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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of :
: DOCKET NO. 940109-WU
Petition for Interim and :
Permanent Rate Increase in :
Franklin County by St. George :
Island Utility Company, Ltd. :
:

SECOND DAY - EVENING SESSION

VOLUME 6

Pages 748 through 854

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN J. TERRY DEASON
COMMISSIONER DIANE K. KIESLING

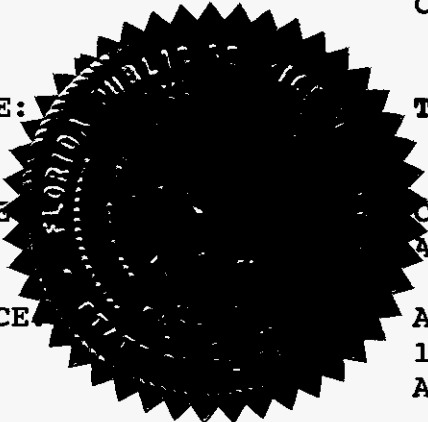
DATE: Thursday, July 21, 1994

TIME: Commenced at 9:40 a.m.
Adjourned at 5:35 p.m.

PLACE: Apalachicola Community Center
1 Avenue E
Apalachicola, Florida

REPORTED BY: JOY KELLY, CSR, RPR
Chief, Bureau of Reporting
SYDNEY C. SILVA, CSR, RPR.
Official Commission Reporters

APPEARANCES:
(As heretofore noted.)



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P R O C E E D I N G S

1
2 (Transcript continues in sequence from Volume
3 5.)

4 CHAIRMAN DEASON: Call the hearing back to
5 order. Mr. Pfeiffer?

6 MR. PFEIFFER: Mr. Chairman, we have three
7 witnesses from Tallahassee. It seems quite evident that
8 if we're going to close at a fairly normal time that
9 there's almost no likelihood that we will get to them
10 today. Obviously, if we're going to go very late in the
11 evening, I would want to keep them here; but if we're
12 going to close, I would like to let them go home so we
13 don't have to pay them any more.

14 CHAIRMAN DEASON: Being is a prudent
15 businessman.

16 MR. PFEIFFER: Yes, sir.

17 MR. McLEAN: The folks who pay the bills would
18 heartily endorse that notion.

19 CHAIRMAN DEASON: Perhaps this would be a good
20 time to try to get an understanding time-wise. It is my
21 understanding all the Staff-sponsored witnesses are
22 going to be stipulated?

23 MR. PFEIFFER: Correct.

24 CHAIRMAN DEASON: Okay. Of course, we're
25 doing Ms. Dismukes presently; and you have approximately

1 an hour remaining?

2 MR. PFEIFFER: Well, if I --

3 CHAIRMAN DEASON: It's hard to say?

4 MR. PFEIFFER: I've already lied. I've lied
5 to everybody here at the table with me about how long it
6 would take me. So I will say an hour and I hope I can
7 stick to that.

8 CHAIRMAN DEASON: Staff, how long is your
9 cross examination of Ms. Dismukes?

10 MR. PIERSON: So far, I have one question.

11 CHAIRMAN DEASON: I guess what I'm needing to
12 get a feel for is how many witnesses can we do on, I
13 believe it's Wednesday, August the 3rd? Because that is
14 our last available day outside of Saturdays; and I don't
15 think anyone wishes to conclude this hearing on a
16 Saturday.

17 MR. PFEIFFER: I think that Mr. Seidman and
18 Mr. Brown on rebuttal would be, my guess is, our only
19 witnesses where there would be long cross examinations.
20 Perhaps Mr. Baltzley, I'm not sure.

21 MR. McLEAN: Mr. Who? Are you talking about
22 Mr. Baltzley?

23 MR. PFEIFFER: Yes.

24 MR. McLEAN: I can probably --

25 (Simultaneous conversation.)

1 MR. PFEIFFER: Not Mr. Baltzley, Mr. Bidy.

2 MR. McLEAN: We will have extended cross for
3 Mr. Brown, modest cross for Mr. Seidman, and limited to
4 modest cross for Ms. Withers.

5 MR. PFEIFFER: Yes, I think we can handle that
6 in a day.

7 CHAIRMAN DEASON: Well, I have been informed
8 that the sound system here that we're utilizing, that we
9 have made arrangements to have it here until 5:00. And
10 it probably would be available past that time but
11 there's a likelihood of additional charges or unexpected
12 charges for maintaining it; and the Commission being
13 wise businessmen or wise businesswomen, as the case
14 would be, certainly would not want to incur those
15 expenses unless it is absolutely necessary.

16 I would like to try to conclude by 5:00 today,
17 presuming that is a point where we feel reasonably
18 confident and comfortable that we can conclude the
19 hearing on Wednesday, August the 3rd. If we reach 5:00
20 and don't have that comfort level, we may just incur the
21 additional expenses and try to reach a level to where we
22 feel confident we can conclude the hearing on August the
23 3rd. That's really as much guidance as I can give right
24 now. (Pause)

25 Can I, is there anything, any other guidance,

1 that I can give?

2 MR. PFEIFFER: No, sir. And I wish I could be
3 more precise about how long I'll take, but I'm --

4 CHAIRMAN DEASON: All right. You may proceed
5 with your questions.

6 MR. PFEIFFER: All right.

7 KIMBERLY H. DISMUKES

8 resumed that stand as a witness on behalf of the
9 Citizens of the State of Florida and, having been duly
10 sworn, testified as follows:

11 CONTINUED CROSS EXAMINATION

12 BY MR. PFEIFFER:

13 Q I'm looking at your revised schedule 27.

14 A Yes, sir.

15 Q What was the reason that you revised that
16 schedule?

17 A Because I had double-counted one of my
18 adjustments. I had included it both under the operating
19 and maintenance expense line as well as on the line that
20 says "Amortization."

21 Q And so you have changed it to reflect what you
22 learned later to be an error in your earlier
23 computation?

24 A Yes.

25 Q Is there anything wrong with that in a

1 proceeding, determining that a mistake had been made and
2 correcting it and improving it?

3 A There's nothing wrong with correcting an
4 error.

5 Q In that sheet, there are listings for various
6 kinds of expenses and accounting entries and a number
7 called "Net Operating Income." What does that figure
8 represent?

9 A Revenues minus expenses.

10 Q And with regard to the entry in the last
11 column of that row, \$7,695?

12 A Yes.

13 Q That would be money left over to the Utility
14 after it paid all its expenses and it would be left
15 over?

16 A That's correct.

17 Q What would that money be available for?

18 A Return on Mr. -- return on the Utility's
19 investment.

20 Q Would it also be the only money that would be
21 left to invest in the system?

22 A No.

23 Q What other money would be available to invest
24 in the system?

25 A Contributions.

1 Q From this sheet, what other money would be
2 available to invest in the system?

3 A Well, I don't think you should look at it just
4 from this sheet. You would have contributions the
5 customer pays to the Utility, cash contributions. You
6 would also have AFPI that the Utility receives. You
7 would also receive cash from depreciation expense. All
8 of those are cash items that the Utility receives that
9 they can use to make investments in the Utility.

10 Q Have you made any estimate as to what those
11 amounts would be?

12 A I have done it on a historical basis. The
13 Utility received considerabler contributions in 1992, on
14 the order of \$223,000. They received AFPI of \$33,000.
15 In 1991, they received CIAC of \$70,000 and AFPI of
16 \$5,400. In 1990, they received contributions of
17 \$300,000.

18 And my recollection is that in 1993 they also
19 had a sizeable amount of contributions.

20 Q You have some exhibits that deal with original
21 cost estimates?

22 A Yes.

23 Q Where are they?

24 A They should be at the end. The Billy Bishop
25 Study is Schedule 22, and then my calculation to come up

1 with the Utility's level of investment is Schedule 21.

2 Q What documents did you consult to make the
3 determination that's set out in your calculation in
4 Schedule 21?

5 A Leisure Properties' financial statements for
6 1979; Barbara Withers' affidavit and attachments filed
7 March 16, 1989, in Docket 871177-WU; and the
8 Commission's Order No. 21122.

9 Q Were the financial statements before the
10 Commission in the 1989 rate case?

11 A They were attached to a motion that the Office
12 of the Public Counsel filed with the Commission after
13 the close of the hearing. And the Commission took
14 administrative notice of the financial statements after
15 the close of the hearing, so they were in the record.

16 MR. PFEIFFER: Yes. And I would ask that the
17 Commission take official recognition in Case No.
18 871177-WU of its Order No. 20913, March 17, 1989; it is
19 reported at 89 FPSC 3:205.

20 CHAIRMAN DEASON: The Commission will take
21 recognition of its own orders.

22 MR. PFEIFFER: In that same case, I would ask
23 that official recognition be taken of Order No. 21741
24 dated August 17, 1989.

25 CHAIRMAN DEASON: The Commission will do so.

1 Q (By Mr. Pfeiffer) Was the Barbara Withers
2 affidavit before the Commission in 1989?

3 MR. McLEAN: May I object, just for the
4 clarity of the question. "Before the Commission" is a
5 confusing term to me and perhaps to the witness. For
6 example, the Commissioner just handed back some exhibits
7 that we didn't use; I don't know whether that would be
8 "before the Commission." Maybe we could be a little bit
9 more specific.

10 I don't mean to interrupt but I must.

11 CHAIRMAN DEASON: If you could just clarify
12 what you mean by "before the Commission."

13 Q (By Mr. Pfeiffer) Was the Barbara Withers
14 affidavit in the record of the proceeding in Case No.
15 871177-WU.

16 A I don't believe so. It was filed by the
17 Utility in response to our motion, but I don't know that
18 it was actually admitted as evidence or considered as
19 evidence.

20 Q Have you offered financial statements as any
21 part of your testimony in this proceeding?

22 A No.

23 Q Have you offered the Barbara Withers affidavit
24 as any part of your testimony in this proceeding?

25 A No.

1 Q Can you state whether any of the entries in
2 the financial statement that you have referenced are
3 accurate?

4 A Well, I think you need to take the financial
5 statement that I used --

6 MR. PFEIFFER: Commissioner Deason, I would
7 ask for the instruction of the witness that was given
8 this morning; it was a yes-or-no question.

9 CHAIRMAN DEASON: The witness is so
10 instructed.

11 Q (By Mr. Pfeiffer) Do you recall my question?

12 A Yes. You asked me if I could testify as to
13 the accuracy of the data in the financial statements.

14 Q Correct.

15 A The answer to that is no, I cannot swear to
16 the accuracy of the data in the financial statements.
17 However, I think you need to recognize that the
18 financial statement had a unqualified opinion of an
19 auditor; it had a note in it talking about the sale of
20 the water system and the amount of assets on Leisure
21 Properties' books at the time of the sale of the system.

22 I think it is a reliable document. I don't
23 see any reason why either Leisure Properties or the
24 auditors would have wanted to misstate the amount of the
25 investment. It is a document that they would use to

1 represent their financial position to their lenders, et
2 cetera, and I have no reason to dispute the number or
3 believe that it would be inaccurate.

4 Q Have you examined any of the source material
5 that would support the financial statements that you
6 have referenced?

7 A No. But the auditors that signed the report
8 would have examined those documents.

9 Q Do you know that for certain?

10 A Well, that's my understanding of what an
11 auditor does when they issue an unqualified opinion is
12 they go in and look at the material documents and ensure
13 that they are comfortable with the information that is
14 reflected on the financial statements. They don't
15 accept the Utility's or Leisure Properties' word for it.
16 They don't take their word for it.

17 Q Did anyone else have problems with entries on
18 the 1979 financial statement that might have audited
19 them?

20 A Not that I'm aware of.

21 Q How about the Internal Revenue Service?

22 A They didn't have problems with the book value
23 of the water assets. What they had a problem with was
24 the \$3 million sale that Leisure Properties said was the
25 cost -- not the cost, but what they sold the water

1 system for to St. George Island Utility Company. They
2 had a concern about the amount of that sale.

3 That number, I don't believe, is reflected on
4 the financial statements in terms of being an asset or
5 anything like that. In fact, there's a long note in the
6 financial statements about the sale and that because of
7 the fact that the Utility and Leisure Properties were
8 too closely related that it wasn't going to be reflected
9 as a sale. That's why the assets of the water system
10 stayed on the books of Leisure at that time.

11 Q What was the purpose of the IRS audit?

12 A The purpose? I don't know, I never received
13 the audit. But I assumed that there was a concern over
14 the \$3 million figure and it had to do with the
15 investment tax credits.

16 Q Was there a concern over the book value of the
17 Utility?

18 A Well, it would have been a concern over the
19 value of the Utility in terms of what Leisure Property
20 was selling it to the St. George Island Utility, Limited
21 for.

22 Q Did the IRS make a determination as to the
23 book value of the Utility?

24 A No.

25 Q Did IRS make a determination of the

1 depreciable assets in the Utility?

2 A The IRS made a determination of the tax basis,
3 I believe, of the Utility. Which is not always the same
4 as the book value.

5 Q Is it the same as depreciable assets?

6 A No.

7 Q How does it differ from book value?

8 A Well, what the IRS set out to do was determine
9 the value of the system at that time, something that
10 they -- and I'm speaking rather liberally here -- a
11 value that they felt comfortable with in terms of this
12 sale.

13 There's a big difference between value in
14 terms of what the IRS is willing to accept and book
15 value as it exists on the system, what was actually
16 spent at that time. An example, I guess, would be if I
17 had a car and I knew it cost me \$500 but I sold it to
18 you for \$1,000, the value is established at \$1,000
19 because I sold it to you but the book value to me is
20 only \$500. That's the distinction that I'm trying to
21 make with respect to the book value that was on the
22 books of Leisure Properties at the time the water system
23 was sold and what the IRS found.

24 Q What was the date of the determination of tax
25 basis of the Utility in the IRS audit?

1 A I think I know the question that you are
2 asking, what was the date of the determination of the
3 value of the assets?

4 Q Yes, sir.

5 A Ma'am?

6 Q Yes, ma'am.

7 A 1979.

8 Q Do you have a specific month and day in 1979?

9 A I believe it was December of '79.

10 Q And that would have been the value of the
11 system in December 1979, in your opinion?

12 A What value are we talking about? I have been
13 talking back and forth about book value and tax value;
14 and when you just said "value," I don't want to get
15 confused.

16 Q Okay, tax base. Would it be the tax base
17 December 1979?

18 A Yes, that's my understanding.

19 Q Do you know that the IRS did a simultaneous
20 audit of the Leisure Properties and the St. George
21 Island Utility books?

22 A Yes, that's my understanding.

23 Q For what years?

24 A I believe it was for the years '79, '80, '81
25 and maybe '82; I'm a little fuzzy on '82.

1 Q Do you know whether they had access to and
2 considered the Bishop appraisal that was attached to
3 your testimony?

4 A I'm not certain.

5 Q Do you know whether they also performed an
6 independent appraisal -- I shouldn't say "also." Do you
7 know whether they performed an independent appraisal?
8 By that, I mean the Internal Revenue Service.

9 A That is my understanding.

10 Q Do you know whether the Internal Revenue
11 Service had access to the 1979 Leisure Properties
12 financial statements?

13 A Yes, they did.

14 Q Do you know what the tax basis was, what tax
15 basis IRS established for the Utility in December 1979?

16 A 2.2 million, I believe.

17 Q It is your position the IRS was wrong in that
18 determination?

19 A No.

20 Q But you're --

21 A I just don't think it has anything to do with
22 book value. I don't think it has anything to do with
23 original cost. It doesn't have anything to do with what
24 this Commission is trying to determine in terms of what
25 the original cost of this system is.

1 We're not trying to determine what the fair
2 value is, that's not what the Commission uses in terms
3 of setting rate base, they use original cost.

4 Q Do you know if IRS determined the value on a
5 cost basis?

6 A I don't know.

7 Q Regarding the Bishop Study that's attached to
8 your testimony, do you have any background in
9 appraisals?

10 A No, I do not.

11 Q Can you testify as to the methodology used as
12 to whether the appraisal constitutes an evaluation that
13 would pass muster in the field of appraising?

14 A No.

15 Q Did you check any of the source documentation?

16 A We tried, but there was no source
17 documentation.

18 Q Did you talk to Billy Bishop?

19 A No, I did not talk to Billy Bishop.

20 Q Did you talk to anyone at Billy Bishop's
21 company about that appraisal?

22 A I did not personally, no.

23 Q Are the tax returns of Leisure Properties, do
24 they form the basis of any of your testimony regarding
25 original cost?

1 A I did evaluate, I did look at the tax returns
2 of Leisure Properties. I did not use any of the numbers
3 from the tax returns. There is a, I believe it is,
4 \$707,000 figure in the tax returns of Leisure Properties
5 for the year 1979, which I believe is comparable to the
6 \$830,145 which is reported on the financial statements.

7 Likewise, in the the 1978 -- let me, I'm not
8 talking about confidential stuff at this time, am I?
9 That's been declassified?

10 Q Well, they're actually attached to one of the
11 orders that I've just referenced, so --

12 A I've been talking about '78. I'll just talk
13 about in general, I won't mention any numbers and then I
14 hope that won't offend anybody.

15 MR. McLEAN: It is of some interest to the
16 Citizens as to whether -- that she give a complete
17 answer unfettered by any generalities. We would like to
18 know if that stuff is protected by any confidentiality.

19 MR. PIERSON: The tax returns up through 1987
20 were declared not confidential in the last rate case.
21 And then there is pending right now a request for
22 confidential classification of the tax returns '87
23 through '92, I believe. Maybe '93.

24 MR. PFEIFFER: I've made no claim of
25 confidentiality.

1 MR. BROWN: Not for '78. For the ones he's
2 saying is pending.

3 MR. PFEIFFER: '78 is in the order.

4 WITNESS DISMUKES: No, '78 is not in the
5 order. '79 is in the record. I just don't want to
6 violate any confidentiality concerns. That's why I
7 stopped.

8 Q (By Mr. Pfeiffer) Well, let me ask you this.
9 Were those tax returns part of the record --

10 A I didn't finish my answer. I don't --

11 Q Proceed however you'd like, Ms. Dismukes.

12 MR. McLEAN: Well, the question is she wants
13 to proceed but the Utility is in a unique position to
14 say whether they want confidential treatment over that
15 stuff. Irrespective to what the ruling has been thus
16 far, they can waive it if they care to. If there's any
17 ambiguity about it, they probably ought to.

18 MR. BROWN: We'll waive it for '78.

19 MR. PFEIFFER: Didn't she say that those
20 documents had been declared not --

21 MR. PIERSON: I'm actually not sure about the
22 '78 tax return.

23 MR. PFEIFFER: We will waive confidentiality
24 with regard to the 1978 tax returns.

25 MR. PIERSON: The '79 through '87 tax returns

1 were declared not confidential.

2 A I also examined the 1978 tax return of Leisure
3 Properties; and on that tax return they showed a figure
4 for the water system -- it was classified as
5 construction work in progress at that time, it was not
6 plant in service -- and I believe it was around
7 \$630,000. And that's consistent with the \$707,000 as
8 well as the \$830,145 figure.

9 Q What part did the Bishop Study play in your
10 analysis of the original cost?

11 A I used the Billy Bishop Study to corroborate
12 the \$830,000 figure that was in the financial
13 statements. It seemed to be another independent source
14 which was coming up with an original cost comparable to
15 the original cost that was in the financial statements.

16 Q How does the cost estimate in the Bishop Study
17 compare with the entry in the financial statement, the
18 1979 financial statement before the Commission in 1989?

19 A The Billy Bishop Study, the cost estimate, I
20 believe, is \$908,000 relative to the \$830,000 in the
21 financial statements. But as I explained in my
22 testimony, there is a good reason for the difference,
23 the Billy Bishop Study was an estimate. It also had
24 replacement cost information in it.

25 Q Do you have some reason to believe the 1979

1 financial statement was not an estimate?

2 A No, I don't believe it was an estimate. I
3 don't think utilities report estimates in their
4 financial statements, they report their actual dollars.

5 Q Is it your belief that nothing was done to
6 expand the facilities and the facilities of the Utility
7 between July 1988 and -- July 1978 and December 1989 --
8 19 -- I'll start the question all over.

9 A I think that would be good.

10 Q Would you believe -- would it be your opinion
11 that no facilities were added to the Utility between the
12 time of the Bishop Study July 1988 and the time of the
13 financial statement December 1979?

14 A No.

15 Q You believe facilities were added?

16 A I don't know. I think it would be logical to
17 conclude that some facilities were added; but I don't
18 think that you can draw the inference that because the
19 Billy Bishop Study is at \$908,000 and the financial
20 statements are at \$830,000 that there were no facilities
21 added. I just don't think that you can draw that
22 conclusion.

23 One was an estimate of what was in the ground
24 in '76, one is the actual dollars that were on the books
25 and records of Leisure Properties at the time it sold

1 the water system to the Utility.

2 Q Well, if --

3 A That -- I'm sorry, I did make a long pause.

4 Q If substantial facilities were added to the
5 Utility in that period from July 1978 to December 1979,
6 how could you explain the fact that the investment rose
7 hardly at all?

8 A Well, I don't know that substantial
9 improvements were made. I mean, if you want to do a
10 hypothetical, I can say I don't know.

11 Q All right.

12 A But there is --

13 Q Let's put that as a hypothetical then. Do you
14 know?

15 A No, I do not know. (Pause)

16 Q With regard to tank maintenance, you have some
17 testimony of that beginning, I believe, at Page 34 of
18 your testimony.

19 A Yes.

20 Q Have customers been charged in the past for
21 any maintenance of these tanks?

22 A It would depend upon whether or not there was
23 a maintenance expense allowed in the last rate case.

24 Q Was there any expense allowed for any
25 maintenance contract in the last rate case?

1 A I don't know.

2 Q You have suggested that because the tank had
3 not been properly maintained that the cost of renovating
4 it now, of restoring it now, should not be charged to
5 the customers. Is that correct?

6 A Yes, basically.

7 Q Please explain your analysis of that issue.

8 A Well, what I did was I read the letter that
9 was submitted to the Utility for maintaining the tank.
10 And that letter -- could you refer me to the page of my
11 testimony? You did and I didn't turn there, would you
12 mind that courtesy?

13 Q 34.

14 A Thank you. (Pause)

15 Anyway, the letter said, "As we discussed
16 before, we have to return these tanks to a certain order
17 to place them on our maintenance program."

18 And my reading of that sentence was that they
19 had to get those tanks into some kind of good shape
20 prior to putting them on a regular maintenance program.
21 And I was characterizing that as being remedial, that
22 you had to do extra work that you would not otherwise
23 have had to have done had the tanks been properly
24 maintained in the past.

25 Q Where did you draw that conclusion from?

1 A From the letter that was sent by Eagle Tank
2 Technologies.

3 Q So it would be your opinion that if there was
4 regular maintenance then there would never be any need
5 for any restorative work with regard to water tanks?

6 A There may or may not.

7 Q You don't know, do you?

8 A Well, there may or may not. I don't know.
9 But I can tell you that the Utility has not incurred any
10 maintenance expense, at least under contractual
11 services, for the years 1989, 1990, or 1991.

12 Q Was the Utility performing any maintenance at
13 all with regard to the tanks that you know about?

14 A They may have. I do not know. But they did
15 not contract any engineers as they are contracting in
16 this case to maintain the tanks.

17 Q Is it your testimony that if the Utility had
18 been properly maintaining the tanks that no remedial
19 work would be necessary?

20 A There may be some remedial work that was
21 necessary, I don't know.

22 Q Do you think that liability insurance is
23 something the Utility ought to have?

24 A Yes.

25 Q Do you think the customers of the Utility

1 ought to pay for that?

2 A Assuming that Mr. Brown, once he gets his
3 liability insurance, continues to pay for the liability
4 insurance, yes.

5 Q This was a simple question. It was a
6 yes-or-no question.

7 A Yes, assuming Mr. Brown, if the Commission
8 allows those expenses in rates, if Mr. Brown continues
9 to pay the premium on that insurance.

10 Q And is workers compensation insurance
11 something the Utility ought to have?

12 A Yes.

13 Q And is that something the customers ought to
14 pay for?

15 A Yes, assuming that if the Commission allows
16 those expenses in rates, Mr. Brown continues to pay
17 those premiums.

18 Q Do you feel that the employees ought to have
19 health insurance?

20 A Yes, I do.

21 Q Do you think that's something the customers
22 should pay for?

23 A Yes, assuming that if the Commission allows
24 those in rates, Mr. Brown continues to pay those
25 premiums.

1 Q Does the Commission have any recourse if
2 Mr. Brown does not do that?

3 A Not that I'm aware of.

4 Q With regard to travel, do you think that it
5 would be preferable for this Utility to purchase
6 vehicles?

7 A That's, there are pros and cons on that
8 particular issue. I think, as Mr. Brown admitted when
9 he was on the stand, under their current arrangements if
10 Mr. Garrett or Mr. Shiver were to leave that the Utility
11 would not retain ownership of those vehicles. Mr. Brown
12 has also testified that it is his opinion that it is
13 less expensive to give his employees a travel allowance
14 rather than actually owning the vehicles himself -- it
15 is less expensive, less of a hassle, I believe is the
16 way it was characterized.

17 So there are pros and cons to both approaches.

18 Q Do you have any reason to doubt that
19 Mr. Garrett drives the miles that would justify the
20 travel allowance that he has for the Company?

21 A No, not really. I mean, he did, he attached
22 to his rebuttal tomorrow a one-month sample of his
23 mileage and that was consistent with, very consistent
24 with, the travel, the number of miles that would be
25 traveled depending upon what mileage cents-per-miles

1 allowance that you divide by. So it was very
2 consistent.

3 It may have been a bad month, it may have been
4 a typical month, I don't know. But his one-month sample
5 was consistent with the request.

6 Q In fact, he drove more miles than the
7 compensation -- than he would be compensated for even at
8 20 cents a mile, didn't he?

9 A I don't know that.

10 Q You didn't do that computation?

11 A I didn't add up 31 days worth of mileage, no.

12 Q Do you believe that any other of the Utility
13 employees did not drive -- did not drive or do travel
14 that would justify the travel allowances that they
15 received from the Utility?

16 A Well, I do have a much greater concern in
17 terms of the number of miles that are driven with
18 respect to the administrative office in Tallahassee.
19 The mileage equivalents that are, excuse me, available
20 to Ms. Chase, Ms. Hills and Mr. Brown just didn't seem
21 logical in my opinion, considering the proximity of the
22 Utility to the places where they were running errands.
23 I mean, they were suggesting that they were driving for
24 Utility business more miles than I put on my car in a
25 year, and that just didn't seem logical to me.

1 Q Do you believe the Utility ought to perform a
2 system analysis as set out in the pro forma?

3 A I have no reason to say that they should not.

4 Q Do you believe the customers of the Utility
5 should pay for that?

6 A Yes.

7 Q Do you believe the Utility ought to perform
8 and aerator analysis as set out in the pro forma?

9 A I believe that's what the DEP is requesting of
10 the Utility, yes.

11 Q Do you believe the customers of the Utility
12 ought to pay for that?

13 A No.

14 Q Why?

15 A Because my reading of the DEP correspondence
16 indicated that the reason the Utility was being required
17 to perform another aerator analysis is because they did
18 not perform the first one correct the first time. That
19 they were deficient -- I'm sorry -- that there were
20 deficiencies in the analysis and consequently another
21 analysis was going to have to be performed. And I don't
22 believe that it is fair to charge the ratepayers for an
23 expense which was the result of prior deficiencies.

24 Q Who performed the aerator analysis before?

25 A I believe it was Baskerville-Donovan.

1 Q Do you know Baskerville-Donovan to be a
2 competent engineering company, a competent consulting
3 company?

4 A No.

5 Q Do you think it was bad judgment for the
6 Utility to hire Baskerville-Donovan?

7 A No.

8 Q Tell me about your estimate of unaccounted-for
9 water.

10 A Basically what I did was I relied upon the
11 representation of the Utility in terms of what its
12 unaccounted-for water was going to be on an ongoing
13 basis. I used 2% to estimate whether the Utility's
14 chemical and electric expenses should be reduced if the
15 unaccounted-for water on a going-forward basis was 2%.

16 Q And do you believe that to be a current
17 figure?

18 A Well, I hate to say no. The Utility did point
19 out in its rebuttal testimony that the 2% was for a
20 one-month analysis that was performed by the Rural Water
21 Association. The Utility represented, however, in
22 response to a Staff interrogatory, that that was an
23 average annual figure; that, no, the utility asked
24 whether or not the Staff asked the company to explain
25 why its unaccounted-for water was in excess of 10%.

1 Q And the utility said that that was -- that 2%
2 was an average annual figure?

3 A I'll read you their answer. (Pause)

4 Q Ms. Dismukes, would you mind reading both the
5 question and the answer?

6 A Sure. "Please explain why the Utility's
7 unaccounted-for water is greater than 10%?

8 "The Utility's unaccounted-for water is not
9 greater than 10%. According to a recent independent
10 study and analysis by the Florida Rural Water
11 Association, the Utility's lost water figure is
12 approximately 2% after full implementation of the leak
13 detection program implemented jointly by the Florida
14 Rural Water Association and the Utility." Now, the 10%
15 figure that was referenced in the interrogatory implies
16 that that is something of an annual number. "Is it 10%
17 over a year?" The answer was that it was 2% and that's
18 what I relied upon.

19 Q And you thought that the -- I forget how you
20 characterized it, did you say assumption or that the 10%
21 was annual?

22 A Yes, that it is common knowledge.

23 Q Okay. So the Utility should have assumed that
24 that was an annual figure?

25 A Well, I think that the Utility is intelligent

1 enough to know that that's an annual figure.

2 Q Now, do you believe that 2% is the annual
3 figure?

4 A No, I do not.

5 Q They attained it one month, correct?

6 A Yes. Mr. Brown represented in his deposition,
7 he has represented in his response to interrogatories,
8 somebody is saying, "Tell us why it is greater than
9 10%." He goes, "Oh, we've done so good, it is only 2%."
10 Okay, he's reaching --

11 Q Where did he say that?

12 A Pardon me?

13 Q Where did he say that?

14 A It's right here.

15 Q "We did so good it is only --"

16 A Well, now, you'll have to understand I have
17 had conversations with Mr. Brown in the deposition and
18 he's real proud of his 2% figure. And so, you know, I
19 relied on those representations, saying, "Well, it's
20 only 2%, so let's make the adjustment." I mean, it was
21 a perfectly logical thing to do. He was --

22 Q So what is it actually?

23 A What is the Utility's unaccounted-for water?

24 Q Yes.

25 A I don't know. It depends on if you look at

1 Mr. Brown's rebuttal testimony or Mr. Seidman's. I
2 think they have 9% for 1993.

3 Q Have you looked at the testimony of the
4 Florida Rural Water Association witnesses?

5 A I probably looked at it.

6 MR. PFEIFFER: I believe I'm almost through,
7 Your Honor.

8 CHAIRMAN DEASON: While they're conferring,
9 Ms. Dismukes, let me ask a question. What was the basis
10 for your 2% adjustment?

11 WITNESS DISMUKES: Well, basically, what I was
12 trying to do was get them on a going-forward level,
13 Mr. Brown had said, "We're only 2% now. You know, We've
14 corrected all of these problems. We've found all of our
15 leaks."

16 CHAIRMAN DEASON: So you said on a
17 going-forward basis, if they have made the corrections,
18 well, then there would not be as much variable expenses
19 associated with pumping and chemicals?

20 WITNESS DISMUKES: Right.

21 MR. PFEIFFER: I have nothing further.

22 CHAIRMAN DEASON: Mr. Pierson?

23 MR. PIERSON: Thank you, Mr. Chairman.
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25

CROSS EXAMINATION

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BY MR. PIERSON:

Q Good afternoon.

A Good afternoon.

Q Do you know whether the PSC auditor audited
1992 revenues?

A No, I don't know.

Q Okay. Thank you.

CHAIRMAN DEASON: Redirect?

MR. McLEAN: Yes. Thank you.

REDIRECT EXAMINATION

BY MR. McLEAN:

Q Ms. Dismukes, Mr. Pfeiffer asked you some
questions about configuration, competition, peak load
spikes, whether a particular utility is build-out or no,
and questions regarding density of a water system. Do
you recall those questions?

A Yes, I do.

Q Are each of those an element used in the
computation of used and useful?

A Yes.

Q With respect to Mr. Pfeiffer's questions about
the comparison he drew, do you remember those questions?

A Yes.

Q Which of your adjustments, if any, are based

1 upon the comparison which you made?

2 A None of them were solely based upon the
3 comparison that I made. The legal expenses, like I
4 explained, I did two things. I looked at the
5 Commission's order in the Jasmine Lakes case where they
6 allowed approximately \$3,000, and then I also examined
7 the average for the Class B utilities on a per customer
8 basis and multiplied that times the number of customers
9 for this utility to come up with a reasonable estimate
10 of what the Utility's legal expenses should be.

11 I considered giving them nothing because they
12 didn't provide any adequate support, but I looked to
13 something else to give them a level of legal expenses,
14 because I knew that they needed to incur some legal
15 expenses. Likewise --

16 Q There --

17 MR. PFEIFFER: She doesn't like being
18 interrupted, Harold. (Laughter)

19 A I also relied upon my comparative analysis for
20 purposes of coming up with an estimate for the Utility's
21 level of bad debt. I strongly considered zero in in
22 that instance because I thought the analysis that the
23 Utility provided us was so deficient, but I erred on the
24 conservative side, if you will, and used the comparative
25 analysis and cost per customer to come up with a figure

1 for the Utility.

2 Q Do you recall Mr. Pfeiffer's questions which
3 were directed to the general notion of your updating the
4 test year?

5 A Yes.

6 Q He asked you about projected 1993 expenses, I
7 believe?

8 A Yes.

9 Q And about 1993 revenue?

10 A Yes.

11 Q Did he ask you anything about 1994 expenses?

12 A No.

13 Q Did you consider 1994 expenses -- I'm sorry,
14 strike that. Did the Utility allege to the Commission
15 that it will incur expenses in 1994?

16 A Yes.

17 Q And is that the essence of the pro forma
18 adjustments which they suggest?

19 A The pro forma adjustments are for 1993 and
20 1994 expenses.

21 Q With respect to Mr. Pfeiffer's questions about
22 whether a lawyer's expertise was necessary for some of
23 the Utility's activities, do you recall those questions?

24 A Yes, I do.

25 Q You testified, if I remember, that Mr. Brown

1 was the person who should decide whether a lawyer's
2 expertise is needed; is that your testimony?

3 A Yes.

4 Q Do you think the Commission should exercise
5 some voice in that judgment as well? From a standpoint
6 of reviewing that decision, Ms. Dismukes.

7 A I'm not really sure I understand the question.

8 Q Then let's move on to your activities at
9 Mr. Johnson's firm -- Dr. Johnson's firm, I believe.
10 First of all, do you recall Mr. Pfeiffer's
11 questions about the proposal that some management be
12 provided by Dr. Johnson's firm?

13 A Yes.

14 Q What was the year of that? (Pause)

15 A Oh, I'm sorry. The fall of 1991.

16 Q Thank you, ma'am. What was your percentage of
17 ownership in Dr. Johnson's firm at that point?

18 A It was less than 3%.

19 COMMISSIONER KIESLING: I'm sorry, I just
20 didn't understand, 3 or 30?

21 WITNESS DISMUKES: Three.

22 COMMISSIONER KIESLING: Thank you.

23 Q (By Mr. McLean) Ms. Dismukes, who was
24 Dr. Johnson's client in that particular endeavor?

25 A Capital City National Bank.

1 Q Will you quantify for the Commission the
2 extent to which you had a voice in Dr. Johnson's
3 recommendation, if any voice you had?

4 A I assisted in terms of evaluating the
5 Utility's financial position at that time. I assisted
6 with drafting the letter that went to the bank. That
7 was one particular instance in the 13 years that I
8 worked at Ben Johnson Associates where he had a
9 significant amount of input into what went into the
10 analysis. It was very atypical. He put in
11 significantly more time and thought into the letter and
12 the analysis that we performed relative to what the norm
13 was, especially when I was involved on a case. If I was
14 involved on something, he typically did not put near the
15 level of effort into it as he did in this particular
16 one. He had a great many opinions and conclusions that
17 he drew about that particular project.

18 Q What occasioned Dr. Johnson's involvement with
19 St. George at that point?

20 A What was his involvement with St. George at
21 that point?

22 Q Well, I think you've answered that. I didn't
23 ask the question properly. What was his mission, what
24 did the bank hire him to do?

25 A The bank hired him to, as I recall, determine

1 whether or not they should foreclose on the Utility.

2 Q Is there any aspect of your involvement in
3 that particular endeavor which influenced your testimony
4 here today?

5 A None whatsoever.

6 Q And the same question with respect to your
7 direct testimony, your rebuttal and your supplemental.

8 MR. PFEIFFER: I object to the leading
9 question.

10 MR. McLEAN: I think she can say yes or no, I
11 didn't lead her to an answer. And sometimes I don't
12 know what they're going to be.

13 CHAIRMAN DEASON: I think that was obvious
14 from the previous question. (Laughter)

15 I'll allow the question.

16 MR. McLEAN: Thank you, sir.

17 A No.

18 Q (By Mr. McLean) Did you take any materials
19 from Dr. Johnson's office when you left that related in
20 any way to the issues before us today?

21 A No.

22 Q Speaking of the second involvement of the
23 Johnson firm, that had to do something with the rate
24 case; is that correct?

25 A Yes.

1 Q When did that take place?

2 A I believe it was either '84 or '86.

3 Q Did you take any materials from that firm
4 relative to any of the issues before the case with
5 respect to that episode?

6 A No.

7 Q Did you learn anything in that case, did you
8 rely in any way upon anything you learned in that case
9 to submit your testimony to the Commission today?

10 A No.

11 Q You were asked by Mr. Pfeiffer about your
12 revised testimony -- I'm sorry, your revised schedule.
13 Do you recall that question?

14 A Yes.

15 Q You were asked if there was anything wrong
16 with that; is that correct?

17 A That's correct.

18 Q Who has the burden of proof in this case?

19 A The Utility.

20 Q Okay. Mr. Pfeiffer also asked you about NOI
21 sheet, well, it's the same exhibit. Does one look to an
22 NOI statement to discover sources of investment?

23 A No.

24 MR. McLEAN: Mr. Chairman, I have to
25 distribute three exhibits. It may take a minute. I

1 estimate that I have less than ten minutes for
2 Ms. Dismukes.

3 CHAIRMAN DEASON: Please proceed.

4 Q (By Mr. McLean) Ms. Dismukes, while they're
5 passing those out, if we can, I'm going to ask you a few
6 more questions. Do you recall some questions from
7 Mr. Pfeiffer regarding book value?

8 A Yes.

9 Q What is book value?

10 A Those are the actual dollars incurred by the
11 Utility for their -- in this particular instance, their
12 plant in service.

13 Q Does depreciation play a role in book value?

14 A Well, it does in the net book value; it
15 doesn't in the gross book value.

16 Q Okay. What about tax basis, I heard some
17 questions about that. Do you recall those?

18 A Yes.

19 Q What's a tax basis?

20 A It is the basis upon which the Utility --
21 which the Internal Revenue Service allows the Utility to
22 depreciate its property.

23 Q Mr. Pfeiffer did not ask you any questions
24 about original cost, did he?

25 A I don't believe so.

1 Q Does book value necessarily equal original
2 cost?

3 A Typically, it does.

4 Q It does. Does tax basis equal original cost?
5 Must it necessarily equal original cost?

6 A Oh, no.

7 Q What is original cost, Ms. Dismukes?

8 A Original cost is the amount of investment the
9 utility has in the system at the time it is first
10 devoted to public service.

11 Q And your testimony, I believe -- well, is it
12 true that your direct testimony addresses the issue of
13 original cost; is that right?

14 A Yes.

15 Q Does it purport in any way to address the
16 issue of tax basis other than to criticize it?

17 A Well, I address it in my testimony, but I
18 don't -- I'm not making any representations that the tax
19 basis equals book basis or original cost.

20 Q Which of these numbers -- which of these
21 notions, original cost, book value or tax basis should
22 this Commission base its decision on with respect to
23 determining the Utility's investment?

24 A Well, the Commission typically looks to
25 original cost for purposes of determining the amount of

1 plant in service that will be in the Utility's rate
2 base.

3 Q Ms. Dismukes, you said that there was not, you
4 believed there was not an allowance made for tank
5 maintenance in the last case; is that right?

6 A No.

7 Q That is not correct?

8 A No.

9 Q What did you say?

10 A I said I didn't know if the Commission allowed
11 any expense for a tank maintenance in the last case.

12 Q Do you know whether the Utility asked for it?

13 A I believe they did not, but I don't know.

14 Q You just don't know about that issue?

15 A Yes. They didn't ask for a pro forma
16 adjustment, I know that.

17 Q Okay. And Mr. Pfeiffer asked you about a
18 remedy or a remedial work and he asked you -- strike
19 that.

20 Mr. Chairman, I have passed out three exhibits
21 here. Do we all have a copy?

22 CHAIRMAN DEASON: Yes. Do you wish them
23 identified?

24 MR. McLEAN: Yes, sir. There is one entitled
25 "Audited Financial Statements of Leisure Properties for

1 1979," mark it for identification, if you would, please?

2 CHAIRMAN DEASON: That will be identified as
3 Exhibit No. 20.

4 MR. McLEAN: And the one which is identified
5 as the "1978 Tax Return of Leisure Properties, Limited."

6 CHAIRMAN DEASON: 21.

7 MR. McLEAN: And the 1979 tax return.

8 CHAIRMAN DEASON: 22.

9 MR. McLEAN: Thank you, sir.

10 (Exhibit No. 20, 21 and 22 marked for
11 identification.)

12 Q (By Mr. McLean) Ms. Dismukes, do you recall
13 the questions from Mr. Pfeiffer respecting the financial
14 statements referenced in your testimony?

15 A Yes.

16 Q Your answers were based upon your examination
17 of this document, is that correct, Exhibit No. 20?

18 A That's correct.

19 Q Okay. Now Mr. Pfeiffer asked where you got
20 the number from on that document. Would you show the
21 Commission where you got it?

22 A Page 14.

23 Q And would you identify it with a little bit
24 more specificity --

25 MR. PFEIFFER: Your Honor, I object to the

1 testimony from a document not in evidence.

2 MR. McLEAN: I haven't moved it into evidence.

3 MR. PFEIFFER: That's what I'm objecting to.

4 MR. McLEAN: All I'm trying to find out is if
5 these are where she got the numbers she is talking
6 about. We'll move it into evidence very shortly. We
7 can a fight then.

8 CHAIRMAN DEASON: There were questions raised
9 about this particular matter. I think the witness has
10 the opportunity on redirect to substantiate the source
11 of that information. I'll allow the question.

12 A Basically, if you look at Page 4, which is the
13 asset side of the balance sheet, it says, Investment in
14 water system, \$807,485, and then it says, "See Note 4."
15 And if you go to Note 4, it explains that the water
16 system is reflected in the financial statements at a
17 cost of \$830,000 less accumulated depreciation of
18 \$22,660. The \$830,000 is the gross investment figure
19 that I used for purposes of starting the analysis of the
20 cost of this water system in 1987.

21 Q Ms. Dismukes, would you turn to the third page
22 of the exhibit, please, ma'am?

23 A Yeah.

24 Q Do you recall Mr. Pfeiffer's question about
25 the notion of an audited financial statement?

1 A Yes.

2 Q Would you review that page, Ms. Dismukes, and
3 tell us whether you formed your opinion or your notion
4 about audited financial statements from that page?

5 MR. PFEIFFER: I'll object to the question
6 because it is leading, but I have an additional
7 objection --

8 MR. McLEAN: It's not leading or I'd like to
9 defend one at a time --

10 CHAIRMAN DEASON: Just one second. We have an
11 objection.

12 MR. PFEIFFER: I'll withdraw the leading part.

13 CHAIRMAN DEASON: Okay. State your objection.

14 MR. PFEIFFER: Ms. Dismukes referenced these
15 documents in her direct testimony. She did not attach
16 them to her testimony as part of her exhibits. She
17 referenced them. She could have attached them. The
18 only questions I asked about the documents were whether
19 she got the number from them and whether she knew if the
20 documents had any veracity to them. That's all I asked.
21 Now, they're trying to identify these documents, put
22 them in the testimony, which they could have done
23 originally if they had wanted to do that. And it just
24 seems remarkable to me, I object.

25 MR. McLEAN: It may be remarkable. That's not

1 a recognized objection; that's first. Second, I
2 wouldn't have touched them with a ten foot pole if I
3 didn't want them in. Mr. Pfeiffer did what is known in
4 the trade as "open the door." Third, I don't know what
5 his objection is.

6 MR. PFEIFFER: My objection is that they could
7 have attached them to the testimony in the first place
8 and they simply chose not to do that.

9 CHAIRMAN DEASON: I'm going to overrule the
10 objection. The exhibits have been identified at this
11 point. I'm going to allow the questions. I do agree
12 that the matter was raised on cross examination, and I
13 believe it is permissible to explore it on redirect.

14 MR. McLEAN: Thank you, sir.

15 Q (By Mr. McLean) Do you recall my question,
16 Ms. Dismukes?

17 A No.

18 Q Ms. Dismukes, would you examine the third page
19 of the exhibit?

20 A I did that.

21 Q Now, you testified about a notion known as an
22 audited financial statement; is that correct?

23 A Yes.

24 Q Did your examination of the third page lead
25 you to the notion that this, in fact, was an audited

1 financial statement?

2 A Yes.

3 Q You referenced in Mr. Pfeiffer's question a
4 note to No. 4, is that correct?

5 A Yes.

6 Q And that is the note to which you made a bit
7 of earlier reference on Page 14, isn't it?

8 A That's correct.

9 Q All right. Ms. Dismukes, do you recall our
10 discussion about the 1978 tax return?

11 A I recall a discussion with Mr. Pfeiffer on it,
12 yes.

13 Q Did you discuss this document -- did you rely
14 in any way upon this document for your determination of
15 what the original cost was for this system?

16 MR. PFEIFFER: Chairman Deason, I'm sorry to
17 interrupt this proceeding, but I must object again.

18 All I asked her about the 1978 tax return -- I
19 asked her what document she relied upon and she said
20 that document. I asked her no other questions about it.

21 MR. McLEAN: Chairman Deason, this Utility
22 could have come up here with the original documents
23 supporting the original cost to this system. They could
24 have brought you the invoices and the checks and so
25 forth. They have invited you instead to rely on other

1 evidence. This is the kind of evidence upon which we
2 think you should rely, and here it is. I'm going to
3 move it into evidence. I still don't know what that
4 objection was.

5 CHAIRMAN DEASON: I think the objection, Mr.
6 McLean, is that maybe it's one of fairness. I think
7 he's raising the objection that if you wanted this into
8 the record that perhaps you should have incorporated it
9 into part of your direct case at the beginning.

10 MR. McLEAN: Yeah, that could be, but I don't
11 know that that's an objection. I mean, what is the
12 objection? Is it not admissible because I didn't bring
13 it in before? I don't think that's a legal objection.
14 I think his objection is other than that. I don't know
15 what it is, but --

16 MR. PFEIFFER: It certainly violates the
17 concept of having prefiled testimony.

18 MR. McLEAN: I didn't know what you were going
19 to ask on cross. How am I supposed to know what you're
20 going to ask on cross?

21 CHAIRMAN DEASON: And I believe the door has
22 been opened on cross examination, and the objection is
23 overruled at this point and I will allow the question.

24 Q (By Mr. McLean) Do you recall the question,
25 Ms. Dismukes?

1 A I believe the question was did I rely --
2 first, I don't have the '78 one before me. I have two
3 '79s.

4 Q That can be a problem. (Pause)

5 (Witness supplied document)

6 Do you recall the question, Ms. Dismukes?

7 A Yeah, I believe the question was did I rely on
8 them? Well, why don't you ask the question?

9 Q Okay. Did you rely or consider this tax
10 return in your arriving at the original cost which you
11 have urged upon the Commission in your direct testimony?

12 A Well, yes, I did consider them, okay. And I
13 wouldn't say that I relied on them because I didn't use
14 any of the numbers out of them, but I considered them in
15 the sense that there seemed to be a natural progression
16 in terms of the dollars invested in the water system.

17 Q Did you regard that at the time as better
18 evidence or not as good evidence -- strike that.

19 Will you point the Commission to the number
20 which you believe furnishes substantiation for that
21 natural progression which you mentioned?

22 A On, I believe, Page 2 of the exhibit, down
23 towards the bottom, it says, "Construction in Progress,
24 Water System," and the number is \$658,784.

25 Q Thank you, ma'am. Let's refer to Exhibit

1 number --

2 COMMISSIONER KIESLING: Wait a minute. I'm
3 sorry, would you repeat that number, because it didn't
4 match with what I have.

5 WITNESS DISMUKES: Do you have '78?

6 COMMISSIONER KIESLING: Yes, I have 658,584.

7 WITNESS DISMUKES: Oh, I probably said it
8 backwards, or something; 658,584, you're correct.

9 Q (By Mr. McLean) Is that the construction work
10 in progress to which you made earlier reference?

11 A Yes.

12 Q Would you turn now to Exhibit No. 22?

13 A Yes.

14 Q Do you recall questions from Mr. Pfeiffer
15 regarding the 1979 tax return?

16 A Yes, I do.

17 Q Is this the tax return to which you were
18 referring?

19 A Yes, it is.

20 Q Did you refer to this tax return and to the
21 financial statement in your direct testimony?

22 A Yes, I did.

23 Q Do you know whether the Utility had this
24 financial statement and -- strike that.

25 Do you know whether the Utility had access to

1 these three documents in the last rate case?

2 A Yes, I believe they did.

3 Q Do you reference all three in your direct
4 testimony?

5 A I know I referenced the 1979 audited financial
6 statements of Leisure Properties. I'm almost positive I
7 talked or I mentioned the 1979 tax return. I'm not sure
8 about the 1978. I'll have to check.

9 Q Okay. Now, is there a number in this 1979 tax
10 return which you say contributed to the consistency or
11 whatever your adjective was?

12 A Yes.

13 Q Would you point that number out to the
14 Commission?

15 A Yes. It's if you will look at Page 9 of the
16 1979 tax return, which is Exhibit 22, down towards the
17 bottom, there is \$707,555, the tax basis of the water
18 system in 1979. That's also the same number that is
19 used by Ms. Withers in her affidavit.

20 Q What affidavit is that, Ms. Dismukes?

21 A That's the affidavit that I relied upon for
22 purposes of coming up with the additions to plant from
23 1979 to arrive at a 1987 figure, and that's also the
24 same affidavit that is attached to her rebuttal
25 testimony in this case.

1 Q Did you make any examination of the annual
2 reports furnished by the Utility in this case -- filed
3 by the Utility over time?

4 A Yes. I looked at several things with respect
5 to the Utility's annual reports.

6 Q Were you in the room when Mr. --

7 MR. PFEIFFER: I must object. I know I didn't
8 ask any questions about annual reports. Are these now
9 coming into evidence?

10 MR. McLEAN: I think he finally has the
11 answer. Yes, indeed, they will but not right now.

12 CHAIRMAN DEASON: Do you recognize --

13 MR. McLEAN: I withdraw the question with
14 respect to the annual reports.

15 CHAIRMAN DEASON: Very well.

16 Q (By Mr. McLean) Now, do you recall
17 Mr. Pfeiffer's discussion with you about the additions
18 to plant which may have taken place between July 1978,
19 i.e., the Bishop Report, and December 31, 1979?

20 A Yes.

21 Q Do you find -- well, first of all, let's take
22 it in two increments. There would have been part of
23 that after July 1978 and before December 31st, 1978; is
24 that correct.

25 MR. PFEIFFER: Object to the leading question.

1 MR. McLEAN: It may not be correct, I didn't
2 ask --

3 A I'm not on --

4 CHAIRMAN DEASON: Hold on. The question does
5 appear to be leading to go me, Mr. McLean. Perhaps you
6 need to rephrase it.

7 Q (By Mr. McLean) Ms. Dismukes, review all
8 three documents if you would, please, and tell me
9 whether you find any evidence whatsoever for
10 Mr. Pfeiffer's -- strike all of that.

11 Mr. Pfeiffer asked you about some additions;
12 is that correct? Do you recall the question?

13 A Yes.

14 Q Did Mr. Pfeiffer tell you that any additions
15 took place?

16 A No, he said "if."

17 Q He asked you that question hypothetically,
18 didn't he?

19 A Yes.

20 Q I ask you the same question. If those
21 additions took place, would there likely be evidence of
22 them in any one of these three documents?

23 A Well, if those additions took place, they
24 would be reflected in the financial statements of
25 Leisure Properties. As of the end of 1979 it had

1 already taken place, so they are going to be on the
2 books and records of Leisure Properties.

3 Q With respect to, again, hypothetically, if any
4 additions took place after 1978 but before the close of
5 the calendar year 1978, would those be reflected in the
6 1978 tax return?

7 A Yes, basically.

8 Q And do you find any evidence that the -- that
9 there are any additions so reflected?

10 A There are no -- the '78 tax returns doesn't
11 show additions. What it shows, is it shows the amount
12 of construction work in progress as of the end of 1978.

13 Q Is that number bigger or smaller than the
14 Bishop Report?

15 A That number is smaller than the Bishop Report.

16 Q Okay. Does any witness in this case -- has
17 any witness in this case so far, either in direct or
18 rebuttal testimony, made the assertion that those
19 additions have taken place?

20 MR. PFEIFFER: Objection. Obviously, what is
21 evidence in this case will be something for the
22 Commission to decide. That stuff is either in the
23 record or it's not in the record. Having this witness
24 say that she heard or didn't hear something isn't
25 probative of anything.

1 CHAIRMAN DEASON: Objection sustained. I
2 don't believe that that is part of the cross examination
3 and it is not appropriate for redirect.

4 MR. McLEAN: Thank you, sir. I have nothing
5 further.

6 CHAIRMAN DEASON: Exhibits?

7 MR. McLEAN: Okay. Whatever they were, the
8 direct testimony, the supplemental testimony, the --

9 CHAIRMAN DEASON: Those are Exhibits 18 and
10 19?

11 MR. McLEAN: Yes, sir, I believe so.

12 CHAIRMAN DEASON: Without objection, Exhibits
13 18 and 19 are admitted.

14 MR. McLEAN: We also move 20, 21 and 22.

15 MR. PFEIFFER: I must object to these
16 exhibits. They are not authenticated. They are not
17 part of the exhibits that were offered with the
18 witness's prefiled testimony. They are mentioned in the
19 prefiled testimony. There is no justification for them
20 not including them with the prefiled testimony if they
21 wanted them to be exhibits in the record of this case.
22 It is a sandbag. I object. And furthermore, the
23 documents are hearsay.

24 CHAIRMAN DEASON: Mr. McLean?

25 MR. McLEAN: Yes, sir. Number one, you are

1 listening to an objection from a Utility that could have
2 brought you the good records and didn't.

3 Number two, the Commission in its last order
4 asked for more evidence and here it is.

5 Number three, it's corroborated by
6 Mr. Bishop's report and by Mr. Coloney's testimony on
7 that report.

8 Number four, the Utility opened the door when
9 they inquired as to these matters.

10 And number five, with respect to the vague due
11 process argument, they are referred to in the direct
12 testimony and in Ms. Dismukes' direct testimony, and
13 we're under no obligation to attach those exhibits.
14 Mr. Pfeiffer inadvisedly opened the door, and we moved
15 them into evidence.

16 With respect to hearsay objection, even if
17 they were hearsay this Commission permits the admission
18 of hearsay where there is other evidence to corroborate
19 it and we have Mr. Bishop's report and we have
20 Mr. Coloney's direct testimony endorsing the Bishop
21 Report.

22 In short, Mr. Chairman, there's a whole lot of
23 numbers around to show that the original investment in
24 this utility as of December 31, 1979, hovered in the
25 area of about \$107,000 or thereabouts and this evidence

1 shows that.

2 CHAIRMAN DEASON: I'm going to withhold ruling
3 on the objection. In an abundance of caution and
4 fairness to the Utility, I'm going to allow Mr. Pfeiffer
5 the opportunity to ask questions on these exhibits of
6 this witness -- not now, in Tallahassee, on August the
7 3rd. (Laughter). And the questions about the
8 authenticity of these exhibits can be questioned at that
9 time.

10 And as far as the element of surprise, I think
11 that it is true that the door was opened during cross
12 examination, but I think that the Citizens have taken
13 full opportunity of that door being opened. And I think
14 in an abundance of fairness, I'm going to allow
15 Mr. Pfeiffer an opportunity to ask questions about these
16 exhibits. And if he wants to renew his objection at
17 that time he may do so, and that objection will be
18 considered again at that time.

19 MR. MCLEAN: Thank you, sir.

20 (Exhibit No. 18 and 19 received in evidence.)

21 CHAIRMAN DEASON: That concluded
22 Ms. Dismukes's testimony except for the opportunity
23 given to Mr. Pfeiffer to pursue questions concerning the
24 exhibits in question.

25 Do we need to move into the record the

1 Do we need to move into the record the
2 testimony of Staff-sponsored witnesses?

3 MR. PIERSON: Yes, sir.

4 CHAIRMAN DEASON: Perhaps we could do that at
5 this time?

6 MR. PIERSON: There's also quite a few
7 exhibits. First, I suppose we should deal with
8 Mr. McKeown.

9 CHAIRMAN DEASON: Mr. McKeown's exhibit will
10 be identified was Exhibit No. 23.

11 MR. PIERSON: Okay. Mr. Chairman, he has
12 several. Are you doing this as a composite?

13 CHAIRMAN DEASON: As a composite, yes.

14 MR. PIERSON: Thank you very much. And I
15 would, therefore, request that his testimony and
16 exhibits be moved into the record.

17 CHAIRMAN DEASON: Without objection, hearing
18 none, the testimony will be inserted and Exhibit 23 will
19 be admitted.

20 (Exhibit No. 23 marked for identification and
21 received in evidence.)

22 MR. PIERSON: Mr. Kintz also had some
23 exhibits.

24 CHAIRMAN DEASON: Those exhibits will be
25 identified as Composite Exhibit No. 24.

1 MR. PIERSON: I would request that Mr. Kintz's
2 testimony and Exhibit 24 be moved into the record.

3 CHAIRMAN DEASON: Without objection, the
4 testimony will be so inserted. And Exhibit 24 will be
5 admitted.

6 (Exhibit No. 24 marked for identification and
7 received in evidence.)

8 MR. PIERSON: Mr. Pierce also has some
9 exhibits?

10 CHAIRMAN DEASON: Composite 25.

11 MR. PIERSON: I would request that
12 Mr. Pierce's testimony and exhibits be moved into the
13 record.

14 CHAIRMAN DEASON: The testimony, without,
15 objection, will be so inserted and Exhibit 25 without
16 objection will be admitted.

17 (Exhibit No. 25 marked for identification and
18 received in evidence.)

19 MR. PIERSON: Thank you. And Mr. Abbott.

20 CHAIRMAN DEASON: Mr. Abbott's exhibit will be
21 identified as Composite Exhibit 26.

22 MR. PIERSON: And I would request at this time
23 that his testimony and Exhibit 26 be moved into the
24 record.

25 CHAIRMAN DEASON: Without objection, the

1 testimony will be so inserted and Exhibit 26 will be
2 admitted.

3 (Exhibit No. 26 marked for identification and
4 received in evidence.)

5 MR. PIERSON: And finally, Ms. Gaffney, Nancy
6 Gaffney.

7 CHAIRMAN DEASON: The composite exhibit will
8 be identified as Exhibit 27.

9 MR. PIERSON: I would like to make one point
10 here, Mr. Chairman. The Utility had asked for
11 confidential treatment of two of her audit exceptions.
12 I don't recall the numbers, but they have subsequently
13 withdrawn those requests. So that audit would then
14 include the stuff that was previously subject to that
15 confidential treatment.

16 MR. McLEAN: What was the subject matter of
17 the confidential treatment?

18 MR. PIERSON: Office rent and transportation
19 expense.

20 MR. McLEAN: Thanks.

21 CHAIRMAN DEASON: Very well.

22 MR. PIERSON: Was that 27?

23 CHAIRMAN DEASON: That was 27.

24 MR. PIERSON: I would request that
25 Ms. Gaffney's testimony and Exhibit 27 be moved into the

1 record, please.

2 CHAIRMAN DEASON: The testimony without
3 objection, will be so inserted and Exhibit 27 will be
4 admitted.

5 (Exhibit No. 27 marked for identification and
6 received in evidence.)

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1 Q. Please state your name and business address.

2 A. Cliff McKeown, 2815 Remington Green Circle, Tallahassee, Florida.

3 Q. Please state a brief description of your educational background and
4 experience.

5 A. I graduated High School in 1970 and have obtained various college
6 credits over the following 10 - 12 years, generally following an
7 engineering curriculum. In the last 23 years I have been employed by
8 private enterprise and the State of Florida. I have been a crew chief
9 responsible for the operation of a drilling rig engaged in soil sample
10 collection, a laboratory technician and an inspector for two state agencies
11 in various capacities, involved either with water quality or drinking
12 water.

13 Q. By whom are you presently employed?

14 A. I am employed by the Florida Department of Environmental Protection
15 (DEP).

16 Q. How long have you been employed with the Department of Environmental
17 Protection and in what capacity?

18 A. 18 years. My job functions have varied over the 18 year period.
19 They were, and are: water well contractor's program inspector, domestic
20 and industrial waste water inspector, storm water inspector and drinking
21 water inspector. I have been a drinking water inspector since September
22 1979. Specific duties have, and do, include: permitting, compliance and
23 enforcement.

24 Q. What are your general responsibilities at the Department of
25 Environmental Protection?

1 A. Currently, I manage the drinking water, domestic waste water and
2 industrial waste programs in a six county area. Franklin County is one of
3 those six counties. These duties include compliance, enforcement and
4 permitting responsibilities.

5 Q. Are you familiar with the St. George Island Utility Company, Ltd.
6 water system in Franklin County?

7 A. Yes.

8 Q. Does the utility maintain the 20 psi minimum pressure throughout the
9 distribution system as required by Section 17-555.350, Florida
10 Administrative Code?

11 A. Not consistently. There are documented times and locations which
12 show the utility has pressure related problems. These problems are
13 particularly related to high water use times. For example, 16 psi was
14 recorded near the state park entrance on May 24, 1992, and 11 psi was
15 recorded in the same area on July 4, 1992. See EXH CM-1 which is attached.
16 In fact, Baskerville-Donovan, an engineering consultant to the utility,
17 presented a proposal to construct an altitude valve on the elevated storage
18 tank to allow higher pressures to be maintained in the system. This system
19 modification, along with others, has been permitted by DEP in Permit DS19-
20 222055 (EXH CM-2). The utility has indicated they wish to extend the
21 expiration date and modify the permit. The tentative modifications
22 mentioned in Gene D. Brown's December 22, 1993 letter (EXH CM-3) included
23 deleting the altitude valve and raising the elevated tank by approximately
24 forty feet. In Mr. Brown's subsequent letter of April 21, 1994 to DEP (EXH
25 CM-4) he states that raising the elevated tank is not practical, and that

1 the utility will proceed immediately with the construction of the altitude
2 valve and high speed (service) pump, which were the improvements originally
3 envisioned. The system modifications envisioned under Permit DS19-222055
4 have not been started. Until this construction project is completed, the
5 pressure problems will remain the same.

6 Q. Would you please explain the utility's auxiliary power arrangement
7 and address its adequacy?

8 A. Because the utility's water treatment plant is separated by several
9 miles from its raw water source, it is necessary to have at least two
10 auxiliary power units to provide a reliable emergency water supply.
11 Originally the utility had an auxiliary generator with automatic start-up
12 at the water treatment plant on the Island. Its purpose was to use the
13 ground storage reservoir as an emergency source of water should a power
14 outage occur. That auxiliary generator was never fully reliable. Also, a
15 power outage occurring on a peak flow day would have emptied the ground
16 storage reservoir in less than one day's time because no emergency power
17 source was provided for the water wells on the mainland. When the elevated
18 storage tank was installed, the volume of emergency water on the island
19 increased; however, there was still no emergency power supply on the
20 mainland. Recently, the utility replaced the unreliable generator located
21 at the water plant (on the island), this generator is much more reliable.
22 When well number 3 (on the mainland) was constructed and placed into
23 service, an auxiliary generator with automatic start-up capability was
24 included. The utility now has full emergency supply capability. Through
25 the exercising program required by FAC Rule 17-555.320(6)(c), we will learn

1 over time if this set up is fully reliable.

2 Q. Are the utility's water wells in a location which complies with
3 Section 17-555.312, Florida Administrative Code?

4 A. Yes.

5 Q. Does the utility have certified operators as required by Chapter
6 17-602, Florida Administrative Code?

7 A. Yes.

8 Q. Has the utility established a cross-connection control program in
9 accordance with Section 17-555.360, Florida Administrative Code?

10 A. Essentially, yes. The last inspection identified one minor area of
11 concern which was that all reports required to be generated by the Partial
12 Final Judgment (PFJ) were not being sent to us. We should note that cross-
13 connection control programs are difficult to manage, especially with a
14 person who does not spend 100% of their time on this program. We expect
15 minor oversights to occur, but will continue to judge the program by its
16 overall effectiveness and whether or not these oversights are quickly
17 discovered and corrected. I anticipate reviewing this program very closely
18 for a few years into the future.

19 Q. Is it typical procedure for you to review cross-connection control
20 documentation?

21 A. No. But because the utility did not aggressively pursue this program
22 (originally required by the Consent Order), I feel it is necessary to do
23 this to make sure the program is continuously carried out properly.

24 Q. Is the overall maintenance of the wells, treatment plant,
25 distribution facilities satisfactory and are leak detection programs a part

1 of the daily service maintenance?

2 A. Well maintenance is generally good. I do have a concern for Well No.
3 2 brought about by the presence of a light gray to white clay like material
4 often found in the system's aerator. I believe this material is associated
5 with the lime rock within the Floridan aquifer breaking down and being
6 pumped to the aerator. My concerns are that pump damage or well failure
7 could occur at a critical time causing a water shortage on the island. A
8 careful watch will have to be kept on Well No. 2 to warn of possible
9 failures.

10 The treatment plant in the time since Mr. Hank Garrett has been the
11 lead certified operator has been very well maintained. I hope this
12 situation will continue.

13 To properly maintain a distribution system, an accurate set of record
14 drawings is a must. The PFJ required the record drawings to be submitted
15 to DEP by September 1, 1992. They were received (as a final version) on
16 August 24, 1993, nearly one year over due. A review of the plans was made
17 between August and October 1993 resulting in a letter listing thirteen
18 deficiencies being sent to Mr. Brown on October 27, 1993 (EXH CM-5). An
19 on-site inspection was then made on November 19, 1993 to verify that all
20 valves were properly marked. Several valves were found that had not been
21 marked as required by Paragraph 16 in the PFJ. Mr. Brown was notified of
22 this on December 7, 1993 (EXH CM-6). His reply to DEP's Sanitary Survey
23 Report also transmitted on December 7 stated that the system map was
24 received by DEP on August 31, 1992, when in fact that was a preliminary map
25 submitted by the engineering firm of Baskerville-Donovan on that date.

1 (See EXH CM-7 for DEP's August 24, 1993 Sanitary Survey Report and EXH CM-8
2 for Mr. Brown's December 23, 1993 reply letter.) These plans were
3 submitted for review to determine if they met the intent of the PFJ. On
4 September 10, 1993 Mr. Brown was informed that additional effort was
5 required (EXH CM-9) by copy of a letter to James Waddell, P.E., an engineer
6 with Baskerville-Donovan. Mr. Brown's reply letter (EXH CM-8) goes on to
7 say that he is negotiating with his engineering firm to correct the
8 deficiencies in the map and that a forthcoming settlement agreement will
9 resolve the deficiencies. Mr. Brown submitted his settlement proposal (EXH
10 CM-10) on January 13, 1994, and was informed by Richard Windsor's January
11 21, 1994 letter (EXH CM-11) that the settlement was unacceptable. The
12 facts are that we do not have an acceptable set of record drawings for this
13 water system. This is an important tool that should be given to Mr.
14 Garrett to enable him to maintain the water distribution system.

15 Leak detection programs are an enormously important segment of
16 distribution system maintenance, if leaks can be readily found and if the
17 cost of detecting and repairing leaks are optimal. One rule of thumb
18 states that reducing water loss caused by leaks to less than 10% is often
19 not cost effective. This, however, is more properly determined in terms of
20 local conditions, such as water availability and ease of locating the
21 leaks. One very important tool used in leak detection programs is an
22 accurate set of record drawings. These allow technicians to set up
23 listening devices quickly at proper locations and determine if leaks occur.
24 The Florida Rural Water Association has been assisting this utility, one of
25 its members, for some time in an effort to locate and repair leaks. This

1 program should be an ongoing one in one form or another, since water in
2 this area is in short supply.

3 Q. Does the water produced by the utility meet the State and Federal
4 maximum contaminant levels (MCL) for primary and secondary water quality
5 standards?

6 A. Primary drinking water standards are being met or exceeded by the
7 water system. The water system recently completed customer tap sampling
8 for lead, a primary contaminant, and copper, a secondary contaminant, as
9 required by FAC Rule 17-551. Of the twenty samples collected, eleven
10 exceeded the action level for copper. Action levels are those levels that
11 when exceeded, require additional actions on the part of the purveyor of
12 water. The eleven samples ranged from 1.56 mg/l to 3.68 mg/l. The action
13 level is 1.3 mg/l, based on the 20th percentile sample as in this case the
14 third highest sample result. Elevated copper levels in drinking water have
15 been shown to be connected to stomach and intestinal distress, anemia as
16 well as liver and kidney damage. The next actions this utility must take
17 is to collect and analyze water quality parameters that relate to the
18 water's ability to leach copper from piping and other plumbing fixtures.
19 Additional lead and copper samples will be taken from the wells. By June
20 30, 1994 the utility must have prepared a corrosion control study that will
21 detail proposed corrective actions for Department approval.

22 Periodically, turbidity levels in the ground storage reservoir exceed
23 the MCL. Also, Well No. 3 exceeded the MCL for color.

24 Hydrogen sulfide (H₂S) is a problem in the water produced by this
25 system and is discussed more thoroughly on the following page and pages 12

1 through 13.

2 Q. Does the utility monitor the organic contaminants listed in Section
3 17-550.410, Florida Administrative Code?

4 A. For a system the size of St. George Island, monitoring must begin in
5 1994.

6 Q. Do recent chemical analyses of raw and finished water, when compared
7 to regulations, suggest the need for additional treatment?

8 A. Raw water in this area of the state must be treated to remove H₂S, a
9 dissolved gas that imparts a rotten egg taste and odor to water. The
10 utility monitors H₂S content in several locations each month. Their
11 consultant, Baskerville-Donovan, has prepared a final report; however, this
12 report did not consider all the H₂S data supplied by the utility. Instead,
13 this report was based on one set of data. Due to this, and other reasons,
14 the report was rejected by DEP. (EXH CM-12).

15 As discussed previously, the finished water produced by this facility
16 is contributing to copper being leached into the water supplied to some
17 consumers. It is possible that additional treatment to adjust the water's
18 aggressiveness could become necessary in order to reduce the level of
19 copper leaching.

20 Q. Does the utility maintain the required chlorine residual or its
21 equivalent throughout the distribution system?

22 A. Currently yes. With the installation and continued operation of the
23 chlorine booster station and increased water main flushing, the last two
24 inspections have readily shown free chlorine residuals to be available.

25 Q. Are the wells, plant and distribution systems in compliance with all

1 the other provisions of Chapter 17, Florida Administrative Code, not
2 previously mentioned?

3 A. No. From time to time some areas of non-compliance appear. For
4 example, during the August 1993 inspection, two new deficient areas were
5 identified. One area was with regard to the leaks in the ground storage
6 reservoir and the other area was the needed cleaning of the aerator. The
7 ground storage reservoir leaks have not been cited before, but since the
8 leaks continue, a citation was provided, in part to encourage corrections
9 before the tank continues to deteriorate. The aerator has been cited
10 before. Other areas of non-compliance are failure to obtain a permit
11 before modifying the aerator and failure to increase supply to support
12 system demand.

13 Q. Has this water system been the subject of any Department of
14 Environmental Protection enforcement action within the past two years?

15 A. Yes.

16 Q. If the answer is yes, explain the details, recommended actions, and
17 whether the utility is currently complying with this schedule.

18 A. The department, on April 30, 1992 after a previous request to the
19 court to enforce a consent order between the utility and the department,
20 received relief in the form of a partial final judgment (EXH CM-13). This
21 document outlined what actions the utility must take to conform with the
22 court's orders. The PFJ was based to a great degree on the consent order
23 but did include some other items not previously contained in the consent
24 order. As true for the consent order, the utility has not complied with
25 due dates or technical content contained in the PFJ in all cases. One

1 example was with the cross connection control program. Many devices were
2 not tested, notification of test due dates was often improper and follow-up
3 activities were not completed on time. The utility, in response to
4 recommendations made by the department, has corrected most of these
5 deficiencies. Another example is the system map required by the PFJ; the
6 utility was to deliver a current and up-to-date system map. The map was
7 received one year late and was not as specified. The map was not current;
8 in fact, it was accurate only to August 31, 1992. Also, materials of the
9 mains were not shown, as well as other problems. The H₂S report submitted
10 by the utility was unacceptable. The third well was not completed on time
11 and in fact was 18 months overdue.

12 Q. On what date did well number 3 come on line, and what caused the
13 delay such that DEP had not released well number 3 for on-line service
14 prior to that time?

15 A. Well number three was cleared for service on February 25, 1994 (EXH
16 CM-14). It was delayed due to the utility submitting incomplete test
17 results which are required during the normal clearance process. Also, the
18 initial test results for color exceeded the maximum contaminant level and
19 therefore required confirmation samples to be run. Due to the consumptive
20 use permit issued by the Northwest Florida Water Management District
21 (NFWMD), the maximum withdrawal rate was set for 700,000 gallons on any
22 one day. This figure roughly equates to 490 gpm to the island. In view of
23 the NFWMD's intent to limit aquifer withdrawal to approximately 490 gpm,
24 we felt it appropriate to request an operating scheme for these three
25 wells. This scheme would explain which well or wells would take the lead

1 or lag operating positions. These requests were provided to the utility in
2 our September 9, 1993 letter (EXH CM-15).

3 Q. What is the status of the utility's report on the system's aerator?

4 A. As previously stated, the H₂S report mandated by the PFJ was
5 unacceptable as submitted by the utility. By September 30, 1992 a new
6 aerator was to be designed, installed, constructed and operational. After
7 a suitable period allowed for monitoring H₂S, a report was to be prepared by
8 the utility describing the need, if any, for additional or different
9 treatment. This report was due to DEP by July 1, 1992. The report was
10 received August 25, 1993, over one year late. DEP's review of the report
11 shows it is not acceptable for the following reasons:

12 1. The H₂S data submitted since last year was not presented along
13 with suitable supporting materials necessary for the department staff to
14 fully interpret these results. The utility was informed of the additional
15 information needed on November 18, 1993.

16 2. The utility presented its final report based upon a single
17 sampling event, which is insufficient evidence to support their position
18 that no additional treatment is needed. We feel that a report of this
19 nature should be based upon data collected over a fairly long period of
20 time.

21 3. The report used tests for Total Sulfide, Dissolved Sulfide and
22 Unionized Sulfide and improperly used Total Sulfides in the percent removal
23 formula. The values for Dissolved and Unionized Sulfides should have been
24 used. Using the proper forms of Sulfides yields a lower percentage removed
25 than the 90% required by the PFJ.

1 Mr. Brown has stated that he is negotiating with his consulting firm
2 to revise and complete the aerator report and that the actions necessary
3 will be described in a comprehensive settlement. As previously stated, by
4 letter dated January 13, 1994, Mr. Brown transmitted this proposed
5 settlement agreement to the Department. In paragraphs 7 and 9 of that
6 document, Mr. Brown states that if Baskerville-Donovan, Inc. is given 39
7 water connections, they will complete the aerator report, and if necessary,
8 file a permit application to improve or replace the aerator. As stated
9 earlier, DEP has rejected the proposed settlement agreement. Mr. Brown has
10 had over five months in which to complete this report since the initial
11 rejection. In an effort to use the data collected since entry of the PFJ,
12 DEP requested certain information from Mr. Brown which should be
13 extractable from the utility's testing laboratory. This information is
14 associated with normal quality assurance procedures. DEP requested this
15 information and volunteered to interpret the data. Mr. Brown has failed to
16 produce this data, and continues to use the same laboratory to provide the
17 H₂S analyses. If this information cannot be provided, all past H₂S tests
18 and future ones will be without value.

19 Q. Does DEP have a position regarding the continued existence and growth
20 of the number of private wells on St. George Island?

21 A. Yes.

22 Q. Please explain DEP's position.

23 A. Construction of individual water wells on the island should be
24 prohibited because they offer a potential for contamination to groundwater
25 on the island. The contamination could come from three causes:

1 1. Poor construction techniques could open an annular space along
2 side the well casings that would allow bacterial and viral contaminants to
3 enter both the surficial and Floridan aquifer.

4 2. These avenues could already exist due to the lack of semi-
5 impermeable layers or lack of sufficient thickness in these layers.

6 3. For every well drilled an increased opportunity exists for
7 another cross connection to occur.

8 Most of the residences on the island use onsite sewage disposal
9 systems to treat the sewage generated there. The drain fields dispose
10 poorly treated effluent to shallow ground water. This effluent, after
11 traveling through many feet of sand, may have its bacterial composition
12 reduced, however, a sand filtration process is not considered especially
13 effective in removing viral matter. This condition holds true more so for
14 the shallow water supply system than for the deeper Floridan Aquifer. In
15 the case of the deeper water, consideration must be given to drawing more
16 highly mineralized water from deeper layers in the aquifer upward and
17 increasing salt water intrusion in this area. Further consideration must
18 also be given to creating artificial avenues for pollutants to travel from
19 one area to another (vertical). See EXH CM-16 for various correspondence
20 on this subject.

21 Q. Do you have anything further to add?

22 A. No.

1 Q. Please state your name and business address.

2 A. John A. Kintz, P.E., Florida Department of Environmental Protection,
3 160 Governmental Center, Pensacola, Florida 32501-5794.

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

6 A. In June 1958 I earned a Bachelor of Arts degree in Mathematics from
7 St. Vincent College in Latrobe, Pennsylvania and a Bachelor of Science
8 degree in Civil engineering from the Pennsylvania State University in State
9 College, Pennsylvania in June 1959. I commenced active duty in the U. S.
10 Navy Civil Engineer Corps in November 1959. I had various assignments in
11 the continental United States and overseas. I retired in April 1980 as a
12 Lieutenant Commander, Civil Engineer Corps, after serving 20 years on
13 active duty. I am a Registered Professional Engineer (October 1979).

14 Q. By whom are you presently employed?

15 A. I am employed by the Florida Department of Environmental Protection
16 (DEP).

17 Q. How long have you been employed with the Department of Environmental
18 Protection and in what capacity?

19 A. I was the Department's Industrial Wastewater Section Supervisor from
20 March 1980 through May 1984 and the Department's Potable Water Section
21 Supervisor from June 1984 to the present. I have been with the Department
22 for 14 years.

23 Q. What are your general responsibilities at the Department of
24 Environmental Protection?

25 A. My responsibilities include evaluating applications for construction

1 permits for drinking water plants and General Permit Notices for extensions
2 of public water distribution systems. I review professional engineering
3 plans, specifications, reports and supporting data for compliance with DEP
4 regulations. I prepare construction permits for drinking water supply
5 sources and new extensions to public water distribution systems. I am
6 responsible as the Northwest District's Potable Water Section Supervisor
7 for regulating 482 public water systems (218 community, 67 non-transient
8 non-community systems and 197 non-community systems) in 16 counties of the
9 panhandle. In addition to processing permit applications (Chapter 17.555
10 F.A.C. -- Permitting and Construction of Public Water Systems), I am
11 responsible for compliance and enforcement of Chapters 17-550 F.A.C. -
12 Drinking Water Standards, Monitoring, and Reporting; 17-551 F.A.C. --
13 Control of Lead and Copper; 17-560 F.A.C. -- Requirements for Public Water
14 Systems That Are Out of Compliance.

15 The State's Drinking Water Program is described very well in the
16 Citizen's Guide to the Florida Department of Environmental Regulation (now
17 Florida Department of Environmental Protection) put out by the Governor,
18 Lt. Governor and the Secretary of the Department in November 1992. It
19 states as follows:

20 "The Department's drinking water standards protect
21 consumers of water by establishing maximum
22 contaminant levels for 18 inorganic chemicals, 61
23 organic chemicals, turbidity, microbiological
24 contaminants and radionuclides. The Department
25 also has requirements for construction and

1 operation of drinking water plants, and for
2 monitoring and sampling of the water they supply.
3 The drinking water program is administered as a
4 joint effort between the DEP, the Department of
5 Health and Rehabilitative Services, and county
6 health departments."

7 Q. Are you familiar with the St. George Island Utility Company, Ltd.
8 water system in Franklin County?

9 A. Yes.

10 Q. Does the utility have a current operating or construction permit(s)
11 from the Department of Environmental Protection?

12 A. The State's Drinking Water Program does not issue Operating Permits.
13 Permit WC19-21196 is for the construction of Well #3 which includes an
14 auxiliary generator. The improvements/ modifications to the water system
15 (DS19-222055) consist of: 1) back pressure sustaining/altitude valve for
16 supply line to the existing elevated water storage tank with bypass; 2) a
17 second high service pump, with capacity similar to the existing 50 hp pump;
18 and 3) instrumentation, controls and flow measurements equipment to
19 facilitate operation of the proposed improvements.

20 Q. Please state the issuance dates and the expiration dates of the
21 construction permits.

22 A. The issuance date of construction permit WC19-211976 was June 8,
23 1992. The Department's February 25, 1994 letter approved Well #3 and the
24 related facilities being placed into service. The issuance date of DS19-
25 222055 was January 1, 1993. The permit was due to expire on January 1,

1 1994. The utility applied for an extension on December 22, 1993 and the
2 permit is now due to expire on June 30, 1994. As of April 19, 1994, the
3 utility had not as yet entered into a contract for the work.

4 Q. Are the utility's wells, treatment facilities and distribution system
5 sufficient to serve its present customers?

6 A. Yes. Additional information is contained in my February 17, 1994
7 memo to Allan W. Johnson, P.E. that reviews the status of the water system.
8 See EXH JAK-1.

9 Q. What immediate, near-term, and long-range actions do you foresee the
10 utility needs to accomplish in order to accommodate current and future
11 customers?

12 A. If fire flow is not required by the County, as is the current
13 standing, the utility would need to construct an additional raw water line
14 from the mainland in order to supply potable water for additional
15 development on St. George Island in excess of the allowable total of 1,346
16 customer connections. Preliminary information from the Northwest Florida
17 Water Management District suggests that additional wells on the mainland
18 will have to be drilled further inland from the coast in order to insure
19 that there will be no salt water intrusion into the existing wells in the
20 Eastpoint area. The potable water distribution system was not designed for
21 fire flow. It is my opinion that if fire flow were to be required by
22 Franklin County, it would still be necessary to increase the capacity of
23 the raw water transport to St. George Island along with additional storage
24 on the island. The size of the distribution mains throughout the island
25 would also need to be increased.

1 Q. What is the current number of connections that the utility is able to
2 accommodate while still maintaining compliance with all DEP regulations?

3 A. 1,346 equivalent residential connections (ERCs). As stated in my
4 February 17, 1994 memo to Allan W. Johnson (EXH JAK-3), this number of ERCs
5 has been calculated as follows. First, the 9 commercial connections were
6 converted to ERCs by using the utility's engineering report which stated
7 they were equivalent to 140 ERCs. This number was then added to the number
8 of residential users on the system for the month of May, 1993 (887) which
9 resulted in 1,027 ERCs on the system that month. By using the utility's
10 maximum daily usage which occurred on May 31, 1993 and dividing that number
11 by the number of ERCs on the system during that month, it is calculated
12 that each ERC uses approximately 520 gallons per day (gpd). The next step
13 was to determine the maximum allowable ERCs for this utility based on the
14 520 gpd amount. The Northwest Florida Water Management District has
15 restricted the utility's maximum pumping capacity to 700,000 gpd for a
16 single day. Taking that maximum amount and dividing by the gallons per day
17 per ERC, it is calculated that the utility system's maximum allowable
18 number of ERCs is 1,346 which includes Well #3 being on-line and the system
19 improvements as envisioned under permit DS19-222055 being completed and in
20 place.

21 Q. Do you have anything further to add?

22 A. No.

1 Q. Please state your name and business address.

2 A. Alan C. Pierce, P. O. Box 340, Apalachicola, Florida 32329-0340.

3 Q. Please state a brief description of your educational background and
4 experience.

5 A. I graduated from Key West High School in 1973. I received a B.S. in
6 Environmental Studies from Vanderbilt University in 1977. I received a
7 Master's in Education from the University of Florida in 1980 and a Master's
8 in Planning from the University of Florida in 1988.

9 Q. By whom are you presently employed?

10 A. I am employed by Franklin County.

11 Q. How long have you been employed with the County and in what capacity?

12 A. Six years.

13 Q. What are your general responsibilities at the County Planning
14 Department?

15 A. My responsibilities include issuing building permits jointly with the
16 County Building official; reporting directly to the County Commission on
17 actions taken by the Planning and Zoning Commission; and supervision of the
18 Planning Department. I also serve as the Emergency Management Director for
19 the County.

20 Q. Are you familiar with the St. George Island Utility Company, Ltd.'s
21 water system in Franklin County?

22 A. Yes.

23 Q. What is the purpose of your testimony?

24 A. My testimony will concentrate on the development occurring on St.
25 George Island between January 1, 1988 through March 30, 1994. In addition,

1 I will address specifics about the island with respect to future lots
2 available for growth as well as present growth figures inside St. George
3 Island's Plantation ("Plantation") as opposed to growth figures outside the
4 Plantation.

5 Q. Please describe St. George Island within the context of Franklin
6 County as a whole?

7 A. St. George Island is at the center of the growth in Franklin County.
8 Of the 466 new homes permitted in the county since January 1, 1988, 293
9 have been on the island. In terms of percentage, new home construction on
10 St. George Island represents 63% of the new homes built in the county for
11 the six years my testimony covers.

12 Q. Please describe the number and type of structures on St. George
13 Island and give an overview of the development that has occurred there.

14 A. The number of structures on St. George Island is estimated, by the
15 Franklin County Planning Office and by the Franklin County Property
16 Appraiser's Office, to be approximately 1,100 units. This includes
17 counting each townhouse and condominium as an individual unit. It also
18 includes businesses. This figure does not include those units currently
19 under construction or that were finished last year and are not yet on the
20 tax roll. With those added in, the total of units on the island is
21 approximately 1,200.

22 The development on the island has been almost exclusively
23 residential. From January 1, 1988 to March 30, 1994, the county issues 293
24 permits for new houses on the island. In this same time period, the county
25 has issued 3 building permits for the construction of new commercial

1 buildings. Because of the predominance of residential construction, the
2 remainder of my testimony will focus only on single family development.

3 Q. Please provide information detailing residential growth on St. George
4 Island from January 1, 1988 through March 30, 1994.

5 A. An analysis by year of residential building is provided below and on
6 the enclosed graph. (EXH ACP-1)

7	1988	-	39 residential permits issued
8	1989	-	35 residential permits issued
9	1990	-	40 residential permits issued
10	1991	-	38 residential permits issued
11	1992	-	60 residential permits issued
12	1993	-	64 residential permits issued
13	1994 (3 months)	-	17 residential permits issued

14 The western part of the island is a private development known as St.
15 George Island's Plantation. In area, it represents about one-fourth of the
16 island, yet it has seen about one-half of the building activity. Of the
17 293 permits issued, 151 permits were issued for development inside the
18 Plantation. See EXH ACP-2 which graphically depicts the increase in
19 development in the Plantation over time. I have no explanation for the
20 increase in the growth rate inside the Plantation, or of the reduction
21 outside. As an aside, houses in the Plantation are generally larger than
22 houses outside the Plantation.

23 Q. In what way is the Franklin County Planning Department concerned with
24 the water utility on St. George Island?

25 A. As part of the county building permit application, we ask the

1 applicant their source of potable water. Before a building permit is
2 issued in the Plantation, the county must have a letter from St. George
3 Island Utility Company, Ltd. ("the Utility") stating water is available for
4 a specific lot, or that water is not available and that a temporary well is
5 acceptable until water is available. This is a requirement of the
6 Development Order which created the Plantation. The Development Order was
7 submitted initially by Leisure Properties and approved by the Franklin
8 County Commission in 1977. As a matter of habit, some contractors provide
9 us with water letters for development outside the Plantation. Out of 293
10 permits issued, 249 said they would be hooking up to the Utility. The
11 county has on file 174 letters from the water company. The other 75 who
12 said they were using the Utility did not submit a letter to the county
13 because they were building outside the Plantation.

14 Q. Does the county keep records of private wells on St. George Island?

15 A. Thirty-seven permits were issued indicating use of a private well as
16 a source of water. All but one of these are outside the Plantation. The
17 sole well in the Plantation had a letter from the Utility stating that they
18 could not provide water at that time, but when water is available they will
19 have to hook up to the Utility. At this time the county does not know
20 whether the water is now available to that lot. At least one of the houses
21 outside the Plantation which indicated use of a well has connected to the
22 Utility because the well water was not satisfactory. There were seven
23 permits issued with no indication of where water service would be coming
24 from. All seven were outside the Plantation and the source of water could
25 be private wells or could be the Utility.

1 Q. Please discuss the capacity for future growth on St. George Island?

2 A. The County Planning Office is not well versed in statistical methods
3 or the extrapolation of data, thus, I hesitate to forecast future growth
4 rates for the island. Certainly in a general way, if interest rates stay
5 down, development is likely to continue at its current rate. There are two
6 possible indications of growth that I do have confidence in. First, the
7 price of real estate continues to rise, which I believe is an indication of
8 the desirability of the island for the future. Second, the county
9 continues to record residential subdivision plats on the island.

10 One variable affecting growth will be the impact of the build-out of
11 beach front lots. There are currently 451 beach front lots on the island.
12 This number does not include the small lots in the commercial district
13 which may be built on individually or in combinations. It also does not
14 include those tracts on the east end of the island that have not yet been
15 subdivided into one acre lots. Including a development at Sunset Beach
16 that was just approved by the Board of County Commissioners, there is
17 enough land for approximately 50 more beach front lots to be created on the
18 east end. The ultimate number of beach front lots will be near 500. In
19 the last six years, 102 houses have been built on beach front lots, 66 in
20 the Plantation and 36 outside. Since many of the houses built prior to
21 1988 were on the beach, it is my estimation that approximately half of the
22 beach front lots on St. George Island now have structures. Using the
23 figure of 100 beach front houses being built every six years, and with
24 approximately 250 lots still available to build on, in 15 years every lot
25 on the beach will have a house.

1 The activity on interior and bay front lots is not as great, and
2 there are more of those lots, so the total build out of the island is
3 difficult to judge. There will be approximately 900 lots in the Plantation
4 when all the residential areas are platted. I have not included the Ben
5 Johnson property in these calculations. There are approximately 1,600 lots
6 in the old subdivisions, and there will be approximately 500 lots on the
7 east end of the island (this includes counting the one hundred units at 300
8 Ocean Mile as separate lots). The total of lots on the island is
9 approximately 3,000. In rough figures, with 3,000 total lots and existing
10 structures numbering 1,200, this leaves 1,800 lots available for
11 development. At a rate of 300 units every six years, the overall build out
12 of the island will occur in 36 years. This date may change dramatically if
13 any number of things happen, one of which is the availability of water.

14 The point of this public hearing is to consider a rate increase for
15 the Utility. The county has no expertise in rate structures or the costs
16 of running a utility, but it does have an interest in the performance of
17 the Utility. Whatever the decision of the Public Service Commission is
18 regarding the proposed rate increase, the Commission should keep in mind
19 the impact it will have on the county.

20 Q. Are there any other issues that Franklin County is concerned with
21 regarding the Utility?

22 A. A point that will undoubtedly be raised by either the Utility or the
23 Commission itself is the measures the county government may be willing to
24 take in order to ensure an adequate supply of water to the island. I can
25 not speak for the Franklin County Board of County Commissioners on this

1 issue, but I do know that the availability of water is of concern to the
2 Board. In recent years the Board has heard several presentations from
3 various individuals regarding the adequacy of fire protection on the
4 island. While the PSC's review of the rate increase proposal may not
5 include a full discussion of the needs of fire protection, it is imperative
6 that there be some consideration of this topic. There appears to be few
7 avenues open to the county as it tries to protect the interests of its
8 citizens and of the property owners when it comes to providing adequate
9 fire protection. The Board is aware that the Utility claims it was not
10 built to provide fire protection. However, at this time the Utility is the
11 only entity poised to address this issue. I am sure the Board would like
12 for the Public Service Commission to work with the Utility to make sure
13 fire protection is maintained across the entire island.

14 Q. Do you have anything further to add?

15 A. No.

1 Q. Please state your name and business address.

2 A. James W. Abbott, P. O. Box 682, Eastpoint, Florida 32328.

3 Q. Please state a brief description of your educational background and
4 experience.

5 A. I attended the minimum standards course for volunteer fire fighters
6 through Lively Technical Center in 1986, attended fire college in Ocala,
7 Florida in 1988 and undertook volunteer weekend training in Ocala relating
8 to gas fire, diesel fire, smoke tower, and burn building in 1988.

9 Q. Has anyone assisted you in the preparation of your testimony.

10 A. Yes. Mr. James C. Byrd, who is and has been a volunteer fire fighter
11 with the St. George Island Volunteer Fire Department (SGIVFD) over the past
12 10 years, and who is a professional fire fighter with the City of
13 Tallahassee where he is a lieutenant and where he has been employed for 25
14 years, assisted me in the preparation of my testimony.

15 Q. Please describe your experience with the SGIVFD and state your
16 current status there.

17 A. I have been a fire fighter for the SGIVFD for the past 8 years, and
18 have held varying positions. I am currently the Fire Chief and have been
19 for the past 3 years. Other positions have included Training Officer,
20 Equipment Officer and Truck Driver/Engineer (pump operator).

21 Q. What are your general responsibilities with the SGIVFD?

22 A. As the Fire Chief, my responsibilities include handling the
23 managerial/administrative needs, overseeing all personnel for training,
24 overseeing fire ground operations, overseeing equipment purchases, and
25 fighting fires. 7

1 Q. Are you familiar with the St. George Island Utility Company, Ltd.
2 (utility) water system in Franklin County?

3 A. Yes, but only with respect to flows available at fire hydrants.

4 Q. What is the working relationship between the SGIVFD and the utility?

5 A. Mr. Garrett, who works for the utility, is very responsive to fire
6 department requests. SGIVFD provides money to the utility for hydrants,
7 and has been doing so since 1986. The dollar amounts have varied from \$635
8 per hydrant (in 1986) to \$2,000 per hydrant (in 1992). Please see EXH JWA-
9 1 which documents the fire department's contributions to the utility
10 through 1991. I have been unable to locate the cancelled checks for 1992,
11 but the amount for that year was \$4,000 for two hydrants. As stated in the
12 agreement between the SGIVFD and the utility which was approved by this
13 Commission, dated May 10, 1993, the fire department recognizes that the
14 utility is not accepting responsibility for fire protection on St. George
15 Island; however, it is the fire department's hopes that the utility and the
16 fire department can work together in achieving better fire flow
17 availability on the island.

18 Q. What is SGIVFD's ISO rating?

19 A. ISO ratings vary up to 10, with 10 being the least desirable. St.
20 George Island currently has a fire rating of 7/9 where 7 means that a
21 structure is within 1000' of a fire hydrant and within 5 miles of the fire
22 station. 9 means that there is fire fighting capability, communication
23 equipment, and trucks.

24 Q. Can St. George Island achieve a better ISO rating at this time?

25 A. No, because of the lack of water availability at the hydrants.

1 Q. Have you conducted testing, or are you familiar with, testing
2 conducted by the SGIVFD in order to determine the adequacy of fire
3 protection available on St. George Island?

4 A. Included as EXH JWA-2 is a letter dated July 16, 1992 and attachments
5 which discuss and summarize testing done that month of 32 fire hydrants
6 within the Plantation. Only the Plantation was tested at that time as the
7 St. George Plantation Owners' Association, Inc. specifically requested
8 testing. Attachment 1 to that letter specifies each hydrant location and
9 test result. At that time, the utility was not maintaining the fire
10 hydrants; I believe that the utility's current practice is to maintain its
11 hydrants. As can be seen on Attachment 1, of the 32 hydrants tested, 6
12 provided questionable adequate water. SGIVFD is undertaking flow testing
13 to achieve current standards for several hydrants in the Plantation as well
14 as flow testing at a few other points on the island. The results of such
15 testing will be filed in this docket as a late-filed exhibit to my
16 testimony. To be included in that late-filed exhibit will be a fire plan
17 for 300 Ocean Mile. 300 Ocean Mile consists of 99 wood, condominium units
18 towards the east end of the island. As the Plantation hydrants were tested
19 in 1992, and are representative of the west end of the island, 300 Ocean
20 Mile will provide representation for the east end of the island. The fire
21 plan for 300 Ocean Mile will include recommended standards for fire flow
22 for that type of structure along with results of what is available and how
23 the fire department would propose to fight a fire at that location.

24 Also, based on past experience, adequate water volumes were not
25 available for fire fighting in April 1992 when the SGIVFD responded to a

1 fire at Oyster Cove restaurant. The fire trucks, which were receiving
2 water in relay from a hydrant on East Gulf Beach Drive, had to be
3 intermittently shut down in order to refill the trucks' tanks without
4 drawing a vacuum on the utility's main which could have caused the main to
5 collapse. Drawing a vacuum on the main is only one of the inherent dangers
6 resulting from lack of adequate water availability at a hydrant. Another
7 danger is possible immediate personal injury to fire fighters as immediate
8 loss of water would eliminate the water boundary between the fire fighter
9 and the fire.

10 Q. In your opinion, what is needed in order to achieve adequate fire
11 protection?

12 A. Based on experience, 1000 gpm, continuously, would be necessary. It
13 is my understanding that the utility has requested the inclusion of \$30,000
14 in its request for a rate increase for the purpose of conducting a fire
15 protection study. It is my opinion that rather than conduct such a study,
16 it would be more beneficial to put that money towards additional elevated
17 storage on the island. Ideally, two additional elevated storage tanks, one
18 on the west end of the island and the other one on the east end of the
19 island, would improve fire flow availability. The main purpose of the
20 SGIVFD is to save lives in the event of a fire. The remaining priorities
21 are fighting fires and cooling surrounding structures in order to contain
22 any fire. Currently, the SGIVFD is in more of a defensive posture in that
23 containment is more likely to be achieved, rather than the saving of an
24 existing structure in the event of a major fire.

25 Q. Do you have anything further to add?

26 A. No.

NANCY L. GAFFNEY

- 1
- 2 Q. Please state your name and business address.
- 3 A. Nancy L. Gaffney 101 East Gaines Street Fletcher Building, Tallahassee,
4 Florida
- 5 Q. By whom are you presently employed and in what capacity?
- 6 A. The Florida Public Service Commission Division of Auditing and Financial
7 Analysis as a Regulatory Analyst II.
- 8 Q. How long have you been employed by the Commission?
- 9 A. 6 Years.
- 10 Q. Briefly review your educational and professional background.
- 11 A. I have my BA in Accounting. I worked for the Office of the Auditor
12 General for 3 years participating in financial and compliance audits
13 before coming to work for the Commission.
- 14 Q. Please describe your current responsibilities.
- 15 A. Currently, I am a Regulatory Analyst II with the responsibility of
16 managing audits of regulated company financial records using a standard
17 audit program. I have specific authority to direct and control assigned
18 staff work as well as participating as a staff auditor and audit
19 manager.
- 20 Q. What is the purpose of your testimony today?
- 21 A. To sponsor the staff audit report, of St. George Island Utility Company
22 (Utility), Docket No 940109-WU. The audit report is filed with my
23 testimony and is identified as NLG-1.
- 24 Q. Was this audit report prepared by you?
- 25 A. Yes

1 | Q Please review the audit exceptions discussed in the audit report.

2 | A. Audit Exceptions document deviations from the Uniform System of
3 | Accounts, Commission rule or order, Staff Accounting Bulletin, and
4 | generally accepted accounting principles.

5 | Audit Exception 1 discusses the monthly booking of accounts. I observed
6 | during field work, that the company was not posting its general ledger
7 | accounts monthly. I recommend that this Utility be required to keep
8 | books on a monthly basis. While some accounts may be posted monthly,
9 | others are not. In general, most invoices were recorded as expense or
10 | plant when the invoice was paid, not when it was received, as would be
11 | the case under accrual accounting. I also observed that the Utility did
12 | not accrue on a monthly basis for property taxes.

13 | Audit Exception 2 discusses the condition of the Utility records. I
14 | observed that the Utility's records were not in a good condition. The
15 | accountant's journal entries were not supported. The Utility could not
16 | locate certain checks or invoices. Some source documentation is still
17 | missing.

18 | Audit Exception 3 discusses the Utility failure to complete Form 1099
19 | for 1991 and 1992.

20 | Audit Exception 4 discusses the purchase of the Third Well Land. I
21 | recommend that since this property was purchased with Utility Escrow
22 | Funds, the property ownership should be in the name of the Utility. In
23 | addition, Land and Land Rights should be reduced by \$570.

24 | Audit Exception 5 discusses the lack of invoice support for plant.
25 | Numerous expenditures were lacking either the invoice, a cancelled

1 | check, or other supporting documents. I recommend that these costs
2 | totalling \$11,009.86 be removed from plant.

3 | Audit Exception 6 discusses the lack of cancelled check support for
4 | plant. There were several costs charged to the Utility Plant In Service
5 | account without the accompanying cancelled check. I recommend that the
6 | total costs of \$31,182.45 which are unsupported by cancelled checks be
7 | removed from plant.

8 | Exception 7 discusses other adjustments to plant. I recommend that the
9 | leasehold improvements of \$1,295 be allocated between the Utility and
10 | the affiliates sharing the office space. The residual amount should
11 | then be amortized over the leasehold period.

12 | Audit Exception 8 discusses plant retirements. I found four replacement
13 | items purchased and recorded in plant but the old assets were not
14 | removed from the books. The fifth item was the retirement of an asset
15 | which had never been recorded on the books. Therefore the retirement
16 | should be reversed.

17 | Audit Exception 9 discusses an adjustment to the Third Well proforma
18 | adjustment. The Utility did not provide all the source documentation
19 | requested. I recommend that the \$11,766 of unsupported costs be removed
20 | from the Utility's requested proforma investment.

21 | Audit Exception 10 discusses the Coloney Company invoices recorded to
22 | plant. I recommend that the Plant In Service be reduced by \$2,370 due
23 | to the duplication of the invoices for payment. The three invoices
24 | summarized in the table behind Audit Exception 10 are filed with my
25 | testimony and identified as NLG-2.

1 | Audit Exception 11 discusses the purchase of a new diesel generator set.
2 | I recommend that the entry that was recorded for the purchase of the new
3 | generator be increased by \$1,940.66. In addition, the financing for the
4 | new generator should be included as a debt. Also, the Commission should
5 | consider the adjustment associated with accumulated depreciation.

6 | Audit Exception 12 discusses the plant associated with CWIP. I
7 | recommend that the costs associated with the storage tank and Third Well
8 | be removed from the plant account and included in CWIP.

9 | Audit Exception 13 discusses the transfer of contributed property.
10 | During August of 1992, the Utility received improvements in the amount
11 | of \$20,240 from Keith McNeill Plumbing. \$10,000 of this amount was paid
12 | by the Utility while the remaining balance was paid by a developer,
13 | Eagle Constructors, Inc. by or on behalf of Ben Johnson. I recommend
14 | that since the Utility received the \$10,240 in contributed property it
15 | should be recorded on the Utility's books as plant and CIAC.

16 | Audit Exception 14 discusses the capitalization of previously unrecorded
17 | engineering design fees. The Utility did not provide all the source
18 | documentation. The requested information includes: dates, hours worked
19 | and projects worked upon. From the analysis and a review of CWIP at
20 | December 31, 1993, I determined that the design fees had been previously
21 | recorded as an expense or capitalized.

22 | Audit Exception 15 discusses an error and lack of summary depreciation
23 | records. The Utility records its depreciation on monthly journal
24 | entries but has not followed the Uniform System of Accounts as it fails
25 | to maintain depreciation records which allow for ready verification of

1 transaction balances. The summary depreciation records were prepared
2 only after I requested them. I recommend the books and the filing be
3 restated to the recalculated levels. I also recommend that the Utility
4 be required to file summary plant and depreciation records with
5 subsequent annual reports.

6 Audit Exception 16 discusses the error and lack of summary CIAC
7 amortization records. The Utility records its amortization using
8 monthly journal entries but has not followed the Uniform System of
9 Accounts as it fails to maintain summary accumulated CIAC Amortization
10 records. I recommend that the per book average CIAC is \$142,912 or a
11 year-end balance of \$158,015.

12 Audit Exception 17 discusses the imputation of CIAC. An analysis of
13 CIAC collected revealed that the Utility had 30 more connections listed
14 at \$500 than were present in a prior audit. As of June 1989, the
15 approved charge was \$2,020. I recommend that CIAC be imputed for the
16 difference of \$45,600 and that all future connections should be
17 recognized at the prevailing tariff rate.

18 Audit Exception 18 discusses the issue of fire hydrants not being
19 reported as CIAC. I recommend the exclusion of the hydrant fee revenues
20 as filed. I further recommend imputing the cost of hydrants, less the
21 amount of appropriate average CIAC amortization of \$50,572, and
22 increasing depreciation expense by \$1,838. I also recommend that the
23 Utility refrain from collecting any funds relating to fire hydrants
24 without specific approval from the Commission.

25 Audit Exception 19 discusses a CIAC agreement. On September 3, 1992 a

1 settlement was made to pay \$100,000 to Brown and Affiliates. Stanley
2 Bruce Powell was awarded \$35,000 for legal fees for representing Brown
3 and Affiliates and the remaining \$65,000 was given to the Utility to be
4 used strictly for capital improvements in order to enhance and increase
5 the flow and pressure of the St. George Island water system. I
6 recommend that the \$65,000 given to St. George Island for capital
7 improvements be considered and recorded as CIAC.

8 Audit Exception 20 discusses the reconciliation in the Advances For
9 Construction account. On the December 31, 1992 MFR Schedule A-16, the
10 Advances For Construction account reflected a balance of \$76,987. After
11 I reconciled the entries in the Department of Natural Resources
12 (Department of Environmental Protection) payment log books to the
13 entries in the Utility's Advances For Construction account I determined
14 that the December 31, 1992 balance should be \$67,730. Therefore, I
15 recommend that the Advances for Construction account be reduced by
16 \$9,257.

17 Audit Exception 21 discusses the adjustments to the chemical expense
18 account. I recommend that the chemical expense account be reduced by
19 \$657.24.

20 Audit Exception 22 discusses an adjustment to material and supplies.
21 I recommend that \$5,384.91 be removed from materials and supplies for
22 various adjustments to the expense account.

23 Audit Exception 23 discusses the Utility's request for an insurance
24 coverage adjustment. The Utility is currently in violation of the
25 Limited Partnership Agreement as it does not have the required levels

1 of insurance. However, the Utility has only provided one proposal as
2 support for its estimated insurance expense.

3 Audit Exception 24 discusses charges labeled as contractual service.
4 I recommend that \$4,373 be removed from the Utility's cost of service.
5 Audit Exception 25 discusses the leasing of a John Deere Backhoe. I
6 recommend that Rental Equipment Expense be reduced by \$114.00 to reflect
7 twelve months at the current rental rate.

8 Audit Exception 26 discusses an adjustment to the miscellaneous expense
9 account. I recommend that \$3,544 be removed from the cost of service.

10 Audit Exception 27 discusses the 1992 depreciation expense recorded by
11 the Utility. I recommend that the 1992 depreciation expense is \$44,548.

12 I further recommend that depreciation expense be adjusted to reflect the
13 asset lives stated in Rule 25.30.140, Florida Administrative Code.

14 Audit Exception 28 discusses the request for an adjustment for taxes
15 other than income. I recommend reducing test year Taxes Other Than
16 Income by \$3,102.

17 Q. Please review the audit disclosures discussed in the audit report.

18 A. Audit Disclosures show information that may influence the decision
19 process.

20 Audit Disclosure 1 discusses the Elevated Land Purchase.

21 Audit Disclosure 2 discusses the Construction Work In Progress (CWIP).

22 Audit Disclosure 3 discusses the Developer Agreement For Prepaid CIAC.

23 Audit Disclosure 4 discusses the Salaries and Wages.

24 Audit Disclosure 5 discusses the Proforma Employee Pension And Benefits.

25 Audit Disclosure 6 discusses the Contractual Services-Engineering.

1 | Audit Disclosure 7 discusses the Contractual Services-Legal.
2 | Audit Disclosure 8 discusses the Contractual Services-Management Fees.
3 | Audit Disclosure 9 discusses the Proforma Adjustment Contractual
4 | Service-Other.
5 | Audit Disclosure 10 discusses the Tallahassee Office Rent.
6 | Audit Disclosure 11 discusses the Transportation Expense.
7 | Audit Disclosure 12 discusses the Bad Debt Expense.
8 | Audit Disclosure 13 discusses the Proforma Miscellaneous Expense.
9 | Audit Disclosure 14 discusses the Utility Office Location.
10 | Audit Disclosure 15 discusses the Cost Of Capital.
11 | Audit Disclosure 16 discusses the Ken Gordan Developer Agreement.

12 | Q. Does that conclude your testimony?

13 | A. Yes, it does.
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1 CHAIRMAN DEASON: At this point, the direct
2 case has been concluded except for the limited cross
3 examination of the Exhibits 20, 21 and 22 for
4 Ms. Dismukes. And then that leaves the entire Utility
5 rebuttal case with the exception of Mr. Coloney, who has
6 already presented his rebuttal testimony.

7 My question to the parties is to whether all
8 of these matters can be taken care of within a
9 reasonable working day on Wednesday, August the 3rd, in
10 Tallahassee?

11 MR. PIERSON: If I may, Mr. Chairman, I'm not
12 sure a reasonable working day, but I think if we started
13 early and just kept on trucking we could probably do it.

14 CHAIRMAN DEASON: Well, the problem is that
15 while Commissioner Kiesling and I would love to work
16 late Wednesday night, the truth of the matter is, we
17 have a hearing that begins in Pasco County, I believe
18 it's Pasco County, somewhere in Central Florida,
19 Thursday morning.

20 MR. PIERSON: I see.

21 MR. PFEIFFER: You can leave at 4:00 a.m. and
22 be down there in plenty of time.

23 CHAIRMAN DEASON: Perhaps you would like to
24 come with me? So we're going to have to travel the
25 evening of August the 3rd, which eliminates the

1 possibility of working late that night. So I'm looking
2 at 5:00 p.m. Now the other option is we can continue
3 here and see how much progress we make, and I'm
4 certainly willing to do that. We can work as late this
5 evening as we can until they either confiscate the sound
6 system or throw us out of the building. So --

7 MR. PIERSON: I can tell you approximately how
8 much I have on cross.

9 CHAIRMAN DEASON: For the rebuttal witnesses?

10 MR. PIERSON: Yes, sir.

11 CHAIRMAN DEASON: Total for all rebuttal
12 witnesses? How much do you have?

13 MR. PIERSON: I have fairly substantial, maybe
14 an hour or hour and a half for Mr. Brown, probably an
15 hour for Mr. Seidman. Very little for Ms. Chase,
16 Mr. Garrett, Ms. Withers, Mr. Baltzley and a little bit
17 for Mr. Bidy.

18 CHAIRMAN DEASON: What is a little bit,
19 summation of all those, half hour, hour?

20 MR. PIERSON: Probably less than an half hour
21 for Ms. Chase through Mr. Baltzley and maybe a half hour
22 for Mr. Bidy. Maybe three hours total.

23 MR. PFEIFFER: In the spirit of stipulating in
24 testimony, maybe we can try to --

25 MR. PIERSON: We can talk about that.

1 CHAIRMAN DEASON: Mr. McLean, can you give us
2 a rough estimate of total cross examination for rebuttal
3 witnesses?

4 MR. McLEAN: If my head weren't swimming with
5 conflicts, I probably could. So, with that disclaimer,
6 I loved to go home right now. So my tendency is to
7 underestimate.

8 There's another issue. I would like to get
9 the exhibits -- we had originally planned to get the
10 exhibits we have this afternoon moved into evidence,
11 into evidence through Mr. Brown.

12 CHAIRMAN DEASON: Which exhibits is that, I'm
13 sorry?

14 MR. McLEAN: 20, 21 and 22.

15 CHAIRMAN DEASON: Well, perhaps that would
16 have saved a lot of anguish if you had done that.

17 MR. McLEAN: Sorry?

18 CHAIRMAN DEASON: Perhaps that would have been
19 the better way to have gotten them in the record, but,
20 nevertheless --

21 MR. McLEAN: No, because that is an incredibly
22 lengthy process, and I would like to avoid it. How do I
23 avoid it? There's where the conflict comes in. Because
24 I have to tell you that if this evidence comes in under
25 Ms. Dismukes, I can forget about three hours of cross of

1 Mr. Brown.

2 CHAIRMAN DEASON: Well, that is very tempting.
3 The fact of the matter remains is that Mr. Pfeiffer has
4 the opportunity, I have already given him the
5 opportunity to cross examine, and at the conclusion of
6 cross examination he may renew his objection and those
7 exhibits may not go in under Ms. Dismukes, and you may
8 find yourself having to try to get them in through
9 Mr. Brown.

10 MR. McLEAN: Sure. And that will take some
11 time. Now, that is probative of my answer to you, which
12 is how much time it's going to take.

13 CHAIRMAN DEASON: So you may have three hours
14 for Mr. Brown or three hours total for all rebuttal
15 witnesses?

16 MR. McLEAN: The conflict probably makes me
17 overestimate that, but I can't be objective about it and
18 that's as honest as I can be. I think -- I will be
19 happy to cut a deal to limit time and to allow the Chair
20 to cut us off at some particular time if we and the
21 Utility are similarly limited. But I think that would
22 require a great deal more responsiveness to the
23 questions than I think, my opinion is, we have received
24 sometimes today. But I'm amenable to virtually
25 anything.

1 CHAIRMAN DEASON: The Commission has been very
2 liberal in allowing witnesses much flexibility in the
3 length and the latitude to which they have been
4 answering questions. Given the fact that time is
5 becoming more and more limited, witnesses may be
6 encouraged to give yes or no answers and limit
7 explanations to the very minimum and not expounding for
8 line upon line upon line.

9 MR. McLEAN: The Citizens endorse that for
10 this hearing and for all hearings which follow this
11 hearing.

12 CHAIRMAN DEASON: Mr. Pfeiffer, you have no
13 cross examination, but you, obviously, are going to have
14 some redirect and you don't know what the redirect is
15 going to be until the cross examination has been done.

16 MR. PFEIFFER: I'll probably have a bunch of
17 exhibits to offer in redirect.

18 CHAIRMAN DEASON: Maybe you can be working on
19 those during the break. (Laughter) (Pause)

20 CHAIRMAN DEASON: We're going to take a
21 five-minute recess.

22 (Brief recess.)

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24 CHAIRMAN DEASON: Call the hearing back to
25 order.

1 We have decided that we are not going to
2 proceed any further this evening. We are going to
3 endeavor, with the parties' assistance, to try to
4 conclude this hearing in Tallahassee on August the 3rd.
5 We're going to begin that hearing at 8:30 to get a good
6 early start. But I do wish to reiterate to the parties
7 that we're not going to have the luxury of working late
8 into the evening on the third. To the extent that this
9 break that we're having in the hearing can help parties
10 focus on the issues and speed things along, fine. I
11 just ask parties to be mindful of that.

12 I'll also put parties on notice that if we do
13 not conclude on the 3rd, that the Commission is going to
14 have to do some juggling on the calendar, and we really
15 don't know what we're going to come up with yet, but put
16 you on notice that there will be another day of hearing
17 in Tallahassee. And what that day is going to be right
18 now, we don't know. So, just to give everyone fair
19 notice that that could happen. If it interferes with
20 other folk's plans or vacations or whatever, I
21 apologize, but that's just the reality that we're faced
22 with right now.

23 Anything else to come before the Commission at
24 this time?

25 MR. PIERSON: I have nothing.

1 CHAIRMAN DEASON: Okay. This session of the
2 hearing is adjourned. We will reconvene at 8:30 in
3 Tallahassee on Wednesday, the 3rd.

4 (Thereupon, the hearing adjourned at 5:25 p.m.
5 to reconvene at 8:30 a.m., Wednesday, August 3, 1994, in
6 Hearing Room 106, Fletcher Building, 101 East Gaines
7 Street, Tallahassee, Florida.)

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9 (Transcript continues in sequence in Volume
10 7.)

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1 F L O R I D A)
:
2 COUNTY OF LEON)

CERTIFICATE OF REPORTERS

3 We, JOY, KELLY, CSR, RPR, Chief, Bureau of Reporter, a
4 SYDNEY C. SILVA, CSR, RPR, Official Commission
Reporters;

5 DO HEREBY CERTIFY that the hearing in Docket
6 No. 940109-WU, was heard by the Florida Public Service
7 Commission at the time and place herein stated; it is
further

8 CERTIFIED that we stenographically reported
9 the said proceedings; that the same has been
10 transcribed under our direct supervision, and that this
transcript, consisting of 853 pages, Volumes 1
through 6, inclusive, constitutes a true transcription
of our notes of said proceedings.

11 DATED this 27th day of July, 1994, A. D.

12 *Joy Kelly*
13 JOY KELLY, CSR, RPR
Chief, Bureau of Reporting

12 *Sydney C. Silva*
13 SYDNEY C. SILVA, CSR, RPR
Official Commission Reporter

14
15 STATE OF FLORIDA)
16 COUNTY OF LEON)

17 The foregoing certificate was acknowledged
18 before me this 27th day of July, 1994, A.D.
19 by JOY KELLY and SYDNEY C. SILVA who are personally
known to me.

19 *Patricia A. Church*
20 PATRICIA A. CHURCH
Notary Public - State of Florida
My Commission No. CC-90785
Expires: Notary Public, State of Florida
My Commission Expires April 20, 1995
Bonded Thru Troy Fain - Insurance Inc.

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