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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

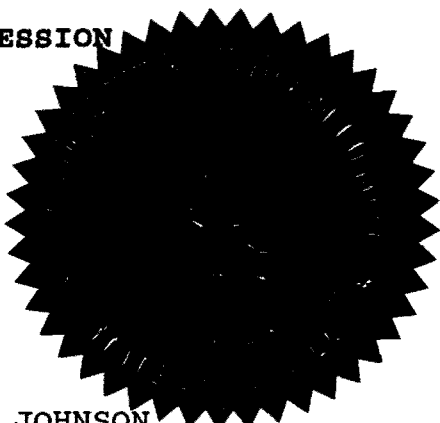
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:  
In the Matter of :  
:  
Application for :  
increased Wastewater :  
Rates by Florida Cities :  
Water Company - North :  
Ft. Myers Division in :  
Lee County :  
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DOCKET NO. 950387-SU

FIRST DAY DAY - LATE AFTERNOON SESSION

VOLUME 3

Pages 262 through 350



PROCEEDINGS: HEARING

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

DATE: Wednesday, April 24, 1996

TIME: Commenced at 3:00 p.m.

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

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

APPEARANCES:  
  
(As heretofore noted.)

FILED  
APR 29 1996  
11:07 AM  
COMM-FPS



	<b>EXHIBITS</b>		
	<b>NUMBER</b>		<b>ID. ADMTD.</b>
1			
2			
3	13	(Young) Professional work experience of Mr. Young	266 276
4			
5	14	(Karleskint) JLK-1 through JLK-3	277 295
6			
7	15	(Karleskint) 2/26/96 letter from Southwest Water Management district to Ms. Karleskint	290
8			
9	16	(Acosta) Domestic wastewater facilities and professional resume	297
10			
11	17	(Acosta) Capacity analysis report	321
12			
13	18	(Late-Filed) Capacity analysis update reports	349
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**P R O C E E D I N G S**

(Transcript continues from Volume 2.)

COMMISSIONER JOHNSON: We're going to go back to the record at this time. I believe the next witness is the Utility witness, Young.

MR. GATLIN: Yes.

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**DOUGLAS R. YOUNG**

was called as a witness on behalf of Florida Cities Water Company and, having been duly sworn, testified as follows:

**DIRECT EXAMINATION**

BY MR. GATLIN:

Q Have you been sworn, Mr. Young?

A Yes, I have.

Q Would you please state your name and address?

A Douglas R. Young, 4837 Swift Road, Sarasota, Florida.

Q And have you prepared testimony for presentation in this proceeding in the form of questions and answers?

A Yes, I have.

Q If I were to ask you the same questions stated therein, would your answers be the same to

1 date?

2 A Yes.

3 MR. GATLIN: Madam Chairman, may we they  
4 this inserted into the record as though read.

5 COMMISSIONER JOHNSON: Show it inserted as  
6 though read.

7 Q (By Mr. Gatlin) And you have one exhibit  
8 which is your professional work experience; is that  
9 correct?

10 A That's correct.

11 MR. GATLIN: May we have that identified,  
12 Madam Chairman?

13 COMMISSIONER JOHNSON: We will identify the  
14 professional work experience of Mr. Young as  
15 Exhibit 13.

16 (Exhibit No. 13 marked for identification.)

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## 1 FLORIDA CITIES WATER COMPANY

## 2 NORTH FORT MYERS DIVISION

## 3 WASTEWATER OPERATIONS

4 Docket No. 950387-SU

## 5 TESTIMONY OF DOUGLAS R. YOUNG

6 Q. Please state your name and business address?

7 A. Douglas R. Young, 4837 Swift Road, Suite 100,  
8 Sarasota, Florida 342319 Q. What is your position with the petitioner, Florida  
10 Cities Water Company (FCWC)?

11 A. I am the Manager of Engineering and Construction.

12 Q. How long have you been Manager of Engineering and  
13 Construction?

14 A. Since April 1995.

15 Q. Would you describe your educational background and  
16 experience?17 A. I graduated from the University of South Florida in  
18 April 1987 with a Bachelor of Science degree in Civil  
19 Engineering. After graduation, I worked as a project  
20 engineer and project manager with consulting  
21 engineering firms for 4 ½ years before joining FCWC as  
22 a Regional Engineer in January 1992. I was promoted  
23 to Manager of Engineering and Construction in April  
24 1995. I have been a Registered Professional Engineer  
25 in Florida since 1991. Exhibit 13 (DRY-1) provides a

1 summary of my work experience.

2 Q. What are your responsibilities as Manager of  
3 Engineering and Construction for FCWC?

4 A. I am responsible for engineering, permitting,  
5 construction, and scheduling on new projects along  
6 with modifications and approvals of changes to company  
7 standard specifications. I have been involved with  
8 construction of the Golden Gate Wastewater Treatment  
9 Plant (WWTP) expansion in Collier County, the Waterway  
10 Estates Advanced Wastewater Treatment Plant (AWTP)  
11 expansion in North Lee County, and the Barefoot Bay  
12 WWTP upgrade and associated reclaimed water facilities  
13 in Brevard County. Two regional engineers of FCWC  
14 report to me on matters concerning engineering and  
15 construction, and I have an assistant under my direct  
16 supervision.

17 Q. Have you submitted testimony to the Commission before?

18 A. Yes, regarding the Barefoot Bay water and wastewater  
19 facilities.

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

21 A. The purpose of my testimony is to describe the  
22 construction of the facility additions shown in the  
23 MFR (Exhibit 1 (LC-1)), Section A, Schedule A-3;  
24 and Section G, Schedules G-9, G-10, and G-11. I will  
25 also address wastewater system used and useful

1 presented in the MFR (Exhibit 1 (LC-1)), Section F,  
2 Schedules F-6 and F-7.

3 Q. What is included in the Waterway Estates AWTP  
4 expansion?

5 A. The AWTP expansion includes the necessary  
6 modifications and additions to increase the permitted  
7 capacity from 1.0 mgd to 1.25 mgd, provide high level  
8 disinfection, and convey reclaimed water to a golf  
9 course holding pond for reuse.

10 Additions include the following:

11 An influent structure with rotating drum  
12 screen;

13 Mixed liquor recycle pumps;

14 Centrifugal blower;

15 Chlorination facilities to provide high  
16 level disinfection to reclaimed water;

17 Reclaimed water transmission main;

18 Lime storage and feed facilities;

19 Yard piping;

20 Electrical work and controls for operation.

21 Modifications include:

22 Walkways over the digester and flow  
23 equalization tanks;

24 Additional air diffusers in aeration zones;

25 Checkered plate covers for the reaeration and



1           disinfection tank.

2   Q.    Would you summarize the design and construction of the  
3           AWTP expansion?

4   A.    Black & Veatch (B&V) prepared the preliminary  
5           engineering design report under a contract with FCWC  
6           dated April 20, 1992. Final design was performed  
7           under a contract dated December 18, 1992. FCWC staff  
8           reviewed plans and specifications when they were 50%,  
9           90%, and 100% complete. The project consisted of two  
10          parts, the AWTP expansion and reclaimed water  
11          transmission facilities. McMahan Construction  
12          Company, Inc. was the low bidder for the AWTP  
13          expansion with a bid of \$1,209,000. Southwest Utility  
14          Systems, Inc. was the low bidder for the reclaimed  
15          water transmission facilities with a bid of \$95,000.  
16          Notices to proceed were issued to both contractors on  
17          December 19, 1994. The scheduled completion date for  
18          the AWTP expansion was October 1, 1995. Completion of  
19          the reclaimed water transmission facilities was  
20          scheduled for May 2, 1995. Excessive rainfall and  
21          delayed shipments from equipment suppliers have  
22          delayed completion of the AWTP expansion. Completion  
23          is expected by mid-January 1996. The reclaimed water  
24          transmission facilities are complete.

25   Q.    How is the construction progress monitored?

1 A. Construction is closely monitored. B&V reviews shop  
2 drawings and makes periodic site visits to ensure  
3 compliance with construction plans and specifications.  
4 AWTP operators observe the construction daily. I make  
5 periodic site visits and receive feedback from B&V,  
6 the plant operators, and the regional and assistant  
7 regional engineers. I also attend monthly progress  
8 meetings at the AWTP with FCWC staff, the contractor,  
9 and B&V. The monthly progress meeting includes an  
10 inspection of the work with all parties present. Any  
11 deficiencies noted are brought to the attention of the  
12 contractor for corrective action.

13 Q. How are payments to the contractor determined?

14 A. The contractor submits pay requests to B&V. Each pay  
15 request is reviewed by B&V , FCWC regional engineer,  
16 FCWC division manager, FCWC regional manager, myself,  
17 and FCWC Vice President of Engineering and Operations,  
18 respectively. The pay request is checked against the  
19 work accomplished during the pay period, and approved  
20 or corrected. Payment is made only after all of the  
21 above sign the pay request.

22 Q. Will there be any change orders to the construction  
23 contract?

24 A. Yes. A final change order to the AWTP expansion  
25 contract will be prepared to address field changes

1 made to the digester piping. The change order will  
2 also extend the contract time to account for delays  
3 beyond the control of the contractor.

4 Q. Were there any other additions to the North Fort Myers  
5 wastewater facilities?

6 A. Yes. Other additions are shown in the MFR (Exhibit  
7 \_\_\_\_\_ (LC-1)), Section G, Schedules G-10 and G-11. An  
8 interior wall was constructed in the digester at the  
9 AWTP to provide storage after stabilization in  
10 compliance with the U.S. Environmental Protection  
11 Agency Part 503 residuals regulation. Components were  
12 also installed on the ultraviolet disinfection system  
13 at the AWTP to improve its effectiveness and maintain  
14 compliance with disinfection requirements. Two lift  
15 stations were renovated due to deterioration and/or  
16 hydraulic conditions.

17 Q. What percent used and useful will the North Fort Myers  
18 wastewater facilities be at the end of the test year?

19 A. As shown in the MFR (Exhibit   1   (LC-1)), Section F,  
20 Schedules F-6 and F-7, the North Fort Myers wastewater  
21 collection and treatment facilities will be 100% used  
22 and useful. Projects were undertaken to meet or  
23 maintain compliance with regulatory requirements. The  
24 projected maximum month average daily to the AWTP for  
25 the test year is 1.1753 mgd. Adding a margin reserve

1 of 0.0573 mgd yields a 1.2326 plant capacity. A 0.25  
2 mgd expansion is the most prudent and economical way  
3 to increase the WWEAWTP capacity from 1.0 mgd and meet  
4 customer demand requirements.

5 Q. Does this conclude your testimony?

6 A. Yes, it does.

1 MR. GATLIN: Mr. Young is available for  
2 questions.

3 COMMISSIONER JOHNSON: Public Counsel.

4 MR. McLEAN: Yes, ma'am.

5 **CROSS EXAMINATION**

6 BY MR. McLEAN:

7 Q Mr. Young, would you look at what has been  
8 marked by the Chair as Exhibit No. 11.

9 A Okay.

10 Q Do you have it, sir?

11 A Yes, I do.

12 Q Were you in the room when I asked Mr. Dick  
13 about either appending or a recently concluded service  
14 availability case?

15 A Yes, I was.

16 Q He referred that question to you, I believe?

17 A Yes, he did. However, I'm not familiar with  
18 this --

19 Q With the case itself?

20 A Right.

21 Q Let me refer you to a part of the exhibit,  
22 because we don't need to know about the case, we need  
23 to know about some potential connections which were  
24 mentioned in that case. So let's see if we can make  
25 any progress that way.

1 About the third page of the exhibit you have  
2 been handed has a "14" down at the bottom, do you see  
3 that page?

4 A Yes, I do.

5 Q There's a list of what I would call  
6 potential customers there. Do you see the list?

7 A Are you referring to the proposed projects?

8 Q Yes, sir. See the first one, for example,  
9 agreement with Willow Creek. Do you have that?

10 A Yes.

11 Q Okay. And the last phrase there is "To be  
12 connected at a date unknown." And what I want to know  
13 on these, on this list, is which of these has been  
14 connected and which ones have not?

15 A I don't know. I'm not familiar with these.

16 Q Who in the Company would know?

17 A I don't know.

18 Q Okay. Thank you, Mr. Young. No further  
19 questions.

20 COMMISSIONER JOHNSON: Ms. Walla, any  
21 questions for Mr. Young?

22 MS. WALLA: No.

23 COMMISSIONER JOHNSON: Staff.

24 MR. JAEGER: No questions.

25 COMMISSIONER JOHNSON: Any redirect?

1 MR. GATLIN: No redirect. I move  
2 Exhibit 13.

3 COMMISSIONER JOHNSON: Any objections to  
4 that? Show it admitted without objection.

5 (Exhibit No. 13 received in evidence.)

6 COMMISSIONER JOHNSON: You may be excused.  
7 (Witness excused.)

8 MR. GATLIN: Call Ms. Karleskint.

9

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10 JULIE L. KARLESKINT

11 was called as a witness on behalf of Florida Cities  
12 Water Company and, having been duly sworn, testified  
13 as follows:

14 DIRECT EXAMINATION

15 BY MR. GATLIN:

16 Q Would you please state your name and  
17 address?

18 A Julia Lynn Karleskint, 4837 Swift Road,  
19 Sarasota, Florida 34231.

20 Q And have you prepared direct testimony in  
21 the form of questions and answers for presentation in  
22 this case?

23 A Yes, sir.

24 Q If I were to ask you those same questions,  
25 your answers would be the same today?

1           A     Yes, sir.

2           MR. GATLIN:   May we have this testimony  
3 inserted into the record as though read?

4           COMMISSIONER JOHNSON:   It will be inserted  
5 without objection.

6           Q     (By Ms. Gatlin)   And I believe you have  
7 three exhibits, JLK-1, 2 and 3?

8           A     Yes, sir.

9           MR. GATLIN:   May we have those identified as  
10 a composite exhibit, the next number.

11          COMMISSIONER JOHNSON:   JLK-1 through 3 will  
12 be identified as Composite Exhibit 14.

13          (Exhibit No. 14 marked for identification.)

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## 1 FLORIDA CITIES WATER COMPANY

## 2 NORTH FORT MYERS DIVISION

## 3 WASTEWATER OPERATIONS

4 Docket No. 950387-SU

## 5 TESTIMONY OF JULIE L. KARLESKINT

6 Q. Please state your name and business address?

7 A. Julie L. Karleskint, 4837 Swift Road, Suite 100,  
8 Sarasota, Florida 342319 Q. What is your position with the petitioner, Florida  
10 Cities Water Company (FCWC)?

11 A. I am the Operations Manager.

12 Q. How long have you been Operations Manager?

13 A. Since January 1992.

14 Q. Would you describe your educational background and  
15 experience?16 A. I have a Bachelor of Science degree in Civil  
17 Engineering from the University of Kansas, a Bachelor  
18 of Science degree in Environmental Science from the  
19 University of Oklahoma, and a Master of Science degree  
20 in Bio-environmental Engineering from Oklahoma State  
21 University. Prior to my position as Operations  
22 Manager, I worked for Avatar Utilities Inc., the  
23 parent company of FCWC as a environmental engineer  
24 performing environmental audits for three years.  
25 Prior to that time, I have five years of regulatory

1 experience with the various state and federal  
2 agencies. I have been a Registered Professional  
3 Engineer in Florida since 1989. Exhibit 14 (JLK-1)  
4 provides a summary of my work experience.

5 Q. What are your responsibilities as Operations Manager?

6 A. I am responsible for overseeing the operations and  
7 insuring regulatory compliance for the various water  
8 and wastewater plants owned and operated by FCWC. I  
9 work closely with the division managers, and have an  
10 assistant under my direct supervision.

11 Q. What is the purpose of your testimony?

12 A. The purpose of my testimony is to describe the  
13 regulatory issues surrounding the expansion of the  
14 Waterway Estates Advanced Wastewater Treatment Plant  
15 (AWTP) presented in Schedule G-9 of the MFRs (Exhibit  
16 14 (LC-1)), and additional chemical and power  
17 expenses related to the plant expansion shown on page  
18 2 of Schedule B-3 of the MFRs. I will also address  
19 master planning by the utility and its plan for  
20 handling growth within the plants service area.

21 Q. Describe the wastewater treatment and disposal  
22 facilities in operation at Waterway Estates prior to  
23 the expansion.

24 A. The existing AWTP has a permitted capacity of 1.0  
25 million gallons per day with a discharge to surface

1 water. The AWTP provides advanced treatment with  
2 nutrient removal, and basic disinfection through  
3 ultraviolet light disinfection.

4 Q. Why is the expansion necessary?

5 A. Schedule G-9 of the MFRs (Ex. 14 (LC-1)) provides a  
6 detailed justification of the plant expansion and  
7 improvements including schedules which provide a cost  
8 breakdown of the associated plant components required  
9 by regulatory agency rule, permit or directive and the  
10 workorder for the expansion on pages 230 thru 234.  
11 The Florida Department Of Environmental Protection  
12 (FDEP) letters on pages 235 thru 239 required FCWC to  
13 expand the AWTP in accordance with the recently passed  
14 capacity analysis reporting rules which are included  
15 on pages 240 thru 242. The plant improvements include  
16 treatment for biosolids which is necessary to meet  
17 the EPA Part 503 rule, excerpts of the rule are given  
18 on pages 243 and 244 and Condition 20 of the  
19 Construction Permit, pages 245 thru 261. The  
20 modifications also include upgrading the plant to meet  
21 high level disinfection requirements and the  
22 construction of a reclaimed water main. Pages 262  
23 thru 276 include FDEP Antidegradation permitting  
24 requirements and the SFWMD permit which requires the  
25 reuse of domestic reclaimed water. The improvements

1 also include measures for odor control as stipulated  
2 in FDEP rules as shown on page 277 and FDEP letter on  
3 page 278.

4 Q. Why is the plant being expanded to 1.25 MGD?

5 A. As explained in the August 31, 1995 response to the  
6 Marshall Willis, Florida Public Service Commission,  
7 August 21, 1995 letter, the plant is presently being  
8 expanded to 1.25 MGD based upon the current growth  
9 projections which project that the capacity will be  
10 reached by the year 2000. Exhibit 14 (JLK-2) includes  
11 the August 31, 1995 letter from Marshall Willis and  
12 FCWC's response. Master planning performed by FCWC  
13 project a total build out flow of 1.5 MGD when all the  
14 undeveloped land in the service area is developed.  
15 Exhibit 14 (JLK- 3) is an abbreviated Master Plan  
16 for wastewater in the Waterway Estates Service Area  
17 performed by FCWC.

18 Q. Does the utility expect any additional operating cost  
19 associated with the plant expansion?

20 A. Yes, the primary adjustment for operation and  
21 maintenance cost is adjusted slightly from customer  
22 growth and the 1995 PSC index factor as shown on pages  
23 1 thru 3 of Schedule B-3 in the MFRs. The only other  
24 adjustment is a 10% increase in power which is based  
25 on engineering judgement of the estimated power

1 consumption for the new plant equipment associated  
2 with the plant expansion (e.g. secondary return pumps,  
3 recycle pumps, reuse pumps, blower capacity). There  
4 is no increase in chemicals expected for the plant  
5 except for a slight adjustment associated with the  
6 increased loadings due to customer growth. The  
7 Proposed Agency Action and Order Granting Final Rates  
8 and Charges (No. PSC-95-1360-FOF-SU) accepted these  
9 adjustments and found them to be reasonable.

10 Q. Does this conclude your testimony?

11 A. Yes, it does.

1 MR. GATLIN: The witness is available for  
2 questions.

3 COMMISSIONER JOHNSON: Public Counsel.

4 MR. McLEAN: Yes, ma'am, thank you.

5 **CROSS EXAMINATION**

6 BY MR. McLEAN:

7 Q Would you pronounce your name for me,  
8 please, ma'am?

9 A Karleskint.

10 Q Okay, I'm sorry. Thank you.

11 Referring to composite Exhibit No. 14, and  
12 in that composite exhibit your designation of the  
13 exhibit is JLK-2. Would you refer to that, please?  
14 It is a letter from yourself to Marshall Willis.

15 A Yes.

16 Q There is discussion there about an exchange  
17 with the city of Cape Coral. Cape Coral would send  
18 you all potable water, you all would send them reuse;  
19 do I have it correctly?

20 A Yes, sir.

21 Q What's the status of that negotiations, if I  
22 can characterize it that way?

23 A Right now we're working with Cape Coral for  
24 an emergency interconnect, so if there's anything that  
25 went down with our plant, we would be able to upgrade.

1 We are working on upgrading our interconnect with them  
2 so they would be able to supply us with water.

3 Q That deals with the potable water side, what  
4 about the reuse issue?

5 A The most recent correspondence we have had  
6 with the City of Cape Coral is they would accept our  
7 reclaimed water, but they would not participate in any  
8 of the cost of that.

9 Q Which is to say they won't pay you for it,  
10 or they say they won't?

11 A Basically, yes.

12 Q Okay. They are required, like other  
13 organizations, to obtain withdrawal permits from the  
14 Water Management District? Is that correct?

15 A I believe they are using reclaimed water,  
16 and they are using their own wastewater for the  
17 reclaimed water system, and they are using canals. So  
18 they are supplementing it with the canals. So they  
19 are not pulling groundwater, therefore, they wouldn't  
20 be required to have a permit for the withdrawal of  
21 ground water.

22 Q They are using withdrawal for -- maybe I  
23 don't understand. Do they not have wells, the city of  
24 Cape Coral not have wells?

25 A For potable water?

1 Q Yes, ma'am.

2 A Yes, for potable water they do.

3 Q They would have to look to the Water  
4 Management District to permit them to withdraw water  
5 to treat for the purposes of potable water, wouldn't  
6 they?

7 A Yes, sir.

8 Q So to the extent that the Water Management  
9 District requires applicants to explore the need for  
10 reuse water, wouldn't they, too, just like everyone  
11 else, have to do that?

12 A They already provide reclaimed water for the  
13 entire -- most of their service area.

14 Q I see. So it's your testimony to the  
15 Commission, I take it, that that's really not a  
16 viable -- a likely customer for your reuse water.

17 A I would hope sometime in the future that we  
18 would be able to work something out with the Cape.

19 Q And when you say "work something out," do  
20 you expect to receive something in value -- of value  
21 for the reclaimed water?

22 A I would hope so, yes.

23 Q Okay. Would you turn to your Schedule JLK-3  
24 of the exhibit which has been marked 14. Would you  
25 turn to Page 6 of that particular exhibit, please,



1 ma'am.

2 Do you have it, ma'am?

3 A Yes, sir.

4 Q Okay. You see there is a list of what I  
5 would characterize as potential reuse customers there?

6 A Yes, sir.

7 Q You have the list now.

8 Would you go down the list and tell us what  
9 the status is of each of those potential customers and  
10 highlight, if you will, the likelihood, are they now  
11 customers, are they likely to be, etcetera?

12 A The first two are Lochmoor Country Club and  
13 El Rio Golf Course. We presently have the line to  
14 Lochmoor Country Club. In order to serve El Rio Golf  
15 Course, we would have to go all the way up Orange  
16 Grove Boulevard to, I believe, Hancock Bridge Parkway.  
17 We've done some cost sometimes on that. In '92  
18 dollars, it was \$350,000 so it may be additional cost  
19 now.

20 To serve the other people, Orange Grove,  
21 North Fort Myers, Palm Island Development, I believe  
22 we'd have to extend the reclaim water main even  
23 further to up Orange Grove to serve them.

24 Q Okay. Those are the first two. Did you do  
25 the rest of them?

1           A     I would have to extend the line even  
2 further.

3           Q     Each one of those requires an additional  
4 extension; is that right?

5           A     Each one of them requires an extension.

6           Q     Okay. What is this document? To whom was  
7 it submitted and for what purpose?

8           A     That one page?

9           Q     No, ma'am. The document, it's the sixth  
10 page of a document, and my question goes to the entire  
11 document, all six pages. To whom is that submitted  
12 and for what reason?

13          A     That was submitted as part of the  
14 Commission, they requested that we do a master  
15 planning study. It was part of the PAA, I believe,  
16 and they suggest that we do that, so we went ahead and  
17 did that for them.

18          Q     Did you suggest to the Commission by means  
19 of this exhibit that these were likely customers for  
20 reclaimed water?

21          A     All I've tried to do is we have a reuse  
22 master plan that was submitted to Lee County and has  
23 been submitted to the FDEP as well as the St. Johns  
24 Water Management District. That was done back in '92,  
25 I believe. When we did that it recommended those

1 customers to be as possible -- it identified those  
2 customers as potential reuse customers.

3 Q Who identified them, the report?

4 A The report identified them.

5 Q And you made those representations to a  
6 governmental entity of some sort, did you?

7 A Yes. It was one of the requirements of the  
8 master plan to identify potential reuse customers, and  
9 that's what we had done.

10 Q Well, and to those agencies, whoever they  
11 might have been, you represented these to be potential  
12 customers, correct?

13 A Yes, sir.

14 Q But now you're telling the Commission that  
15 they are not likely to become customers?

16 A I haven't said that, sir. I said when we  
17 extend the reclaim water main and when the costs can  
18 be somehow -- I honestly don't want to be at another  
19 rate case for extending the reclaim water main with  
20 these customers the way they are.

21 Q So potential means something other than  
22 likely, at least in this proceeding?

23 A Sir, I think it would be based upon future  
24 regulatory requirements. If we were required to  
25 extend the reclaimed water main, we would; and those

1 are the potential customers identified. And since  
2 that time we have identified the City, the Cape, as  
3 also another potential customer.

4 Q Okay.

5 MR. McLEAN: Thank you very much, ma'am.

6 Nothing further.

7 COMMISSIONER JOHNSON: Ms. Walla any  
8 questions for this witness?

9 MS. WALLA: Yes.

10 **CROSS EXAMINATION**

11 BY MS. WALLA:

12 Q Ms. Karleskint?

13 A Karleskint.

14 Q Ms. Karleskint, recently you corresponded  
15 with the South Florida Water Management District about  
16 Limiting Condition No. 25?

17 A Yes, ma'am.

18 Q Would you tell us what the condition  
19 pertains to?

20 A There was a condition in our water use  
21 permit basically that required for us to have  
22 reclaimed water, a reclaimed water supply available by  
23 the end of that permit expiration.

24 Q Okay.

25 MS. WALLA: Can we submit these for you to

1 look at along with us?

2 COMMISSIONER JOHNSON: Please. (Hands out  
3 documents.)

4 I'm going to identify this as February 27th,  
5 1996, Southwest Water Management District letter to  
6 Ms. Karleskint.

7 COMMISSIONER GARCIA: That's a short title  
8 by the way.

9 (Exhibit No. 15 marked for identification.)

10 Q (By Ms. Walla) You're familiar with this  
11 letter that you wrote to Mr. Dabbs -- no, he's talking  
12 to you. Okay. He wrote you this letter.

13 He's asking you, you as the permittee,  
14 Florida Cities Water, must develop and make available  
15 and use a reclaimed water source for the purpose of  
16 irrigation by April 12th, 1995 to be in compliance  
17 with No. 25.

18 And your response, which is the next page,  
19 your letter of March 20th states "Upon clearance for  
20 service for this facility, Florida Cities Water will  
21 serve Lochmoor with approximately .03 million gallons  
22 a day."

23 What plans are you speaking of when you say  
24 you were submitting plans, designs, for the  
25 interconnect upgrade in your third paragraph?

1           A     It's the same plans that I was talking  
2 earlier to Mr. McLean about. He asked me what we had  
3 been doing recently with the city of Cape Coral, and  
4 that was for the potable water interconnect, so in  
5 case of an emergency we'll be able to provide our  
6 customers with a continuous supply of water.

7           Q     If you refer back to Mr. Dabbs' letter to  
8 you, if you read the full letter, he doesn't even ask  
9 about the interconnect with Cape Coral, he's only  
10 asking you about the compliance and the Limiting  
11 Condition No. 25. Was there a reason that you put  
12 this in here?

13          A     Yes, ma'am. In previous conversations with  
14 him -- I had been trying to keep him updated on what  
15 was going on. And it was just as a courtesy to him to  
16 let him know where we stood with the City of Cape  
17 Coral. He was concerned with both the water and the  
18 reuse.

19          Q     Was he not implying in his letter that the  
20 interconnect, meaning the reuse, is what he wanted an  
21 answer on? This "Plans for Interconnect with the City  
22 of Cape Coral" has nothing to do with Limiting  
23 Condition No. 25.

24          A     You're absolutely correct. I mean, that was  
25 just a courtesy for him because this is for our

1 potable water permit for Waterway Estates water  
2 treatment plant, and this was for our water use  
3 permit, and this was just as a courtesy to let him  
4 know where we were with the emergency interconnect.  
5 It had nothing to do with responding to his letter or  
6 anything, it's just letting him know what was going  
7 on. Because I believe that's proper as a good  
8 courtesy to him.

9 Q So in other words, his whole letter had to  
10 do with Limiting Condition No. 25, but yet only one  
11 portion of yours had to do with the Limiting Condition  
12 No. 25. The rest is all statements by the Company.

13 A Right.

14 Q Okay. Did you have two new flowmeters  
15 installed or replaced at your water treatment plant  
16 this year?

17 A At the water treatment plant?

18 Q At the wastewater treatment plant, excuse  
19 me.

20 A I believe as part of the new construction we  
21 did have some flowmeters for part of the new  
22 construction. It did include flowmeters, yes, ma'am.

23 Q And that was in March of '95 and May of '95?

24 A That would be the time that we were in  
25 construction for the expansion of the water plant,

1 yes.

2 Q Okay. What flows were these flowmeters  
3 going to give us?

4 A Okay. If I remember correctly, and maybe a  
5 better person to ask this of is to Tom Cummings, the  
6 design engineer for that. But based on my  
7 recollection, one is an effluent flowmeter to measure  
8 the amount of reclaimed water that we send to Lochmoor  
9 Golf Course, and the other one was more of a processed  
10 flowmeter because we're going to the 2 BTUs, and it  
11 was with one of the recycles for splitting the two  
12 flows going to the two clarifiers. It was for process  
13 for the recycle pumps we had added.

14 Q So these are the flowmeters that were in the  
15 compliance check from the Florida Department of  
16 Environmental Protection, the ones that they check for  
17 north and south flow coming into the plant?

18 A No, ma'am, not at all.

19 MS. WALLA: Not at this time, no further  
20 questions.

21 COMMISSIONER JOHNSON: Staff.

22 **CROSS EXAMINATION**

23 BY MR. JAEGER:

24 Q Going to the El Rio, how far was that line,  
25 the reclaim line that you'd have to --



1           A     It would be extending it from Inlet Drive  
2 all the way up to Hancock Bridge Parkway, which I'm  
3 just going to take a stab at that and say that's about  
4 a half a mile.

5           Q     And estimate of costs, you gave that. When  
6 was that made?

7           A     I did a cost estimate back in '92, and my  
8 estimate back then was \$350,000.

9           Q     I think you used an initial when you were  
10 talking about the processing meter just there at the  
11 end of Ms. Walla's testimony. What did you say about  
12 the processing meter, what does it measure?

13          A     Mr. Cummings would be a much better person  
14 to answer this question. And I'm just trying to give  
15 you answer based on recollection. But when you  
16 recycle, you need to recycle the flows. It's an  
17 advanced wastewater treatment plant. And we changed  
18 the process a little bit so we could get additional  
19 flows through the existing tankage. So what we did is  
20 we changed some of the processes for that and we put  
21 in some additional pumps so we could provide more  
22 recirculation. And I think one of those flows is to  
23 monitor between the two different plants. And I may  
24 be completely off on this, but it was something to do  
25 with the recirculation flow, I think.

1 MR. JAEGER: Okay. Thank you.

2 COMMISSIONER JOHNSON: Commissioners?

3 Redirect?

4 MR. GATLIN: No redirect. I move

5 Exhibit 14.

6 COMMISSIONER JOHNSON: Show it admitted  
7 without objection. No, that was -- 14?

8 MR. GATLIN: I believe so.

9 (Exhibit No. 14 received in evidence.)

10 COMMISSIONER JOHNSON: Yeah. And then  
11 Exhibit 15 was the packet of letters, which let me go  
12 ahead and actually identify that as a composite  
13 exhibit. Was that just for demonstrative purposes, or  
14 is that something you are attempting to have admitted  
15 into the --

16 MS. WALLA: For demonstrative purposes at  
17 this time.

18 COMMISSIONER JOHNSON: Okay. Thank you very  
19 much. That will not be admitted. You may be excused.

20 Mr. Gatlin, I think we have Mr. Acosta now.

21 (Witness Karleskint excused.)

22 MR. GATLIN: Mr. Acosta.

23

24

25

**MICHAEL ACOSTA**

1  
2 was called as a witness on behalf of Florida Cities  
3 Water Company and, having been duly sworn, testified  
4 as follows:

**DIRECT EXAMINATION**

5  
6 BY MR. GATLIN:

7 Q Have you been sworn, Mr. Acosta?

8 A Yes.

9 Q Would you please state your name and  
10 address?

11 A Michael Acosta, 4837 Swift Road, Suite 100,  
12 Sarasota, Florida.

13 Q And have you prepared for presentation in  
14 this case, testimony in the form of questions and  
15 answers?

16 A Yes.

17 Q If I were to ask you those same questions,  
18 would your answers be the same as set forth in that  
19 document?

20 A Yes.

21 MR. GATLIN: Madam Chairman, we would like  
22 to have this inserted into the record as though read.

23 COMMISSIONER JOHNSON: It will be inserted  
24 as though read.

25 Q (By Mr. Gatlin) And you have one exhibit,

1 MA-1, which is DER Rule 17-600.400(3)(A) Domestic  
2 Waste Facilities Rule?

3 A Correct.

4 COMMISSIONER JOHNSON: I'll identify the  
5 Domestic Wastewater Facilities as Exhibit 16. There's  
6 also an appendix that has not been identified as an  
7 exhibit. I think that's his professional  
8 qualifications. Would you like to identify those,  
9 too?

10 MR. GATLIN: Yes. They can all be  
11 composite.

12 COMMISSIONER JOHNSON: Okay. I'll put those  
13 two then, the Domestic Wastewater Facilities and  
14 Professional Resume as composite Exhibit 16.

15 (Exhibit No. 16 marked for identification.)  
16  
17  
18  
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25

1                                   **FLORIDA CITIES WATER COMPANY**  
2                                   **NORTH FORT MYERS DIVISION**  
3                                   **WASTEWATER OPERATIONS**  
4                                   **Docket No. 950387-SU**  
5                                   **TESTIMONY OF MICHAEL ACOSTA**

6  
7    Q.    Please state your name and business address.

8    A.    Michael Acosta, 4837 Swift Road, Suite 100, Sarasota, Florida 34231.

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

10   A.    I am employed by Florida Cities Water Company (FCWC) as Vice  
11        President, Engineering & Operations.

12   Q.    Is a summary of your educational and professional background attached  
13        as Appendix A?

14   A.    Yes, it is.

15   Q.    What is the purpose of your testimony?

16   A.    The purpose of my testimony is to support full recognition of margin  
17        reserve without offset, beyond the test year, and to support the entire  
18        revenue requirement being borne by the FCWC wastewater customers.

19   Q.    What is margin reserve?

20   A.    Margin reserve is defined as the investment in plant needed to meet the  
21        demands of potential customers and the changing demands of existing  
22        customers within a reasonable time.

23   Q.    Should the margin reserve be offset by imputing the anticipated  
24        Contributions in Aid of Construction (CIAC) beyond the test year?

25   A.    No. Notwithstanding past Commission policy, the margin reserve

1 should not be offset by imputing the anticipated CIAC beyond the  
2 test year.

3 Q. Why should the Commission not offset margin reserve by imputing  
4 anticipated CIAC?

5 A. The Commission has historically recognized that margin reserve  
6 is necessary for a utility to meet its statutory responsibility to have  
7 sufficient capacity and investment to serve the existing and  
8 changing demands of present customers and the demands of  
9 potential customers within a reasonable time period. The  
10 Commission has recognized the margin reserve need by allowing  
11 margin reserve to be included in used and useful plant. To offset  
12 margin reserve by imputing anticipated CIAC effectively takes  
13 away the ability to earn on the investment in the margin reserve  
14 thereby rendering the margin reserve meaningless. In the instant  
15 case, the offset of the margin reserve equals the entire margin  
16 reserve.

17 Q. Has Section 62-600 F.A.C. had any affect on planning wastewater  
18 treatment plant expansions?

19 A. Yes. The capacity analysis requirements, Exhibit MA-1, are  
20 triggered when plant flows reach 50% of permitted capacity. The  
21 regulation also requires that if a capacity analysis report shows  
22 that the permitted capacity will be equaled or exceeded within five  
23 years a preliminary design must be initiated, if the permitted  
24 capacity will be equaled or exceeded within four years detailed  
25 plans and specification preparation must be underway, if

1 permitted capacity will be equaled or exceeded within three years  
2 a construction permit application must be filed with the Florida  
3 Department of Environmental Protection (FDEP) for the expansion  
4 of the facility, and if permitted capacity will be equaled or  
5 exceeded within six months an operating permit application for the  
6 expanded facility must be filed. The regulation promotes long  
7 range planning of wastewater treatment facilities, recognizes that  
8 three years is a reasonable time frame to permit and construct a  
9 wastewater treatment plant and insures that facilities have  
10 sufficient capacity so that utilities are not perpetually in the design  
11 and construction process for wastewater treatment facilities.

12 Q. How does the offset of margin reserve by imputing CIAC affect the  
13 planning process for wastewater utilities?

14 A. The present Commission practice of offsetting margin reserve by  
15 imputing CIAC combined with the limited time frame allowed for  
16 margin reserve provides disincentives for utilities to expand  
17 wastewater facilities beyond the five year window identified in  
18 Section 62-600 F.A.C. By offsetting the margin reserve the  
19 Commission is not allowing utilities to earn a rate of return on  
20 investment made to comply with Section 62-600 F.A.C. and leads  
21 utilities to make small incremental expansions to avoid economic  
22 loss. The present Commission policy results in perpetual  
23 design/construction of wastewater treatment facilities and small  
24 incremental plant expansions, in direct conflict with the intent of  
25 Section 62-600 F.A.C.

- 1 Q. Is it not true that investment in the margin reserve is paid for by  
2 future customers through CIAC payments?
- 3 A. While the future customers make payments for CIAC as they need  
4 capacity, FCWC should be allowed to earn a rate of return on the  
5 investment in margin reserve until those customers make the  
6 CIAC payments. To offset the margin reserve by imputing CIAC  
7 beyond the test year results is a clear mismatch of speculative  
8 future CIAC against current investment in used and useful plant.  
9 In other words, the margin reserve should be included in rate base  
10 until CIAC payments are collected.
- 11 Q. If the margin reserve is not offset by imputing CIAC will not the  
12 burden for capital recovery fall to the present customers?
- 13 A. No. Present customers should be responsible for the return on  
14 the investment in margin reserve. The recovery of capital should  
15 come from future customers as they make CIAC payments.
- 16 Q. Regarding reclaimed water, will FCWC supply it for land  
17 application?
- 18 A. Yes. Reclaimed water will be made available to the Lochmoor  
19 Country Club for use on its golf course.
- 20 Q. Will the use of reclaimed water on the golf course eliminate the  
21 use of groundwater to irrigate the golf course?
- 22 A. Yes. Lochmoor currently uses well water to supplement its storm  
23 water management lakes. Irrigation of the golf course is  
24 accomplished by pumping water from the lakes.
- 25 Q. Since the reclaimed water will offset the use of groundwater,



1 should not the water customers pay a portion of the revenue  
2 requirement requested in this case?

3 A. No. FCWC concurs with the discussion and allocation of the  
4 entire revenue requirement solely to the wastewater customers in  
5 Order PSC-95-1360-FOF-SU. Rates should reflect only the  
6 revenues required to provide the benefits afforded to each  
7 customer class. Reuse of reclaimed water was required by the  
8 FDEP as an absolute condition for receiving a permit to expand  
9 the capacity of the wastewater treatment plant . All of the  
10 treatment plant process components are required in order to  
11 comply with that department's mandated effluent water quality  
12 standards for the exclusive benefit of the N. Ft. Myers wastewater  
13 customers. Likewise, all disposal facilities, including the river  
14 outfall line, reuse chlorination equipment, pumps and main, were  
15 required by the FDEP and exclusively benefit these same  
16 wastewater customers. Although impossible to demonstrate, there  
17 could be some theoretical benefit to the N. Ft. Myers water  
18 customers. This thread, although very fragile, leading to this  
19 theoretical benefit is that reuse on a golf course in the general  
20 vicinity will offset the use of groundwater to the extent of  
21 increasing the availability of groundwater for the Company's N. Ft.  
22 Myers water customers as well as others who withdraw water from  
23 the same underground formation in the local area. The water  
24 customers are, for the most part, also wastewater customers.  
25 However, since there is not a separate tariff for the Company's

1 water customers in S. Ft. Myers, these customers would also be  
2 paying a portion of the cost of service exclusively benefiting the  
3 N. Ft. Myers wastewater customers. The S. Ft. Myers water  
4 customers are located several miles south of the N. Ft. Myers  
5 service area on the opposite side of the Caloosahatchee River.  
6 Their water is derived from a totally separate and distinct  
7 groundwater source. Therefore, there is not even a theoretical  
8 benefit to those customers.

9 Q. Is FCWC exchanging reclaimed water for potable water with the  
10 City of Cape Coral?

11 A. No. The company has had discussions with City representatives  
12 regarding the possible exchange of reclaimed water for potable  
13 water; however, these contacts have not progressed beyond the  
14 "vision stage". It is much too early to predict the ultimate outcome  
15 and any contemplated benefits to the water customers are  
16 premature.

17 Q. Does this conclude your testimony?

18 A. Yes.

1 MR. GATLIN: The witness is available for  
2 questions.

3 COMMISSIONER JOHNSON: Public Counsel.

4 MR. McLEAN: Yes, ma'am. Thank you.

5 CROSS EXAMINATION

6 BY MR. McLEAN:

7 Q Mr. Acosta, on Line 20 of your direct  
8 testimony, Page 1, Line 20, you offer up a definition  
9 of margin reserve; is that correct?

10 A Yes.

11 Q The way you quote it there it leaves me to  
12 believe that perhaps you're looking to some source, or  
13 is that your own definition? Whose definition do you  
14 show there?

15 A I believe that's a definition compiled from  
16 my experience over the years in regards to what margin  
17 reserve is.

18 Q Okay. Margin reserve, there is a reserve in  
19 any device which an engineer designs, isn't there, to  
20 tolerate variances in the load, if you will, which it  
21 has to deal with. That's always reserve. Airplanes  
22 have a reserve, structures have a reserve in general;  
23 isn't that correct?

24 A I'm not a structural or aeronautical  
25 engineer. I can't testify to that.

1 Q Cars are designed to go faster than they  
2 need to go occasionally, are they, do you know? As a  
3 general principle, I would like you to respond to, if  
4 you can, is that structures including wastewater  
5 treatment plants are designed to accommodate  
6 variations in their loads. Is that correct?

7 A If you're talking about peaking factors in a  
8 wastewater treatment plant, yes, they are designed  
9 that way.

10 Q That's a good word. And this one is no  
11 exception; is that right?

12 A That's correct.

13 Q All right. And the calculations into which  
14 the Commission engages to determine used and useful  
15 take those peaking considerations into account, don't  
16 they?

17 A They use the -- as the denominator in their  
18 formula, the annual average daily flow.

19 Q Sure. And you couldn't possibly have a  
20 plant that was only capable of treating the average  
21 because, of course, the average doesn't occur much.  
22 You have variations in both directions from the  
23 average, don't you?

24 A Well, it's possible that you can have a  
25 plant that will do that. It's unlikely it would meet

1 its limitations.

2 Q And it probably wouldn't be a residential  
3 plant, would it? The question is --

4 A What's "residential plant" mean?

5 Q It's not a tricky question. Let me make it  
6 clear.

7 If the average usage is 100 gallons a day  
8 for the year, you wouldn't recommend to a client that  
9 they build a plant which only treated 100 gallons a  
10 day. You'd have to look at the variations in load and  
11 build a plant which would accommodate those  
12 variations, wouldn't you?

13 COMMISSIONER KIESLING: Mr. McLean, could  
14 you get a little closer to your mike, you're fading in  
15 and out to me.

16 MR. McLEAN: Sorry.

17 Q (By Mr. McLean) Do you have my question,  
18 sir?

19 A Yes. On an annual average daily flow, given  
20 your hypothetical question, I would advise the client  
21 to design a plant for 100 gallons per day.

22 Q And what would happen on some day when it  
23 flowed 125 or served with 125?

24 A The peaking factors are built into the  
25 plant, but it does not change the annual average daily

1 flow capacity.

2 Q So we have a semantic or maybe a measuring  
3 difference. The question is that flow is not the same  
4 from one day to the next, is it?

5 A I would agree with that.

6 Q Right. And as an engineer you have to be  
7 somewhat familiar with the extent to which flows do  
8 vary on a daily basis, seasonal and perhaps even an  
9 hourly basis?

10 A Correct.

11 Q And the plant components have to be sized to  
12 accommodate peaks all the time, don't they?

13 A Correct.

14 Q Good. Now, implicit in your representation  
15 of the definition of margin reserve, you say margin  
16 reserve is defined as the investment in plant needed  
17 to meet the changing demands of existing customers.  
18 Now, if the plant you design is designed to meet the  
19 change in demand, and if you add to that a margin of  
20 reserve which is also designed to meet the change in  
21 demands, haven't you made two allowances for those  
22 changing demands?

23 A No. That's not what I mean by "changing  
24 demands."

25 Q Tell me what you do mean by "changing

1 demands"?

2           A     For instance, I'll give you an example.  If  
3 you have a single-family residential home occupied by  
4 two people, those two folks sell their dwelling to a  
5 family of six, you have changed the flow  
6 characteristics of that existing customer, and we do  
7 not get additional CIAC for that particular customer.

8           Q     So you have to maintain some increment of  
9 plant to make up for customers who might come along  
10 and put increasing demands on the plant.  Is that my  
11 correct understanding?

12           A     Existing customers who occupy, in my  
13 example, a dwelling from a previous customer, could  
14 put additional demands on the system, yes.

15           Q     And existing customers could put somewhat  
16 less if they decided to move back to Maryland for  
17 about six months out of the year, couldn't they?

18           A     Which customer?

19           Q     Any customers who chose to do that.  If they  
20 decide to move somewhere else, they put lessening  
21 demands on your system, don't they?

22           A     Assuming that their residence is empty  
23 during the period when they are not there, that's  
24 correct.

25           Q     Yes.  You assume that for the question, you

1 say that's the case?

2 A If that's the assumption. I'm not sure I  
3 agree with the assumption.

4 Q Well, of course, not, it's a hypothetical.  
5 If that is, in fact, the case.

6 A If the home is unoccupied for some period of  
7 time, then I would agree that there's no demand on the  
8 system at that particular period of time.

9 Q Do you bring evidence to the Commission to  
10 suggest that that is a less likely scenario than the  
11 one you suggest which is the load increases in a  
12 similar way that my scenario shows that the load  
13 occasionally decreases?

14 A I bring no evidence other than my experience  
15 with the Lee County division and in North Fort Myers,  
16 that North Fort Myers is not a seasonal community as  
17 is the case in South Fort Myers.

18 Q Do you take issue with the Commission's  
19 allowance of an ERC and their definition in sizing of  
20 an ERC?

21 A I believe that our tariff now is 250, was  
22 200. I don't particularly take any issue with those  
23 two gallons per ERC, no.

24 Q Okay. So when you design the plant, you  
25 design it for a rather conventional ERC, which is



1 sized either, whether residential 3.5 or  
2 multiresidential, a multifamily residence. The  
3 criteria which the Commission requires the Utility to  
4 assign to that kind of account, that's not something  
5 you take issue with.

6 A What is the 3.5 you're referring to? I'm  
7 not --

8 Q 3.5 customers per ERC.

9 A I don't believe that that's defined as an  
10 ERC in our tariff, no.

11 Q I'm not asking about your tariff. You seem  
12 to suggest to the Commission that you have to maintain  
13 some increment of plant to allow for customers who  
14 suddenly arrive at existing accounts and increase the  
15 amount of capacity you have to have in place to serve  
16 those customers. Do I have that correct?

17 A I said that that is a possibility, yes.

18 Q Okay. Now, if that is a possibility,  
19 shouldn't the Commission take that into consideration  
20 when they determine how many gallons are correlated  
21 with an ERC?

22 A I don't necessarily agree that it will  
23 change the number of ERCs.

24 Q But will it change the number of gallons  
25 which correlate with that ERC. An ERC is responsible

1 on the water side, let us say, for 350 gallons a day;  
2 is that right?

3 A No.

4 Q What is right?

5 A 300.

6 Q 300. Now, if you face the risk that  
7 customers are suddenly -- not suddenly, are going to  
8 come along and increase their demands on the system,  
9 shouldn't the Commission reflect that in the 300?

10 A It may, in fact, be reflected in the 300.  
11 If the existing customer that moved out was using 150  
12 and the new customer uses 302, it's already reflected  
13 in there.

14 Q So if it's reflected in the 300 and it's  
15 reflected again in the margin reserve, isn't there a  
16 double accounting?

17 A No.

18 Q Why not?

19 A Because the wastewater being generated by  
20 those customers at that plant when it was 100 gallons  
21 per day is obviously different than the 300 generated  
22 by the new customer.

23 Q And you believe that the Commission has a  
24 responsibility to permit existing customers to pay you  
25 a return on the increment of plant which you have to

1 maintain to meet that eventuality?

2 A Yes.

3 Q What is the likelihood of that eventuality?

4 A What eventuality are you talking about?

5 Q Where customers come along and increase  
6 their demand on the system.

7 A What is the likelihood of it?

8 Q Yes.

9 A I have no idea what the likelihood -- it is  
10 as likely as it is that they will go north for the  
11 winter.

12 Q But you want money for that, the likelihood  
13 that they are going to come along and increase their  
14 demand on the system. You want to the collect money  
15 for maintaining plant to allow for that eventuality,  
16 and you can't say what the eventuality is. Is that  
17 correct?

18 A I believe that that is an eventuality that  
19 has a possibility that is included in the margin  
20 reserve, and that margin reserve as such, should be  
21 included in used and useful plant, and that the  
22 utility should be allowed to earn a rate of return on  
23 it, yes.

24 Q And if it is done so, and if that  
25 eventuality does not occur, who will have borne the

1 risk that it not occur?

2 A The customers who are paying the rates  
3 that's included in used and useful plant will.

4 Q Thank you, sir. Now, with respect to  
5 potential customers, you also say that margin reserve  
6 should include an increment of plant to allow for  
7 potential customers, correct?

8 A Yes.

9 Q Do present customers have any interest in  
10 whether future customers come or not?

11 A Absolutely they do.

12 Q Tell me how.

13 A Because you cannot build a plant as each  
14 individual customer decides to show up, the cost would  
15 be prohibitive. You could not include -- I mean, we  
16 don't buy capacity in terms of here comes Customer 1,  
17 and we put a Customer 1 package plant out there and  
18 start treating his wastewater. And then when Customer  
19 2 comes along, you do the same thing. That is not the  
20 way that the plant is designed. It would be  
21 economically -- prohibitively expensive to do that, so  
22 that your present customers are benefiting from a  
23 lower overall cost during the period -- over the  
24 period of time.

25 Q Okay. I accept your hypothetical. Let's

1 suppose that you can build an increment of plant for  
2 each customer who shows up and that the cost is quite  
3 high, unreasonably high. What interest do present  
4 customers have in avoiding that unreasonable cost?

5 A If they were an existing customer -- if they  
6 were a potential customer coming along, they would  
7 have pay the unreasonably high price to begin with  
8 themselves. And if you decide to have a plant for a  
9 customer, and Customer 2 shows up, and you put in all  
10 of the infrastructure to get the wastewater from  
11 Customer 2's house to the plant, to the new little  
12 plant that we built on the site, it would be  
13 prohibitively expensive for that customer, and he was  
14 once a potential customer as well. They weren't all  
15 created there.

16 Q We have a body of potential customers now,  
17 right? I'm sorry, no, strike that.

18 We have a body of existing customers now?

19 A Yes.

20 Q Okay. Now, have any of those customers  
21 paid -- let's assume that the next increment of plant  
22 you build is just for one customer. Do any of the --  
23 have any of the existing customers paid that  
24 unreasonable increment to which you refer?

25 A They could, yes. They have not, but they

1 could.

2 Q Well, maybe you misunderstand the question.  
3 There's an existing body of existing customers, right?  
4 And in my hypothetical you can add an increment of  
5 plant to serve the next customer who arrives. Do you  
6 accept that hypothetical for the purposes of the next  
7 question?

8 A Not from an engineering point of view, but  
9 from a hypothetical point of view, sure.

10 Q It is certainly uneconomical to proceed in  
11 that fashion. But I want to know what interest the  
12 present customers have in avoiding the unreasonable  
13 cost which will be borne by the next customer who  
14 shows up?

15 A Are you assuming that the next customer  
16 showing up is going to pay the entire cost of the CIAC  
17 for that increment of plant expansion?

18 Q Yes, sir.

19 A Then the present customers would have no  
20 bearing on that, would have no interest in that.

21 Q So let's come back a little bit closer to  
22 the real world, of course, where you do add an  
23 increment, an economically feasible increment to serve  
24 the next group of customers who show up. Does that  
25 change the interest that the existing customers have?

1           A     Yes, I believe so.

2           Q     Well, they're not going to be liable for the  
3 unreasonable part which was added a while ago when you  
4 just add it for one, why would they be somehow -- how  
5 could they benefit from a larger increment which was  
6 even more economical in the future.

7           A     I don't believe that all of the CIAC  
8 associated with a particular increment of plant  
9 expansion is recovered from the future customers.

10          Q     That's because of imputation of CIAC, is it?

11          A     No, not necessarily only imputation.

12          Q     Okay. With respect to the customers, the  
13 potential customers, if your theory of margin reserve  
14 is accepted by the Commission, who bears the risk that  
15 those potential customers don't show up?

16          A     Who bears the risk of them not showing up  
17 from what point of view?

18          Q     Let me strike that and ask it to you  
19 differently.

20                     Margin reserve, according to my definition,  
21 is an accounting device whereby present customers pay  
22 the carrying charges on that increment of plant which  
23 is required for potential customers and changing  
24 demands of existing customers. Would you accept that?  
25 I can make it simpler.

1           The theory of margin reserve holds that  
2 present customers pay the carrying charges on  
3 increments of plant which will be utilized by future  
4 customers. I think that's true even in your example,  
5 isn't it?

6           A     Yes, I believe so.

7           Q     Now, if the customers are paying those  
8 carrying charges on a day-to-day basis or on a  
9 month-to-month basis when they pay their recurring  
10 charges, and if those new customers don't show, who  
11 bears the risk that they don't show?

12          A     The present customers would be paying those  
13 rates until such time that the CIAC from the future  
14 customers showed up. The projections for the amount  
15 of margin reserve is based on historical numbers that  
16 have occurred over, I believe, the last five years.  
17 They are a reasonable expectation of what is to come  
18 in the next three years.

19          Q     So your answer is that they are likely to  
20 come so whatever risk there is to be borne is lessened  
21 by the likelihood that they might show up.

22          A     That's correct.

23          Q     My question to you is, who bears the risk  
24 irrespective of its magnitude?

25          A     The present customers are paying the



1 carrying charge or the margin reserve, the return on  
2 investment through the period of time until such time  
3 that the CIAC is collected.

4 Q Mr. Acosta, you are trained as an engineer;  
5 is that right?

6 A Yes.

7 Q You're a registered engineer?

8 A Yes.

9 Q Would you agree with me that you and I have  
10 just been discussing the economic consequences of  
11 engineering considerations?

12 A Yes.

13 Q It didn't take any hard engineering to  
14 answer any of those questions, did it?

15 A Well, the projections are certainly an  
16 engineering function.

17 Q Sure.

18 A So I don't know what you mean by hard  
19 engineering. If you're not trained as an engineer,  
20 all of it is hard.

21 Q Well, did you have a course on used and  
22 useful at the University of Florida?

23 A I had a lot of things at the University of  
24 Florida, but used and useful formulations were not one  
25 of them.

1 Q How about imputations on CIAC?

2 A No, not a course on it. I don't believe  
3 that's in any curriculum that I've ever seen.

4 Q Me neither. Would you agree with me that  
5 our endeavor when we're dealing with used and useful  
6 is to give economic consequences to what are  
7 essentially engineering considerations?

8 A I believe that you wind up -- that's, in  
9 fact, what you wind up doing, yes.

10 Q It doesn't take an engineering degree to do  
11 that, does it?

12 A I don't know that I agree with that.

13 Q Well, does it take an accounting degree to  
14 discuss the economic consequences that we have been  
15 discussing now for about 15 minutes?

16 A An accounting degree?

17 Q Yes, sir.

18 A I don't believe so, no.

19 Q Would you accept, subject to check, that  
20 neither one of us has got an accounting degree?

21 A I don't have one, I don't know about you.

22 Q No, sir, I sure don't.

23 I'm going to get an exhibit and hand it to  
24 you here directly. Oh, let me ask you about  
25 Ms. Mills. There was a little bit of earlier

1 discussion about Ms. Carole Mills. You were in the  
2 room when the customers testified, weren't you?

3 A Yes, I was.

4 Q Did you hear that customer testify about  
5 those tanks that were gushing water out the top?

6 A I did.

7 Q And there's been some discussion about that  
8 since then, but I missed it. I want to know what the  
9 likelihood that water wound up in the sewer system is,  
10 can you say? Do you know.

11 A There's a possibility that, in fact, it did.

12 Q And it would enter it not through the normal  
13 means, if you will, for example, not through household  
14 sewage systems, but it would enter it through manholes  
15 and the like, wouldn't it?

16 A Not necessarily, no.

17 Q How would it get there?

18 A It could have gotten into the system through  
19 the Waterway Estates gravity sewer connection.

20 Q Then it would have to infiltrate that system  
21 to do so, wouldn't it?

22 A No.

23 Q How would it get in there then?

24 A You have a clean out on the top of the  
25 ground.

1 Q A clean out at what point? At the water  
2 plant?

3 A That's correct. They have a sewage disposal  
4 just like any other place.

5 Q I see. When did it happen, do you know?

6 A No, I do not.

7 Q Does it happen on a recurring basis, or do  
8 you know?

9 A I don't believe it happens on a recurring  
10 basis, no.

11 Q Would you look --

12 MR. McLEAN: Madam Chairman, may I have the  
13 exhibit which I just handed out marked for  
14 identification?

15 COMMISSIONER JOHNSON: Certainly. The  
16 exhibit Capacity Analysis Report will be marked as  
17 Exhibit 17.

18 (Exhibit No. 17 marked for identification.)

19 Q (By Mr. McLean) Mr. Acosta, would you look  
20 at the document which has been marked Exhibit 17 and  
21 tell the Commission, if you can, what it is?

22 A I believe it is a capacity analysis report  
23 for the Waterway Estates wastewater treatment plant  
24 that I prepared.

25 Q You prepared that, correct?

1           A     That's correct, or prepared under my  
2 direction.

3           Q     Yes, sir. You accept its -- what it says as  
4 accurate, do you not?

5           A     I haven't read every word. It appears to be  
6 the document that I prepared, or was prepared under my  
7 direction.

8           Q     Would you look at the page -- would you look  
9 at Page 2 of 3 of the capacity analysis report,  
10 Paragraph 3, if you will. I read that paragraph as  
11 saying that there has been -- there is an indication  
12 of increasing inflow and infiltration, I&I, since  
13 1985. Would you agree with my observation?

14          A     You're speaking of the paragraph that begins  
15 Attachment 7 and 8?

16          Q     Yes, sir, the third paragraph down from the  
17 top. I'm sorry.

18          A     Let me read it, please.

19          Q     Sure. (Pause)

20          A     I believe it does say this is an indication  
21 of increasing I&I.

22          Q     Do you agree that there is an indication  
23 that the inflow and infiltration had increased at that  
24 point since 1985?

25          A     I believe that's what the document says.

1 Q Okay. Do you agree with the document?

2 A Yes.

3 Q Okay. Look to Paragraph 5, if you will,  
4 please, the fifth paragraph down from the top.

5 The term there is chosen "I&I problem" in  
6 the collection system as being addressed. Can you  
7 give some indication to the Commission of why you  
8 chose the word or your -- the person accountable to  
9 you chose the word "problem"?

10 A Poor choice of words, that's why.

11 Q And you now don't think that it is a  
12 problem?

13 A I didn't think it was a problem at the time.

14 Q Well, then, I'm confused on when you say  
15 "poor choice of words." Do you say this was a  
16 representation -- for whom is this capacity analysis  
17 report prepared?

18 A For FDEP.

19 Q Did you have a problem at that time with the  
20 use of the word "problem"?

21 A I did not have a particular problem with the  
22 use of the word "problem." I still think it was a  
23 poor choice of words in retrospect.

24 Q Okay. But you signed the document, did you  
25 not?

1 A Yes.

2 Q Including your license as a PE?

3 A Correct.

4 Q And it was a representation to a regulatory  
5 agency upon which they might rely?

6 A I won't speak for what they relied for it  
7 on. It was a representation to a regulatory agency,  
8 yes.

9 Q Did they ask for it or did you  
10 spontaneously -- by you I mean the Company -- prepare  
11 it?

12 A They asked for it as part of the capacity  
13 analysis requirements that went into effect in '92.

14 Q So you don't have a position as to whether  
15 they might rely on representations by an engineer that  
16 is licensed in the state of Florida?

17 A I don't know whether they used this or not,  
18 no. I cannot speak for what they did with the  
19 document.

20 Q Do you expect the Commission to rely on your  
21 testimony?

22 A Yes.

23 Q Okay. Refer, if you will, to the sixth  
24 paragraph. And I interpret that paragraph to  
25 indicate, at least to me as a layperson, that the

1 elimination of I&I is the equivalent of adding  
2 capacity, at least in terms of the capacity to treat  
3 sewage; is that correct?

4 A No.

5 Q Tell the Commission what that sentence says.

6 A You want me to read the sentence?

7 Q No, sir. You can interpret if you wish to,  
8 please, sir.

9 A Read the sentence?

10 Q You can interpret it.

11 A Thank you.

12 Q Sure.

13 A You don't build additional capacity by  
14 removing I&I, what you do is avoid a particular  
15 increment of capacity if you reduce I&I by a specific  
16 amount. You don't increase the capacity of the  
17 treatment plant. That's an erroneous assumption.

18 Q In my question I said -- strike that.

19 I agree with you. (Pause)

20 In the last paragraph there's mentioned an  
21 expansion date of 1998. Do you see that, sir?

22 A Yes.

23 Q That was a representation to the DEP that  
24 the plant would have to be expanded at least by 1998;  
25 is that correct?



1 A That's correct.

2 Q And the plant was expanded considerably  
3 before that?

4 A Yes.

5 Q Is that also correct?

6 Do you recognize the representation to DEP  
7 that the plant would not be moved from the expansion  
8 date in 1998 is now erroneous?

9 A No. If you'll read the paragraph above, the  
10 increase in wastewater flow rate was based on a  
11 current dry water flow of 860,000. I believe the DEP  
12 did not accept that and that we -- they asked us to  
13 move forward the design and construction of the plant  
14 quickly.

15 Q Okay. So you're saying, you're testifying  
16 then that it was the DEP impetus then that caused you  
17 to expand the plant earlier than you represented here;  
18 is that right?

19 A Yes.

20 Q Now, back up to Paragraph 6. You say, "The  
21 program to reduce I&I is just beginning. It's  
22 potential is not yet clear." Can you give the  
23 Commission a dimension for the success of that program  
24 now?

25 A I believe that the I&I program is a

1 preventative maintenance program that keeps I&I within  
2 the allowable limits as established by Manual Practice  
3 No. 9, and the program has been very successful in  
4 that those limits are consistently -- that I&I is  
5 consistently below those limits.

6 Q You're aware that -- or are you aware as to  
7 whether the Company has requested money from the  
8 customers to continue to finance the I&I program?

9 A We have an annual I&I program, yes.

10 Q Can you present any numbers to the  
11 Commission that suggest the success of that program?

12 A What do you mean numbers?

13 Q Hard numbers or hard evidence that the I&I  
14 program has been successful. It is your testimony  
15 that, apparently, as I understand it, that the I&I  
16 hasn't gotten any worse; is that correct?

17 A I don't believe that I said that. I said  
18 that we were well within the limits allowed by Manual  
19 Practice No. 9.

20 Q Will you suggest to the Commission the best  
21 evidence that you can that the I&I reduction program  
22 is successful.

23 A Yes. Based on what I said before that the  
24 limits are well within the accepted standard of Manual  
25 Practice No. 9.

1 Q If the I&I reduction program is successful,  
2 doesn't that imply to you a change in inflow and  
3 infiltration?

4 A No, not necessarily.

5 Q So to maintain I&I at the same level it was,  
6 and to collect money for a reduction program in your  
7 mind is not a dichotomy?

8 A I didn't say we had an I&I reduction  
9 program. I said we had a preventative maintenance  
10 program. And by not increasing I&I that you have  
11 effectively done that.

12 COMMISSIONER GARCIA: The document says that  
13 you have a program to reduce I&I.

14 WITNESS ACOSTA: That's correct. What we  
15 have done, you can't really put a number on I&I  
16 reduction. How much would you have had had you done  
17 nothing is a hypothetical question. So you may have  
18 reduced it by not increasing it and letting it get to  
19 the next level. So there's not a number that you can  
20 put on in gallons that I reduced I&I by X gallons.

21 If you went out and rehabilitated the entire  
22 wastewater collection system, you could probably put a  
23 number on reduction from Point A to Point B.

24 Q (By Mr. McLean) So if I were to say,  
25 'Mr. Acosta, are the customer's getting their money's

1 worth when they pay you to reduce I&I?" Your answer  
2 would be, "Well, the I&I hasn't changed."

3 A I don't know what the exact number on I&I  
4 is. I believe that that is in some other folks'  
5 testimony. My recollection of what is going on is  
6 that it has stayed about the same over the last few  
7 years.

8 Q But it had not stayed the same from the time  
9 of 1985 until you authored this report; is that right?

10 A There was an indication that it was going  
11 up.

12 Q If there were to be no net reduction, why  
13 did you chose the words, "however, if a 25% reduction  
14 can be achieved, this would add 50,000 to 75,000  
15 gallons per day to the plant"?

16 A That's exactly what I meant, if a 25%  
17 reduction could be achieved.

18 I don't believe that a 25% reduction has  
19 been achieved, nor is it economically feasible to  
20 attain a 25% reduction in lieu of building plant.

21 Q Looking at Paragraph 6, those are your  
22 words, as I understand it, or someone who is  
23 accountable to you. In that paragraph, that paragraph  
24 associates the notion of a program to reduce I&I with  
25 a reduction of I&I; is that correct? And it, in

1 further, is linked to, it would add 50 to 75,000  
2 gallons of capacity to the plant. It is you, is it  
3 not, in that document right here, who introduced the  
4 notion that a reduction of I&I equates in some way to  
5 an analog, if you will, for adding to plant capacity?

6 A No, I don't believe that that's the intent.  
7 Again, if you reduce I&I by 50,000 gallons, that does  
8 not mean that you added 50,000 gallons of capacity to  
9 the plant. The capacity of the plant did not change.

10 Q Of course not.

11 A The flows to the plant would have been  
12 reduced by 50,000 gallons.

13 Q Isn't that about the same as increasing  
14 plant capacity for the limited purpose of determining  
15 how much rates are going to be ultimately?

16 A No, not necessarily.

17 Q As a matter of fact, it's probably cheaper  
18 to reduce I&I than it is to build plant, isn't it?

19 A Absolutely not.

20 Q What are you suggesting in that paragraph  
21 with respect to the potential success of your  
22 reduction of I&I program? You are suggesting to the  
23 reader of this report that it would add 50 to 75,000  
24 gallons per day of capacity to the plant. Correct?

25 A That's correct. Not add capacity, reduce

1 flows.

2 COMMISSIONER KIESLING: But the report says  
3 add capacity.

4 WITNESS ACOSTA: I don't disagree with that.

5 COMMISSIONER KIESLING: Thank you.

6 Q (By Mr. McLean) Mr. Acosta, let's turn to  
7 Page 2 of the Capacity Analysis Report. I'm sorry,  
8 we're already at it. Attachment 2, I'm sorry,

9 Do you have the page, sir?

10 A Yes, sir.

11 Q There are several columns. There's one on  
12 the left-hand side of the page called ADF; is that  
13 right?

14 A Correct -- well, not the furthest left  
15 column.

16 Q That's why I didn't say, I said at the left.  
17 Now, the column entitled ADF, what does the ADF stand  
18 for?

19 A Annual daily flow.

20 Q Annual daily flow of wastewater; is that  
21 correct?

22 A Correct.

23 Q At what point?

24 A During the month of January, February,  
25 etcetera, etcetera.

1 Q Okay. At the what point in the system is  
2 this measured? What physical point?

3 A The wastewater treatment plant.

4 Q That's the inflow to the treatment plant in  
5 layman's terms, is it?

6 A Correct.

7 Q Now, the water demand, in the far right  
8 column of that particular group, do you see that water  
9 demanded?

10 A Yes.

11 Q I've looked at those two columns and have  
12 come to the conclusion that the water treated -- I'm  
13 sorry, that the water supplied is almost invariably  
14 less than the wastewater received by the plant. Is  
15 that a valid impression to have?

16 A Did you say always or --

17 Q No, sir. Typically. Let's use that word.

18 (Pause)

19 A Some of the numbers are not clear. But yes,  
20 it appears that the annual average daily flow for that  
21 particular month, compared to the water demand is  
22 higher in some instances.

23 Q Okay. Well, I think you said some  
24 instances. Again, of course, the point I'm trying to  
25 get to, we don't need to do a statistical analysis,

1 but the point I'd like to get to is that the  
2 wastewater treated is typically higher than the water  
3 demanded.

4 COMMISSIONER KIESLING: I have a problem  
5 with that because starting in 1985 and going up  
6 through '91, I can find almost no instances where the  
7 water demand is less than the average daily flow.

8 MR. McLEAN: Okay. Then let me strike that  
9 question and ask you a different question.

10 Q (By Mr. McLean) With respect to the ADF  
11 column, water-only customers don't contribute to that  
12 column, do they?

13 A To the wastewater annual average daily flow?  
14 No, they do not.

15 Q Exactly. And to the extent that customers  
16 who are water and wastewater customers use water which  
17 is not returned to the sewer system, it doesn't appear  
18 in that ADF column either, does it?

19 A Say again?

20 Q To the extent that customers who are  
21 wastewater customers, do not return some of the water  
22 they buy to the wastewater system, that water doesn't  
23 show up in the ADF column either, does it?

24 A Correct.

25 Q Okay. Did you hear Mr. Dick say to the



1 Commission that he believed that 100% of the water  
2 which is purchased by these customers, to which I just  
3 referred, is returned to the sewer system? Do you  
4 agree with that?

5 A I believe a very high percentage is returned  
6 to the collection system, yes.

7 Q Mr. Dick based his opinion, as I recall, on  
8 his familiarity in talking with the customers and what  
9 not. Is that upon what you base your answer?

10 A Yes.

11 Q Okay. No scientific study to show that?

12 A I don't believe that you could do a  
13 scientific study to show that.

14 Q And unscientific study to show that?

15 A I think the unscientific study is there in  
16 the conservation that has been exhibited over the last  
17 years on the water side is an indication that people  
18 are cutting down on uses of water that are not  
19 immediately necessary for their life functions.

20 Q And do you believe that to be in any way  
21 demonstrably different from any other system in  
22 Florida?

23 A Yes, I do believe that's different from  
24 other systems in Florida.

25 Q Why is that?

1           A     Because we have had some other systems  
2 within Florida Cities alone that have shown flat or  
3 slightly increasing water consumption over this same  
4 period of time.

5           Q     Are those some of the changing demands of  
6 the customers to which you referred earlier in your  
7 testimony upon which you'd like to base a margin  
8 reserve?

9           A     No.

10          Q     Why not?

11          A     Because.

12          Q     I should have thought of that. (Laughter)

13          A     Yeah, you should have.

14          Q     Well, we have changing demands, don't we?

15          A     On margin reserve you are talking about a  
16 hypothetical question that you asked me. It is just  
17 as valid to have a hypothetical that increases the  
18 consumption by an individual customer as it is to show  
19 a decrease by that same customer.

20          Q     But you're representing to the Commission  
21 that water consumption will decline and continue to  
22 decline, aren't you?

23          A     I don't know that it will continue to  
24 decline. There is a point to which you cannot go  
25 below, in my opinion.

1 Q Because some use is absolutely necessary?

2 A Absolutely.

3 Q Now, won't the contribution -- some of those  
4 uses by themselves can be conserved to some extent,  
5 can't they?

6 A What do you mean, "some of the uses"?

7 Q Flushing the toilet is less a luxury than  
8 washing the Volvo?

9 A I would agree.

10 Q I'd have to give it some thought. But if  
11 that be the case, then you can expect wastewater flows  
12 to decline because of the conservation just as well,  
13 can't you? Maybe not to the same extent, but to some  
14 extent.

15 A No, not necessarily. If you stop washing  
16 the Volvo.

17 Q Then you affect the water that doesn't go to  
18 the sewer?

19 A That's right.

20 Q If you flush the toilet less frequently,  
21 then you cause less water to flow to the sewer system,  
22 right?

23 A Yes.

24 Q And with these rates, irrespective of how  
25 price elastic this service is, you're going to see

1 some decline, aren't you?

2 A Based on my previous experience, yes, I  
3 would expect that.

4 Q Why are we accommodating changing demands of  
5 existing customers with margin reserve?

6 A It could just as well go the other way.

7 Q Mr. Acosta, can you make available to  
8 yourself a copy of Ms. Walla's testimony?

9 A I do not have it here on the desk with me.

10 Q Perhaps counsel can provide it for you.

11 (Hands document to witness.)

12 MR. McLEAN: Thank you, counsel.

13 Q (By Mr. McLean) Would you look at  
14 Ms. Walla's testimony to exhibit number -- letter  
15 CW-1, Page 1. Those are my handwritten notes up at  
16 the very top of the page.

17 A Okay.

18 Q Do you have -- that exhibit appears to be a  
19 letter from the DER to Florida Cities Water Company.  
20 Do you accept it as that, as what I said it is?

21 A Yes, I believe, that's what it is.

22 Q Okay. Now to Paragraph 3, if you will.

23 A The one numbered 3.

24 Q Yes, sir, Number 3. There is a sentence  
25 there I'll read it to you. "Included in the

1 documentation submitted FCWC will address analysis and  
2 corrective measures pertaining to infiltration at  
3 Waterway Estates wastewater treatment plant." Do you  
4 agree with my reading?

5 A Yes.

6 Q Would you agree with me that "corrective  
7 measure" implies some measure of a problem?

8 A I believe that you could make that  
9 inference, but without the analysis having been  
10 completed, I don't think you can draw that conclusion,  
11 no.

12 Q Isn't that the inference you made when you  
13 chose the word "problem" in your response, in your  
14 capacity analysis response which was, I believe, a  
15 response to this letter? First of all, do you agree  
16 that it is a response to what the DER was asking for?

17 A My Capacity Analysis Report?

18 Q Yes.

19 A No. Capacity Analysis Report was submitted  
20 some ten months prior to this letter.

21 Q I see. I'm reading from Paragraph 3, and  
22 read that it says, "Final documentation for  
23 satisfactory completion of the capacity analysis  
24 report shall be submitted to the department prior to  
25 submission of a permanent application on April 1,

1 1993." You agree with my reading?

2 A Yes.

3 Q I infer that that means this document  
4 inspired you to generate a capacity analysis report.

5 Am I incorrect?

6 A Yes, you are.

7 Q Tell me how it worked?

8 A The Capacity Analysis Report is dated  
9 1-2-92.

10 Q I see.

11 A This letter is dated November 9th, 1992.  
12 That's no way that this letter could have inspired the  
13 Capacity Analysis Report.

14 Q I'll give you that one.

15 A Thank you.

16 Q Did you ever respond to this final  
17 documentation request?

18 A I did not submit any additional information  
19 to DEP in regards to this Capacity Analysis Report  
20 personally. The Company may have. The letter,  
21 obviously, did not go to me.

22 Q Okay. Is this an indication that the DEP  
23 was unhappy with the earlier submitted capacity  
24 report, in your estimation?

25 A I believe that that's exactly correct.

1 Q Okay, now we're making some headway. Now  
2 with respect to their use of the word "corrective," I  
3 think you said that my inference that corrections are  
4 associated with problems is incorrect; is that right?

5 A I didn't say that. I said you can infer  
6 that from that word, but that without the analysis you  
7 cannot draw the conclusion that the -- a problem  
8 existed.

9 Q I see. Now with respect to that paragraph,  
10 I take that paragraph as an indication from the DEP --  
11 DER at that time, that you had an infiltration and  
12 inflow problem; is that correct (Pause)

13 A I can't speak for Mr. Edwards, obviously,  
14 but the letter -- the sentence addresses infiltration,  
15 not inflow, and you can infer that they think there  
16 might be a problem, yes. But they also request  
17 further analysis by the Company.

18 Q Okay. Another semantic problem. Do you  
19 look at that last sentence in that paragraph as an  
20 invitation or as an imperative telling you to do that?

21 A I believe that we -- it tells us to do an  
22 analysis of the system, and if the analysis shows that  
23 we need to do some corrective measures, that we will  
24 take those corrective measures. If we show the DEP  
25 through an analysis that you need not do any

1 corrective measures, and they accept that, that you  
2 need not do any corrective measures.

3 MR. McLEAN: I agree. Thank you, sir. I  
4 have no further questions.

5 COMMISSIONER JOHNSON: Ms. Walla? Any  
6 questions?

7 MS. WALLA: Yes.

8 **CROSS EXAMINATION**

9 BY MS. WALLA:

10 Q Mr. Acosta, Page 1 of your testimony. I'm  
11 also going to refer to Line 21 and 22, changing demand  
12 of assisting customers within a reasonable time.

13 We were sent by Mr. Jaeger some dockets  
14 which we were supposed take -- that was going to be  
15 taken judicial notice of by the Commissioners. Is it  
16 proper to refer to this docket at this time? Is it  
17 okay to use this docket at this time? It's one of the  
18 ones Mr. Jaeger sent me.

19 COMMISSIONER JOHNSON: What is that  
20 something --

21 MR. JAEGER: Commissioners, I've notified  
22 all of the parties that we were going to take judicial  
23 notice of several orders, and those were provided in  
24 two different letters dated April 17th, and April  
25 19th. And I haven't moved the Commission at this time



1 yet to take judicial notice of those orders, but I was  
2 intending to.

3 MS. WALLA: I can use a past docket anyway,  
4 can't I.

5 COMMISSIONER JOHNSON: Certainly.

6 MS. WALLA: This refers to Docket No. --  
7 should I give the order number also? Order  
8 No. PSC-19-0594-FOF-SU, and it's Docket No. 910756-SU,  
9 issued 7-1-92. This is the North Fort Myers Division,  
10 Lee County Florida Cities Water's docket.

11 In this docket there was a utility witness  
12 Harrison. Okay. And this is under the calculation of  
13 used and useful. He testified that the plant's  
14 permitted capacity is based on average annual daily  
15 flows, and it has sufficient capacity to serve 5,413  
16 equivalent residential connections.

17 Mr. Acosta, could you tell me what your ERCs  
18 are at present?

19 A Connected or capacity?

20 Q Your equivalent residential connections.

21 A The equivalent residential connections  
22 connected to the system, or the capacity of ERCs at  
23 the plant?

24 Q That are connected to the system.

25 A I cannot give you that information off the

1 top of my head. I do not know the number.

2 Q Do you know how many customers you have?

3 A Not exactly off the top of my head, no.

4 Q Okay. Would you accept 4,590 ERCs as a  
5 reasonable number as to what the ERCs is equivalent to  
6 right now at your plant?

7 A I think subject to verification of that  
8 number, I could accept it. It sounds in the right  
9 ballpark.

10 MS. WALLA: Should I get the verification  
11 ready at this moment? It's in the MFRs.

12 COMMISSIONER JOHNSON: I think he's accepted  
13 it, subject to check.

14 MS. WALLA: Okay.

15 WITNESS ACOSTA: I'll accept the number  
16 that's in the MFR.

17 MS. WALLA: Oh, okay.

18 Q (By Ms. Walla) The calculation of the used  
19 and useful the utility witness is speaking about, as I  
20 said, it was to serve the 5,413 equivalent residential  
21 connections. There's a difference here of 823 ERCs  
22 included in the 1992 docket. How is it the Utility  
23 stands at 4,590 ERCs today and needs additional  
24 capacity or an additional margin reserve or capacity?  
25 What happened to the 823 ERCs included in the 1992

1 docket?

2           A     I am can't speak to the 5,413 or 17 number  
3 that you quoted. My -- the way that I would have  
4 calculated the number of ERCs available at the  
5 treatment plant in 1992 would have taken -- would have  
6 been to take the capacity of the plant of 1 MGD,  
7 divided by 200 gallons per day per ERC, which is what  
8 is in our tariff at the time, and come up with that  
9 number of 5,000. So I'm not sure where the number  
10 comes from, that 51 whatever.

11           Q     So in other words, the ERCs can float from  
12 docket to docket to different numbers?

13           A     I don't know that they can float, and as a  
14 matter of fact, they can. The capacity fee filing  
15 that has been submitted along with this filing  
16 increases the gallons per ERC from 200 to 250 and that  
17 number has changed over time. So it's not necessarily  
18 a one-to-one ratio, the way that I just calculated the  
19 5,000 is not necessarily accurate. That's just the  
20 way that I would calculate it at that specific point  
21 in time.

22                   COMMISSIONER JOHNSON: Ms. Walla, how much  
23 more do you have?

24           MS. WALLA: I think I have two more -- well,  
25 actually, I have a really long question. And I don't

1 know if -- it doesn't seem to me he's the proper  
2 person to ask that one, so can I just ask one more?

3 COMMISSIONER JOHNSON: And then I don't have  
4 a problem with you asking the questions, we just need  
5 to take a break for our court reporter, and with --

6 MS. WALLA: We can do that.

7 COMMISSIONER JOHNSON: Is this a good time  
8 for you? We'll go ahead than and -- you said you only  
9 have one more question?

10 MS. WALLA: Yes.

11 COMMISSIONER JOHNSON: We'll go ahead and  
12 entertain that so we'll break at a more appropriate  
13 time and that will give you an opportunity to finish  
14 up your questioning of this witness.

15 MS. WALLA: Okay.

16 Q (By Ms. Walla) This has to do, Mr. Acosta,  
17 with the set of interrogatories, and the answer to  
18 question 2 which you responded to.

19 A Hang on. Let me get those.

20 Q Okay.

21 A Okay.

22 MS. WALLA: Does the Commission have copies?

23 COMMISSIONER JOHNSON: No, we don't. Do you  
24 all have copies for us?

25 MS. WALLA: I don't have them, the

1 interrogatory questions. Can I just read this  
2 question out?

3 COMMISSIONER JOHNSON: Go ahead.

4 Q (By Ms. Walla) This is on Page 4 of  
5 Question 2 and Michael Acosta responded. "Did the  
6 January 2nd, 1992, Capacity Analysis Report take out  
7 all water-only customers to show accurately how the  
8 wastewater flows compare to total water and wastewater  
9 customers? Wouldn't the CR -- CAR be considered  
10 deceptive if it did not show this?"

11 Mr. Acosta stated that Florida Cities  
12 Water's response to Walla interrogatory was CAR only  
13 used wastewater flow statistics, not water sold  
14 statistics.

15 If you look in the Capacity Analysis Report  
16 which Mr. McLean put in, on Page 1, the bottom  
17 paragraph, Attachment 2 lists wastewater flows and  
18 water demands since 1981.

19 Also, Attachment 2, Attachment 7 and  
20 Attachment 8 all include water statistics. Are they  
21 not, Mr. Acosta?

22 A They are included in the document. They are  
23 not used in any way for the calculation of projections  
24 to wastewater flows to the wastewater treatment plant.

25 Q Sir, this would be Attachment 7, wastewater

1 three-month average daily week flow and water demand,  
2 how many gallons a day. Why is the water demand in  
3 here then if it's not called for?

4 A It was -- the minimum requirements for  
5 Capacity Analysis report don't exclude you from  
6 putting water statistics and water flow data in there.  
7 We put it in there for illustrative purposes for the  
8 DEP. They were not used in the projections to -- as  
9 to feature flows to the wastewater treatment plan.

10 Q Isn't that what brought you to the  
11 conclusion that there was infiltration with the water  
12 demands and the wastewater flows?

13 A That there has been I&I in the system? I  
14 think that I probably intuitively knew that. I don't  
15 know of any system in Florida that doesn't have I&I  
16 enter the collection system. It shows a relative  
17 magnitude of the number.

18 COMMISSIONER JOHNSON: Is the answer to her  
19 question yes or no?

20 WITNESS ACOSTA: Well, brought me to the  
21 conclusion that we had I&I?

22 COMMISSIONER JOHNSON: Yes.

23 WITNESS ACOSTA: No, I knew that beforehand.

24 MS. WALLA: Okay. That's it.

25 COMMISSIONER JOHNSON: Okay. Go ahead.

## CROSS EXAMINATION

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BY MR. JAEGER:

Q First, this Capacity Analysis Report, it was dated in, what, January '92?

A I believe January 2nd, yes.

Q Do you have a more recent Capacity Analysis Report?

A Not that I have done, no. I believe that there have been some performed, but just not under my direct signing and sealing of the document.

Q You don't know if the Company submitted another one?

A I believe the Company has submitted it, it's just not under my signature.

Q Is there any way we could get that as a late-filed exhibit.

A I don't believe that that will be a problem.

MR. JAEGER: Commissioner Johnson, we'd like to have that as a late-filed exhibit.

COMMISSIONER JOHNSON: That being additional --

WITNESS ACOSTA: Any Capacity Analysis Report update.

COMMISSIONER JOHNSON: Capacity Analysis Update Reports.

1 WITNESS ACOSTA: If there are none, we will  
2 tell you that.

3 COMMISSIONER JOHNSON: We will show those  
4 identified and to be filed as a late-filed.  
5 Late-filed 18.

6 (Late-Filed Exhibit No. 18 identified.)

7 MR. JAEGER: That was 18.

8 COMMISSIONER JOHNSON: Yes, Late-Filed 18.

9 Q (By Mr. Jaeger) Are you familiar with an  
10 overearnings case on the water side for North Fort  
11 Myers?

12 A Yes -- not for North Fort Myers, Fort Myers  
13 in general.

14 Q Fort Myers, combined systems? That's right.  
15 Would you agree that analysis of the water use in that  
16 docket shows a pretty flat usage rate over the last  
17 few years?

18 A For the combined systems of North and South  
19 Fort Myers, yes, I agree.

20 Q And that there's little or no conservation  
21 shown?

22 A For the combined systems, I agree. I don't  
23 agree if you separate the two systems apart.

24 MR. JAEGER: Thank you. That's it.

25 COMMISSIONER JOHNSON: Any redirect?



1 MR. GATLIN: I have several questions.

2 COMMISSIONER JOHNSON: I don't think we can  
3 accommodate that tonight, and you have some, too.  
4 Okay. We're going to break at this point in time. We  
5 will reconvene the technical portion of this hearing  
6 tomorrow morning at 8 o'clock. Let me announce that  
7 again. We will reconvene the technical portion of  
8 this hearing tomorrow morning at 8 o'clock.

9 We will continue with the customer testimony  
10 tonight at 6:30. We will begin with the  
11 Commissioners' questions for Mr. Acosta, and then  
12 continue with the redirect.

13 (Thereupon, the hearing adjourned at  
14 5:25 p.m. to reconvene at 6:30 p.m.)

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16 (Transcript continues in sequence in Volume  
17 4.)

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