BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 020071-WS

In the Matter of

APPLICATION FOR RATE INCREASE IN MARION, ORANGE, PASCO, PINELLAS, AND SEMINOLE COUNTIES BY UTILITIES, INC. OF FLORIDA.

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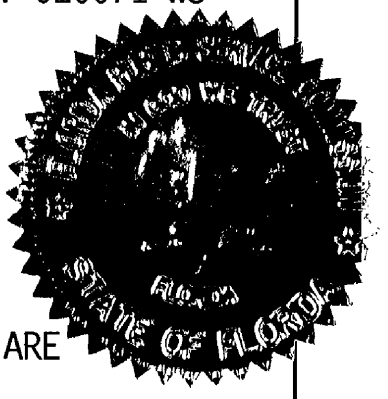

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VOLUME 6

PAGES 702 THROUGH 915

PROCEEDINGS:	HEARING
BEFORE:	COMMISSIONER J. TERRY DEASON COMMISSIONER BRAULIO L. BAEZ COMMISSIONER RUDOLPH "RUDY" BRADLEY
DATE:	Thursday, August 21, 2003
TIME:	Commenced at 9:30 a.m. Concluded at 4:55 p.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	JANE FAUROT, RPR Official FPSC Reporter (850) 413-6732
APPEARANCES:	(As heretofore noted.)

DOCUMENT NUMBER-DATE
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FPSC-COMMISSION CLERK

I N D E X

WITNESSES

EXHIBITS

NUMBER:		ID.	ADMTD.
21			725
22			725
23	Yingling Prefiled JWY-1 through JWY-3	727	727
24	Jenkins Prefiled DTJ-1 through DTJ-3	727	727
25	Lingo Prefiled FJL-1 through FJL-8	749	805
26	Orr Prefiled Rebuttal DLO-1 DLO-4	806	813
27	Seidman Prefiled Rebuttal FSH-6, 7, 9, and 10	817	853
28	Lubertozzi Prefiled Rebuttal SML-3 through SML-12	855	905
29	(Late-filed) Updated Estimate to Complete RCE	893	
30	(Late-filed) Allocation Factors	904	

P R O C E E D I N G S

(Transcript continues in sequence from Volume 5.)

RICHARD P. REDEMANN

continues his testimony under oath from Volume 5:

CONTINUED CROSS EXAMINATION

BY MR. REILLY:

Q You stated that these wells in the system were oversized, or that you determined that none of the wells were oversized. Can you tell us how you came to that determination?

A Most of these wells are relatively small with the gallons per minute. If you look at the designed peak hour, they are, you know, very close. And, you know, the size, you know, basically, you know, unless you have like a large well, you are not going to have -- it is hard to match exactly the number of customers to the well. So, I believe that, you know, these sizes are reasonable.

Q Let me refer you to Page 8 of your testimony, and this is starting on Line 21. You speak of imposing a 12-hour limitation on firm reliable capacity on the wells remaining after the largest well is removed?

A Yes.

Q And we were aware that this is a recommendation that has been made by the engineering department for the last very few years, but that it was a fairly recent phenomenon. That

has been our testimony, and yet in your testimony you refer to this same order of which I just gave you one page to, the Southern States case, you said in this order they also endorsed the 12-hour approach, is that correct?

A I believe so.

Q Could you -- is that -- was that just in a calculation that was made or is in the text of the order? Because we have looked at the order and cannot find such language.

A When I was reviewing the orders, I saw that information in there, as far as I can recall.

Q But you cannot cite to me anything in that order that would endorse the 12-hour, or the --

A Not at this time.

Q Would you expect the section in that order that dealt with firm reliable capacity to provide the support that you are looking for?

A It may be in there. It could have been in the exhibits in the back.

Q Subject to check, would you concede that such language is not in the firm reliable capacity section of that order, or would you like to refresh your understanding and I can hand you a page of it, of the order?

A Well, the order consisted of hundreds of pages. The engineering piece was, I think, like ten pages long.

Q Well, the order obviously will speak for itself, so --

A Yes.

MR. REILLY: I just want to bring to the Commission's attention that we made an effort to look at the language of that order and could not find the support that is being suggested by this witness, and that will be a matter that will be briefed.

BY MR. REILLY:

Q In your discussion of limiting firm reliable capacity or actually cutting in half firm reliable capacity by imposing the 12-hour requirement, on that issue are you aware that the spacing of wells must be designed so that the draw-down effect is not experienced from one well to the next, that DEP requires that?

A I don't recall. But if they are spaced to closely, that could affect the wells.

Q But my question is are you aware of the DEP requirements concerning spacing of wells?

A I have read it awhile ago, I don't remember the exact language.

Q Would you expect that the DEP requirement requires the placing of wells to be in such a manner that they do not cause a draw-down on each other?

A Yes, it is probable.

Q Are you aware of the DEP requirements for well tests that require -- a flow test that require one and a half times the capacity for a 24-hour period without any draw-down?

A I think that part is when you initially test the well, if I recall, that you have to test to make sure it doesn't do that, yes.

Q That requirement does exist?

A I believe so, yes.

Q The peaking factor you propose for the demand when calculating used and useful percentages of water systems comes from AWWA M32, is that correct?

A That is correct.

Q And you are proposing to peak the max day flow by a factor of two to obtain a peak hour flow to a used and useful calculation?

A Yes.

Q Now, AWWA M32 actually gives a recommended range of 1.3 to 2 peaking factor for obtaining the peak hour demand from the max day flow, is that correct?

A Yes, there is a range.

Q And why did you not choose the low end of the range at the peaking factor of 1.3?

A The utility is responsible for providing water service, and I wanted to make sure that my calculation will allow them to provide the maximum water that could be required

to those, to their customers.

Q You are saying you are doing that to be of better service to the customers?

A Yes. In addition, the Commission has also used, looked at that peak factor of two in the Southern States case, and also that case that has gone to the First District Court of Appeal which approved that peak factor of two.

Q Would not a lower peaking factor better recognize the changing water use patterns and the trend towards conservation?

A I don't believe so. The amount of water would be reflected in the maximum day. The peaks still occur.

Q But wouldn't this conservation factor have an influence on the peaking factor, as well?

A It might, I don't know.

Q Is not the AWWA M32 reference used for peaking factor quite old, being published in the 1970s?

A No.

Q Okay.

A I think it is 1989.

Q And, the AWWA M32 reference you cite is actually a reference for designing distribution systems rather than source of supply, pumping, and treatment, is that not correct?

A Yes.

Q And yet you use it not just for distribution, but for source of supply and treatment, do you not?

A Yes.

Q Is that an incorrect use of this source?

A No, because the wells without the amount of ground storage and high service pumping, the wells have to meet the demand.

Q Is there not a difference in design flows that engineers use and regulatory agencies require in designing source of supply and treatment facilities as compared to distribution?

A There are different design books, yes.

Q Well, isn't there a reason for this difference? And, if so, could you state that reason?

A Well, you have to consider, you have to evaluate the whole system as one component. The water has to meet, the water has to be pumped and serve the customers. So there are different peak factors and different components of the water systems.

Q Let's take a look at your one-page exhibit, RPR-2, and this is your statement of all the formulas and assumptions that you have made to arrive at your used and useful calculation?

A Yes.

MR. REILLY: Could we take about a minute to consult with him? This will be the end of our questioning.

COMMISSIONER DEASON: Yes.

MR. REILLY: I'm just determining what we've covered, and I will be with you in one minute.

BY MR. REILLY:

Q Okay. I would like to address your attention to just a couple of points on your formulas and assumptions in RPR-2, and direct your attention to Item 2. You state here that you will use the single max day in the test year if it appears there is no anomaly that day, is that correct?

A Yes.

Q But you say if an anomaly may have occurred that day, you use the average of the five highest days, is that correct?

A That is over a 30-day period.

Q And my question to you is how do you determine what might constitute may constitute an anomaly?

A Well, if you see an abnormal high event during what the utility is saying that that is the maximum day, also if there is a fire, the utility usually puts that on the MFRs on the day and discounts the maximum day. But if there is a legitimate maximum day, you should use the maximum day.

Q If it is, in fact, a legitimate maximum day, would you expect that maximum day to be pretty close to the other four highest max days, that those five would be fairly close to each other?

A Maybe, maybe not. But probably they would be.

Q And my concern is that you are stating here it may be

the case. For that to be triggered, you would have to have this one max day that would be noticeably higher than the other four max days, is that correct? Would that not raise a question of a possible anomaly?

A Well, the utility is required to report the anomalies like a fire or a main break to the Department of Environmental Protection, so I don't know what other anomaly would occur. Probably if they have a peak day, that is what it is unless there is some kind of leak or fire during that day.

Q But if you are looking at these five max days and you see one of them noticeably higher than the other four, what as the engineer for the PSC would you do with this kind of data?

A Well, if I thought the maximum day was not appropriate, I would throw it out and use the average of the five.

Q How would you make that determination if you saw this one sticking out from the other four? How would you decide, well, I am going to go ahead and use it, or I'm not going to, I am going to go with the five average, average of the five highest?

A Well, you would want to look at the reports sent to the Department of Environmental Protection to see if there was any leaks, or line breaks, or fires during that day. I guess as long as the day seemed to be without any anomaly, you would use it.

Q So if there wasn't a definite documented reason for that anomaly, for that unusual single day, you would recommend using that single day as opposed to the five average days -- average of the highest five days?

A Well, yes, probably. You know, unless that maximum day was significantly higher than the other four, I guess.

Q In light of that current explanation, should your used and useful formulas and assumptions on RPR-2 state unless anomaly is shown to have occurred? Because your word is may in this assumption and formula, and now your testimony is unless there is documentation of an anomaly I'm going to use the top peak day?

A Well, if you believe that there is something wrong with that day, use the average of the five.

Q But you will not have any reason to believe there is any anomaly unless it can be shown to you that it has been documented, is that true or not?

A No, not necessarily. If the maximum day is -- let's say you have a maximum day of 500,000 gallons per day, and the other four maximum days are around 100,000 gallons per day, then obviously something happened that day. But you just need to review, you know, the MFRs to determine, you know, if there was a problem or if you believe there is a problem.

Q On Item Number 5 you state fire-flow is based on local requirements. Help explain what that assumption is or

that -- yes, what that assumption is?

A Well, the counties usually post in a rural ordinance what the local fire-flow requirements are.

Q If there is a local requirement, but the utility does not provide fire-flow, do you believe fire-flow should be included or allowed?

A No, if the utility doesn't have any fire hydrants and there is a fire-flow, the fire-flow requirement shouldn't be allowed.

Q So, in your opinion, if there are no fire hydrants, no fire-flow should be allowed?

A Yes.

Q Now, if there is one fire hydrant next to the treatment plant, and there is a requirement for fire-flow, would your recommendation be to give the utility fire-flow allowance?

A Yes.

Q And your reason for that?

A If a fire occurs, the fire department will go there and use the fire hydrant to put out the fire.

Q It's your understanding that a single fire-flow in an entire subdivision would be sufficient to you to give the utility a fire-flow allowance?

A Yes. The utility is required to provide fire-flow at their fire hydrants.

Q Do you think that such a single fire hydrant provides the means, the practical means of that water system to provide fire-flow protection?

A If there is a fire hydrant there, they need to provide fire-flow. And the fire department will go to the fire hydrant and draw from that fire hydrant for water. So, yes.

Q Your judgment is a single hydrant -- what if the house that is burning down is a mile away, and you have a system that provides one fire hydrant, that is your testimony that that constitutes fire protection?

A Fire protection is provided by the fire hydrant.

Q Excuse me? The fire protection is not provided by the fire hydrant?

A Well, the fire protection would be provided by the fire hydrant.

MR. REILLY: No further questions.

COMMISSIONER DEASON: Mr. Wharton.

MR. WHARTON: Thank you, Commissioner.

CROSS EXAMINATION

BY MR. WHARTON:

Q Mr. Redemann, Mr. Reilly asked you several questions about this page from the Southern States case. The paragraph that he asked you about begins "Thus, in summary," do you see that paragraph?

A Yes.

Q This order also indicates that the Commission reserves the right if it, in fact, changes a prior determination of used and useful that causes a newer determination that significantly differs from the prior case, that equitable considerations might mean that change would not be applied, doesn't it?

A I believe so, yes.

Q Mr. Redemann, did you in this case make your used and useful determinations -- well, strike that.

Did you make your determinations in this case that certain systems were built out in a way that was consistent with how you have done it in other cases?

A Yes.

Q And did some of those cases include cases in which you testified?

A I have only testified in one other case.

Q And do you stand by your testimony in that regard today?

A Yes.

Q Let's talk a little bit about the concept of instantaneous demand. And I understand that Mr. Reilly is trying to push you one way on that and we have testified in the other direction. You do agree that a utility must meet all the demands, not just daily or hourly, but the minute they occur, right, in the case of a water utility?

A Yes, they have to meet the demands. Usually the minute demands are provided by the hydro-pneumatic tank.

Q Now, with regard to a water system that has little or negligible storage, that demand has to be met by the well pumps, or as you indicated, they could be met by the hydro-pneumatic storage tank for a short period, right?

A Yes.

Q But that period, you would agree, would be something less than an hour?

A Yes.

Q Now, do you disagree with Mr. Seidman's use of instantaneous demand on principle, or because it is a design standard and not related to actual system flows?

A Well, the design standard didn't appear to agree with the flows in the system.

Q And that is the basis of your concern about it?

A Yes.

Q Do you believe that instantaneous demand is too short of a period?

A Yes. And, you know, it is usually provided by the hydro-pneumatic tank instantaneous flow. Typical design books indicate the maximum day and peak hour flows should be used in design.

Q Would you be open to, say, a shorter period such as a four-minute demand, or a 15-minute demand, or a 30-minute

demand?

A I think a one-hour demand is reasonable rather than a shorter period of time.

MR. WHARTON: Commissioner Deason, I'm passing out here a document that we just want to use for the cross-examination of Mr. Redemann.

BY MR. WHARTON:

Q Mr. Redemann, I have had handed to you a memorandum from Ted Davis, an engineer with the Commission, dated August 1, 1994. Is Mr. Davis still an engineer here?

A Yes.

Q Are you familiar with this document?

A No.

Q Have you ever read it?

A I have seen the last piece of information with that specific article, because I went to talk to Mr. Davis about, you know, the instantaneous and peak hour demands.

Q Okay. Well, let's talk about that for a second. Take a look at the second full paragraph of the first page and six lines up from the bottom. Mr. Davis begins, "As an engineer in the Staff Assistance Bureau," do you see that?

A No. The second paragraph?

Q Yes. Six lines from the bottom of the second paragraph.

A Yes.

Q Okay. Just read those two sentences, if you will, Mr. Redemann, to yourself.

Is it fair to say that it appears that Mr. Davis wrote this memorandum because he was concerned that the Commission should not have a policy that would deprive the engineers of the latitude of considering the dynamics of instantaneous demand with regard to certain utilities?

A Yes.

Q Okay. Now, let's go ahead and talk about the article that you said you are somewhat familiar with.

A Let me point out on the second paragraph, the 1.1 gallons per minute, he is saying that is a minimum allowance. That is the peak hour, according to my calculations.

Q Right, I understand that. You said that you were familiar with the attachment to the memoranda, and first I guess I would direct your attention to that first page where a certain amount of this is underlined. And I believe this underlining comes from the way that we copied the memorandum out of the PSC's files, which says, "What is at times frustrating is that many people in the industry still attempt to transpose such daily quantity information into instantaneous demand information by averaging the flow rate over a whole day's use."

Is that what Mr. Biddy has done in this case?

A Please repeat the question.

Q Well, I'm asking you that what this individual is expressing frustration about, that is the way Mr. Biddy looked at these particular calculations, didn't he?

A Right. He looked at the maximum day and didn't consider the peaks that occur in the system.

Q Right. Then the only other thing I would like you to direct your attention to, Mr. Redemann, is on the next to last page of the attachment under a heading, "Some meaningful conclusions for the two studies." There are some areas there that are blocked off and have one, two, and three written by them, do you see that?

A Yes.

Q Do you agree that looking at the first blocked off area that it says for a four-minute time base the average instantaneous flow was 5-1/4 gallons per minute?

A That is what it says, yes.

Q And then looking at the second blocked-off area, for a 15-minute time base the average flow rate changes to 2-7/10ths gallons per minute?

A Where is that?

Q At the second blocked-off rate. And you have to actually go up, Mr. Redemann, to the top of the next column.

A To 2-7/10ths?

Q Right.

A Yes, that is what it says.

Q Okay. And, finally, looking at the third highlighted area, do you agree that it says there that using a 60-minute time base, the average flow rate changes to 1-4/10ths gallons per minute?

A Yes.

Q Now, are the decreases in average flow rates as the time period increases what you would expect to see?

A I haven't really thought about it, but it is possible.

Q Subject to check, would you agree that if you compared the four-minute flow rate to the 60-minute flow rate, or hourly flow, the ratio would be 3.75 to 1?

A Where is that?

Q Well, I have really made a calculation here for you. Subject to check, would you agree that if you compared the four-minute flow rate to the 60-minute, the hourly flow rate, the ratio would be 3.75 to 1?

A It could be, yes, subject to check.

Q And again, subject to check, if you compared the 15-minute flow rate to the 60-minute flow rate, the ratio would be 1.93 to 1?

A Subject to check.

Q Do you feel that these particular studies contain empirical evidence of the relationship between hourly flows and flows over a shorter period?

A Well, if you look at the data, it was written in 1960, some of it, and we have lower flow devices now, toilets and showers and stuff, so I think the maximums are less than what -- if you compared the same data today.

Q Even given that testimony, Mr. Redemann, which I think therefore would indicate your belief that the relationship might not have -- demonstrate the same mathematically now as it did then, do you agree that you would expect the relationship to be roughly the same? That is, the hourly flows and the flows over a shorter period are going to have the same relationship. The shorter the period that the flows are measured in, the higher the flows are likely to be?

A It could very well be, yes.

Q One thing I noticed in the order that Mr. Reilly had you read from was that we do -- if we find it appropriate to authorize a new methodology that we think is superior to methodologies we have used in the past, we will utilize them. Is that what you understand the Commission's policy to be?

A Yes.

Q Given this type of information, would you be willing on a going-forward basis, or even within the consideration of this case, to consider that a shorter period than max hour might be appropriate for these types of systems?

A I really would like to see some literature from the American Waterworks Association or other recognized industry

leaders on that. I think the maximum day and the peak hour should be used at this time.

Q But with more information you would be willing to revisit that conclusion?

A Sure.

Q With regard to Mr. Biddy's use of average annual days to determine demand in the used and useful formula, do you agree that that fails to recognize the realities of these particular small systems?

A The average annual days? You mean the average of the five days?

Q Yes.

A It would be better to use the maximum day.

Q Did you hear the utility's testimony earlier about what they are doing to address losses of water, unaccounted for water?

A Yes.

Q And does that satisfy you with regard to your testimony that you feel that it is important to know that the utility is making some efforts to address the problem because water is a precious resource?

A Yes.

Q Mr. Redemann, is it reasonable to assume that even a well-maintained collection system which is decades old will not be able to meet the design standard which DEP currently

recommends for new construction with new materials?

A Yes, the older clay pipes that the utility has, I don't know how you would maintain them. You can't paint them like the outside of a building. The only way to maintain them is dig with a backhoe or use a construction company that specializes in the rehabilitation of manholes and collection systems.

Q So you would agree that even well-maintained systems will vary in the amount of I/I based on things like their age, and the soils, and the materials used, and the construction methods that were employed to put them in?

A Yes.

Q Mr. Redemann, hypothetically, even if the Ten-State Standards are applied uniformly by DEP to the design of brand new systems, in your opinion should the Ten-State Standards be the sole source that this Commission uses in making used and useful determinations for systems which may be 20, 30, or even 40 years old?

A No.

MR. WHARTON: That's all we have.

COMMISSIONER DEASON: Redirect.

MS. GERVASI: I have one question and that is with respect to anomalies in flow data.

REDIRECT EXAMINATION

BY MS. GERVASI:

Q If there are anomalies in the flow data, and if no indication was noted on the monthly operating reports submitted to the DEP, would you make an inquiry to the utility?

A Yes. If I thought the flow was out of the normal range, I would ask the utility to investigate to see if there was an anomaly on that date.

MS. GERVASI: Thank you. That's all we have.

COMMISSIONER DEASON: Exhibits.

MR. REILLY: Commissioner, can I ask one question on this exhibit that was just handed out by the utility?

MR. WHARTON: Well, it's not an exhibit.

MR. REILLY: Did you identify it?

COMMISSIONER DEASON: It has not even been identified.

Exhibits?

MS. GERVASI: Staff would move Exhibits RPR-1 through 10, Composite 21.

COMMISSIONER DEASON: That is Exhibit 21. Show that admitted without objection. We had another exhibit identified which was an excerpt from an order, I don't know that it really needs to be admitted.

MR. REILLY: Move that into the record.

COMMISSIONER DEASON: Any objection? Hearing no objection, show Exhibit 22 is admitted.

(Exhibits 21 and 22 admitted into the record.)

COMMISSIONER DEASON: We are going to take a recess and come back at ten minutes after 3:00.

(Recess.)

COMMISSIONER DEASON: Call the hearing back to order. I believe we have a couple of witnesses to which there have been stipulations concerning testimony?

MS. HOLLEY: That is correct, Commissioner. At this time Staff would ask that the testimony of Jay W. Yingling, consisting of 16 pages, be entered into the record as if read.

COMMISSIONER DEASON: Show that testimony inserted into the record. Are there any exhibits?

MS. HOLLEY: Yes, there are three exhibits; JWY-1 through JWY-3.

COMMISSIONER DEASON: Those will be identified as Composite Exhibit 23.

MS. HOLLEY: And we would ask that that be moved into the record, as well.

COMMISSIONER DEASON: And Exhibit 23 shall be admitted into the record.

MS. HOLLEY: And next Staff would ask that the testimony of Dwight T. Jenkins be inserted into the record as if read, consisting of four pages.

COMMISSIONER DEASON: Show that testimony inserted into the record.

MS. HOLLEY: And Mr. Jenkins had prefiled three

exhibits, as well, DTJ-1 through DTJ-3.

COMMISSIONER DEASON: Those exhibits will be identified as Composite Exhibit 24 and shall be admitted into the record.

MS. HOLLEY: Thank you.

(Exhibits 23 and 24 marked for identification and admitted into the record.)

DIRECT TESTIMONY OF JAY W. YINGLING

Q. Please state your name and professional address.

A. Jay W. Yingling, 2379 Broad St., Brooksville, Florida 34604-6899.

Q. Where are you employed?

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

Q. What is your position with the District?

A. Senior Economist.

Q. Please describe your duties in this position.

A. My duties include economic analytic work in support of key District research, planning, programmatic and regulatory functions. More specifically, I participate in rulemaking activities, evaluate proposed rules, prepare or supervise the preparation of Statements of Estimated Regulatory Costs (SERCs), prepare or supervise the preparation economic analyses of water and land issues concerning the District and existing, proposed, and potential District programs. Since the development of the Memorandum of Understanding (MOU) between the FPSC and the five water management districts (1991), I have acted as a liaison to Commission staff on issues of mutual interest addressed in the MOU. This duty has included working with Commission and utility staff on water use permittee related rate structure and conservation issues, attending and presenting at utility customer meetings, and providing testimony in rate hearings.

Q. Please describe your training and experience.

A. I received both B.S. (1982) and M.S. (1984) degrees in Food and Resource Economics from the University of Florida. My academic training included courses on both economic theory (supply and demand) and applied quantitative

analysis (econometrics and statistics). Since March of 1987, I have been employed by the SWFWMD, first as an economist and then as Sr. Economist since June 1991. Prior to working for the SWFWMD, I worked as a Staff Rules Analyst for the St. Johns River Water Management District. I have prepared or supervised the preparation of dozens of SERCs, numerous articles, presentations and reports on water resource economic issues. Perhaps most relevant, I was the District's project manager for the development of the Water Price Elasticity Study completed in 1993 and for the development of the Waterate Model. As stated before, I have also coordinated with Commission staff on rate structure and conservation issues since before 1991. I have testified both on the behalf of the Commission and utilities in rate hearings.

Q. Why does the District promote the use of water conservation-oriented rate structures?

A. For the benefit of all water customers within its jurisdiction, the District promotes the efficient use of water. The longer that we can maintain demand within the limits of available high quality water sources, the longer we can avoid the higher costs of having to develop lower quality sources. For water to be used efficiently, it must be priced in a manner that provides incentives for efficient use.

Over the years, water price elasticity studies have shown that water utility customers are responsive to changes in water price. Extensive statistical studies of utility water demand show that when the price of water increases, demand for water decreases, all other factors equal (such as weather). Economic theory indicates that persons respond to marginal price, the price of the next unit of a good purchased. The marginal price is,

therefore, the appropriate incentive for efficient use.

In much of the SWFWMD, potable quality water is at least a seasonally scarce resource. Water conservation-oriented rate structures reinforce the concept of scarcity and the need to conserve through the marginal price of water. If there is no marginal cost for additional water use or the marginal cost of water declines as more water is used, the scarcity of high quality potable water sources is not adequately reflected and behavioral changes and the adoption of water conserving technologies will be less likely to occur. A flat charge rate structure in which there is no volume charge or marginal cost, or a rate structure that approaches being a flat charge because a large portion of the customer class's use is covered in a minimum use charge, does not send an adequate conservation incentive to customers and does not reward small households that conserve.

Q. What is the purpose of a water conservation-oriented rate structure?

A. From the District's perspective, the purpose of a water conservation-oriented rate structure is to provide economic incentives to reduce per capita water use, or maintain it at a given level. The primary goal is not to change or generate additional revenues for a utility. The intent is to provide incentives for conservation within the rate structure itself through manipulation of fixed and variable charges and the level and/or location of marginal price changes. It is one of a number of tools that can be used to reduce or maintain per capita use, but one that is required in Water Use Caution Areas.

Q. How is a water conservation-oriented rate structure determined?

A. From a permitting perspective, the District has used the same guidelines

on water conservation-oriented rate structure since 1993. These guidelines are called "Interim Minimum Requirements for Water Conserving Rate Structures." In essence the Interim Minimum Requirements prohibit the use of two rate structure forms based on the marginal price signal: flat rates and any other rate structure that includes a large gallonage allotment in the base facility charge.

Flat rates, in which there is a single fixed charge for water use and no gallonage charge, has a marginal price of zero. There is no additional charge for additional gallons used. This structure does not reflect scarcity and provides no disincentive to profligate use. Uniform rate structures, or any other rate structures that are essentially flat rates because a significant portion of the customer class's use falls within the minimum use charge allotment, are not acceptable. The Interim Minimum Requirements indicate:

"Any rate structure in which a significant percentage of a customer class's water use is paid for under a minimum charge would not be considered a water conserving rate structure." (p. 2)

The American Water Works Association (AWWA) M1 rate manual (1991) suggests that only 5% to 15% of residential water bills be rendered under the minimum charge and that "The percentage should not be so high, and the water allowance so great, that it effectively approaches a flat rate for a large number of customers. This would encourage waste of water by those customers who normally would use a smaller quantity of water than that included in the minimum charge." (p. 34) The Interim Minimum Requirements indicate that the permittee may be required to demonstrate the revenue need to exceed the 15%

suggested by the AWWA.

Declining block rate structures are also not acceptable because the marginal price declines as more water is used. Such a structure does not reflect the scarce nature of the resource because the marginal cost of water to the consumer declines as more water is used.

In the literature, many types of rate structures are considered water conserving. The most common among these are inclining block, seasonal, uniform with a seasonal surcharge, ratchet, and excess use charge. All involve some form of higher marginal price for water use based on usage or season. Uniform rates, with a constant marginal price, are sometimes also considered a water-conserving rate structure. To minimize costs to regulated utilities, the District will accept a uniform rate structure when the utility is in compliance with per capita requirements. If it is not in compliance, then a more aggressive rate structure, such as those mentioned where the marginal prices increases based on usage or season, must be implemented.

Q. What permittees are required by rule to comply with the water conserving rate structure requirement?

A. Public water supply utilities with permitted quantities of 100,000 gallons or more that are located in the Southern and Northern Tampa Bay Water Use Caution Areas (WUCAs). The Buena Vista, Orangewood, Summertree/Paradise, and Lake Tarpon systems are located within the Northern Tampa Bay WUCA (see attached map). The rate structure requirements for utilities in the Northern Tampa Bay WUCA is found in Section 7.3.1.2 of the Basis of Review for Water Use Permitting. The authority to require the use water conserving rate structures and the District's flexible approach to the implementation of the

requirement as outlined in the "Interim Minimum Guidelines for Water Conserving Rate Structures" were established in the Division of Administrative Hearings Case No. 94-5742RP commonly referred to as the "SWUCA rule challenge." The hearing officer recognized that "the general concepts as to what constitutes a water conserving rate structure are well recognized in the industry (Final Order, p. 799)." The District's Guidelines are consistent with those general concepts.

In addition to the conditions contained in the Interim Minimum Requirements, there may be other occasions when the District may encourage or require the implementation of a water conserving rate structure or the implementation of a more aggressive water conserving rate structure. One of these occasions would be when the utility is violating the water quantity limits of its permit and may cause or contribute to harm to water resources. Water conserving rate structures are recognized as one of a number of reasonable tools that may be necessary to bring a permittee into compliance when water resources are being harmed.

Q. What other guidance is there on the development of water conserving rate structures?

A. There are other features of a water-conserving rate structure for which the District does not have specific guidelines. However, the District has made available additional recommendations to permittees and the Commission (Whitcomb, 1999) and the literature is rich with recommendations for developing water conserving rate structures (American Water Works Association, 1992; California Department of Water Resources, 1988; California Urban Water Council, 1997).

For example, the fixed charge portion of the bill should be kept to the minimum commensurate with the need for revenue stability. However revenue stability can be enhanced with the establishment of a revenue stabilization fund while keeping the fixed charges reasonably low. A low fixed charge increases the revenue required from gallonage charges and therefore higher gallonage charges. This provides more of a disincentive to wasteful use and more of a reward to the customer for reducing use. Anecdotal information from rate practitioners indicate that a water conserving rate structure should generally not generate more than 30% to 40% of its revenues from fixed charges.

A utility that purchases all of its water does not need to be as concerned about revenue stability as does a utility with its own withdrawals financed by revenue bonds which must be paid regardless of the demand for water.

The marginal price change(s) for an inclining block rate structure should be large enough to give the customer an incentive to reduce usage to the previous block. The higher or last block(s) thresholds(s) should be low enough to cover a significant portion of the customer base or the structure will only have a significant impact on a small portion of the customer base and not have the water conserving effect desired. Similar types of considerations should also be made in the development of other types of water conserving rate structures. Economists would generally agree that the price of the highest block be at least the marginal cost of the next source of water for the utility.

Q. How effective are water conserving rate structures?

A. This is a difficult question to answer - but difficult to answer for a number of good reasons. However, theoretical considerations, their relatively common use, and common sense would indicate that well designed water conserving rate structures are effective. The authors of the Guidebook on Conservation-Oriented Water Rates (California Department of Water Resources, 1988), described the dilemma quite well.

> "First, DWR knows of no city that has adopted conservation-oriented water rates without at the same time enacting a general water rate increase. Therefore, it is not possible to tell how much of the subsequent drop in per capita water consumption was due to a revised rate structure and how much was due to higher water costs.
>
> However, the experiences of Washington, D.C., and Tucson, Arizona, which switched to conservation-oriented water rates in the late 1970's, show significant water savings can result from conservation-oriented water rates. Refer to the excerpts from DWR Bulletin 198-84 (in the back pocket of this guidebook) for more information.
>
> When a city adopts conservation-oriented water rates, some customers will get lower water bills, others will face higher water costs, and some residential customers might see no difference in their annual water costs. The incentive to conserve will come from several factors. First, most users will experience increased summer water bills and lower winter water costs. This is desirable, for conservation is more valuable during the peak

summer months.

Second, large water users will tend to get higher bills under the revised rate schedule, which would provide them with incentives to reduce use.

Third, large residential users, with above-average outdoor use, will tend to get higher water bills under conservation-oriented water rates. Because outdoor use has been found to be more responsive to price than indoor use, the drop in exterior water use by large users should outweigh any increase in water use by apartment dwellers, most of whom will face lower water bills.

A fourth factor in conservation-oriented water rates that leads to reduced water consumption over time is the fact that everyone now knows if a household gets careless and increases its water use, its water bill will increase more under the revised rate schedule than it would have under the old rate schedule.

The final factor explaining the use of pricing incentives to encourage conservation is the concept of marginal cost. Marginal cost is the cost of purchasing one more unit of a good or service. Although switching to conservation-oriented water rates will mean that some users will face lower average costs, virtually everyone should face significantly higher marginal water costs (if the new rates are truly conservation-oriented).

Economic studies often indicate that consumers make purchase decisions based more on marginal costs than average costs.

So although it is not possible to quantify the above five

factors for each city to determine exactly how much water would be saved by switching to conservation-oriented water rates, DWR believes that a city with typical water rates (a conservation index number of approximately 0.7) switching to these conservation rates (an index number of 1.0) would be equivalent to the effect of raising the average price of water by 10 to 20 percent, while keeping the old rate structure.

This would mean that if the above typical city (with a winter PED[1] of -0.25 and a summer PED of -0.35) were to adopt these conservation rates, it could expect a decline in per capita residential winter water use of 2.5 to 5 percent and a decline in summer per capita residential water use of 3.5 to 7 percent. Commercial, industrial, and public-authority water use could also be expected to decline if conservation-oriented water rates are applied to those user classes."

As noted above, it is quite difficult to find a utility that has adopted a water-conserving rate structure that has not also included an increase in revenues. Further, to isolate the effects of the structure change from other water demand variables, it may be necessary to perform complex and expensive statistical analyses. Utilities are not inclined to perform such analyses. There is, however, some anecdotal evidence of the effectiveness of the water conserving rate structures.

In 1995, the Homosassa Special Water District implemented a revenue neutral water conserving rate structure. The rate structure was designed

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[1] PED is the price elasticity of demand.

using the District's Waterate model. Although no formal statistical analysis of the effect of the rate structure has been performed, in a recent telephone conversation between myself and utility superintendent Dave Purnell, Mr. Purnell was quite firm in his conviction that the water conserving rate structure (inclining block) played a significant role in reducing per capita water use in the service area (telephone conversation on October 23, 2001).

In 1993, Sarasota County changed their inclining block rate structure to a more aggressive inclining block rate structure. Again, the change was designed to be revenue neutral. Per capita use declined significantly in the years following the structure change. No other significant conservation programs were implemented during the same period. Although no formal statistical analysis of the effect of the rate structure has been performed, David Cook, Manager of Finance and Administrative Services for Environmental Services, was confident that the rate structure change played a significant role in the decline in per capita water use in Sarasota County's service area (telephone conversation on October 25, 2001).

In 1991, the Spalding County Water Authority (Georgia) changed from a declining block rate structure to an increasing block rate structure. As a result, the average customer's bill increase by $1.99 per month. The estimated price elasticity for the rate change was -.33. In 1993, the average bill was increased by $2.13 per month without a change in rate structure. The estimated price elasticity for the 1993 rate change was only -.07. A simple 't' test was conducted to determine if weather was significantly different between the two periods. It was not. In addition, no other conservation programs were implemented during either period of time. The author concludes

that the change in rate structure was a significant contributing factor to the larger response to the rate change in 1991 (Jordan, 1994).

Another study in Georgia in 1992 indicated that the daily water use for systems using declining block rate structures was 503 gallons per connection, 428 gallons for systems using uniform rate structures, and 352 for systems using inclining block rate structures (Jordan and Elnagheeb, 1993).

Q. Do the subject Utilities, Inc. of Florida utilities' existing and proposed rate structures comply with the District's water conserving rate structure requirement?

A. All of the utilities located within the SWFWMD appear to be within their per capita water use requirements so we would not require a more aggressive rate structure such as an inclining block structure. The proposed uniform rates would be considered sufficient. We also think that moving from a bi-monthly to a monthly billing period, so long as the meter reading is also monthly, is an improvement. However, the Wis-Bar and Buena Vista systems have proposed maintaining minimum gallonage charges. According to information provided by the Commission, 96% of bills in the Wis-Bar system fall below the 3,000 gallon minimum charge allotment. At the Buena Vista system, 93% of the bills fall below the 5,000 gallon minimum charge allotment. Both of these greatly exceed the 15% minimum gallonage charge thresholds contained in the District's Interim Minimum Requirements document and the AWWA's M1 Water Rates manual. In effect, these are flat rates which the District does not consider to be water conserving. There is little incentive in such a rate structure for further conservation.

According to data provided by the Public Service Commission, the percent

of revenues from the combined fixed charges for all four of the utility's systems in Pasco County exceed 40% and are being proposed to increase from 72% to 76% of revenues. The District does not believe that such a high percentage of revenues from fixed charges are consistent with the intent of a water-conserving rate structure. The Lake Tarpon utility's fixed charges also exceed 40% of revenues under both the current and proposed rate structures. The District recommends that the percentage of revenues from fixed charges be lowered as close to the 30% to 40% range as practical.

Q. What level of price elastic effect (repression) from price increases can be expected?

A. In 1991 the District was developing the WUCA rules which included the requirement for water conserving rate structures to be used as a demand management tool. At the time there were no large sample estimates of water price elasticities that included a wide range of prices in the sample. There is a wide range of water prices in the District due to source water of varying quality. In the simplest terms, price elasticity is the percent change in demand for a percent change in price.

Given the proposed rule changes, it was deemed desirable to conduct a large-scale price elasticity study to assist utilities in the District in estimating reductions in demand due to rate structure and price level changes. Brown and Caldwell in association with Dr. John Whitcomb were engaged to conduct the study. The price elasticity study, the most comprehensive ever known to be conducted in the State of Florida, was completed in 1993. The study demonstrated that single-family residential water price elasticity changes over a large range of prices.

Over the years Dr. Whitcomb has revised the single-family residential price elasticity estimates to make them more accurate. In spite of changes to the single-family estimation equation, the price elasticities have remained quite stable in the relevant price ranges and within the ranges of other single-family residential price elasticity estimates. The 1999 revised estimates of single-family residential water and sewer price elasticities are:

Water/Sewer Marginal Price[2]	Price Elasticity
Under $1.50/kgal	-.393
$1.50 to $3.00/kgal	-.687
Over $3.00/kgal	-.242

For example, a 1% increase in price in the $1.00 to $1.50 range would be expected to result in a .393% reduction in water use. Previous studies of overall (indoor & outdoor) single-family residential price elasticity studies in Florida estimated elasticities ranging from -.23 (Brown and Caldwell, 1990), to -.81 (Lewis et al., 1981). As can be seen, the 1999 revised elasticities are consistent with and well within the range of other residential price elasticity estimates conducted in Florida. Not taking into account these estimated price elastic effects in rate making creates the risk of falling short of revenue requirements.

In terms of the timing of price elastic response, Dr. Whitcomb believes that approximately 50% of the price elastic effect occurs within the first year with the remaining 50% spread over the following two years. This allocation is reflected in the Waterate rate model developed by Dr. Whitcomb.

Q. Are there any other compliance issues that should be addressed?

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[2]Expressed in 1992 dollars.

A. Yes. Subsection 1.3 of Section 7.3 of the District's Basis of Review for Water Use Permitting indicates that utilities in the Northern Tampa Bay Water Use Caution Areas must take remedial actions to address reduction of unaccounted water uses that exceed 12%. According to data provided by the Public Service Commission, the Orangewood (17.5%), Summertree (16.2%), and Lake Tarpon (20.6%) systems all exceed the 12% threshold for utilities in Water Use Caution Areas.

Section 3.6 of the Basis of Review also indicates that utilities outside of Water Use Caution Areas may be required to address reduction of unaccounted water uses that exceed 15%. The Golden Hills/Crownwood system's unaccounted use exceeds 22% and far exceeds the 15% threshold. Given the amount by which these utilities exceed the respective thresholds, actions must be taken to reduce unaccounted use below the appropriate thresholds.

Q. Does this conclude your testimony?

A. Yes.

DIRECT TESTIMONY OF DWIGHT T. JENKINS

Q. Would you please state your name and business address?

A. My name is Dwight T. Jenkins. My business address is 4049 Reid Street, Palatka, Florida.

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

A. I am employed by the St. Johns River Water Management District as the Director of the Division of Water Use Regulation.

Q. Would you please summarize your educational and professional experience?

A. I graduated from the University of Florida in 1981 with a Bachelor of Science degree in Geology. I received my Masters of Science degree in Geology from the University of Florida 1983, and my Juris Doctor degree in 1994 from the University of Florida College of Law. I am a licensed Florida Professional Geologist and a member of The Florida Bar.

I began my professional employment as a hydrogeological consultant in 1984, and in 1986 I was employed by the St. Johns River Water Management District as the Manager of the District's Orlando office. In this capacity, I was responsible for overseeing that office's water use and compliance/enforcement programs. In 1997, I became Director of the District's Division of Water Use Regulation. My responsibilities include managing the District's water use water well regulatory programs which includes specific responsibilities for overseeing the District's water use permitting and compliance programs, formulation of District water use, compliance, enforcement and water shortage policies, directing staff reviews and processing of consumptive use water well permit applications, coordination with local government and the regulated public utilities, and testifying as

an expert witness in administrative hearings.

Q. Would you please summarize you testimony?

A. The purpose of my testimony is to:

(a) identify the District's priority water resource caution areas,

(b) discuss the status of the utility's compliance with their consumptive use permits,

(c) present the District's views on bi-monthly verses monthly billing, and

(d) discuss whether conservation-oriented rate structures should be applied to the utility systems within the District's jurisdiction.

Q. Have you attached any exhibits to your testimony?

A. Yes. I have attached three exhibits to my testimony:

(a) Exhibit DTJ-1 contains my professional resume.

(b) Exhibit DTJ-2 presents a map of the District's 1998 priority water resource caution area boundaries,

(c) Exhibit DTJ-3 presents a map of the District's 2003 priority water resource caution areas.

Q. Would you please describe a priority water resource caution area?

A. A priority water resource caution area is identified based on a comparison of water resource constraints to the results of assessments of hydrologic impacts due to projected 2025 demands. These are areas within which anticipated sources of water and conservation efforts are determined to be not adequate to supply water for all existing uses and reasonably anticipated future needs and to sustain the water resources and related natural systems through 2025.

Within these identified priority water resource caution areas, the impacts of current or projected demands exceed the water resource constraints for natural systems and/or groundwater quality. These priority water resource caution areas cover approximately 40% of the District and include all or parts of Alachua, Brevard, Flagler, Lake, Marion, Orange, Osceola, Seminole, St. Johns, Putnam, and Volusia counties. The 2003 boundaries of the priority water resource caution areas include areas that were not within the 1998 boundaries. These additional areas include portions of Alachua, Marion, and Putnam counties, and northeastern Volusia county.

Q. Are any of the utility's systems in Seminole or Orange counties located in priority water resource caution areas?

A. Yes, all of the utility's systems in Seminole and Orange counties are located within priority water resource caution areas.

Q. Turning now to the next area of your testimony, would you please summarize the utility's compliance with its consumptive use permits?

A. Of the Utilities, Inc. of Florida systems under consideration in this case which are within the District's jurisdiction, all are currently in compliance with their consumptive use permits.

Q. Would you please present the District's views on bi-monthly billing verses monthly billing for the utility's water customers?

A. The District prefers that a utility bill their customers on a monthly basis. This provides water users with more current information regarding their water use and allows the customer to spot waste and leaks if they exist and to adjust water use appropriately.

Q. The utility has requested that all counties be allowed to continue the

standard base facility charge/uniform gallonage charge rate structure. Does the District agree with this?

A. The District, pursuant to our rules, will require the utility to implement a conservation rate structure. Such structures are generally three or four tier inclining rate structures. However, the District does allow single or two tiered structures so long as the rates are sufficiently high as to promote conservation. For example, a single tiered structure that charges $3.00 per 1000 gallons meets the District's requirements for a conservation rate structure.

Q. What is the maximum percentage of fixed costs that the District would like to see in the base facility charge?

A. The maximum percentage of fixed costs that the District would like to see in the BFC is 40%. The reason for this limit is that the District wants to have at least 60% of the cost tied to actual water use (gallonage charge) since charge for the actual amount of water used promotes conservation.

Q. Does the District recommend that the utility's rate structures be changed in this proceeding to be consistent with the District's requirements?

A. Yes, Since the District's rules require that utilities implement conservation rate structures, the District recommends that it is more efficient to change the utilities' systems rate structures as necessary in this proceeding to be consistent with District requirements. In this way, UIF will more timely comply with the District's rate structure requirements.

Q. Does that conclude your testimony?

A. Yes.

MS. HOLLEY: And Staff now calls witness Frances J. Lingo.

FRANCES J. LINGO

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

DIRECT EXAMINATION

BY MS. HOLLEY:

Q Please state your name for the record.

A Frances J. Lingo.

Q And, Ms. Lingo, have you been previously sworn in?

A Yes, I have.

Q Did you prefile direct testimony in this proceeding consisting of 38 pages?

A Yes.

Q And do you have any changes or corrections to make to your testimony?

A Yes, I do.

Q Please make those changes.

A On Page 8, Line 16, the number 13014 should be changed to 810386-W. On Page 30, Line 22, the word Marion should be changed to Pasco. On Page 38, Line 10, the number negative 0.398 should be changed to negative 0.393.

COMMISSIONER BRADLEY: What page is that?

THE WITNESS: That is Page 38, sir. Again on Page

38, Line 12, the number negative 0.682 should be changed to negative 0.687. Also on Page 38, Line 13, the number negative 0.247 should be changed to negative 0.242. That concludes my changes.

MS. HOLLEY: Thank you.

BY MS. HOLLEY:

Q Ms. Lingo, if I were to ask you the same questions as posed in your testimony, would your answers be the same today?

A Yes. I am aware, though, of additional information filed by the utility which has been entered as Composite Exhibit 6. This information appears to address problems with the utility's filing, which I discuss in my testimony. However, since the appropriate evaluation of the newly received information will be made by advisory staff, my testimony stands as written.

MS. HOLLEY: Thank you.

Commissioner, at this time may we please have Ms. Lingo's prefiled direct testimony with those oral modifications made inserted into the record as if read?

COMMISSIONER DEASON: Without objection, show it inserted.

MS. HOLLEY: Thank you.

BY MS. HOLLEY:

Q Ms. Lingo, did you also prefile Exhibits FJL-1 through FJL-8 with your testimony?

A Yes.

Q And do you have any corrections to those exhibits?

A No.

MS. HOLLEY: May we have a number assigned to those exhibits, please?

COMMISSIONER DEASON: Composite Exhibit 25.

(Composite Exhibit 25 marked for identification.)

DIRECT TESTIMONY OF FRANCES J. LINGO

Q. Would you please state your name and business address for the record?

A. My name is Frances J. Lingo. My business address is 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

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

A. I am employed by the Florida Public Service Commission (Commission) as an Economic Analyst in the Bureau of Certification, Economics and Tariffs in the Division of Economic Regulation.

Q. How long have you been employed by the Commission?

A. I have been employed by the Commission since June 12, 1989.

Q. Would you please state your educational background and experience?

A. I received a Bachelor of Science Degree with a major in Accounting, and a Bachelor of Science Degree with a major in Economics, both from The Florida State University, in August 1983.

From October 1983 to May 1989, I was employed by Ben Johnson Associates, Inc. (BJA), an economic and analytic consulting firm specializing in the area of public utility regulation. During my employment at BJA, I performed research and analysis in more than 75 utility rate proceedings, assisting with the coordination and preparation of exhibits. I also assisted with the preparation of testimony, discovery and cross-examination regarding rate design issues.

In particular, I prepared embedded cost-of-service studies, made typical bill comparisons and examined local service rate and cost relationships. I studied residential and general service rates, customer charges, management decision-making processes, slippage in the engineering and construction of

nuclear power plants, nuclear versus coal plant costs and seasonal load and usage patterns.

In June 1989, I joined the Commission as a Regulatory Analyst II. In June 1990, I was promoted to Regulatory Analyst III; in October 1991, I was promoted to Regulatory Analyst IV; and in April 1996, I was promoted to my current position of Economic Analyst.

Q. Would you please describe your experience and duties at the Commission?

A. Yes. My experience at the Commission includes but is not limited to:

(a) reviewing water and wastewater cases to identify economic and rate issues associated with rate structure, repression and forecasted billing determinants;

(b) performing accounting, engineering, economic and statistical analysis on those issues, and presenting recommendations (and expert testimony when necessary) on those issues;

(c) developing and promoting liaison activities with other governmental agencies, including the Department of Environmental Protection, the Water Management Districts (WMDs), and other government agencies;

(d) reviewing and evaluating staff-assisted rate case (SARC) filings, auditing utilities' books and records, developing rate base, rate of return and revenue requirements, and preparing and presenting recommendations in cases in which I am involved;

(e) conducting overearning investigations; and

(f) conducting research and other duties relating to water and wastewater utilities subject to the Commission's jurisdiction.

In addition, I have been a faculty member of the National Association of Regulatory Utilities Commissioners (NARUC) Annual Regulatory Studies Program at Michigan State University since 1998, and a faculty member of the Eastern Utility Rate School since 1997, lecturing on water pricing concepts.

Q. Have you previously filed testimony or testified before this Commission on behalf of Commission Staff?

A. Yes. In January 1993, I testified in the show cause portion of Docket No. 900025-WS regarding the application for a staff-assisted rate case by Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks). In August 1994, I testified in Docket No. 930944-WS regarding the revocation of the water and wastewater certificates of Shady Oaks. In October 1996, I testified in Docket No. 950615-SU regarding the application for approval of a reuse project plan and an increase in wastewater rates by Aloha Utilities, Inc. In May 2001, I filed testimony in Docket No. 991437-WU regarding the application for an increase in water rates by Wedgefield Utilities, Inc. And in November 2001, I filed testimony in Docket No. 010503-WU regarding the requested rate increase of Aloha Utilities, Inc.

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

A. The purpose of my testimony is to:

(a) discuss general background information regarding the counties and systems included in the filing of Utilities, Inc., of Florida;

(b) discuss the utility's request to implement county-specific single tariff pricing in Pasco and Seminole Counties as shown in the utility's Minimum Filing Requirements (MFRs), and to make recommendations regarding this request;

(c) recommend the appropriate billing determinants for the Marion County bulk wastewater customer shown in Schedule E-2 of the utility's MFRs;

(d) explain the Memorandum of Understanding (MOU) that exists between the Commission and the five Water Management Districts (WMDs), and how the Commission and the WMDs work together in cases;

(e) discuss the appropriate design of conservation-oriented water rates for each county, and discuss whether inclining-block rates are appropriate as addressed in the testimony of Staff witnesses Jenkins and Yingling;

(f) discuss the concept of reallocating a portion of wastewater systems' revenue requirements to the corresponding water systems, and recommend whether it is appropriate to reallocate revenue requirements in this case;

(g) analyze UIF's requested rate design for its water systems;

(h) develop a series of illustrative rate designs for the water systems, and make recommendations based upon my analysis;

(i) discuss the wastewater rates in Marion County; and

(j) discuss whether repression adjustments to reflect customers' anticipated response to price changes and rate structure changes are appropriate.

Q. Have you prepared exhibits in this case?

A. Yes, I have prepared 8 exhibits. The exhibit numbers and titles are listed below.

Exhibit No.	Exhibit Title
FJL-1	Utilities Inc. of Florida: Current Water Rate Design
FJL-2	Utilities, Inc. of Florida: Proposed Water Rate Design
FJL-3	Utilities, Inc. of Florida: Current Wastewater Rate Design
FJL-4	Utilities, Inc. of Florida: Proposed Wastewater Rate Design
FJL-5	Utilities, Inc. of Florida: Proposed Base Facility Charge Differentials
FJL-6	Utilities, Inc. of Florida: Increase in Water System Cost per Customer Due to Change to Monthly Billing
FJL-7	Utilities, Inc. of Florida: Analysis of Requested Rate Design - Water Systems
FJL-8	Utilities, Inc. of Florida: Illustrative Water Rate Design

Q. Would you please discuss briefly the general background information regarding this utility?

A. Yes. Utilities, Inc., of Florida (UIF) is a class A water and wastewater utility providing service in Marion, Orange, Pasco, Pinellas and Seminole counties. According to Exhibit (FS-1) Schedule No. 1 attached to the testimony of utility witness Frank Seidman, UIF served an average of 6,801 water customers and 2,463 wastewater customers in its combined five-county service area during the historical 2001 calendar year test period.

According to utility witness Seidman, in Marion county, the utility has

two systems: Golden Hills (including the interconnected Crownwood system) which provides water service, and Crownwood which provides wastewater service. In Orange county, the utility has two water systems: Crescent Heights and Davis Shores. In Pasco county, the Summertree and Wis-Bar systems provide both water and wastewater service, while two other systems - Buena Vista and Orangewood - provide water-only service. The sole system in Pinellas county is Lake Tarpon, a water-only system.

Finally, with respect to Seminole county, the utility has nine systems consisting of two water and wastewater systems and seven water-only systems. The Weathersfield system (including Trailwood and Oakland Hills) and Ravenna Park/Lincoln Heights systems provide water and wastewater service. The Little Wekiva, Park Ridge, Phillips, Crystal Lake, Bear Lake, Jansen and Oakland Shores systems provide water-only service.

Q. Let's begin with the single tariff pricing portion of your testimony. Have you read the prefiled testimony of utility witness Mr. Steven Lubertozzi?

A. Yes, I have.

Q. Does Mr. Lubertozzi discuss or support county-specific single tariff pricing by the utility in his testimony?

A. No, he does not. However, a review of MFR Schedules E-1 and E-2 indicate that the utility is requesting county-specific single tariff pricing for its systems in Pasco and Seminole Counties.

Q. Would you please explain the concept of county-specific single tariff pricing?

A. County-specific single tariff pricing aggregates the costs, investments, rate structures and customers of the utility across the multiple systems

located in the county for all water facilities and computes an average water rate. This average rate is typically expressed in terms of a uniform base facility charge per equivalent residential connection and a uniform gallonage charge. Uniform wastewater rates are calculated in a similar manner.

Q. What are the benefits of moving to county-specific single tariff pricing (STP)?

A. Benefits of STP may include, but are not limited to: 1) spreading costs over a greater customer base in order to promote rate levelization and minimize rate shock in future cases; 2) a consolidation of administrative functions, resulting in economies of scale and reduced expenses; and 3) reduced expenses associated with regulatory reporting requirements.

Q. What factors should be considered when moving from multiple rate structures to single tariff pricing?

A. In my opinion, the most important factor to consider is whether the move to single tariff pricing unfairly penalizes the customers of one system or systems at the benefit of other customers. Therefore, a subsidy analysis is required. This analysis is not merely important, but essential. Chapter 367.081(2)(a)1, Florida Statutes, states that the Commission shall fix rates which are just, reasonable, compensatory and not unduly discriminatory. I do not believe that a determination can be made about whether potential rates are unduly discriminatory unless a subsidy analysis is performed.

Q. Isn't there some level of subsidization inherent in any rate design?

A. Yes, that is correct. Any rate design involves trade-offs among competing policy objectives. However, if a utility has requested some form of rate consolidation or STP, I believe an analysis of the subsidization

across the systems involved is essential. Otherwise, it is not possible for the Commission to make a determination whether the subsidization results in rates that are unduly discriminatory.

When performing the subsidization analyses, however, one should also remember that the water and wastewater industry is very capital intensive, and plant additions to satisfy environmental requirements are common. It is possible that a system which subsidizes another system in one year will, after plant additions, receive a subsidy in later years. Therefore, the subsidy analysis should include an analysis of the anticipated plant expansions and customer growth over the utility's relevant planning period.

Q. Has the Commission approved county-specific single tariff pricing in prior proceedings?

A. Yes. The Commission has approved county-specific single tariff pricing (also referred to as rate consolidation or county-wide rates) since at least 1983. Cases in which county or statewide pricing has been approved as an appropriate rate structure include Dockets Nos. ~~13014~~ 810386-W, 960444-WU and 930880-WS.

Q. What decision criteria has been included in the analysis in these cases?

A. The Commission has considered factors including but not limited to: a) the relative cost of providing service (e.g., the magnitude of the subsidies that must be absorbed by the service area(s) whose stand-alone rates are lower than uniform rates); b) customer density; c) the relative levels of contributions-in-aid-of-construction associated with the various systems; d) ages of the various systems; e) long term benefits of stand-alone vs. uniform rates; and f) whether the systems share common management, operations,

maintenance, purchasing, billing or customer service personnel.

Q. Have you analyzed the utility's request for single tariff pricing in Pasco and Seminole Counties in this case?

A. Yes, I have.

Q. What is your recommendation regarding the utility's request?

A. Based upon my review and analysis of the information provided by the utility in its Minimum Filing Requirements (MFRs), responses to data requests, production of documents and deposition late filed exhibits (LFEs), I do not believe staff has sufficient information to calculate either single tariff rates or stand-alone rates in Pasco or Seminole Counties. Therefore, I recommend that the utility's requested rate relief in those counties be denied.

Q. Please discuss your evaluation of the Pasco County water filing.

A. Although UIF has purported to request single tariff pricing for its Pasco County water systems, it has not done so. Since UIF has requested that the 3,000 gallon (kgal) allotment be continued for its Wis-Bar system and the 5 kgal gallon allotment be continued for its Buena Vista system, UIF has actually requested three different rate structures for its water service in Pasco County.

Q. What is the Commission's practice regarding gallonage allotments in the base facility charge (BFC)?

A. The Commission's practice is to eliminate allotments contained in the BFC because this type of rate structure does not send appropriate conservation signals.

Q. Has the utility indicated why it requested that the gallonage allotments

for its Wis-Bar and Buena Vista systems be continued?

A. Yes, it was to avoid confusion in the revenue calculations. More specifically, in response to staff's second set of interrogatories, no. 56, when staff asked UIF about its reason for keeping the kgal allotments in the BFC the utility responded:

> UIF does not propose to eliminate the gallon allotments in its Buena Vista and Wis-Bar systems. The gallon allotment is still used to calculate revenue requirements . . . . UIF's current tariff allows for the allotment and chose not to eliminate it to avoid confusion in the revenue calculation.

It seems apparent from this response that the utility does not understand what constitutes a county-wide single tariff pricing structure.

Q. What are the implications of approving UIF's rate design request in Pasco County?

A. Keeping these allotments would, under UIF's Pasco County rate design proposal, result in inequities between customers. The Buena Vista residential customers would pay the single tariff (uniform) BFC but have a 5 kgal allotment, the Wis-Bar residential customers would pay the uniform BFC but have a lesser, 3 kgal allotment, while the remaining residential customers in the Summertree and Orangewood systems would pay the uniform BFC but have no gallons included as part of that BFC. This is unfair and should not be approved.

Q. Are there other problems with the Pasco County water filing?

A. Yes. In Mr. Steven Lubertozzi's deposition late filed exhibit (LFE) no. 7, he was asked to calculate, for the four water systems in Pasco County, what

the stand-alone rates for each system would be if UIF were requesting that stand-alone pricing be continued in this proceeding. Mr. Lubertozzi complied with this request for all systems except the requested stand-alone rates for the Wis-Bar water system.

Q. Did you receive an explanation as to why the Wis-Bar water rates were not provided in response to your request?

A. Not really. Contained in Mr. Lubertozzi's LFE no. 7 is a calculation for the Wis-Bar water system which indicates that system is earning 20.48%. On a subsequent page, he shows a calculation for all of the Pasco County water systems combined, in which the total requested annual revenues is reduced due to the overearning of the Wis-Bar water system. Finally, on the rates calculation page for the Wis-Bar water system, there is a statement which reads, "N/A, per revenue requirement and return on rate base page." Mr. Lubertozzi still has not provided the stand-alone rates for the Wis-Bar water system.

Q. Why is it important for UIF to provide stand-alone rates for each of its four water systems in Pasco County?

A. If the Wis-Bar water system is indeed earning more than its authorized return and the remaining three Pasco County water systems are earning less than their authorized return, there would be an obvious subsidy flowing from the Wis-Bar water system to the remaining systems.

However, staff cannot calculate the magnitude of any subsidies between the Pasco County water systems without the information from the Wis-Bar system.

Q. Are there other problems associated with the Pasco County water filing?

A. Yes. There may be other Pasco County water systems which would subsidize one or more of the remaining Pasco County systems if a single tariff rate structure was approved. Without the appropriate information, staff is unable to calculate the magnitude of any potential subsidy as part of the analysis in determining whether a single tariff pricing structure is appropriate for Pasco County's water systems.

Q. Are there more problems associated with the Pasco County water filing?

A. Yes. Exhibit FJL-1 replicates the utility's MFR Schedules E-2 for the water systems at current annualized rates. As shown at the bottom of column (h) on p. 3 of Exhibit FJL-1, Pasco County's current rates and billing determinants appear to generate revenues of $399,736 per its Schedule E-2. However, as also shown at the bottom of column (h), a calculation of those same rates and billing determinants yields revenues of $432,124, or $32,388 more than is shown on Pasco County's Schedule E-2 at current rates. Furthermore, Exhibit FJL-2 replicates the utility's MFR Schedules E-2 for the water systems at proposed rates. As shown at the bottom of column (h) on p. 3 of Exhibit FJL-2, the proposed rates appear to generate revenues of $517,845, while a calculation of the proposed rates and billing determinants on that page yields revenues of $561,414, or $43,569 more than is shown on the corresponding MFR Schedule E-2, p. 3 for Pasco County.

Q. Why is this a problem?

A. These inconsistencies indicate that either the billing determinants are incorrect or that the proposed rates may be too high. Staff is unable to accurately calculate the subsidies flowing from one system to another under either of these possible scenarios.

Furthermore, the proposed BFCs for Pasco County's water systems are not based on the appropriate equivalent residential connection (ERC) meter equivalents as provided by the American Water Works Association (AWWA) and Rule 25-30.110, Florida Administrative Code. As shown in the last column on Exhibit FJL-5, the differential between the utility's BFC for meter sizes greater than 5/8" are all consistently understated compared to the appropriate ERC differentials based on the aforementioned rule and AWWA standards. This is another indication that the proposed rates for the Pasco County water systems have been calculated incorrectly.

Q. In the event the Commission decides to approve rate relief for Pasco County, is there another rate design option which should be considered in addition to system-specific stand-alone rates and county-specific single tariff pricing?

A. Yes. The additional rate structure I recommend for consideration is one that minimizes the cross-subsidization between systems. In this pricing method, consolidation within a county is based upon substantial similarities in the cost of service and the resulting rates, thereby reducing the magnitude of the cross-subsidization between systems.

Q. How would these rates be calculated?

A. Rather than combine the costs, investments and billing determinants of all four water systems under single tariff pricing, systems would be combined based on minimizing the subsidies.

Q. What are some possible combinations of this rate consolidation alternative for Pasco County's water systems?

A. There are several possible combinations, including consolidating two

systems under one unified rate structure, while consolidating the other two systems under another unified rate structure. Another would be to combine three systems under a unified rate structure, while leaving the fourth system on a stand-alone basis. I would point out, however, that it is imperative that UIF provide staff with the correct stand-alone rates for each system, or else the subsidies resulting from the different combinations cannot be appropriately calculated.

Q. Have you reviewed UIF's Pasco County wastewater filing?

A. Yes, I have.

Q. Please share your comments.

A. First, as with the water system, the proposed BFCs for the Pasco County wastewater systems are not based on the appropriate equivalent residential connection (ERC) meter equivalents as provided by the American Water Works Association (AWWA) or Rule 25-30.110, Florida Administrative Code. As shown in the last column on Exhibit FJL-5, the differential between the utility's BFCs for meter sizes greater than 5/8" are consistently understated compared to the appropriate ERC differentials based on AWWA standards. This is an indication that the proposed rates for the Pasco County wastewater systems are incorrect, which means that staff calculations regarding potential subsidies between the Pasco County wastewater systems cannot be calculated correctly.

Q. Are there other problems?

A. Yes. Exhibit FJL-3 replicates, with the exception of Marion County, the utility's MFR Schedules E-2 for the wastewater systems at current annualized rates. As shown at the bottom of column (h) on p. 2 of Exhibit FJL-3, Pasco County's current rates and billing determinants appear to generate revenues

of $285,769 per its Schedule E-2. However, as also shown at the bottom of column (h), a calculation of those same rates and billing determinants yields revenues of $305,654, or $19,885 more than is shown on Pasco County's Schedule E-2 at current rates. Furthermore, Exhibit FJL-4 replicates, also with the exception of Marion County, the utility's MFR Schedules E-2 for the wastewater systems at proposed rates. As shown at the bottom of column (h) on p. 2 of Exhibit FJL-4, the proposed rates appear to generate revenues of $362,832, while a calculation of the proposed rates and billing determinants on that page yields revenues of $374,075, or $11,243 more than is shown on the corresponding MFR Schedule E-2, p. 6 for Pasco County.

Q. Why is this a problem?

A. These inconsistencies indicate that either the billing determinants are incorrect or that the proposed rates may be too high. Staff is unable to accurately calculate the subsidies flowing from one system to another under these circumstances.

Q. Are there more problems with the Pasco County wastewater filing?

A. Yes. A review of UIF's proposed wastewater gallonage charges indicates that the utility is proposing to eliminate the differential between residential and general (or commercial) service. However, the utility has provided no basis or support for this proposed change. Interestingly, the utility requested in Docket No. 930826-WS for Marion and Pinellas Counties that it be allowed to charge the same wastewater charge for residential and general service customers. The utility made the same request in Docket No. 940917-WS in a case involving Seminole, Orange and Pasco Counties. As discussed in Order No. PSC-94-0739-FOF-WS, issued on June 16, 1994, and in

Order No. PSC-95-0574-FOF-WS, issued on May 9, 1995, the Commission usually authorizes a differential in the wastewater gallonage charge to reflect the allowance for water used for irrigation and other purposes where the water is not collected and treated by the wastewater system. The Commission found it appropriate in both the aforementioned cases to continue a 20% differential in the wastewater gallonage charge between the utility's residential and general service customers.

In addition, the 20% differential is Commission practice. Since the wastewater gallonage charges have been calculated without a residential/general service differential, the resulting gallonage charges are incorrect. Again, proposed rates that are incorrect will preclude staff's appropriate subsidies calculations.

Q. Would you please summarize the problems associated with UIF's Pasco County filing?

A. Yes. With regard to the water system, due to the failure of the utility to provide information regarding the appropriate stand-alone rates for the Wis-Bar system, staff is unable to calculate any subsidization between systems that would result from moving from stand-alone rates to single tariff pricing. Furthermore, because the proposed rates generate more revenue than is shown on p. 3 of Pasco County MFR Schedule E-2, either the associated billing determinants or the proposed rates contained in the MFRs for Pasco County may be incorrect. If the proposed rates are incorrect, then staff's subsidy analysis will also be incorrect. If the billing determinants for Pasco County's water systems are incorrect, we will be unable to calculate even stand-alone rates, should the decision of the Commission be that the systems

remain on a stand-alone basis. Finally, UIF's proposed BFCs appear incorrect, as the ERC differentials are not consistent with either the requirements set forth in Rule 25-30.110, Florida Administrative Code, or water industry standards. This problem is yet another indication that the proposed rates are incorrect, which precludes an appropriate analysis of subsidies as well.

With regard to the wastewater system, the utility has, without support, proposed to eliminate the differential between residential and general (or commercial) service, which is not only contrary to the Commission's findings in prior UIF cases, but also contrary to Commission practice. Therefore, the calculation of the gallonage charges are incorrect. In addition, UIF's proposed BFCs appear incorrect. These problems are indications that the proposed rates for the wastewater system are incorrect. Staff cannot perform an appropriate subsidy analysis based on rates that are incorrect. Finally, because the proposed rates generate more revenue than is shown on p. 6 of Pasco County MFR Schedule E-2, either the associated billing determinants or the proposed rates contained in the MFRs for Pasco County may be incorrect. If the proposed rates are incorrect, then staff's subsidy analysis will also be incorrect. If the billing determinants for Pasco County's wastewater systems are incorrect, staff will be unable to calculate even stand-alone rates.

Based on the problems enumerated above, staff is unable to calculate rates on either a single tariff, consolidated or stand-alone basis. Therefore, I recommend that the requested rate relief for Pasco County be denied.

Q. Have you reviewed UIF's filing for its water and wastewater systems in

Seminole County?

A. Yes, I have.

Q. Would you please explain UIF's requested rate structure for the water systems in Seminole County?

A. Yes. Currently, there are eight water systems operating under a uniform rate structure, while the Oakland Shores system is priced on a stand-alone basis. The utility proposes to combine the Oakland Shores system with the other eight water systems, resulting in a county-wide single tariff rate structure.

Q. Are there problems associated with the utility's Seminole County water filing?

A. Yes. The primary area of concern centers around the appropriate customer count and resulting gallons sold for the Oakland Shores system. As shown on Exhibit (FS-1), Schedule No. 1 of utility witness Frank Seidman, the utility served an average of 224 customers in the Oakland Shores system during the test period. However, according to the Seminole County MFR Schedule E-2, p. 2, Oakland Shores accounted for 92 billing units (or 16 customers) during the test period. Based upon this discrepancy, I do not believe an appropriate analysis of the Oakland Shores system can be accomplished.

Q. Isn't it possible to appropriately analyze the Oakland Shores water system if one of the utility's witnesses agrees to the other witness's customer count?

A. Assuming the utility's witnesses can agree on the correct number of customers in the Oakland Shores system, there is still the equally serious problem of knowing the appropriate number of gallons that were billed to the

system. The information on the pages of MFR Schedule E-14 represents a detailed accounting, by customer class, meter size and individual billing code based on the different service areas, of the billing units and gallons sold during the test period. As shown on Seminole County MFR Schedules E-14, p. 94 and E-2, p. 2, the Oakland Shores system accounted for 96 billing units and 1,664,330 gallons attributable to those billing units during the test period. Since the information on Schedule E-2, p. 2 for Oakland Shores matches the detailed information shown on Schedule E-14, there is some level of assurance that the information is correct. However, Mr. Seidman's reported count for Oakland Shores of 224 customers is quite a serious discrepancy that must be resolved.

Q. What are the implications if Mr. Seidman's customer count is correct?

A. If Mr. Seidman's customer count is correct, that creates two additional problems. First, we have no data that indicates the number of gallons sold to those 224 customers. Second, the calculation of the current revenues for the Oakland Shores system as shown on Schedule E-2, p. 2, is based on 16 customers and the associated gallons sold, rather than on an average of 224 customers and the associated gallons sold to those customers. Even more troubling is that the proposed rates for Seminole County as shown on Schedule E-2, p. 3 appear to be based on 16 customers in Oakland Shores and the associated gallons. If the correct number of customers served in the Oakland Shores area during the test year was approximately 224, and a corresponding increase in the number of gallons is also reflected, not only would the proposed single tariff rates for Seminole County be incorrect, but the Oakland Shores system might in fact be overearning. In any event, staff is unable to

calculate the appropriate subsidies, to the extent they exist, between the Oakland Shores system and the remaining eight water systems.

Q. Are there any other problems associated with the Seminole County water systems filing?

A. Yes. As with the Pasco County filing, the proposed base facility charges for the Seminole County water system are not based on the appropriate equivalent residential connection (ERC) meter equivalents as provided by the American Water Works Association (AWWA) or Rule 25-30.110, Florida Administrative Code. As shown in the last column on Exhibit FJL-5, the differential between the utility's BFCs for meter sizes greater than 5/8" are all consistently understated compared to the appropriate ERC differentials based on AWWA standards. This is an indication that the proposed rates for the Seminole County water system are incorrect, which renders staff calculations regarding potential subsidies between the Seminole County water systems incorrect as well.

Q. Are there any problems associated with the Seminole County wastewater filing?

A. Yes. It appears that an incorrect number of gallons was used to calculate both the revenues based on current rates and the proposed rates. In addition, the utility has, without support and contrary to Commission practice, eliminated the residential/general service gallonage charge differential. Therefore, the calculation of the proposed wastewater gallonage charge is incorrect.

Based on the problems discussed above, staff is unable to calculate single tariff rates or stand-alone rates. Therefore, I recommend that the

requested rate relief for Seminole County be denied.

Q. Have you also analyzed Schedules E-1, E-2 and E-14 contained in the utility's MFRs which were sponsored by Mr. Lubertozzi with respect to the billing determinants, plus the current and proposed rates in each county?

A. Yes, I have.

Q. Do you have any comments to make regarding these schedules?

A. As discussed earlier, the billing determinants and/or the proposed rates for Pasco and Seminole Counties are suspect. In addition, as discussed in Staff Audit Exception no. 17, which was not contested by the utility, a 2" bulk wastewater customer in Marion County was added during the 2001 test year. The utility reported the actual number of bills and gallons, rather than present annualized bills and gallons, as would have been appropriate.

Q. What is the effect of not annualizing the bulk wastewater customer's data in Marion County?

A. As shown at the bottom of column (h) on p. 1 of Exhibit FJL-3, Marion County's current revenues are understated by $7,993 when compared to MFR Schedule E-2, p. 3. As shown at the bottom of column (h) on p. 1 of Exhibit FJL-4, Marion County's proposed revenues are understated by $8,845 when compared to MFR Schedule E-2, p. 4. Using the unannualized number of gallons sold when calculating the proposed gallonage charge ultimately results in an overstatement of that charge. The current, annualized revenues shown at the bottom of column (h) on p. 1 of Exhibit FJL-3 of $66,692 exceed the utility's requested revenue level for Marion County of $63,789 as shown on MFR Schedule E-2, p. 4. Given this information, I question whether the Marion County wastewater system is entitled to a rate increase.

Q. What are your recommended number of billing units and gallons sold associated with the 2" bulk wastewater customer in Marion County?

A. Consistent with the calculation of the annualized revenues for the 2" bulk customer as shown in Staff Audit Exception no. 17, converted to a monthly billing basis, I recommend 12 monthly billing units and 5,384,615 gallons sold.

Q. There are witnesses on behalf of staff from both the St. Johns and Southwest Florida Water Management Districts, correct?

A. Yes. Mr. Dwight Jenkins is from the St. Johns River Water Management District (SJRWMD), and Mr. Jay Yingling is from the Southwest Florida Water Management District (SWFWMD). Both gentlemen are appearing in this case as staff witnesses.

Q. Would you please explain the MOU that exists between the Commission and the five Water Management Districts (WMDs), and how the Commission and the WMDs work together in cases?

A. Yes. The Commission has a MOU with all five WMDs. In June 1991, the Commission and the five WMDs recognized that it is in the public interest that they engage in the joint goal to ensure efficient and conservative utilization of water resources in Florida, and that a joint, cooperative effort is necessary to implement an effective state-wide water conservation policy. The MOU memorializes the common objectives, principles and responsibilities of each agency in order to implement an effective state-wide water conservation policy.

Q. What are the common objectives of the two agencies as they relate to public water systems?

A. The common objectives as stated in the MOU include, but are not limited to:

(a) fostering conservation and the reduction of withdrawal demand of ground and surface water through, among other measures, employment of conservation promoting rate structures, maximization of reuse of reclaimed water, and through customer education programs;

(b) effectively employing the technical expertise of the WMDs regarding water resource development and water resource management, and employing Commission expertise in the economic regulation of utilities for the promotion of efficient water consumption in the public interest; and

(c) a requirement that the agencies shall exchange pertinent available information regarding water systems experiencing water availability problems.

Q. Have either Mr. Jenkins or Mr. Yingling made specific rate design requests on behalf of their respective WMD?

A. Yes, both Mr. Jenkins and Mr. Yingling make specific rate design requests based on their respective Water Management Districts' rules and water supply concerns. Their specific rate design requests will be addressed in the following section of my testimony.

Q. Let's move to the discussion of the appropriate design of water conservation-oriented rates. First, please describe UIF's current water rate design in each of its five counties.

A. Before I begin my discussion of the utility's current and proposed water rate designs, I wish to point out that I have included Pasco and Seminole

Counties in my discussion and analysis. This in no way changes my earlier recommendation that the requested rate relief for Pasco and Seminole Counties be denied. However, I have chosen to include Pasco and Seminole Counties in my rate design discussion in order to better illustrate how UIF has approached rate design in this case.

As shown on Exhibit FJL-1, the utility currently implements the traditional base facility charge (BFC)/uniform gallonage charge rate structure, billed bi-monthly, in almost all of its water systems included in this filing. However, as shown on p. 3 of Exhibit FJL-1, there are slight deviations in Pasco County. Three of the Pasco County systems - Wis-Bar, Buena Vista and Summertree - are billed monthly. In addition, the Wis-Bar system has a 3,000 gallon (kgal) allotment included in its BFC, while the Buena Vista system has a 5 kgal allotment included in its BFC. Finally, as shown on Exhibit FJL-1, the utility's current rates are designed to generate cost recovery percentages of: 1) 33% BFC/67% gallonage charge in Marion County; 2) 29% BFC/71% gallonage charge in Orange County; 3) 72% BFC/28% gallonage charge in Pasco County; 4) 56% BFC/44% gallonage charge in Pinellas County; and 5) 30% BFC/70% gallonage charge in Seminole County.

Q. Please describe UIF's proposed water rate design for the systems in this filing.

A. As shown on Exhibit FJL-2, the utility proposes virtually no changes to its current rate structures. As discussed earlier, UIF has proposed to implement single tariff pricing in Pasco and Seminole Counties, but to maintain the kgal allotments for the Wis-Bar and Buena Vista systems in Pasco County. UIF has also proposed to implement monthly billing in all five

counties. Finally, as shown at the bottoms of pages 3 through 5 of Exhibits FJL-1 and FJL-2, UIF has proposed to increase the BFC cost recovery percentages in Pasco, Pinellas and Seminole Counties.

Q. The utility has requested a change from bi-monthly to monthly billing. Did you analyze this proposal?

A. Yes. In response to staff's second set of interrogatories, no. 55, UIF was asked to provide the detailed additional costs associated with a switch from bi-monthly to monthly billing. Each county's cost per customer to convert to monthly billing, on both an annual and monthly basis, is shown on Exhibit FJL-6. The water rates per kgal for each county are also shown in the last column on this exhibit.

Q. What conclusions do you draw from this exhibit?

A. The additional monthly cost per customer ranges from $.09 in Marion County to $.17 in Seminole County. These additional charges are significantly less than the corresponding current water rates per kgal for each county. The potential gallonage charge savings for the customers by receiving water usage signals in a more timely manner, when compared to the cost incurred to provide the customers this information, make the conversion from bi-monthly to monthly billing a prudent decision. Furthermore, as discussed in the testimonies of Messrs. Jenkins and Yingling, both the SJRWMD and the SWFWMD advocate the use of monthly, rather than bi-monthly billing. Therefore, I recommend that the conversion to monthly billing be approved.

Q. Do you have any comments regarding the utility's proposal to keep the kgal allotments in the BFCs for the Wis-Bar and Buena Vista systems in Pasco County?

A. Yes. As I discussed in the single tariff pricing portion of my testimony, keeping these allotments in Pasco County's water rate structure would result in inequities to other Pasco County water customers. In addition, as discussed in the testimony of staff witness Yingling, UIF's allotments are significantly greater than the guidelines contained in the "Interim Minimum Requirements for Water Conserving Rate Structures" used by the SWFWMD, and as recommended by the American Water Works Association (AWWA). In effect, according to Mr. Yingling, the allotments contained in the BFCs are in effect flat rates which the SWFWMD does not consider to be water conserving. Mr. Yingling further states that the permittee may be required to demonstrate the revenue need to exceed the 15% suggested by the AWWA.

Q. Has the utility demonstrated any need to continue these gallonage allotments?

A. In my opinion, no. As discussed previously, in response to staff's second set of interrogatories, no. 56, UIF stated that it proposed to keep the kgal allotments in its Pasco County rate structures "to avoid confusion in the revenue calculation."

Q. What is your recommendation regarding UIF's request to keep the kgal allotments in the BFCs for the Wis-Bar and Buena Vista systems in Pasco County?

A. I recommend that the kgal allotments be discontinued.

Q. UIF has proposed to increase the BFC cost recovery percentages in Pasco, Pinellas and Seminole Counties. Have you analyzed this request?

A. Yes. As shown in Exhibits FJL-1 and FJL-2, UIF has proposed to increase the BFC cost recovery percentage in: 1) Pasco County from 72% to 76%;

2) Pinellas County from 56% to 57%; and 3) Seminole County from 30% to 36%.

Q. Do you agree with this proposal for any of these counties?

A. No, I do not. As discussed in staff witness Yingling's testimony, the utility's Pasco and Pinellas County systems are located in the Northern Tampa Bay Water Use Caution Area, and staff witness Jenkins stated that all of the UIF systems in Seminole and Orange Counties are located within identified Priority Water Resource Caution Areas. In these instances, the WMDs advocate the use of proper pricing signals as an incentive for customers to utilize proper conservation practices.

As also discussed in the testimonies of Messrs. Jenkins and Yingling, the Water Management Districts'(WMDs) preference for cost recovery is that no more than 40% be recovered through the BFC. The current 72% BFC cost recovery allocation for UIF's Pasco County systems is not consistent with the intent of water-conserving rate structures, as it greatly exceeds the SWFWMD's desire that the BFC percentage be as close to the 30% to 40% range as is practical. The BFC cost recovery for the Pinellas County system (Lake Tarpon) also exceeds 40% of revenues, leading the SWFWMD to recommend that those fixed charges be lowered as well. Although UIF's requested 36% BFC cost recovery in Seminole County is within the preference level of the SJRWMD, it represents a move away from sending a stronger conservation pricing signal.

Q. Let's move to the next portion of your testimony. Would you please explain the concept of revenue requirement reallocation?

A. Yes. When a system has both a water and a wastewater system, revenue requirement reallocation shifts a portion of the revenue requirement increase from one operating system to the other operating system. A reallocation may

flow from a water system to its corresponding wastewater system, or vice versa.

Q. Has the Commission ever found it appropriate to reallocate revenue requirement in prior cases?

A. Yes, the Commission has reallocated revenue requirement in four prior cases.

Q. What has been the purpose of the revenue requirement reallocations in the Commission's prior decisions?

A. Typically, reallocation of revenue requirement is used to offset the overearnings of a system, or is used to design a more conservation-oriented water rate.

Q. What has been the criteria used by the Commission when making reallocation decisions?

A. In prior Commission decisions, reallocation has occurred only when the combined water and wastewater systems shared, for the most part, a common customer base and a common service area.

Q. In your opinion, based on the criteria used in prior Commission decisions, should the Commission consider revenue requirement reallocation in this case?

A. No. There are three counties that have wastewater systems in this case: Marion, Pasco and Seminole. For reasons discussed earlier in my testimony, I recommend that the requested rate relief for the Pasco and Seminole County systems be denied. A review of the Marion county customer bases of the water and wastewater systems indicates that while the water system serves the Golden Hills/Crownwood system, the wastewater system serves the Crownwood area only.

Therefore, the number of customers and the areas served are sufficiently dissimilar to not warrant reallocation of Marion County's wastewater revenue requirement to its water system.

Q. Moving to the next section of your testimony, would you please describe your analysis of UIF's requested rate design for its water systems?

A. Yes. However, because this analysis leads to my illustrative rate designs in which I rely on the utility's billing data, I have excluded Pasco and Seminole Counties from this analysis for the reasons previously discussed.

In Marion and Orange counties, the utility has applied the proposed percentage revenue increase in that county in a virtually uniform fashion to both the BFC and gallonage charges. For example, as shown in column (h) at the bottom of p. 1 of Exhibit FJL-2, the utility is requesting a 31% increase in monthly service rate revenues in Marion County. Correspondingly, as shown in the last column on page 1 of Exhibit FJL-7, application of the requested 31% increase to both the BFC and gallonage charges results in a virtually uniform distribution of the requested increase across all consumption levels. Similarly, the utility's requested monthly revenue increase in Orange County of 91% is reflected in the last column on p. 2 of Exhibit FJL-7 as a virtually uniform, across the board increase.

In Pinellas County, UIF requested a 183% increase in revenues for its Lake Tarpon system. However, UIF did not apply its requested increase as an across the board increase to the BFC and gallonage charges as it did in Marion and Orange Counties. Rather, as discussed earlier and in the testimony of staff witness Yingling, the utility requested a slight increase in the BFC cost allocation recovery percentage from 56% to 57%. As shown in the last

column on p. 3 of Exhibit FJL-7, this would result in slightly greater percentage increases being realized by customers with little or no consumption, with the percentage increase actually decreasing as consumption rises. This type of rate design, especially in a Water Use Caution Area as is the case with Lake Tarpon, is contrary to the desires of the SWFWMD and is also contrary to Commission practice.

Q. How is the rate design for Pinellas County contrary to Commission practice?

A. When utilities are located within Water Use Caution Areas, it is Commission practice to design the rates such that as consumption increases, the customer must pay an increasingly greater share of the cost of water. In this way, customers have a stronger incentive to conserve as their consumption increases. The utility's proposal does exactly the opposite: as consumption increases, the proposed percentage increase diminishes.

Q. You mentioned earlier that you will present a series of illustrative rate designs. Will the testimonies of Mr. Yingling and Mr. Jenkins affect your illustrative rate designs?

A. Yes. Mr. Yingling has testified that since the systems in Marion and Pinellas Counties are within the SWFWMD limits for per capita consumption, that there is no requirement by the SWFWMD that the systems in Marion and Pinellas Counties implement an inclining block rate structure. However, Mr. Yingling does point out that the BFC allocation percentages proposed in ~~Marion~~ Pasco and Pinellas Counties should be reduced.

Mr. Jenkins testified that all of the utility's systems located in the SJRWMD are located in Priority Water Resource Caution Areas. He further

testified that the SJRWMD will, pursuant to its rules, require UIF to implement conservation rate structures, which are generally in the form of three or four tier inclining block rates.

Therefore, my illustrative rate designs which explain how UIF's proposed water rate designs should be modified for Marion, Orange and Pinellas Counties are based in large part on the testimonies of Mr. Yingling and Mr. Jenkins. This is in cooperation with their respective WMDs, and consistent with our Memorandum of Understanding with their agencies. Again, I have excluded Pasco and Seminole Counties from this analysis. So that my analysis and rate design will be as comparable as possible to the utility's, I have based Exhibit FJL-8 on UIF's requested revenues from monthly service rates of $199,342 from Marion County, $158,825 from Orange County and $156,620 from Pinellas County, as well as UIF's corresponding bills, ERCs and gallons for those respective counties.

Q. Please explain in general terms what illustrative rate designs you will be recommending for UIF's water systems.

A. My illustrative rate designs for Marion and Pinellas Counties will center around a traditional BFC/gallonage charge rate structure, while my illustrative rate design for Orange County will be based on three-tier inclining block rates. All of my illustrative rate designs may be considered conservation-oriented.

Q. Please begin with your illustrative rate design of the utility's Marion County water system.

A. As shown on p. 1 of Exhibit FJL-8, I have calculated the price increases for the Marion County systems under four different scenarios. Although an inclining-block rate structure is not required in this case, one method of

making the rate structure more conservation-oriented is by shifting some of the cost recovery from the BFC to the gallonage charge.

Q. How should an appropriate BFC allocation percentage be designed?

A. The appropriate BFC allocation percentage is one that permits the utility to recover a significant share of its fixed costs while at the same time sending customers the proper pricing signals to encourage them to control their water usage.

Q. Would you please explain?

A. There are several things to keep in mind when selecting an appropriate BFC vs. gallonage charge allocation. Due to revenue stability concerns, one should exercise caution when the BFC allocation percentage is decreased such that the new BFC is less than the current BFC. In addition, when there is an exceptionally seasonal customer base, a comparison should be made between the percentage increases at very low or no consumption levels vs. the overall percentage increase to the system. I recommend caution if there is a great disparity between these percentages, as the utility may not recover sufficient revenues during part of the year.

Q. Do you agree in theory that placing more of the cost recovery burden in the gallonage charge places the utility at risk for greater revenue instability?

A. In theory, a move away from revenues generated through fixed charges to revenues generated through gallonage charges will increase the uncertainty about the revenue stream. In practice, however, the variability of revenue received exists within a continuum. For example, if the Commission were to set the BFC at zero, making the utility's revenue requirement totally

dependent on the number of gallons sold, in months of extremely low usage there could be the risk that revenues generated might not cover fixed costs. This situation could place the utility at greater risk. At the other extreme, the Commission could set the BFC at 100% of the utility's revenue requirement and thereby eliminate any variability in revenue associated with usage.

Q. Will placing less than 33% of the utility's cost recovery burden on the BFC in Marion County place the utility at a greater risk for revenue instability?

A. Yes. However, an analysis of the billing data for Marion County reveals average consumption per residential customer of approximately 7.7 kgal per month, and does not indicate an exceptionally seasonal customer base. Therefore, I believe the magnitude of the cost recovery shifts resulting in a BFC allocation percentage of 25% are insignificant compared to the resulting improved conservation pricing signals sent to customers, while at the same time minimizing the price increases for largely nondiscretionary use.

Q. You mentioned earlier that the appropriate BFC allocation percentage is one that permits the utility to recover a significant share of its fixed costs while also sending customers the proper conservation pricing signals. How would this analysis be performed?

A. This analysis is based on the fact that there will be a certain baseline "fixed" level of water sold to customers during the year. In the case of Marion County, I believe it is reasonable to assume this baseline level is represented by one-third of water sold to the utility's customers. It is not necessary for 100% of the utility's fixed costs to be recovered solely through the BFC if a combination of the BFC and the revenues generated by this

baseline level of usage combine to cover fixed costs. After fixed costs are recovered, it is entirely appropriate for the incremental variable costs to be recovered through the revenues generated by the number of gallons sold.

Q. Have you performed the analysis just described for Marion County?

A. Yes, I have. Based on a 25% BFC, the revenues generated from the resulting BFCs, based on the simplifying assumption that all meters are 5/8", plus one-third of the kgals sold in Marion County during the test year yield slightly greater than $70,000. This figure is greater than the utility's proposed fixed charge revenue amount of $65,499 as shown at the bottom of column (g) on p. 1 of Exhibit FJL-2.

Q. What does the analysis on p. 1 of Exhibit FJL-8 reveal?

A. As shown on page 1 of this exhibit, a preferable, more conservation-oriented rate structure to that proposed by UIF is one that is based on a BFC cost recovery allocation level of less than the 33% proposed by UIF. This results in price signals sent to the medium and high consumption users which are greater than the price increases based on a BFC of 33%. My recommendation is based upon a balancing of the utility's financial stability and generally accepted conservation principles.

Q. Please explain your illustrative rate design of the utility's Pinellas County water system.

A. As shown on p. 6 of Exhibit FJL-8, I have calculated the price increases for the Pinellas County system under four different scenarios in a manner similar to that of the Marion County systems. Although an inclining-block rate structure is not required in Pinellas County, I have explored different BFC percentage allocations as a method of making the rate structure more

conservation-oriented.

Q. How should an appropriate BFC allocation percentage be designed for the Lake Tarpon system?

A. An analysis of the billing data for this system indicates that approximately 30% of the residential customer bills are at consumption levels of 1 kgal or less, and almost 50% of these bills are captured at consumption levels of 2 kgal or less. This indicates a very seasonal customer base. As I stated earlier, caution should be used when designing an appropriate BFC allocation for a very seasonal customer base.

My analysis included as a point of comparison the utility's request that 57% of the revenue recovery be included in the BFC. In order to make this rate structure more conservation oriented, I then lowered the BFC percentages to a range between 30% and 50%.

Q. What did your analysis reveal?

A. UIF has requested a revenue increase in Pinellas County of 183%. However, as shown on p. 6 of Exhibit FJL-8, the percentage price increases at a BFC of 40% yield increases ranging from 103% for a customer with no consumption to 161% for a customer using 2 kgal. The corresponding percentages are even lower at a BFC of 30%. I am concerned that placing 40% or less of the utility's cost recovery burden in the BFC in Pinellas County will place the utility at a greater risk for revenue instability. In this case, a balancing of the utility's financial stability and generally accepted conservation principles must be considered.

Q. You stated that your illustrative rate design for Orange County would be based on inclining block rates. Please explain the steps involved in

evaluating and calculating an inclining block rate structure.

A. There are several steps involved in evaluating and calculating an inclining-block rate structure, including but not limited to determining: 1) the appropriate "conservation adjustment," if any; 2) the appropriate usage blocks; and 3) the appropriate usage block rate factors.

Q. Please describe your illustrative rate designs for Orange County.

A. Consistent with the rules of the SJRWMD, I recommend an inclining block rate structure for Orange County. In Exhibit FJL-8, the analysis is first categorized by the selection of different usage blocks. I believe one combination of usage blocks that merits consideration is for usage at 0-10 kgal, 10-20 kgal, and 20+ kgal (0-10-20 kgal). This set of usage blocks is presented on pages 2 and 3 of Exhibit FJL-8. The second combination of usage blocks, presented on pages 4 and 5 of Exhibit FJL-8, is for usage at 0-8 kgal, 8-16 kgal, and 16+ kgal (0-8-16 kgal).

For each set of usage blocks evaluated, there are two alternatives for BFC vs. gallonage charge cost recovery: BFC = 29%, which is consistent with UIF's proposal, and BFC = 25%. For example, p. 2 of Exhibit FJL-8 is based on usage blocks of 0-10-20 kgal, with a BFC allocation of 29%. Page 3 of Exhibit FJL-8 also examines the 0-10-20 kgal usage blocks, but at a BFC allocation of 25%. The lower the BFC allocation percentage, and, therefore, the greater the gallonage charge allocation percentage, the more conservation oriented the rate is considered.

The same pattern is repeated for pages 4 and 5 of Exhibit FJL-8, but for the 0-8 kgal, 8-16 kgal and 16+ kgal usage blocks. Finally, pages 2 through 5 contains the same 4 sets of usage block rate factors: 1) 1/1/1; 2)

1/1.25/1.5; 3) 1/1.25/2; and 4) 1/1.5/2.

Q. What does an analysis of pages 2 through 5 of Exhibit FJL-8 reveal?

A. First, a BFC of 25% is necessary in order to generate percentage price increases that steadily climb with consumption. This is consistent with Commission practice. Therefore, comparing the percentage price increases on p. 3 to those corresponding increases on p. 5 of Exhibit FJL-8, usage block rate factors of either 1/1.25/2 or 1/1.5/2 result in the greatest magnitude of price increase differential between low vs. high water consumption. Based on a BFC of 25% and usage block rate factors of either 1/1.25/2 or 1/1.5/2, there is little difference when comparing the price changes generated by the 0-10-20 kgal usage blocks vs. the 0-8-16 kgal usage blocks. Ultimately, I recommend the usage blocks of 0-8-16 kgal because slightly more customers will be subject to the rate in the third tier.

Q. Please describe UIF's proposed wastewater rate designs.

A. I have excluded Pasco and Seminole Counties from this analysis for the reasons previously discussed. In Marion County, UIF has proposed to allocate its requested percentage increase in revenues in an across the board fashion similar to its proposed water system rate design.

Q. Have you designed wastewater rates for the Marion County system?

A. No. As I discussed earlier in my testimony, based on an annualization of Marion County's wastewater billing determinants, the resulting revenues generated under current rates is greater than the utility's requested revenues. The Marion County wastewater system may be overearning; therefore, I have not calculated illustrative wastewater rates.

Q. Moving on to the next portion of your testimony, you have read staff

witness Yingling's discussion of the 1999 Price Elasticity Study, correct?

A. Yes, I have.

Q. Do you believe a reduction in water demand (repression) will occur in this case, and, if so, how should the demand reduction be estimated?

Q. Yes. I believe it is reasonable to expect a reduction in demand (repression) caused by an increase in the water rates. I also believe it is reasonable to estimate demand reductions based on the long-run price elasticities found in the District's study and discussed in Mr. Yingling's testimony. Specifically, Mr. Yingling testifies that when gallonage prices are below $1.50 per kgal, price elasticity is estimated to be -0.393 ~~-0.398~~; for gallonage prices between $1.50 per kgal and $3.00, the price elasticity is estimated to be -0.682; and for gallonage prices above $3.00 per kgal, price elasticity is estimated to be -0.247. Furthermore, as testified by Mr. Yingling, it can be expected that 50% of the long-run price impact will occur in the first year.

Q. Do you have any concluding remarks?

A. Yes, I do. My recommendations are based wholly on the utility's proposed filing, minus the requested rate relief in Pasco and Seminole Counties. To the extent my recommendations are used in staff's final recommendation in this case, the rate calculations should be based on staff's final recommended revenue requirement, as well as on staff's final recommended bills, ERCs and consumption.

Q. Does this conclude your testimony?

A. Yes.

BY MS. HOLLEY:

Q And have you prepared a summary of your testimony?

A Yes.

Q Please provide that for us.

A Good afternoon. My testimony covers a number of issues, many of them already stipulated to. However, the primary issue in question now is whether staff has adequate information to calculate rates for the Utility's Pasco and Seminole County systems. In addition, based on the utility's request to consolidate rates in Pasco and Seminole Counties, I recommend that an analysis be performed to evaluate the magnitude of the subsidies resulting from the utility's request. This concludes my testimony -- summary. Don't we wish it concluded my testimony.

MS. HOLLEY: The witness is tendered for cross.

COMMISSIONER DEASON: Mr. Burgess.

MR. BURGESS: Yes. Commissioner, one of the things that happened at the beginning of the hearing is a lot was made of the testimony of Ms. Lingo in her deposition. And I represented a lot about, you know, what she had said and what it meant. And, you know, one of the things, after speaking with her after that, I felt like she, if she chose to, ought to have an opportunity to perhaps address that record.

I want to be -- it's not quite cross-examination, but I was going to ask her is there anything that she needs to add

to correct any impressions or misimpressions that have been given to the Commission as to her intentions with regard to her deposition and what information she was looking for following that deposition. And so, I guess what I want to do is -- that is not quite in the line of cross-examination, but alert you and alert Mr. Friedman that that is what I am going to ask, and then just ask it.

CROSS EXAMINATION

BY MR. BURGESS:

Q Ms. Lingo, is there anything about the representations that were made with regard to your intent for additional -- seeking additional information or not seeking additional information that you would like to go on record as telling the Commission what you had in mind?

A What I had in mind and what I have in mind is that the additional information will be evaluated by advisory staff, that is why my testimony stands as written. But the additional information may, in fact, complete the record in this case for Pasco and Seminole Counties. So my standard caveat to the new additional information is if the additional information is what the utility purports it to be, and if the additional information corrects the problems with the filing which I discuss in my testimony, then staff may, indeed, have adequate information to calculate rates for Pasco and Seminole Counties. But, again, I underscore the fact that the evaluation of

whether the additional information adequately resolves the problems in my testimony is up to advisory staff and then ultimately the Commissioners.

Q Thank you, Ms. Lingo. Now, I have a question with regard to the filings, the number of filings. You principally provide analysis and testimony on that which is contained in the E Schedules, is that correct?

A Yes.

Q Do you know, can you tell me how many times the E Schedules have been filed or refiled in this case?

A We evaluated portions or all of eight different filings of the Utility's E Schedules before I filed my testimony.

Q And when you say eight different, you mean eight sequentially? You don't mean with several at one time, you mean eight that one would come in, and then later a refiling would come in?

A What I mean is we would receive a filing, let's say, in June, and then subsequently in September some or portions of that filing might have been revised and we would receive that. When I indicate filings, I do not necessarily indicate that the entire E filing would have been revised, just mainly it would be the E-1s, or E-2s, or E-14s.

Q Now, when a company would refile these, I assume that is because they had received some type of indication that they

were deficient in some way, the previous filing was deficient in some way, is that right?

A That staff noticed that there were problems in the filing, yes.

Q And when staff noticed there were problems in the filings, did staff seek to communicate to the company what those problems were? In other words, what I'm getting at is did staff try to help them out as to what they were looking for, or did you just say, "These are insufficient. Refile."?

A No, whenever we would receive a new filing, we typically would go over the information, and then there would be a phone call to the utility trying to outline where we thought the problems were in that filing.

Q So even with the Commission staff's guidance as to what they were seeking, it took eight different times before you received the schedules upon which your testimony is based, is that right?

A Yes.

Q And if I look at your schedule, your testimony, if I could take you to a couple of areas in your testimony and ask you to explain a few of your points. If I could take you to Page 12 of your testimony.

A Yes.

Q And beginning on Line 8 it indicates that your Exhibit 1, which has now been identified with an exhibit number

for the hearing, but that your Prefiled Exhibit 1 was a replication of the utility's MFR Schedules E-2, is that right?

A Yes.

Q And that you replicated them at first at the current annualized rate, is that right?

A Yes.

Q Now, do I understand correctly from your subsequent statement that for Pasco County, and I am beginning on Line 10, for Pasco County the current rate billing determinants could not be reconciled to the other MFRs, is that a correct assessment?

A It indicates that my schedule did not reconcile to the E-2 Schedule.

Q Well, would you explain what your schedule was, then, please?

A My Exhibit FJL-1 replicated the utility's E-2 Schedules. And what Exhibit FJL-1 for Pasco County indicates is that at current revenues, the calculation of the billing determinants and the rates actually yielded revenues of approximately $32,000 greater than what was shown in the Utility's E-2 Schedule for Pasco.

Q All right. And if I take it further down, it indicates that there was also a discrepancy of even a greater amount for the proposed rates for Pasco County, correct?

A Yes.

Q And this was for -- both of these that we have just spoken of was for the water system, is that correct?

A Yes.

Q Okay. Could I get you to look at Page 14, as well, please.

A Yes.

Q All right. At this point -- okay. We were talking about Pasco County water rates proposed and annualized historic, and here we are speaking of -- you are referencing another set of rates, this would appear to be Pasco County wastewater rates, is that correct?

A Yes.

Q Okay. And it looks like that you have discrepancies in these, as well, is that correct?

A Yes.

Q And then further down in the paragraph, down in the first paragraph of Page 15, it appears there are discrepancies as well in the Pasco County wastewater rates for the proposed rates, as well, is that correct?

A Yes.

Q Do you know what the problems were that were causing these discrepancies?

A Subsequent to the filing of my testimony we were able to figure out that the problem probably was with the Orangewood system and its conversion from bi-monthly to monthly rates.

Q And, again, this the eighth iteration of these schedules that have been presented to staff with staff advice on how to correct the problems?

A Yes.

Q Okay. If I go to Page 20, then I see that you're again -- here your switching to Seminole County, is that right?

A Yes.

Q Now, it appears that, again, the same discrepancies exist with both historic and proposed rates. And, again, with both water and wastewater, is that correct? I see with wastewater beginning on Line 16, so we have that problem with wastewater on Line 16.

A Right. It is not the same problem as was with Pasco, the Pasco County system.

Q Okay. Would you explain to me what the problem was that you found with Seminole County wastewater filing?

A When we were examining the E-2 Schedules and tying them back to the detail that is found on the E-14 Schedules, we could not reconcile the number of gallons that were used on the E-2 Schedule for one of the systems, for the residential 5/8ths inch meter with the information that we found on the E-14.

Q Okay. Could I get you to look at Page 21, please?

A Yes.

Q And your answer beginning on Line 15. Can you tell me is this, again, a discrepancy, or can you tell me what

problem you are referencing here?

A The problem I am referencing here originally was discussed in Staff's Audit Exception Number 17. The utility took on a two-inch bulk meter customer midway during the test year and did not annualize the revenues in the presentation of its E-2 schedules.

Q And it looks to me here as though you are saying had they annualized them they would have shown that the current revenues, current annualized revenues exceed the requested revenues, is that correct?

A Yes, that is correct.

Q Did you find in this filing whether there was any circumstance where in the annualizing of the revenues for the test year actually reduced the revenue presented?

A I'm sorry, Mr. Burgess, would you repeat the question, please?

Q Yes. In this refiling that you were examining that lead to the various findings that you present in this testimony, did you find any annualizing wherein the annualizing of increase actually resulted in a lower aggregate revenue than had been presented prior to the annualizing?

A I apologize, Mr. Burgess, I still don't understand the question. Might you rephrase it in some other way?

Q Okay. What is the purpose of the E-2 Schedules?

A The E-2 Schedules are designed to present data by

customer class by meter size for each of the systems in each of the utility's counties with respect to billing determinants; that is, the number of bills and the number of gallons sold for each customer class and meter size. That information is then translated into a revenue amount that is carried over to the far right-hand side of that page.

Q And what I see when you say that these are -- when you reference the discrepancies in the amount that has been presented as the annualized historic number, what are you referencing as far as what is being annualized?

A I am referencing the amount of revenues that the utility reported on its E-2 Schedule for annualized revenues for Marion County.

Q Okay. Now, if I could get you to look at -- go back to Page 14, if you would, and look at Line 4.

A Yes.

Q And it indicates, this indicates that you, that it is imperative to you that UIF provide correct stand-alone rates for each system. Does this mean that as of your testimony they had not provided that type of -- that information?

A As of the date of my testimony, we still did not have stand-alone rates for the Wis-Bar system in Pasco County.

Q Okay. So by the eighth time these were filed, you didn't have what you considered to be imperative for that specific calculation that you were looking for?

A That information would not have been provided through the E Schedules, that was provided and received through discovery.

Q I see. And at this point, what is it that you understand has been filed in response to your testimony and then to the deposition that was taken about your testimony?

A Filed in what way?

Q Filed the day, two days before the hearing. What did that information contain?

A In an attempt to complete the record for Pasco and Seminole Counties, I made as an exhibit to my deposition a list of the problems and the errors that I still perceived to be contained in the utility's E-2 Schedules for Pasco and Seminole Counties, as well as a request for stand-alone rates for the Oakland Shores and other Seminole County subwater systems that represented the uncommingling of gallons that Mr. Lubertozzi talks about in his rebuttal testimony.

Q And what you anticipate happening is that the nontestifying staff would analyze that and determine whether it, in fact, provides all of the information necessary to meet some of the shortcomings that you identify here and/or in your deposition, is that correct?

A Yes.

Q Does that seem a little bit late to you to be receiving this type of information?

A As long as the record is complete before advisory staff begins their work and their analysis in terms of what they want to recommend to the Commissioners, that's really what is important in the case.

Q But it was not received in time for you as testifying for staff to respond to?

A No.

MR. BURGESS: Thank you. That's all we have. Thank you, Ms. Lingo.

COMMISSIONER DEASON: Mr. Friedman.

CROSS EXAMINATION

BY MR. FRIEDMAN:

Q You have been here through the day on this hearing, have you not?

A In and out, yes.

Q Okay. And have you seen in the course of this proceeding the use of exhibits or other documents that may support somebody's particular view of an issue as was done with Mr. Redemann?

A Yes.

Q And isn't that similar to considering the revised information which the company has provided in regard to the rate setting?

A I'm sorry, would you ask that again?

Q Isn't the utility's filing similar to that type of

information that is brought forward in a rate case that ought to be considered?

A Yes.

Q You state in determining whether to recommend county-wide versus single system rates that the important element is a subsidy analysis, is that right?

A Yes.

Q And is there a -- I'm sorry, let me back up. And what is the issue in needing a subsidy analysis?

A The issue would be whether the resulting rates based on the utility's request to consolidate the rates in Pasco County would result in unfair subsidies between the customers of one system or systems compared to the -- compared to customers of another system or systems that might receive the benefits of those subsidies.

Q Is there a rule or case that defines what unfair subsidy means?

A No, that decision is always at the discretion of the Commissioners.

Q So differing people could disagree over what an unfair -- what the term unfair subsidy means?

A Yes.

Q And I think in your testimony you indicated several cases in which the Commission had set forth the criteria for determining stand-alone versus county-wide rates, is that

correct?

A Yes.

Q Was one of those cases Order Number 97-0531? That's the Lake Utility Services case.

A Just a moment, I will check if that is the order number I was referencing; 97-0531, yes.

Q Correct. And do you happen to have that order there?

A Yes.

Q Do you see, and I think -- well, my copy may have a different page number, but --

A I apologize, I don't have the entire order. I have the portions of the order that speak to rate structure.

Q That's all that I want to ask you about. And do you see in that portion of the order that talks about rate structure, do you see any discussion of the subsidy issue?

A What I see is a discussion of the criteria that I list at the bottom of Page 8, beginning on Line 18, as decision criteria that has been used by the Commission in analyzing whether a move from stand-alone to consolidated rates is appropriate.

Q And in that case, didn't they state that in determining whether to go with a single county rate structure that they must first determine whether the utility's land and facilities were functionally related?

A They did in this order, yes.

Q And is that an element of your review of the decision to go with stand-alone versus countywide rates, whether it is functionally related or not?

A No.

Q And you set forth in your testimony, I think, six factors, is that correct?

A Yes.

Q Okay. And --

A But I would like to point out that these six factors are not an exhaustive list. I say that the factors include but are not limited to the six that I list.

Q But if you thought there were any that were really important, you would have included them, wouldn't you?

A There are numerous factors that are important, Mr. Friedman. I chose these six.

Q Did you choose those six for any particular reason?

A I thought they were representative of the broad nature of the criteria that the Commission has used in their decision-making.

Q And isn't it true that you have significant information in the filings that UIF had made on five of those six factors?

A There is information regarding five of the six factors somewhere in the utility's filing, yes. But I would point out that the -- I assume you are talking about Factors B

through F?

Q That's correct.

A Okay. Factors B through F do not represent a subsidy analysis. Those factors merely represent things that the Commission has taken into consideration in addition to a subsidy analysis. So, in answer to your original question, yes.

Q Am I correct that you do not agree with the billing determinants used by UIF in its filing for the Seminole and Pasco County system?

A It's my opinion that the use of that billing determinant information would not result in the calculation of fair rates, because there are problems with those billing determinants.

Q What are the problems with the billing determinants, briefly?

A As I enumerated in my Deposition Exhibit Number 2, on Schedule E-2 for the Pasco County water system, the Orangewood system conversion from bi-monthly to monthly rates appeared to be suspect. On Schedule E-2, Pasco County wastewater system, Pages 5 and 6, the Summertree residential wastewater gallons were uncapped. There was no footnote regarding the fact that Summertree had a current cap in effect, so it left staff to wonder whether they were, in fact, requesting a change in the wastewater gallonage cap. And if they were requesting a change

it would have appeared to us that that change would have been to uncap those gallons.

The base-facility charges for both Pasco and Seminole Counties, the problems that I have with those base-facility charges are best exhibited in my FJL-5 wherein the meter equivalency factors are not consistent with industry standards nor longstanding Commission practice.

In Seminole County, the Oakland Shores water system bills, approximately 210 of the 225 water system bills were commingled with the remaining eight Seminole water subs, such that when you looked at the Utility's E-2 filing for Seminole County under Oakland Shores, it only indicated information for 16 customers and the associated gallons for those 16 customers, rather than 225 customers and the associated gallonage with those 225 customers.

Q Isn't it true that just because the utility requests a particular rate structure that that doesn't necessarily mean that it is going to be acceptable exactly as it is filed?

A That is correct. Staff examines rate structure in all of the water and wastewater filings, all of the water filings.

Q And you frequently change that rate structure, reallocate base-facility charges through gallonage, put a cap on it, that sort of thing?

A Yes.

Q In fact, go to more stringent conservation rates in some cases, whether or not the utility originally requested it?

A Yes.

Q You state in your prefiled testimony that one of the faults with the utility's filing is that the general service gallonage charge did not include a 25 percent differential. Do you recall that testimony?

A Yes. But, happily, that has been stipulated to, so --

Q In your recommendation regarding the base-facility charge gallonage split, you state on Page 34 at Line 16 that it is based upon the balancing of the utility's financial stability and, quote, generally accepted conservation principles, end quote. Do you see that?

A Yes, but water rate design has also been a stipulated issue in this case.

Q I wanted to know what generally accepted conservation principles were?

A The two primary generally accepted conservation principles are, number one, to price water to discourage wasteful use, and then, number two, to encourage the efficient use of water.

Q Is this is something that people generally accepted? I mean, do they have it like generally accepted accounting principles, is there an organization that sets up those rules?

A There is a discussion of this probably in the AWWA M1 manual under the section of water rates.

MR. FRIEDMAN: We don't have anything further. Thank you.

COMMISSIONER DEASON: Redirect.

MS. HOLLEY: May I have one moment, please.

We have no redirect. Thank you.

COMMISSIONER DEASON: Exhibits.

MS. HOLLEY: We would ask that Composite Exhibit 25 be moved into the record.

COMMISSIONER DEASON: Without objection, show it admitted.

(Exhibit 25 admitted into the record.)

COMMISSIONER DEASON: Thank you, Ms. Lingo.

MS. HOLLEY: And that concludes Staff witnesses.

COMMISSIONER DEASON: Okay. Mr. Friedman, you can move into your rebuttal phase.

MR. FRIEDMAN: Mr. David Orr.

DAVID ORR

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

DIRECT EXAMINATION

BY MR. FRIEDMAN:

Q State your name.

A My name is David Orr.

Q And, Mr. Orr, you have been previously sworn in, previously testified?

A Yes, I have.

Q And have you prefiled rebuttal testimony in this proceeding?

A Yes, I have.

Q Does that rebuttal testimony include any exhibits?

A Yes, it does. It includes four exhibits.

MR. FRIEDMAN: I would like to, Commissioner, ask that those be identified.

COMMISSIONER DEASON: Composite Exhibit 26.

(Exhibit 26 marked for identification.)

BY MR. FRIEDMAN:

Q And, Mr. Orr, if I asked you each of the questions in your prefiled rebuttal testimony, would you answer similar to or identical to the answers that you gave in your prefiled testimony?

A Yes, I would.

Q Do you have any corrections to it?

A No, I do not.

MR. FRIEDMAN: I would ask that Mr. Orr's testimony be inserted into the record as read.

COMMISSIONER DEASON: Without objection, is shall be so inserted.

REBUTTAL TESTIMONY OF DAVID L. ORR, PE

Q. Please state your name and business address.

A. My name is David L. Orr and my business address is 200 Weathersfield Avenue, Altamonte Springs, Florida.

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

A. I am employed by Utilities, Inc., the company which owns 100% of the stock of Utilities, Inc. of Florida (UIF). Presently, I serve as Regional Manager and am responsible for the administration and operation of all water and sewer systems within Lake, Marion, Orange, and Seminole Counties owned by subsidiaries of Utilities, Inc.

Q. Briefly describe your background and the nature of work you do with Utilities, Inc.

A. I hold a Bachelor of Science Degree in Environmental Engineering from the University of Central Florida and a Masters of Business Administration (MBA) from the Roy E. Crummer Graduate School of Business at Rollins College. I am currently certified as Professional Engineer (PE) (License Number 60207) in the State of Florida.

I began my employment with Utilities, Inc. in 1997 as Assistant Operations Manager. In that capacity my responsibilities included evaluating the operation of several systems in Florida, assisting in the assimilation of systems after acquisition, and completing special

assignments under the direction of the Vice President, Don Rasmussen. In late 1998, I was promoted to the position of Regional Operations Manager assuming the responsibility of managing the overall operation of four (4) affiliated companies. In March of 2000, I was asked to manage 36 systems within the Lake, Marion, Orange, and Seminole Counties.

In June 2001, I left the employment of Utilities, Inc. and was employed by Public Resources Management Group (PRMG), Inc., a financial, rate, and management consulting company located in Maitland, Florida, as a Senior Financial Analyst. In that capacity I was responsible for providing consulting services to municipal, private, and semi-private clients in the disciplines of financial analysis, rate design (impact fees, miscellaneous charges, user rates, etc.), and utility management within the water and wastewater utility industry.

In August 2002, I returned to Utilities, Inc. as Regional Manager. Currently, I am responsible for the management of six (6) affiliated companies comprised of thirty-five (35) water and wastewater systems within the counties of Lake, Marion, Orange, and Seminole.

Q. What is the purpose of your rebuttal testimony?

A. To adopt the Direct Testimony filed with the Commission in this case by Donald W. Rasmussen, and to address the testimony of James H. Berghorn, witness on behalf of the Florida Public Service Commission.

Q. With respect to the testimony of Donald W. Rasmussen, are you adopting the testimony filed in its entirety?

A. No. I am adopting only that portion of the testimony that pertains to the water and wastewater systems located within Marion, Seminole, and Orange counties.

Q. With regard to the testimony of James H. Berghorn, what issues will you address?

A. In Mr. Berghorn's testimony, he stated that there is no response on record with the Tampa Office of the Florida Department of Environmental Protection from Utilities Inc. of Florida in response to the sanitary survey conducted on June 30, 2000. Our records indicate our response to the sanitary survey was sent to FDEP's Tampa office on July 27, 2000 which included an auxiliary power plan, bacteriological sampling plan, and cross-connection control program. In fact, Mr. Bill Ryland conducted a follow-up investigation on April 17, 2001 and requested a copy of our updated auxiliary power plan. Our office submitted our updated plan to the Department with our response dated May 25, 2001. Subsequently, Mr. W.C. Dunn and Mr. Berghorn have conducted additional inspections

on August 22, 2001, and March 26, 2003 respectively in which both inspection reports noted "no deficiencies". Attached to my testimony as Exhibits (DLO -1-4) _____- _____ are copies of the correspondence which evidences UIF's responses to the 2000 inspection, the follow-up investigation in 2001 and the additional inspection reports from 2001 and 2003.

Q. Does this conclude your rebuttal testimony?

A. Yes it does.

BY MR. FRIEDMAN:

Q Would you give a brief summary?

A If it would please the Commission, there was an update asked yesterday by Staff regarding the Little Wekiva system. If it would please the Commission, I can go ahead and give that update now, as a summary to my testimony.

We had replaced 20 meters specific to the Little Wekiva system out of approximately 62 customers to date regarding the meter replacement program status in Little Wekiva. Also, we strive and try very hard to provide a good quality of service for all our customers, and I think that has been exhibited through testimony provided to this Commission. And that concludes my summary.

Q Do you have any unfilled operator positions?

A Yes. As I understand it, there are.

Q Are you actively trying to fill that position?

A Absolutely.

MR. FRIEDMAN: I have no further questions. I tender the witness.

COMMISSIONER DEASON: Mr. Burgess.

MR. BURGESS: No questions.

COMMISSIONER DEASON: Staff.

MS. GERVASI: Staff has one question.

CROSS EXAMINATION

BY MS. GERVASI:

Q Mr. Orr, with respect to the Phillips system, I think you indicated that you might know by the time your rebuttal came up as to whether the master meter for that system has, in fact, been replaced as of yet, and I wonder if you have an answer to that question.

A I spoke to my operations staff yesterday afternoon after giving my direct testimony. It is my understanding, based upon that conversation, that they have not replaced that meter. That the original meter test that was performed, there was a discrepancy associated with it having to do with the discharge of the test meter that was utilized being a three-inch discharge instead of a four-inch discharge. They have contacted David Hanna of the Florida Rural Water Association and he is scheduled to come out and double-check that accuracy today.

MS. GERVASI: Thank you. That's all we have.

THE WITNESS: Thank you.

COMMISSIONER DEASON: Redirect.

MR. FRIEDMAN: None.

COMMISSIONER DEASON: No redirect. Exhibits?

MR. FRIEDMAN: Yes, we would like to move Mr. Orr's exhibits.

COMMISSIONER DEASON: Exhibit 26, without objection, is admitted. Thank you, Mr. Orr.

THE WITNESS: Thank you, Commissioner.

(Exhibit 26 admitted into the record.)

MR. FRIEDMAN: The next witness is Mr. Frank Seidman.

COMMISSIONER DEASON: Mr. Friedman, I thought Mr. Lubertozzi was going to take the stand on rebuttal.

MR. FRIEDMAN: He is. I thought it would be easier to do -- this witness is going to be shorter, I believe.

COMMISSIONER DEASON: Very well. Any objection? Okay. Mr. Seidman.

FRANK SEIDMAN

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

DIRECT EXAMINATION

BY MR. WHARTON:

Q Sir, will you state your name for the record?

A Frank Seidman.

Q Have you been retained by Utilities, Inc. to provide rebuttal testimony consisting of Pages 1 through 34 in this case?

A Yes, I have.

Q Do you have any corrections, additions, or deletions to make to that testimony at this time?

A Yes. I have four small ones and one really big one. Let me do the four small ones first, because they are just typos. At Page 22, Line 3, in that title there it says, "Mr. Biddy's rational," it should be "rationale." Put an "e" at the

end of rational.

Page 26, Line 19, there is a word in the middle of the sentence, "dependent." The word should be "depend." Strike the E-N-T.

Page 30, Line 3, between the words "should" and "on," insert the word "be," B-E.

COMMISSIONER BRADLEY: Say that again.

THE WITNESS: Between the words should and on, insert the word be.

COMMISSIONER BRADLEY: Which line?

MR. WHARTON: Page 30, Line 3.

THE WITNESS: Then on Page 32 --

COMMISSIONER BRADLEY: I missed that. What are you inserting again?

MR. REILLY: That must be Line 4, not 3. I mean, I don't see should on 3. Is that correct?

COMMISSIONER BRADLEY: You said Line 3, it's on Line 4.

THE WITNESS: On my printout it is on Line 3.

COMMISSIONER DEASON: On our version it is Line 4. But we've got it, we can move ahead.

COMMISSIONER BRADLEY: Give me the insert again, the change.

THE WITNESS: On Page 30, I don't know if it is Line 3 or 4, which printout that you have, the phrase that

begins, "The evaluation should on the basis of gallons per minute," and the word "be" should be inserted between "should" and "on". So it reads, "The evaluation should be on the basis".

COMMISSIONER BRADLEY: Okay.

THE WITNESS: And finally on Page 32, Line -- I have it as Line 16, there is the word expected, the E-D should be dropped. It is present tense.

COMMISSIONER DEASON: I believe that is Line 19 on our version.

THE WITNESS: Okay. Sorry about that.

That takes care of the grammatical changes. The other change I have is to strike a portion of my testimony and exhibits that has to do with the subject of unaccounted water at the Golden Hills Crownwood plant. And as background on that, when the MFR was filed, there was a Schedule F-1 for the Golden Hills system. F-1 shows the gallons treated and sold and calculates unaccounted water for that system. For Golden Hills it showed it to be 22 percent plus on unaccounted for water.

I submitted another schedule that I thought was going to replace that at the time of the filing of the MFRs, it wasn't. I put it into my rebuttal, which showed the unaccounted water to be 6 percent plus because there was an indication that there was problems with the meter at the wells.

As it turns out, going back now after some time has gone by, I have talked to the company, and there wasn't a problem with the wells, there was a problem with the meter that they used to test the meter at the wells. So according to Murphy's law, anything that can go wrong will, and I'm going back to the original F-1 which shows 22 percent unaccounted for water at that plant. And what I wanted to do, if it is the right thing to do, is to strike the testimony I have in my rebuttal that addresses that subject and the exhibits that have to do with it.

MR. WHARTON: I think that testimony begins on Page 3, Line 5, with the word, "However." The entire rest of that page should be stricken. Page 3, Line 5, and the strike would continue until Page 4, Line 6. So the question, "Mr. Biddy uses a 10 percent unaccounted for water level," would be the next line that was not stricken. And we will go through a similar exercise with the exhibits.

BY MR. WHARTON:

Q All right. Mr. Seidman, given those changes --

A There's more.

Q Okay.

A On Page 22, strike the whole first question and answer under the heading, "Mr. Biddy's rationale".

Q At Line 5 through 15.

A Right, strike all of that.

Q The beginning of the question to the end of the answer.

MR. WHARTON: We would request that Mr. Seidman's prefiled rebuttal testimony as amended be inserted into the record as though read.

COMMISSIONER DEASON: Without objection, show it admitted as amended.

BY MR. WHARTON:

Q Mr. Seidman, did you also prepare in conjunction with the testimony Exhibit FS-4 through FS-10?

A Yes, I did.

Q Do you have any changes or corrections to those exhibits?

A Yes. I would remove Exhibits FS-4, and 5, and 8. They were all related to the same subject that we struck testimony for.

MR. WHARTON: We would ask that Mr. Seidman's Exhibits FS-6, 7, 9, and 10 be marked for identification.

COMMISSIONER DEASON: Composite Exhibit 27.

(Composite Exhibit 27 marked for identification.)

REBUTTAL TESTIMONY OF FRANK SEIDMAN

Q. Please state your name, profession and address.

A. My name is Frank Seidman. I am President of Management and Regulatory Consultants, Inc., consultants in the utility regulatory field. My mailing address is P.O. Box 13427, Tallahassee, FL 32317-3427.

Q. Have you previously filed direct testimony on behalf of the Applicant, Utilities, Inc. of Florida (UIF)?

A. Yes.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my rebuttal testimony is to respond to the direct, prefiled testimony of Office of Public Counsel (OPC) witnesses Biddy and Deronne. In addition I will respond to the direct, prefiled testimony of Commission Staff witness Redemann.

RESPONSE TO MR. BIDDY

Q. Are there specific areas of Mr. Biddy's testimony to which you are responding?

A. Yes. Mr. Biddy addresses several areas related to the determination of used and useful. I will be responding to certain portions. My response will follow the order in which Mr. Biddy addresses them.

UNACCOUNTED-FOR-WATER

Q. Would you please respond to Mr. Biddy's testimony regarding unaccounted-for-water?

A. Yes. At pages 6 and 7 of his prefiled testimony, Mr. Biddy addresses the levels of unaccounted-for-water for the 17 UIF water systems. He has prepared an analysis that is summarized in his Exhibit TLB-4. I have reviewed his results and they agree with those of the Utility as shown on the "F-1" schedules of the MFR for each system. ~~However, in the course~~ of my review, it came to my attention that the "F-1" schedule filed for the Marion County Golden Hills/Crownwood system is an incorrect, draft schedule. For whatever reason, the final "F-1" schedule for the Marion County Golden Hills/Crownwood system did not get filed. The correction to Schedule "F-1" also affected the calculations on Schedules "F-3" and "F-5". Copies of the correct schedules are attached as FS-4.

Q. What is the difference between the schedule as filed and available to Mr. Biddy and the corrected schedule?

A. The schedule as filed and available to Mr. Biddy showed 59.497 million gallons pumped and a resulting 22.2% unaccounted-for-water. Mr. Biddy's calculations were in agreement with that amount and result. The correct schedule takes note of the fact that tests were made for the water well flow meters indicating that they were reading high. When the meter flow reading correction is taken into account, the gallons pumped drops to 49.536 million gallons and the unaccounted-for-water level drops to 6.6%.

Q. Why was this meter flow test undertaken?

A. When I was preparing the engineering MFR schedules, I became concerned with the flow results for the Crownwood system and asked the company to check them out. The company communicated its response to me by e-mail, a copy of which is attached as FS-5. The results of the testing for the wastewater system were properly reflected in the "F-2" schedule as filed. Inadvertently, the results for the water system were not.

Q. Mr. Biddy uses a 10% unaccounted-for-water level as acceptable and considers anything above that as "excess". He states that it is the historical policy of the Commission to use a limit of 10%. Would you please respond to Mr. Biddy's position?

A. Yes. It is true that the Commission has often used 10% as the limit for an acceptable level of unaccounted-for-water in rate cases. But not always. The Commission's policy is not set by rule and is therefore open to review in each case. The Commission's Standard Operating Procedures (SOP) state that a fair average of unaccounted-for-water might be 10-20% for fully metered systems with good meter maintenance programs and average conditions of service. Although the SOP is no longer utilized because it was never formalized into a rule, it does reflect the historical position of the Commission and its staff. So there is room for legitimate discussion. When the Commission opened a Docket to consider adopting specific rules for used and useful, it did propose 12.5% as an acceptable level. That proposal took into consideration a new system leakage design level of 2-

3% as a base before including a 10% level of unaccounted-for-water. Another point for consideration is that of meter accuracy. Commission rules acknowledge that the accuracy limits of displacement meters are between 90-101.5 percent of actual flows. For current and compound meters, the limits are 90-102% and 90-103% respectively. Since meters typically run slow as they age, even a system that had zero unmetered water could still have up to a 10% differential between water pumped and metered that would show up as unaccounted-for-water.

Q. Are you aware of any other indications that a 10% allowance for accounted-for-water may be too low?

A. Yes. There are indications from some water management districts in Florida that the range should be 12-15%. For example the Southwest Florida Water Management District (SWFWMD) has indicated that for most areas, there is no need to address reduction of unaccounted-for-water levels of less than 15%. Even in water use caution areas, remedial action is not required for unaccounted-for-water levels of less than 12%. So, there is legitimate reason to set an acceptable level of unaccounted-for-water at a level higher than 10%, and 12.5% is a conservative goal.

INFLOW AND INFILTRATION

Q. At page of his prefiled direct testimony, Mr. Biddy next addresses inflow and infiltration (I&I). He shows I&I calculations for three

systems - Summertree, Weathersfield and Ravenna Park/Lincoln Heights. Would you please respond to his approach and his findings?

A. Yes. Mr. Biddy calculated infiltration and inflow (I&I) for each of these systems and found that they had "excess" I&I. Mr. Biddy considered any I&I greater than 10% of treated flows to be excess. I am not aware of any basis for 10% of treated flows as a standard for measuring excess I&I. The standard of which I am aware is a specification allowance of 500 gpd/inch-diameter/mile of gravity mains for infiltration, excluding inflow. That is a measure recommended in the previously referred to SOP's, and one which the Commission has used and accepted in other rate proceedings. The basis for this specification allowance is Water Pollution Control Federation (WPCF) Manual of Practice No. 9, developed in 1970, superceded in 1982 by WPCF Manual of Practice No. 5.

Q. At page 8 of his prefiled direct testimony, Mr. Biddy indicates that he normally would proceed to determine the amount of I/I per inch of sewer diameter per mile, but that the utility did not furnish sizes of mains or lengths or reasonable maps. Was that information available?

A. Yes. But to the best of my knowledge OPC did not specifically request that detail, even though it did not hesitate to requests hundreds of other pieces of information during the discovery process. Such information was previously available in Commission annual reports, although it stopped

requiring the reporting of this data several years ago. Nevertheless, it is available from the company. Such information was requested by PSC Staff for the Ravenna Park/Lincoln Heights system, was furnished and was used to analyze I&I for that system, and is referenced in Staff Witness Redemann's testimony.

Q. Do you agree with how Mr. Biddy calculated I&I?

A. No. He estimated I&I for all systems as the difference between treated wastewater flows and what he identifies as 80% of water sold to wastewater connections. First, the general assumption that only 80% of water used is returned to the wastewater system is typically applied only to residential service and is based on the assumption that irrigation water is included in residential use. Mr. Biddy made no distinction for systems where irrigation is separately metered and already excluded from residential use. Second, this Commission typically assumes that 96% of general service water is returned to the wastewater system. Mr. Biddy made no distinction between residential and general service. Third, he sometimes used the wrong numbers as input.

Q. Would you please address Mr. Biddy's I&I calculations for the Pasco County - Summertree system?

A. Yes. For the Pasco County - Summertree system, I agree with the treated wastewater flow of 23.690 million gallons used by Mr. Biddy. This is the amount shown on MFR Schedule "F-2". I also agree with the 22,027,023

gallons that he identifies as water sold to wastewater connections. That is an amount provided to OPC in response to its Interrogatory No. 106 which the company identified as returnable water. I do not agree with Mr. Biddy's assumption that only 80% of these flows are actually returned for wastewater treatment for this system. He did not adjust for the fact that Summertree has separately metered irrigation and irrigation use has already been removed from residential use. He made no distinction between residential and general service. Finally, as the company has pointed out in response to OPC and Staff discovery requests, the Summertree system is unique in that it has separately metered irrigation for all common sites and residential lot sites in the Arborwood area. This issue was addressed in Summertree's last rate case, Docket No. 910020-WS. In Final Order No. 25821, the Commission agreed that due to the unique circumstances, it was proper to assume that 96% of all flows would be returned to the wastewater system. For this test year, 96% x 22,027,023 = 21,145,942 gallons. Based on this assumption, I&I, the difference between water returned and waster treated would be 2,554,058 gallons, rather than the 6,068,382 gallons calculated by Mr. Biddy.

Q. Did you make an analysis of allowable infiltration flows for Summertree based on the 500 gpd/inch-diameter/mile criterion?

A. Yes. My analysis is shown on FS-6, page 1. The company's records show, through year 2000, 1,260 feet of 6" mains, 25,165 feet of 8" mains, and

2,677 feet of 10" mains. Based on these quantities and an allowance of 500 GPD per inch-diameter mile, the allowable infiltration would be 22,315 GPD or 8.14 million gallons. This compares to the actual I&I of 2.5 million gallons, as discussed above. Keep in mind that this is an infiltration allowance only and does not include any allowance for inflow. Also, keep in mind that this calculation does not even include the footage of service laterals which tend to account for a good deal of infiltration. There is no excess I&I at Summertree.

Q. Would you please address Mr. Biddy's I&I calculations for the Seminole County - Weathersfield system?

A. Yes. I disagree with Mr. Biddy's calculations because there is no valid basis for his determination of wastewater treated. The wastewater flows in the Weathersfield system are treated and disposed of by the City of Altamonte Springs under an agreement that dates back to 1995. The City bills for services, not on the basis of measured wastewater flows, but rather on the basis of a percentage of water consumed by Weathersfield's wastewater customers. There is no metering device to measure the flows sent to the City for treatment, so there is no measurement of treated flows against which to compare water consumed. Mr. Biddy has arrived at a number which he identifies as wastewater treated, but I do not know how he derived it, since neither the company nor the City has that information. Without knowledge of the treated flows, there is insufficient information

with which to calculate I&I. However, since the agreement with the City is to bill the utility on the basis of only 70% of water consumed, it can be reasonably concluded that the costs associated with any I&I that may exist is not being passed on the customers through the treatment and disposal costs. A determination of I&I is not necessary for this system.

Q. Would you please address Mr. Biddy's I&I calculations for the Seminole County - Ravenna Park/Lincoln Heights system?

A. Yes. The Ravenna Park/Lincoln Heights system is one for which there is general agreement between OPC, the Staff and the company that there is the appearance of excessive I&I. The company's assumptions were provided to the PSC Staff in response to interrogatories and they are correctly summarized and characterized in the prefiled direct testimony of PSC Staff witness Redemann. I will not repeat them here. Although Mr. Biddy's assumptions and calculations are somewhat different, there is not a substantial difference in the results. Based on Mr. Biddy's input and calculation the estimated allowable treatable flows, including I&I, would be 24,466,200 gallons. This compares to 22,028,144 gallons calculated by Mr. Redemann using the company's input.

Q. Have you made calculations for the other wastewater systems?

A. Yes. Mr. Biddy did not make a calculation of I&I for the Marion County - Golden Hills/Crownwood system. My calculation is shown at FS-6. It indicates there were 860,564 gallons of Infiltration & Inflow. Of this

amount, 773,689 gallons was determined to be an acceptable allowance for infiltration, excluding any allowance for infiltration through service laterals. The remaining 86,874 represents only 2.84% of treated flows, which is not significant and could well be attributed to infiltration through service laterals and/or inflow. There is no excess I&I for this system.

I also made a calculation for the Pasco County - Wis-Bar system, which Mr. Biddy did not address and, as shown on FS-6, page 3, there is no excess I&I.

STATUTORY 5 YEAR GROWTH

Q. Mr. Biddy states that in systems experiencing negative growth he applied the negative growth rate because "the statutory rule must apply both ways to have any meaning." Do you agree?

A. No. The purpose of the statutory language and rule that enables it is to insure that a utility has sufficient plant to serve current and future needs and that the utility is compensated for the related investment. If there is no growth, then no further investment is required and no allowance for further growth will be provided. However, once a utility has constructed plant which has been found to be necessary (used and useful) to serve its customers, that plant cannot be removed without cost to the remaining customers and without harm to the service of existing customers simply because some of those customers no longer take service. In addition, by reducing demand by applying a negative growth factor, Mr. Biddy is

double counting. The existing demand level, itself, already reflects reduced demand. A negative growth factor just compounds the reduction, artificially spiraling it down without any regard for cause and effect. Mr. Biddy's interpretation is nothing more than gamesmanship.

FIRE FLOW

Q. The utility had requested a fire flow allowance for 12 of its water systems. Mr. Biddy recommended that a fire flow allowance not be approved for two of those systems. Would you please respond?

A. Yes. The company requested a fire flow allowance for the Orangewood system and the Oakland Shores system. In both of these systems, fire flow is furnished to only limited portions of the systems. Mr. Biddy believes that because of this there should be no allowance for it. The problem is that, limited area or not, the hydrants are in public areas and the company is responsible for providing the required fire flows and must have the capacity to do so. To deny the allowance would be to deny the utility the ability to recover the cost associated with a service to which it is obligated.

UTILITY'S RATIONALE FOR USED AND USEFUL FOR WATER FACILITIES

Q. At pages 9 through 11 of his prefiled direct testimony, Mr. Biddy takes issue with your approach to determining used and useful for water supply, pumping, treatment and storage facilities. He describes it as novel. Would you please respond?

A. Certainly. I appreciate the compliment that my approach is novel, but that is more than it deserves. The approach I used is simply a practical application of the Commission's basic formula for determining used and useful.

As I stated in my prefiled direct testimony, the format of the analysis is the same for each system. It begins with a listing of the various input parameters including the number and rating of the wells, type and size of the storage facilities, high service pumping capacity, system demand, fireflow requirements, and unaccounted for water. If system growth is relevant that is addressed in the used & useful formula.

I then briefly discuss how each system functions and whether the system components should be evaluated individually or together. Based on the availability of well capacity, storage capacity and high service pumping capacity I made a determination as to whether demand should be evaluated on the basis of maximum day demand or instantaneous demand. I then made a calculation of used & useful using the Commission's standard formula of dividing the sum of (peak demand + fireflow - excess unaccounted for water + property needed to serve five years after the test year) by the firm reliable capacity.

Apparently, what Mr. Biddy found novel, was that I made a determination as to whether demand should be evaluated on the basis of maximum day

demand or instantaneous demand and found that most of the systems should be evaluated on the basis of instantaneous demand.

Q. Under what circumstances did you determine that a system should be evaluated on the basis of instantaneous demand?

A. I made a determination that a system should be evaluated on the basis of instantaneous demand when that system had no storage facilities or storage of such little consequence that it would be unable to support even a peak hour demand. Most of UIF's water systems are small, have simple chlorine treatment, only hydropneumatic storage and no high service pumping. Under these circumstances, the system demand is served directly from the well pumps. Clearly, as a practical matter, the well pumps see every instantaneous change in demand, and with no way to buffer that demand with storage, must respond directly to those changes. My approach of evaluating these systems on the basis of instantaneous demand merely recognizes what is actually occurring on the systems. There is nothing novel about it.

Q. At page 11 of his prefiled direct testimony, Mr. Biddy concludes, after reviewing cases that you cited, that the Commission has never approved or even commented on instantaneous flow rationale. Do you agree with his conclusion?

A. No. OPC, through interrogatories, had asked whether this used and useful rationale had ever been used or approved by the Commission and to

specify cases. The response, provide by me, was that the Commission had previously dealt with the concept of instantaneous demand. In each of the cases cited, the Commission dealt with the concept. I cited three rate cases in which the concept was introduced. In each of those, peak hour demand was used as a proxy for instantaneous demand. I also cited a rulemaking case in which the Commission proposed a rule which directly dealt with instantaneous demand in the same manner I have. Obviously, Mr. Biddy and I do not agree on how to interpret how the concept of instantaneous demand was addressed in each case. Nevertheless, the point is that the Commission is fully aware of the concept. What is at primary issue here is not whether the concept of instantaneous demand is new or legitimate, but whether it is best represented by a peak hour proxy or by a an estimate of diversified (coincident)instantaneous demand.

Q. At page 11 of his prefiled direct testimony, Mr. Biddy alleges that your rationale is "obviously proposed to try to obtain a U/U percentage of 100% for all systems." Is that true?

A. That is a strong allegation and the answer is emphatically, no. My rationale is to assure that the manner in which the systems operate is recognized to the greatest extent in used and useful. There is no doubt that I concluded that all of UIF's water systems were 100% used and useful. But that should come as no surprise - they had already been found to be 100% used and useful in previous cases and there has been no significant

change in any of the systems. My conclusions simply verify the conclusions reached in those previous cases.

DISTRIBUTION AND COLLECTION SYSTEMS

Q. At page 11 of his prefiled testimony, Mr. Biddy alleges that the utility "ignored the long standing and Commission approved rationale and methodology" for determining used and useful for distribution and collection systems. Is that true?

A. No. We simply didn't reinvent the wheel. As Mr. Biddy recognizes in his testimony, the company did not recalculate used and useful for systems which the Commission had previously found 100% used and useful and in which there has been no significant change. We did calculate used and useful for systems that had not previously been determined to be built out.

Q. In Mr. Biddy's exhibits, he shows his calculations of used and useful for the distribution and collection portion of each of the 15 systems that you stated were previously found to be 100% used and useful by this Commission. Would it surprise you that in all but one case, his calculations yielded percentages less than 100%?

A. Not at all. Apparently Mr. Biddy has relied on the strict mathematical calculation of lots served versus lots available as some sacrosanct formula to which reality and reason do not apply. It is not, nor are any of the many formulae utilized by the Commission. If they were, there would be neither need nor opportunity for the Commissioners to exercise any judgment.

With regard to the analysis of distribution and collection systems, it is perfectly reasonable for small, closed systems to be considered 100% used and useful even though some lots do not now, or may ever have customers, simply because all lines in place are required as a minimal, backbone system. I believe that is the gist of the Commission's previous findings for these systems.

I have attached FS-7 which summarizes customer activity information for the 15 systems for which the Commission has previously made a determination of 100% used and useful. The exhibit shows, for each system, the test year average single family residences, the average growth activity over the last five years, and the used and useful percentages calculated by Mr. Biddy. The systems are grouped according to the docket in which the Commission made its last used and useful determination. You can see most systems have had negligible activity since the Commission's last findings. You can also see that even according to Mr. Biddy's calculations, the lowest used and useful percentage is 82%. It is not unreasonable or unusual for the Commission to consider distribution and collection systems that are 80%+ buildout and have virtually no growth potential to be 100% used and useful.

Q. There are two systems - Golden Hills/Crownwood and Summertree - that have not been previously determined to be 100% used and useful.

Did you make an evaluation for these systems, and if so, how did your results compare to those of Mr. Biddy?

A. I did evaluate the distribution and collection portion of these systems. With regard to the Golden Hills/Crownwood water distribution system, I had made a calculation, that based on the 597 ERC capacity previously determined by the Commission, used and useful was approximately 97% and that 100% should be used. Through interrogatories, OPC requested that we make an actual lot count from system maps. On that basis, it appeared to us that approximately 586 units could be served. This approximation required an assumption as to how many multi-family units might be constructed on available sites. With that change, I would estimate that used and useful would calculate to approximately 90%. Mr. Biddy calculated it to be 88.64% using his count and assumptions. I would not dispute the differences because it is purely speculative what may or may not be developed. But based on the layout of the system and where available vacant lots are located, I would still recommend that the distribution system be considered 100% used and useful. With regard to the collection system, which only serves the Crownwood area, I made a determination that it was 100% used and useful based on the configuration of the system. The wastewater system only serves an area developed as quadraplexes. 18 quadraplex buildings have been developed out of what appears to have been a potential of anywhere from 26 to 34 total buildings,

depending on which plat drawing you look at. On that basis, the area served could be anywhere from 52% to 70% developed. However, there has been no development activity in at least five years and there does not seem to be any interest in further development. The service area is compact, consisting of less than 3,000 feet of mains. The wastewater collection system would probably not be any less, even if the existing buildings were all that were initially planned. On that basis, the collection system serving this grouping of buildings should be considered 100% used and useful.

With regard to Summertree, I did not make a determination of used and useful for the distribution and collection systems because they are fully contributed. Mr. Biddy determined that they were 77% and 65.96% used and useful, respectively. I did not check his calculations because, right or wrong, the associated investment is offset by CIAC.

Q. In his calculation for three of the systems - Oakland Shores, Weathersfield and Park Ridge, Mr. Biddy reduced used and useful percentages by negative growth factors. Do you agree with this?

A. No. Used and useful percentages should never be reduced by negative growth factors. Negative growth implies a demand for service once existed which the utility was obligated to serve and did. The utility cannot remove the lines which were committed to serving those sites nor should

the Commission penalize the utility for it, anymore than a utility should be penalized because demand may be reduced due to conservation.

Q. Are there any specific reasons those systems show a negative growth?

A. Yes. In the Weathersfield system, a portion of the service area was sold to the City of Altamonte Springs. This was a one time event and does not establish a pattern. In the Oakland Shores system, several customers were transferred to the City of Maitland service area when an adjacent small UIF system known as Druid Isles was purchased by the City of Maitland. This also was a one time event. For the Park Ridge system there is really not a negative growth pattern. The number of customers has not changed in many years, however, the annual consumption varies from year to year - sometimes up - sometimes down. Over the past five years the annual change has averaged less than one-half of one percent - hardly a pattern.

WASTEWATER TREATMENT PLANT

Q. At page 12 of his prefiled testimony, Mr. Biddy takes issue with your approach to calculating used and useful for the Crownwood wastewater treatment plants. He alleges that you have not used any of the "longstanding and Commission recognized and approved methodologies" and seem "intent on breaking new ground." Is that true?

A. No. I have no idea what Mr. Biddy is talking about. I calculated used and useful for the Crownwood plant using exactly the same formula and

components that he did, and in compliance with Commission Rule 25-30.432, F.A.C. We differ only in our calculation of growth and in the application of excess I&I. He used the three month average daily flow of 25,282 GPD to represent demand and I used the three month average daily flow of 25,282 GPD to represent demand. He used the three month average daily flow permitted capacity of 40,000 GPD and I used the three month average daily flow permitted capacity of 40,000 GPD. He used 2,178 GPD to represent 5 years growth and I used 2,207 GPD to represent growth - an insignificant difference. He deducted 362 GPD as representing excess I&I. I concluded that there was no excess I&I. He concluded that the plant was 67.75% used and useful. I concluded that the plant was 68.72% used and useful. Whatever Mr. Biddy read into my methodology, just isn't there.

Q. Mr. Biddy faults you for not making a used and useful determination for treatment plant investment that was allegedly removed from service in three systems - Ravenna Park, Weathersfield and Summertree - that now transport their effluent for treatment. Would you please respond?

A. When I prepared my used and useful analysis, I was not aware that any facilities were on the books of the company that were not providing service. If they are, obviously some accounting treatment for that

investment should be considered. Mr. Lubertozzi will be addressing Mr. Biddy's allegations in his rebuttal testimony.

MR. BIDDY'S ~~RATIONAL~~ Rationale FOR DETERMINING USED AND USEFUL FOR WATER SUPPLY AND PUMPING FACILITIES

Q. I would now like you to address Mr. Biddy's rationale for determining used and useful for water supply and pumping facilities. First, however, I would direct you to the corrected MFR Schedules you provided as FS-4. Will any of these corrected schedules affect Mr. Biddy's calculations as shown in his Exhibit TLB-3?

A. Yes. It affects his calculation of used and useful for the Marion County Golden Hills/Crownwood Water System Source of Supply and Pumping as shown under Par. 1.1.7. of his exhibit. It will result in a reduction in the used and useful that he calculated. In all fairness to Mr. Biddy, I have recalculated what the amounts would be and show them in FS-8 which is a marked up reproduction of his exhibit TLB-3, page 2.

Q. At page 15 of his prefiled testimony, Mr. Biddy proposes that source of supply and pumping should be evaluated in accordance with the FDEP rule for design. Would you please address his proposal?

A. Yes. According to Mr. Biddy's testimony, source of supply and pumping components should be evaluated in accordance with FDEP rules; specifically FDEP Chapter 62-500, F.A.C. I believe that is an inadvertent and incorrect reference. There is no FDEP Chapter 62-500, F.A.C.

However, judging from additional statements in Mr. Biddy's testimony, I will assume he meant to refer to Chapter 62-555, F.A.C. which addresses the permitting and construction of public water systems. Mr. Biddy's testimony states that the FDEP rule sets forth Section 3.2.1.1 of *Ten States Standards* as the governing rule. I can find no specific reference to Section 3.2.1.1 of the *Ten States Standards* in this FDEP rule or any other FDEP rule. There is, however, a general reference, in FDEP Rule 62-555.330, F.A.C., to the *Recommended Standard for Water Works*, which is the official name of the *Ten States Standards*. The stated purpose of that reference in the FDEP rule, and the six other general references that are listed, is "to be applied in determining whether applications to construct or alter a public water system shall be issued or denied." Since the FDEP has approved all of the applications to construct all of UIF's wells, one would have to conclude that the utility met the test that Mr. Biddy references.

That being said, I disagree that this particular DEP rule , or any DEP rule, should become the basis for the Commission's evaluation of used and useful. The Commission can and does consider DEP design and operating requirements as a factor in a rate case. It does, in fact, review whether a utility is in compliance with DEP requirements. But the evaluation of used and useful requires judgment not only of engineering considerations, but

also efficiency, economics and sufficiency. That is not necessarily evident in any particular DEP rule or rules.

With regard to the specific paragraph in Ten State Standards relied on by Mr. Biddy to support his used and useful calculations, his interpretation is myopic. The paragraph quoted by Mr. Biddy states that groundwater source capacity shall equal or exceed design maximum day demand and equal or exceed the design average day demand with the largest producing well out of service. Mr. Biddy assumes, for his calculations, that only capacity equal to the stated quantities is 100% used and useful, but any capacity that exceeds the stated minimum requirement is excessive and non-used and useful. He does this even though it is clear from the wording that these required quantities are minimum quantities.

Even if one were to rely on this particular paragraph, it would have to be done in the context of other portions of the document. For example, Section 7.2 of Ten State Standards addresses hydropneumatic systems. According to Section 7.2.2, "the capacity of the wells and pumps in a hydropneumatic system should be at least ten times the average daily consumption rate." Nine of UIF's 17 water systems are hydropneumatic systems. If Section 7.2.2 were applied, rather than Section 3.2.1.1, the used and useful percentages for these system would range from 86% to well over 100%. This compares to a range of 13% to 100% using Mr. Biddy's approach. FS-9 provides a system by system comparison.

Q. Are you recommending that Ten State Standards Section 7.2.2 be used as a basis for evaluation used and useful for hydropneumatic systems?

A. No. I am just trying to point out the problems that arise when one tries to evaluate used and useful on the basis of various design criteria without looking at the whole picture. Drawing on singular paragraphs as a standard, without relating them to any other requirements says nothing about the presence or absence of other system components, their interrelationship, and their impact on the operation of the system.

Q. Are there any other problems with Mr. Biddy's approach to his analysis of used and useful for supply and pumping that you would like to address?

A. Yes. In relying on the minimum requirement of Ten State Standards Section 3.2.1.1 for systems with no or negligible storage capacity, Mr. Biddy looks only at average day and maximum day demand and completely ignores how demand in excess of that amount will be served. Whether that excess demand is characterized as peak hour demand as PSC Staff does, or instantaneous demand, as I do, the demand is there and must be met. With no storage available to supplement demand in excess of average day or maximum day, the capacity must come directly from the well pumps. The utility recognizes this deficiency in its proposed

approach and the Commission engineering staff recognizes this deficiency in its proposed approach.

The inadequacy of the result of Mr. Biddy's approach becomes clear when the allowable used and useful capacity of each system without storage is compared to the peak demands placed on those systems, whether measured by peak hour demand as proposed by the Staff or instantaneous demand as I have proposed. The bottom line is, it would not be possible for the systems that have no storage or negligible storage to adequately serve demand with the capacity which Mr. Biddy's approach would allow. FS-10 summarizes these inadequacies.

Q. Thus far you directed your critique of Mr. Biddy's methodology to his reliance on DEP rules as a basis for evaluating used and useful. Do have comments regarding any other parts of his approach?

A. Yes. Mr. Biddy has analyzed each water system on a component by component basis rather than on an integrated system basis. Although that is a legitimate approach for some systems, I do not think it is appropriate for these systems.

Q. Why is that?

A. All of the systems are small systems that depend almost exclusively on well pumping capacity to serve demand. For most, the storage capacity for these systems is either hydropneumatic or limited ground storage and, as previously pointed out, analyzing each component fails to recognize the

interrelationship of those components. And as previously demonstrated that is one of the reasons Mr. Biddy's used and useful results are so low.

Q. What about the UIF systems that have some storage and high service pumping capacity?

A. The same is true for these systems. They should be evaluated as integrated systems in order to recognize the interrelationship of those components.

Q. Can you give an example of how considering components separately doesn't recognize the interrelationship of the components?

A. Yes. Let's look at how Mr. Biddy analyzed the Weathersfield water system. This system has only two wells, but it has 100,000 gallons of storage as a part of a cascade aeration system. Mr. Biddy found the wells and pumps to be only 56.3% used and useful which, according to his calculations resulted in 346,428 GPD excess capacity on an average daily flow basis. However, he found the 100,000 storage tank to be over 100% used and useful, because, according to his calculations, there is a 248,197 GPD deficit. If there is 248,197 GPD storage deficit, where is the capacity required to serve the difference between the ADF and the MDF and the peak hourly flows going to come from? It will obviously have to come from the "excess" well capacity. Now, if we accepted Mr. Biddy's approach on its face, and just added the storage deficit to the demand on the well pumps, you would be up to 92% used and useful, no questions asked. You just can't look at these small systems in a piece meal fashion.

Q. While we are looking at Weathersfield, what about the way Mr. Biddy's has handled water treatment plant?

A. That's a good question. Mr. Biddy has also analyzed the aerator as a separate component. That is all that makes up the water treatment equipment, other than chlorination. Mr. Biddy correctly identifies the capacity of the aerator as 1,500 gpm. He then carries out a typical demand vs. capacity analysis as if the aerator were sized just on the basis of serving demand and reaches the conclusion that the aerator is 27.5% used and useful. The aerator is not sized just on the basis of serving demand. It is sized to handle the flows when all wells are operating and directing flows into the storage tank associated with the aerator. Weathersfield has a total well pumping capacity of 1,550 gpm and an aerator capacity of 1,500 gpm. If the other systems with aerators are analyzed you will find that the capacity of each matches the well pumping capacity. They are all 100% used and useful. Mr. Biddy's piecemeal approach simply distorts the results for these systems.

RESPONSE TO MS. DERONNE

Q. What is your understanding of Ms. DeRonne's testimony?

A. It is my understanding that she has prepared a financial evaluation of UIF's rate request on behalf of the Office of Public Counsel. It is also my understanding that, in preparing her evaluation, she has relied on, and incorporated, the conclusions of Mr. Biddy with regard to used and useful,

including his conclusions regarding any alleged excess unaccounted-for-water or I&I.

Q. What is the purpose of your response to her testimony.

A. The only purpose is to state, that to the extent I disagree with Mr. Biddy's results, I also disagree with the effect incorporating those results would have on her financial evaluation. I have not done any analysis of her testimony with regard to her use of Mr. Biddy's input. Suffice it to say, that whatever decision the Commission makes in this proceeding regarding used and useful, unaccounted-for-water and I&I, will have a fallout effect on the rate base and expense components to which they apply.

RESPONSE TO MR. REDEMANN

Q. Have you reviewed the prefiled direct testimony and exhibits of Mr. Redemann?

A. Yes, I have.

Q. Do you have any general observations?

A. Yes. Mr. Redemann's testimony discusses the appropriate methodology for determining used and useful. After reviewing his testimony, I would conclude that we are in general agreement on several points. It appears that with regard to determining used and useful for water plant for this particular utility he has (1) evaluated the systems on an integrated basis rather than on a component by component basis, (2) determined that they

be evaluated on the basis of the firm reliable capacity of the wells, (3) determined that systems with little or no storage must meet peak demands from their well capacity, and (4) determined that for systems with little or no storage, the evaluation should be on the basis of gallons per minute (gpm) rather than gallons per day (GPD).

Q. Are there any points in Mr. Redemann's testimony with which you take issue?

A. Yes. As previously noted, Mr. Redemann and I appear to agree that water systems with little or no storage must meet peak demands from their well capacity and should be evaluated on the basis of (gpm) rather than (GPD). However, we do not agree on how peak demands should be represented. Mr. Redemann has taken the position that peak demand should be represented by peak hour demand. I have taken the position that it should be represented by the system's instantaneous demand.

Q. Are your positions that far apart on this issue?

A. No. In fact I believe we are not at all apart in goal; i.e., to find a valid proxy for the maximum demand faced by well pumps in a system with little or no storage. We differ only in how to practically represent that demand.

Q. What is Mr. Redemann's rationale for using the peak hour demand rather instantaneous demand?

A. As I understand Mr. Redemann's prefiled testimony, the primary reason he would rather uses peak hour demand is because more information is available about how to estimate peak hour demand than there is about how to estimate instantaneous demand, peak hour demand is more commonly used, and peak hour demand can be estimated from actual system data. In addition, he believes that the information I used for estimating instantaneous demand is from an old source that is used as a design criteria and does not necessarily reflect current water usage patterns.

Q. Would you please respond to that rationale?

A. Yes. First I would like to point out that whether peak hour demand or instantaneous demand is used, both are typically determined from estimates, not from directly recorded data. Mr. Redemann provides an AWWA reference that shows peak hour demand to be estimated as between 1.3 and 2.0 times peak day. Another AWWA reference, Distribution System Requirements for Fire Protection, Manual M31, goes further and states that for small systems, peaking factors may vary significantly higher. So, even though his base may be recorded maximum day flows, estimation is still involved.

With regard to the age of the resource I used to estimate instantaneous demand, I admit it is old - some 38 years. However, through an interrogatory, Staff asked whether I had considered relying on a 1999 Army Corps of Engineers reference that followed virtually the same

rationale as my 38 year old resource. So, the age of the reference is immaterial as long as the rationale is valid. As was explained in the response to the interrogatory, I rejected the newer reference because it appeared to produce results that were too low for small systems and too high for what would be expected for larger systems.

Q. Are the rationales for estimating peak hour demand and instantaneous demand the same?

A. Yes. Both of these measurements depend on customer diversity. Each individual customer, if its demand were measured, will produce a single highest instantaneous demand on the system at some time during a day. But the combined demand of many customers is not the simple arithmetic total of each individual demand. The reason is that all customers do not necessarily produce their individual demand at exactly the same time. And the more customers there are on the system, the less the probability that customer demands will be coincident. In addition, the longer the period over which individual demands are measured, the less the probability that demands will be coincident and the more the probability that they will be diverse. So, for the same set of customers in a system, one should expect the coincident instantaneous demand to be higher than the coincident peak hour demand, since the peak hour demand reflects the average of 60 instantaneous demands.

Q. Why is it important to understand this?

A. It is important because it explains not only why instantaneous demands will be higher than peak hour demands, but also why, as systems become larger and diversity increases, coincident instantaneous demands will continue to be reduced until they approach the limit of the peak hour demand. In Mr. Redemann's testimony, he indicated that the peak hour design criteria is 1.1 gpm per ERC. The resource I have used to estimate instantaneous demand begins with an estimate of 15 gpm for a single residential customer (ERC), but it quickly drops to 3.19 gpm/ERC for 100 customers, 1.54 gpm/ERC for 500 customers, and reaches a limit of 1.07 gpm/ERC for systems of 1,000 or more. This is right in line with the design criteria of 1.1 gpm/ERC for peak hour demand and tends to support the method I have used to estimate instantaneous demand.

Q. How do you respond to the Commission's comment cited by Mr. Redemann that your resource for estimating instantaneous demand does not necessarily reflect current water usage patterns?

A. I do not believe it is relevant. I interpret the comment to mean that the Commission believes that current efforts toward water conservation would probably result in lower numbers than reflected in a 38 year old document. However, conservation by customers is usually reflected in a lower total volume of water used or a lower seasonal volume of water used, but not necessarily a lower use at the peak. Therefore, one should expect to see a lower average day demand and even a lower maximum day demand, but

not necessarily any significant reduction in instantaneous or peak hour demand. In fact, the ratio of instantaneous or peak hour demand to average or maximum day demand may be exacerbated.

Q. The results of your analysis and Mr. Redemann's analysis produce the same used and useful results in this case. Why, then, are you addressing this an issue?

A. The fact that Mr. Redemann and I reached the same conclusion through different means in this case doesn't carry over to any other case. And, although the concept of instantaneous demand as a basis for used and useful has been addressed to some degree in other cases, it has never been addressed at a hearing. I believe it is a legitimate and meaningful approach for small systems without storage, and it is important that the Commission have the opportunity to explore it. The wells and pumps in water systems without storage have to meet all demand - instantaneous, as well as hourly and daily. I do not believe that using only the peak hour demand captures that requirement.

Q. Does that conclude your rebuttal testimony?

A. Yes it does.

MR. WHARTON: And we will dispense with the summary and tender the witness for cross.

COMMISSIONER DEASON: Mr. Reilly.

MR. REILLY: Virtually all of our questions related to the subject that was just -- the materials that were just stricken. So we just have really basically one or two little questions here.

CROSS EXAMINATION

BY MR. REILLY:

Q And, Mr. Seidman, would you agree that the use by Mr. Biddy of the 10 percent limit for allowable I/I in his initial TLB-6 for Ravenna Park/Lincoln Heights system resulted in less of an adjustment than staff engineer Redemann's adjustment using the 500-gallon per inch diameter per mile of sewer?

A No, I wouldn't. And maybe it is a misunderstanding of what the exhibit was that he provided. I thought, when I read his exhibit, that it ended up in more dollars removed than staff, and that is just the way I read it, so --

Q What about the original 10 percent allowance that he allowed?

A That he ended up --

Q He adjusted it.

A Did his change end up in less of an adjustment than his original?

Q Yes, I think that his later adjustment using the 200

gallons resulted in a higher adjustment than using his 10 percent allowance. I can get you the number subject to check.

A Okay. Maybe that's easier.

Q It is my understanding that his revised adjustment was in the $57,000 range, which was higher than staff's 45,000, but that his initial 10 percent allowance produced an adjustment of only in the range of $30,000. Is that your understanding?

A No. I recognize the difference between the 56 and the 46, I don't recall the 30,000 if that was the adjustment on the other one.

Q So you don't know that his standard 10 percent allowance actually produced less of an adjustment that staff's 500 gallons?

A No.

Q Did you read Donna's testimony?

A Did I read --

Q Staff Witness Donna DeRonne? Excuse me, OPC.

A No, I did not.

MR. REILLY: No further questions.

COMMISSIONER DEASON: Staff.

MS. GERVASI: We have no questions.

MR. WHARTON: We would move Composite Exhibit 27.

COMMISSIONER DEASON: Without objection, show Exhibit 27 is admitted.

(Exhibit 27 admitted into the record.)

COMMISSIONER DEASON: Thank you, Mr. Seidman.

MR. FRIEDMAN: We call our final witness, Mr. Steven Lubertozzi.

STEVEN LUBERTOZZI

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

DIRECT EXAMINATION

BY MR. FRIEDMAN:

Q Would you please state your name?

A Steven Lubertozzi.

Q And you have been previously sworn and previously testified in this proceeding?

A Yes, I have.

Q Mr. Lubertozzi, did you prepare or did we file on your behalf prefiled rebuttal testimony?

A Yes, I did.

Q And do you have any changes or corrections to that testimony?

A Yes, I do, we had some items that were stipulated to earlier on, so that would change some of my testimony, and also exhibits that were -- I think it was Exhibit Number 9 to my deposition that was also changed.

Q And that last one was one of the documents that was admitted as one of the exhibits yesterday along with the

revised E Schedules, is that what you are talking about?

A Yes. I think it was Composite Exhibit Number 6.

Q And, Mr. Lubertozzi, if I asked you the questions that are in your prefiled testimony, would you answer the same as you have in your prefiled testimony?

A Yes.

MR. FRIEDMAN: Commissioners, I would ask that Mr. Lubertozzi's testimony be inserted into the record as read and that his exhibits be given an exhibit number.

COMMISSIONER DEASON: Okay. Without objection the testimony shall be inserted in the record. I do not show that there are any prefiled exhibits with the rebuttal testimony, so which exhibits are you referring to that you wish an exhibit number?

MR. FRIEDMAN: I've got SML-3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 on my copy of the prehearing statement.

COMMISSIONER DEASON: Apparently I just don't have that with my version.

MR. FRIEDMAN: Okay.

COMMISSIONER DEASON: Can you give me that reference again?

MR. FRIEDMAN: SML-3 through 12.

COMMISSIONER DEASON: SML-3 through 12 shall be identified as Composite Exhibit 28.

MR. FRIEDMAN: Thank you.

(Composite Exhibit 28 marked for identification.)

REBUTTAL TESTIMONY OF

STEVEN M. LUBERTOZZI

Q. Please state your name and business address.

A. My name is Steven M. Lubertozzi. I am the Director of Regulatory Accounting for Utilities, Inc. and its subsidiaries. My business address in 2335 Sanders Road, Northbrook, Illinois 60062. Utilities, Inc. of Florida ("UIF") is a subsidiary of Utilities, Inc.

Q. Mr. Lubertozzi, have you previously filed direct testimony in this proceeding?

A. Yes, I have.

Q. Mr. Lubertozzi have you reviewed the Direct Testimony of the witnesses testifying on behalf of the Staff of the Florida Public Service Commission ("Commission") and the Citizens of the State of Florida by and through the Office of Public Counsel ("OPC") filed in this proceeding?

A. Yes, I have.

Q. What is the purpose of your rebuttal testimony?

A. To respond to the testimony of the witnesses of the Commission Staff and OPC.

I. Testimony of Ted L. Biddy.

Q. How would Mr. Biddy's treatment of removing the Utility Plant in Service relative to the systems (for Ravenna Park and the Weathersfield systems in Seminole County and the Summertree system in Pasco

County) that pump their wastewater to a municipality affect UIF?

A. Mr. Biddy's proposal to remove the $796,491 from the corresponding plant accounts would punish UIF for a forced abandonment and/or prudent retirement.

Q. Are there any Commission Rules that provide guidance on the accounting treatment of forced abandonment or prudent retirements?

A. Yes. Rule 25-30.433(9), Florida Administrative Code, states that plant assets that are abandoned or retired prior to the end of their depreciable lives shall be amortized over a time period calculated pursuant to that rule.

Q. According to Rule 25-30.433 (9), what is the time period over which this plant should be amortized ?

A. According to Rule 25-30.433(9), the amount of Utility Plant in Service relating to the Ravenna Park and the Weathersfield systems in Seminole County and the Summertree system in Pasco County referenced in Mr. Biddy's testimony on pages 5 and 6 should be amortized over 9, 7 and 8 years, respectively.

Q. Have you calculated what the amount to be amortized should be?

A. Yes. The Ravenna Park retirement would be amortized at $36,912 per year for 9 years, the Weathersfield retirement would be amortized at $10, 460 per year for 7 years, and the Summertree retirement would be amortized at $22,988 per year for 8 years. Attached hereto is Exhibit (SML-3)_____depicting my calculations of the retirement period and related

amounts.

Q. Is this accounting treatment consistent with past Commission practices?

A. Yes, the Commission has consistently adopted Rule 25-30.433(9) and applied the methodology set out in it.

Q. Was there any CIAC related to the plants in question?

A. No. UIF's records show that there was no CIAC related to these plants.

Q. Was Rule 25-30.433(9) used to calculate depreciation in the test year?

A. No. UIF used its standard depreciation rates in the test year.

Q. Should the amortization be included in the test year calculation?

A. Yes. Because UIF has only taken standard depreciation from the date the systems were taken off line through the test year, it would be appropriate to include this amortization in the test year because it is only the remaining value that is being amortized.

Q. Have you tried to reconcile the dollar amounts discussed in Mr. Biddy's testimony on the top of page 6?

A. Yes, I have. However, certain amounts contained in his work papers do not tie the financial data provided and others contain incorrect data.

Q. Can you please explain?

A. Yes. For the Ravenna Park retirement, Mr. Biddy recommends that $392,882 be removed from UPIS. However, on page 3 of 4 of Exhibit TLB-5 Analysis of Plant in Service Amounts, Mr. Biddy indicates the sewage treatment plant in the amount of $329,536.64 should be removed, but this does not tie to

Exhibit TLB-5, Attachment 1.

Q. What should the correct amount be?

A. The amount should be $341,161.72. This is supported by Exhibit TLB-5, Attachment 1, page 5 of 6. Specifically, refer to account No. 3804005.

Q. Are there any others?

A. Yes. Again, for the Ravenna Park system, Mr. Biddy recommends that there should be a reduction from UPIS for the Building and Structures account. However, on page 3 of 4 of Exhibit TLB-5 Analysis of Plant in Service Amounts, Mr. Biddy indicates that the building and structures account in the amount of $57,099.91 should be removed, but this does not tie to either page 3 or page 5 of Exhibit TLB-5, Attachment 1.

Q. What is the correct amount?

A. The correct amount is $57,099.87. This is supported by Exhibit TLB-5, Attachment 1, page 5 of 6. Specifically, refer to account No. 3547003.

Q. Are there any others?

A. Yes. For the Summertree system Mr. Biddy recommends that $109,496 should be removed from UPIS for sewer treatment plant. However, this amount does not tie to Exhibit TLB-5, Attachment 2, Page 1 of 3, Account No. 3804005.

Q. What is the correct amount?

A. The correct amount should be $109,046.

Q. Are there any others?

A. Yes, for the Weathersfield system Mr. Biddy recommends that $132,286.99 should be removed from UPIS for Building and Structures. However, it seems as though Mr. Biddy has used the incorrect amount and the incorrect account.

Q. Could you please explain?

A. Yes, Account No. 3542011, Lift Stations had a year end balance as of December 31, 2001 of $135,286.99 and Account No. 3547003, Buildings and Structures had a year end balance as of December 31, 2001 of $146,560.53. Neither one of these ties to Mr. Biddy's Exhibit TLB-5.

Q. What is the correct amount and from which account is it derived?

A. The correct amount is $146,560.53 from Account No. 3547003, Buildings and Structures.

Q. Are the any other concerns that you have with Mr. Biddy's recommendation that $796,491 be removed from UPIS?

A. In addition to the errors and or omissions listed above, Mr. Biddy has neglected to offset these UPIS amounts with the appropriate Accumulated Depreciation.

Q. What is your opinion of how these retirements should be treated for accounting purposes?

A. Rule 25-30.433 (9) was promulgated for the specific purpose of establishing the appropriate treatment for abandonments or retirements of plant before the end of their depreciable lives and it should be adhered to in this case.

Therefore, the amount and time periods presented earlier in my testimony accurately reflect the proper accounting treatment.

Q. Should amounts related to Utility Plant in Service and Accumulated Depreciation be removed from those accounts prior to any used and useful calculations are applied?

A. Yes. The amounts corresponding to UPIS and Accumulated Depreciation should be removed before the used and useful percentages are applied.

II. Testimony of Mark Cicchetti.

Q. Do you agree with Mr. Cicchetti's recommendation that the Commission should apply the leverage formula without the third adjustment for the 50 basis points?

A. No. Mr. Cicchettis' recommendation is not reasonable and should not be accepted. If his recommendation to exclude the 50 basis point adjustment is accepted, then the delta between the cost of debt and the cost of equity would be insufficient. The investor is entitled to a premium over the return to the debt holder because of the additional risk the investor takes. The debt holder has prior claim on the assets and earnings of a utility. These claims must be satisfied before funds are available to the investor.

Q. Has the Commission applied the leverage formula, including the 50 basis point adjustment, in determining rates for medium to large utilities?

A. Yes. In virtually all rate cases for Class A utilities that utilized the PAA process, the Commission applied the leverage formula, including the 50 basis

point adjustment. In several rate cases involving utilities of a similar size to UIF in which the OPC was involved, the OPC stipulated to the use of the leverage formula.

Q. Mr. Cicchetti recommends that the entire gain on sale of utility assets should be attributed to ratepayers. Do you agree?

A. No. As presented in my Direct (Gain on Sale) Testimony filed in this Docket on February 17, 2003, the investor alone bears the risk of investing in a utility, not the customer. Therefore the investor is entitled to receive any gains received from the sale of a utility's assets.

Q. What are some of the risks undertaken by an investor in a utility?

A. Unlike a more conventional investment, investors in a regulated utility are not permitted to earn unlimited returns on their investment. By statute, investors in a regulated utility are permitted an opportunity to earn only a "reasonable return" on their investment, and even this is not guaranteed in all jurisdictions. In addition, investors in regulated utilities are also burdened by regulatory lag, during which investors experience a delay in realizing a return on their investment.

Q. Has UIF engaged a rate of return expert to rebut the testimony of Mr. Cicchetti?

A. Yes. UIF has engaged Mrs. Pauline Ahern, of AUS Consultants, to provide testimony on rate of return.

Q. Can you explain "regulatory lag"?

A. "Regulatory lag" commonly refers to the delay between the time investors in a regulated utility make their investment and the time the relevant regulatory body approves the utility's application for a rate increase. In other words, in more conventional investments, an investor, theoretically, can realize a return on his or her investment immediately. Investors in regulated utilities must wait until the regulatory body approves a rate increase, if it does so at all.

Q. If Mr. Cicchetti's recommendation to attribute the entire gain realized by UIF to ratepayers is accepted, would investors in a regulated utility still face other risks?

A. Yes. An investor would be faced with the loss of all of his or her investment.

Q. In your opinion, what is the appropriate accounting treatment of the gain realized by a regulated utility on the sale of utility assets?

A. In my opinion, gains, as well as losses, from the sale of utility assets rightfully belongs to the utility's investors .

Q. Has UIF engaged a consultant to provide testimony on the appropriate accounting treatment of gains and losses realized on the sale of utility assets?

A. Yes. UIF has engaged Mr. Hugh Gower to provide testimony in this regard.

III. Testimony of Kimberly Dismukes - Gain on Sale.

Q. Do you agree with Ms. Dismukes' recommendation that the Commission attribute any gains realized on the sale of UIF's assets to the ratepayers of the relevant system?

A. No. Ms. Dismukes fails to consider or take into account the unique risks faced by investors in a regulated utility. The investor is entitled to receive any gains (and will suffer any losses) generated by the sale of property owned by the utility in which they invested. Ratepayers pay for services provided by the utility. The utility is capable of providing these services solely because an investor decided to invest his or her money in the utility. Restated simply, the investor undertakes to bear all of the risks, and should receive all of the gains. Accepting Ms. Dismukes' recommendation would produce patently unfair results .

Q. Do ratepayers acquire an ownership interest in a utility by paying rates?

A. No. The Commission, in Order No. PSC-93-0301-FOF-WS, dated February 25, 1993, stated clearly that:

> "We agree with the utility that ratepayers do not acquire a proprietary interest in utility property that is being used for utility service. We also agree that it is the shareholders who bear the risk of loss in their investments... ."

Q. Was the Green Acres sale to the City of Altamonte Springs and Druid Isle sales entered into through condemnation proceedings or under threat of condemnation proceedings?

A. Yes. Attached hereto as Exhibit (SML-4) _____ is a copy of the contract entered into by UIF and the City of Maitland regarding the sale of the Druid Isle systems; and Exhibit (SML-5) _____ the contract entered into by UIF

and the City of Altamonte Springs regarding the sale of the Green Acres campground.

Q. How does this support your contention that transactions were entered into under condemnation proceedings or the threat of condemnation proceedings?

A. The recitals on page 1 of the contract with the City of Maitland state :

> "WHEREAS, owner and the City have reached an agreement **under the threat of condemnation** and Owner desires to sell and the City desires to purchase the Facilities in the Service Area for said purpose in accordance with the terms of this Agreement." (Emphasis added)

Further, the recitals on page 1 of the contract with the City of Altamonte Springs state:

> "WHEREAS, owner and the City have reached an agreement **under the threat of condemnation** and Owner desires to sell and the City desires to purchase the Facilities in the Service Area for said purpose in accordance with the terms of this Agreement." (Emphasis added)

III.A. Testimony of Kimberly Dismukes - Allocation.

Q. Do you agree with Ms. Dismukes' contention that all of the expenses that have been allocated from the document entitled the "Water Service Corporation Distribution of Expenses" should be disallowed or calculated using her alternative methodology?

A. No. The method of allocating expenses among the operating subsidiaries of

Utilities, Inc. is an equitable one. In addition, this method of allocation was used to allocate expenses in Utilities, Inc.'s three most recent rate cases (Wedgefield Utilities, Inc. [2002], Utilities, Inc. of Sandalhaven [2003] and Cypress Lakes, Utilities, Inc.[2003]), and in UIF's last two (1994 and 1995) rate proceedings.

Q. Can you explain the process used to create the document entitled "Water Service Corporation Distribution of Expenses"?

A. Yes, I can. Water Service Corporation's rate base and expenses that cannot be directly attributed to a specific company are allocated proportionately to all operating subsidiaries of Utilities, Inc. There are multiple factors and calculations used to allocate these expenses. Allocation factors can include the number of employees, the number of bills mailed and the number of customer equivalents within a certain region. However, the majority of expenses are allocated based on the number of customer equivalents.

Q. How are customer equivalents calculated?

A. Customer equivalents are calculated using the following methodology:

One Water Customer	One-Customer Equivalent
One Wastewater Customer	One-Customer Equivalent
One Water & Sewer Customer	One and one-half Customer Equivalent
Availability Customer	.25 Customer Equivalent
Distribution Customer	.50 Customer Equivalent
Collection Customer	.50 Customer Equivalent

Q. Why does Utilities, Inc. use these allocation factors?

A. Utilities, Inc. believes this is an equitable way to allocate expenses and that this type of allocation accurately reflects the accountability of the various operating subsidiaries for expenses incurred. This methodology has been approved or accepted in all states in which Utilities, Inc. operates.

Q. Can you explain why Utilities, Inc. believes this is an equitable distribution methodology?

A. Yes. For example, if there were two apartment buildings both with a 2-inch meter serving multiple water customers and the first apartment building serves thirty-five water customers, this would be counted as thirty-five customer equivalents. If the second building, with the same size meter serves forty water customers, this would be counted as forty customer equivalents. Utilities, Inc. believes that the additional customers should be accounted for through customer equivalents because the number of customers coupled with consumption and other factors drive capital investments and related operating expenditures.

Q. Can you explain why a customer that is both a water and wastewater customer is not counted as two customer equivalents?

A. Yes. A customer that is both a water and wastewater customer does not receive two separate bills and does not require the same level of business resources as a water-only or wastewater-only customer would.

Q. Does Utilities, Inc. have a written policy as to the calculation of customer

equivalents?

A. No, it does not. Historically, this calculation has been determined on a case-by-case basis with the input of operations personnel. Utilities, Inc. has been using this methodology consistently for many years.

Q. Does Utilities, Inc. plan on creating a written policy as to the calculation of customer equivalents?

A. Yes. The appropriate individuals within Utilities, Inc. are currently analyzing this methodology and studying the implications and the best way to proceed with implementing a written policy.

Q. Would it be fair and equitable to UIF and its ratepayers to implement a change in the method of allocating expenses to one operating subsidiary of Utilities, Inc. and not all the others using the same test year.

A. No.

Q. Could you please explain why?

A. The "Water Service Corporation Distribution of Expenses" document is calculated using year-end expenses and customer equivalents calculated on data collected mid-year. Any change in the allocation factors for one operating subsidiary (e.g, UIF), and not other operating subsidiaries using the same test year (e.g, Utilities, Inc. of Sandalhaven and Cypress Lakes Utilities, Inc.), would cause an inequitable distribution of expenses to the ratepayers and/or UI.

Q. How does UIF believe that the common expenses and rate base should

be allocated?

A. UIF believes that all common expenses and rate base must be allocated using the same methodology. And if UIF was to make a change in the allocation methodology, it would have to do the same for all companies nationwide at the same time. In addition, the relevant regulatory bodies of all states in which Utilities, Inc. has operating subsidiaries would have to approve the new methodology before it is applied. To apply a consistent and equitable distribution of all common expenses and rate base without going through years of approval proceedings, the customer equivalent allocation factor currently in use should be used in this proceeding. Ms. Dismukes recommendation must be rejected on these grounds.

Q. If Utilities, Inc. were to change its method of allocating common expenses how would you proceed?

A. The Utility would first have to develop a plan or alternative methodology for allocating these expenses and then present them, informally to regulatory bodies that oversee our operations.

Q. How much expense would the Utility incur in trying to change this methodology and how would those costs be recorded?

A. The Utility has not performed a study to determine an estimated cost. However, it would be expected to be in the hundred of thousands of dollars. In addition, all of those expense would be passed on to ratepayers.

Q. Would the Utility anticipate any opposition to a proceeding to change the

methodology of allocation?

A. Yes, I believe that it would be met with opposition in some states due to the increase of expenses being allocated because of the change in methodology.

III.B. Testimony of Kimberly Dismukes – Rate Case Expense.

Q. Do you agree with Ms. Dismukes' recommendation that the Commission allow only one-fourth of the requested rate case expense incurred in this case?

A. No. Ms. Dismukes has not provided any credible evidence of her methodology or statutory grounds for disallowing three-fourths of actual rate case expense incurred by UIF.

Q. Has UIF filed with the Commission a schedule that sets forth rate case expense?

A. Yes. In response to Staff Interrogatory Nos. 78 – 80.

Q. Have you provided evidence of rate case expense actually incurred and evidence of estimated rate case expense to complete this proceeding?

A. Yes. UIF has provided this information in response to Staff Interrogatory Nos. 78-80. A breakdown of actual and estimated total rate case expense is provided in the attached Exhibit (SML-6) _____.

I have also attached, as Exhibit (SML-7) _____, which represent schedules supporting these costs.

Q. Has UIF incurred or will it incur rate case expense from any consultant not previously advised to the Commission? If so please explain.

A. Yes. UIF has found it necessary to engage Mrs. Pauline Ahern, of AUS Consultants, a rate of return expert.

Q. What are the costs relating to obtaining the testimony of Mrs. Ahern?

A. Mrs. Ahern estimates that the total cost for her professional services will be $8,500. This was an expense not contemplated when the rate case was filed since OPC had previously accepted the leverage formula in other Class A utility rate proceedings.

Q. Why was Mrs. Ahern engaged?

A. Mrs. Ahern was engaged specifically to rebut the direct testimony filed by OPC witnesses concerning cost of capital.

Q. Is it your understanding that these costs will be included as a rate case expense?

A. Yes. UIF is incurring these costs to challenge testimony provided by OPC through Mr. Cicchetti and Ms. Dismukes.

Q. Was it UIF's intention to engage a rate of return expert or did it intend to use the leverage formula set out in Commission Order No. PSC-01-2514-FOF-WS dated December 24, 2001?

A. UIF intended to use the leverage formula, "in lieu of presenting evidence on its rate of return on common equity", as provided in Section 367.081 (4)(f), Florida Statutes.

Q. Did you have to revise the MFRs at any time during this proceeding?

A. Yes.

Q. Please explain why.

A. At times, certain schedules or items were deemed insufficient to meet the minimum filing requirements, changes or updates were required, and other time schedules were updated or amended to include information at the request of Staff.

Q. How much time was spent preparing amended MFR filings?

A. I spent approximately 72 hours preparing amended MFRs.

Q. Were there any other rate case expenses incurred because of the amended MFR filings?

A. Yes. UIF incurred additional copying and delivery expense.

Q. What factors have driven rate case expense?

A. One of the main factors driving rate case expense in this proceeding has been the amount of time that UIF has devoted to answering the overwhelming number of discovery requests propounded by OPC.

Q. What are you recommending that the Commission adopt as rate case expense in this proceeding?

A. The Commission should include all costs associated with this proceeding as supported by UIF's response to Staff's Interrogatory Nos. 78-80, as supplemented, and the additional time and expense of UIF's rate of return expert, Mrs. Pauline Ahern.

Q. Have all of the expenses that you referred to earlier been documented with either an invoice or a time sheet?

A Yes. All time sheets and invoices have been submitted to the Commission Staff, except for estimates and the costs related to Pauline Ahern.

IV. Testimony of Donna DeRonne.

Q. On page 22 of the direct testimony of OPC witness Donna DeRonne, she recommends that the Commission make an additional adjustment to salary expenses. Do you agree that salary and wages should be reduced by an amount equal to the capitalized time to expense ratio?

A. UIF recognizes that every year a portion of operators' time is capitalized instead of expensed. However, Ms. DeRonne fails to account for the portion of the salaries that are to be capitalized. If Ms. DeRonne's recommendation was accepted, the Commission would have to require that 13.14% of operators' time be allocated to plant accounts according to some Commission-determined percentage. It would not be reasonable to include only 86.86% of salary expenses and not include the other 13.14% in plant in service. However, including the 13.14% of capitalized time in plant in service without a corresponding invoice or plant account to charge it to would be inappropriate. Both alternatives are inappropriate. Therefore, I recommend that the Commission accept Commission Staff's recommendation of these expenses without any further reduction.

Q. On page 29 of Ms. DeRonne's direct testimony, she recommends that the purchased wastewater treatment expense for Lincoln Heights should be reduced by an additional $7,451 based upon a different averaging time

period. Do you agree with her recommendation?

A. No. An averaging method is merely an artificial method for spreading the expense over a certain period of time. If the Commission were to accept this methodology, UIF would have to look at all relevant expenses and remove any anomalies that were either too high or too low. Ms. DeRonne has not done that. Therefore the test year expense recommended by Commission Staff should be adopted.

Q. Are there any additional points that Ms. DeRonne makes that you would like to comment on?

A. Yes. On pages 40 and 41 of her direct testimony, Ms. DeRonne recommends that the Commission adopt the low-end of the return on equity range in this proceeding as some sort of punishment or incentive to make some changes to facilitate the Commission Staff's auditing process.

Q. Do you agree with this recommendation?

A. No, I do not. UIF is committed, and has expressed a desire, to work with the Commission Staff to address any concerns that the Commission Staff and/or the Commission may have.

Q. What has Utilities, Inc. done to address some of the concerns addressed in Commission Order No. PSC-03-0647-PAA-WS, issued May 5, 2003?

A. Members of Utilities, Inc.'s management team met with Commission Staff auditors, Ms. Kathy Welch and Mr. Jeff Small, to discuss all of the concerns that were addressed in this Order. This meeting was extremely informative

and helpful from Utilities, Inc.'s and the Commission Staff's perspective.

Q. What else has Utilities, Inc. done in respect of this order?

A. By letter dated June 17, 2003, UIF corresponded with Commission Staff members, Ms. Denise Vandiver and Ms. Patricia Merchant, advising them of Utilities, Inc.'s and UIF's intent to comply with the issues raised in Order No. PSC-03-0647-PAA-WS (Cypress Lakes Utilities, Inc., Docket No. 020407) , and devise a schedule for compliance. A copy of this letter is attached hereto as Exhibit (SML-8) _____.

Q. On page 46 of the direct testimony of Ms. DeRonne, she raises issues about the MFRs being prepared and filed on a county-by-county basis. Can you explain why the MFRs where presented this way and what other information was made available through the discovery process?

A. Yes. UIF's Annual Report has been filed on a county-by-county basis for many years, including the test year. This format for reporting has been accepted by the Commission without comment. UIF's last two rate proceedings were filed on a county-by-county basis. In addition, before the MFRs were filed, UIF and its attorneys had conversations with members of the Commission Staff regarding the method for preparing the application for a rate increase. I was present during these conversations by telephone. During these conversations, Commission Staff instructed us that a county-by-county filing, coupled with non-system specific rates, would meet the minimum filing requirements.

Q. Was any system specific information provided through the course of this proceeding?

A. Yes. System specific rate base schedules, revenue requirements and rates were filed in April, 2003 as late filed exhibits to my deposition.

Q. Where these system specific schedules provided to Staff and the OPC?

A. Yes, they were. Attached hereto is Exhibit (SML-9) _____, which are copies of the information that was provided to all parties.

V. Testimony of Frances J. Lingo.

Q. Have you reviewed Ms. Lingo's testimony filed on June 16, 2003?

A. Yes, I have.

Q. Can you please explain UIF's decision to prepare some of the MFRs with a single tariff pricing?

A. Prior to filing the MFRs I had numerous conversations with FPSC Staff members and I was informed that preparing the MFR with a combined rate for some of the systems would be acceptable and would facilitate the rate review process.

Q. What information have you provided to Staff and/or OPC pursuant to their requests, to meet the minimum filing requirements, during the course of Staff's audit and in response to the discovery requests?

A. A list of information provided to Staff and/or OPC would be too voluminous to provide in detail. However, I have summarized the information provided below:

Detailed General Ledgers		Trial Balances
Monthly Financial Data		Bank Statements
Debt Covenants		Board of Director Minutes
Invoices		Billing Summaries
Consumption Analysis		Engineering Data
Customer Data		Gallons Pumped
Gallons Sold		Unaccounted for Water
Utilities, Inc. Financial Statements		Nuon's Financial Statements
Rate Base Schedules		Revenue Requirement Schedules
Work Orders		Contracts
Gain on Sale Data		

This is not a total list, just a summary.

Q. Did UIF provide system specific rate base and revenue requirement schedules as requested by Staff?

A. Yes. In response to my deposition we filed as Late Filed Exhibit Nos. 7 and 8. Please refer to Exhibit (SML-9) ____.

Q. Do you agree with Ms. Lingo's recommendation on page nine that UIF's requested rate relief in Pasco or Seminole Counties should be denied?

A. No. UIF has provided all consumption, financial and engineering data that it has available. This is the same consumption, financial and engineering data that was used to calculate rates, revenue requirement and rate base for all of Utilities, Inc.'s operating subsidiaries in Florida, including, Utilities, Inc. of

Sandalhaven and Cypress Lakes, Utilities, Inc. which where both filed using the same historical test-year. If Staff has now changed its position for county-wide rates to system by system rates, they have sufficient information to set system by system rates.

Q. On page 13 and continuing on page 14, Staff Witness Lingo suggests a possible rate consolidation of the Pasco County water systems. Would UIF agree with her proposed potential rate structures?

A. UIF is not opposed to working with Staff to create and implement a rate structure that is equitable to all parties and allows UIF an opportunity to earn a reasonable return on its investment. In addition, UIF is not opposed to either system specific or county wide rates.

Q. On page 18 of Ms. Lingo's testimony, she discusses a billing discrepancy in the number of customers in the Oakland Shores system. Can you elaborate on this issue?

A. Yes. There were approximately 225 water customers in the Oakland Shores system at December 31, 2001. The following is a breakdown of the customers and their respective bill codes:

Sub	Bill Code	Number of Bills
604	60001	1,181
604	60002	96
604	60004	12

604	60010	12	
604	60011	55	
	Total	1,356	

Therefore, the total number of customers would be approximately 225. The issue is that only bill code 60002 is listed separately on Schedule E-2. The other customers are accounted for in other bill codes and commingled with customers from all other subsidiaries in their respective bill codes.

Q. Ms. Lingo recommends accepting UIF's proposal to move to monthly billing. What expenses did the UIF include in its MFR relating to a move to monthly billing?

A. UIF has included the additional per check deposit charges, postage, envelopes and papers.

Q. Are there any other charges associated with the move from bi-monthly billing to a monthly billing cycle?

A. Yes. UIF currently employees four full-time meter readers. These four employees have an average salary including benefits of approximately $31,000. If UIF were to switch to a monthly billing cycle, then the current staff of four individuals would not be sufficient to read all of the meters. Therefore, UIF would have to employee a fifth meter reader and the cost would be estimated at $31,000 per year.

Q. How should this additional expense be accounted for in the test year?

A. A portion of the estimated $31,000 of salaries and benefits should be

included as a pro forma adjustment to operation and maintenance expenses. It would not be unreasonable to allocate one-third to one-half of the $31,000 as a pro forma adjustment in this proceeding.

VI. Testimony of Jeff Small.

Q. Have you read the Testimony of Staff Witness Jeff Small?

A. Yes, I have.

Q. Have you previously filed responses to UIF Audit Report dated November 15, 2002?

A. Yes, I have. Attached are Exhibit Nos. (SML-10-11) _____ and _____, which are the responses to the UIF and Water Service Corp. Audits.

Q. Do you have any additional responses to this Audit Report?

A. Yes, I do. Exception No. 9 [Utility-Plant-in Service (UPIS) – Adjustments to Test Year Balance] in Mr. Small's Audit Report recommends that the "disposition of excess balance to determined by the Commission."

Q. How should the UPIS is question be treated?

A. The UPIS in question should be treated in accordance with Rule 25-30.433 (9) and therefore be amortized over eight years. Please also refer to Exhibit (SML-3) _____.

VII. Testimony of Kathy Welch.

Q. Have you read the Testimony of Staff Witness Kathy Welch?

A. Yes, I have.

Q. Have you previously filed responses to th Utilities, Inc. Audit Report

dated November 14, 2002?

A. Yes, I have. As stated above, UIF filed responses to both the UIF and Water Service Corp. Audits. Please refer to Exhibit Nos. (SML-10-11) _____ and _____.

Q. Do you have any additional responses to this Audit Report?

A. Yes, I do. Ms. Welch refers to Exception No. 5 [Finder's Fees] in her testimony and recommends that these costs should be removed and charged to the system being purchased as acquisition costs. However, these charges are related to employment finder's fees not acquisitions. I have attached Exhibit (SML-12) _____. This Exhibit includes the work paper used to calculate the $21,615 referenced in Exception No. 5, the invoices paid in 2001 totaling $43,242. In 2001, these deferred employment fees were deferred over three years.

Q. How should these expenses be recorded and allocated?

These expenses should be included in the test year as a valid Water Service Corporation expense and should be allocated to UIF based on our Customer Equivalents percentage presented in the Water Service Corporation Distribution of Expenses Year End 2001 book.

Q. Does this complete your testimony?

A. Yes, it does.

BY MR. FRIEDMAN:

Q Mr. Lubertozzi, would you like to summarize your rebuttal testimony?

A I haven't prepared one. I didn't think we were going to do that today to expedite the process, so we could get done on time.

MR. FRIEDMAN: Fine. We will tender the witness.

COMMISSIONER DEASON: Mr. Burgess.

MR. BURGESS: Thank you.

CROSS EXAMINATION

BY MR. BURGESS:

Q Mr. Lubertozzi, I want to take you back to a couple of the issues that I asked you about when we were doing the direct testimony. Specifically first Issue 6 in the prehearing statement.

A Yes.

Q Are you familiar with that issue?

A Yes, I am.

Q Are you familiar with the genesis of that issue? Let me ask you this: Is this an issue that was brought up by staff in their staff audit?

A I believe so, it was brought up by staff.

COMMISSIONER DEASON: Mr. Friedman, excuse me for just a second. I do have the exhibits, they were just so large they were in a separate binder.

MR. FRIEDMAN: Thank you.

COMMISSIONER DEASON: I'm sorry, Mr. Burgess, you may continue.

BY MR. BURGESS:

Q You believe that staff raised this issue in their staff audit?

A I thought they did. But subject to check. I would have to go back and see where it came up the first time.

Q All right. Would you look at Issue 20, please?

A Staff Audit Issue 20 or prehearing?

Q No, no. I'm sorry, Issue 20 on the prehearing?

A Prehearing. Okay.

Q Would you -- is it your understanding that this issue was raised by the staff audit and staff audit findings, either exceptions or disclosures?

A I'm not sure. But, subject to check, either it came up in staff's audit report or somewhere in testimony.

Q Okay. Wouldn't you expect that if it came up in the staff audit report, though, that they would have a position on it?

A I would agree with that.

Q And would you look at Issue 21, and I have the same question with regard to that. Do you know who initiated, or how the issue was initiated?

A Subject to check, it is either in staff's audit or

rebuttal testimony.

Q Or staff's rebuttal testimony?

A No, it is either in testimony by OPC or in the staff's audit report, I would think.

Q Now, would I be correct that if these issues were not raised by staff as one of their audit exceptions or disclosures, that your response to the staff audit would not have addressed these, is that correct?

A I'm sorry, could you repeat that. I didn't quite follow.

Q Yes. If these three issues were not raised in the staff audit, would I be correct in understanding that your response to the staff audit would not have included a reference to these issues?

A Correct.

Q All right. So when we were discussing yesterday as to whether any of your testimony addressed these Issues, 6, 20 and 21, you testified that neither your initial testimony nor your rebuttal testimony addressed these. Do you recall that?

A Yes, I do.

Q And do you recall that your counsel represented that, in fact, though, you had responded to these in your response to staff audit and that was subsumed in your rebuttal testimony and, therefore, you did have testimony directed to these issues. Do you recall that?

A No, I do not recall what Mr. Friedman had said yesterday.

Q Would you agree that if Mr. Friedman represented to the Commission that your response to the staff audit included responses to these, and if these issues were not raised by the staff audit, that, in fact, Mr. Friedman was in error in his representation to the Commission?

A I don't know. I don't remember what he said. And, you know, he may have misstated what was attached to my testimony. There is numerous exhibits and I just don't recall how it was phrased or what was worded.

Q Well, would you agree, then, that in your rebuttal testimony, your prefiled testimony, nor in the attachments to your rebuttal testimony and attachments to your prefiled testimony, you do not testify as to why the company disagrees with OPC's position on these issues?

A I would have to review those exhibits again.

Q Can you show me anywhere where you have addressed these issues?

A Well, I just commented I would have to review the exhibits again to be sure before I would answer that question.

Q But that does mean that right now you do not have a reference to anywhere in any of the company's prefiled testimony or exhibits that addresses these issues?

A If you are correct that there is nothing in the

exhibits, then you are correct other than our statements in the prehearing order.

Q Thank you. Now, if I can direct your attention to Issues 5 and 22, which I believe are the allocation factor issues. One with regard to rate base, one with regard to expense?

A Correct.

Q On Page 15, I believe, of your rebuttal testimony, you indicate -- at least as I understood it, you indicate what it would take, in your opinion, for a change in allocation methods to be fair. Do I understand correctly that that is what you are getting at?

A The question reads, "If Utilities, Inc. were to change its method of allocating common expenses, how would you proceed?" So I briefly described the initial steps that we would have to take.

Q Well, let me direct your attention specifically to Line 5. You indicate that if it were to change, and you are addressing some of the changes that staff audit recommended, you indicate that if it were to change, the relevant regulatory bodies in all states in which Utilities, Inc. is operated -- has operated and subsidiaries would have to approve the new methodology before it is applied.

A Correct, that was my opinion.

Q Now, I mean, as a practical matter that is an

impossibility, isn't it correct?

A No, it's not.

Q So you think that what you would do is get all of the regulatory agencies to agree to this in advance before it would be shifted, and you think that is something that can be done?

A No, I didn't say that it could be done. I didn't say it couldn't be done, either. I'm saying if we were to go through the process to change the allocation method, we would make a business decision to retrieve or have the relevant regulatory bodies in all states approve that before we did it.

Q Have you ever had circumstances in which or seen circumstances in which allocation methods of one jurisdiction is different than allocation methods of another jurisdiction when each have some authority over the same entity?

A Within Utilities, Inc.?

Q No, any company.

A Not that I recall.

Q Let me ask you one other question on this allocation method. We are talking about allocating the cost of WSC, correct?

A Yes.

Q And my understanding from your response to some discovery that you provided in response to Public Counsel was that WSC provides contract services to some entities that are not subsidiaries or affiliates of Utilities, Inc., is that

correct?

A Correct. It provides services to some operations that we operate, but do not own.

Q And my understanding from the response is that those companies are not charged an allocated portion of the WSC costs, is that correct?

A You are correct.

Q And those companies are charged pursuant to the contract, and the fees are collected by Utilities, Inc., is that correct?

A Correct.

Q But those fees that are collected are treated below-the-line for regulatory purposes, is that correct?

A Well, I don't think they would be as a regulatory -- we are doing it as an operating company, we are providing operation services.

Q But you do not allocate any of the costs that are incurred to them as far as alleviating any of the costs from the affiliates, is that correct?

A I didn't understand your question. Your question is Water Service Corp. does not allocate these expenses to the systems that it operates, but does not own?

Q Correct.

A Yes, that is true. It is the utility's business decision to plan that a company that is not owned but operated

does not get the same level of regulatory accounting, customer service, and operations oversight.

Q But you charge them, you allocate them nothing?

A Correct.

Q I would like to ask you a few questions about Issue 23. This is the -- you addressed this on Page 19 of your rebuttal testimony. This is the issue of capitalizing the salaries increase that took place subsequent to the test year?

A Okay.

Q As I understand from your answer, you do not, and from some of the questions that were asked of our witness, you do not disagree that this is a reasonable amount to be capitalized, but your concern is that that is not reflected in the capital accounts, is that correct?

A Our concern is Ms. DeRonne has 13.14 percent of the salaries being capitalized, but there is no way or place for us to record that in the asset accounts.

Q Correct. But you do not disagree that it reflects a more accurate expense account entry for Utilities, Inc. of Florida?

A I do not disagree that every year a percentage of operators and executive time is capitalized.

Q And you heard her testimony as to the actual subsequent years resulting in a capitalized amount that is 13-point-something percent, as well, is that correct?

A Correct.

Q Do you disagree with her assessment of that amount?

A No, I do not.

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

THE WITNESS: Thank you.

COMMISSIONER DEASON: Staff.

MS. GERVASI: Commissioner, I have some questions concerning rate case expense for Mr. Lubertozzi and Ms. Holley has some questions also for him with respect to some other matters.

Before we proceed, I just wanted to make sure that I'm clear that the company has marked the revised SML-7, and that is the rate case expense exhibit. As I understand it, the main difference is that it has been Bates stamped?

MR. FRIEDMAN: Yes. And it was updated to include -- the bottom line number is identical. The only thing it changes, instead -- we had estimated it, it went up through the next two months, so it has got the actual. The bottom line number is the same, and then it is Bates stamped.

MS. GERVASI: Okay. Thank you.

CROSS EXAMINATION

BY MS. GERVASI:

Q With respect to rate case expense, Mr. Lubertozzi, my first questions concern the rate case expense incurred for

deficiencies and revisions to the MFRs. Can you tell us how many times the utility filed revisions to its MFRs during the course of the processing of this case?

A I didn't have the exact number, but Staff Witness Lingo just testified that it was eight. And that wasn't the complete filing each time. Sometimes it only contained two or three pages. One time it contained just the E-14 Schedules.

Q Is it correct that the utility submitted a complete revision of the MFRs on September 3rd of 2002?

A Correct.

Q Does your rate case expense Exhibit SML-7, part of Composite Exhibit 28, does it break out the amount of time and expense the utility incurred to correct MFR deficiencies?

A I addressed that in my testimony where I described the number of hours spent to correct the deficiencies in the MFRs.

Q So that if the Commission were to determine the recovery of the costs incurred to fix errors in revised schedules should be disallowed, does your testimony, in your opinion, provide enough support and information for the Commission to break out the amount of WSC employee time, attorney time, and consultant fee time that was incurred in fixing and revising the case?

A Yes, it did. Only my time was spent revising the MFRs. Our attorneys times were used as a conduit to file the

MFRs with the PSC. We prepared them up in Northbrook, Illinois and send them to Rose, Sundstrom & Bentley either via electronically or FedEx. So in addition to my time we would also have delivery charges and copy charges to correct the MFRs. We had no additional time for our expert witness, Mr. Seidman.

Q Do you have anywhere in your Exhibit FSL-7 information to show us what the copying and shipping charges were?

A Yes, they are. There is a Kinko's receipt in Exhibit 7.

Q Do you recall where? And is that with respect to revising the MFRs?

A Yes, it is. And I could thumb through here and try to find it, but it is quite thick.

Q If you don't know right away, that's okay, we will find it.

A I don't, I'm sorry. But there was two Kinko's receipts in Exhibit SML-7. Obviously you would be able to tell by the date which one was for the first set and which one was for the second set when we completely revised it.

Q Could you please provide us a late-filed exhibit? Evidently we have looked and we have not been able to find receipts through looking at this, so that I want to go ahead and label a late-filed exhibit and title it updated estimates

to complete for rate case expense issue.

A I would like to clarify my response if I could. There is numerous Kinko's receipts in there, not just two. Some of the Kinko's receipts have to do with the maps that were copied.

MS. GERVASI: Okay. Could we go ahead and get an exhibit number, please, Commissioner, for a late-filed exhibit?

COMMISSIONER DEASON: Exhibit 29.

MS. GERVASI: And we will label it updated estimate to complete for rate case expense issue. There may be some other items that we will want to include in that as we go along, but the first item is we would like for you to provide us with page numbers of those items that have to do with shipping or copying charges that were incurred for the purposes of revising the MFRs.

THE WITNESS: Okay. And the first Kinko's receipt is the document Bate's labeled 147.

MS. GERVASI: Thank you.

(Late-filed Exhibit 29 marked for identification.)

BY MS. GERVASI:

Q And this particular rate case expense exhibit, this SML-7, is labeled updated. And I know that this exhibit was updated so that you were able to provide the Bate's stamping. Was there any other reason why you filed a revision to this exhibit? Has anything else changed --

A Yes, it has.

Q -- from the original?

A I'm sorry, I should have let you finish the question.

Q That's okay.

A Yes, there were some additional changes to show -- to break out the estimated time to complete. We had a lump number for certain costs for an estimated cost to complete. We broke that down by actual airfare, hotel charges, and per diem per day meals.

Q Can you tell us approximately how much time you spent to revise this particular Exhibit SML-7?

A How much time did I spend --

Q In the actual preparation of the exhibit itself. I guess this question assumes that you were the one who prepared the revised SML-7.

A With the Bate's labels on there?

Q Yes.

A No, I did not do that. I would have to refer to one of our expert attorneys to find out who put the Bate's labels on there.

Q Okay.

A That is usually not an expense that the utility would want to have to spend the time to do.

Q What about the other revisions that you made to this exhibit to break it to provide estimates to complete the case,

was that your time?

A No, that was done by one of the regulatory accounting staff persons.

Q Any idea how much time they spent on that?

A She changed probably two line items in an Excel worksheet that had already been prepared to change an estimated number to an actual number. And I do believe that schedule was provided. If not, I know our attorneys have a copy of it.

Q If you would refer to Page 4 of SML-7.

A Okay.

Q Can you explain how the additional 400 attorney hours were estimated to complete the case?

A You're talking about the review of transcripts through final order, is that the --

Q Right. Do you have an estimated breakdown of what activities are included within those 400 hours?

A There is a brief description above the estimated 400 hours that our attorneys from Rose, Sundstrom & Bentley because it includes reviewing the transcripts, organizing outlines, preparing the brief. There is a whole list of items that they would have to do.

Q Could you include with that Late-filed Exhibit 29 include a breakdown of how much time was spent on each of those activities to equal the 400 hours?

A Yes, we could.

Q Thank you. Also on Page 4 of SML-7, can you explain how the estimated $5,000 in legal travel expenses for the period of the hearing preparation through the late-filed exhibit period was determined?

A The $5,000 for travel accommodations was estimated on the travel time for two attorneys to drive up from the Altamonte Springs area. It also included hotels stay. And I would assume there is a per diem in there for meals, too.

Q Do you have actual bills to substantiate that $5,000 was incurred, or can you get those?

A I think we can get those. I don't think the utility has been billed yet for those costs.

Q If you could provide that information as part of that Late-filed Exhibit 29.

A Your request is for actual rate case expense for travel accommodation?

Q Substantiation for the $5,000 that on Page 4 it shows was incurred for legal travel expenses.

A Okay.

Q What about the estimated photocopying? You have a $2,000 expense for that, and Federal Express, $1,000. How were those calculated, do you know?

A My assumption is they were calculated the same way as the travel and accommodation. Other items were taken into consideration. Obviously you wouldn't think about travel and

hotel for those items, but there is an estimate. And if your follow-up request is that you would like us to include that in the late-filed exhibit, we would be glad to do that.

Q Please. Also the $1,000 in telephone and facsimile expenses?

A My response would be the same.

Q Okay. If you will include that we would appreciate it in the late-filed exhibit. If you would please turn to Page 79?

A 79?

Q Yes, of SML-7. And this has to do with Witness Ahern's expenses. Has the utility submitted any invoices for her?

A I don't believe that we have received an invoice from Ms. Pauline Ahern yet. It was based on timing of her getting involved in the case, which came about when we received OPC's testimony, and I'm pretty confident that we have not received a invoice from her yet.

Q Okay. We'll need that included in the late-filed exhibit, as well, please, sir.

A Okay.

Q As well as how the $1,000 in expenses for Ms. Ahern was calculated. And I am assuming that is travel, hotel, meals, that sort of expense, is that correct?

A That was my understanding in discussions with Ms.

Ahern.

Q Thank you. With respect to WSC employee travel, if you will look at Page 117 of SML-7.

A Yes.

Q Isn't it correct that the utility is requesting $10,000 for travel expenses incurred, and 1,000 in projected travel expenses for this docket?

A I do believe Schedule 117 was updated to provide the additional detail of travel and hotel stay.

Q Is that provided within the revised Exhibit SML-7 somewhere?

A I think so, yes.

Q Can you direct us to where?

A I may have to have a short discussion with our attorneys to find the location of that document, but we should have a copy.

Q If you could just take a minute and see if it is there, because we couldn't find it. If it is there, we would like to know.

A Okay. If you would direct yourself to Page Number 119, it seems as though that the original rate case expense estimate was left in there when we updated it, and that gives the estimated cost to complete including airfare, which I believe the print range is missing the last number. It's airfare was $851 plus lodging.

Q Did you say that is the last line on Page 119?

A The asterisk that says estimated cost to complete, include airfare.

Q Yes.

A It should not be 85, it should be 851.

Q Is this the page that you say all of the travel expenses are located?

A This is the page that demonstrates the additional cost to complete including travel.

Q Where is the support for the $9,099.98 figure?

A That is included in the documents that are Bate's labeled behind that document.

Q Starting on Page 120?

A I think 121 is the start of all the invoices.

Q It doesn't appear to us that those voices add up to that $9,000 figure. Would you please check that and let us know if we are right or wrong and provide that information to us in your late-filed exhibit? If it doesn't add up to you, like it didn't add up for us, provide the additional information.

A We can provide a more detailed audited schedule that provides you the to and froms to get to those numbers.

Q Thank you. To which WSC employees does this $9,000 figure and actual travel expenses relate?

A It relates to some travel for myself, Mr. Carl Wenz.

Those are -- there is actually additional travel in there, but they are not for WSC employees.

Q How much travel have you personally incurred related to this docket?

A Well --

Q Aside from traveling to attend this hearing?

A I would have to flip through and find the expense report.

Q It is included within the exhibit?

A Yes, it is.

Q How many times have you come to Tallahassee besides --

A I had one trip to Tallahassee, which was from my understanding from talking to our accounting department, that was partially charged to the Utilities, Inc. of Florida deferred rate case account.

Q Thank you. If you will look at Pages 127 and 128 of SML-7. And can you please explain why you included invoices for travel expenses to places like Nevada, Utah, Virginia, and North Carolina?

A They were not included on the lead schedule. When we were requested to provide all the invoices related to rate case expense, we had a summer clerk, a college student who was in making copies of these invoices and included on those pages, I think 26 and 28, the travel company we used to use. We put

maybe five or ten invoices on one page. And it is easier than just copying the whole page and have to redact maybe 9/10ths of the page.

Q Okay. So you didn't mean to include them for the purposes of rate case expense recovery?

A They are not included for rate case expense recovery. The document, one of the pieces of information on here ties to the lead schedule.

Q Has the company requested recovery of the travel costs incurred to reimburse the Commission for the travel costs incurred by the PSC staff auditors?

A I don't know if we have requested it, per se, but it is included in our lead schedule. Our lead schedule contains all information that was available in our general ledger in the deferred rate case account for this utility.

Q When you file your late-filed exhibit, would you please include the exact amounts of the travel incurred by the PSC auditors?

A We can do that. Those invoices are also included in SML Exhibit 7.

Q Thank you. Again on Page 117, can you explain how the estimated hours by the WSC employees to complete the case was calculated? Was this an estimate?

A It was partially an estimate, but also a determination of what we thought we had outstanding to do. How

many additional discovery requests we were still completing, how much support was going to be needed to prepare and work with our attorneys on the prehearing order, how much time would be spent down here in Tallahassee, and how much time people would be spending in Northbrook maybe answering questions at intermission breaks here and things like that. So it is more than just an estimate.

Q In your late-filed exhibit, will you please include a breakdown of actual hours to date as well as a breakdown of estimated hours to complete, and that is broken down by each function per employee. And if you will, you can take a look what you provided for Mr. Seidman as a guide. That is what we are looking for, that kind of a breakdown.

A Do you know which page number that is on SML Exhibit 7?

Q The WSC employee time is Page 117.

A No, I'm sorry, Frank Seidman is who you recommended.

Q I don't have that offhand.

A That's fine. I was just going to mark it for the record so we could easily refer to it.

Q It was 103. I've got it now. Hang on one moment, please. Mr. Lubertozzi, also in the late-filed exhibit if you would please include that same type of breakdown for the attorneys as well as all the witnesses that appeared at the hearing for Utilities, Inc. of Florida.

A We can do that. If your request is to have the schedules look similar to Page Number 117 for all the parties involved, we will do that.

Q Thank you.

MS. GERVASI: That concludes the rate case expense questions that we have. And Ms. Holley has some further questions. Thank you.

CROSS EXAMINATION

BY MS. HOLLEY:

Q Mr. Lubertozzi, I just have a few questions about your revised Rebuttal Exhibit 9, which is now Composite Exhibit 6.

A Okay.

Q With respect to that composite exhibit, not the E Schedules, but the remaining information, part of that breaks down the Pasco County consolidated revenue requirements into separate revenue requirements for each of those four systems in Pasco County, correct?

A Correct.

Q And in order to calculate the stand-alone revenue requirements for each of those, you had to allocate the various components of the countywide operating expenses and rate base to each of the four systems, correct?

A Correct.

Q Can you please tell us how you performed these

allocations?

A There was an allocation factor used, and I do believe it was customer equivalent factor. The same factor that is used to allocate expenses to Utilities, Inc. of Florida and then to all the counties. It was then just broken down further and allocated to all the systems.

Q And that would be the same for Seminole County, as well?

A Correct.

Q Would it be possible as a late-filed exhibit for you to provide us a copy of those factors?

A We will be able to do that. It is in electronic format in Excel, so that is easily available.

Q Great.

MS. HOLLEY: And could we please get that assigned as a late-filed exhibit number?

COMMISSIONER DEASON: Late-filed 30. Do you have a short title, please?

MS. HOLLEY: Let's call it allocation factors.

COMMISSIONER DEASON: Very well.

(Late-filed Exhibit 30 marked for identification.)

MS. HOLLEY: And we have no further questions. Thank you.

COMMISSIONER DEASON: Redirect.

MR. FRIEDMAN: Yes.

REDIRECT EXAMINATION

BY MR. FRIEDMAN:

Q Mr. Lubertozzi, have you analyzed the effect of including in the allocations the systems that are operated but not owned by Florida Services Corp.?

A Yes, we have looked at that.

Q And can you tell us the materiality of that amount?

A It would be immaterial. I don't know the exact number, but it would be immaterial.

Q When spread among all the UIF systems?

A Correct. When you are spreading it among 81 systems, about 270,000 customers, the effect is immaterial. I believe there is four, maybe five systems that we do not own, but operate.

MR. FRIEDMAN: Thank you. That's all we have.

COMMISSIONER DEASON: Exhibits.

MR. FRIEDMAN: We would like to move --

COMMISSIONER DEASON: Exhibit 28?

MR. FRIEDMAN: Yes, thank you.

COMMISSIONER DEASON: Okay. Without objection, show Exhibit 28 is admitted, and Exhibits 29 and 30 are late-filed.

(Exhibit 28 admitted into the record.)

MR. BURGESS: Commissioner, I think at this point I should renew my motion for directed verdict on Issues 6, 20, and 21. We argued before upon getting agreement from Mr.

Lubertozzi that he did not address those issues in direct or rebuttal testimony. Mr. Friedman responded that, well, that that would be included in the company's response to the staff audit which is included as an exhibit to his rebuttal testimony. In fact, these were not issues raised by staff audit, therefore, as Mr. Lubertozzi agreed, the company would not have a response to them. So, we renew that motion.

COMMISSIONER DEASON: Mr. Friedman, you may respond.

MR. FRIEDMAN: Yes, Commissioners.

We don't have any objection with that on 20 and 21. I do take exception on Issue 6, because with regard to Issue 6 -- and you might recall I asked one of the OPC witnesses about this issue, and I think that according to what our position is, is that the term contribution in aid of construction has a particular definition, and we intend to make the legal argument that based upon the rules and statutes that this particular amount of money could not have qualified from a legal standpoint as CIAC. So we have a legal issue on this that doesn't involve any factual information that we could deliver at all.

And, like I said, we don't object on the other two. I think those adjustments are acceptable to us, frankly.

COMMISSIONER DEASON: Mr. Burgess, do you have a response?

MR. BURGESS: No, I would just renew my motion. I

would suggest that if at some -- my concern is that nothing be entered into the record with regard to any factual assertions by the company. They have the burden of proof, they have the burden of coming forward, they chose not to, and, therefore, we think that the fact that it has been put into controversy, they have chosen not to address it, would --

COMMISSIONER DEASON: Commissioners, there has been a motion for directed verdict on Issue 6, 20, and 21. Apparently, as indicated by Mr. Friedman, there is no -- there is acceptance as it relates to 20 and 21. There is agreement that those adjustments could be made as proffered by Public Counsel's Office. You have no objection to that?

MR. FRIEDMAN: That's correct.

COMMISSIONER DEASON: But as relates to Issue 6, there is a legal question. I assume it will be briefed, and it has to do with the definition of CIAC and its applicability based upon the facts of this case.

MR. FRIEDMAN: That is my position.

COMMISSIONER DEASON: Commissioners, do I have a motion? It would be my suggestion that apparently there is not a controversy for Issues 20 and 21, and to the extent that we can go ahead and eliminate the issues, obviously they don't have to be briefed and we can probably expedite and eliminate time and effort, which is certainly something that we want to do. Issue 6, apparently there is a question that will be

provided additional information in brief, and it may be premature to have a directed verdict on that issue. But I am open to suggestions or a motion.

COMMISSIONER BAEZ: Commissioner, I can move on Issues 20 and 21, I move to approve a directed verdict.

COMMISSIONER BRADLEY: Second.

COMMISSIONER DEASON: Before we ask for a vote, let me just check with staff. Is there any problem with doing that at this time?

MS. GERVASI: We have no problem with doing that.

COMMISSIONER DEASON: Okay, very well. We have a motion and a second for a directed verdict as it pertains to Issues 20 and 21. All in favor say aye.

(Unanimous affirmative vote.)

COMMISSIONER DEASON: Show that that motion carries. That grants your motion in relation to those two issues, Mr. Burgess.

As it relates to Issue 6, what is your pleasure, Commissioners?

COMMISSIONER BAEZ: Commissioner Deason, I want to try and get straight what -- I think in reference to Issue 6 Mr. Burgess had expressed some concern with more information coming in than what was already -- or am I getting it wrong?

MR. BURGESS: Yes. Basically, if it is a straight legal argument, I understand the point. My concern is that any

factual information that they did not bring forward in their case in chief then would be subsequent to my initial motion on the issue, which was that they had the burden of bringing forward -- they have the burden of bringing forward before our witness testified any information that they thought was relevant. So, you know, but I understand Mr. Friedman's point as to being -- to the extent it is legal argument only.

COMMISSIONER BAEZ: And I guess it is an understanding among everybody here that the record is closed. I mean, all there is is the legal argument, right?

MR. BURGESS: And then If I might, Commissioner, there are two other items to address that hopefully will also reduce time and effort. And that is with regard to Issue 1, which Commissioner Baez had indulged us to keep open. We no longer -- I mean, we will concede that point. We don't intend to make it an issue, so parties don't need to brief that or address that as far as we are concerned.

And Issue 15, the same. We take the same position, that we no longer -- again, Commission Baez allowed us to keep it open as a placekeeper, so to speak, and we choose not to press forward with it with any information or any cross examination. And we do not intend to brief it ourselves, and would be amenable to it just dropping out as an issue.

COMMISSIONER DEASON: Well, let me see if I can clarify. On Issue 15 you are not going to take issue with the

position taken by the utility or the staff?

MR. BURGESS: Correct.

COMMISSIONER DEASON: Okay. And as it pertains to Issue 1, you are not going to pursue any position contrary to a finding that the quality of service is satisfactory?

MR. BURGESS: Correct. And I don't know whether it is better to think in terms of them as stipulations or just drop them out as issues. It matters not to us.

COMMISSIONER BAEZ: I was going to ask -- Commissioner Deason, I was going to ask what the appropriate way to resolve it is. And further, as to Issue 6, I mean, is Public Counsel withdrawing their motion or do we need to vote on it or --

COMMISSIONER DEASON: Well, I think on --

MR. BURGESS: On Issue 6, yes, I will withdraw my motion.

COMMISSIONER DEASON: Very well.

Mr. Friedman, do you have a response to Public Counsel's statement regarding Issues 1 and 15?

MR. FRIEDMAN: Oh, I appreciate what he is doing. It has either got to be handled either like the other as a, quote, directed verdict, or it has got to be stipulated. I mean, I think you have got do one or the other in order to keep the issue from being one that is kind of left out there.

COMMISSIONER DEASON: Well, then maybe you should

move for a directed verdict on Issues 1 and 15?

MR. FRIEDMAN: Well, I was going to do it until he offered to give them up. So, I mean, I will certainly move for a directed verdict on those, if he doesn't want to stipulate.

MR. BURGESS: We'll stipulate.

COMMISSIONER DEASON: Stipulate to their positions on Issues 1 and 15?

MR. BURGESS: Yes.

COMMISSIONER DEASON: Okay. Staff, do you have any comments?

MS. GERVASI: The only comment I would make with respect to Issue 1 is the staff would like to be able to briefly summarize why it is that the quality of service is satisfactory rather than just to say it is. So I think we would prefer to keep Issue 1 as an issue, and just conclude with everybody's understanding that the quality of service is satisfactory. We are fine with doing a stipulation with respect to Issue 15.

COMMISSIONER DEASON: Well, I guess I'm at a little bit of a loss. If the parties are not contesting the issue, why do you feel compelled to include it in your recommendation and make us read it?

MS. GERVASI: I'm told that we'll be willing to drop it. The engineers thought it would be a -- we initially thought it would be a good idea to have more information than

just a statement that quality of service is satisfactory, but if that suffices, and the engineers are telling me that is okay, then the stipulation works for us, as well.

COMMISSIONER DEASON: Let's reduce workload anywhere we can.

MS. GERVASI: Okay.

COMMISSIONER DEASON: This recommendation is going to be long enough as it is.

MS. GERVASI: Okay.

COMMISSIONER DEASON: Commissioners, what is your pleasure on Issues 1 and 15? And we have a stipulation between the parties.

COMMISSIONER BAEZ: We can move to accept the --

COMMISSIONER DEASON: I have a motion to accept the stipulation?

COMMISSIONER BAEZ: Yes.

COMMISSIONER BRADLEY: Is that the motion?

COMMISSIONER BAEZ: Yes. I'm sorry, 1 and 15.

COMMISSIONER BRADLEY: And I'll second it?

COMMISSIONER DEASON: Moved and seconded. All in favor say aye.

(Unanimous affirmative vote.)

COMMISSIONER DEASON: Show that that motion carries. Okay.

Ms. Gervasi, any other matters we need to address at

this time?

MS. GERVASI: The only other matter that I can think of is that we would like to be able to get a deadline on the late-filed exhibits, the submitting of the late-filed exhibits.

COMMISSIONER DEASON: I believe I requested one, and I think Ms. Dismukes indicated when she could file that. And I don't recall exactly when it was, but I knew that it was rather quick, so I don't have a problem with that. But staff has requested a number of late-fileds.

MS. GERVASI: And we are wondering if ten days is enough time for the company.

MR. LUBERTOZZI: Commissioner, I have a hearing in Baltimore not next week but the following week, so next week I have some prep for that and then I will be gone the entire week similar to being gone here in Tallahassee. I can get my staff --

COMMISSIONER DEASON: You have an exciting life, don't you?

MR. LUBERTOZZI: I don't know about that. But I can have the staff working on it when I get back to the office, but I won't be back into the office until that following week to be able to review their work to make sure it complies with the request of the staff and yourself.

So if you will give us to that following week to get that done. I don't have a calendar in front of me, so I am

unaware of the dates.

COMMISSIONER DEASON: Sometime during the week of September the 8th. Staff?

MS. GERVASI: Right. Briefs are due on the 22nd, so as long as we can have the information sometime before that.

MR. FRIEDMAN: Okay.

COMMISSIONER DEASON: Let's make it no later than Friday, September 12th.

MR. LUBERTOZZI: Thank you.

MS. GERVASI: Thank you. We have no further matters.

COMMISSIONER DEASON: Okay. Well, thank you all. We were able to conclude a three-day hearing in two days due to a lot of efforts by a lot of folks, and we appreciate that.

With that, this hearing is adjourned.

(The hearing concluded at 4:55 p.m.)

STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter Services, FPSC Division of Commission Clerk and Administrative Services, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

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

DATED THIS 4th day of September, 2003.

JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732