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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

:
In the Matter of :
:
Application for :
increased Wastewater :
Rates by Florida Cities :
Water Company - North :
Ft. Myers Division in :
Lee County :

DOCKET NO. 950387-SU



FIRST DAY - MORNING SESSION

VOLUME 1

Pages 1 through 92

PROCEEDINGS: HEARING

BEFORE: COMMISSIONER JULIA L. JOHNSON
COMMISSIONER DIANE K. KIESLING
COMMISSIONER JOE GARCIA

DATE: Wednesday, April 24, 1996

TIME: Commenced at 10:00 a.m.

PLACE: Sheraton Harbor Place
Ballroom
2500 Edwards Drive
Fort Myers, Florida

REPORTED BY: JOY KELLY, CSR, RPR
Chief, Bureau of Reporting

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FPSC-RECORDS/REPORTING

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6 **Company, North Fort Myers Division.**

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16 **State of Florida.**

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21 the **Commission Staff.**

22 **ALSO PRESENT:**

23 **MARSHALL WILLIS, CISSY GALLOWAY and TOM WALDEN**,
24 FPSC Division of Water and Wastewater

25

1	WITNESSES		
2	NAME		PAGE NO.
3			
4			
5	ED UNDERWOOD		
6	Direct Statement		11
7	HARRY GREEN		
8	Direct Statement		16
9	BERNARD SMITH		
10	Direct Statement		26
11	JOHN HANDLIN		
12	Direct Statement		37
13	BERNICE CONNER		
14	Direct Statement		40
15	JAMES THEET		
16	Direct Statement		41
17	LUCILLE EBIE		
18	Direct Statement		44
19	MARY FUNK		
20	Direct Statement		50
21	CAROLE MILLS		
22	Direct Statement		53
23	Cross Examination By Ms. Walla		56
24	DON WILLE		
25	Direct Statement		58

1	WITNESSES CONTINUED:	
2		
3	MICHAEL DONEHEW	
4	Direct Statement	60
5	HELEN BRILLHART	
6	Direct Statement	65
7	WAL LUNETTA	
8	Direct Statement	73
9	IDA CHAPLOW	
10	Direct Statement	75
11	ROBERT HEMENWAY	
12	Direct Statement	77
13	TOM KLINGENSMITH	
14	Direct Statement	84
15	MAY HOPE	
16	Direct Statement	86
17		
18		
19		
20		
21		
22		
23		
24		
25		

1
2
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P R O C E E D I N G S

(Hearing convened at 10:00 a.m.)

COMMISSIONER JOHNSON: Ladies and gentlemen, I'd like to call the hearing to order at this point in time. First, I'd like to thank all of you for coming out this morning for the customer testimony portion of the hearing. By way of procedure, we will also have another customer hearing this afternoon at 6:00. And after we take public testimony this morning we'll begin the technical portions of our hearings. For any of you that are interested in the technical portions, feel free to stay and listen to the witnesses and any discussions that may occur during that time.

For those of you who may not wish to testify in the customer testimony here this morning, there's also, I think, a yellow sheet that you received when you came in the door there. On the back of that sheet there is a place where, those of you who don't want to provide oral testimony, you can provide written testimony and send that to the committee or to the Commission and we will consider that as part of the record.

Counsel, could you please read the notice?

MR. JAEGER: This time and place has been designated for hearing pursuant to notice in Docket

1 No. 950387-SU, application for a rate increase in Lee
2 County by Florida Cities Water Company - North Fort
3 Myers Division.

4 COMMISSIONER JOHNSON: Thank you. I'd like
5 to now take appearances of the parties involved in
6 this proceeding, starting here. And, Mr. Gatlin, if
7 you could stand. Oftentimes the customers, your backs
8 are always to the customers, and they don't know who
9 is speaking.

10 MR. GATLIN: My name is B. Kenneth Gatlin,
11 1709-D Mahan Drive, Tallahassee, Florida 32308,
12 appearing on behalf of the Applicant, Florida Cities
13 Water Company.

14 COMMISSIONER JOHNSON: Thank you.

15 MR. McLEAN: Good morning. My name is
16 Harold McLean. I'm from the Office of Public Counsel.
17 With me this morning is the Public Counsel, Mr. Jack
18 Shreve, whose office is in Tallahassee. We represent
19 the customers and we oppose this proposed rate
20 increase.

21 Commissioners my address is 111 West Madison
22 Street, Tallahassee, Florida 32399, and we appear on
23 behalf of the Citizens of the State of Florida.

24 COMMISSIONER JOHNSON: Thank you very much.

25 MS. WALLA: Good morning. My name is Cheryl

1 Walla. My address is 1750 Dockway Drive, North Fort
2 Myers. I'm a customer that has protested this order
3 and became an intervenor in this case.

4 COMMISSIONER JOHNSON: Thank you very much.

5 MS. VICTOR: My name is Jerilyn Victor. I
6 live at 1740 Dockway Drive, North Fort Myers. And I
7 am a Florida Cities Water customer, also, that has
8 protested this case.

9 COMMISSIONER JOHNSON: Thank you.

10 MR. JAEGER: Ralph Jaeger, Florida Public
11 Service Commission, Office of the General Counsel,
12 2540 Shumard Oak Boulevard, Tallahassee, Florida
13 32399-0850, appearing on behalf of the Commission
14 Staff.

15 COMMISSIONER JOHNSON: Thank you. My name
16 is Julia Johnson, and I will be presiding over both
17 the customer hearing and the technical portions of
18 this hearing. I have with me two Commissioners from
19 our five-bodied Commission. To my right is
20 Commissioner Diane Kiesling and to my left is
21 Commissioner Joe Garcia. We will be hearing both the
22 customer and technical portions of the hearing and we
23 will be making -- after Staff has made their final
24 recommendation, we will be ruling on this particular
25 case.

1 We also have several members of Staff with
2 us here today that can assist you with any matters
3 that you have. Any questions that you'd like to ask
4 that you don't want to present to the Commissioners
5 you could present to our Staff members.

6 We have Marshall Willis, he's the Bureau
7 Chief of our Water and Wastewater Division. Ralph
8 already introduced himself. Cissy Galloway is a rate
9 analyst. N. D. Walker is one of our accountants
10 standing over to the left. Tom Walden is one of our
11 engineers. Kay Flynn with Records and Reporting,
12 there she is over to the right there. Robby
13 Cunningham was the gentlemen that greeted you, and
14 he's standing to the rear there with Consumer Affairs,
15 and Joy Kelly is our court reporter today.

16 Now Joy Kelly is sitting over here to the
17 right. She will be transcribing all of your
18 testimony. And she's one of the best in the state,
19 but she is a mere mortal so we will be taking breaks
20 every hour and a half or so to allow her the
21 opportunity to regroup and make sure that all of your
22 comments are recorded in a manner that will make the
23 record as complete as possible.

24 Let me give you a little bit of background
25 about the case and why we're here today.

1 On May 2nd of 1995, the Utility filed an
2 application for increased rates pursuant to Chapter
3 367.081, Florida Statutes. It was designed to
4 generate \$2,591,990 in annual revenues reflecting a
5 22% overall rate increase. The Utility maintained
6 that the rate increases were needed to reflect added
7 investments and expenses, including an expenditure of
8 approximately \$1,600,000 in 1995 to increase the
9 capacity of its wastewater plant.

10 On November 2nd the Commission issued a
11 proposed agency action denying the request in full but
12 approving rates designed to generate \$2,489,487, an
13 increase of about 17% or 18%. However, that order,
14 that proposed agency action of the Commission, was
15 timely protested by Ms. Walla and other customers
16 challenging our finding.

17 So that's why we're here today. We're here
18 to hear the case, we're here to hear the evidence on
19 the issues, we're here to hear from the customers on
20 the issues today.

21 With respect to the procedure that we'll
22 follow today, all of you that have signed up to
23 testify, Jack Shreve, Public Counsel, will be calling
24 your names. And you're to come to the front here to
25 the right, at which point in time you need to state

1 your name and your address for the record. In a few
2 moments I'll ask those of you who wish to testify to
3 stand and I will swear you in.

4 We do that because this is an official part
5 of the record. This is what we will use in making our
6 determination as to quality of service and as to other
7 issues in the case that you might raise.

8 I can't think of any other preliminary
9 matters with respect to procedure that I'd like to
10 discuss during the customer portion of our testimony.

11 For the attorneys, to the extent that there
12 are technical motions that we need to handle or
13 stipulations, we will handle those at the beginning of
14 the technical proceeding.

15 With that in mind, are there any questions
16 before I swear in our witnesses for this morning?
17 Seeing none, all of those who wish to testify before
18 the Commission this morning, if you could please stand
19 and raise your right hand.

20 (Witnesses collectively sworn.)

21 COMMISSIONER JOHNSON: Public Counsel,
22 please call your first witness.

23 MR. SHREVE: Thank you. Mr. Ed Underwood.
24
25

1 ED UNDERWOOD

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

5 MR. SHREVE: If you would, Mr. Underwood,
6 just State your name and address, please, sir.

7 WITNESS UNDERWOOD: Ed Underwood, and my
8 address is 4332 South Bay Circle. It's in the area of
9 the proposed rate increase. Is that it? Okay.

10 I don't have a prepared speech. I have
11 mostly questions, I guess. I certainly believe in
12 private enterprise and I suppose 9% is not a bad
13 return on investment. But, I guess, whenever there's
14 private enterprise that has a monopoly dealing with
15 the public, a Commission such as yours, it's our
16 guardians of the public wheel or whatever. So we have
17 to look to you to be sure that the rate increase is
18 fair and justified.

19 It's apparently a very big increase. And I
20 suspect -- I'm a retired engineer, by the way, a civil
21 engineer, but I never designed a treatment plant,
22 except structurally. I did mostly structural work.

23 But it seems to me, being a resident close
24 by the plant when it was under construction, it took
25 an awful long time to build. My experience in this

1 field is that whenever things take a long time to
2 build they usually go over budget. I wonder -- I have
3 to plead ignorance, I don't know all your -- what your
4 rules are as far as how you check their bills.
5 Obviously, you can have accountants check whatever
6 bills are submitted, but do you have someone that
7 checks whether or not the plant's cost is a reasonable
8 cost? I see you have an engineer on Staff.

9 I would ask that the Commission be sure that
10 they are satisfied that the cost of that plant, which
11 I presume is a big basis for the increase, requested
12 increase, that the cost of that plant is fair and
13 reasonable and not just -- not just legitimate
14 payments by a check, which could be that it was too
15 much in the first place, if I'm making myself clear.
16 If the plant should have cost 1 million and it cost
17 2 million, even though all the bills were paid and the
18 bills were correct, it's still too much money and we
19 shouldn't reward ineffectual management. I'm not
20 saying that's what it is; I'm just saying that it
21 ought to be checked before we are saddled with another
22 increase when we are already -- according to an
23 article in the News Press, local paper, our district,
24 the North Fort Myers District is about the highest --
25 we're already paying the highest in the whole county.

1 I think that's true but --

2 UNIDENTIFIED SPEAKER: In the state.

3 WITNESS UNDERWOOD: In the whole state.

4 Well, whatever. Anyway, our rates are already
5 extremely high. This is not a rich district. This is
6 a middle class district and, apparently, we're paying
7 as though we were a rich district. Now, that doesn't
8 mean that they shouldn't have built the plant if it
9 was polluting the river. However, we have one state
10 agency that says that the effluent of that plant
11 should be so pure that you can drink the water when in
12 reality the water upstream is not nearly so pure.
13 That's a side issue, really, but I just thought I'd
14 throw that in. I'm a long-time resident of Florida
15 and believe in protecting the environment but
16 sometimes I think we get carried away.

17 My main thrust is to please -- to ask the
18 Commission to please be sure that they are satisfied
19 that the costs that the Company wants to get their 9%
20 on are all legitimate costs in the first place and not
21 just by verified payment, but by intelligent estimates
22 of what it should have cost.

23 COMMISSIONER JOHNSON: Mr. Underwood, there
24 was one thing that I forgot to inform our witnesses.
25 After you've testified, if you can sit still for a

1 couple of minutes, there may be questions from the
2 attorneys for the Utility or Public Counsel or Staff
3 attorney or the citizens that are representing
4 themselves. Are there any questions for
5 Mr. Underwood?

6 COMMISSIONER GARCIA: Mr. Underwood, you
7 stated that the plant took too long to build.

8 WITNESS UNDERWOOD: No, I didn't say that.
9 I said it seemed to me, just riding my bicycle, it
10 seemed like it took a long time to build. It wasn't
11 that big a plant. And in my experience in
12 construction, frequently when projects run a long time
13 they cost more money than they are meant to cost.
14 Now, this may be totally legitimate. Certainly I have
15 no basis to think otherwise, because I don't have any
16 information.

17 COMMISSIONER GARCIA: Okay. Thank you.

18 COMMISSIONER JOHNSON: Mr. Underwood, you
19 raised some real good questions with respect to the
20 role that the Commission plays and what should we be
21 doing and what should we analyze. As we sit here as a
22 Commission, you're absolutely right, you're dealing
23 with a monopoly situation. When a government allows a
24 monopoly into the area, you're kind of held hostage
25 unless there was some government intervention. And

1 that is our role. We're here to protect the public
2 interest. And in doing that there's a balancing test.
3 We have to look and we have to make sure that all of
4 the costs were prudently incurred, and I think that's
5 what you're saying, to make sure my engineers, my
6 accountants, my people really look over those records
7 and what has been done and make sure what was done was
8 not exaggerated pricing or anything like that. And we
9 will, indeed, as a part of this case and as a part of
10 all of our cases analyze the information that's
11 presented.

12 Now, this gives -- the PAA process that I
13 mentioned, when we issued our first order, we made
14 certain findings but those findings have been
15 challenged. And there are some issues that, I think,
16 perhaps the citizens was saying, "Maybe something was
17 overlooked; maybe you didn't do something right." And
18 those are the things we're going to be looking at
19 again today. And we are cognizant of the fact that
20 the rates here are stated and that there have been
21 substantial rate increases. We are sensitive to that,
22 and to the extent we can do our balancing and we're
23 trying to protect the public interest, we will do that
24 and we will keep that in mind. I thank you for
25 testifying.

1 WITNESS UNDERWOOD: Thank you very much.

2 MR. SHREVE: Thank you, Mr. Underwood.

3 Mr. Harry Green.

4 - - - - -

5 HARRY GREEN

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

9 WITNESS GREEN: Good morning, everyone. I
10 live at 4443 North Pacific Circle, a customer of
11 Florida Cities Water Company, Waterway Estates plant.

12 COMMISSIONER KIESLING: What's your name?

13 WITNESS GREEN: Harry Green.

14 COMMISSIONER JOHNSON: Is that "Green," with
15 an E?

16 WITNESS GREEN: No, without.

17 COMMISSIONER JOHNSON: Not at the end.

18 WITNESS GREEN: I did prepare something on
19 my hour computer. In our handout it said it had to be
20 in writing.

21 COMMISSIONER KIESLING: You need to talk
22 into the mike because the court reporter can't write
23 down what you're saying if you're not talking into the
24 mike.

25 WITNESS GREEN: In the information I

1 received it said to testify before the Commission
2 you'd have to have it in writing with seven copies;
3 whereas, the information I received at the door said
4 it could be oral with no copies needed. I wish I had
5 known that. I wouldn't have prepared anything.

6 I testified when you had your Staff down at
7 the high school in North Fort Myers back in, I think
8 it was July, and I'd like to read that into the
9 record.

10 MR. GATLIN: May I ask Mr. Green if he has
11 an extra copy that I can have?

12 WITNESS GREEN: Yes, sir. (Hands document
13 to Mr. Gatlin)

14 It's on the second page of the handout. At
15 the bottom it says, "July 26th, 1995, Reasons to
16 oppose the Florida Cities Water proposed rate
17 increases."

18 First, "The increase in plant capacity is,
19 in my opinion, not supported by growth of residential
20 units." And the fact that the Company uses equivalent
21 residential units I don't think is logical, because a
22 lot of those equivalent residential units are public
23 facilities, such as a new school. As I say in the
24 second paragraph, B, "Need for increased plant
25 capacity due to public facilities, such as a new

1 school and low-cost housing projects should be paid
2 for by the governmental bodies that initiated these
3 projects.

4 And, "C. The cost for new capacity
5 requirements due to new developments in the former
6 Moody Farm properties should be absorbed by either the
7 new users or by the Moodys.

8 "D. Florida Cities Water in North Fort
9 Myers has the highest rates of any wastewater
10 treatment plants in the county and without any rate
11 hike and by almost a factor of two over their own
12 plant in South Ft. Myers.

13 And, "E. Florida Cities Water has been able
14 to almost complete the required plant size increase by
15 presumably either borrowing funds or using their own
16 profits. This suggests that the Company can
17 well-afford to absorb these cost and not ask residents
18 with either low or fixed incomes to pay for this."
19 And I wonder how many of the Staff of the Public
20 Service Commission has studied the demographics of the
21 area to see how many retirees and low income folks
22 live in this area.

23 I would like to know the answer to that
24 question eventually because, as the gentlemen just
25 before me said, it's a middle income area. I would

1 say it's a middle to low income area.

2 COMMISSIONER KIESLING: And I'd be happy to
3 answer that. I grew up in Venice right up the road.
4 My mother still lives down here and I'm here probably
5 on a monthly basis.

6 WITNESS GREEN: Venice is a long way from
7 here.

8 COMMISSIONER KIESLING: I'm in this area.

9 WITNESS GREEN: Have you seen the public
10 housing facilities?

11 COMMISSIONER KIESLING: I haven't driven by
12 them, but I know you have them.

13 WITNESS GREEN: Well, I think you should
14 look at this area very closely and see the low income
15 housing that's in the area.

16 Secondly, the upgrade to permit reuse. "A.
17 Is to Florida Cities Water's benefit. In other words,
18 profit. Why should the users have to pay for them to
19 make more money? Florida Cities Water could always
20 pass these costs on to new users, but this might not
21 be too attractive to future developers, so they try to
22 pass them on the least able to hurt them: namely, the
23 residential users.

24 "B. Reuse and, therefore, upgrade would not
25 be needed if the capacity did not have to be

1 increased.

2 "C. Why did Florida Cities Water go ahead
3 with the upgrade, the plant size increase, and piping
4 for resue to the Lochmoor Country Club before the
5 Public Service Commission approved their request for a
6 rate hike?" I don't know if they did that or not.
7 Can anyone answer that?

8 COMMISSIONER JOHNSON: Why did they go ahead
9 and put in the capital improvements?

10 WITNESS GREEN: Expenditure before the rate
11 hike was considered.

12 COMMISSIONER JOHNSON: I think that's
13 generally the modus operandi of -- what happens, I
14 would assume that they were, according to some of the
15 testimony that I think we will hear, that there are
16 certain DEP requirements that they had to meet with
17 respect to the capacity of their plants and they make
18 these expenditures but they still -- it's still at the
19 risk of us saying that they weren't prudent or they
20 shouldn't have made the investments, so they kind of
21 make them at their own risk. And that should be some
22 of their incentive to be reasonable. But to the
23 extent that we find that these expenditures weren't
24 reasonable, we'll deny it.

25 WITNESS GREEN: All right. Then, lastly, on

1 this presentation, it says, "The Florida Cities Water
2 Company has been a poor neighbor in that they only
3 improve their facility as a result of challenges or
4 complaints by agencies or businesses, and sometimes
5 the neighbors in the area. When we first moved here
6 they were dumping stinking sewage into a canal and
7 didn't improve until forced to, and the residents are
8 paying for that upgrade, even though Florida Cities
9 Water should not have been operating in that way to
10 begin with."

11 As I said, I presented this on July 26th,
12 1995. And today I just summarized what I said back
13 then.

14 "April 24th, 1996. To the Public Service
15 Commission, Re: Rate Increases for Florida Cities
16 Water Company, Waterway Estate wastewater treatment
17 plant.

18 Has the need for the increase in plant
19 capacity resulted from the addition of public
20 facilities, such as a new school and new low income
21 housing projects? If so, have the governmental
22 entities responsible for the facilities paid impact
23 fees? If not, why not? Just because they are public
24 does not seem to me that they should not have to pay
25 these fees. If they paid them, were the fees used to

1 help defray the costs of enlarging the wastewater
2 treatment plant? It would seem that the repayment of
3 the impact fees should have been spread out over the
4 whole county or state rather than a small population
5 that the wastewater treatment plant serves. I would
6 appreciate knowing the answer to this question or at
7 least learning how I can find the answer. Thank you.
8 Harry Green."

9 COMMISSIONER JOHNSON: Thank you, Mr. Green.
10 Any questions for Mr. Green?

11 MR. GATLIN: No questions.

12 MR. SHREVE: No questions. Thank you, Mr.
13 Green.

14 COMMISSIONER JOHNSON: Staff, he did have a
15 pending question with respect to the impact fees and
16 what governmental entity is responsible for the
17 facilities paying impact fees. Do we have any answers
18 or do we know where we could perhaps help him research
19 that particular issue? Mr. Walden.

20 MR. WALDEN: Let me get with him off the
21 record.

22 MR. WALDEN: Why couldn't we speak on the
23 record, please?

24 UNIDENTIFIED SPEAKER: I'd like to hear it.

25 COMMISSIONER JOHNSON: Hold up one second.

1 To the extent that we're in a position now that we can
2 answer that question thoroughly, then we'll attempt to
3 do that, but I don't understand -- do we perhaps need
4 more time to research it or are you in a position to
5 respond?

6 MR. JAEGER: Mr. Walden is not a witness,
7 and so he would be testifying, I think is part of the
8 problem. He's afraid that -- you know, he's not
9 listed as a witness and so anything he would be saying
10 would be not prefiled testimony.

11 WITNESS GREEN: He's part of your Staff,
12 though.

13 MR. SHREVE: Commissioner, I would agree
14 with your view of this that the customers are here to
15 try to hear whatever answer they can. If it's not
16 available, okay, but I agree with your interpretation
17 that if Mr. Walden has the answer he should give it
18 now, if not --

19 MR. JAEGER: Mr. Walden, I believe, can
20 answer that question.

21 COMMISSIONER JOHNSON: Okay. I'm using this
22 as just Staff providing a customer with responses to a
23 question that was asked during this proceeding. To
24 the extent the Utility feels they have been
25 prejudiced, we'll handle that at that point in time.

1 MR. GATLIN: Fine.

2 MR. WALDEN: In answer, Mr. Green, to your
3 question about the plant capacity charges and who pays
4 them. Every new customer that comes on line on this
5 system and any other system that the Commission
6 regulates, they pay the appropriate impact fees at the
7 time they connect.

8 This particular plant, the Waterway Estates
9 plant, had a significant increase in plant capacity
10 fees last year. I don't specifically remember the
11 date, but I believe it was in August or September.
12 And I believe that the connection fee now is about
13 \$2,300. Is that right? We worked together on it, and
14 I didn't remember exactly the cost. But the major
15 point is that all new customers pay the impact fee
16 when they connect at the time that connection is made.

17 WITNESS GREEN: I think my question was with
18 respect to the public entities, like the new school
19 and the low income housing project that came on line.

20 MR. WALDEN: They are treated no differently
21 than any other customer on the system. It doesn't
22 matter if they are -- for instance, the school, it's a
23 government entity. They pay the same impact fee just
24 as if they were a private business or any other
25 general service or commercial customer. The same

1 would apply to the housing project. They would pay an
2 impact fee based upon the flows that they will
3 contribute to the wastewater system. The same would
4 apply to the water system, they pay impact fees for
5 those, also.

6 WITNESS GREEN: Would we have that figure
7 available sometime today as to how much the county
8 paid for the new elementary school? And I don't know
9 who is responsible for the low cost housing project,
10 whether that's a county or state facility, I don't
11 know. Would those fees be available?

12 MR. WALDEN: I don't believe they would be
13 available today. But what we would do as Staff is we
14 would get that information from the Company. And I
15 don't know if I can get it today or tomorrow, but let
16 me see what I can do. I'll be glad to provide that
17 information to you as soon as I can get it.

18 WITNESS GREEN: Thank you.

19 COMMISSIONER JOHNSON: Thank you very much.
20 I appreciate your written comments. In fact, they
21 weren't done in vain. What we will do is insert those
22 into the correspondence side of the record and we also
23 have your recitation in the record itself.

24 WITNESS GREEN: Thank you.

25 COMMISSIONER JOHNSON: Thank you. Next

1 witness.

2 MR. SHREVE: Thank you, Mr. Green.

3 Mr. Smith, Bernard Smith.

4 - - - - -

5 **BERNARD SMITH**

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

9 WITNESS SMITH: Good morning. That's
10 B-E-R-N-A-R-D, Smith. I reside at 2069 West Lakeview
11 Boulevard, North Fort Myers, and I have been a Florida
12 resident -- it will soon be 12 years.

13 I previously testified at the high school,
14 at that meeting. And the subject matter today is
15 something different, because since this protest was
16 made I have been privy to all the records, all of the
17 input, some 40 or 50 pounds of correspondence that
18 came from the Commission, Public Counsel and Florida
19 Cities Water. And I'm sort of overwhelmed to be in a
20 group like this. There's a lot of talent in this
21 room, a lot of expertise.

22 Most recently there was a phone conversation
23 and a prehearing meeting at which Commissioner
24 Garcia -- and I want to commend him the way that was
25 held, and it seems like we're going to have the same

1 procedure. It's going to be orderly and you can say
2 and be questioned on the statements that you make.

3 But back in 1940 -- I'm formerly from
4 Indianapolis, Indiana. In 1940, prior to the war, two
5 gentlemen decided to build a petroleum refinery. They
6 came from Kansas and -- I can't think where the
7 other -- Colorado. In the northwest corner of
8 Indianapolis, right on the borderline of the county.
9 They permitted it because it was a railroad, and they
10 built a 5,000-barrel refinery. And the name of that
11 refinery was Rock Island Refinery Corporation.

12 I worked on construction at that time in the
13 summer and we all know what happened December 7th of
14 1941. And when December 7th come along, on Monday,
15 December the 8th, with my parents' consent I joined
16 the U. S. Navy. I'm giving you a little background.
17 And the next three years I spent on the west side of
18 the international dateline out in that lovely country
19 called Guadalcanal, Saipan, and I was in navigation.

20 In navigation I was associated with the
21 engineering department, ordinance people. I learned
22 about sonar, radar, and all of that. So I put that
23 behind me and -- before we got to Okinawa, the vessel
24 I was on was deemed unseaworthy to take care of
25 typhoons and they didn't say anything about Kamikazes.

1 But then we were dispatched back to the states.
2 Before getting there, I was transferred in Pearl
3 Harbor to serve as an honor guard on the USS Okalahoma
4 and I consider that a distinct honor. It's an awesome
5 thing to be on a ship that had been sunk by the enemy
6 in the harbor and we were anchored just before the USS
7 Arizona. So every morning we raised the colors on the
8 Oklahoma and they also raised those on the Airzona.

9 Getting down to the case in fact, I came
10 back to the refinery -- well, I left out a tour that I
11 spent in the Mediterranean. I spent the balance of my
12 career in the Mediterranean, and I got to see all of
13 North Africa, Italy and those countries. It's not
14 pertinent to this except I did see the ruins in
15 Pompey.

16 If you go back in history, the government,
17 the leaders, and grant you with slave labor, provided
18 water to everybody. Water is a crucial thing in Lee
19 County and that's what I want to get to.

20 They were able to use this slave labor to
21 give water to the homes and the affluent people had
22 heaters, they could have their baths. The slave
23 laborers came down to the square, and if you have been
24 there you know what I'm talking about, water was
25 provided and they could get a bucket and get water.

1 We're almost in that situation in Southwest Florida.

2 So I get back -- I went back to the refinery
3 and I said I worked on construction and the comment
4 was "We're not hiring. We're firing. We're
5 discharging people. We don't need that many people."
6 And my background was in chemistry. "But we have an
7 opening in the chemist department." I went into
8 chemistry and after chemistry the company came to
9 me -- and by chemistry, in a petroleum refinery --
10 maybe some people formerly worked in one it's quite
11 interesting. At that time we were letting gasoline
12 and I was responsible for that. I run the NOX
13 machines, and there were two types of NOX machines. I
14 want to get off my careers.

15 But after spending about five years in the
16 laboratory and doing analysis for the company and
17 determining how much lead to put gasoline in, the
18 company came to me and said, "We'd like to move you
19 over to electrical and instrumentation." I said, "I
20 have no background in that." "It doesn't make any
21 difference."

22 So they said, "We will take you into
23 management if you decide to go." So I went. It was a
24 pleasant increase. The first thing I signed, though,
25 when I went to management was a clause that so many of

1 you have signed, that if you invent something or make
2 a modification, all of that belongs to the company.
3 Well, that was one mistake I made, but that's neither
4 here nor there.

5 Petroleum refining takes a lot of water
6 because you generate heat. And I'm familiar with
7 water treatment and sewage disposal and it gets pretty
8 complicated.

9 But to end this I will tell you that I
10 worked for the same importer 39 years and nine months.
11 The reason I didn't go to 40, I said, "I'm going to go
12 to Florida and smell the roses. It's time to take
13 time out." If you want to know about refining, I'll
14 talk about that.

15 I came to Florida and ready to smell the
16 roses. And the first thing I run into was a developer
17 that had built facilities and he didn't fund them. He
18 took the money for the sales and in 1987 we, as a
19 group, and president of the association, I filed a
20 complaint with the State of Florida. And the
21 Commissioners here -- that's the Bureau of Land
22 Development, etcetera, etcetera. It took 14 months to
23 bring this developer to task. And I had filed five
24 violations. The state took over and increased those
25 violations to 11. They found discrepancies that I was

1 totally unaware of. And at the end of 14 months this
2 developer was punished. By punishment he was fined
3 \$5,000 on all 11 accounts. And the end result was the
4 attorney for the developer said -- was asked, "Why did
5 you commingle the monies from the corporation, your
6 corporation, and the owner's corporation?" And the
7 answer -- and I have a witness what the answer was,
8 "Pure stupidity."

9 I don't see any stupidity here because I
10 challenge -- as I mentioned, I've read every piece of
11 literature and I've gone back over everything that has
12 transpired. If the general public knew the
13 significance of a rate case and all of the
14 complexities of it, it would boggle their mind.
15 People don't want to know those things. And I commend
16 you having this meeting, because only in America we,
17 as lay people, could come here and there's a lot of
18 places in this world that we -- we wouldn't be
19 beheaded, we might be shipped off somewhere.

20 But I do have one disagreement. I've read
21 the histories of past cases, and your Commission
22 doesn't have a good track record. And this can be
23 borne out that in cases, the two cases, most recent
24 cases I read, was the one that affected down in Golden
25 Gate with Florida Cities Water, and the '92 rate case

1 here. If I'm not mistaken -- I do have 20/20 vision
2 with my glasses on -- the Florida Cities Water Company
3 was granted more money than what they originally asked
4 for. And the reason I discern that was that they
5 didn't do their homework. They did not do their
6 homework. They didn't get all of the things in the
7 proper categories. And out of fairness the
8 Commissioners said, "Well, you made a boo-boo here,
9 okay." And when it was all compiled that's how we got
10 the rate increase.

11 The other thing I'd like to address this
12 morning. There's two people -- two ladies here that I
13 won't say singled out, but they have been the original
14 petitioners. And I'd like to call them Joan of Arc,
15 but they are sitting back there, Cheryl Walla and
16 her -- Jerilyn Victor. They have both testified
17 previously. It takes courage to do what those two
18 ladies did.

19 Cheryl has a family. She has two children.
20 And she's taken time away from her family and her
21 husband. And she is not public -- she's went to the
22 forefront for the people here that are customers, and
23 I think she should be commended. And if Lee County
24 was going to give an award for -- a golden apple for
25 being that away, those two deserve it.

1 Okay. I have before me -- and I'll give it
2 to you if you would like to have it. I have an
3 excerpt from the Lee Business Digest dated January,
4 1996. And the subject matter here is "Water: Do We
5 Face A Crisis?" It doesn't give a specific date.
6 Robert Buker, Senior Vice President of the United
7 States Sugar Corporation, attended. Bill Hammond, an
8 environmentalist, past director of South Florida Water
9 Management. Kurt Harclerod, he was Senior Public
10 Communication Officer, South Florida Management
11 District, Lee County Commissioner Ray Juda was there,
12 District 8. Steven Lang, Customer Service for ST
13 Environmental Services, and he's currently running the
14 Lee County Utilities. Henry Jack McCoy, professional
15 geologist, and James W. Moore, Gulf Utility Company.
16 And why I'm concerned, not for myself -- I soon will
17 be 72 years old -- I'm concerned for my neighbors, my
18 friends, the environment, my people in my church, my
19 children, my grandchildren and my great grandchildren.
20 They all have indicated that they, too, would like the
21 Florida environment and they would like to be here.
22 And it's a proven fact that we have plenty of water.
23 But how long are we going to have affordable water?
24 In the states here people are not going to
25 like it when their water bills are as high as their

1 electric bills. Well, those in Waterway Estates are
2 rapidly approaching that dilemma.

3 The proven fact, and testimony of these
4 learned gentlemen, is that 50% of the water goes to
5 irrigation. And what we're going to end up here is to
6 treat lower quality water through reverse osmosis, and
7 there are plants in doing that. Currently, Cape Coral
8 is doing that. It was suggested in the negotiations
9 for the water company with Cape Coral that if we would
10 supply the city of Cape Coral to help with their
11 canals, that they would take our reuse water and in
12 turn send back potable water back to our area here.
13 We don't want their water. If you've tried it, you
14 won't like it. Having been in the Navy I drank
15 seawater for four years and it isn't the best.

16 COMMISSIONER JOHNSON: Mr. Smith. I'm up
17 front here. I apologize for cutting you off.

18 What we generally do in these proceedings is
19 we don't put a time limit on our customers that
20 testify, but I'm noticing the audience and they are
21 getting a little fidgety here, and we like for our
22 customers to be courteous, that there are lots of
23 people that want to testify and they have other things
24 to do today. To the extent that you can wrap it up,
25 that would be fine. But if you'd like to save some of

1 your comments for after everyone else has finished, to
2 give them their turn to come up and speak, that would
3 probably be appreciated. Or if you have written
4 comments, we can put those in the record, also.

5 WITNESS SMITH: I'd be happy to submit this
6 then.

7 COMMISSIONER JOHNSON: That would be grerat.

8 WITNESS SMITH: There are some misnomers in
9 this. The experts are saying that Lee County is
10 sitting on a marsh. And certainly when we had 10.5
11 inches of rain here in two days, we would tend to
12 believe that. But that's not necessarily true.
13 Because If you do soil borings, and I have been
14 experiencing that with building this church, five feet
15 down we're sitting on rock, hard rock.

16 So, I guess, what I'm trying to say is that
17 previously I had mentioned that -- about the people
18 that I live with. And we have one lady, and she was
19 born and raised in Moore Haven.

20 UNIDENTIFIED SPEAKER: Are you from the
21 water company or for the public?

22 COMMISSIONER JOHNSON: Ma'am, we can't
23 receive questions from the audience. The court
24 reporter would have on hard time trying to keep track
25 of that and we do want to keep the record clear for

1 purposes of this process. But if you have a question,
2 if you want to field that through Mr. Shreve, you
3 could do that. I understand that the witness is
4 attempting to wrap this up, and I understand and
5 appreciate your patience. And, Mr. Smith, if you
6 could be cognizant of the concerns of the rest of the
7 group, we'd appreciate it.

8 WITNESS SMITH: I'd like to submit this to
9 the Commission.

10 COMMISSIONER JOHNSON: Thank you.

11 WITNESS SMITH: The point is that -- in 1995
12 we are not on a calendar fiscal year, or -- our fiscal
13 year is March 1 to February 28th. In the year of '95
14 to '96 we budgeted and paid Florida Cities Water
15 \$14,700.

16 COMMISSIONER GARCIA: Is this you or your
17 -- I'm sorry.

18 WITNESS SMITH: No, this is a complex of 32
19 units.

20 COMMISSIONER GARCIA: Thank you.

21 WITNESS SMITH: March 1, '96 to '97 is the
22 new budget. We have budgeted \$1,440 a month and that
23 would amount to \$17,280. But the March and April
24 bills have now exceeded \$1,500 a month.

25 What I would like to say to the audience,

1 we're attacking that problem the only way that we know
2 any recourse based on what is going to happen here
3 today and tomorrow. We have attacked the problems of
4 going to the toilets and we have installed dams to
5 conserve water. That's the old operation of putting a
6 brick in, but this is a new feature supplied -- we
7 purchased those from a company called Tramco, and we
8 hope to reduce 20% every time any one of those toilets
9 is flushed.

10 COMMISSIONER JOHNSON: Thank you very much.

11 WITNESS SMITH: Thank you.

12 COMMISSIONER JOHNSON: Pass that document
13 over to the court reporter. We'll have that submitted
14 in the correspondence portion of the record. Thank
15 you very much, Mr. Smith.

16 MR. SHREVE: Thank you, Mr. Smith.

17 Mr. John Handlin.

18 - - - - -

19 **JOHN HANDLIN**

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

23 WITNESS HANDLIN: My name is John Handlin,
24 H-A-N-D-L-I-N. I live at 1201 Barrett Road, North
25 Fort Myers.

1 Most of my questions have been asked by
2 previous witnesses. The only thing I have to say is
3 if I'm going to pay New York prices, I'd like to have
4 New York quality. I don't have New York quality.
5 Most of the water that comes into my condo is not fit
6 to drink, no less do your laundry in.

7 COMMISSIONER JOHNSON: Could you explain
8 some of the problems that you, because --

9 WITNESS HANDLIN: Discoloration of water
10 during the rainy season and the bad taste after the
11 rainy season in the water.

12 COMMISSIONER GARCIA: It's specifically
13 during the rainy season?

14 WITNESS HANDLIN: Yes, mostly in the rainy
15 season. And I do resent having to pay an awful lot of
16 money for water that you can't use.

17 COMMISSIONER GARCIA: Can I just ask you a
18 question?

19 WITNESS HANDLIN: You certainly can.

20 COMMISSIONER GARCIA: Are you from New York?

21 WITNESS HANDLIN: Yes, I am.

22 COMMISSIONER GARCIA: And your water expense
23 there was very high also, or higher than here?

24 WITNESS HANDLIN: Yes, it was high, but I
25 got quality product. I don't get quality product.

1 COMMISSIONER GARCIA: Thank you.

2 COMMISSIONER KIESLING: Mr. Handlin, this
3 case is a wastewater rate case. Do you have any
4 comments or concerns about your wastewater?

5 WITNESS HANDLIN: No, I don't.

6 COMMISSIONER KIESLING: Thank you.

7 WITNESS HANDLIN: That's all I have to say.

8 COMMISSIONER JOHNSON: Thank you, sir. One
9 of the issues -- that was an excellent point raised by
10 Commissioner Kiesling, that the case and the rates
11 that are in question before us today are the
12 wastewater rates. But to the extent there are quality
13 of service issues that you may have in general, that's
14 fine, we'd like to hear those. But more specifically
15 the case today and we wanted you to all understand
16 that we are considering the wastewater rates for the
17 particular utility today.

18 Again, for those of you in the audience
19 another issue that Mr. Handlin raised was that he
20 adopted a lot of the questions and comments made by
21 the previous witnesses. To the extent that you don't
22 want to testify but you want that noted on the record,
23 you can just stand and say that you adopt the comments
24 of and state the specific witness or state -- just
25 adopt the comments that have been stated before you

1 and that will be sufficient for purposes of our
2 record.

3 COMMISSIONER GARCIA: Mr. Handlin, you can
4 speak with our engineer about that problem you're
5 having, just tell them what is going on and they will
6 investigate it.

7 WITNESS HANDLIN: Okay.

8 COMMISSIONER GARCIA: Thank you.

9 MR. SHREVE: Thank you, sir.

10 Bernice Conner.

11 **BERNICE CONNER**

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

15 WITNESS CONNER: My name is Bernice Conner,
16 4646 Rockwood Circle, North Fort Myers, a customer of
17 Florida Cities Water.

18 My question has only to do with water. What
19 I want to say is that in December of 1995 a letter
20 came and told us that the proposed final rates for the
21 water would be 5.15 for the water based facility
22 charge. Every bill I've gotten since January, that
23 charge is \$6.15, and I would like to know why the
24 difference?

25 COMMISSIONER JOHNSON: Staff, is anyone

1 aware of that particular problem? Is there something
2 we can explain to her now? And, if not, then I'd like
3 to have someone on Staff meet with Ms. Conner
4 afterwards, and maybe review her bills and help her
5 through that issue.

6 MS. GALLOWAY: We'll be are happy to do
7 that.

8 COMMISSIONER JOHNSON: Cissy, the lady here,
9 will meet with you, Ms. Conner, and try to -- and
10 actually review your bills and try to see if we can
11 explain that discrepancy.

12 WITNESS CONNER: Okay. Thank you.

13 COMMISSIONER JOHNSON: Thank you very much.
14 We'll get with you before you leave here today.

15 MR. SHREVE: Thank you.

16 Mr. James Theet.

17 - - - - -

18 **JAMES THEET**

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

22 WITNESS THEET: Good morning. I'm James
23 Theet, T-H-E-E-T, and I live at 1055 Palm Avenue.

24 COMMISSIONER JOHNSON: I'm sorry, what was
25 that again, T-H-E?

1 WITNESS THEET: E-E-T, 1055 Palm Avenue,
2 North Fort Myers, and I'm here wearing two hats.
3 First, as a condominium owner paying my own water
4 bills, and I'm also president of our condo association
5 for Marina Town Village.

6 Most everything that has been stated
7 already, of course, has been on my mind. I would like
8 to mention that in more recent history, personally
9 about four years ago we were paying, my wife and I,
10 about an average of \$22 per month for water rates,
11 including sewer treatment, obviously. And that is
12 now, 1996, relatively \$50 to \$60 each month. And oh,
13 speaking with the residents, tenants in our units, we
14 have 28 in our complex, and we actually have some that
15 are averaging between \$80 and \$90 for two or three
16 person occupants.

17 I don't know. I just thought I'd bring this
18 up for consideration. It seems like a tremendous
19 amount of increase on an individual basis. Impact
20 fees were brought up. I would hope that's always a
21 consideration to help keep costs down. I would ask
22 that management of the water company would keep that
23 in mind so that individuals are not swamped with these
24 ever increasing costs.

25 Just briefly reviewing my own statement, I

1 think I'm an average \$50 to \$60 bill; \$89 is about
2 what actual water usage is and the rest is sewer
3 treatment which just doesn't seem right to me. I'm not
4 technically involved in that kind of thing, just on a
5 day-to-day basis you just see this. I hope the Public
6 Service Commission would consider that when they make
7 their decisions. I guess that's all I have to say
8 right now.

9 COMMISSIONER JOHNSON: Any questions?

10 MR. GATLIN: No questions.

11 MR. SHREVE: Thank you, sir.

12 COMMISSIONER JOHNSON: I have one question
13 for you. Is this the same facility where Mr. Smith
14 lives?

15 WITNESS THEET: No. I don't know Mr. Smith.

16 COMMISSIONER JOHNSON: Okay. So you all
17 aren't master metered; your each individually metered?

18 WITNESS THEET: Yes.

19 COMMISSIONER JOHNSON: And what was the name
20 of your --

21 WITNESS THEET: That's Marina Town Village
22 Condominiums.

23 COMMISSIONER JOHNSON: Thank you very much.

24 WITNESS THEET: Certainly. Thank you.

25 MR. SHREVE: Thank you, sir.

1 Lucille Ebie.

2

- - - - -

3

LUCILLE EBIE

4

was called as a witness on behalf of the Citizens of

5

the State of Florida and, having been duly sworn,

6

testified as follows:

7

WITNESS EBIE: I'm Lucille Ebie from 5965

8

Sonnet Court, North Fort Myers, and I have a few

9

questions here.

10

They were always saying they had to have

11

more money for their wastewater because they were

12

getting more water in than they are using, and I'll

13

tell you why it is. It's because sewer lines have

14

been broken, have holes in and that was leaking water

15

for surface waters going through. Because I had a

16

couple of different holes in my lot and the

17

water/sewer line goes from the manhole in front of my

18

house to the manhole on the next street behind me, and

19

that was going through there and I was losing ground.

20

All my lot was going down through there and I kept

21

trying to fill those holes and I couldn't do it.

22

Finally, it was so spongy I was falling in the hole

23

and scared the children that come would be falling in

24

and breaking a leg. And the neighbor man kept saying

25

that's where the line goes through the sewer.

1 So I got ahold of Florida Cities Water
2 before Thanksgiving. And they didn't want to do
3 anything. Finally they said "Well, -- I told them
4 there will be children around Thanksgiving time,
5 please come out and do something. So they come out
6 and put three stakes up and put some orange coloring
7 around it, orange paper. Then they ended and they
8 said, "We'll be out and check it out." Well, I said,
9 "I'm losing land and I need some replacement whenever
10 you get it fixed." Well, they finally sent one person
11 out looking, then they sent somebody else out to come
12 that was supposed to have run, as I understood, an
13 x-ray machine to go through the pipe and see where the
14 holes were and what they could do. And they told me
15 they could take and put a liner in, blow it up and
16 make it seal and fix it. Well, about every once a
17 month somebody would come out after February and they
18 would mess around out there on the street for quite a
19 long time. And then I'd say, "Are you doing any good?
20 Are you getting it repaired?" They couldn't give me
21 an answer. So they kept coming and it was twice now,
22 the last two months that they were out and the guy
23 said, "Yeah, we're working at it." So whether they
24 ever got it fixed I don't know. I never got a
25 replacement of dirt or anything. But that's where a

1 lot of their extra water was coming from, not from the
2 people using the water. It was coming from surface
3 and going through their sewer line and that's why they
4 had that much to redo.

5 Then they also talked about taking and
6 selling their wastewater, what goes through, to the
7 golf courses or, you know, to donate it to them for
8 watering their lawns. Well, if they water the golf
9 courses with that they should get paid for that
10 instead of us paying for all of that recycling. To me
11 that should be up to the golf courses to pay for that.

12 And then a lot of people are in the same
13 position I am. One person, living alone can't keep up
14 with all of these utility bills going up; especially
15 water is getting higher than electric as somebody else
16 stated. Not only that, it's a hardship for people
17 that have children, too. But It seems like it takes
18 too long for them to do anything for the money that
19 they are charging. Just like fixing that sewer line,
20 if it took from before Thanksgiving until now, and I
21 still don't know if it's repaired, that's too long to
22 wait. And it's then negligent on their part. That's
23 costing them money that we shouldn't be paying for.
24 And, also, they always wanted us to pay for the
25 interest on the money that they were making, which I

1 don't think was proper either.

2 They're going to end up putting everybody on
3 welfare and then where are we going to be? But people
4 don't mind paying for what they are using if they can
5 afford it. But when it gets to where you can't afford
6 it, that's pretty bad.

7 But my water has been good. I can't
8 complain about tasty water or anything like that. My
9 water has been good. I have no complaint on that. I
10 thank you very much.

11 COMMISSIONER JOHNSON: Any questions?

12 MR. GATLIN: Yes. Would you repeat your
13 last name, please?

14 WITNESS EBIE: E-B-I-E, Ebie.

15 COMMISSIONER KIESLING: I just would like to
16 know if we could get someone from our Staff to just
17 follow up on her problem, make sure that the Company
18 has repaired the -- if it is a company problem, then,
19 you know, repair it in her backyard and fill it up
20 with dirt and -- Mr. Walden, will you get with her?

21 MR. WALDEN: Yes.

22 COMMISSIONER KIESLING: And make sure our
23 engineering department follows up. Thank you.

24 COMMISSIONER GARCIA: Are you getting any
25 odor from there, just out curiosity, from those holes?

1 WITNESS EBIE: From the plant. See, I'm
2 only two streets away from the plant and I do get an
3 odor once in a while from that. I think that's where
4 it's coming from. But other than that, our water has
5 not been bad and hasn't been tasty on my street.

6 COMMISSIONER GARCIA: Okay. Thank you.

7 COMMISSIONER JOHNSON: You said that they
8 came in and they have --

9 WITNESS EBIE: They had men that go all
10 around the state to do this type of repair. I talked
11 to the gentlemen that were on the truck that does
12 water/sewer repairs. They were out there and they run
13 things down through that line. And, apparently, they
14 were taking x-rays to see where the holes were. And
15 then they said later they put something through there
16 and then they were running a lot of water through.
17 And I figured the way they explained it to me, it blew
18 it up and made it so it would stick to the outside of
19 the pipe. It was cheaper than digging up the pipe and
20 working on it. But as long as it took them and as
21 many times as they have been there it would have been
22 cheaper to dig it up and put in new pipe. I mean,
23 they are paying outsiders to do that. It's not their
24 own water men. The way I understood, these were hired
25 from outside to do that. So there they wasted a lot

1 of money, where if they had had their own men they
2 could have went in there dug that line up, put a new
3 line down and, boom, it would have been fixed.

4 COMMISSIONER GARCIA: So it's been actually
5 fixed, then?

6 WITNESS EBIE: I don't know if it's fixed or
7 not, I couldn't get no answers. When I called before
8 she said they'd get it, but I never could get any
9 satisfaction.

10 MR. GATLIN: What's the name of your street?

11 WITNESS EBIE: It's Sonnet Court.

12 COMMISSIONER JOHNSON: Any other questions
13 for Ms. Ebie?

14 WITNESS EBIE: Ebie.

15 COMMISSIONER JOHNSON: Thank you very much
16 and we'll have Staff follow up on that issue.

17 WITNESS EBIE: Okay. Appreciate that.

18 MR. SHREVE: Thank you. Mary Funk.

19

20

21

22

23

24

25

1 Now, I don't understand exactly what that
2 water based facility and sewer based facility is
3 because I thought when lines were installed the owners
4 had to pay for those right there, so what are those
5 two charges for?

6 COMMISSIONER JOHNSON: Staff, could you --
7 they may not understand the question. But if you
8 could repeat.

9 WITNESS FUNK: On this bill, water base
10 facility charge, 6.15, sewer base facility charge
11 28.56. What is that for? I thought everybody when
12 the lines were first put down had to pay so much a
13 foot to have the water safe. Are we still paying for
14 those lines?

15 MS. GALLOWAY: No, ma'am. Ms. Funk, you're
16 base facility charge pays for the fixed cost of
17 running the utility.

18 WITNESS FUNK: Pays for what?

19 MS. GALLOWAY: The fixed cost for running
20 the utility and your gallonage charge pays for the
21 variable cost. It sounds like you may be confusing
22 the two with your impact fees. Those are separate and
23 apart and not included in your bill that you're
24 receiving.

25 WITNESS FUNK: I still don't understand why

1 it is.

2 And if they are using that money to enlarge
3 that plant on St. Clair Avenue, that's a residential
4 area, and the trucks go by my house all day and early.
5 There was a truck there before 6:00 this morning
6 waking you up, and they have been there as late as
7 9:00 at night, besides all the other cars going back
8 and forth. And I don't think they should allow in a
9 residential district to make more building. Thank
10 you.

11 COMMISSIONER JOHNSON: Any other questions?

12 MR. GATLIN: No questions.

13 COMMISSIONER JOHNSON: Ms. Funk, to the
14 extent you didn't understand, perhaps you could meet
15 with Staff afterwards and we'll try to walk through
16 that bill with you and help you understand why you
17 have that base facility charge and exactly what that
18 charge means. You may still not agree with it.

19 WITNESS FUNK: I don't think hardly anybody
20 knows why.

21 MR. JAEGER: Commissioner Johnson, could I
22 ask a question? I want to make sure. You said a bill
23 for \$51, and is that water and wastewater?

24 WITNESS FUNK: My water I used \$6.30 worth
25 of water and my bill was 51.31.

1 MR. JAEGER: Is that water and --

2 COMMISSIONER JOHNSON: Make sure you speak
3 into the microphone.

4 COMMISSIONER KIESLING: Why don't you sit
5 back down? Thank you.

6 WITNESS FUNK: I used \$6.30 worth of water
7 and my bill is 51.31. That's \$45 just to use \$6 worth
8 of water. And then they are wanting to raise it.

9 MR. JAEGER: That's water and wastewater?

10 WITNESS FUNK: No. My total bill was 51.31.
11 I only used \$6.31 worth of water and now they are
12 wanting to raise that.

13 MR. JAEGER: Thank you.

14 WITNESS FUNK: Thank you.

15 COMMISSIONER JOHNSON: Next customer.

16 MR. McLEAN: Ms. Carole Mills, please.

17 - - - - -

18 **CAROLE MILLS**

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

22 WITNESS MILLS: Hello. My name is Carole
23 Mills, and I live at 5929 Poetry Court, directly
24 behind the water department.

25 For a couple of years now, early in the

1 morning, the water would come gushing up from the
2 tanks, and it would wake me up at 5:00. So sometimes
3 I'll ride my bike up there and this water is gushing
4 out of the tanks. And this has been happening for a
5 couple of years, maybe two or three times a month.

6 COMMISSIONER GARCIA: Ms. Mills, what tanks?

7 WITNESS MILLS: The big water tanks at the
8 water department, behind the farm store on St. Clair.

9 COMMISSIONER GARCIA: I haven't been to the
10 farm store in St. Clair.

11 WITNESS MILLS: Okay. It's directly behind
12 the water department.

13 COMMISSIONER KIESLING: Let me just try to
14 clear. Is it the sewage treatment plant or is it
15 where the water comes from that you drink?

16 WITNESS MILLS: Where the water comes from
17 that we drink.

18 COMMISSIONER GARCIA: Okay.

19 WITNESS MILLS: And so --

20 COMMISSIONER GARCIA: And you called it the
21 water department?

22 WITNESS MILLS: Yeah, it's the water waste
23 facility on St. Clair, I guess.

24 COMMISSIONER GARCIA: Okay. Go ahead.

25 WITNESS MILLS: So one morning about five, I

1 got my camera and took pictures of all of this
2 wastewater coming out of the tanks but, of course,
3 they didn't come out.

4 COMMISSIONER GARCIA: Seems to always been
5 the case when you really need the picture.

6 WITNESS MILLS: Right. It really angered
7 me, so I went up there and I talked to the fellow that
8 was working there. And I said, "What is all this
9 water gushing out of these tanks. We're paying
10 high rates." And he said, "The tanks don't have the
11 capacity to hold all the water." And the whole area
12 is flooded.

13 COMMISSIONER GARCIA: So it's dirty water
14 that's coming in --

15 WITNESS MILLS: No, it's clean water.

16 COMMISSIONER GARCIA: Okay.

17 WITNESS MILLS: He says, "The tanks don't
18 have the capacity to hold all that water." And I
19 said, "And we're paying high rates because of this."

20 COMMISSIONER GARCIA: Is that it?

21 WITNESS MILLS: No, I think it's terrible
22 the way the rates are.

23 COMMISSIONER GARCIA: No, no. I was just
24 going to suggest that you speak to our engineers and
25 that will be a formal filing of a complaint and we can

1 take a look at what that problem is and see what it is
2 and see if we can take care of it.

3 MS. WALLA: I have a question.

4 COMMISSIONER JOHNSON: Ms. Mills, it looks
5 as if Ms. Walla has a question for you.

6 CROSS EXAMINATION

7 BY MS. WALLA:

8 Q That's the water treatment plant by the farm
9 shop right there

10 A Right.

11 Q And you say the water was gushing. Now, how
12 long has that been going on?

13 A It's been going on four or five years or
14 longer. But once I went over and complained about it
15 they told me I would have to call Tallahassee.

16 COMMISSIONER JOHNSON: Make sure your speak
17 into the microphone.

18 WITNESS MILLS: Oh, okay.

19 Q (By Ms. Walla) Okay. When you called
20 someone did you talk to Florida Cities Water?

21 A I never called. I went up to the water
22 department and talked to the gentleman that works
23 there.

24 Q Oh, at the plant itself?

25 A Uh-huh. But then once I complained.

1 about it --

2 Q It stopped.

3 A -- it stopped.

4 Q Do you recall what that person's name was at
5 the plant you spoke to?

6 A No, he was a worker.

7 Q Okay. But it was about three months ago?

8 A Yeah.

9 Q Okay. Was it in the evening or in the --

10 A It was 5:00 in the morning. This water
11 would wake me up.

12 Q Now, do other neighbors experience the same
13 sounds and the water gushing?

14 A No. I went around to a couple of neighbors
15 and nobody was up that time of morning, you know, so I
16 didn't want to bother them. But the ground, the area
17 in the water department is just flooded completely,
18 and this water is just gushing for a hour or so. And
19 sometimes it would happen in the middle of the night.

20 Q Okay. An hour is about the duration of the
21 time that it happens?

22 A Yes.

23 Q Okay. And is there any odor coming from
24 that plant over there?

25 A Yes, we do have an odor.

1 Q Is it all the time or sometimes?

2 A No. No. It's on and off.

3 MS. WALLA: Okay. Thank you.

4 WITNESS MILLS: You're welcome.

5 COMMISSIONER JOHNSON: Any other questions?

6 MR. GATLIN: No questions.

7 COMMISSIONER JOHNSON: Thank you. Next
8 customer.

9 MR. McLEAN: Mr. Don -- it's either Willie
10 or Wiley, Commissioner.

11 WITNESS WILLE: WILLE.

12 MR. McLEAN: Thank you, sir.

13 - - - - -

14 DON WILLE

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

18 WITNESS WILLE: My name is Don Wille,
19 W-I-L-L-E. I live at 2069 West Lakeview Boulevard,
20 North Fort Myers 33903.

21 Prior to the present request before you,
22 Waterway Estate area -- the Waterway Estates area
23 served by Florida Cities Water had the highest water
24 rates in the state of Florida. That's a terrible
25 statement to have to make, but I just made it anyway.

1 Now, with the rates that have been proposed
2 and are already being charged and put in escrow, it
3 really becomes ridiculous.

4 Now, I have some questions I would like to
5 ask the Commission. Why has this happened? Why has
6 the ownership of this water company allowed this
7 facility to fall into a condition that it must be
8 strapped on to the backs of the users? Was it poor
9 planning? What amount of money is Florida Cities
10 Water investing in this water company and its updates?
11 Did Florida Cities Water call for this increase to
12 accommodate the projected development south of
13 Lochmoor Country Club plus the golf club to be built
14 by the owners of this hotel? To protest federal tax
15 increases we can contact locally our senator and our
16 representative. State taxes, we have the same. We
17 can go to our senator and our representative.

18 To deal with a utility we haven't any local
19 contact. You are the only hope we have for help.

20 This proposed increase not only affects many
21 people on fixed incomes but it affects future sales of
22 real state. When someone asks you, "How is your water
23 cost down here" -- because the rumors up north are
24 that water is tremendously expensive in Florida, as
25 well as electricity -- we get to say, "Oh, hell, we've

1 got the highest water rates in the state of Florida."
2 Wonderful.

3 This last increase that we got in 1985 was
4 obscene. This one is absolutely ridiculous.

5 There's more of this finding than numbers.
6 There are a few hundred residents here who really ask
7 your help. Thank you. (Applause)

8 COMMISSIONER JOHNSON: Thank you. Any
9 questions for the customer?

10 MR. GATLIN: No questions.

11 COMMISSIONER JOHNSON: Thank you, sir.

12 MR. McLEAN: Michael Donehew, please.

13 **MICHAEL DONEHEW**

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

17 WITNESS DONEHEW: My name is Mike Donehew.
18 I live at 881 Java Way, under the thumbs of Florida
19 Cities Water.

20 I'd like to thank Florida Cities Water for
21 getting me involved in this civic enterprise. It's
22 been a real experience. I appreciate that. It's the
23 only good things I have to say about them.

24 Like this gentlemen pointed out, we have the
25 highest water rate in the entire state. That's

1 ridiculous.

2 The Commission tentatively approved a rate
3 increase of \$2,460-something-thousand a year instead
4 of the full rate that they requested. That was like a
5 95% increase, right; 95% approval rate that you had
6 for them?

7 UNIDENTIFIED SPEAKER: Speak a little louder

8 WITNESS DONEHEW: 95, 96% increase that you
9 approved for what they were requesting. If I had a
10 job where I could go to my boss and ask for a raise
11 and they'd give me 95%, I'd love it. Thanks a lot for
12 trying.

13 I try my best not to use any of their
14 products. I don't drink their water. I buy it at a
15 machine. I don't water my lawn. I don't cook at home
16 so I very seldom wash my dishes. My water rate is
17 still more than my electric bill. Why? How can that
18 be?

19 A few years ago they got a huge rate
20 increase. And that was to finance the building of a
21 new wastewater plant. In a few years that plant
22 should be paid for, but for the next 500 years that
23 rate will still be on the bill. Me, my son, my
24 grandson, will be paying for this approval from a few
25 years ago. If they get this other approval, it will

1 be the same way. It will just be compounding.

2 I don't have anything against them getting a
3 fair rate of return on their investment, but when it
4 goes on for decade after decade, when it's longer than
5 my house mortgage is, that's not right. If they want
6 help paying for the plant, that's reasonable. When
7 the plant is paid for, cut off their payments. Right?
8 Am I wrong on that?

9 COMMISSIONER JOHNSON: One of the things
10 that I understand is at issue in this particular case
11 is not necessarily the past plant but that they have
12 had to provide for modifications and additions to the
13 plant and that there are new facilities that they are
14 now requesting be included in rate base.

15 WITNESS DONEHEW: Yeah. \$1.6 million and
16 they want a \$2.5 million per year increase to pay for
17 that \$1.6 million expansion. Do you have a
18 calculator? How much rate of return -- one year rate
19 of return would pay it all? Am I right?

20 COMMISSIONER JOHNSON: No. We may have to
21 have our accountants sit down with you to walk through
22 exactly all of the elements of their particular
23 request and how that's being processed through the
24 case. But on the face of the information that you're
25 stating, I'm not sure if that's how the numbers

1 actually work out. Maybe Mr. Walker or Ms. Galloway
2 will be able to kind of sit down with you and walk
3 through the numbers. But, you know, I understand your
4 concern --

5 WITNESS DONEHEW: Yeah.

6 COMMISSIONER JOHNSON: -- with respect to
7 the increases that are occurring. And one of the
8 things that we have to do is to look at those costs
9 and make sure those costs are prudently incurred. I
10 think the other question that you asked was with
11 respect to the past plant and whether or not you have
12 to continue to incur certain expenses, and if your
13 rates will be based on that in perpetuity. Any
14 comments on that particular statement?

15 MR. WILLIS: The rates are never perpetuity
16 because you have depreciation, you have amortization
17 of the facility and that facility is going to be
18 depreciated down to nothing at one point in time.

19 WITNESS DONEHEW: And when it's depreciated
20 down to nothing you'll build another plant and
21 increase it all over again.

22 MR. WILLIS: Well, they may build another
23 plant. But their rates are always designed to recover
24 the investment and expenses at the time. Expenses
25 change and so does investment, as well as how the

1 company funds that plant itself. In this case the
2 Company is requesting about a \$80,000 increase to pay
3 for the facilities for this case -- 480. The
4 \$2 million is -- the \$2 million you refer to is the
5 total amount of money that the Company collects for
6 the wastewater system for this area for the North Fort
7 Myers system. And that covers the Company's costs,
8 their investment, their depreciation, expenses for
9 running it, the taxes they have to pay. There's more
10 than just the actual return on the investment in that
11 plant in that. But I'll be happy to sit down with you
12 or have our accountant sit down with you and we'll go
13 over that and show you how that money is divided up.

14 WITNESS DONEHEW: All I know is that it's an
15 election year. I'd like to mention to politicians and
16 bureaucrats that there's a few hundred or few thousand
17 people that are very, very interested in the outcome
18 of this decision. And it's going to influence the way
19 I vote tremendously. Thank you.

20 COMMISSIONER JOHNSON: Thank you,
21 Mr. Donehew. Next customer.

22 MR. McLEAN: Helen Brillhart, please

23 - - - - -

24 HELEN BRILLHART

25 was called as a witness on behalf of the Citizens of

1 the State of Florida and, having been duly sworn,
2 testified as follows:

3 WITNESS BRILLHART: Good morning.

4 COMMISSIONER JOHNSON: Could you state your
5 name? And we were wondering if you were here earlier
6 and if you were sworn in?

7 WITNESS BRILLHART: Yes, ma'am.

8 COMMISSIONER JOHNSON: Very good.

9 WITNESS BRILLHART: My name is Helen
10 Brillhart.

11 COMMISSIONER JOHNSON: Spell that last name
12 again, I'm sorry.

13 COMMISSIONER GARCIA: Get up to the mike so
14 we can hear you.

15 WITNESS BRILLHART: Helen Brillhart,
16 B-R-I-L-L-H-A-R-T. I live at 942 Jolly Road in North
17 Fort Myers. I am a Florida Cities water customer.

18 And the couple of points that I wish to
19 bring up regard the wastewater treatment charges that
20 are assessed. It almost even seems, even in the
21 testimony that has been provided, that the Commission
22 is not really realizing that we are billed for our
23 water usage. Everything else on that bill is
24 assessments on that water usage. The rate of \$28.56
25 for the base facility charge on the wastewater is

1 their base facility charge. There is no call for it
2 to be that steep.

3 I called North Fort Myers Utility. Their
4 base charge is \$10.58. Lee County Utilities, it's
5 \$12. That's the highest. Cape Coral Utilities is
6 \$8.67. Fort Myers Utilities is \$3.89. Why are we
7 paying almost \$30 for a base facility charge for
8 nothing? There is no meter. It's based on the usage
9 of the water.

10 I have called Florida Cities Water almost
11 monthly when I get my bill because it's disgusting. I
12 have two children and they go -- well, if they are
13 teenagers, you know, teenagers just use God knows how
14 much water. I said, "Let me explain something to you.
15 I'm a family. There's a family of four. I don't use
16 any different that I ever used. It's the same amount
17 month after month after month, yet the amount that my
18 bill shows, one month it's 7,000, another one it's
19 9,000, another month it's 10,000." I said, "This
20 can't be possible". We'll check your reading." And I
21 said, "You're checking my water rate." But yet on top
22 of that -- on top of the water usage, and I says, "I
23 checked my old bills when I used to be under Lee
24 County Utilities. My water usage averaged between
25 6,00 and 7,000 gallons, so why is it one month I'm

1 using 9,000 and another month I'm using 6,000?" It's
2 not possible. There's absolutely no way. Something
3 is affecting, in the North Fort Myers area, in our
4 area something is affecting the usage of -- in other
5 words, what they are basing their bill on is the water
6 meter, nothing else. What you use is water, they say,
7 is what is billed. It affects the base facility
8 charge and affects the amount that they charge for the
9 sewer treatment.

10 Also the water -- something has happened
11 into the sewer lines, whatever, that's caused the
12 roads -- talk about holes in the roads, and I mean I
13 hit a hole in front of my house. I called on a
14 Wednesday night. I said, "There's a hole in front of
15 my house and it has to do, you know, with the water."
16 First I didn't know where to call. I started with the
17 Department of Transportation. It ended up with all my
18 calls that it needed to be Florida Cities Water. I
19 got a girl -- this was like 4:00, 5:00 in the
20 afternoon. "Well, we'll report it." The next day I
21 said, "I called yesterday," and I says, "and that hole
22 is still there in my road." Well, that's not an
23 emergency." I said, "Excuse me?" The hole in the
24 road is approximately 20 inches in diameter." I said,
25 "You tell me that a child" -- I mean, there's

1 children -- "this is a residential area, children
2 could fall through, something needs to be done." The
3 girl who I spoke with, and I don't know her name and I
4 don't really care. The fact is I reported it and I
5 reported it to the emergency section and nothing got
6 done immediately. I ended up calling the next morning
7 and the man -- I ended up talking with a supervisor.
8 The man that I spoke with said, "Who did you talk to?"
9 And I told him I reported it to the emergency section.
10 He couldn't believe it. He said "We'll send someone
11 right out there."

12 Now, they had contracted someone to go and
13 do something with flushing the system or whatever they
14 do. They opened up all of the drains in the roads.
15 Whatever they did, created this problem and it's still
16 there. Now, they did patch my whole because I said,
17 you know, "I can't have this." But the idea that it's
18 something that is happening and it needs to be
19 addressed and it should be on a regular basis. They
20 should be checking these lines. They say they are
21 going to be installing something in the lines that is
22 not going to allow for this to happen, but in the
23 meantime -- other people have said that there are
24 holes or it's mushy in that part of the road or
25 whatever. It's dangerous. It's going to create

1 problems, not only for the roads -- I mean, who is
2 going to pay for that? Is Florida Cities Water going
3 to take care of that?

4 And the other point that was addressed is
5 that the parent company of Florida Cities Water is --
6 they are owned by a corporation, by a corporation, by
7 a corporation, by a corporation, and they are using
8 this as -- you know, we're just a little bit of their
9 big overall corporation. Their company is building --
10 Avatar Industries, I believe is the headquarter
11 corporation -- they are building a big residential
12 complex or whatever over in Cape Coral. They are not
13 building it in their own district, are they? In Cape
14 Coral, and they are advertising it.

15 Now, I'm from New York state and a big
16 utility in New York State is Niagra-Mohawk. Our
17 Public Service Commission up there, because of public
18 dissatisfaction with some of the rates and some of the
19 problems that Niagra-Mohawk had done -- and I had them
20 at one point and they were much lower than here -- but
21 the Public Service Commission went in and literally
22 fired two-thirds of the management of that utility.
23 Not the workers, it's not their fault, they are only
24 doing what they are told, but the management staff
25 because the money was being pocketed. Where is the

1 money going for all of these rate increases? It's not
2 coming back into our district. We're paying. We want
3 it to be back in our district. I don't want to pay
4 for their investments. I'm sure these people don't
5 want to pay for money that they invest if they lose
6 it. It's not our responsibility. They are a
7 corporation. They've got money from other
8 investments. Let them pay for that. We're a utility.
9 We're not supposed to be funding Avatar Industries,
10 whatever their whims are.

11 And another thing, I paid for water and
12 sewer when I was in New York state. I averaged \$30 a
13 month for water and sewer. I know that the rates are
14 much higher in Florida. But where are we gaining for
15 what the proposed rates are for? What are we getting
16 for it? We got pollution. We've got odor pollution.
17 We've got water pollution because the water is not fit
18 to drink in many of the areas. And like the people
19 said, they restrict. The lady has got a \$6 water
20 bill; she's paying \$50-something. Why? That base
21 facility charge is 28.56. And I called and I says --
22 you know, no meter, that's just their charge. Their
23 charge to do what? There's no need for that charge.
24 Throw it off the bill.

25 Somebody had at one time -- at the last

1 meeting, there was no one there and they got a \$100
2 bill and nobody was living there. Nobody was using
3 water? What in the world was that for? How deep is
4 the Commission looking into those kind of charges?
5 Before you decide that you're going to approve some
6 sort of a rate increase like this, what did they do
7 with that last rate increase that they did get? Did
8 they do what they said they were going to do, and if
9 they didn't, were they fined? Let the fines they
10 should have been assessed for not doing what they were
11 supposed to do, let those fines pay for the future
12 development. Something is wrong when we can -- when
13 the people in a small residential area are forced
14 these kind of bills down their throats. Every
15 comment, every testimony that everyone has provided is
16 to be commended because the research has been
17 phenomenal. How in the world can the Public Service
18 Commission overlook every bit of everyone's testimony
19 and not see through Avatar Industries. That's all.
20 Thank you. (Applause)

21 COMMISSIONER JOHNSON: Any questions?

22 MR. GATLIN: No questions.

23 COMMISSIONER JOHNSON: Ms. Brillhart, we
24 will have Staff get together with you. There are a
25 couple of issues that you raised personally with

1 respect to gallonage and usage and perhaps there being
2 so problems with respect to your bills. We'll see if
3 we can work through that and any of the other issues
4 that you raised. We'll make sure that we adequately
5 pursue those issues.

6 WITNESS BRILLHART: Thank you.

7 MR. SHREVE: Thank you.

8 MR. McLEAN: Next customer is Wal Lunetta.

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WALDO LUNETTA

1
2 was called as a witness on behalf of the Citizens of
3 the State of Florida and, having been duly sworn,
4 testified as follows:

5 WITNESS LUNETTA: My name is Waldo Lunetta.
6 I live at --

7 COMMISSIONER JOHNSON: Could you spell that?

8 WITNESS LUNETTA: L-U-N-E-T-T-A. I reside
9 at 13791 Willow Creek Drive, North Fort Myers.

10 COMMISSIONER JOHNSON: Thank you.

11 WITNESS LUNETTA: I'm totally unprepared.
12 I'm a newcomer in the area. I Just moved into a new
13 home the 29th of February and I received this notice
14 and I became concerned immediately about it. And this
15 is an education for me coming here this morning and
16 hearing all of these statements being made by the
17 local residents. And some of the immediate questions
18 that I had in mind were already asked by the first
19 speaker, the last speaker and I think about the fourth
20 speaker, so I don't want to go any further with that.

21 I just have one question and that is if, in
22 fact, the percentage figures of both the people that
23 are moving into the state of Florida monthly or weekly
24 are correct and its somewhere they say around a
25 thousand people, I want to know what the percentage is

1 that would wind up in Ft. Myers or not Ft. Myers or
2 Lee County. If, in fact, the percentage is increasing
3 monthly or annually, how long will this waste
4 management system last? And, in fact, would it
5 discourage new people from coming into the area by the
6 increase in the high rates, or would it be an
7 advantage? I don't see any advantage to it. And
8 that's all I have to say.

9 COMMISSIONER JOHNSON: Thank you. Any
10 questions?

11 MR. GATLIN: No questions.

12 COMMISSIONER JOHNSON: I think you raised
13 some good questions. I don't know if we have any
14 information with respect to the growth rate in the
15 particular county. And one of the issues that you
16 raised, how long will even this new addition, when
17 will that be at capacity? And I think that's one of
18 the issues that we may be exploring here. And at
19 least in the proposed agency action, one of the things
20 that we had requested was that the Utility provide
21 some kind of a master plan with us with respect to the
22 possible needs for addition and capacity because those
23 are issues that I would think that we'd want to be
24 aware of and so would the people in the area.

25 WITNESS LUNETTA: In fact, would there be

1 another location? If they had to expand, where would
2 they put a new location to take the overload if it
3 does occur?

4 COMMISSIONER JOHNSON: Those are issues and
5 I think some of those issues, if I'm not mistaken, may
6 be addressed in this particular proceeding.

7 WITNESS LUNETTA: That's all I have.

8 COMMISSIONER JOHNSON: Thank you very much.

9 WITNESS LUNETTA: Thank you.

10 MR. McLEAN: Ida Chaplow, please.

11 - - - - -

12 IDA CHAPLOW

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

16 WITNESS CHAPLOW: All I want to say --

17 COMMISSIONER JOHNSON: Just get to the
18 microphone.

19 COMMISSIONER GARCIA: If you don't stand in
20 front of the mike, we have problems hearing you.

21 COMMISSIONER JOHNSON: Ma'am, were you sworn
22 in?

23 WITNESS CHAPLOW: Yes, Ida Chaplow.

24 COMMISSIONER JOHNSON: Chapwell?

25 WITNESS CHAPLOW: C-H-A-P-L-O-W. 972 Hardy

1 Street.

2 I'm a widow. I've got to sell my home. How
3 many more does? Because we have the company, what
4 they did; we have a lawyer here, what they did. That
5 is what they're doing. And you won't check them out.
6 Check them out. Thank you.

7 COMMISSIONER JOHNSON: Thank you.

8 MR. McLEAN: Commissioner, we call Robert
9 Heminway or Hemenway, I believe.

10 WITNESS HEMENWAY: I have not as get been
11 sworn in.

12 COMMISSIONER JOHNSON: Okay. If you could
13 stand and raise your right hand.

14 (Witness sworn by Commissioner.)

15 COMMISSIONER JOHNSON: Are there any other
16 witnesses that would like to testify that have not
17 been sworn in? Seeing none, we'll swear you in at the
18 moment.

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1 here we've seen it grow very little. An adjoining
2 subdivision known as Buttonwood has added about 21
3 homes, and an additional area along Skyline has added
4 seven homes, and a medium-sized school on Skyline
5 Drive has been built since we have been here.

6 "A group known as Amtel, which owns this
7 hotel also, two years ago purchased an acreage along
8 Hancock Bridge Boulevard, land size of about 269
9 acres, of which about 139 acres is to be designated as
10 an 18-hole golf course. This in no way will require
11 this huge expansion program that Florida Cities Water
12 has embarked on.

13 "We, the community of 2,665 homeowners shall
14 be bearing a major, major cost burden in the next few
15 years to pay for an expansion that is not entirely
16 needed to service the home expansion. But what I
17 believe the water balance figures that I have examined
18 seem to point out is a program of groundwater
19 intrusion.

20 COMMISSIONER JOHNSON: Problem.

21 WITNESS HEMENWAY: In other words, we're
22 selling a certain gallonage of water, but they are
23 processing much more than that.

24 We, as customers, are being led to believe
25 we're having such a great increase --" I repeated

1 myself.

2 Let me go back here. "Are we, as customers,
3 being led to believe that we're having such a great
4 increase in home building that we need this upgrading?
5 Or is it because of neglect in maintaining the
6 existing sewer lines and we must treat more water from
7 an alien ground intrusion? The facts of the homes
8 built here in the past eight years does not show that
9 this expansion was prudent.

10 "I ask you to weigh the facts and figures
11 and to bear in mine the burden on this small
12 congregate of homes. The long time scenario is people
13 stop using water to maintain nice lawns, home values
14 go down. People have reverted to not using their
15 toilets as often. This is a health hazard. If
16 Florida Cities Water is driven for service to our
17 community, then let us see them install more fire
18 hydrants in this compact community and to put a strong
19 foot forward in showing that they are trying to cut
20 the water intrusion amounts down, which in turn give
21 us a direct reduction in the expansion needs of the
22 future."

23 I thank you very much for your time and look
24 forward to your decisions in the future.

25 Now, I did bring with me aerial photos of

1 the area. I don't know if you have seen those. You
2 can get a visual idea of just how big our area is, the
3 number of homes. I just came from the tax bureau, and
4 the 1996 flyover of films which show today's present
5 day build-out, they are not in yet. The flyover was
6 in April. The maps will not be available until June.
7 But these maps, as you look at them, will show you
8 just how many homes were there in 1993. And we
9 physically went around the area and counted. The
10 Buttonwood area, for instance, now has 21 homes. The
11 adjacent area, Skyline Drive has seven homes. Now,
12 we've lived here since 1988 and the expansion in home
13 growth has been minimal. And if you ratio out the
14 expansion facilities that this sewer plant has asked
15 for, it's a disproportionate rate increase, and I
16 think perhaps they better spend more of their time and
17 our fee money investigating water intrusion. Thank
18 you for you attention.

19 COMMISSIONER JOHNSON: Thank you. With
20 respect to the document that you have there, did you
21 want to just show us that for demonstrative purposes?

22 WITNESS HEMENWAY: Yes, I would appreciate
23 it if I can approach the stand.

24 COMMISSIONER JOHNSON: Sure. There are no
25 objections to that, I'm sure.

1 (Witness approaches the stand.)

2 COMMISSIONER KIESLING: The problem is if
3 you're going to come up here you need to not talk,
4 because you either have to talk in the mike or come up
5 here.

6 WITNESS HEMENWAY: Can you hear as I hold
7 the portable mike? Or someone here could assist me.
8 Okay.

9 This facility here is known as Waterway
10 Estates. And what I referenced to in talking, the
11 Buttonwood area and the Skyline development area here
12 is the narrow sector (Indicating), seven homes in this
13 area, 21 homes in this area. The sewer plant, as you
14 can tell, is right here (Indicating). This, again, is
15 the Buttonwood Division. You can see the scant
16 number of homes that were started in 1993. The maps
17 are not available for 1996 until June.

18 COMMISSIONER GARCIA: That's the water plant
19 down here, right?

20 WITNESS HEMENWAY: That's the water plant.

21 COMMISSIONER GARCIA: This is a closer
22 picture of that same area.

23 WITNESS HEMENWAY: And there are 21 homes in
24 this sector. Seven homes in that sector.
25 (Indicating)

1 COMMISSIONER JOHNSON: What's that building
2 up there?

3 WITNESS HEMENWAY: This building right here
4 is the Skyline School that was just built.

5 The Moody tract division -- and this just
6 borders on the portion of it -- the Amtel group has
7 purchased this sector of land, 44 acres. This one is
8 the 269 acres I mentioned that they purchased where
9 the intended golf course is to go in. The newspaper
10 articles were such that they said they intended
11 \$120 million buildout, but these are all just speaking
12 terms. You can throw any figures around for that. I
13 tried to find out what time schedule is intended for
14 this golf course or what else is to be built there.
15 And so far no answers on that.

16 But we, as a small community of homes, find
17 it burdensome that Avatar or this group can force on
18 us the heavy cost burden of their projections saying,
19 "Well, this may happen or that may happen." Thank
20 you.

21 COMMISSIONER JOHNSON: Thank you. Are there
22 any questions for Mr. Hemenway?

23 MR. GATLIN: No questions.

24 COMMISSIONER JOHNSON: Any other further
25 comments, Mr. Hemenway?

1 WITNESS HEMENWAY: No, thank you.

2 COMMISSIONER JOHNSON: Thank you very much
3 for your testimony and the maps there.

4 WITNESS HEMENWAY: Does this perhaps give
5 you a better -- with the ability to sort of see in
6 your mind now the area we're speaking of and the
7 buildout since 1993 to the present day, give you a
8 good idea?

9 COMMISSIONER JOHNSON: Very helpful. Thank
10 you very much. Any other customers? Are there any
11 other customers in the audience that have not
12 testified this morning that would like to present
13 testimony? Sir? If you stand, I'll swear you in and
14 you can come up real quick and make your comments.

15 WITNESS KLINGENSMITH: I was sworn in, yes.

16 COMMISSIONER JOHNSON: Oh. Did we not have
17 you listed, then?

18 WITNESS KLINGENSMITH: Tom Klingensmith. I
19 turned a sheet in.

20 COMMISSIONER JOHNSON: I'm sorry about that.

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1 Now, I just can't understand how that much
2 money can go to sewer and they still aren't able to
3 manage what they've got. And my objection is it's
4 just constantly going up and I can't handle it.

5 I'm retired and I know -- I look around the
6 audience here and most of the people here are retired,
7 and you just can't go to your pension and say, "My
8 utility bills are going up, so you're going to have to
9 give me more money."

10 So it's going to come to the place where
11 we'll probably have to sell and move out because we
12 just won't be able to handle the utility bills.
13 That's all there is to it.

14 COMMISSIONER JOHNSON: Thank you. Any
15 questions?

16 MR. GATLIN: When were those bills constant
17 that you were talking about, what months, do you
18 recall?

19 WITNESS KLINGENSMITH: The last -- let's
20 see, December, January, February and March, they ran
21 \$77 and some odd cents to the penny. And it just
22 amazes me that I could run the water so perfectly it
23 would come out to the penny every month. To me that
24 indicated that somebody was juggling the figures in
25 the office.

1 COMMISSIONER JOHNSON: Sir, we'll have one
2 of our Staff members get with you and see if we could
3 perhaps review that and see if there's a problem with
4 respect to your billing.

5 WITNESS KLINGENSMITH: When I complained
6 about it it was just -- the remark was, "Well, we just
7 like customers who have constant bills." Fine. Take
8 the meter out and charge us a flat rate.

9 COMMISSIONER JOHNSON: Thank you very much.
10 Any other customers? Ma'am? And have you been sworn?
11 We won't be able to hear you from back here.

12 If you will remain standing, I'll swear you
13 in real quick and then we'll take your comments.

14 - - - - -

15 **MAY HOPE**

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

19 COMMISSIONER JOHNSON: And if you could
20 state your name and address for the record.

21 WITNESS HOPE: My name is May Hope, H-O-P-E.
22 I live at 977 Happy Road. And I just want to ask you
23 something. I've listened to all of the testimony
24 today and there's been some valid complaints and
25 everything. And I would like to know -- I haven't

1 heard any solutions. Not one -- all of you are
2 familiar with problems. I'm sure you are. You
3 wouldn't have your positions if you weren't. And why
4 weren't you better prepared to anticipate the
5 questions from the people and have a better solution
6 to their problem? When we leave here we might feel a
7 little better. Do we have to come back tonight? Do
8 we have to wait for a written report? How are we
9 going to know the solution to these problems and what
10 are they going to be? We have vented our anger, but
11 we haven't heard anything from you. That's what I
12 want to know.

13 COMMISSIONER JOHNSON: We're going to hold
14 not only the customer testimony hearing this morning,
15 but we're going to hold a technical hearing, and with
16 respect to that, we're going to hear from the
17 accountants, the engineers. We're here to help find
18 facts and figure out -- and with respect to the issues
19 that most of the customers raised, to the extent that
20 someone alleges that there's a problem with a hole in
21 their front yard, the only way that we can address
22 that is to follow up to that person, go there and try
23 to do something about it.

24 WITNESS HOPE: But there was one question
25 that was asked, and it was about the longevity, I'd

1 put it, of the plant. You don't even have a answer
2 for that.

3 COMMISSIONER JOHNSON: What about the
4 longevity?

5 WITNESS HOPE: How long is this going to
6 last? If the rate is increased, how long is this new
7 plant going to last? What's the life of it?

8 COMMISSIONER JOHNSON: And the answer
9 becomes very technical, and I think what our
10 accountant talked about was the fact that it wouldn't
11 be a set rate. That there was a depreciation schedule
12 and that would be an expense.

13 WITNESS HOPE: No, this was a different
14 question. You see, you should know something about
15 these problems. Most of the people that have asked
16 questions here have left.

17 COMMISSIONER GARCIA: Ma'am, some of the
18 problems that have been asked have to do with what
19 we're going to be doing for the next, I would say, few
20 hours until six, and then the next day beyond that.
21 And some of those questions are going to be asked by
22 your attorney, in a more technical fashion, because
23 you've asked them in a broad format, and those are
24 specific issues before this case. I'm sure Ms. Walla
25 will bring those up and the Company will have people

1 who will defend that position. And our Staff is
2 gathering that information as we go through.

3 WITNESS HOPE: So you're going to have some
4 of that information tonight.

5 COMMISSIONER JOHNSON: And we're going to
6 have some information today and tomorrow.

7 Due process requires that we give the
8 Company an opportunity to respond and put on a case.
9 And due process requires that we give Ms. Walla an
10 opportunity to put on her witnesses in her case. And
11 we don't rule on any of these issues until after we've
12 heard from all of the parties and heard all of the
13 positions of everyone involved in this particular
14 action?

15 WITNESS HOPE: Okay. Is it going to be a
16 write-up in the paper or how are we going to get the
17 answer if we cannot attend tonight?

18 COMMISSIONER JOHNSON: I don't want to
19 confuse you there, either. We aren't going to decide
20 this case tonight or tomorrow. The attorneys will
21 have to file briefs with the Commission, and then our
22 Staff will write a recommendation. And there's a date
23 set for us to make a ruling on this particular case in
24 a formal proceeding. After that formal proceeding,
25 then we will issue a press release. But it's a pretty

1 long process. There are a lot of technical issues and
2 I don't know the deadline -- do you all have the
3 date -- July 18th is when we'll actually decide this
4 case.

5 WITNESS HOPE: That's right.

6 COMMISSIONER JOHNSON: But in the interim --
7 July 16th is what I'm hearing -- in the interim, to
8 the extent that there were issues that our Staff could
9 address immediately today, we try to get Staff members
10 to meet with those members of the public that have
11 certain issues, and if we're able to address them --
12 if someone says the rates are really high and too
13 high, I can't sit here today and rule for you that I'm
14 going to give you a 50% rate increase. I can't do
15 that without allowing the parties due process, hearing
16 all of the evidence and looking into determining
17 whether or not the expenditures were actually prudent.
18 The law is set out that way. The procedure is set out
19 that way. I wish I could give you a definitive answer
20 today but the process isn't designed do that.

21 WITNESS HOPE: So we'll have to wait, then,
22 until July.

23 COMMISSIONER JOHNSON: Uh-huh.

24 WITNESS HOPE: Thank you.

25 COMMISSIONER JOHNSON: Sorry about that.

1 Great name, though, May Hope on Happy Road. That's
2 great.

3 MS. WALLA: Ms. Hope, you can sign up to get
4 the final order, or whenever it comes in, the
5 decision, and they can mail it to you from the Public
6 Service Commission. And there's also an 800 number.
7 Maybe you can call in and get it that way, I'm not
8 sure. There are procedures you have to follow. But
9 they can send you all of the information of what the
10 Staff recommends, what the Commissioners rule on, and
11 then you'll find out what happened here.

12 WITNESS HOPE: I'm sure we'd all like to
13 know those things. Thank you.

14 COMMISSIONER JOHNSON: Thank you, Ms. Walla.
15 That was an important point that I left out. Thank
16 you. Any other witnesses?

17 Seeing none -- first I'd like to thank you
18 all for coming out today. I think the information and
19 the testimony that we received was just excellent.
20 It's always pleasing for the Commissioners to have the
21 opportunity to actually hear from the people in the
22 area and their concerns. Let me assure you that all
23 of your concerns have been noted, they are a part of
24 the record, and they will be a part of our basis for
25 our decision that we'll make on July 16th.

1 If any of you would like to sit through and
2 hear the technical portions of our hearing, if you'd
3 like to see the Utility actually put on their case and
4 Public Counsel and Ms. Walla as they examine those
5 witnesses, feel free to stay. And if any of decide
6 that there's something that you didn't say that you
7 wish you had said, you can either write those comments
8 into the Commission or show up this afternoon for our
9 6:00 hearing and we'll be there -- it must be 6:30. Is
10 it 6:30? I apologize for that -- our 6:30 hearing,
11 and at that point we will take additional customer
12 testimony.

13 Again, thank you for coming out and we will
14 ensure that somehow the public is noticed of our final
15 decision. I'm sure Ms. Walla will let you know
16 anyway. Thank you very much.

17 I think we will -- it is now 12:00. We will
18 break for a 45 minute lunch, and we will begin the
19 technical portions of this hearing at 12:45. At that
20 point in time we'll handle any preliminary matters
21 that may be outstanding. Thank you very much.

22 (Thereupon, the lunch recess was taken at
23 12:00 p.m.)

24 (Transcript continues in sequence in Volume 2.)

25