level audits and leak detection efforts,
4 recycling treatment "reject" water, and using water-saving devices at
5 utility offices and facilities.

6 Q. Are operation measures effective in conserving water?

7 A. Yes. Operation measures reduce the amount of "unaccounted for water"
8 (water produced, but not paid for by customers).

9 Q. Are such operation measures cost effective?

10 A. Yes. Although I do not have a recent, Aloha-specific figure like I did
11 for the "water budget" water restriction alternative, my "yes" answer is
12 based on this premise: since operation measures reduce the amount of
13 "unaccounted for water" (water produced, but not paid for by customers),
14 the utility incurs less pumping and treatment costs while continuing to
15 serve the same paying customer base.

16 Q. Are operation measures appropriate as a part of a water conservation
17 program for both publicly owned and privately owned utilities?

18 A. Yes.

19 Q. Please describe regulation measures which can be used to conserve water.

20 A. Regulation measures involve the use of watering restrictions, landscape
21 codes and other forms of mandatory water conservation (demand
22 management).

1 Q. Would you expect a private or investor-owned utility to institute
2 regulatory measures as a part of its water conservation program?

3 A. Not to the same extent as a publicly owned utility. Private utilities
4 typically have no regulatory authority, unlike a public utility that
5 would be able to have its city council or county commission impose water
6 restrictions or require the use of certain water-wise landscape
7 standards.

8 Q. Please describe the use of incentive measures for water conservation.

9 A. Incentive measures include water conserving rate structures, rebates for
10 installing water conserving devices, and retrofit kit give-aways.

11 Q. Are incentive measure an effective means to conserve water?

12 A. Yes. The exact effect on water demand depends on the demographics and
13 the aggressiveness of implementation of a particular measure in a
14 specific community. SWFWMD has studied several incentive efforts for
15 possible implementation within Aloha's service area. These efforts
16 range from clothes-washing machine rebates (to minimize the extra
17 purchase cost of a high-efficiency machine compared to a standard
18 model), which has an estimated potential to save 12.9 gallons per day
19 per residential customer account, to water-efficient landscape and
20 irrigation system rebates (incentives to change or regroup plantings,
21 combined with appropriate use of low-volume irrigation technology and
22 other Xeriscape principles), which has an estimated potential to save

1 132 gallons per day per residential customer account.

2 Q. Are such measures cost effective?

3 A. Yes. The water-efficient landscape and irrigation system rebates
4 described above have estimated to have a cost effectiveness ratio of
5 \$0.66 program cost per thousand gallons saved.

6 Q. Are incentive measures appropriate for both privately owned and publicly
7 owned utilities?

8 A. Yes. The main barrier to implementation is the up-front program cost to
9 the utility.

10 Q. Should Aloha implement a water conserving rate structure as a part of
11 its water conservation program?

12 A. Yes, a water conserving rate structure may be the most important and
13 effective measure Aloha could take to effect water conservation.
14 Properly designed rates create a financial incentive to save water by
15 imposing a higher cost for wasteful or excessive use. In addition, some
16 utilities use such rates to create a water conservation fund to help pay
17 for other tools (water conservation measures) that they would otherwise
18 not be able to afford to implement.

19 Q. If Aloha was allowed to use revenues generated from a water-conserving
20 rate structure to create a dedicated water conservation fund, or
21 allocate funds from other disallowed expenses to water conservation, how
22 would you recommend the money be used?

1 A. I would recommend that Aloha include all four types of water
2 conservation measures to create a comprehensive water conservation
3 program.

4 Q. How should Aloha accomplish this goal?

5 A. Aloha should start with a review of demographic data about its customer
6 base, so that it may select and implement appropriate measures. If it
7 has not already done so, it may be helpful for it to establish a
8 customer water conservation committee to give feedback on the
9 acceptability to Aloha's customers of water conservation measures under
10 consideration. This committee could also give the customers assurance
11 that their rates are being spent wisely.

12 Q. Do you have any experience or personal knowledge of the use of such a
13 committee?

14 A. Yes. I served as the SWFWMD advisor/representative to a customer
15 committee for the Florida Cities Water Company - Carrollwood Division in
16 the early and mid 1990's.

17 Q. Please elaborate.

18 A. Florida Cities - Carrollwood, an investor-owned utility, was required to
19 reduce water consumption 25% and implement a water-conserving rate
20 structure to comply with its SWFWMD permit. The utility formed a
21 customer water conservation committee which, after reviewing all
22 conservation options and funding mechanisms, supported the utility's

1 proposed water-conserving rate structure. The rate, as approved by the
2 Hillsborough County Board of County Commissioners, included the
3 establishment of a water conservation fund that the customer water
4 conservation committee was charged with monitoring. The fund was used
5 to pay for community-appropriate measures that the committee helped
6 select, including: aggressive customer education, property-specific
7 water audits, rebates for low volume irrigation and rain sensors,
8 retrofit kit give-aways, and Xeriscape demonstration sites at the
9 utility's pump station and neighborhood community park.

10 Q. How should Aloha implement education measures?

11 A. In terms of education, Aloha should continue offering existing written
12 material and expand into other "mass education" outlets (the company has
13 expressed an intention to creating a website, for example, and could
14 link customers to existing on-line water conservation information by
15 doing so). More importantly, Aloha should also invest in educational
16 opportunities that allow for more person-to-person contact. To maximize
17 credibility and minimize start-up costs, they should consider tapping
18 into existing programs offered by outside agencies, such as:
19 landscape/irrigation evaluations (including "water budget" information),
20 community water counselor workshops, and the Florida Yards &
21 Neighborhoods Program. It might also be helpful for Aloha to work with
22 builders to promote the use of Xeriscape principles in residential and

1 commercial landscaping within its service area.

2 Q. Can you estimate what would be a reasonable cost for the education
3 measures you described?

4 A. Aloha estimates the cost of conservation messaging to be \$15,000 per
5 hear and the cost of a website to be \$12,000 per year. In addition to
6 these items and associated staffing, assuming no donations or in-kind
7 services from outside agencies, Aloha would be looking at a cost range
8 of \$11.00 to \$160.00 per customer. The low end of the range involves
9 developing a water budget for each customer and then simply helping
10 customers track consumption in comparison to their budgets, whereas the
11 high end of the range includes a professional evaluation of each
12 landscape and irrigation system and associated one-on-one education with
13 each customer.

14 Q. What operation measures should Aloha take as a part of its water
15 conservation program?

16 A. In terms of operation, Aloha should ensure that it meets, or makes
17 progress towards meeting, American Water Works Association standards for
18 meter repair or replacement frequency, system-level water audit and leak
19 detection, and other operational efficiency efforts. Aloha should also
20 implement any staff or equipment changes needed to ensure prompt
21 investigation and repair of any water system malfunctions reported by
22 customers.

1 Q. Would creation of a full time staff position for a water auditor, to
2 perform water audits, irrigation audits, and promote conservation with
3 customers, assist Aloha in accomplishing these goals?

4 A. Yes, assuming part of the auditor's time is also devoted to meter repair
5 or replacement, system-level water audit and leak detection, and other
6 operational efficiency efforts. Also, by interacting with the public
7 during customer-level water audits and promotion-type work, the auditor
8 can become the proactive eyes & ears of the utility with respect to
9 potential system-level leaks and other inefficiencies.

10 Q. What would be a reasonable cost for such a staff position?

11 A. According to information provided to SWFWMD by Aloha, the water auditor
12 would cost approximately \$38,000 a year and additional staff would cost
13 another \$30,000. The exact break-down of what percent of staff
14 resources would be used for operation measures is not clear, based on
15 information provided by Aloha.

16 Q. What incentives, other than a water conserving rate structure, should
17 Aloha include as a part of its water conservation plan?

18 A. In terms of incentives, SWFWMD has (as part of its Regional Water Supply
19 Plan development process) has studied several measures that Aloha would
20 benefit from implementing, including: plumbing retrofit kit give-aways,
21 water-efficient landscape/irrigation rebates, rain sensor rebates,
22 ultra-low volume toilet rebates, water-efficient clothes-washing machine

1 rebates, on-demand hot water heater rebates, landscape water audit
2 services, and site-specific water audits (indoor as well as outdoor) for
3 residential and non-residential customers. Some of these measures were
4 included in the compliance plan filed with SWFWMD by Aloha; for example,
5 Aloha estimates that a retrofit kit give-away would cost \$25,000 each
6 year. Costs for the various incentive efforts listed in SWFWMD's
7 Regional Water Supply Plan studies range from \$0.11 \$3.07 per 1,000
8 gallons saved. Aloha may be able to partner with the county to reduce
9 its per-unit costs on some of these efforts. Aloha should also budget
10 for a rate study on a regular basis to determine any changes that may be
11 needed to ensure that the water-conserving rate structure, once
12 approved, operates as intended. SWFWMD staff have also discussed the
13 possibility of Aloha instituting a \$30,000 pilot project to provide
14 high-efficiency water heaters and low-flow toilets to customers, monitor
15 the effect of such devices on water use, and report the results to
16 SWFWMD. Such a cautious pilot project approach could also be used with
17 many of the items listed above, as a means of providing valuable data
18 for use in designing and targeting future water conservation measures
19 for Aloha's service area.

20 Q. Are there any regulatory measures Aloha should explore?

21 A. In terms of regulation, Aloha may be able to partner with Pasco County
22 in low- or no-cost ways, such as asking its employees to report possible

1 water restriction violations or educating its customers about
2 conservation-related county, SWFWMD and state regulations.

3 Q. Does development or expansion of reclaimed water or other alternative
4 water supplies play a role in water conservation?

5 A. Source substitution or supplementation from reclaimed water and
6 alternative water supplies do not necessarily reduce total water demand.
7 However, access to reclaimed water can be an important potable water
8 conservation tool. Many of the measures I discussed can also be done
9 fairly quickly, if necessary, to help Aloha come back into compliance
10 with its Water Use Permit quickly. Reclaimed water is probably a viable
11 supply-side option to help keep Aloha in compliance, but demand-side
12 options are also needed to bring Aloha into compliance.

13 Q. If Aloha implements your recommendations, what effect would you expect
14 to see on demand?

15 A. I would expect to see per-customer and per-person demand go down.
16 Without specifics on exactly how quickly and aggressively the
17 recommendations would be implemented, I reserve judgement on the exact
18 amount of reduction that would occur.

19 Q. Can SWFWMD staff assist Aloha in developing a complete, detailed
20 conservation plan, and provide advice or supervision in the
21 implementation of such plan?

22 A. Yes.

1 MS. LYTLE: And I would tender this witness for
2 cross-examination.

3 CHAIRMAN JABER: Thank you. Mr. Wharton.

4 CROSS EXAMINATION

5 BY MR. WHARTON:

6 Q Good afternoon, Ms. Sorensen.

7 A Good afternoon.

8 Q You had talked a little bit in your testimony about
9 the concept of cost-effectiveness. Do you recall that?

10 A Yes.

11 Q Now, when the Water Management District looks at
12 cost-effectiveness, they are looking at the cost-effective
13 benefit to the resource as opposed to the cost-effective
14 benefit to the utility in terms of revenues, aren't they?

15 A It depends on exactly, you know, why the District is
16 looking at cost-effectiveness, but certainly our primary
17 concern is the effect on the resource.

18 Q Well, do you have a copy of your deposition, ma'am?

19 A Yes, I do.

20 Q And I apologize, Ms. Sorensen. It was just that you
21 qualified your answer. Maybe I did a better job of asking you
22 in the deposition. Do you recall that I took your deposition
23 on December 20th, 2001?

24 A Yes.

25 Q And at Page 35, Line 2 -- are you with me, ma'am?

1 A I'm getting there.

2 Q "Question: I understand. And so in other words,
3 when you were looking at cost-effectiveness, you were looking
4 at the cost-effective benefit to the resource as opposed to the
5 cost-effective benefit to the utility in terms of its revenues;
6 is that correct?

7 Answer: Correct."

8 Do you stand by that answer?

9 A I'm having trouble finding the exact line you're
10 referring to.

11 Q I'm sorry, ma'am. I'm looking at Page 35, Line 2.

12 A Okay. That is what I answered; however, I filed an
13 errata sheet which indicated that it should -- that in order
14 for me to have responded yes to the question, the question
15 would have been, looking at the benefit to the resource, which
16 effectively deletes the first reference to cost-effective in
17 your question.

18 Q So you filed an errata sheet that modified your
19 answer?

20 A Yes. Now, certainly, just to elaborate on that, when
21 we evaluate measures that we're considering cooperatively
22 funding, cost-effectiveness is a consideration. But again, our
23 most important consideration is benefit to the resource.

24 Q Okay. And I guess my final question on that is, did
25 you file that errata sheet on that particular answer because

1 you thought the court reporter had not taken down your answer,
2 or you just felt it needed to be modified?

3 A I felt that my answer needed to be clarified.

4 Q Okay. You would agree when the District determines
5 whether a particular conservation measure is one which it would
6 recommend a utility to implement, it does not consider and it
7 is not part of the District's analysis what effect that
8 particular measure will have on the profitability of the
9 utility?

10 A It's not a primary consideration.

11 Q Well, the District does not even consider that, and
12 it is not part of the District's analysis?

13 A We cannot help but understand that the utility will
14 have to weigh financial considerations into what ultimately
15 becomes their water conservation plan which would include
16 hopefully several different conservation programs.

17 Q I guess I'll ask you to look at your deposition, Page
18 35, Line 24.

19 A Okay. Repeat the page and line number, please.

20 Q Sorry, ma'am, Page 35, Line 24.

21 A Uh-huh.

22 Q Do you agree that the question there is exactly the
23 question I just asked you, and that your answer is, "Not on the
24 profitability of the utility, no"?

25 A Not on the profitability of the utility which shows

1 up on Page 36.

2 Q Okay. And you stand by that answer?

3 A Yes.

4 Q Similarly, the District does not consider the effect
5 of a particular conservation measure on the revenue requirement
6 of the utility; correct?

7 A That's correct. We understand it's a concern of the
8 utility.

9 Q And the District does not try to calculate whether a
10 particular program will pay for itself?

11 A In the context of whether something shows up in a
12 requirement, no.

13 Q Why the -- and that's not part of the District's
14 recommendation, is it, whether or not a particular program will
15 pay for itself?

16 A In terms of the recommendation for what, sir?

17 Q For whether a particular -- if the District is going
18 to recommend that the utility implement a particular program,
19 it's not part of your recommendation whether that program will
20 pay for itself?

21 A No.

22 Q And that's not part of what the District considers
23 when it's determining whether they're going to recommend a
24 given conservation program? That may well be the exact same
25 question I just asked you.

1 A Again, we understand it's a factor that a utility
2 needs to consider, but there are certain things that are
3 requirements whether or not they are the most cost-effective
4 measure.

5 Q But it's not part of what the District takes into
6 account when determining whether to recommend a particular
7 measure?

8 A Let me expand here to explain where I've been coming
9 from. The District has done -- or has had consultants conduct
10 various studies for us. And there are occasions where those
11 studies may recommend certain features, with one of many
12 factors being cost-effectiveness, assuming that they would be
13 implemented through some sort of cooperatively funded
14 arrangement and therefore needing to factor the utility's
15 perspective in, but the District's primary perspective is the
16 net benefit to the resource.

17 Q Well, take a look at Page 37, Line 3 of your
18 deposition for me.

19 A Uh-huh.

20 Q "Question: It is not part of what you use in order
21 to determine whether you are going to recommend a certain
22 program; correct?"

23 A Yes, it is not something I use, no.

24 Q And you're the person who makes these kind of
25 recommendations on behalf of the District; right?

1 A I'm one of several people.

2 Q But when you make that recommendation, you don't take
3 that into account?

4 A Not in terms of what the District's opinion would be
5 the best things for them to do, no.

6 Q Okay. Let's talk about the issue of conservation
7 funding which you testified about.

8 A Uh-huh.

9 Q It's your understanding from your review of the
10 testimony that the PSC will not allow for water conservation
11 funds when funded by excess revenues; correct?

12 A Correct.

13 Q And I guess I'll ask you that now. Do you think this
14 phrase "excess revenues," is it possible that that phrase could
15 have one meaning to the Commission and another to you, that it
16 could be a term of art?

17 A That's possible.

18 Q Now, in terms of the Commission policy that you said
19 you have deduced from reading the testimony, in your opinion,
20 in relation to the Water Management District goals, you think
21 that's a negative thing?

22 A In relation to the District goals, yes, that's a
23 negative thing.

24 Q And that's because you believe the utility needs some
25 sort of funding source to pay for conservation efforts?

1 A That's correct.

2 Q And you believe it would be appropriate for the PSC
3 to allow rates to incorporate the costs of conservation
4 programs that the Water Management District recommends or
5 requires?

6 A That's correct. And I appreciated the way that you
7 worded that during the deposition.

8 Q And that's because those kind of programs do cost
9 utilities money, don't they?

10 A That's correct.

11 Q You believe it's appropriate for private utilities to
12 be allowed to obtain the funds so that they can put
13 conservation programs in place?

14 A Correct.

15 Q And you believe that utilities need to target
16 tailored conservation methods at different groups of customers;
17 right?

18 A That's correct.

19 Q Now, when the Water Management District talks in
20 terms of conservation measures, costs per thousand gallons
21 saved, and how long it takes for a utility to begin to really
22 see the benefit of the conservation measures is one your -- is
23 your primary concern?

24 A Yes.

25 Q And when you talk about the benefit in your testimony

1 of conservation measures, that's what you're talking about;
2 right? How long it takes for that measure to actually start
3 saving gallons per dollar, if you will.

4 A Precisely, because in some circumstances, it's very
5 important to have an immediate effect.

6 Q Now, you indicated to me that in preparation for your
7 testimony, or perhaps you had already read it, but you thought
8 about it when you were putting your testimony together, you had
9 looked at a study that involved Florida Cities; right?

10 A That's correct.

11 Q And when I'm referring to Florida Cities, I'm
12 referring to the utility which I think was called Florida
13 Cities Water Company?

14 A Specifically, Florida Cities Carrollwood.

15 Q Okay. And you would agree that in terms of
16 conservation funding that was available to Florida Cities in
17 that study, that type of funding is not available to Aloha now?

18 A That's my understanding.

19 Q And you think it would be a good thing if that type
20 of funding was made available to Aloha?

21 A Yes, sir.

22 Q You believe it's particularly important for a utility
23 to implement conservation measures when it's in the situation
24 that Aloha is in; correct? That is, that it's exceeding its
25 WUP.

1 A Correct.

2 Q Now, I just want to make sure the record is clear on
3 this because I don't really know what the Staff is going to ask
4 you. You recall in the deposition the Staff asked you a
5 question about this excess funds generated, and you answered
6 and then I came back and asked you some questions. Will you
7 agree that when you used the phrase "excess funds generated" in
8 the deposition, you were referring to funds generated by the
9 utility which would allow them to pay for conservation
10 programs?

11 A That's correct.

12 Q And that would include, for instance, if the cost of
13 the programs were built into the utility's rate, that would be
14 consistent with your understanding of that concept?

15 A That's correct.

16 Q Okay.

17 CHAIRMAN JABER: Let me make sure I understand
18 because that's something I'm very interested in. You want the
19 PSC to allow Aloha to collect a little bit more in rates to
20 fund a fund for the purpose of conservation?

21 THE WITNESS: I believe that that would be a very
22 important tool for Aloha to have in order to reduce demand on
23 its current permit.

24 CHAIRMAN JABER: One of the things we heard from the
25 customers last night and yesterday morning was a concern

1 related to how long they have to keep their faucets open or
2 their tubs running to clear out the color of the water. And
3 their frustration, frankly, was at the Water Management
4 District in that that's anticonservation right there, the fact
5 that they've got to keep their water running just to clear out
6 the water just to be able to drink the water. Have you studied
7 that relationship?

8 THE WITNESS: In great detail, no. However, as I can
9 recall from testimony of other people at this proceeding, the
10 estimated loss associated with that running of the tap was on
11 the order of eight to nine gallons per household per day. That
12 compares to a estimated use of 500 gallons per household per
13 day. So although every drop certainly counts, as a percentage
14 of use, there may be other conservation avenues to pursue that
15 would give the utility a better bang for its buck.

16 CHAIRMAN JABER: To give the utility a better bang
17 for its buck, but it wouldn't solve the -- to the degree the
18 customers have the black water problem, it wouldn't solve their
19 problem, would it?

20 THE WITNESS: In and of itself, it would not cause
21 enough reduction, that's correct.

22 CHAIRMAN JABER: As a matter of policy, Ms. Sorensen,
23 would you recommend that this Commission allow a company to
24 collect more on its rates for a conservation program when some
25 customers may be forced to run their water because they can't

1 drink it until they get the sludge out of their water?

2 THE WITNESS: As a matter of policy, I recognize that
3 conservation needs to be weighed with public health, welfare,
4 and safety, and so I would certainly not want to prohibit a
5 resident from taking whatever action is necessary to protect
6 the health of the people that live in their household.

7 CHAIRMAN JABER: Thank you.

8 BY MR. WHARTON:

9 Q Ms. Sorensen, I had asked you a bunch of questions
10 about the demographics of Aloha in your deposition, but is it
11 just fair to sum it up to say that you didn't really get into
12 specific information about the demographics of Aloha, and you
13 really don't have very detailed information about that?

14 A I did not have that at that time, no.

15 Q To your knowledge, has Aloha indicated a willingness
16 to pursue other conservation measures if they can get the
17 funding in place for them?

18 A Yes, that's been a feature of the consent
19 discussions.

20 Q And you would support that funding being made
21 available if it was going to be used for that purpose?

22 A For the purposes in the consent order?

23 Q Of funding conservation programs.

24 A Of funding conservation programs, yes, assuming that
25 they would be appropriate for the service area.

1 MR. WHARTON: Okay. That's all we have. Thank you.

2 CHAIRMAN JABER: Thank you, Mr. Wharton.

3 Mr. Wood.

4 CROSS EXAMINATION

5 BY MR. WOOD:

6 Q In your testimony -- and the only one I have is the
7 one that was issued on November the 5th -- you stated that the
8 conservation programs had a reduction of approximately
9 4 percent. Was that the high side, medium side, or low side?

10 A The 4 percent figure that you're referring to from my
11 prefiled testimony was an estimate of what education measures
12 in and of themselves based on the literature would indicate,
13 you know, what those would tend to cause.

14 Q Would that 4 percent bring Aloha back in line?

15 A I don't believe that would.

16 Q Then what other conservation measures would you use
17 in order to get Aloha back in line?

18 A I recommended a process which is also included in the
19 prefiled testimony, essentially to make sure that they had
20 sufficient demographic information to know what measures to
21 target their customer base with. Given information that was
22 provided during the deposition, some demographic information,
23 it sounds like one of many opportunities would be some sort of
24 program that would educate and otherwise assist residents with
25 automatic irrigation systems and extensive landscape as to how

1 that irrigation system could be run more efficiently and any
2 changes that might help that landscape be water efficient.

3 Q In your testimony, you talked about the system, and
4 you talked about the conservation program running anywhere from
5 \$11 to \$160. Is that a month, a year, or what?

6 A I believe that was per household for participation in
7 an event that would tend to be an annual kind of a figure.

8 Q So in other words, you're saying that if it's \$160,
9 we should be adding about \$13.33 to the customer's bill?

10 A To implement that level of an activity, that would be
11 correct. What I listed was kind of a range of many options
12 that the utility could pursue.

13 Q What kind of conservation efforts and programs would
14 you recommend for the utility?

15 A At a minimum, those items that have been under
16 discussion through the consent order discussion process, which
17 above and beyond the education that the utility had been doing
18 in things such as billstuffers, would include more of a
19 multimedia approach to communicating with its customer base.

20 For example, the utility has proposed a Web site that
21 would have conservation information and link to other sources
22 of conservation information, including the District. The
23 utility has also proposed a water auditor position who could
24 serve several functions that would, you know, add to a couple
25 of different conservation measures that the utility currently

1 does not have the ability to implement. And there is another
2 Staff position related to consumer education for that as well.
3 I believe there were some other measures, but I'm escaping the
4 details here right now.

5 Q What about the 10 percent unaccounted for loss? Why
6 shouldn't the utility be required to be doing something there?

7 A Well, the requirement as far as the water use permit
8 that they're currently held to as far as unaccounted water is
9 12 percent, so they are under their permit requirement. And
10 going back to a question that you asked of Mr. Parker, the
11 District's requirement is based on information from the
12 American Waterworks Association at the time that regulation was
13 created. And at that time, the literature said that there was
14 a range of acceptable unaccounted water from 10 to 15 percent.

15 Q Shouldn't the utility be doing something to reduce
16 that percentage?

17 A If there's opportunities that can be identified and
18 compared to other measures would be advantageous, certainly.

19 Q Shouldn't they be required to institute cost-savings
20 programs in this area?

21 A What kind of cost savings are you speaking of?

22 Q Well, first of all, I'm suggesting, shouldn't there
23 be programs that identify what this loss is and then determine
24 how to reduce it?

25 A There is a requirement if they go above the

1 District's regulatory standard, a remedial effort that they
2 would need to follow which would include pinpointing the
3 sources of those losses, some of the metering that you spoke of
4 earlier today, for example, to truly get a handle on exactly
5 where the loss is occurring. Many utilities avail themselves
6 of our leak detection equipment, and we even have a staff
7 person that can help a utility staffer determine where in the
8 system there's a high probability of a leak and therefore allow
9 the utility to focus its time and its resources on fixing a
10 problem.

11 Q Who determines whether the utility is doing a
12 reasonable job in attempting to reduce this loss?

13 A In relation to its water use permit, if they are
14 within the requirement for unaccounted water, they are presumed
15 to have met that requirement. If they have not met their
16 requirement, then they need to take remedial steps to bring it
17 down back to the 12 percent.

18 Q It's fine what you say, but you're asking the
19 customer to improve, but you're not asking anything of the
20 utility. Don't you believe that the utility should be doing
21 something and that you should have some standards of what you
22 expect from the utility?

23 A Yes, sir. And I just stated one of the standards
24 that the utility must follow which is unaccounted water.

25 CHAIRMAN JABER: Ms. Sorensen, the remedial measures

1 are not triggered until the company exceeds the 12 percent
2 threshold for unaccounted for water.

3 THE WITNESS: That's correct.

4 CHAIRMAN JABER: So at 10 percent unaccounted for
5 water, the Water Management District is not recommending that
6 the utility take any action to reduce the unaccounted for water
7 percentage.

8 THE WITNESS: There's no requirement for them to take
9 additional action in relation to that permit requirement.

10 BY MR. WOOD:

11 Q Shouldn't there be? You know, you're talking right
12 now about penalizing customers, and you're going to get a 4
13 percent return. Why shouldn't there be something against the
14 utility who is today overpumping approximately 39 percent and
15 has a 10 percent unaccounted for loss?

16 A Sir --

17 CHAIRMAN JABER: She needs a question so that she can
18 answer.

19 MR. WOOD: Well, my question was, why isn't there?
20 And I just stated the facts to her behind it.

21 BY MR. WOOD:

22 Q The question is, why isn't there programs in place to
23 reduce this loss as opposed to trying to salvage the
24 10 percent -- or the 4 percent?

25 A Well, the program that we're speaking of, sir, is the

1 water use permitting program, and the component of that related
2 to unaccounted for water is the 12 percent with remedial action
3 if the 12 percent is not met. Now, having said that, certainly
4 within an overall conservation program, a utility should always
5 be looking for ways to tighten its own system. It sets a good
6 example for the customers, shows the customers that there is
7 shared pain involved, and allows them to recover more of the
8 costs that's gone into treating the water that got into the
9 system but for whatever reason wasn't billed to the customer.

10 Q Since this is a state monopoly we're talking about,
11 shouldn't the State take a more active role in seeing that
12 these things are done?

13 A Well, I think above and beyond the State that system
14 efficiency is a subject that the American Waterworks
15 Association, which is the national industry association, is
16 interested in. They have been showing that out in California.
17 There are some utilities that have been able to get below that
18 10 percent figure. The mechanism for the State to tighten any
19 standards that it may have through the PSC or through some
20 other state agency, I'm not sure what the most appropriate
21 mechanism would be for that, sir.

22 Q You state in your testimony that it's easier for a
23 private utility -- or a public utility to enforce regulations
24 than it is a private utility. Are you aware of anything in
25 Pasco County that Pasco County has set restrictions on the

1 areas served by private utilities?

2 A Pasco County does have water use restrictions in
3 effect for the entire unincorporated area.

4 Q So this statement in here does not apply to Pasco
5 County; is that correct?

6 A I'm not sure what you mean, sir.

7 Q Your statement in here is -- that you say, that it's
8 easier for a public-owned utility than it is for a private
9 utility because a private utility has no regulatory authority.

10 A I believe what I stated was that it had much fewer
11 regulatory avenues. The main regulatory kind of measure that
12 an investor-owned utility has is the agreement that a customer
13 signs in order to initiate service. In some case, it's
14 possible to include language in that agreement related to what
15 you're talking about.

16 Above and beyond that, the investor-owned utility's
17 main avenue from a regulatory perspective is to look for ways
18 to partner with the appropriate local government; be it,
19 passing on addresses of folks that are watering on the wrong
20 day at the wrong time; be it, following regulations that have
21 been placed on it by the Water Management District or other
22 agencies; be it, entering into discussions with the county on
23 things like plumbing codes and landscape ordinances that would
24 in its service area assist in reducing demand.

25 Q Shouldn't somebody at the state level be involved in

1 the continuous issuing of building permits if there's such a
2 water problem?

3 A Sir, at the state level the agency most involved with
4 growth in general is the Department of Community Affairs, so
5 there is state involvement.

6 Q Do you know what they have done?

7 A Specific to what, sir?

8 Q As far as restricting building permits in the Aloha
9 water district.

10 A I have no specific information on the Aloha service
11 area.

12 Q Doesn't -- since you are the people who are saying
13 that we are in a water crisis, doesn't your agency communicate
14 with the other agency?

15 A Certainly. However, I will tell you that in relation
16 to comprehensive plan type processes that the District's
17 primary role is advisory in nature, looking at comp plans filed
18 by local governments which relate to their building permitting
19 processes, and also, as those comp plans are filed with the
20 Department of Community Affairs, advising that agency as to the
21 sufficiency in relation to our legislative responsibilities.

22 Q But shouldn't your agency have everybody on notice
23 along with the utility on the overpumping and the problems with
24 new construction in the Aloha area?

25 A Define "notice," please, sir, or perhaps you might

1 want to rephrase the question.

2 Q Okay. Shouldn't -- since Pasco County is such a
3 problem area, shouldn't the agencies in Tallahassee be getting
4 together and working out something that will restrict the
5 number of building permits issued in Pasco County?

6 MS. LYTLE: Objection. This is the same question
7 that Ms. Sorensen has previously answered.

8 CHAIRMAN JABER: Mr. Wood, not only has she tried to
9 previously answer that, but you have for the last three
10 questions gone outside the scope of testimony. So if we could
11 stay focussed on Ms. Sorensen's testimony, that would be really
12 good. Remember, she's a Water Management District employee,
13 not a Department of Community Affairs employee.

14 MR. WOOD: I understand that. But my question leads
15 to the fact that there are many agencies in Tallahassee. Are
16 they talking to one another?

17 CHAIRMAN JABER: Right. Ms. Sorensen, the crux of
18 his question is, when you know of a situation like this where
19 so many customers, at least based on what we heard yesterday
20 and in previous proceedings, have this black water situation,
21 you know, set aside the interagency project which we initiated,
22 how is it the agencies communicate with each other about
23 targeted situations like that?

24 THE WITNESS: Okay. Let me answer that in two parts.
25 First, specific to the black water issue and second in a more

1 general nature. Specific to the black water issue, that is a
2 customer service kind of area, and since that would not be the
3 District's legislative authority, we would actually refer the
4 concerned citizen to the Public Service Commission in counties
5 where the Public Service Commission is involved with that
6 process.

7 In a more general nature, when a problem is brought
8 to our attention, and one of the ways that that problem comes
9 to our attention is through the water hotline that I supervise,
10 is we determine what agency or agencies ought to be involved
11 and take whatever step is appropriate, whether it's elevating
12 it within the organization so that, for example, somebody in
13 our executive area could discuss it with the appropriate state
14 department secretary.

15 In many cases, it's a matter of getting that
16 concerned citizen to the appropriate department within the
17 District or to the appropriate agency that does handle that
18 issue. And we hear everything from -- well, you name it. If
19 the word "water" is involved, we've heard about it.

20 BY MR. WOOD:

21 Q You recommend in your testimony a Web site. What
22 benefit would a Web site be?

23 A A Web site can be an additional tool through which
24 the utility can communicate with its customers, and that would
25 be particularly beneficial for the newer residents that some of

1 the other people testifying today have talked about that tend
2 to have a computer at home that tend to because of their
3 lifestyle not rely on any one traditional media source for
4 detailed information. They want to know exactly what they want
5 to know about, so they go out to their search engine on the
6 Internet and type in the words related to it and sift through
7 the information that they receive to find out the most
8 pertinent information.

9 One of the things that they could do if they knew
10 that Aloha had a Web site and their concern was Aloha-related
11 is go out there, start with Aloha's Web site, see where that
12 led, whether it was information on-site; for example, how was
13 my bill calculated to needing some ideas of what to look at
14 first if their bill was high this month compared to other
15 months, or whether it's they're new to the area and don't know
16 the right kind of plant material to put in their bedded areas.
17 And a good link from a utility's Web site to District Xeriscape
18 information or to the University of Florida's Institute of Food
19 and Agricultural Sciences which has opened up a whole
20 cornucopia of information that a customer could use to make
21 more informed decisions about how they use water.

22 Q The utilities that currently have Web sites, how many
23 hits a day do they get?

24 A I don't have that specific information. I know many
25 of them are very popular.

1 Q Is there a place to get that information?

2 A Well, the way to get it would be to talk to the Web
3 master for a particular utility, and they normally keep
4 statistics on how many times the Web site as a whole has been
5 hit and also how many hits they have had to very particular
6 pages. I don't recall the exact numbers in relation to our Web
7 site, but I do know that one of the most popular sites within
8 our Web site is the -- what used to be called Drought Watch,
9 it's now called Water Watch, part of the Web site which is the
10 area that my department maintains.

11 Q For this District, why isn't all the conservation
12 program run by SWFWMD to cover the District since from what I
13 understand and hear from you people, that the whole District is
14 in the same situation, including Pasco, Tampa Bay Water and the
15 rest? Why doesn't SWFWMD take that over for the District where
16 they can run the so-called advertising campaigns, et cetera?

17 A In some specific measures, we really do take the
18 leadership role, but there are other measures where it's more
19 appropriate for the utility to really target their own customer
20 base. An example of the kinds of efforts that the District is
21 involved with is our Web site, having all sorts of information
22 that can be accessed on or through it. Another example would
23 be the major media buys that we make on radio and television
24 throughout our 16 county jurisdiction; also, the water use
25 permitting program itself by requiring reasonable, necessary

1 beneficial quantities only is a water conserving program.
2 Water restrictions is another effort where we are actually
3 required by state law to have some water conservation programs.
4 But really, through the water use permitting program, we are
5 able to require a utility to undertake additional and
6 complementary efforts that will really help in their service
7 area.

8 Q But won't it be more efficient for SWFWMD to run an
9 ad on Channel 10 for the area as opposed to Aloha running a
10 similar ad?

11 A That particular instance, chances are it would be
12 part of a bigger buy, and we would get a better rate. Let me
13 give you an example of where it would be better for a utility
14 to do it. And that would be -- and forgive me, I don't know if
15 the various neighborhoods in Aloha's service area have access
16 to it, but cable television advertisement can often be very
17 targeted to particular parts of particular counties, and
18 therefore, if Aloha needs to get information out about
19 something going on in its service area, maybe a rebate program
20 that it's offering or just trying to let its customer know
21 about something that going on, then if it had those cable
22 minimarkets available to it, it wouldn't have to spend -- or
23 the District wouldn't have to spend money that was going, you
24 know, three counties away, it could instead just focus that
25 message on where that message is needed.

1 Q But if the SWFWMD contracted all of that and did that
2 type of advertising, wouldn't it be more targeted to a
3 community that is asked to conserve? Because you're asking --
4 and the reason I'm asking this, you are asking the whole
5 community to conserve from what I understand here. We're only
6 talking about Aloha here today. But you or your predecessor
7 talked about all of Pasco County. Wouldn't it be more
8 efficient and reach more people at the same time with an ad by
9 SWFWMD than reaching one by Aloha, Pasco County, Mad Hatter,
10 New Port Richey, et cetera?

11 A That depends on the message, sir. If it's a very
12 general message, it would be more applicable perhaps for the
13 District to do it. If it's addressing what's going on in a
14 particular service area or targets the particular customer
15 base, then it would be more appropriate for the utility to do
16 it.

17 MR. WOOD: That's all I have.

18 CHAIRMAN JABER: Thank you, Mr. Wood.

19 Mr. Burgess.

20 MR. BURGESS: We have no questions.

21 CHAIRMAN JABER: Thank you. Staff.

22 MS. ESPINOZA: Just a few questions.

23 CROSS EXAMINATION

24 BY MS. ESPINOZA:

25 Q Good afternoon, Ms. Sorensen.

1 A Good afternoon.

2 Q Do you know what the typical time frame is from the
3 issuance of the consent order until it's brought before the
4 governing board for final approval?

5 A Let me make sure I understand the question. From the
6 time that a consent order has been --

7 Q Issued.

8 A -- agreed to by all parties --

9 Q That's correct.

10 A -- and the time it goes before the board?

11 I do not know the precise time. I know it's as soon
12 as legally possible, the very next governing board that it's
13 legally possible.

14 Q How often are those meetings held?

15 A Governing board meetings are held once a month at a
16 minimum.

17 Q Okay. And Mr. Stallcup is about to hand you a
18 document --

19 A Yes.

20 Q -- and take a moment to look it over. Ms. Sorensen,
21 do you recognize this document as an appendix to a response to
22 a Staff production of documents request wherein you were asked
23 to provide data regarding the evaluation of program costs,
24 water saved, and the cost-effectiveness of conservation
25 programs?

1 A It appears to be a magnified version of an item, yes.

2 Q Would you agree that it is an excerpt from that
3 appendix that contains Aloha-specific information?

4 A Yes, it does contain Aloha-specific information.

5 MS. ESPINOZA: Madam Chairman, we would like to have
6 this document marked as Exhibit Number 9, please.

7 CHAIRMAN JABER: Yes. Exhibit Number 9 is the
8 estimated water savings for Pasco County. That's the cover
9 page I have.

10 MS. ESPINOZA: I'm sorry, it should be for Aloha
11 Utilities. I apologize.

12 CHAIRMAN JABER: That's okay. That's why I asked,
13 though. So the accurate description is, estimated water
14 savings for Aloha, and that will be Exhibit Number 9.

15 MR. WHARTON: Madam Chairman, may I ask, have we ever
16 seen this before?

17 MS. ESPINOZA: This was a -- like I said, it was a
18 response to Staff production of documents that we propounded to
19 the District.

20 MR. WHARTON: And the District sent you this thing
21 back labeled "Aloha Utilities"?

22 MS. ESPINOZA: It was actually part of a disk, and
23 that was an Appendix I of the files in the disk that we got
24 from the District.

25 MR. WHARTON: I don't think we got copies of that.

1 CHAIRMAN JABER: Here's what we'll do. We're going
2 to take a ten-minute break. I need just ten minutes. And you
3 all talk about it. We'll get back on the record and address
4 it.

5 (Brief recess.)

6 CHAIRMAN JABER: Ms. Espinoza, you were about to
7 identify an exhibit.

8 MS. ESPINOZA: I was.

9 BY MS. ESPINOZA:

10 Q Ms. Sorensen, you were handed a document earlier.

11 A Yes.

12 Q And do you recognize this document as an appendix --

13 CHAIRMAN JABER: No, Ms. Espinoza, you were about to
14 identify an exhibit, and Mr. Wharton objected.

15 MS. ESPINOZA: Okay.

16 CHAIRMAN JABER: And I asked you all to take a break
17 and communicate with respect to what this document is. Could
18 you report back to me please what the discussions were.

19 MS. ESPINOZA: Yes. This document was -- and I
20 believe I misspoke earlier. I asked Ms. Sorensen if it was a
21 response to a Staff production of document request, and it was
22 actually a response to a Staff interrogatory request to which
23 Ms. Sorensen was a part of responding.

24 The exhibit -- the actual document is part of a file
25 from a disk that was given to Staff as a response to that

1 interrogatory request. The specific pages that she has in
2 front of her are an appendix to the files on that disk, and
3 Staff believes that the particular exhibit is important with
4 respect to the conservation issues that are being raised in
5 this case and integral to fully develop the record in terms of
6 the efficacy of the different conservation measures, the amount
7 of water that is expected to be saved from those measures, and
8 for that reason, we would ask that it be entered as an exhibit.

9 CHAIRMAN JABER: Okay. And, Mr. Wharton, the nature
10 of your objection is not necessarily that you disagree this
11 needs to be identified or can be identified, you're saying you
12 didn't receive it.

13 MR. WHARTON: Well, it is multiple. It's varied.
14 First of all, I think these are the things that we established
15 during the break that you asked us to take, and that is that
16 nobody has attempted to do something intentionally to someone
17 else. I think we've established with the attorneys looking at
18 it that the Uniform Rules say discovery shall be conducted
19 according to the Florida Rules of Civil Procedure and that the
20 Florida Rules of Civil Procedure say that we should get copies
21 of interrogatories. I think we've established that what
22 happened here was, when the interrogatories were sent out, the
23 disk was only sent to the Commission. I think we have
24 established all those things.

25 Now, I heard the Staff say that -- and I apologize if

1 I'm saying something they said during the break, and I hope
2 they'll correct me if I'm wrong -- they didn't really have any
3 questions about this. They just wanted to put it in. To me,
4 that means -- and I'm kind of moving to a new basis now. This
5 is being put in for the truth of the matter asserted. This
6 document is being put in not that it's a piece of paper that
7 the District did the study but for these figures. I'll bet
8 with some cross-examination I can prove this particular lady
9 doesn't know where these numbers came from, didn't do the
10 study, et cetera. And I am willing to do that. But I have not
11 seen this document. It is a substantive document. It is a
12 document that we would have received before the -- our rebuttal
13 testimony was due but which really raises an interesting point.

14 To the extent that the Staff -- strike that. To the
15 extent anyone is going to use a cross-examination document that
16 is being put in not to elicit testimony out from the witness's
17 mouth but to speak for the truth itself, the Commission ought
18 to have some kind of a procedure about that, I think, but be
19 that as it may, because this document is being put in for the
20 truth of the matter asserted. And I believe I can prove it's
21 uncorroborated hearsay.

22 It's also part of a larger document. The Staff has
23 just acknowledged that. And the rules say that I can require
24 the rest of the document to be -- I think I can request the
25 rest of the document to be put in if fairness requires. And

1 I'll tell you, we've got a lot going on. It's very difficult
2 for us to do this now. To the extent that I was -- I was told
3 off the record that your inclination may be to try to balance
4 the fairness of the matter for Ms. Sorensen to return to
5 tomorrow, I would request -- first of all, I would request the
6 document not be admitted and therefore not be used or reviewed.
7 And secondly, I would request to be allowed to do voir dire on
8 the document to see if you determine now that Ms. Sorensen
9 needs to stay over, because it is not an admissible document
10 because it's really -- it's not going to be used to bring
11 testimony from her. It's something that speaks for itself.
12 And that means we can't cross-examine it and we certainly can't
13 rebut it.

14 In terms of the document being on a disk -- and the
15 Staff has done nothing wrong, and I think Ms. Lytle and I think
16 Ms. Sorensen have done nothing wrong. I think in the
17 electronic age where part of an interrogatory answer was on a
18 disk, maybe this is the kind of thing that can happen, but this
19 is very substantive stuff. This is not pap. This is real
20 numbers saying the dollar-per-dollar effect that somebody
21 figured up at the Water Management District, and we haven't had
22 it and we haven't seen it. And it's a very complex case, and
23 we've tried to cover all the bases, and there's just no way to
24 do that now.

25 CHAIRMAN JABER: Ms. Espinoza, is this the only

1 document from the disk you intended to introduce through
2 Ms. Sorensen?

3 MS. ESPINOZA: That's correct.

4 CHAIRMAN JABER: Mr. Wharton, is there a -- what is
5 wrong with allowing you to review the document this evening?
6 And to the degree you want to renew -- or actually, we'll keep
7 the objection open. To the degree you maintain the objection
8 or want to cross-examine this witness on it, we can do that.
9 Leaving the objection open.

10 MR. WHARTON: I understand. I mean, there is nothing
11 wrong with that. There is no downside to that, really, except
12 that Ms. Sorensen has to come back.

13 CHAIRMAN JABER: Right. Ms. Lytle, considering the
14 disk didn't get served on all of the -- perhaps the disk didn't
15 get served on all the parties, but I have tell you, as I
16 complimented Mr. Burgess on his professionalism, there is no
17 reason for me to doubt that Mr. Wharton's representation is
18 inaccurate. If he says, he didn't get the disk, he didn't get
19 the disk.

20 MS. LYTLE: I do not believe the disk was sent. The
21 documents that were produced for the Staff were sent to the
22 Staff, and notices were sent to the other parties, but we did
23 not copy those documents and disks for all of the parties.

24 CHAIRMAN JABER: All right. And Ms. Sorensen can
25 come back tomorrow morning, first thing in the morning --

1 MS. LYTLE: Not tomorrow morning, tomorrow afternoon.
2 She can come back tomorrow afternoon, but she has a speaking
3 engagement tomorrow morning.

4 CHAIRMAN JABER: What time tomorrow afternoon?

5 MS. LYTLE: After 12:30.

6 CHAIRMAN JABER: Mr. Wharton, I appreciate what you
7 said about the voir dire, and we can do that, but we could also
8 do it tomorrow afternoon. I'm trying to be flexible here.

9 MR. WHARTON: I understand. I mean, we can do it
10 tomorrow afternoon.

11 CHAIRMAN JABER: Is there a benefit to your reviewing
12 the document tonight, though, if we allow you to voir dire her
13 today?

14 MR. WHARTON: What I believe is that some short voir
15 dire may prove that no matter how long you give me to review
16 it, it shouldn't be admitted because it is a stand-alone on a
17 corroborated piece of hearsay.

18 CHAIRMAN JABER: Commissioners, I'd love to have some
19 feedback. I'm thinking if that's the case, then we might want
20 to let Mr. Wharton voir dire the witness now.

21 COMMISSIONER PALECKI: I don't have a strong feeling
22 one way or the other, but I would like Mr. Wharton to at least
23 consider whether or not this document actually may support your
24 position.

25 MR. WHARTON: That had occurred to me, Commissioner.

1 COMMISSIONER PALECKI: It sounds to me as if you're
2 asking to take a document out that might be very favorable to
3 you.

4 MR. WHARTON: That had occurred to me. And in that
5 regard, maybe it is better to do it tomorrow. Well,
6 Commissioner Palecki has just brought a good point, and that is
7 the possibility that delay of the matter tomorrow will remove
8 the objection entirely.

9 CHAIRMAN JABER: It is amazing how things work out.
10 That's what we will do, Mr. Wharton.

11 Thank you, Commissioner Palecki.

12 Ms. Espinoza, if you will skip these series of
13 questions, go on.

14 And, Ms. Sorensen, we will expect you back right
15 after 12:30 tomorrow.

16 THE WITNESS: Okay.

17 MR. JAEGER: Chairman Jaber, she did identify it as
18 Exhibit 9, and so it just might not be admitted, but we'll keep
19 it identified as Exhibit 9.

20 CHAIRMAN JABER: You know, I really don't believe
21 Mr. Wharton let me get those words out, so I don't think it was
22 officially identified as Exhibit 9. And as a matter of fact,
23 we got hung up on the short title. So for the purposes of the
24 record, it's my belief it was not identified as Exhibit 9.

25 MS. ESPINOZA: Would you like us to go ahead and

1 identify it now or wait until tomorrow?

2 CHAIRMAN JABER: No, we'll wait until tomorrow.

3 MS. ESPINOZA: Okay. Thank you.

4 BY MS. ESPINOZA:

5 Q Ms. Sorensen, I just have a few more questions. Are
6 you familiar with the history of lawn watering restrictions
7 imposed within the Aloha service territory?

8 A Yes.

9 Q Would you please briefly describe this history for
10 us.

11 A Certainly. The Water Management District has had
12 watering restrictions for areas including Aloha's service area
13 for several years. Two-day-a-week watering restrictions have
14 been in from Pasco County and south except for periods where
15 there were more restrictive periods in effect since I believe
16 it's March 2nd of 1992. Since April 28th effective May 1st of
17 the year 2001, yes, there were additional -- stricter
18 one-day-a-week watering restrictions put into effect.

19 And let me back up there. That was actually May of
20 2000 where one-day-a-week water restrictions were imposed on an
21 emergency basis initially for the entire District, and they
22 remain in effect for those water users who receive or are
23 capable of receiving their water from Tampa Bay Water's
24 consolidated wellfield permit which would include Aloha and
25 many other utilities.

1 In addition to that, Pasco County since May of
2 '94 and especially since approximately a month before the
3 District went to one-day-a-week restrictions have had
4 additional local imposed water restrictions in effect. So
5 there's essentially been two layers of restrictions in effect.
6 Some imposed regionally by the District happening to affect
7 Aloha's service area and some particular measures within the
8 overall scheme of water restrictions that Pasco County chose to
9 make more restrictive inside their entire unincorporated area.

10 Q Are you aware of any study that would give us an
11 estimate of the amount of water reductions -- that lawn
12 watering restrictions would have in a service territory like
13 Aloha's?

14 A Specific to Aloha, nothing comes to mind.

15 MS. ESPINOZA: Okay. Thank you, Ms. Sorensen. I
16 have no further questions.

17 CHAIRMAN JABER: Ms. Espinoza, if you will collect
18 these back from us, that would be great.

19 MS. ESPINOZA: Okay.

20 CHAIRMAN JABER: And also, don't forget to
21 communicate with Mr. Burgess on that exhibit as well because it
22 occurs to me, Mr. Burgess, you didn't receive it either.

23 MR. BURGESS: That's correct. At least I'm not aware
24 of having received it.

25 CHAIRMAN JABER: I just wanted you to collect it back

1 from the Commissioners.

2 Ms. Sorensen, thank you. That concludes -- no.
3 Redirect tomorrow?

4 MS. LYTLE: That would be fine.

5 CHAIRMAN JABER: The only questions we'll have
6 tomorrow relate to this exhibit.

7 MS. LYTLE: I only had one redirect question.

8 CHAIRMAN JABER: Go ahead and ask it then.

9 REDIRECT EXAMINATION

10 BY MS. LYTLE:

11 Q Could Aloha propose and the District consider
12 additional measures to reduce unaccounted for loss of water in
13 the draft compliance plan which is part of the ongoing consent
14 order process?

15 A Yes.

16 MS. LYTLE: That was the only question I had. Thank
17 you.

18 CHAIRMAN JABER: Thank you, Ms. Lytle. We will see
19 you tomorrow.

20 THE WITNESS: Thank you.

21 (Witness excused.)

22 CHAIRMAN JABER: Now, Ms. Lytle, your next witness is
23 Mr. Yingling, and he's not here until tomorrow; correct?

24 MS. LYTLE: Right, and Dr. Whitcomb is also not
25 available until tomorrow.

1 CHAIRMAN JABER: Okay. OPC, I think we are on your
2 witnesses.

3 MR. BURGESS: Thank you, Madam Chair. We would call
4 Mr. Larkin to the witness stand. Shall I proceed?

5 CHAIRMAN JABER: Yes.

6 HUGH LARKIN, JR.

7 was called as a witness on behalf of the Citizens of the State
8 of Florida and, having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. BURGESS:

11 Q Would you state your name and business address,
12 please.

13 A Yes. My name is Hugh Larkin, Jr. My business
14 address is 15728 Farmington Road, Livonia, Michigan 48154.

15 Q Have you prefiled testimony in this docket?

16 A Yes. I have prefiled eight pages of testimony.

17 Q Do you have any changes to make to the prefiled
18 testimony?

19 A Not at this time.

20 Q If the questions posed in that prefiled testimony
21 were asked today, would your answers be the same?

22 A Yes, they would.

23 MR. BURGESS: Commissioner, I would ask that
24 Mr. Larkin's testimony be entered into the record as though
25 read.

1 CHAIRMAN JABER: Yes. The prefiled direct testimony
2 of Hugh Larkin, Jr., shall be inserted into the record as
3 though read.

4 MR. BURGESS: Thank you.

5 BY MR. BURGESS:

6 Q Mr. Larkin, you did not have any exhibits attached to
7 your testimony?

8 A That's correct, I did not.

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1 DIRECT TESTIMONY OF HUGH LARKIN, JR.

2 ON BEHALF OF THE CITIZENS OF FLORIDA

3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

4 ALOHA UTILITIES, INC.

5 DOCKET NO. 010503-WS

6
7 I. INTRODUCTION

8 Q. WHAT IS YOUR NAME, OCCUPATION AND BUSINESS ADDRESS?

9 A. My name is Hugh Larkin, Jr. I am a Certified Public Accountant licensed in the States of
10 Michigan and Florida and the senior partner in the firm of Larkin & Associates, PLLC,
11 Certified Public Accountants, with offices at 15728 Farmington Road, Livonia, Michigan
12 48154.

13
14 Q. PLEASE DESCRIBE THE FIRM LARKIN & ASSOCIATES, PLLC.

15 A. Larkin & Associates, PLLC, is a Certified Public Accounting and Regulatory Consulting
16 Firm. The firm performs independent regulatory consulting primarily for public service/utility
17 commission staffs and consumer interest groups (public counsels, public advocates, consumer
18 counsels, attorneys general, etc.). Larkin & Associates, PLLC, has extensive experience in
19 the utility regulatory field as expert witnesses in over 300 regulatory proceedings including
20 numerous water and sewer, gas, electric and telephone utilities.

1 Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE FLORIDA PUBLIC SERVICE
2 COMMISSION?

3 A. Yes. Over the last 25 years, I have testified before the Florida Public Service Commission
4 in numerous rate cases involving water and wastewater utilities.

5
6 Q. BY WHOM WERE YOU RETAINED, AND WHAT IS THE PURPOSE OF YOUR
7 TESTIMONY?

8 A. Larkin & Associates, PLLC, was retained by the Florida Office of Public Counsel (OPC) to
9 review the rate increase requested by Aloha Utilities, Inc., for its Seven Springs Water
10 Division. Accordingly, Donna DeRonne and I are appearing on behalf of the Citizens of
11 Florida ("Citizens").

12
13 Q. WHAT WILL YOUR RESPECTIVE TESTIMONIES ENCOMPASS?

14 A. Ms. DeRonne's testimony deals with rate case adjustments and their proper calculations to
15 determining a revenue requirement for Seven Springs Water Division.

16
17 I have been asked by the Florida Office of Public Counsel to provide testimony regarding
18 whether Aloha has met basic ratemaking principles, which would allow the Commission to
19 authorize a rate increase. I have also been asked to review the reasonableness of the
20 Company's request for rate case expense.

21

1 Q. DO YOU THINK THAT ALOHA HAS MET BASIC RATEMAKING PRINCIPLES THAT
2 WOULD ALLOW THE COMMISSION TO AUTHORIZE A RATE INCREASE FOR ITS
3 SEVEN SPRINGS WATER DIVISION?

4 A. No, I do not.

5
6 Q. WHAT RATEMAKING PRINCIPLE HAS NOT BEEN MET BY ALOHA WHICH
7 WOULD REQUIRE THE COMMISSION TO NOT AUTHORIZE ANY RATE
8 INCREASE FOR THE COMPANY'S SEVEN SPRINGS WATER DIVISION?

9 A. Aloha's Seven Springs Water Division has failed to meet a competitive standard for service,
10 which would allow a rate increase. In other words, in a competitive environment, Aloha
11 would not be able to raise prices because the quality of its water was below comparable
12 service from other water companies.

13
14 Q. WHY SHOULD ALOHA BE DENIED A RATE INCREASE BASED ON ITS FAILURE
15 TO MEET A COMPETITIVE STANDARD?

16 A. Since my first exposure to rate regulation in 1970, the underlying principle upon which rates
17 and service have been based is the competitive model. James C. Bonbright set forth this
18 principle in his text, Principles of Public Utility Rates, as follows:

19 Regulation, it is said, is a substitute for competition. Hence its objective should be
20 to compel a regulated enterprise, despite its possession of complete or partial
21 monopoly, to charge rates approximating those which it would charge if free from
22 regulation but subject to the market forces of competition. In short, regulation should
23 be not only a substitute for competition, but a closely imitative substitute.¹

¹Public Utility Rates, Columbia University Press, Copyright 1961, p. 93.

1 The competitive principle requiring that regulation be a substitute for competition would view
2 both price and service from a competitive standpoint. If the provision of water services were
3 a competitive product, and the customers of the Seven Springs Water Division of the Aloha
4 Utility had a choice, they would clearly reject to deal with Aloha because of the poor quality
5 of the water service provided. Aloha's water quality would not meet a competitive standard,
6 and in a competitive environment would be rejected by customers. In Docket No. 960545-
7 WS, overwhelming evidence demonstrated that a vast number of the Seven Springs water
8 division customers found Aloha's overall product and service to be completely unacceptable.
9 In that docket, Aloha touted a plan that it claimed would resolve much of the problems. In
10 the current rate docket, however, Aloha has not offered any evidence that any of the problem
11 areas identified in Docket No. 960545-WS have been eliminated or even improved in any
12 manner whatsoever. OPC Witness Ted L. Bidy discusses the "black water problem" and the
13 lack of progress made by the Company in improving or eliminating this water quality problem.
14 I was a witness in Aloha's Seven Springs Wastewater increase request in Docket No. 991643-
15 SU. Even though this was a wastewater hearing dealing with wastewater service only,
16 customer after customer testified regarding the quality of Seven Springs water quality and
17 service. A number of customers expressed disdain for both the Company and its
18 management.

19
20 Q. WHY SHOULD ALOHA'S TERRIBLE SERVICE DISQUALIFY THE UTILITY FROM
21 RECEIVING HIGHER RATES?

1 A. It is a well-established principle of regulation that the regulatory process should act as a
2 surrogate for a competitive market. This principle is grounded in both logic and legal
3 precedent.

4
5 Q. WHAT IS THE LOGIC BEHIND THE PRINCIPLE THAT REGULATION ACT AS A
6 SURROGATE FOR COMPETITION?

7 A. If there were an open market for water services, any customer who was dissatisfied in any
8 way with a water company's product could simply purchase water from a competitor. It is
9 this freedom that keeps a supplier "honest" and creates a supply of a reasonable product at
10 a reasonable price.

11
12 In a regulated industry, however, this customer choice is taken away. Customers are required
13 to purchase water (a product that one must have to live) from a single designated supplier.
14 Since the customer choice is removed, a strong regulatory process is the only thing that
15 remains to keep the supplier "honest."

16
17 Fundamental fairness demands that if the government removes a customer's right to choose
18 the supplier of his preference, it must replace that right with a regulatory process that
19 produces results that approximate what would have been achieved through a market choice.
20 That is the logic underlying the principle that regulation should act as a surrogate for
21 competition.

22

1 Q. IN WHAT WAY DO YOU BELIEVE COMPETITIVE PRINCIPLES SHOULD BE
2 APPLIED TO ALOHA'S CURRENT RATE CASE?

3 A. Based on the customer testimony that has been presented in the two recent Aloha dockets,
4 vast numbers of customers would go elsewhere if they had a choice. I have never
5 encountered a higher level of customer dissatisfaction. If Aloha faced any competition, it
6 would lose customers in droves – even at the current rates. At this level of disapproval with
7 its product, if a competitive enterprise were to actually be brazen enough to increase prices,
8 it would assure a mass exodus of its customers.

9
10 In the competitive market, a company with similar customer dissatisfaction could not increase
11 its prices and stay in business. Instead, if it wanted to stay in business, the competitive
12 company would first improve its product to an acceptable level, and only then would it try to
13 increase prices to recoup the costs.

14
15 Aloha, on the other hand, is trying to manipulate the regulatory process to turn this
16 competitive reality on its head. Aloha says first give us an increase in our prices, and only
17 then will we set about to improve our product to a level that our customers will find
18 acceptable.

19
20 I contend that Aloha should be held to the same standards that apply in a competitive market.
21 Just as it would in a competitive environment, Aloha should first be required to demonstrate
22 a product acceptable to customers, and then be considered for increased rates.

1 Q. DO YOU BELIEVE THE RATE CASE EXPENSE PROJECTED BY ALOHA IS
2 REASONABLE?

3 A. No. Aloha just completed a wastewater rate case which was filed in February, 2000. Had
4 Aloha consolidated that case with this one, it would have avoided virtually the entire amount
5 of rate case expense associated with this case. By filing a wastewater case and almost
6 immediately afterward filing a separate water case, Aloha has been extravagant to the point
7 of wastefulness. If Aloha were extravagant with its own money, I would not object. Aloha,
8 however, chooses to be extravagant with the customers' money.

9
10 Q. WHO IS HARMED BY ALOHA'S WASTEFULNESS ON RATE CASE EXPENSE?

11 A. Aloha is expecting its customers to pay for this wasteful approach. Because it expects the
12 customers to pay for the redundant rate case, Aloha does not seem to care about its extreme
13 inefficiency. I assure you that if rate cases were funded by the utility - rather than the
14 customers - Aloha would have found a more efficient way to proceed.

15
16 Q. IS IT TYPICAL FOR A WATER AND WASTEWATER UTILITY TO FILE SEPARATE
17 CASES FOR WATER AND WASTEWATER?

18 A. No. A utility generally files its water and wastewater cases together. This is because a
19 company's concern is with its overall financial health.

20
21 Aloha should have consolidated its water and wastewater needs into a single case. Because
22 it chose to file two separate cases, Aloha itself should be required to pay for the second one.

1 Q. DOES THAT COMPLETE YOUR TESTIMONY?

2 A. Yes, it does.

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1 BY MR. BURGESS:

2 Q Do you have a summary that you would provide to the
3 Commission of your testimony?

4 A Yes. Briefly, I'm dealing with two policy issues.
5 The Office of the Public Counsel and myself feel that the
6 Commission should apply a competitive standard to the rate
7 request requested by Seven Springs Aloha division -- the Seven
8 Springs division of Aloha Utilities. That competitive standard
9 would say that if a utility's product or service does not meet
10 a competitive standard, that it would not be able to raise
11 rates in a situation where it had competitors and its service
12 did not come up to a standard that could be obtained from a
13 competitor if it were able to offer the same product in the
14 same area. So the customers of Seven Springs are, in our
15 opinion, not happy with the service, they're not happy with the
16 quality of the water, and we think that the rate increase in
17 its entirety ought to be denied.

18 The second issue deals with rate case expense, and
19 that this utility has filed two rate cases essentially one
20 right after the other for the same service area, Seven Springs
21 wastewater and Seven Springs water, and that we feel that they
22 could have been filed simultaneously with a little bit of
23 planning on the part of the utility. And that had it done so,
24 there would have been a savings of rate case expense, and that
25 we would request that the Commission deny any rate case expense

1 in this case if the first recommendation is not accepted. And
2 that's a brief summary of my position.

3 MR. BURGESS: Thank you, Mr. Larkin.

4 Madam Chairman, we can tender the witness for cross.

5 CHAIRMAN JABER: Thank you. Let's see. I think we
6 should ask Mr. Wood first if he has any questions.

7 CROSS EXAMINATION

8 BY MR. WOOD:

9 Q Mr. Larkin, are you aware that by April of 2001 that
10 Aloha had nine cases going before the Public Service
11 Commission?

12 A I am not aware of all the specific cases, but I knew
13 there were a number.

14 MR. WOOD: That's all I have.

15 CHAIRMAN JABER: Thank you, sir.

16 Ms. Lytle.

17 MS. LYTLE: I have no questions for this witness.

18 CHAIRMAN JABER: Thank you.

19 Staff.

20 MR. JAEGER: Yes.

21 CROSS EXAMINATION

22 BY MR. JAEGER:

23 Q Mr. Larkin, I think you have stated that basically it
24 was a waste of rate case expense for them to file a wastewater
25 case a few months back or a year ago and now file again for a

1 water case; is that correct?

2 A That's correct.

3 Q Is that also true for erroneous or duplicative
4 filings if they have to refile for an error?

5 A Yes, I would think that that had the same effect as a
6 duplication of a filing.

7 Q So in your opinion, does the -- the utility file for
8 one interim rate case and then they withdrew that filing and
9 requested and filed for it based on a different test year,
10 should they recover rate case expense for both of those
11 filings?

12 A I wouldn't think so.

13 MR. JAEGER: I have no further questions.

14 CHAIRMAN JABER: Mr. Wharton -- Deterding.

15 MR. DETERDING: Thank you.

16 CROSS EXAMINATION

17 BY MR. DETERDING:

18 Q Mr. Larkin, you proposed to allow no increase in
19 rates despite for the -- a need for one as reflected by the
20 financial, rate, and engineering information filed in this
21 case; correct?

22 A I'm suggesting that the standard that should be
23 applied is a competitive standard, and under a competitive
24 standard, no rate increase would be allowed.

25 Q Okay. Despite the fact that otherwise there would be

1 a need for a rate increase as indicated by the information
2 filed in this case; correct?

3 A I didn't look at the information filed. I looked at
4 the standard that I think ought to be applied.

5 Q Okay. And as I understand your basic position on
6 this issue, you believe that the water product for Aloha fails
7 to meet what you term a competitive standard for service?

8 A Based on customers' testimony, based on my
9 understanding of their complaints in the wastewater case and
10 their complaints in this case, that they are unhappy with the
11 service and unhappy with the product.

12 Q You referenced a book by a Mr. Bonbright as supporting
13 your proposal; correct?

14 A Bonbright, yes.

15 Q Bonbright. Bonbright?

16 A Bonbright.

17 Q Sorry, I had it misspelled in my notes.

18 Isn't it true that this book says nothing about a
19 standard for service?

20 A It says that a Commission should apply all of the
21 competitive standards it can in establishing rates. And a
22 competitive standard would say, if you don't meet a quality
23 standard or you don't meet a price standard, if you are faced
24 with competition, you shouldn't get a rate increase.

25 Q Does it say anything in there about a quality

1 standard for service for a utility?

2 A I think that it does. I think it's implied, but
3 there is no word that says competitive standards ought to apply
4 to quality of service.

5 Q Okay.

6 A But it is implied there.

7 Q Are there any provisions of Florida Statutes that
8 authorize such an adjustment?

9 A I don't know, and I'm not giving a legal opinion. I
10 think that the Commission would have to rely on their own legal
11 counsel to determine that.

12 Q Okay. Are there any rules at the PSC that you're
13 aware of that authorize such an adjustment?

14 A I'm not aware of any.

15 Q Are there any decisions of the PSC that have proposed
16 such an adjustment?

17 A I don't know because I didn't research it, but I'm
18 not sure that this has ever -- there's ever been a case quite
19 like this where there have ever been customers so dissatisfied.
20 I've been coming down here since before Commissioner Deason
21 started in this business in 1977, and I've been in hundreds of
22 rate cases, and I've never seen anything like this.

23 Q Okay.

24 A I've really never seen customers so irate as what
25 I've seen here.

1 Q You stated as a basis for your adjustment that the
2 quality of water provided by Aloha is below that for similarly
3 situated utilities. Is that your position?

4 A Yes, it is. And I think that's been bolstered by the
5 customers who have said that they have lived in areas around
6 here and gotten water service and didn't have the same problems
7 that we're experiencing once they moved into the Seven Springs
8 service area.

9 Q Have you performed some chemical analysis of Aloha's
10 water?

11 A No.

12 Q Have you perform chemical analysis of other
13 utilities' water?

14 A No.

15 Q Have you done surveys of Aloha's customers as to
16 their satisfaction with the quality of water?

17 A Other than my being present at the service hearings
18 and hearing their complaints --

19 Q You're --

20 A -- no, I have not.

21 Q I apologize for interrupting.

22 A I said, no, I have not.

23 Q Okay. When you say, "service hearings," you're
24 talking about this hearing, the first day of this hearing;
25 correct?

1 A Yes.

2 Q And the wastewater case?

3 A And the wastewater case, yeah.

4 Q Okay. Have you gone to other utilities to determine
5 their level of customer participation in rate proceedings other
6 than in the similarly situated utilities, for instance, what
7 you would consider to be similarly situated utilities?

8 A Well, as I say, I've been participating in water and
9 wastewater cases in Florida since probably 1975, and I've never
10 seen anything like this.

11 Q Okay. So you're basing this contention basically on
12 what you've heard from customers at two customer hearings or
13 two hearings?

14 A Yes, and Commission orders where the Commission
15 itself has said that they thought the service wasn't
16 satisfactory.

17 Q Okay. Where has the Commission said that the service
18 was not satisfactory?

19 A I think I quoted that to you in my deposition.

20 Q Was that Order Number 1285?

21 A Yes.

22 Q Okay. And you specifically referred me, did you not,
23 to the top of Page 3 of that order?

24 A Yes.

25 Q And that statement at the top of Page 3 that finds

1 that -- well, read that last sentence that you were referring
2 to.

3 A The last sentence or --

4 Q Of that paragraph. The first sentence at top of Page
5 3, I guess it is.

6 A It says, "In that order," referring back to the
7 March 12th, 1997 order, "we determined that the quality of
8 service provided by Aloha's water system was unsatisfactory."

9 Q And it continues -- will you finished the sentence?

10 A "We ordered Aloha" -- well, I did finish the
11 sentence.

12 Q I apologize. I may be looking at a different
13 sentence than you.

14 A Okay. "We ordered Aloha to evaluate the treatment
15 alternatives for removal of hydrogen sulfide from its water and
16 to prepare a report that addresses this evaluation. We also
17 found that the utility's attempt to address customer
18 satisfaction and its responses to customers' complaints are
19 unsatisfactory and would therefore address them further in
20 Docket Number 960545-WS."

21 Q Okay. Now, that is referring to what the Commission
22 had done at an earlier time, is it not?

23 A Docket 96 or that sentence?

24 Q That entire paragraph.

25 A Yes, it was referring to the 1997 order.

1 Q Okay. And while this is the same docket number as
2 that, this is a later order than what is being referred to
3 there, is it not?

4 A Yes.

5 Q Including the finding of unsatisfactory service;
6 correct?

7 A Yes.

8 Q Okay. Will you turn to Page 8. Now, I don't know if
9 we've got a difference in page numbers, hopefully not. But you
10 see where the quality of service section of that order begins?

11 A Quality of the utility's product?

12 Q Well, I'm looking at the general heading that says,
13 "Quality of Service." We may have a misnumbering.

14 MR. JAEGER: It's on Page 9 in my order.

15 Q All right. Well, everybody's probably got a
16 difference in numbering. If you'll turn back about three
17 pages, you'll see the section that begins "Quality of Service;"
18 correct?

19 A Mine says, "Quality of the Utility's Product."

20 Q I'm asking you, if you'll turn back two or three
21 pages, you'll see the section --

22 A Oh, I see it. Okay.

23 Q And that quality of the utility's product falls under
24 quality of service, that's the only reason I wanted you to go
25 back there.

1 A Yes.

2 Q If you will, look just above -- well, let's look at
3 quality of the utility's product. That goes on for three or
4 four pages. If you will look at the last paragraph, the
5 closing paragraph of the section entitled, "Quality of the
6 Utility's Product," would you please read that.

7 A The last paragraph it says, "We have separated our
8 discussion of quality of service into three areas."

9 Q No, I'm talking about the last paragraph under the
10 heading, "Quality of the Utility's Product."

11 A Oh, okay. "We find that the record shows that the
12 utility is meeting standards set forth by the DEP and the EPA
13 for operating conditions of its plant as shown by the testimony
14 of DEP Witness Leroy and Shernock (phonetic) as well as by the
15 utility's witnesses" --

16 Q Mr. Larkin, I apologize for interrupting you, but you
17 are still not at the part that is the last paragraph of the
18 heading entitled, "Quality of the Utility's Product."

19 A All right.

20 Q If you will go to where it says, "Quality of the
21 Utility's Product," and then go forward about four pages, you
22 will find the last paragraph just before a heading entitled,
23 "Customer Satisfaction."

24 A Okay. "The record supports the conclusion that the
25 quality of the water meets all the applicable state and federal

1 standards. However, it is discussed below, the record is also
2 clear that the customers are not satisfied with the product
3 that they receive."

4 Q Okay. And then if you will go over to -- at the end
5 of the customer satisfaction section, I believe you will see
6 what appears to be the end. That is the last heading under the
7 area of quality of service. And would you read that final
8 sentence before "actions to be taken by the utility."

9 A "Based on all of the above, we find that the overall
10 quality of service provided by Aloha must be considered
11 marginal."

12 Q Okay. So this order which you referenced as a basis
13 for a Commission's last finding being that the quality of
14 service was unsatisfactory does in fact not find the quality of
15 service is unsatisfactory?

16 A Well, I think what it finds is that it hasn't
17 changed. And that --

18 Q Does it say it hasn't changed in here? I thought it
19 said -- you referenced an order --

20 MR. BURGESS: Excuse me. Mr. Larkin was in the
21 middle of a response --

22 MR. DETERDING: I apologize.

23 MR. BURGESS: -- to Mr. Deterding's question, and so
24 I'd like for him to be able to answer.

25 MR. DETERDING: I'm sorry.

1 THE WITNESS: I think that the order in its entirety
2 indicates that the quality of the service hasn't changed from
3 1997 and that customers weren't satisfied with it then. They
4 aren't satisfied with it in this order. They are currently not
5 satisfied, and it's that standard that I think ought to be
6 applied by the Commission. That if these customers had the
7 opportunity to go somewhere else, they would.

8 Q Well, are you talking about the quality of the
9 utility's product or the customer satisfaction? As you note
10 from this order, those are considered separate at least
11 components of the overall quality of service of this utility.

12 A I would consider them together.

13 Q Okay. And what the Commission found -- said it found
14 at the beginning of this order that you referenced was at the
15 time of the earlier order in this case that service overall was
16 unsatisfactory, and at the end of this order on that subject it
17 says, "marginal," does it not?

18 A Yes.

19 Q Now, you would agree that there are state and federal
20 agencies that set standards for water quality that Aloha must
21 provide; correct?

22 A Yes.

23 Q And you are not suggesting that Aloha has failed to
24 meet those standards, are you?

25 A No, I am not.

1 Q Okay. And you are not suggesting that -- well, let
2 me -- strike that.

3 You did not investigate whether the utility was in
4 violation of any standards for hydrogen sulfide, did you?

5 A No.

6 Q Are you aware of any case in which the standard
7 you've been proposing has been applied in Florida?

8 A I think I've answered that. I am not aware of any.

9 Q Okay. I think you did, too, sorry. You stated, I
10 believe, a moment ago that your concern was with the overall
11 level of satisfaction, and in fact, you have talked about the
12 fact that you've heard customers expressing dissatisfaction as
13 a basis for your contention that we have not met this
14 competitive standard; correct?

15 A Correct.

16 Q And how many customers have to be dissatisfied with
17 the quality of water service provided in order to reach this
18 level?

19 A Well, I don't have any specific number in mind, but I
20 don't recollect any customer that came here to testify either
21 at this hearing or at any previous hearing that I was present
22 ever state that the water met a standard that would satisfy
23 them.

24 Q Okay. So are you suggesting by that response that
25 you believe that a certain percentage of customers who come to

1 hearings and testify must express pleasure with the product or
2 with the service in order for us to meet this competitive
3 standard?

4 A Well, what I'm suggesting is that if you met the
5 competitive standard, we would have a standard utility rate
6 case hearing, and we'd have a room like this full of experts,
7 maybe one or two customers. Nobody would bother coming. But
8 when you see customers come out in droves and you fill up a
9 place like this and you have to have a policeman come in, then
10 you've got to say, maybe there's something wrong here, because
11 I haven't seen this in 30 years of doing this kind of work. So
12 there must be something wrong with this utility with its
13 product, with its service.

14 Q So I guess I don't think I got an answer to my
15 question. How many customers must express satisfaction or
16 dissatisfaction before you cross the line in what you believe
17 is this competitive standard?

18 A I think you've cross the line when you get results
19 like we've gotten in this hearing.

20 Q So we had 30 customers out of 10,000 testify. Is
21 that the standard?

22 A I'm not giving you a number. I'm not pegging it at a
23 number. I think it's the general tenor of the customers'
24 attitude and their feeling about the company and its service.

25 Q Okay. So it doesn't matter how many come, just if

1 some come and express extreme dissatisfaction with the utility?

2 A No, I didn't say that at all.

3 Q Well, I apologize. I'm trying to find the standard I
4 can apply.

5 A Well, the standard is, if you have a utility that
6 generates the amount of dissatisfaction that this utility has
7 from its customers, you've met the standard.

8 Q Thirty customers out of 10,000 appearing at a hearing
9 is --

10 A There's more than 30. A lot of these customers said
11 that they represented their whole subdivision. A lot couldn't
12 testify because they didn't want to wait. A lot of customers
13 wouldn't -- I didn't see the same people here that I saw at the
14 wastewater hearing. In fact, there was a woman that took off
15 on Mr. Watford and complained about him. She didn't show up.
16 I don't think -- I think after a while customers just get worn
17 out and they just stop coming. But when you can fill a room
18 like this twice that I've been at, then I think you've got a
19 serious problem, and it's quality.

20 Q So you don't have any numerical basis for us to
21 determine --

22 A I think I've said that to you two or three times.

23 Q Okay. Then how should this Commission, if they were
24 to follow your proposal, how should they determine whether or
25 not they've crossed that line, whether or not the utility has

1 crossed that line?

2 A Well, I think they know that now. I think that they
3 have expressed concerns about the customers' feelings, and that
4 they are looking for solutions to that, and that their feeling
5 is that something has to be done to satisfy these customers.
6 They know it. I know it. Everybody else in here knows it
7 except maybe the company.

8 Q Okay. So you're saying that they have reached a
9 conclusion that it is time to disallow the rates of the utility
10 any rate increase for this utility?

11 A That's my recommendation. I didn't say that they had
12 reached that conclusion. I said that they had reached the
13 conclusion that something has to be done.

14 Q Okay. All right. And what is it that you propose be
15 done? You propose disallowing any rate increase.

16 A Yes. That we apply a competitive standard, and that
17 competitive standard would say you couldn't get a rate increase
18 until you improve the quality of the product.

19 Q Now, back to my question. If this Commission wants
20 to apply your standard on a going-forward basis, how will they
21 know when to apply it and when not to?

22 A When the quality of the water improves, when
23 customers start to say, I no longer have that problem, or that
24 problem isn't as extensive as it was before, then they will
25 know that it's time to let the utility have a rate increase.

1 Q Well, how many customers have to say that? How many
2 customers have to say I'm happy about it versus how many have
3 to say I'm unhappy about it?

4 A I don't have a numerical standard, but if you
5 continue to fill a room like this with people that are unhappy,
6 you haven't met the standard.

7 Q Did you talk to everybody who came into this room?

8 A No.

9 Q Do you know what their feelings are with regard to
10 this rate increase or regarding the quality of water service?

11 A I know from what they expressed, those that
12 testified.

13 Q Just those who testified?

14 A Yes. Of course, everybody else in the room was
15 shouting, agreeing --

16 Q Everybody else in the room was shouting?

17 A Well, as far as I could tell most of the customers
18 were shouting, agreeing with the witnesses.

19 Q Are you aware of any regulatory jurisdictions such as
20 the Florida Public Service Commission and other jurisdictions
21 that have applied this standard of yours?

22 A I think the competitive standard has been applied
23 routinely throughout the country, and it's quoted in
24 Bonbright's book. It is even a standard that utilities have
25 accepted.

1 Q Have any jurisdictions that you're aware of applied a
2 standard that you're proposing to apply here that if the
3 customers are dissatisfied with the quality of service, then no
4 rate increase should be applied? And I'm not even talking
5 about all the customers. I'm talking about 30 testifying
6 customers.

7 A I haven't made a study of that. I'm making a
8 recommendation based on a regulatory principle.

9 Q Have you seen anywhere 500 testifying customers have
10 had their -- have had that standard applied to them?

11 A As I said, I haven't done a study. I don't know
12 whether that has been applied.

13 Q Regardless of the number of customers expressing
14 dissatisfaction with the quality?

15 A Well, I don't know that it hadn't been applied.

16 Q But you don't -- I apologize.

17 A I'm not saying that it hasn't, I just don't know.

18 Q You don't know of any case where it has been?

19 A No, I don't know of any case that it has been.

20 Q Now, you said in your testimony that the PSC has told
21 this utility to go forward and, quote, correct the water
22 quality problem, do you not?

23 A Yes. What page?

24 Q When did the Commission --

25 A What page? I don't remember those exact words.

1 Q And I don't either.

2 A Give me a reference to the testimony.

3 Q Let me just ask you, Mr. Larkin, are you contending
4 that this Commission has ordered this utility to correct some
5 water quality problem?

6 A I think that they have ordered this utility to study
7 and improve the quality of the service.

8 Q Okay. Let's take those one at a time. They have
9 ordered this utility to study what?

10 A The removal of whatever is causing the quality --
11 water quality to be deficient.

12 Q And have you analyzed this utility to determine
13 whether or not it has in fact undertaken such a study?

14 A No, I have not, but Mr. Bidy has. And he's going to
15 speak to that.

16 Q Okay. And you said -- what was the comment you made
17 after studying? They told them to study and do what to the
18 water quality?

19 A I think I said improve the quality of --

20 Q Improve. Okay. What has the Commission specifically
21 ordered this utility to do with regard to improving water
22 quality?

23 A Study to find out what can be done to remove the
24 products that are causing the water quality problems.

25 Q So to study that issue; correct?

1 A Well, study encompasses take action, do something to
2 improve it.

3 Q Okay. Where does the -- an order of the Commission
4 order this utility to --

5 A Improve the quality of the --

6 Q -- take some action other than the study?

7 A Well, I think it's implied. There probably are
8 sentences that say things like that, but it's obviously implied
9 in the orders that the Commission wants the utility to do
10 something.

11 Q Do you know of any provision within these orders that
12 tell the utility to do something more than study the quality?

13 A To take a specific step or action?

14 Q Correct.

15 A No.

16 Q Okay. Are you suggesting that you believe that the
17 utility should propose what it believes are the proper remedial
18 measures to improve water quality, and then get the Commission
19 to approve in advance the constructing of that corrective
20 action?

21 A What I'm saying is that nothing has been done in the
22 last -- since 1997, and that burden was on the utility to do
23 that, to come forward with some plan or some suggestion. As
24 far as I can see and as far as the customers can see, nothing
25 has changed.

1 Q But do you believe that this utility should come to
2 this Commission and obtain approval for what its course of
3 action is proposed to be before it undertakes it?

4 MR. BURGESS: Excuse me. Are we -- is this in the
5 scope of the direct testimony?

6 CHAIRMAN JABER: Mr. Deterding.

7 MR. DETERDING: Well --

8 MR. BURGESS: I'm going to object on the grounds that
9 I don't think it is, but I'm going to wait to see what --

10 MR. DETERDING: He's saying that the utility has done
11 nothing in order to move towards correction of these actions,
12 and I'm asking him what I believe he takes as a preliminary
13 step based upon his deposition.

14 MR. BURGESS: All right. With regard to that, I have
15 not objected as Mr. Deterding asked those questions, but those
16 questions themselves were beyond the scope. Mr. Bidy
17 testifies to his opinion of what the utility has done.
18 Mr. Larkin, I don't think his direct goes into that.

19 MR. DETERDING: What Mr. Bidy deals with is some
20 issues about whether or not the utility has or hasn't done
21 something. Now, what I want to know is what this gentleman is
22 saying is a basis for denying rate relief which is that the
23 utility has done nothing.

24 CHAIRMAN JABER: But, Mr. Deterding, what you just
25 said is different from the question you asked. You asked him

1 if he had a recommendation on what the company could do.

2 MR. DETERDING: All right. I will withdraw the
3 question.

4 BY MR. DETERDING:

5 Q Mr. Larkin, isn't it true that this utility company
6 came to this Commission and proposed to build packed tower
7 aeration facilities if the Commission so desired?

8 A I don't know that.

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

10 CHAIRMAN JABER: Thank you.

11 Mr. Burgess.

12 MR. BURGESS: No redirect.

13 CHAIRMAN JABER: Thank you. Mr. Larkin, you are
14 done, and we didn't have any exhibits for you.

15 So OPC, next witness.

16 (Witness excused.)

17 (Transcript continues in sequence with Volume 6.)

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1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4

5 I, TRICIA DeMARTE, Official Commission Reporter, do hereby
6 certify that the foregoing proceeding was heard at the time and
7 place herein stated.

8

9 IT IS FURTHER CERTIFIED that I stenographically
10 reported the said proceedings; that the same has been
11 transcribed under my direct supervision; and that this
12 transcript constitutes a true transcription of my notes of said
13 proceedings.

14

15 I FURTHER CERTIFY that I am not a relative, employee,
16 attorney or counsel of any of the parties, nor am I a relative
17 or employee of any of the parties' attorneys or counsel
18 connected with the action, nor am I financially interested in
19 the action.

20

21 DATED THIS 23rd DAY OF JANUARY, 2002.

22

23

Tricia DeMarte

24

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