BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 090392-WS

APPLICATION FOR INCREASE IN WATER AND WASTEWATER RATES IN LAKE COUNTY BY UTILITIES INC. OF PENNBROOKE.
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PROCEEDINGS:	AGENDA CONFERENCE ITEM NO. 8
COMMISSIONERS PARTICIPATING:	CHAIRMAN NANCY ARGENZIANO COMMISSIONER LISA POLAK EDGAR COMMISSIONER NATHAN A. SKOP
DATE:	Tuesday, June 1, 2010
TIME:	Commenced at 11:37 a.m. Concluded at 12:54 p.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	LORI DEZELL, RPR

PROCEEDINGS

CHAIRMAN ARGENZIANO: If everyone would take seats. Okay. I believe we have Mr. Auger on the line.

MR. AUGER: Hello. Yes, I'm here.

CHAIRMAN ARGENZIANO: Okay. Hang on, Mr. Auger. Hold on, please. We need to turn up the volume. Okay. Thank you. And it seems like everybody is ready and we'll go to staff, please. Mr. Deason.

MR. DEASON: Yes, Commissioners. I'm Jared Deason with Commission staff. Item 8 concerns an application for an increase in water and wastewater rates by Utilities Inc. of Pennbrooke. Pennbrooke is a class B water and waste water utility located in Lake County. The utility's rates were last established in 2006.

Staff has an oral modification. This modification and all of its fall-out changes has previously been provided to all parties.

Lorne Hunsberger, consultant for the Pennbrooke homeowners association, George Auger, a customer of Pennbrooke, Charlie Beck from the Office of Public Counsel, as well as Marty Friedman, counsel for Pennbrooke, are here to address the Commission.

And we are prepared to answer any questions the Commissioners may have.

CHAIRPERSON ARGENZIANO: Thank you. Any questions? Okay. Staff is done. Mr. Hornsberger?

MR. HUNSBERGER: Hunsberger.

CHAIRMAN ARGENZIANO: Hunsberger. Yes, thank you. Mr. Beck?

MR. BECK: Yes. Thank you, Madam Chairman and Commissioners. Chairman, we'd like to ask if Mr. Auger who's on the phone could address you first to be followed by Mr. Hunsberger and then we'll have a few comments.

CHAIRMAN ARGENZIANO: Mr. Auger, welcome. Can you hear us okay? Uh-oh. Okay. We'll hang on a second and wait and see if we can reconnect.

(Pause.)

CHAIRPERSON ARGENZIANO: Mr. Auger, are you there?

MR. AUGER: Yes, I'm here.

CHAIRMAN ARGENZIANO: Okay.

MR. AUGER: Sorry. I was trying to get as close as I could to the phone and I think I accidentally hit a button.

CHAIRMAN ARGENZIANO: That's okay. We've got you now. So if you could proceed. Welcome.

MR. AUGER: Thank you. First I'd like to thank the Commissioners and the PSC staff for making it possible for me to address this conference today. and I'd especially like to thank Patricia Merchant and the members of the OPC staff for their fine cooperation and assistance in dealing with the rate case.

I have two main areas I'd like to address. First, there are a number of items that the staff of in its recommendation that I would like to highlight. I'll give you specific references.

In Issue No. 3 on page 12 concerning adjustments to the utility test year plant in service, the PSC staff addresses changes to ERC calculations due to the sale of several systems and adjustments to the 2008 ledger.

The staff states, "UI calculation was only for plant additions and not for accumulated depreciation which caused an overstatement of allocated net plant."

Then further, Pennbrooke, the utility, provided further corrected calculations to staff but staff was not able to reconcile the numbers. Also, the utility provided another calculation that did not match its own audit response.

Then in Issue No. 5 on page 16 concerning adjustments to pro forma plant addition, the PSC staff states, "The utility has been unable to provide the executed agreements for the electrical equipment at the utility's WTP. Therefore, staff recommends that plant be reduced by $37,250."

Further, on page 17, the staff states, "The utility failed to provide the documentation for the associated retirement."

Then in Item No. 11 on page 25 concerning annualized revenue adjustments, the staff recommendation states that the revenues reported for water and wastewater should be increased by $40,970 and $43,909 respectively, for a total $84,879. The utility had reported total adjustments of 13,244; therefore, their revenue adjustments were understated by 71,635.

In addition, the staff states that the utility had not reported any revenue for the sale of re-use water to the Pennbrooke Fairways golf course. So the staff imputed additional income in the amount of $22,648, bringing the total adjustment of revenue to $94,283.

In the MFR under the B1 schedule, the utility reported total adjusted operating revenues for the

2008 test year of $735,013. **Revenue was therefore underreported on the MFR by more than 11 percent.**

In Issue No. 13 on page 28 concerning adjustments to utility's salaries and wages expense, the PSC staff states, "However, to date, the utility failed to provide staff with any adjustments to salaries and wages related to these cost savings."

And I'll save what I want to say about adjustments and salaries and wages to my next item.

In Issue No. 15 on page 31 concerning adjustments to transportation expenses, the PSC staff states, "However, that belief, the balance reported on the Pennbrooke work papers are unreliable."

Issue No. 18 on page 36 concerning the appropriate amount of current rate case, the staff states, "Staff has determined that the $4,000 filing fee was counted twice, thus should be removed from the legal fees."

Also on page 37 staff states, "Because of the duplicative request before the utility finally provided the executive contract, that staff believed there was unwarranted and duplicative rate case expense incurred to respond to staff's data request in this matter."

Also on page 39 concerning WFP expenses to Fed Ex copies and miscellaneous cost, the staff states, "The utility estimated $12,000 for these items." And in the January 19th, 2010 response letter, the utility states that only $14 has been incurred. The utility provided no further breakdown or support for the remaining $11,986."

These excerpts from the staff recommendation detail a number of errors made by the utility and failures to respond that is really troubling to me. But it goes further. The Office of public Counsel communicated areas that they felt should be addressed and several of these remain unanswered or only partially answered. If the Commissioners want details on that, Patricia Merchant of the Office of Public Counsel can provide specifics.

And there's more. Over the past several years, the utility has failed to make adjustments as directed by the Public Service Commission and they have even been required to answer why they shouldn't be made to pay fines for their failures. The utility responded in writing that they would make the adjustment but they did not follow through and actually make them. Again, Patricia Merchant has the specifics.

The second item I'd like to address is allocated expenses. In the 2005 test year for the 2006 MFR, corporate expenses of $8,050,000 were reported on schedule B12. Of this amount, 58,541 was allocated to Pennbrooke.

In the 2008 test year, corporate expenses increased $14,173,323 to 22,223,365. And Pennbrooke's Pennbrooke allocation increased to 279,153, an increase of $220,612, or 377 percent. In part, the utility justified this increase by stating that the number of affiliates had decreased.

At the customer meeting held in Pennbrooke in February with the PSC staff, I brought this item to the staff's attention. I read to them from two pages of prepared notes and gave them four copies of those notes.

What I asked then and what I ask today is how could the utility increase corporate spending from $8 million in 2005 to over $22 million in 2008 during the time when the number of affiliates was decreasing substantially. Taken to the extreme, if the utility were to sell off all of its affiliates except for Pennbrooke, would we be required to bear the full burden of $22 million for corporate expense?

I subsequently mailed a note to the PSC staff asking how the allocation of overhead was calculated. They responded that ERCs were used to do these calculations and that the Commission is required to set rates that are just, reasonable, compensatory and not unfairly discriminatory. I ask is it just and reasonable for the utility to increase corporate spending from $8 million to over $22 million at a time when a number of customers' reserve has dropped substantially? And is it just and reasonable for the utility to increase Pennbrooke's expenses by 377 percent?

The PSC staff partially addressed this item in Issue No. 13 where they recommended decrease in salaries and related benefits in the amount of $106,959. On page 29 they state, "The requested increase in salaries and wages expense is excessive. Also, staff believes Pennbrooke has not demonstrated any substantial benefit to the utility as a result of the additional allocated personnel since the last rate case."

Apparently staff agrees that these overhead costs are not just and reasonable. Unfortunately, staff only addressed salaries, wages and the corresponding benefits and payroll taxes.

To fully address this issue, the same type of adjustment needs to be applied to all O&M expenses. For example, Issue No. 14 concerning relocation expense on page 30 states that the utility spent $156,647 to relocate one headquarter's employee. And that's one expensive moving van.

I suggest that a just and reasonable approach to corporate allocations would be to freeze them as a 2005 level of 58,541 and apply the CPIU for the years from 2005 to 2009. At the time the document was prepared, the CPIU for 2009 was unknown but it is now. And since the new rates go into effect in 2010, I believe that it would be just and reasonable to apply the CPIU from 2005 to 2009.

To do so would increase the Pennbrooke allocation by 9.7 percent, from 58,541 to 64,208, which is $214,945 lower than the amount used in the MFR.

The staff reduction for salaries and wages of 106,959 in Issue 13 would be deducted from this amount requiring a further reduction of 107,986 to cover all other corporate overhead items.

That's the extent of my input for now. Thank you for your time. And I believe that Mr. Lorne Hunsberger has items he'd like to address.

CHAIRPERSON ARGENZIANO: Thank you. Thank you very much.

MR. AUGER: You're welcome.

CHAIRPERSON ARGENZIANO: Mr. Hunsberger? Any questions from Mr. Auger? Mr. Hunsberger?

MR. HUNSBERGER: Good morning. My name is Lorne Hunsberger. I'm a CPA from Tampa. I've been working with water and sewer utility rates since 1968. I was admitted to practice as a Class B practitioner before this Commission in 1976. I currently serve as Hillsborough County's consultant in regulating the privately-owned franchises that are -- reside within Hillsborough County.

I've testified as an expert witness before this Commission, various hearing examiners, various boards of county commissioners and city councils and in circuit court and federal courts.

Since 19 -- since 2004 I've represented Hillsborough County in the investigation of three rate cases and two limited proceedings on Utilities Inc.'s subsidiaries that operate within Hillsborough county. I've been retained by Pennbrooke Homeowners Association in this case.

When I review the case, I see three items that drive this case. The first item is the increased amount of allocation cost from UI corporate in Illinois and in Florida, operations center in Altamonte Springs in 2008. The second item is the Phoenix accounting system which is also allocated based upon customers. And the third is the reduction in the customer base used to allocate assets, expenses, depreciation expense, taxes other than income due to the divestiture of various systems by UI corporate.

Due to those divestitures, we'll miss the big picture if we only look at what has been recorded on the books in the year 2008. To get the big picture, I compared the annual reports filed by Utilities Inc. with the Commission for 2005, 2006, 2007, 2008 and 2009. And when you set these figures up side by side, and you've got the schedules in front of you, there are three pages for water and three pages for wastewater, you can see what has happened to the expenses from year to year.

Per page 10E, 10A of the annual reports, Utilities Inc. reports that the categories of expenses that are allocated from the home office and what -- and the Florida office in Altamonte Springs.

Per the annual reports, the operating income of Pennbrooke in 2007 was 55,000. In 2008 there was a loss of 13,000. In 2009 there was an income of 34,000. Per the same annual reports for wastewater in 2007, there was income of 37,000; in 2008 income of 26,000; and in 2009, 41,000.

In the operating expenses for water, in 2008 they increased by 40 percent over 2007. In 2009 the operating expenses decreased by 16 percent when compared to 2008. In 2008 the operating expenses for wastewater increased by 6 percent when compared to 2007, and in 2009 they decreased by 17,000 -- excuse me, 17 percent when compared to 2008.

The last rate case for Pennbrooke was 2005 as the test year. When the operating expenses for the water operations for 2008 are compared to 2005, we find that the water expenses are up 97 percent when compared to 2005. When the operating expenses for wastewater are -- for 2008 are compared with the 2005 expenses, we see that the wastewater expenses are up 47 percent when compared to 2005.

My analysis of the annual report indicates that the calendar year 2008, the test year for this rate case, was truly the opportunity rate case year because the expenses were up. There was a spike in the operating expenses, there was a smaller customer base used to allocate expenses. Beautiful time for a rate case.

Salaries and benefits for water were up in 2008 by 35 percent when compared to 2007. In 2009 salary expenses for water were down when -- by 20 percent when compared to 2008. In 2008 wastewater salaries and benefits were up 23 percent when compared to 2007. In 2009 wastewater salaries and benefits were down 20 percent when compared to 2008. We have a pattern.

When water salaries and benefits for 2008 are compared to 2005, they are up 100 percent. When the wastewater salaries and benefits for 2008 are compared to 2005, they're up 81 percent. When I look at contractual services, transportation, insurance and miscellaneous expenses, the pattern was the same.

The water expenses for 2008 for these items were up 87 percent over 2007. The water expenses for 2009 were down 14 percent when compared to 2008. The wastewater expenses for 2008 for these categories were up 74 percent when compared to

2007. The wastewater expenses for 2009 were down 11 percent when compared to 2008.

When the above expenses for water for 2008 were compared to 2005 -- and again that was the last test year -- they are up 188 percent. The wastewater expenses for those categories in 2008 when compared to 2005 were up by 150 percent. From 2005 to 2008 the water equivalent units went from 1452 to 1472. The wastewater equivalent units went from 1250 to 1251. Therefore, the increase in operating expenses from 2005 to 2008 cannot be explained by increasing customers.

On Schedule B7 and B8 of the MFR, Frank Seidman @ says that one of the reasons the expenses have increased since the last rate case is the number of affiliated companies have decreased. There are many assets and expenses that are allocated to Pennbrooke based upon the equivalent customer computation.

There's an impact on rate base as well as operating expenses and thus an impact on the monthly user rates when there are fewer customers to share the cost of the assets and the operating and other expenses.

The Pennbrooke customers did not have a vote on the UI divestitures of their operating subsidiaries. That decision was made by UI corporate. The Pennbrooke customers do not share in the benefits of the proceeds of those divestitures. UI corporate benefited from those proceeds.

The monthly user rates of Pennbrooke should not be inflated for a corporate decision made by UI to sell off systems.

In their report dated May 19, 2010, the PSC staff in Issue No. 4 on pages 13 through 15 allocated some of the cost of the Phoenix accounting system to the divested systems. I back that. I propose to take their allocation concerning the divested systems a step further.

In accounting we have what we call the matching principle. We match revenues with the expenses as that is the only way to measure the operations of an entity. Since UI corporate received all of the benefits from the sale of the systems, the matching principle would dictate that UI corporate should be allocated the rate base assets, operating expenses, depreciation, taxes other than income, et cetera, that would have been allocated to those divested systems.

This change in allocations will make changes to the rate base and most of the operating expenses and depreciation.

Based on my review of the documents available, I don't see where UI has adequately explained or justified the huge increase in operating expenses from 2005 to 2008. Nor has UI explained the jump in operating expenses from 2007 to 2008 and then the reduction of those operating expenses in 2009. Again I say to you that 2008 was an opportune test year for you to either request an increase in the monthly user rates of Pennbrooke.

Even though staff has gone through the 2008 expenses, their adjustments do not take into consideration the reduction of the expenses in 2009 per the annual reports. To set rates looking at the adjusted 2008 will cause a -- will reward Pennbrooke higher rates to the detriment of the Pennbroke's customers and those rates would not be just and reasonable.

Because 2008 expenses appear to be inflated when compared to 2007 and 2009 and because 2008 expenses are so dramatically increased over the operating expenses used to set the rates in 2005, I would suggest that this Commission might take an alternative position on the determination of the operating expenses when setting the monthly user rates.

The alternatives I would suggest would be to take the operating expenses used to set the rates in 2005, adjust those rates for the CPI which is 10.24 percent, we call that benchmarking, and increase the -- use that CPI to apply it against the 2005 and impute those expenses for 2008.

If we do that, the 10.2 -- 10.24 percent is considerably less than the 97 percent increase in operating expenses that we see from 2005 to 2008 in water and considerably less than 47 percent we see for wastewater. I will say that I do support the staff removing the well which was Item No. 5. That's on page 16 of their report. And I certainly support staff on Issue No. 29 which says that UI should file within 90 days a statement and proof that they have recorded adjustments.

I had a problem with UI in the case in Hillsborough County where they did not record the adjustments that we went through until the second rate case was prepared. And that caused me considerable time and effort trying to figure out what they did versus what had been done in that prior rate case.

And at this point I thank you and I'll stand open for any questions you may have.

CHAIRMAN ARGENZIANO: Thank you. Questions? Mr. Beck.

MR. BECK: Thank you, Madam Chairman, Commissioners. My name is Charlie Beck with the Office of Public Counsel.

Commissioners, I'd first like to thank Mr. Auger for calling in today and providing his comments to the Commission. And Mr. Hunsberger for his very detailed analysis. We support the customers and Mr. Hunsburger's positions on the issues that they presented.

I'd also like to thank staff because they've obviously put in a lot of investigation and analysis in this case and a lot of hard work and have come to an end result that we believe is reasonable.

Now that's not to say that we don't disagree with some specific issues that staff has raised, and that's not to say that we don't have other issues that we would ask you to take up if this becomes a contested proceeding. But I'd like to tell you that the bottom line is, and what we'd like to ask you to do today, is to vote out staff's recommendation as is as a proposed agency action. And I can tell you if you do that, we will not protest it.

We do have a bunch of issues to raise. What I'd like to ask is that perhaps shift it over the Utilities, see their positions on it, and if they pursue issues that they want you to deviate from the staff's recommendation, then we would like to respond and raise our issues as well.

CHAIRPERSON ARGENZIANO: Okay. Mr. Friedman?

MR. FRIEDMAN: Thank you very much. Martin Friedman, law firm of Rose, Sundstrom & Bentley. We represent Utilities Inc. of Pennbrooke. Also with me is Christian Marcelli, one of the other attorneys in our firm, and Patrick Flynn, as I said before, and also John Williams.

We're going to address Issues 4, 13, 22 and 24. And I'll start with Issue 3. This is the allocation of Project Phoenix that we went through a little bit in the last -- the last discussion. But because of the deferral, we didn't -- you didn't have to address -- you didn't have to make a decision on it. And so at this point I'm going to -- I'm going to -- I'll just -- since I made that argument, let me just hit a couple of points and I won't regurgitate the whole argument.

But the point is is that the only time when the issue of the correct amortization period for Project Phoenix has been argued before the -- before the three of you was in the 2007 rate cases, and the determination was made that six years, which is the Commission rule, should be followed, notwithstanding the fact that the company may have used an eight year.

And I would suggest to you that now the staff recommending to go from that six years to ten years without any real support and contrary to your rule would not be appropriate, and I would ask that you not accept the ten-year amortization period and go back to the six-year which is that -- which you made and the only contested argument that we've had. And Mr. Marcelli is going to address again the second part of the Project Phoenix issue.

MR. MARCELLI: Good afternoon. In the 2009 rate cases for Wedgefield and Miles Grant, those systems were allocated a portion of the Project Phoenix cost. Those systems that were sold were less than a year after that -- the orders came out on those.

Now, staff wants to reduce the amount of Project Phoenix recovery by the amounts previously allocated to Wedgefield and Miles Grant despite the fact that Wedgefield and Miles Grant do not actually contribute to Project Phoenix.

So how can staff produce Pennbrooke's rate base based on the monies that are being collected from Wedgefield? And actually Wedgefield was sold so how can they reduce Pennbrooke's rate base based on monies that are not even being collected from Wedgefield.

The answer of course is the gain on sale. That's essentially what Mr. Hunsburger's matching principle is, that the gain on sale should be reflected on an equal entry, so to speak, benefiting the customers. And the problem with that is of course that Florida has a statute, section 367.0813, which prohibits just that. Gains -- that statute says that gains or losses flow to the shareholders. It doesn't make an exception saying that some gains, you know, can be recovered for the benefit of the customers.

Essentially the statute was passed to confirm that the state's policy is that those gains or losses flow to the shareholders. So it is inappropriate to attempt to recover those gains on sales based on going a different -- different path to recovering those gains on sales.

And I also wanted to reiterate that no part of Project Phoenix was sold as a part of the divestitures of those systems. And also staff included the divestiture of Hutchinson Island in there. That system has not had a rate case in a long enough time so that Project Phoenix was not a part of that rate structure.

Essentially staff wants to use the updated ERC counts in order to allocate the costs for Project Phoenix and -- but they don't want to accept the consequences of updating that.

Essentially audit staff recommended that the utility use 2009 ERCs to allocate the costs among -- the primary I'm addressing is Project Phoenix. But audit staff did not recommend removing any systems, and we don't -- we don't think it's wise to do that at this point.

And -- and I would just -- I would just raise the point that staff -- they -- they -- their theory does not -- would never be applied both ways. For example, if the utility lost money on the divested systems, staff would never suggest that the current utility systems would -- should compensate the shareholders for that loss.

Furthermore, when the ERC base is expanding, staff is okay with that, as they mentioned that there was a purchase of a Louisiana system and they want to include those ERCs but they won't go the other way and give it the same treatment when the utility divests a system.

And essentially utility rate making is a prospective venture. Rates are set to recover the cost of prudent investments. Project Phoenix has been approved as a prudent investment in a number of rate cases previously and it should be put -- the recovery should be based on the ERC count as audit staff recommended. And the amounts previously allocated to Wedgefield Miles -- and Miles Grant shouldn't be arbitrarily removed. Thank you.

CHAIRMAN ARGENZIANO: Thank you. Mr. Friedman?

MR. FRIEDMAN: Thank you. Yes, Commissioners. You know, in summary, one of the mantras that you all have probably heard me say many, many times before is just to have a balance. If it's going to go one way, it's got to go the other way. It's got to be fair to both. So as Christian pointed out, the problem is that the staff looks at it from the way that reduces the rates but wouldn't look at it in the opposite and equal way if that same principle increased the rates. And it's clearly inappropriate to take the gain on sale on any system and allocate it to the benefit of the customers of Pennbrooke. They -- it's just -- it's just wrong. And I think it's legally incorrect also.

And so we would suggest that that -- on Issue No. 4, that the Project Phoenix cost be reallocated consistent with their position we've made.

The second issue I want to address is Issue 13, and I briefly touched on that a minute ago in my other argument, and that's dealing with the salaries. The staff has made substantial adjustments to the salary. Instead of using the actual salaries, the staff has recommended making up the salary based upon an amount taking the amount of the salaries in the last rate case and just benchmarking it up to the current year, similar to what Mr. Hunsberger said they ought to -- that you ought to do with all of the expenses.

And unfortunately that's not regulatory principles and not very good regulatory policy. If you were going with the benchmarking of every expense and every salary, then you wouldn't need -- you wouldn't need rate cases.

Now, the staff's position is wrong on this denial of salaries for a couple of reasons. First, the staff says that Pennbrooke has not demonstrated any benefit to personnel that had been added since the last rate case, and they point out four or five persons who had been added. These additions include the regional VP, business manager and a cross connection specialist.

Interestingly, these personnel have been approved by this Commission in the '08 rate cases. And so it's hard to fathom why the staff had recommended in those rate cases that these employees were necessary and reasonable and then turn around in this rate case and say, oh, we didn't say why they were necessary and reasonable.

And incidentally, in response to staff's third data request, the company provided a substantial filing discussing this issue and including the -- and including the discussion of the job functions of the new employees. But apparently the staff didn't take any of this into consideration.

And I want -- I wish you -- I wish I could go through and read all of this because you could see how much detail there really is and why these people -- why these people are necessary, but I don't want to spend an hour reading that and would ask that you -- that you take that into consideration.

You know, particularly you look at this cross-section control specialist. And I know you all get the clipping services like I do. And the cross-connection and backflow prevention issue is one that is in the forefront. DEP has, in the last couple of years has begun strictly enforcing their backflow prevention and cross-connection control making sure that the utilities force the customers to test their backflow prevention devices on an annual basis as DEP requires. And as a result of that, the company has added a specialist in cross-connection control to make sure that its Florida subsidiaries are always in compliance with those requirements.

That's one of the employees that the staff has said isn't necessary or that we haven't justified that person's existence.

Second, the staff says that Pennbrooke failed to provide the staff with adjustments to salaries and wages as a result of cost savings from the consolidation of its call centers. It consolidated its call centers, and there is a savings to that.

Well, that statement is just wrong. If you look at the staff -- at the response to the staff's third data request, it includes exactly that. It includes an allocation showing that there was a cost savings and it does include that cost savings in the revised MFR schedules as to the employees. So I don't know why the staff couldn't find that information that was in the data request or the response to the data request.

And finally, the staff uses the easy out response to -- excuse me -- by saying that it's a burden on the utility to prove and to justify its salaries and the company hasn't justified its salaries. That's always the easy answer to -- when they don't think that they want to do what the company wants to do, that's the easy out. You haven't shown us where you can.

The staff in doing so has ignored the -- has ignored the response to the third data request that clearly sets forth the reasons for these new employees and why those salaries have increased more so than the cost of living.

As I mentioned, it's interesting that these salary, salary personnel that we've added are the same that the staff recommended be approved in prior rate cases, like the 2008 rate cases. And, in fact, which this Commission has found are just and reasonable in the 2008 rate case. And so it's inexplicable to me how they could have said they were reasonable to have in those -- for those utilities and you had all agreed and then to say in this rate case no, they're not. And there's no explanation for why they made that 180-degree turn, and I think it's -- it is an inappropriate adjustment to make.

Our next issue would be Issue 22 which is rate structure, and John Williams is going to address that issue.

MR. WILLIAMS: Good afternoon. Our concern is basically with the level of the water-based facility charge. The -- our primary concern is the staff's efforts to prevent conservation through price signals and the fact that they're basically abandoning the recognition of cost causation that results in revenue instability for the company.

From a historic perspective going back many, many years, traditionally the Commission sets a base facility charged and then a gallonage charge for water service.

The base charge is an attempt to cover the fixed cost of the utility, and then the variable costs are generally to come from the gallonage charge.

In Pennbrooke -- could you pass around the schedules -- there is -- we're going to pass out a revenue allocation schedule which is prepared by the staff in every case, which basically attempts to -- to allocate the revenue requirement between the fixed and variable expenses.

This shows that in Pennbrooke on the water side, and again I'm only talking on water, about 45.88 percent of the costs are relatively fixed. And under a traditional rate structure would be recovered through the base charge.

In Pennbrooke the staff is overtly only allowing a 20 percent recovery in the base charge or fixed charge and they're doing that deliberately to enhance the gallonage charge to encourage conservation.

And again primarily, you know, we are all for conservation, but you have to recognize that when you only allow a recovery of approximately 20 percent of the revenue requirement in the base charge, that does put the utility at very much a risk of not even recovering the fixed cost of doing business.

As I said, about 45.88 percent of the costs are relatively fixed and the staff is only allowing a 20 percent recovery of that in the base facility charge. The company -- and typically the PSC memorandum of understanding for the water management districts encourages conservation, and typically 40 percent has been the number targeted to go into fixed expenses.

And again the staff in this case is recommending 20 percent to encourage conservation. The company believes it ought to be maybe not quite at 40 but it ought to be at least up to 35 percent to be recovered in the fixed charge. Again it's a matter of balancing, encouraging conservation versus revenue stability for the company. And again this relates only to the water rates where the rates designed for wastewater are acceptable to the company.

CHAIRPERSON ARGENZIANO: Commissioner Skop?

COMMISSIONER SKOP: Thank you, Madam Chairman. At the appropriate time, again I had that same concern looking at the Cypress Lakes had used a recommendation of 30 percent BCF and 20 in this. So I'd look to staff at the appropriate time to gain a little bit more insight into why those things were done as opposed to not being consistent not only between the properties, but also perhaps consistent with what the Commission has done in other recent water cases. Thank you.

CHAIRPERSON ARGENZIANO: Well do you want to ask the question now?

COMMISSIONER SKOP: If staff can briefly explain.

MR. FLETCHER: Is that with the rate case expense, Commissioner?

COMMISSIONER SKOP: No, that was with the -- determining the percentage to assign cost to the base facility charge, or BCF.

MR. STALLCUP: Commissioner, I'm Paul Stallcup with Commission staff. Two factors would end to setting the BFC at 20 percent as opposed to 40 or even 35 like Mr. Williams was suggesting.

First of all, the system has a very high level of discretionary usage. I can't remember the number right off the top of my head but I think it's around 18,000. Let's see --

COMMISSIONER SKOP: Just as a follow-up, too, I saw in the amended oral modification on Issue 22 that staff has provided some alternatives that tweak the base facility charge and the staff could speak to those. I think it's on pages 2 and 3 of the staff handout, the oral modification. That might be helpful. Thank you.

MR. STALLCUP: Okay. The utility's customer base has a fairly high level of usage of around 8,000 K gallons per month. So there is some discretionary usage there that from a water conservation point of view you would want to address.

The other thing that we take a look at when we're setting the BFC allocation is whether or not the customer base is seasonal. For this particular utility, about 80 percent of the customers are there year-round according to the bill and analysis that we looked at. What that means is that there's a revenue stream that will go to the company year round from the sale of water, not just from the BFC charge.

So I would think differently than Mr. Williams that there is a stable revenue stream such that the financial integrity of the company is not in jeopardy using the 20 percent.

COMMISSIONER SKOP: Okay. And just as a follow-up to that on page 2 and 3 of the staff oral modification on Issue 22, on table 22-1 for the water rates recommended rate structure and rates BCF of 20.22 percent versus the 20, and then looking at the alternate one which is a 30 percent BCF.

MR. STALLCUP: Yes.

COMMISSIONER SKOP: Okay. And let's just look at the average household for a second, say 6,000 kilo gallons, something like that. I don't know what the -- do you have an idea what the usage is? You said highly discretionary.

MR. STALLCUP: It is a little over 8,000. Between 8 and 9 thousand.

COMMISSIONER SKOP: Okay. Just for the sake of discussion let's looks at the 3 to 6 kilo gallons as a basic requirement for a small house. On the recommended rate structure, it's showing dollar point -- $1.95, I believe, for 3 to 6 thousand -- or actually, I'm sorry, the BCF. I'm having trouble looking at this. It says BCF of

520 versus BCF of $7.71 dollars, right?

MR. STALLCUP: Correct.

COMMISSIONER SKOP: And the gallonage charge at 3 to 6 K gallons is $1.95 under a 20 percent BCF versus a lower amount of $1.71 on 3 to 6 on the alternate one; is that correct?

MR. STALLCUP: Yes.

COMMISSIONER SKOP: Okay. Thank you.

CHAIRPERSON ARGENZIANO: Were you finished? Okay. Mr. Friedman.

MR. FRIEDMAN: Thank you. And Mr. Flynn is here. Mr. Flynn will address our comments on Issue 24.

MR. FLYNN: Madam Commissioner, Issue 24 addresses the monthly rates for water, wastewater and re-use systems for the utility. One of the things that caught our eye was the fact that there is an imputation that the rates for re-use residential -- for re-use at all, revenues should go up to 85 cents a thousand from the existing 90 cents per thousand.

I want to address that in a couple of different ways. One is that Pennbrooke is an isolated community. It's a snowbird community primarily for plus 55 folks in a golf course setting. It's isolated from many adjacent water systems or sewer systems. It's all by its lonesome.

The system is pretty much built out with about 1500 customers. The average daily flow generated by the wastewater use is about 75,000 gallons per day that's used by the golf course. Another smaller amount is used or disposed of through our percolation ponds on our plant site.

The golf course demand is such that they actually use a heck of a lot more than 75,000 gallons per day to meet their irrigation requirements. The golf course has a consumptive use permanent allowing use of surface water as well as an augmentation well because our wastewater plant doesn't have the means to provide solely all of its irrigation needs.

There's an agreement between the golf course and the utility where the golf course is supposed to use all re-use first if it's free, and there is a separate golf -- separate re-use agreement with the homeowners' association which was established in case there was ever an opportunity for re-use to be provided to the reuse -- to the residential community. There never has been because there simply isn't enough re-use available to meet additional customer demand.

What we have is a situation where the golf course takes all of the re-use that we can deliver on a routine basis. If we were to see a jump in rate from 9 cents per thousand to 85 cents per thousand as staff recommends, that would be an increase of about tenfold in what would be the golf course impact.

The utility did not actually charge the golf course for re-use to the extent that we were able to provide it in order to make sure that we had the means to dispose of our affluent adequately and not be in conflict or in competition with the golf course's other water sources.

If, in fact, the staff rec was to be approved and an 85 cents per thousand rate was established, the golf course would most likely take heed of the fact that their expenses would go up about $22,000 a year and would utilize their other resources in place of re-use. And that in turn would impact the utility by virtue of us having to use percolation ponds to a greater degree. And, in fact, our existing percolation pond capacity isn't sufficient for it to be the sole disposal method.

So we would have to expand our disposal capacity in some fashion. That's going to be a cost incurred by the utility and certainly passed on to the ratepayers in some future proceeding.

It's also important to remember that the golf course users are primarily the utility's customers. The golf course is plagued primarily by the folks that live in the community. So shifting the cost around in such a way that it doesn't net anything materially beneficial doesn't seem like a good policy decision.

And potentially it makes things worse by having the utility forced to make investments in additional percolation -- pond disposal capacity unnecessarily both financially and environmentally. Because we certainly want to maximize the use and re-use in the community, and that would be the most appropriate way to do that would be with the golf course continuing to use re-use at no cost, or at minimal cost.

So I would recommend that that be reconsidered in the fact that the 85 cents per thousand rate was arbitrarily determined. From what I can tell, there was not any input from the golf course as to what impact that would have on their operations.

The utility wasn't requested to provide any information specifically about that either. And in fact the previous docket Pennbroke, the issue of re-use was established as 9 cents per thousand being a nominal amount of about $2,000 per year in revenue that would be appropriate. To go from 9 cents per thousand to 85 cents per thousand seems to be inappropriate and not -- and without foundation. That's all I have, if you have any questions.

CHAIRMAN ARGENZIANO: Commissioners, any questions?

Mr. Friedman?

MR. FRIEDMAN: Yeah. That's all the comments that the company has at this time. We would like to make comments based upon whatever issues maybe staff or somebody else addresses as appropriate. Thank you.

CHAIRPERSON ARGENZIANO: Mr. Beck?

MR. BECK: Yes. Thank you, Madam Chairman. Patricia Merchant will start off for us, please.

MS. MERCHANT: Good afternoon. We have several comments about the utility's comments and then we have -- I just want to mention briefly some of the issues that we're not making more detailed comments on that we do have issues with. But since we are going to agree with the staff's recommendation, we're just not going to focus on them as much.

But the first regarding Phoenix is the affiliate allocations. There was an audit finding on this. First on the amortization period, they were correct that they brought this issue to the Commission in 2007 and at that time Mr. Williams came before the Commission and told the Commission that everybody in all of the companies in the whole United States, all of their systems, Utilities Inc. systems were using six years so we shouldn't deviate. That was the first thing that we said.

The next thing that comes up is later we find out that the company as a whole is using eight years. And then as mentioned in staff's recommendation, in the Nevada case, which is a pretty big system that they have, Utilities Inc. agreed to a ten-year amortization in that case.

So also, Generally Accepted Accounting Principles tell you to amortize plant over the useful life of an asset. And hopefully something that costs $21 million is not going to be amortized over a short time and hopefully it will be useful for quite some time. So we think at a minimum, 10 years is reasonable so we want to support staff in their recommendation on that.

Also regarding Phoenix and the adjustment that staff made, we certainly agree with the allocation assignment to nonutility below the line for the divestiture of the subsidiaries. There are other things that -- you know, all the other affiliate costs other than Phoenix have not been adjusted. So there are a whole lot of affiliate common costs that have not been shared below the line, that have not been addressed by staff. So it's just Phoenix that's been adjusted here.

While we agree with that, we could take that further and say that there were, you know, buildings or other miscellaneous expenses and things like that should have also been shared below the line.

In the audit finding where the auditors mention the affiliate allocations for Phoenix, they also mentioned that Utilities Inc. depreciate other computer equipment, some at three years and some at four years which is in violation of the Commission's rule on computers. And staff does not address that but that's something that should be looked at because those are violations of the rule. And to get a change in depreciation rate, you have to come in and specifically address that before the Commission and not just change it on your own.

Let's see. Regarding the salaries, the salaries, as we mentioned earlier, the salaries have gone down dramatically in 2009. And that's across the board. That's not just Pennbrooke, it's in Cypress Lakes, it's in all the systems that are here before you today.

So we certainly agree with staff's recommendation. One other adjustment that we believe could be made to staff's analysis is that they used a 17 percent increase in the CPI. And it's more like 10 percent for the time frame. I believe staff used the number that the company put in their filing and we could not replicate that number and we went to the government, United States government source for our CPIU. So it's about 10 percent. So not only do we support staff, but it could be a lower number if you applied the current increase in the CPIU.

Some other issues that we have not looked at or that the company hadn't addressed but we would like to address are the rate of return on equity.

The current leverage formula which is on this agenda is based on current cost. And as we all know, the current costs of equity have gone down dramatically. And the old leverage formula generates a rate of return of 11.13 percent. The new formula, if you apply it to Pennbrooke, would be about 10.84 percent. And we think that that is reflective of costs on a going-forward basis and that that could certainly be used in this case as well.

The cost of short-term debt in the company's filing in 2008 was a lot higher than it is in 2009 -- or was in 2009. In 2009 their annual report says it went to 3.75 percent, and the filing the MFR filing for 2008 is 5.25 percent.

Transportation expenses have gone down. Rate case expense. Rate case expense, we have a lot of affiliate -- Water Services Corporation, that's their affiliate service company. A lot of invoices for employees for WSC that have been allocated a rate case expense, we believe -- Office of Public Counsel believes that there's been no justification and showing that that requested rate case expense does not duplicate what was already included in the salaries. The company has gone through and annualized all of their salaries for all of their folks that do work for Utilities Inc., Pennbrooke in this case, and they have just not shown that adding in those salary charges for rate case expense is not a duplicate charge. It's also an adjustment that other states have made that explain that Utilities Inc. has not justified their use of employee time for rate case expense and they've disallowed that. They've given them the salaries, but not allowed them to duplicate that in rate case expense.

And one final point I want to make is something that Mr. Auger mentioned earlier about -- and certainly Mr. Hunsberger too. It's a continuing problem that we've seen. This has been a problem since -- in the mid '90s. And when I was on staff we had this problem that Utilities, Inc. would not adjust their books and records for Commission orders. We had case after case after case after case. It was just going on and on and on.

Finally, I think it was in 2004, Commission staff and Utilities Inc. agreed -- there were a lot of show cause orders, and any time there was a show cause order, the company would come in say, no, we're going to fix it, we're going to fix it, we're going to fix it, and they just continually did not fix it.

And in 2004 we all got together, and this is just staff and the utility I believe at that time, and the company agreed to about a 3-page letter of things that they would do on a going forward basis to avoid a show cause penalty. And one of those things is that they were -- one of the primary things is that they would adjust their books to reflect Commission-ordered adjustments in their general leverage. And there's actually an issue in every single case that says you have 90 days to show us that you've made these adjustments.

Well, the company historically, and they continue to this day, to not make those adjustments and it creates a tremendous burden on the staff and the auditors and the audit staff having to figure out what's the right rate base to start with.

And, you know, now they've got this very expensive computer program. I mean, we would think if those costs are appropriately allocated to the customers, that that money spent on that system should have fixed these problems. And here we are again. It's not an issue in this case, but here we are again today with -- if you look at their adjustments to the rate base, they have a lot of adjustments going in and out. And if you look at the audit work papers, you can see how much time the auditors spent reconciling these numbers.

And we just really believe that they have not gotten the message, that they have to -- their annual report has to match their books and their minimal filing requirements. And it's all clean and good when they file a rate case. It's easy to start from that point forward and go -- and look at the real issues in the rate case. And that's all I have right now.

CHAIRMAN ARGENZIANO: Mr. Beck?

MR. BECK: Ever so briefly, Madam Chairman. The staff recommendation contains a substantial rate increase that the customers in our office have essentially agreed to. It's over 16 percent for both water and waste water, an increase in revenue requirement.

We don't come to the conclusion to accept that lightly. That's a big increase. And we have -- on top of that we have a lot of issues that we would love to litigate and are ready to litigate. But we think over -- you know, litigation is expensive and customers wind up having to pay litigation expenses. And when we weigh that, I think that weighed heavily into the decision to accept this rate increase.

So again we urge you to vote out the staff rec as is and, you know, we will live with it because overall the customers can feel that it's a reasonable result. Thank you.

CHAIRPERSON ARGENZIANO: Any questions? Commissioner Skop?

COMMISSIONER SKOP: Thank you, Madam Chairman. I had a question for Public Counsel I believe in some of the concerns that Public Counsel would like to see addressed, and correct me if I'm wrong.

One of the most important ones would be to avail one's self of the lower cost of capital in the 2010 leverage formula. Is that generally correct or is there more to it than that?

MR. BERMAN: Yes.

COMMISSIONER SKOP: All right. Thank you.

CHAIRMAN ARGENZIANO: Commissioner Edgar?

COMMISSIONER EDGAR: Thank you. Could I ask our staff to speak to the issue that was raised regarding Issue 4 and the Phoenix Project or update as to the six-year time period being what's required under the rule versus the ten-year that's staff's recommendation and whether that is in keeping with the rule that we have.

MR. FLETCHER: Yes, Commissioner. In Rule 25-30.140, it does have a guideline rate for computers of six years. And again the title of the depreciation rule is an average, or based on guideline, average depreciation rates. Some go more, some go less.

And at the time, it was mentioned earlier, in the '07, that was correctly stated We were iteming 6 pursuant to that rule. Given that the company had used eight year service life in some of its other subsidiaries at that time the auditors made that a finding and recommended a year at utility accepted that in the four 2008 rate case and subsequent to that, as mentioned in the staff's recommendation, on page 14, we have the other reasons that we believe that it should be going to ten now.

And another is as -- one of them is what Patricia Merchant from opposite mentioned, is that in the Nevada case, a recent case of the sister companies, a huge system out there that they wrapped up a rate case where the company had used ten years. And in their response to the Nevada commission, they stated -- Utilities Inc. stated that fixed asset for software can be anywhere between 4 and 10.

And we believe due to the magnitude of the investment being that it's $21.6 million approximately, a little bit more than that, and also because it's a tailormade system. It's not like a little small Windows package or a QuickBooks where they get updated every -- you want to update and go to the newer version probably every four, maybe five years. This is a tailormade for Utilities Inc. financial and customer Oracle care system that they have developed. And we believe that it's going to be at least ten years before they'd have to replace it again.

COMMISSIONER EDGAR: Follow-up briefly. So is it the position of our staff that the recommendation for the ten-year amortization is -- is in keeping with our rule?

MR. FLETCHER: I believe because the rule is a guideline, depreciation rate and you have average, that's an average service life, that lots of stuff goes in that computer. And I believe that, you know, six years, it may have been more for the hardware type whenever the rule was initially developed, actually the computer hardware system, not as you see today the more software. And that's the reason why --

COMMISSIONER EDGAR: Are you saying that our rule is out of date?

MR. FLETCHER: I'm saying that it's a guideline and it doesn't encompass everything. Like every fixed asset that you can think of at the time. And that's the reason why it is entitled the guideline and you averages. Some go beyond the six years, some go less.

COMMISSIONER EDGAR: Could I just ask the company to respond to that -- that narrow point briefly?

MR. FRIEDMAN: Well, first of all, yeah, I will. And I will point out that the company did not propose ten years in Nevada. They proposed eight years in Nevada and the Nevada Commission imposed ten years on them because that's what they had done in an electric power case.

So just to clear up that, the company didn't come in there saying, yeah, we'll accept ten. The eight years as we have consistently said since the beginning has been the in-house amortization period.

COMMISSIONER EDGAR: Okay. And to the point -- I thought I heard you say, and if I'm misstating, I apologize and correct me, of course. But I thought earlier, Mr. Friedman, I heard you say that the ten years is contrary to our rule.

MR. FRIEDMAN: Your rule says 6 percent -- I mean six years. Six years is what we argued, you know, back in '08, I guess, when we argued this.

COMMISSIONER EDGAR: So is it your position that the result of applying the rule is more specific than as a guideline?

MR. FRIEDMAN: Well, I guess any -- any guideline can be changed. And we all -- you all went to eight years because that's what the company did internally. And I guess because that's what the auditor said to go to. And it just seems like it's creeping up every -- every -- every year we do a rate case it's creeping up. It's ten years. Next time we do one it will be 12 years. And I think it needs to be based on some reasonable assumption.

Just because it's not an off-the-shelf package doesn't mean that it doesn't continue to need ongoing work as you move from year to year because those type of systems also need updating.

COMMISSIONER EDGAR: Thank you.

MR. FLYNN: Commissioners, if I may. I just wanted to point out the other basis that's explained on page 14, is that their last legacy system, software package, that was in service for 21 years. So this is less than half of what the former system was in service.

CHAIRPERSON ARGENZIANO: Mr. Beck?

MR. BECK: Thank you. Briefly.

MS. MERCHANT: Commissioners, there is a provision in that depreciation rule that allows the Commission to deviate from the guideline rates. They have to have a showing, they have to have evidence to deviate from that. So it's not in -- where all the rates are listed. It's behind that. But it does provide for upon reasonable showing of evidence that you can change that rate. Any rate actually. But, you know, it just gives you the methodology the Commission can use to analyze that.

CHAIRMAN ARGENZIANO: I suggest we might want to take a look at the rule again, if it needs revisions or not. Commissioner Skop?

COMMISSIONER SKOP: Thank you, Madam Chair. Just a question directed to our general counsel.

With respect to using the -- or setting the return on equity and the cost of capital in this case, today marks another instance where we are resetting the leverage formula in conjunction with deciding the appropriate return on equity and cost of capital for various water cases and wastewater cases before us.

What is the Commission precedent? It's important to me that we move consistently on this with what has been done in the past.

MS. HELTON: My understanding is that the Commission precedent is that we have used the leverage formula that is in effect and final at the time of your vote, with one exception, and that was for Laboratory Utilities, I can't remember exactly when that was, but in that case, the difference between what the current final leverage formula was and what you had voted out.

I think that day or around that time period but was not yet final, was 100 -- greater than 100 basis points. So there was a substantial difference to the utility and to the customers for what -- in that instance, it's my understanding that today the utilities in cases that you're looking at, there is that great deviation. It's --

it's -- it's not there.

COMMISSIONER SKOP: Don't want to rely on my memory. I seem to recall perhaps one or two cases where this came up at the same time last year, and the Commission again recognized that the cost of equity and the weighted average cost of capital had either dropped off or increased substantially on a year-to-year basis.

What is -- to staff, what is the difference if we were to apply the 2010 leverage formula, please, for both the return on equity and the weighted average cost of capital.

MR. FLETCHER: Yes, Commissioner. If the Commission were to apply the 2010 recommended leverage formula, it would result in a 48 basis points reduction in staff's recommended return on equity and a subsequent 20 base point reduction in the overall rate of return. This would result in a reduction of $2,713 for the water revenue requirement and a $3,000,793 reduction in the wastewater revenue requirement.

COMMISSIONER SKOP: Okay. And just, Madam Chair, as a follow-up to Public Counsel, Mr. Beck in light of what may have done -- been done previously, do you think that regulatory certainty is an important consideration that needs to be addressed, notwithstanding the fact of making sure that we're consistent with what we do?

In this case, can you cite any precedence supporting your argument as to why the 2010 leverage formula should be adopted that supports your position? I think there were specific terms why the Commission may have departed in the past but I'm looking to get a better handle of that on the fly.

MR. BECK: I don't have any cases here in front of me, Commissioner. I mean, you're in a bit of an incongruous position. If you vote out the PAA in this case, you're voting out one rate of return as being appropriate for rate setting purposes for future rates, and then when you get to Item 13, the number is going to be different.

So, I mean, I realize Item 13 could be protested and may not be the final order. And I understand the staff's logic for not applying it. But it does seem that since this is a PAA as well, it would be appropriate to do the same thing you're going to do on Item 13.

Again, though, we have -- the bottom line is we've accepted the staff recommendation in total as an end result. But if we were to protest this case, I think that would be a gimme issue because -- because we would then be in a place where your new leverage graph is in effect. So this -- this would be a real easy one for us if we litigated it.

COMMISSIONER SKOP: I understand. And I want to be fair to Public Counsel but equally fair to the company. And I think that's the struggle that I've had at least two years in a row now, is to when we get to setting the leverage formula, not surprisingly there's multiple rate cases for water and wastewater companies that are either positively impacted or adversely impacted on that given day.

So you'd think you'd put the horse before the cart. But unfortunately that's one of these questions that always comes up when we have the same -- same items on the same docket. So thank you, Madam Chair.

CHAIRPERSON ARGENZIANO: Any other questions? Do we have a motion?

COMMISSIONER SKOP: Madam Chairman, I don't know if the preference of the Commission would be to move the staff recommendation as a whole or if there's specific issues that Commissioners have concerns on.

CHAIRPERSON ARGENZIANO: Commissioner Edgar?

COMMISSIONER EDGAR: I'm comfortable moving forward with the item in its entirety at this time.

COMMISSIONER SKOP: Okay. Madam Chair, any concerns?

CHAIRPERSON ARGENZIANO: Fine.

COMMISSIONER SKOP: All right. With that, Madam Chair, with respect to the disposition of Item 8 before the Commission, I would move to approve the staff recommendations for issues 1 through 30 incorporating the corrections contained within the oral modifications to Issues 20, 21, 22, 23, 24 and 27.

COMMISSIONER EDGAR: Second.

CHAIRPERSON ARGENZIANO: Okay. All those in favor say aye.

(Unanimous.)

CHAIRMAN ARGENZIANO: Opposed? Okay. It's adopted. Thank you very much.

(Discussion concluded.)

* * *

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF LEON)

I, LORI DEZELL, RPR, CCR, certify that I was authorized to and did stenographically report the proceedings herein, and that the transcript is a true and complete record of my stenographic notes.

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.

WITNESS my hand and official seal this 3rd day of June, 2010.

Lori Dezell

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850-878-2221

PENNBROOKE HOMEOWNERS ASSOCIATION, INC
UTILITIES, INC. OF PENNBROOKE
WATER OPERATING STATEMENT

PREPARER: HUNSBERGER

ACCT #	ACCOUNT NAME	PER PAGE W-3 OF THE ANNUAL REPORT FILED WITH THE PSC 12/31/05	12/31/06	12/31/07	12/31/08	12/31/09
400	OPERATING REVENUES	340,926	420,348	399,694	391,699	381,032
401	OPERATING EXPENSES	171,139	221,186	240,767	337,322	281,868
403	DEPRECIATION EXPENSE	65,801	80,361	68,159	84,681	92,234
	LESS AMORTIZATION OF CIAC	(22,146)	(22,314)	(22,383)	(30,317)	(69,822)
407	AMORTIZATION EXPENSE OTHER THAN CIAC	292				
	TAXES OTHER THAN INCOME					
408.1	UTILITY REGULATORY ASSESSMENT FEE	79	20,463	18,379	82	30
408.11	PROPERTY TAXES	37,533	20,273	17,745	17,331	17,290
408.12	PAYROLL TAXES	5,860	6,909	7,831	8,823	8,148
408.13	OTHER TAXES AND LICENSES				19,520	19,823
408	TOTAL TAXES OTHER THAN INCOME	43,472	47,645	43,955	45,756	45,291
409.1	INCOME TAXES	(1,742)	(128,819)	(3,549)	(24,826)	(20,501)
410.1	DEFERRED FEDERAL INCOME TAXES	22,920	124,776	15,467	(6,542)	15,248
410.11	DEFERRED STATE INCOME TAXES	3,841	20,585	2,647	(1,120)	2,611
411.1	PROVISION FOR DEFERRED INCOME TAXES- CR	-	(235)	-	-	-
	UTILITY OPERATING EXPENSES	283,577	343,185	345,063	404,954	346,929
	UTILITY OPERATING INCOME	57,349	77,163	54,631	(13,255)	34,103

PENNBROOKE HOMEOWNERS ASSOCIATION, INC
UTILITIES, INC. OF PENNBROOKE
WATER UTILITY EXPENSES

PREPARER: HUNSBERGER

ACCT #	ACCOUNT NAME	PER PAGE W-10(a) OF THE ANNUAL REPORT FILED WITH THE PSC 12/31/05	12/31/06	12/31/07	12/31/08	12/31/09
601	SALARIES AND WAGES - EMPLOYEES	65,512	73,638	99,689	120,678	89,745
603	SALARIES AND WAGES - OFFICERS, ETC.				8,390	9,904
604	EMPLOYEE PENSIONS AND BENEFITS	12,700	14,047	15,887	27,244	26,089
615	PURCHASED POWER	25,514	33,909	33,732	37,445	39,524
618	CHEMICALS	15,758	26,621	32,174	24,175	15,409
620	MATERIALS AND SUPPLIES	21,170	19,739	9,458	7,778	8,913
631	CONTRACTUAL SERVICES - ENGINEERING					(8)
632	CONTRACTUAL SERVICES - ACCOUNTING		8,559	1,872	1,542	1,602
633	CONTRACTUAL SERVICES - LEGAL		130	454	1,836	392
635	CONTRACTUAL SERVICES - TESTING				1,580	3,887
636	CONTRACTUAL SERVICES - OTHER	3,563	3,380	7,117	14,666	13,902
650	TRANSPORTATION EXPENSE	5,672	6,677	6,125	9,944	7,382
659	INSURANCE - OTHER	6,301	7,292	3,967	11,787	11,402
660	ADVERTISING EXPENSE				9	28
666	REG COMM EXP - RATE CASE AMORT		1,904	2,797	23,247	15,789
667	REG COMM EXP - OTHER				600	65
670	BAD DEBT EXPENSE	60	84	224	257	776
675	MISCELLANEOUS EXPENSES	14,889	25,206	27,271	46,143	37,066
	TOTAL WATER UTILITY EXPENSES	171,139	221,186	240,767	337,321	281,867
	INCREASE OVER PRIOR YEAR		50,047	19,581	96,554	(55,454)
	PERCENTAGE INCREASE OVER PRIOR YEAR		29.24%	8.85%	40.10%	-16.44%
	INCREASE SINCE 2005			69,628	166,182	110,728
	PERCENTAGE INCREASE SINCE 2005			40.69%	97.10%	64.70%

PENNBROOKE HOMEOWNERS ASSOCIATION, INC
UTILITIES, INC. OF PENNBROOKE
WATER UTILITY EXPENSES - SALARIES AND BENEFITS

PREPARER: HUNSBERGER

ACCT #	ACCOUNT NAME	PER PAGE W-10(a) OF THE ANNUAL REPORT FILED WITH THE PSC 12/31/05	12/31/06	12/31/07	12/31/08	12/31/09
601	SALARIES AND WAGES - EMPLOYEES	65,512	73,638	99,689	120,678	89,745
603	SALARIES AND WAGES - OFFICERS, ETC.				8,390	9,904
604	EMPLOYEE PENSIONS AND BENEFITS	12,700	14,047	15,887	27,244	26,089
	TOTAL SALARIES AND BENEFITS	78,212	87,685	115,576	156,312	125,738
	INCREASE OVER PRIOR YEAR		9,473	27,891	40,736	(30,574)
	PERCENTAGE INCREASE OVER PRIOR YEAR		12.11%	31.81%	35.25%	-19.56%
	INCREASE SINCE 2005			37,364	78,100	47,526
	PERCENTAGE INCREASE SINCE 2005			47.77%	99.86%	60.77%

PENNBROOKE HOMEOWNERS ASSOCIATION, INC
UTILITIES, INC. OF PENNBROOKE
WATER UTILITY EXPENSES - OTHER SELECTED ACCOUNTS

ACCT #	ACCOUNT NAME	PER PAGE W-10(a) OF THE ANNUAL REPORT FILED WITH THE PSC 12/31/05	12/31/06	12/31/07	12/31/08	12/31/09
631	CONTRACTUAL SERVICES - ENGINEERING					(8)
632	CONTRACTUAL SERVICES - ACCOUNTING		8,559	1,872	1,542	1,602
633	CONTRACTUAL SERVICES - LEGAL		130	454	1,836	392
635	CONTRACTUAL SERVICES - TESTING				1,580	3,887
636	CONTRACTUAL SERVICES - OTHER	3,563	3,380	7,117	14,666	13,902
650	TRANSPORTATION EXPENSE	5,672	6,677	6,125	9,944	7,382
659	INSURANCE - OTHER	6,301	7,292	3,967	11,787	11,402
675	MISCELLANEOUS EXPENSES	14,889	25,206	27,271	46,143	37,066
	TOTAL	30,425	51,244	46,806	87,498	75,625
	INCREASE OVER PRIOR YEAR		20,819	(4,438)	40,692	(11,873)
	PERCENTAGE INCREASE OVER PRIOR YEAR		68.43%	-8.66%	86.94%	-13.57%
	INCREASE SINCE 2005			16,381	57,073	45,200
	PERCENTAGE INCREASE SINCE 2005			53.84%	187.59%	148.56%

Utilities Inc. of Pennbrooke
Docket No. 090392-WS
Revenue Requiremement Recovery

Revenue Requirement from Rates	$	453,181	
BFC revenue allocation per staff cost analysis	$	207,919	45.88%
BFC revenue per staff proposal	$	90,636	20.00%
Revenue from nondiscretionary consumption		71,918	
BFC revenue if nondiscretionary revenue included in BFC	$	162,554	35.87%

Utilities Inc. of Pennbrooke **Docket No. 090392-WS**

ALLOCATION OF REVENUE REQUIREMENT TO RATES - WATER

Test Year Ended 12/31/08

ACCT NO.	ACCOUNT TITLE	STAFF ADJUSTED O&M EXPENSES	REVENUE ALLOCATION % BFC	REVENUE ALLOCATION % GALLONAGE CHARGE	REVENUE ALLOCATION $ BFC	REVENUE ALLOCATION $ GALLONAGE CHARGE
601	SALARIES AND WAGES - EMPLOYEES	$50,719	75.00%	25.00%	$38,039	$12,680
603	SALARIES - OFFICERS, DIRECTORS	7,230	75.00%	25.00%	5,423	1,808
604	EMPLOYEE PENSIONS AND BENEFITS	13,859	75.00%	25.00%	10,394	3,465
610	PURCHASED WATER	0	0.00%	100.00%	0	0
615	PURCHASED POWER	37,445	0.00%	100.00%	0	37,445
616	FUEL FOR POWER PRODUCTION	0	0.00%	100.00%	0	0
618	CHEMICALS	19,535	0.00%	100.00%	0	19,535
620	MATERIALS AND SUPPLIES	17,851	50.00%	50.00%	8,926	8,926
631	CONTRACTUAL SERVICES -ENGR.	0	50.00%	50.00%	0	0
632	CONTRACTUAL SERVICES - ACCT.	1,475	50.00%	50.00%	737	737
633	CONTRACTUAL SERVICES - LEGAL	1,490	50.00%	50.00%	745	745
634	CONTRACTUAL SERVICES - MGMT. FEES	0	50.00%	50.00%	0	0
635	CONTRACTUAL SERVICES - TESTING	13,040	50.00%	50.00%	6,520	6,520
636	CONTRACTUAL SERVICES - OTHER	0	50.00%	50.00%	0	0
641	RENTAL OF BUILDING/REAL PROPERTY	0	100.00%	0.00%	0	0
642	RENTAL OF EQUIPMENT	2	100.00%	0.00%	2	0
650	TRANSPORTATION EXPENSES	8,504	75.00%	25.00%	6,378	2,126
656	INSURANCE-VEHICLE	0	100.00%	0.00%	0	0
657	INSURANCE-GENERAL LIABILITY	0	100.00%	0.00%	0	0
658	INSURANCE-WORKMAN'S COMP.	0	100.00%	0.00%	0	0
659	INSURANCE-OTHER	12,113	100.00%	0.00%	12,113	0
660	ADVERTISING EXPENSE	0	100.00%	0.00%	0	0
666	AMORT. OF RATE CASE EXPENSE	36,976	100.00%	0.00%	36,976	0
667	REGULATORY COMM. EXPENSES - OTHEF	283	100.00%	0.00%	283	0
670	BAD DEBT EXPENSE	184	50.00%	50.00%	92	92
675	MISCELLANEOUS EXPENSES	31,589	50.00%	50.00%	15,794	15,794
	TOTAL OPERATION AND MAINTENANCE	$252,297			$142,424	$109,873
	DEPRECIATION EXPENSE (NET OF CIAC)	$57,771	50.00%	50.00%	$28,886	$28,886
	AMORTIZATION (OTHER)	$12,000	50.00%	50.00%	$6,000	$6,000
	TAXES OTHER THAN INCOME					
	PERSONAL PROPERTY	$17,772	100.00%	0.00%	$17,772	$0
	PAYROLL	5,963	50.00%	50.00%	2,982	2,982
	REGULATORY ASSESSMENT FEES	20,429	50.00%	50.00%	10,214	10,214
	OTHER	$82	50.00%	50.00%	$41	$41
	TOTAL TAXES OTHER	$44,246			$31,009	$13,237
	INCOME TAX EXPENSE	$22,197	0.00%	100.00%	$0	$22,197
	NET OPERATING INCOME	$65,453	0.00%	100.00%	$0	$65,453
	TOTAL WATER REVENUE REQUIREMENT	$453,964	$453,964	$453,964	$208,318	$245,646
	(MAKE SURE THIS TIES TO ACCT SCHED.)				45.89%	54.11%
	LESS: MISC. SERVICE CHARGES	-$411	100.00%	0.00%	-411	0
	PLUS: OTHER ADJUSTMENTS	-$372	0.00%	100.00%	0	-372
	REVENUE REQ FROM SERVICE RATES	$453,181			$207,907	$245,274
					45.88%	54.12%
	FACTORED ERCs (or weighted bills)	17,324		BFC/ERC	$12.00	
	TOTAL GALLONS (000's)	158,791		Gallon Charge		$1.54

PENNBROOKE HOMEOWNERS ASSOCIATION, INC
UTILITIES, INC. OF PENNBROOKE
WASTEWATER OPERATING STATEMENT

PREPARER: HUNSBERGER

ACCT #	ACCOUNT NAME	PER PAGE S-3 OF THE ANNUAL REPORT FILED WITH THE PSC 12/31/05	12/31/06	12/31/07	12/31/08	12/31/09
400	OPERATING REVENUES	308,977	366,014	427,556	417,901	416,358
401	OPERATING EXPENSES	221,503	268,062	306,042	325,537	270,451
403	DEPRECIATION EXPENSE	75,480	77,200	72,522	95,968	104,054
	LESS AMORTIZATION OF CIAC	(30,409)	(30,450)	(30,396)	(41,069)	(35,442)
407	AMORTIZATION EXPENSE OTHER THAN CIAC	268				
	TAXES OTHER THAN INCOME					
408.1	UTILITY REGULATORY ASSESSMENT FEE	72	17,820	19,659	70	26
408.11	PROPERTY TAXES	34,013	17,656	18,978	14,728	14,693
408.12	PAYROLL TAXES	5,309	6,017	8,376	7,498	6,924
408.13	OTHER TAXES AND LICENSES				16,588	16,845
408	TOTAL TAXES OTHER THAN INCOME	39,394	41,493	47,013	38,884	38,488
409.1	INCOME TAXES	1,439	99,157	1,230	(21,097)	(17,422)
410.1	DEFERRED FEDERAL INCOME TAXES	(18,934)	(96,045)	(5,360)	(5,560)	12,958
410.11	DEFERRED STATE INCOME TAXES	(3,173)	(15,845)	(917)	(951)	2,218
411.1	PROVISION FOR DEFERRED INCOME TAXES-CR	-	181	-	-	-
	UTILITY OPERATING EXPENSES	285,568	343,753	390,134	391,712	375,305
	UTILITY OPERATING INCOME	23,409	22,261	37,422	26,189	41,053

Parties/Staff Handout
Internal Affairs/Agenda
on 6/1/10
Item No. 8

PENNBROOKE HOMEOWNERS ASSOCIATION, INC
UTILITIES, INC. OF PENNBROOKE
WASTEWATER UTILITY EXPENSES

PREPARER: HUNSBERGER

ACCT #	ACCOUNT NAME	PER PAGE S-10(a) OF THE ANNUAL REPORT FILED WITH THE PSC 12/31/05	12/31/06	12/31/07	12/31/08	12/31/09
701	SALARIES AND WAGES - EMPLOYEES	61,704	69,455	90,919	102,552	76,265
703	SALARIES AND WAGES - OFFICERS, ETC.				7,130	8,416
704	EMPLOYEE PENSIONS AND BENEFITS	11,508	12,234	16,994	23,152	22,170
711	SLUDGE REMOVAL EXPENSE	43,197	62,788	58,892	31,564	24,184
715	PURCHASED POWER	25,366	32,634	34,292	40,216	42,545
718	CHEMICALS	14,280	23,184	34,411	20,544	13,092
720	MATERIALS AND SUPPLIES	37,820	30,626	28,098	11,065	8,602
731	CONTRACTUAL SERVICES - ENGINEERING					(7)
732	CONTRACTUAL SERVICES - ACCOUNTING		7,453	2,002	1,310	1,361
733	CONTRACTUAL SERVICES - LEGAL		113	485	1,560	333
735	CONTRACTUAL SERVICES - TESTING				2,823	7,601
736	CONTRACTUAL SERVICES - OTHER	3,229	2,942	7,611	2,806	1,746
750	TRANSPORTATION EXPENSE	5,141	5,814	6,551	8,451	6,273
759	INSURANCE - OTHER	5,711	6,351	4,242	10,017	9,690
760	ADVERTISING EXPENSE				7	24
766	REG COMM EXP - RATE CASE AMORT		1,621	2,551	19,755	13,417
767	REG COMM EXP - OTHER				510	55
770	BAD DEBT EXPENSE	54	73	239	218	659
775	MISCELLANEOUS EXPENSES	13,493	12,774	18,755	41,857	34,021
	TOTAL WATER UTILITY EXPENSES	221,503	268,062	306,042	325,537	270,447
	INCREASE OVER PRIOR YEAR		46,559	37,980	19,495	(55,090)
	PERCENTAGE INCREASE OVER PRIOR YEAR		21.02%	14.17%	6.37%	-16.92%
	INCREASE SINCE 2005			84,539	104,034	48,944
	PERCENTAGE INCREASE SINCE 2005			38.17%	46.97%	22.10%

PENNBROOKE HOMEOWNERS ASSOCIATION, INC
UTILITIES, INC. OF PENNBROOKE
WASTEWATER UTILITY EXPENSES - SALARIES AND BENEFITS

PREPARER: HUNSBERGER

ACCT #	ACCOUNT NAME	PER PAGE S-10(a) OF THE ANNUAL REPORT FILED WITH THE PSC 12/31/05	12/31/06	12/31/07	12/31/08	12/31/09
701	SALARIES AND WAGES - EMPLOYEES	61,704	69,455	90,919	102,552	76,265
703	SALARIES AND WAGES - OFFICERS, ETC.				7,130	8,416
704	EMPLOYEE PENSIONS AND BENEFITS	11,508	12,234	16,994	23,152	22,170
	TOTAL SALARIES AND BENEFITS	73,212	81,689	107,913	132,834	106,851
	INCREASE OVER PRIOR YEAR		8,477	26,224	24,921	(25,983)
	PERCENTAGE INCREASE OVER PRIOR YEAR		11.58%	32.10%	23.09%	-19.56%
	INCREASE SINCE 2005			34,701	59,622	33,639
	PERCENTAGE INCREASE SINCE 2005			47.40%	81.44%	45.95%

PENNBROOKE HOMEOWNERS ASSOCIATION, INC
UTILITIES, INC. OF PENNBROOKE
WASTEWATER UTILITY EXPENSES - OTHER SELECTED ACCOUNTS

ACCT #	ACCOUNT NAME	PER PAGE S-10(a) OF THE ANNUAL REPORT FILED WITH THE PSC 12/31/05	12/31/06	12/31/07	12/31/08	12/31/09
731	CONTRACTUAL SERVICES - ENGINEERING					(7)
732	CONTRACTUAL SERVICES - ACCOUNTING		7,453	2,002	1,310	1,361
733	CONTRACTUAL SERVICES - LEGAL		113	485	1,560	333
735	CONTRACTUAL SERVICES - TESTING				2,823	7,601
736	CONTRACTUAL SERVICES - OTHER	3,229	2,942	7,611	2,806	1,746
750	TRANSPORTATION EXPENSE	5,141	5,814	6,551	8,451	6,273
759	INSURANCE - OTHER	5,711	6,351	4,242	10,017	9,690
775	MISCELLANEOUS EXPENSES	13,493	12,774	18,755	41,857	34,021
	TOTAL	27,574	35,447	39,646	68,824	61,018
	INCREASE OVER PRIOR YEAR		7,873	4,199	29,178	(7,806)
	PERCENTAGE INCREASE OVER PRIOR YEAR		28.55%	11.85%	73.60%	-11.34%
	INCREASE SINCE 2005			12,072	41,250	33,444
	PERCENTAGE INCREASE SINCE 2005			43.78%	149.60%	121.29%