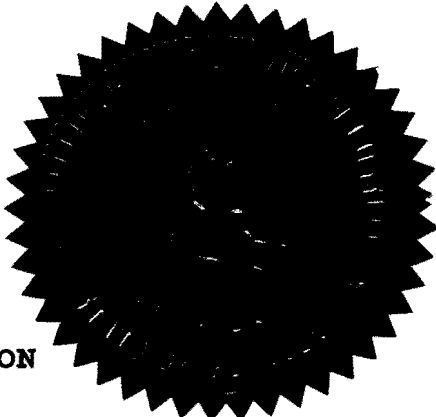


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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 950387-SU



FIRST DAY - EVENING SESSION

VOLUME 4

Pages 351 through 466

PROCEEDINGS: HEARING

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

DATE: Wednesday, April 24, 1996

TIME: Reconvened at 6:30 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 11:07
COMM. DIVISION

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FPSC-RECORDS/REPORTING

I N D E X

WITNESSES - VOLUME 4

3	NAME	PAGE NO.
5	WILLIAM BIGGERS	
6	Direct Statement	360
7	CARL GREENE	
8	Direct Statement	362
9	WILLIAM MORGAN	
10	Direct Statement	374
11	DAWN COWARD	
12	Direct Statement	382
13	HARVEY KOTTKE	
14	Direct Statement	397
15	JoANN DeNIGRIS	
16	Direct Statement	407
17	NORM JUESCHKE	
18	Direct Statement	414
19	HARRY HITCH	
20	Direct Statement	415
21	BONNIE CORNELL	
22	Direct Statement	418

1	WITNESSES - VOLUME 4 (CONTINUED):	
2	NAME	PAGE NO.
3		
4	DANA McGRATH	
5	Direct Statement	420
6	DON ARTIS	
7	Direct Statement	423
8	WILLIAM MORGAN (Recalled)	
9	Direct Statement	433
10	BELLE MORROW	
11	Direct Statement	440
12	LAURA NILSSON	
13	Direct Statement	444
14	MARILYN MILLER	
15	Direct Statement	446
16	DON PAIGHT	
17	Direct Statement	455
18	PAUL ANDRESEN	
19	Direct Statement	456
20	ROBERTE WILKE	
21	Direct Statement	459
22	ERWIN ZIEMANN	
23	Direct Statement	461
24		
25		

P R O C E E D I N G S

(Hearing reconvened at 6:30 p.m.)

(Transcript follows in sequence from
Volume 3.)

COMMISSIONER JOHNSON: Ladies and gentlemen,
welcome here tonight. We're going to reconvene our
hearing. By way of background, we held our first
customer hearing this morning at 10:00. Lots of
participation. We ended that at about 12:00; and at
1:00, we started the technical portion of our
hearings. We convened that not too long ago, and
we're here again tonight to hear from you in an
additional customer forum.

For purposes of your information, let me
have the attorneys introduce themselves again today.
They already made their appearances this morning; but
oftentimes there are questions to as to who represents
whom, and I think this would be an appropriate time to
go and put that information on the record.

Mr. Gatlin.

MR. GATLIN: Yes. My name is B. Kenneth
Gatlin, I'm an attorney and I represent Florida Cities
Water Company.

COMMISSIONER KIESLING: Why don't you stand
up and let them see you?

1 COMMISSIONER JOHNSON: This is Mr. Gatlin,
2 he represents the Utility.

3 MR. McLEAN: Thank you, Commissioner. My
4 name is Harold McLean. I work for the Office of
5 Public Counsel. It's a government agency established
6 by the legislature. Mr. Jack Shreve, who some of you
7 may know, is the Public Counsel. I answer to him.
8 And Mr. Gatlin has instructed me and his office to
9 oppose this rate increase on your behalf. Thank you.

10 COMMISSIONER KIESLING: Wait a minute.
11 Mr. Gatlin? (Applause)

12 MR. McLEAN: Got my signals confused. It's
13 been a very long day. I don't think Mr. Gatlin told
14 me that. Mr. Shreve did.

15 Thank you for pointing that out,
16 Commissioner.

17 MR. JAEGER: I'm Ralph Jaeger, Staff
18 Counsel, Public Service Commission. I'm representing
19 the Commission Staff.

20 COMMISSIONER JOHNSON: My name is Julia
21 Johnson. I'm a Commissioner with the Florida Public
22 Service Commission and I have been presiding over the
23 hearings this morning and our technical hearings here
24 today. To my right is Commissioner Diane Kiesling,
25 and to my left is Commissioner Joe Garcia.

1 We also have several Staff members here
2 today to assist you with any questions that you might
3 have. I'm going to go through the names of our Staff
4 members and give you a little bit information about
5 their background. To the extent that you have
6 questions that you don't want to necessarily bring
7 before the Commission here, feel free to grab one of
8 them and you can ask them any questions. And to the
9 extent there are questions during the process that may
10 need to be answered, we will probably direct those
11 questions to our Staff members.

12 We have with us Mr. Marshall Willis. He is
13 the Bureau Chief for the Water and Wastewater
14 Division. Ralph already introduced himself as our
15 Staff attorney. Cissy Galloway, she's a rate analyst
16 with the Division of Water and Wastewater. N. D.
17 Walker is an accountant with our department. Tom
18 Walden is one of our engineers; he may not be present
19 at the moment, but he is available for questions.

20 Ms. Kay Flynn is to your right back in the
21 back, and she's with our Records and Reporting. Robby
22 Cunningham is the man you probably met out in the
23 front when you picked up your special report and he
24 probably asked you if you wanted to sign up to
25 testify. And Joy Kelly is our court reporter tonight.

1 She will be recording all of your statements.

2 Your statements will be a part of our
3 official record. They will be statements upon which
4 we can rely upon when we're making our final
5 decisions. And because of that, for those of you who
6 would like to testify, we have to swear you in. That
7 is a formality; and it protects you, and it protects
8 us, and it makes the information usable in an official
9 capacity.

10 I'll be swearing you in -- not at this
11 moment, because I'd just like to kind of walk you
12 through some information and walk you through the case
13 and how we got to where we got today.

14 For those of you who did not get a special
15 report, those are available in the back and they give
16 you a pretty good detailed outline of the case and of
17 the issues that we will be deciding today.

18 Mr. Walden I had mentioned was a Staff
19 engineer. He just walked in, he's in the back there.
20 Mr. Walden.

21 Let me give you a little background on the
22 case. On May 2nd, 1995, the Utility filed an
23 application for increased rates pursuant to Section
24 367.081, Florida Statutes. That was designed to
25 generate \$2,591,990 in annual revenues, reflecting

1 about a 22% overall increase.

2 The Utility's position was that the rate
3 increase was needed to reflect additional investments
4 and expenses, including an expenditure of
5 approximately \$1,600,000 in 1995 to increase the
6 capacity of its wastewater plant.

7 On November 2nd of 1995, the Commission
8 issued a proposed agency action denying the Utility's
9 request and approving rates that are designed to
10 generate \$2,489,487. That's an increase of about 17%.
11 However, that order was timely protested by 12 of your
12 customers, some of whom are participating in our
13 proceeding here today. And that's why we are
14 conducting this proceeding, to determine what the
15 rates should be, whether there should be an increase,
16 and what is reasonable and what is not.

17 I hadn't had the opportunity to introduce
18 Ms. Walla, who I'm sure most of you probably know.
19 And I cannot remember how to pronounce the last name
20 of the other.

21 MR. McLEAN: Ms. Jerilyn Victor.

22 COMMISSIONER JOHNSON: Ms. Victor, who will
23 also be participating and cross examining the
24 witnesses and testifying in the technical portion of
25 our hearing tomorrow.

1 Public Counsel, do you have the list of the
2 witnesses who will be testifying today?

3 MR. McLEAN: I have the individual forms
4 that they all signed up.

5 COMMISSIONER JOHNSON: Very good. For those
6 who wish to testify today, could you please stand so I
7 might swear you in.

8 (Witnesses collectively sworn.)

9 COMMISSIONER JOHNSON: Thank you. You may
10 be seated.

11 Are there any other preliminary matters
12 before we call the first customer? Seeing none, I
13 just mention one thing. When you come up there's a
14 seat here and microphone. If you could, speak
15 directly into the microphone. Although Public Counsel
16 will call your name, if you could restate your name
17 and your address, present whatever testimony you might
18 have to us.

19 After you have presented your testimony, if
20 you could just sit for a second, there may be
21 questions from the attorneys or the Commissioners; or
22 to the extent you have questions that you needed to
23 have entertained, we will attempt to entertain your
24 questions, too.

25 Public Counsel, you can call your first

1 witness.

2 MR. McLEAN: Thank you, Commissioner. The
3 first witness is Willard Biggers.

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WILLIAM BIGGERS

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

9 WITNESS BIGGERS: How do I read, all right?

10 I personally resent the fact that you --

11 COMMISSIONER JOHNSON: Sir?

12 WITNESS BIGGERS: That our bills are based
13 on --

14 COMMISSIONER KIESLING: Sir? Could you give
15 us your name and your address, please?

16 WITNESS BIGGERS: Oh. My name is Willard
17 Biggers. I live in North Fort Myers.

18 And I think it's wrong to give a bill for
19 water and sewage on the amount of water used. Some
20 people use the water for watering the lawn, filling
21 their swimming pool and everything like that. I
22 personally have half my house feed water -- rainwater
23 into the swimming pool so I don't need to use any
24 other.

25 I have a deep well and electric pump where I

1 water everything, lawn, garden and everything else
2 like that. Yet my bills run up to \$90 a month. And I
3 wonder why, because it's only two of us, me and my
4 daughter are the only ones that live in that house.

5 Last year they said I had a leak between the
6 house and the meter and I had the whole piping removed
7 and replaced. Now they say I've got a leak someplace
8 else. They've checked it twice.

9 And I still get charged it's a tremendous
10 sewage disposal for just leakage or water usage I
11 think, and I think that's wrong. It should be based
12 upon how many people live in a house.

13 COMMISSIONER JOHNSON: Thank you very much.
14 Any questions?

15 MR. GATLIN: No questions.

16 MR. McLEAN: Thank you, sir.

17 (Witness Biggers excused.)

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19 MR. McLEAN: Carl Greene.

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CARL GREENE

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

WITNESS GREENE: My name is Carl Greene. I live at 915 Coconut Drive, North Fort Myers.

I have two questions. Number one, I have my bills with me. You have a \$6.15 base whether you use water or not. I can understand that. My bill is, say, \$15. My sewage bill is \$28. I can't understand the difference between \$15 worth of water and my sewer bill is over double that, or we'll say double basically.

Nobody -- I have three bills that are exactly the same for three months. My water meter, I go check it. There's this much silt on the top of my water meter (Indicating). Nobody has checked this water meter.

Now four months down the road I get a bill, my bill is now \$80. These are estimated bills. I don't understand why you can't just read the meter.

This month it's \$50, this month it's \$60. All of a sudden I get a bill when I'm paying just say \$60 a month, and I get a bill three months later for \$200. Well, these were estimated. Now we read it,

1 and you owe this amount. Can't you read it every
2 month?

3 I mean, this is like to me if you have a
4 Visa card and I send you a bill for \$20, you pay the
5 \$20. This is great. I'm estimating your Visa bill.
6 And three months later I send you a bill and say,
7 Well, you owe me \$2,000.

8 Well, we just estimated your Visa bill, we
9 didn't have time to read your meter, or go through
10 your receipts, so now you owe this amount of money;
11 and if you don't pay it, we're going to cut your water
12 off -- or I'll cut your Visa off. To me that's
13 ridiculous.

14 You want more money but yet you don't have
15 people to go out there and read this meter. This
16 estimating, it's the same thing. If you want to
17 estimate things, you say you need more money --
18 because I've read things, "Well, we don't have the
19 personnel, it's summertime, people are on vacation,
20 this and that. So we estimate the bill."

21 If I do work for you, I'm not going to
22 estimate your bill. I'm going to say, "Here's your
23 bill, this is what you owe me," and you'll get the
24 money. But to sit and estimate bills -- and like I
25 said, this much silt on top of the water meter? "Oh,

1 well, he probably used this much. We'll read it four
2 months later. Oh, gee, look, now they owe me \$2,000.
3 Pay me the money or I'll cut your water off."

4 I mean, to me it's ridiculous.

5 It's not only Florida Water, there's other
6 companies that do it, too. But I think this is a very
7 bad business practice. Of course, if this is the way
8 you want to run business, that's fine. But the thing
9 is, we're the ones that are suffering for it. Because
10 \$50 a month, you can pay that. But then all of a
11 sudden you get stuck with a bill for \$300, \$400, "You
12 have to March 8th," or something like this, "to pay
13 this or we're going to cut your water off." Its
14 ridiculous to me.

15 People want more money. Because I realize
16 every company has bills. That, you know, the price of
17 this goes up, the price of the waste management,
18 chemicals cost more, everything is going up. But you
19 wait until the last minute to give it to these people
20 out here, and a lot of us, we don't have the money.
21 We're not rich. But you want to come in there -- and
22 you have control of our lives.

23 Because you cut our water off, say, "You
24 don't have any water." The next thing, the county
25 comes over and says, "You don't have water in your

1 house, we'll condemn your home."

2 Because you cannot live without water. And
3 the county will not let you live in a house if you
4 don't have water or if you don't have electric.
5 They'll condemn your house. So we have no way to
6 protest. Because we're not going to pay the bill.
7 You get out of house, county's going to condemn it
8 because you don't have proper facilities in the house.
9 To me that's just ridiculous.

10 You people want to raise the bills. I'd
11 like a breakdown that you should send to your
12 customers what it actually costs. Not here in North
13 Fort Myers, but you control the water over half the
14 state. I want to see a comparison between, we'll say,
15 Tampa, here and there. I think you should send
16 brochures out.

17 Co-op does. Co-op lets you know this is a
18 breakdown on this and that. Florida Cities Waters
19 doesn't. They just say, "We're going to charge you
20 more money and that's it."

21 COMMISSIONER JOHNSON: There may be some
22 questions.

23 COMMISSIONER KIESLING: First of all, do you
24 want an answer to why your wastewater bill is higher
25 than your water bill?

1 WITNESS GREENE: That would be nice.

2 COMMISSIONER KIESLING: Okay, I'm attempt to
3 answer that.

4 The cost on a per gallon basis of
5 treating -- of pumping and treating potable water is
6 much lower than the cost on a per gallon basis of
7 pumping to the treatment plant and then treating
8 sewage. The equipment costs more, the chemicals cost
9 more. And that's why it may all be the same gallon of
10 water to you, but the cost of treating it and the
11 facilities to do that are more expensive.

12 WITNESS GREENE: Well, everything that goes
13 through my sink, my toilet or my bathtub, goes to the
14 same pipes. Goes right out into the sewer, the sewer
15 line.

16 You're saying that it costs less to do this
17 and this. It goes in the same sewer line. Do you
18 separate everything when it gets there?

19 COMMISSIONER KIESLING: No. No. I don't
20 think you understood me. Potable water, what you
21 drink --

22 WITNESS GREENE: Yes.

23 COMMISSIONER KIESLING: -- what comes out of
24 the taps in your house costs less to pump and treat
25 than it does to treat the sewage that comes out of

1 your house. So that's why on a per gallon basis it
2 costs more to treat sewage than it does to make
3 potable water.

4 WITNESS GREENE: I realize that. That you
5 have -- where I work, we have our own processing plant
6 that we have to do that. And trucks come in to pump
7 it out of our waste treatment plant.

8 The thing is, everything -- I realize this
9 costs more than this and that. Why does the sewer
10 thing keep going up and up?

11 I have no -- I don't know about the other
12 people, I have no complaints about the water. If I
13 use 100 gallons, whatever, you know, I'm going to pay
14 for that. But there are so many people that are still
15 on -- have city water, but they are on the septic
16 tank, they don't have to pay. Which is -- you know
17 they have septic tanks; they're trying to change it
18 over so everybody gets on the sewer. Which I think
19 that's great, you should be on a sewer, septic tanks
20 can be bad.

21 But you're charging people. They want up to
22 \$2,800 to hook up when it's mandatory, if they put a
23 sewer through some place and telling people that they
24 have to hook up to it. You cannot use your septic
25 tank anymore, you have to hook up. It's \$2,800 to

1 hook up to it.

2 Plus you have to pay from your house to the
3 sewer line. That's the customer's problem there. You
4 have to pay a plumber to come and do this. But to tap
5 into that sewer line, it costs you so much. And these
6 people aren't on sewer. And what it seems like to
7 me -- now, I'm not, I may be wrong. But it seems like
8 to me these increases and increases are going for the
9 Company to force people to put sewer lines in where
10 they're getting the money for it and we're paying for
11 other projects that are going on.

12 I've tried to get a brochure from Florida
13 Cities, just a breakdown on prices on what it costs
14 here, what it costs there. I've called them. They
15 won't send me anything. I'd like -- you know, I don't
16 mind paying my share, but I'd like to know exactly
17 where it's going to.

18 Co-op, the electric company, they'll send me
19 a brochure and say, "Well, we'll send you," and they
20 give us a breakdown on what it costs here, what it
21 cost on this -- and why this is, why this person pays
22 this, why this person pays that. For some reason, the
23 water company won't.

24 COMMISSIONER KIESLING: I was just trying to
25 answer your question that you asked originally.

1 WITNESS GREENE: Well, I'm asking you a
2 question. Why won't Florida Water send out -- if
3 somebody gives me a breakdown on what it costs here,
4 an actual breakdown -- and shows me that, "Well, the
5 cost of this goes up, the cost of this goes up," I
6 have no problem with that. But they refuse to do it.

7 COMMISSIONER JOHNSON: I understand what
8 you're saying.

9 I think with respect to the same question
10 that you have with respect to why do they deserve this
11 increase or why they are asking if they can prove it,
12 I think that's what our technical proceedings are
13 about. And I know you're saying as a customer you'd
14 like to see the same information that they are
15 providing to us.

16 WITNESS GREENE: Right.

17 COMMISSIONER JOHNSON: Because they have to
18 show us with respect to the expenditures that they are
19 saying are necessary, the advance water treatment
20 facility, they have to show us and our Staff and our
21 engineers, we look into that, all of those costs, to
22 make sure they were prudent costs and they weren't
23 just throwing away money. I under you're saying you'd
24 like to see those numbers --

25 WITNESS GREENE: I'd like to see them, too,

1 and I'm sure everybody else would, too. Because they
2 are spending our money. And I don't mind if it's a
3 beneficial thing and it needs to be done. That's
4 fine. Show me the bill. Show me this breakdown.
5 They won't do it.

6 COMMISSIONER JOHNSON: Is that something
7 that the Company could make available to the customers
8 to let them -- I know you filed the MFRs at the
9 library. Is there anything else you have done or
10 could do to try to help educate the customers on the
11 costs that you believe are necessary and the
12 justification for the rate increase, or would you just
13 direct them to the MFRs?

14 MR. GATLIN: No. The Company has put on two
15 or three customer meetings and attempted to explain
16 the rate increase and why we think it ought to be
17 granted. And the Company continually sends out
18 information to the customers regarding the cost of
19 operation. And if there's some particular questions
20 that Mr. Greene has, I think we'll be glad to try to
21 answer them.

22 COMMISSIONER JOHNSON: Okay.

23 COMMISSIONER GARCIA: Mr. Greene, I do know
24 they shouldn't be backbilling you all of a sudden that
25 way in that manner. And maybe you should speak to our

1 Staff and get back with them on when they did that
2 just so that we know.

3 The Company shouldn't be doing that. They
4 have service personnel who are supposed to do that,
5 and that shouldn't be going on for three or four
6 months at a time.

7 WITNESS GREENE: Okay. Like I said, like I
8 told her, the bills are exactly the same. Now, to me,
9 looking at bills, it's like, "Well, I used exactly the
10 same amount, I'm really doing good here," you know.
11 And when you look at your water meter and there's this
12 much silt on it, nobody's been reading it.

13 And then you get a bill three months, four
14 months down the road that they are making up -- not
15 making up, I don't mean, you know, they are making up
16 something. They are saying, "Well, they really used
17 more water than I estimated so now we're going to send
18 them this bill." And I don't think it's fair.

19 COMMISSIONER JOHNSON: We'll have a Staff
20 member get with you. Because the issue of reliability
21 and predictability with respect to what your bill is
22 going to be on any given month I think is a legitimate
23 concern; and we need to check into why you have been
24 charged the way you have been charged with the ups and
25 downs and see if at all possible there could be some

1 consistency and verify that they are at some point in
2 time looking at usage and doing this as accurately as
3 possible.

4 Before you leave today, then, we'll have a
5 Staff member get with you and see if we can at least
6 try to help you with that issue.

7 WITNESS GREENE: I appreciate it. Like I
8 say, if somebody shows me the cost of something, I
9 have no -- if I can see the breakdown on it, I have no
10 objection. But as to being charged for something I
11 don't know where it's going.

12 COMMISSIONER JOHNSON: Thank you very much.

13 MR. JAEGER: Could I just ask one question
14 before he goes?

15 COMMISSIONER JOHNSON: Mr. Greene, got a
16 question for you.

17 MR. JAEGER: I know it's clear to you they
18 are estimating, but did the Utility itself admit that
19 they were estimating your bill? Did they tell you
20 that, "We estimated for those months," or is that just
21 was clear?

22 COMMISSIONER KIESLING: Mr. Greene, sit down
23 in the chair and talk in the mike so we can all hear
24 it. Thank you.

25 WITNESS GREENE: No, they didn't say they

1 were estimating the bill. But I think it's kind of
2 obvious when you go out and there's this much -- when
3 you look in the water meter and there's this much dirt
4 and silt over it and the bills are exactly the same, I
5 don't think somebody has to say you're estimating the
6 bill.

7 MR. JAEGER: Commissioners, you didn't want
8 it on the record which months it was, just do that on
9 the side?

10 COMMISSIONER JOHNSON: I think we can --
11 we'll get that information from you.

12 WITNESS GREENE: Okay.

13 COMMISSIONER JOHNSON: I think he's
14 prepared.

15 COMMISSIONER KIESLING: But let me just say
16 this to Staff. If it turns out to be the same three
17 months that the gentleman testified about this
18 morning, I'd like to know that, too.

19 COMMISSIONER JOHNSON: Just to clarify that,
20 we had a witness testify earlier that the same thing
21 had happened, that he had gotten the exact same
22 billing three months in a row.

23 Don't forget, we're going to have somebody
24 try to talk to you. Thank you.

25 Mr. Walker is going to.

1 (Witness Greene excused.)

2 - - - - -

3 COMMISSIONER JOHNSON: Next customer.

4 MR. McLEAN: Mr. William Morgan, please.

5 **WILLIAM MORGAN**

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

9 WITNESS MORGAN: Good evening. My name is
10 William Morgan. I live at 4773 Orange Grove Boulevard
11 over in Lochmoor Villa.

12 My wife and I just recently moved here and I
13 have yet to receive a water bill. We just had at
14 water turned on, that's how new we are to this area.

15 One of the things I was pretty much bothered
16 about what happened was the fact that I was charged
17 \$140 deposit, which the woman told me that would be
18 kept for the next 23 months and I would receive 6%
19 interest on that money periodically.

20 The other thing was I had to leave work --
21 and due to the construction and the distances that I
22 was from the Florida Cities building there behind the
23 Brown Derby, I missed approximately two hours worth of
24 work.

25 There was no verification of my Social

1 Security number taken. She didn't look at my driver's
2 license. I signed a form, gave her a check for \$140
3 and was told that this would be held for 23 months.
4 Which bothers me greatly. Because one, the cost of
5 moving here was very expensive. The water company is
6 the only utility -- or anyone else in the state of
7 Florida so far -- who has not checked into our past,
8 some sort of credit check.

9 No one else has charged us a deposit of any
10 kind whatsoever.

11 COMMISSIONER GARCIA: Okay. No one?

12 WITNESS MORGAN: No one else has charged me
13 a deposit whatsoever. That's electric, phone, nobody.
14 We have previous and have -- I mean we're in our 40s,
15 we have paid our bills, we have good credit. No one
16 else has charged us any money.

17 And the other thing is holding it for 23
18 months. And we bought the property, it's not like
19 we're going to move.

20 So if anybody can put any light on those
21 three things: Why I had to miss work to come down;
22 why it couldn't be done over the phone like everyone
23 else in utilities, and mail a check; why is it being
24 held for 23 months?

25 And if I wanted some sort of an investment,

1 there are other investments I can receive more than 6
2 %. And I'm sure that Florida utilities, if they are
3 doing this to lot of people, I'm sure they're
4 reinvesting that money someplace else and making more
5 many on us which is not reflected just allowing these
6 rate increases.

7 So your turn.

8 COMMISSIONER KIESLING: I'll take a stab at
9 this one, too.

10 All I can tell you is that there are
11 provisions in our rules and regulations governing when
12 they can get deposits, how long they can keep them,
13 what interest they have to pay on them, and they are
14 authorized to do that.

15 Don't ask me -- I can't explain why others
16 didn't do it. All I can tell you is that they are
17 operating within our rules and regulations in doing
18 that.

19 WITNESS MORGAN: Then why did somebody set
20 up rules and regulations to hold up money for 23
21 months? That's two years.

22 COMMISSIONER KIESLING: I wasn't on the
23 Commission when that rule got passed, so I couldn't
24 tell you. It's been there for a while.

25 WITNESS MORGAN: Can anybody shed light on

1 it?

2 COMMISSIONER JOHNSON: Perhaps Staff can
3 help. Is there any discretion with respect to
4 actually taking a deposit, or maybe -- and I'm not
5 sure if Staff knows that information. But if there is
6 discretion based on someone's credit record or
7 credit --

8 WITNESS MORGAN: Oh, they didn't check
9 anything. It wasn't a matter of that. That's what
10 I'm saying.

11 COMMISSIONER JOHNSON: Yeah, that's what I'm
12 wondering, if they could have checked --

13 WITNESS MORGAN: Well, yeah. I said, "Do
14 you want some credit card numbers?" I mean, you know.

15 MR. WILLIS: Our rules don't require every
16 utility to take deposits. Our rules basically require
17 if you do require deposits from your customers, then
18 you may only hold those for 23 months. And once that
19 customer has had good payment records for 23 months,
20 you must refund that and you must also pay 6% interest
21 on those deposits during that time period.

22 There are many utilities around the state
23 who vary on their practices. Just like you said,
24 there are some who just do credit checks. That costs
25 them money to do credit checks. There are other

1 companies that require deposits. It just depends on
2 where you are and the practice of the company.

3 WITNESS MORGAN: Well, again, I have been an
4 established homeowner since I was 21 years old when I
5 came back from the service. I have had nobody, no
6 matter where we moved, whether it be state or within
7 that state to another county, where anyone has ever
8 charged us any money. It was just preference: Did
9 you have Bell before? Did you have electric before?
10 Yeah. Who was it? Blah, blah, blah. You still have
11 gas? Whatever it may be.

12 The 23 months, I need some insight on why it
13 has to be held. And nobody has answered the fact that
14 that money is, I am sure, being invested at a much
15 higher rate and they are making money on that. So
16 they are making money on my money and giving me a
17 meager pittance.

18 Of course, \$140 isn't the issue. The main
19 thing was I had to miss work to go down and give them
20 this money, and then to find out that it was to be
21 held for that long a period of time when everything
22 could have been handled over the phone. Because
23 nothing was verified.

24 And to the other -- I understand there are
25 four. It took me four tries to get the right water

1 company for where I live. Do the other three water
2 companies in this area also take that money and hold
3 it for that long?

4 MR. WILLIS: I can't tell you the practices
5 of Lee County and some of the others. But there are
6 other utilities in Lee County that actually do require
7 deposits. I don't know about Lee County municipal
8 system itself. I can tell you the places I have lived
9 in Florida I have had to pay utility deposits on water
10 and wastewater. I don't think I have been on a system
11 where I didn't have to put down a deposit.

12 In the past, I can tell you that before the
13 Commission put a rule on customer deposits, the
14 utilities would be allowed to keep those deposits for
15 quite a long time and the Commission decided that --
16 well, they kept it for perpetuity until you left the
17 system.

18 The Commission decided there had to be a
19 time constraint on that for customers with good
20 payment records. Therefore, they came down with a
21 rule that said you can keep those customer deposits no
22 more than 23 months.

23 COMMISSIONER JOHNSON: But I think one of
24 the things to be noted is what Staff said, is that's
25 not a requirement of the Public Service Commission and

1 it's within the discretion of the Company. So to the
2 extent that there is a Company policy that you as a
3 customer disagree with, to the extent that customers
4 inform the Company -- we can't micromanage them and
5 tell them that they have to do something or how to do
6 it. We just set out parameters. But the law does
7 allow them to do something different.

8 And I think that the procedure to perhaps
9 discuss that with the Company to get them to change it
10 is to do just that, to complain to the Company about
11 the process and suggest another process that they may
12 want to follow.

13 As a Staff member suggested, we kind of did
14 our rule as a safeguard to try to limit what they had
15 been doing in the past and to require at least a
16 certain amount of interest and a maximum amount of
17 time within which they could hold the money. But as
18 regulators, we can't micromanage them and your
19 complaint should be addressed -- it's noted for the
20 record and should be addressed to the Utility because
21 they have the discretion to change that policy.

22 WITNESS MORGAN: Okay. That's it then.

23 COMMISSIONER JOHNSON: Thank you. Sorry we
24 couldn't help you directly on that.

25 WITNESS MORGAN: Okay.

1 COMMISSIONER JOHNSON: Any other questions?

2 MR. GATLIN: No questions.

3 COMMISSIONER JOHNSON: Thank you,

4 Mr. Morgan.

5 (Witness Morgan excused.)

6 - - - - -

7 MR. McLEAN: Dawn Coward, please.

8 UNIDENTIFIED SPEAKER: Excuse me. If we
9 have we have a question, can we ask?

10 COMMISSIONER JOHNSON: Yes, sir. But you'll
11 have to ask at a microphone and we'll have to swear
12 you in. Or maybe you could sneak around and ask
13 Public Counsel and they could perhaps as your
14 representative --

15 UNIDENTIFIED SPEAKER: About the gas. It
16 was just a simple question how do they determine \$140?

17 COMMISSIONER JOHNSON: -- that way we'll
18 answer it through the process.

19 UNIDENTIFIED SPEAKER: Swear me in.

20 COMMISSIONER JOHNSON: Yes, sir. It's just
21 to keep the record clear and straight.

22 UNIDENTIFIED SPEAKER: I understand.

23 COMMISSIONER JOHNSON: Thank you. Was it
24 Ms. Coward?

25 - - - - -

DAWN COWARD

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

5 WITNESS COWARD: My name is Dawn Coward. I
6 live at 951 Tropical Palm Avenue, North Fort Myers.

7 I do have seven copies of my testimony. I'm
8 not going to go over everything, but I'd like to
9 distribute copies to the Commissioners, two to the
10 Staff and one to the recorder, if I may.

11 COMMISSIONER JOHNSON: Please do. And we'll
12 make sure we put that in the correspondence side of
13 the record.

14 (Hands out document.)

15 COMMISSIONER JOHNSON: Go ahead.

16 WITNESS COWARD: The following is the type
17 of service that I experienced for a year being a
18 Florida Cities customer.

19 In a meeting with Mr. Dick on February 12th,
20 1996, Mr. Dick stated that I had had poor service
21 since December 1994, after becoming a Florida Cities
22 water customer. We were there trying to solve some
23 problems I was having.

24 Number one, after only two weeks of moving
25 into my house, I received a bill for the basic rate of

1 \$30.52. This was I had moved in December 31st, 1994.
2 I had not been there a full month, yet I was charged
3 for a month on the basic rate.

4 After I called, the customer service clerk
5 stated they should have prorated the basic amount only
6 after I was there for a full month. The bill of
7 February 8th, 1995, shows the credit adjustment. All
8 of the bills are in here, by the way.

9 On my bill of June 8th, 1995, my meter was
10 read incorrectly at 269 instead of 267; therefore,
11 overcharging my account 2,000 gallons.

12 I called Lorenda on June 10th, 1995, and
13 told her they made a mistake on reading my meter.
14 Lorenda asked me to call back Wednesday, June 13th,
15 and she would have my new reading and amount due
16 available. I did so. She stated that the meter
17 reader read the meter incorrectly and should be only
18 charged 2,000 gallons, not the 4,000 I was mistakenly
19 charged.

20 I immediately sent the amount of \$46.06.
21 Lorenda said was my amount due for the June 8th
22 billing.

23 On July 5th, 1995, I received a notice
24 Florida Cities Water was going to shut off my water
25 for a nonpayment of \$15.54, which was the amount

1 Lorenda stated was to be credited to my account from
2 the mistaken reading of my water meter on June 5th,
3 1995.

4 I called Mary on July 9th, 1995, at 3:05
5 p.m. regarding the notice to shut off my water. Mary
6 stated the credit had not been placed on my account.
7 Florida Cities Water had dropped the ball and failed
8 to do their job.

9 On my bill of July 11th, 1995, the amount of
10 \$15.54 was again billed to me. Mary had not credited
11 my account on July 9th, 1995.

12 On July 12th, 1995, I called Lorenda and
13 asked about being charged for the 15.54, which should
14 have been credited to my account or July 9th. Lorenda
15 said she would do it personally, take care of
16 crediting my account that day. That was July 12th,
17 1995.

18 My bill for September 12th, 1995, had a zero
19 usage reading. I called Florida Cities Water on
20 September 14th and spoke to Lorenda. She said she
21 would send Don, a meter reader, out the next day,
22 September 15th, to read my meter and they would send
23 me a corrected bill.

24 However, I did call again on September 16th
25 and spoke to Lorenda regarding my correct reading and

1 amount due. Lorenda told me 2,000 gallons was my
2 usage and \$46.06 was the amount due. I did not
3 receive my new bill as Lorenda said I would, so I
4 mailed the amount she said was due with my old bill.

5 On October 5th, 1995, I received a notice
6 from Florida Cities Water Company. They were going to
7 shut off my water again for nonpayment of \$30.52. Not
8 for the amount of 46.05 that should have been my new
9 corrected bill.

10 I called Verna Russell on October 9th
11 regarding my corrected bill I never received, and if
12 they had received my payment of 46.06? Which Lorenda
13 said was my correct amount due for which I never
14 received another corrected bill on October 6th.

15 Verna also stated Florida Cities Water
16 Company made another mistake in not entering the code
17 after the reread of my meter. I should have received
18 a corrected bill and should not have received a red
19 tag. Verna stated she would remove the late payment
20 off my record.

21 Okay. On February 23rd, 1996, I received
22 through the mail the notification that Florida Cities
23 Water Company was going to relocate my water meter and
24 that of my neighbors on Tropical Palm Avenue off
25 Coconut Drive. The notification states they are

1 moving the lines because they are located in the
2 backyard and/or in the easements, so the lines will be
3 relocated to the public right-of-way along the
4 roadway. They will also replace the galvanized pipes.

5 My property is abutted by a public park,
6 Moody Park. And, therefore, there are no restrictions
7 of fences to enclose the meter. It seems to me
8 Florida Cities Water Company would save money just to
9 replace the existing pipes instead of going to all the
10 work of digging up people's property to lay new lines
11 down where none have lain before.

12 The water lines on the east side of Tropical
13 Palm Avenue is more likely to be located to the
14 right-of-way along the roadway than the property abuts
15 the public park with plenty of access.

16 The letter states that the contractor will
17 work quickly. This has not been the case. The
18 contractor started the project and have only worked on
19 the project three times.

20 The letter also states the contractor will
21 restore the condition of the property as it was before
22 the project. They have not done so. The contractor
23 has laid two strips of sod in the right-of-way around
24 the roadway. However, they damaged my property more
25 than that when they repaired -- than what they

1 repaired.

2 I challenge, if you looked at the photos
3 supposedly taken before the work started and my
4 property now, you would see that it was not restored
5 to the same condition, nor that of my neighbors.

6 The work is still not completed. What is
7 the holdup? It has been over a month, over a month
8 and a half now. Why doesn't the contractor work on
9 one street at a time and complete each area before
10 beginning a new street for the consideration of the
11 customers?

12 At the Public Service Commission meeting on
13 July 26th, 1995, much testimony by Florida Cities
14 Water customers was given and 1,065 signed letters
15 against the rate increase was turned over to the
16 Public Service Commission. What happened to that
17 information and why was that information not forwarded
18 to the hearing as evidence?

19 Mr. Shreve stated to me that all of the
20 testimony and signed letters that were introduced as
21 evidence does not count. I was shocked at that. Plus
22 the letters we had mailed through the mail when this
23 first happened.

24 My original question still stands of how a
25 private, out-for-profit company could get to be in

1 charge of a basic water right.

2 We have no other competitive company, water
3 company, to take our business to. And from my
4 observation for one year, the Public Service
5 Commission clearly do not have our interest of the
6 public in mind.

7 The Public Service Commission is getting
8 approximately \$94,000 for this rate increase. How can
9 we be sure that the Public Service Commission are
10 honest and for the people when there is a large profit
11 to be made from the rate increase of Florida Cities
12 Water?

13 I strongly suggest that an investigation
14 into the operation of the Public Service Commission be
15 started by a nonpartisan committee that is made up of
16 government and ordinary North Fort Myers citizens.
17 The record clearly shows that the Public Service
18 Commission has never said no to any rate increase
19 requested by Florida Cities Water Company in the past.
20 Not even a 200% increase from 1992 and after.

21 Why not let the stockholders absorb some
22 costs instead of making profits off increases in the
23 customers' bills?

24 Furthermore, has the Public Service
25 Commission looked into how effective the management of

1 the Company is? In one year's time I have seen
2 mismanagement at every turn.

3 My neighbor just stated to me yesterday --
4 he was supposed to come down and testify, I don't know
5 if he's here. He's retired. He stands around and
6 does yard work. Every month he sees the water meter
7 man come by and can't find the water meters. He has
8 to point them out to him or they read two and leave
9 the other two alone and just go on.

10 On my bill of February 7th, 1996, I received
11 a bill for 4,000 gallons of usage after using only
12 1,000 gallons usage for my October, November, December
13 and January bills.

14 I met with Bob Dick at his office on Monday,
15 February 12th, 1996, to discuss my bill. We found out
16 that the meter reader was not actually reading my
17 meter, but guessing what the meter reading should be.
18 He did not note on the paperwork that the readings
19 were an estimation.

20 Mr. Dick explained to me that the procedures
21 were set up that if a meter reader could not locate
22 the meter that he should code it as such and a
23 supervisor would locate the meter so a reading could
24 be done.

25 Mr. Dick said that the Florida Cities Water

1 Company hired contract workers to read the meters and
2 that Florida Cities Water Company had no control over
3 the way they read the meters. Mr. Dick and I
4 discussed this further and Mr. Dick realized Florida
5 Cities Water was responsible if their contract people
6 were negligent.

7 After further investigation, Mr. Dick
8 discovered the meter reader had not read my meter for
9 four months. All of a sudden, my meter was read and I
10 seem to have used 4,000 gallons in one month after
11 using only 2,000, 1,000 to 2,000 gallons since January
12 1995.

13 I'm one person in one house. I don't think
14 I could use 4,000 gallons in one month.

15 Mr. Dick did credit my account.

16 On Friday, February 23rd, 1996, Florida
17 Cities Water Company changed out my meter. The meter
18 should have been set at zero. I read my meter on
19 Sunday, February 25th. The reading was 410 gallons.
20 On the weekend I do laundry and do some other chores
21 but not 410 gallons worth if I'm just using 1,000
22 gallons a month usually.

23 I called Mr. Dick on February 26th to
24 discuss this very high reading. Mr. Dick said he
25 would look into the matter. After talking to

1 Mr. Benson, who had been with Florida Cities Water
2 Company for 18 years, Mr. Dick said the meter had been
3 set at zero on Friday; and although 410 gallons seemed
4 like a lot of water for my particular usage, it was a
5 mystery to him. Mr. Dick said he would look into the
6 matter further.

7 The weekend of March 2nd, my neighbor power
8 washed my house and shed. The water used for this was
9 only 240 gallons. In talking with my neighbor, who is
10 a housewife and is usually home all day, she told me
11 that four workers, four of them, changed out the
12 meters on Friday, February 23rd. My neighbor stated
13 that the four young men were having great fun laughing
14 and joking around all day while changing out the
15 meter. She also stated one of the men told her that
16 she almost had a flood in her backyard because they
17 had broke a water line and could not fix it for a
18 while.

19 They must not have told their supervisor
20 about their incident or Mr. Benson would have told
21 Mr. Dick about the lost water.

22 Also my neighbor said they left an \$80 valve
23 key on the site over the weekend. Anyone could have
24 stolen that tool with that kind of negligence and then
25 the customer indirectly would have paid for that

1 missing tool.

2 My neighbor's husband called Florida Cities
3 water on Monday, February 25th, to have someone come
4 out and retrieve the valve key before someone stole
5 it.

6 After I learned of the negligence of the
7 lost water and supervisor not being informed, I called
8 Mr. Dick to let them know about the water line
9 breakage. Mr. Dick looked into the matter and
10 credited my account.

11 Only a couple more things, and then I thank
12 you for listening.

13 If you'll turn to where the letter is to
14 Public Service Commission, I don't have the page
15 number, I'm sorry, it's June 25th. This is a letter I
16 wrote. And probably they received many, many letters.
17 And this is where I ask, you know, it's most urgent
18 and I state again that it concerns another increase
19 for wastewater rates. It goes on -- do I need to read
20 the letter or? Should I read it or no? The letter.

21 COMMISSIONER JOHNSON: You don't have to
22 read it. We have this and we will put it in the
23 correspondence; but if you wanted to make a comment
24 based on the letter, please feel free to do that.

25 WITNESS COWARD: Okay. This letter

1 basically states that I've lived all around the United
2 States pretty much and I've never ever went to a place
3 where I had to go check on the utilities because I
4 didn't think I could afford them. I didn't do it in
5 this case. I love my house. I like my neighbors.
6 I'm one of the fortunate ones.

7 If I would have known my water bill would
8 have been this much I might have taken a second guess,
9 you know, at buying my home -- as I'm sure people, if
10 I tried to sell it and they are smart, they may not
11 want to buy my home either.

12 And it scares me. I say in the letter, with
13 the 200% raise increase, Avatar, one company holds 99%
14 of the common stock of Florida Cities Water. That
15 makes me nervous. Avatar is an out-for-profit
16 company. I've seen it in my personal life working for
17 Cape Coral Utilities and their housing where they sell
18 houses over and over again. I've seen it on the news,
19 as we all have, a company -- private companies are out
20 for profit, period. Basically they're not
21 people-oriented, they just want to look at the bottom
22 line and what their stockholders are going to get.

23 From my investigations, there have been no
24 significant hookups in five years looking into this.
25 And I just basically state, practicality, common sense

1 it was a poor idea to let a private company who is
2 main goal is to make a profit monopolize the water and
3 sewer systems to which a basic need of water for
4 drinking, washing clothes, bathing and keeping houses
5 clean is a necessity.

6 Water, which should always be used
7 conservatively, should not have to become a luxury as
8 it has now become, thanks to Florida Cities Water
9 Company. Unfortunately, we do not have the choice to
10 chose another water company -- I said this back in
11 June of '95 -- when prices get too high.

12 If we refuse to pay the ridiculously high
13 water and sewer rates, Florida Cities Water has
14 threatened to place liens on our homes as they did a
15 few years back.

16 Every time the citizens of North Fort Myers
17 turn on their faucet, they know each drop of water is
18 now the price of gold. In Florida Cities Water gets
19 the next raise, people who can barely afford the water
20 bill now will certainly have their water shut off
21 because they cannot afford to put more profit in
22 Avatar's hands. (Applause)

23 Common sense depicts that no private company
24 should be in charge of a basic water right.
25 (Applause)

1 I enclosed a comparison where around the
2 area and Florida Cities Water is by far the highest
3 rate. We are paying, taking up the slack for people
4 who do not have sewer, who do not have water. They
5 have wells and septic tanks. There's not very many.

6 I also stated that most of the people when
7 they were doing this were up north. We had no access
8 to those other 1,000 people who were snowbirds and up
9 north. (Applause)

10 Only half of us were fighting and some of
11 those were 80-year-old people, 70-year-old people that
12 could not get out of their house. Certainly some of
13 them can't make it all the way downtown Fort Myers
14 when we all live in North Fort Myers. (Applause)

15 I do say here that, doesn't this rate --
16 doesn't this raise a flag of warning somewhere?
17 Aren't bells and sirens going off to warn of a
18 possible problem?

19 When Florida Cities Water representatives
20 were asked about their rate comparison in the
21 June 22nd meeting, they stated it was no concern to
22 them what the average charge for water and sewer in
23 that area was. I remember that.

24 That's basically what the letter says. And
25 there was a chart in there showing what the rates are

1 in this area.

2 We got a notice in the mail that customer
3 statements at the public service meetings that they
4 wanted to hear it and they were going to place a value
5 on it. I don't know that they've done that.

6 And my closing statement. Again, they are
7 moving -- this is one of the things I don't
8 understand -- they are moving the lines, water lines,
9 to the front of my house. To me, there doesn't seem
10 to be a reason why they should do that. They have
11 public access to it. It abuts Moody Park, there are
12 no fences.

13 They are digging up our yards. For what
14 purpose? Yes, I agree they should change the lines
15 out, the galvanized lines out, every ten years. But
16 why move them on only one side of the street when that
17 side of the street has public access with no fences
18 and it's against a park? It doesn't make any sense to
19 me but wasteful spending.

20 Thank you. (Applause)

21 COMMISSIONER JOHNSON: Any questions for
22 Ms. Coward? Any questions?

23 MR. McLEAN: None.

24 COMMISSIONER JOHNSON: And I think, with
25 respect to the last question that you asked, I think

1 moving the lines to the front part as opposed to the
2 back where there was public access, could we have
3 maybe Tom or someone, one of my Staff members can meet
4 with you afterwards to see if we can try to
5 investigate that, too, and better understand the
6 process of what was done to determine whether or not
7 that was a prudent thing to do.

8 WITNESS COWARD: Thank you very much.

9 COMMISSIONER JOHNSON: Thank you.

10 (Witness Coward excused.)

11 - - - - -

12 MR. McLEAN: Harvey Kottke, please.

13 **HARVEY KOTTKE**

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

17 WITNESS KOTTKE: I'm Harvey Kottke from
18 4773-C-7 Orange Grove Boulevard.

19 COMMISSIONER JOHNSON: Could you spell your
20 last name?

21 WITNESS KOTTKE: Pardon?

22 COMMISSIONER JOHNSON: Could you spell your
23 last name?

24 WITNESS KOTTKE: K-O-T-T-K-E.

25 COMMISSIONER JOHNSON: Thank you.

1 WITNESS KOTTKE: And my complaint is we live
2 in a complex of about 116 units, and a lot of our
3 people are snowbirds. I go up north myself, my wife
4 and I, for about five months, we have grandchildren up
5 there. And we're here seven months a year. We own
6 our place. And there's a lot of people there that are
7 down here for three to four months only.

8 We get billed every month for sewer and
9 water while we're gone. I'd like to know why. It's
10 shut off completely; why do we have to pay that fee
11 when we're not using it?

12 Lee County gives a bill \$5 a month. Shut
13 everything off. But here we're paying the sewer and
14 water and not using the service at all. I'd like to
15 know why.

16 There are a lot of snowbirds who are really
17 up in the air about this. We've got lots of them only
18 three months a year but they keep billing them for a
19 service we're not using.

20 COMMISSIONER JOHNSON: Marshall, do you want
21 to explain the rate structure.

22 WITNESS KOTTKE: We're getting mighty fed up
23 with it, believe me.

24 COMMISSIONER JOHNSON: Sure.

25 MR. WILLIS: Let me try and explain why the

1 Company charges. The Company charges you a base
2 facility charge while you're gone.

3 WITNESS KOTTKE: Yes. Close to \$32.

4 MR. WILLIS: That's correct. The base
5 facility charge is made up of fixed costs for the
6 Company. It's made up of costs that don't change no
7 matter how much water is used by the Company. And if
8 the Company did not charge that charge to all of its
9 customers regardless of whether you were there or not,
10 they would have to raise the rate they charge to the
11 customers here all year round to make up for that
12 cost --

13 WITNESS KOTTKE: Baloney. You're getting
14 cream there. You're getting cream there, mister.
15 That's cream.

16 MR. WILLIS: I'm telling you the facts.

17 WITNESS KOTTKE: I'll tell you. How come
18 the electric company doesn't charge us a big rate like
19 you do? \$5 a month. I don't mind one iota for
20 bookkeeping. But you start charging me for sewer and
21 water \$32 a month while we're gone, figure it out five
22 months a year, some people are only here three months
23 a year, they are paying that, too.

24 That's a rip-off as far as I'm concerned.
25 Its a rip-off. (Applause)

1 I think we should really look into this.
2 Because we're all fed up out there. Not only us, but
3 all of these, they're all fed up the way you're
4 socking it to us.

5 We're not using your facilities at all until
6 we come back and turn everything on. Everything is
7 shut off. There's nothing being used, so then you
8 keep right on charging us.

9 COMMISSIONER JOHNSON: Maybe you don't
10 understand. This gentleman is one of the Bureau
11 Chiefs in the Commission's Division of Water and
12 Wastewater. He's simply giving you an explanation of
13 how base facility charges are calculated. He's not
14 collecting the money.

15 Mr. Gatlin over there, he represents the
16 Utility.

17 WITNESS KOTTKE: We have a daughter and a
18 son-in-law, they've got three children. They bath
19 every day, they wash every day, their water bill is
20 half of ours. Explain that to me.

21 COMMISSIONER JOHNSON: Sir, one thing, if
22 you could, the court reporter is recording this --

23 WITNESS KOTTKE: Yeah.

24 COMMISSIONER JOHNSON: -- so it can be a
25 part of the record. And I understand that you're

1 upset; but if you could slow down so we can make sure
2 we have all of that on the record --

3 WITNESS KOTTKE: This has been brewing for a
4 long time for a lot of us.

5 COMMISSIONER JOHNSON: I can tell. But if
6 you would, because I want to make sure that she gets
7 all of your statements and that she can understand all
8 of your concerns.

9 And with respect to the audience, I know
10 that you all share his concerns. She can't record the
11 applause, and the applause can oftentimes break up the
12 process and she can't hear what he's saying when
13 you're applauding.

14 If you can hold the applause to the end of
15 this, or we may -- and it's your prerogative. But we
16 can be here all night if you want to keep breaking up
17 the process like that. But I'd like to hear from the
18 customer that's trying to testify and let us know what
19 his concerns are this moment.

20 WITNESS KOTTKE: Another thing is like you
21 have these meetings in June before. Well, all your
22 snowbirds go home, around the 1st of April they are
23 gone. And the few people that are here, there aren't
24 many complaining because all the snowbirds have gone
25 back up north. They aren't here complaining.

1 So these meetings should be the end of March
2 or the first of April while they are still here. A
3 lot of them gone back home, stayed three months, four
4 months, they are gone.

5 To me it's cream, I'll tell you. And a lot
6 of them are upset about that whole thing, I'll tell
7 you.

8 You start figuring out water bills we're
9 paying while we're gone, my electric bill was half of
10 what my water bill is, believe it or not. We have all
11 electrical appliances, everything. I tell you, it's
12 gold coming out of that faucet. It's the truth.

13 I'm just a man on Social Security, our
14 salary don't go up. We've got to try to make ends
15 meet. We have 23 grandchildren we have to have once
16 in a while. You keep raising your salaries up; ours
17 don't go up anymore. I'm from the old school yet.
18 You get a raise but we have got to pay for it.

19 We'd like to know what are you going to do
20 about it?

21 COMMISSIONER GARCIA: Sir, let me try,
22 because I think everyone else has tried.

23 Sir, we're doing the sewer case right now.
24 We're going through this -- some of the customers sat
25 through -- it's certainly not interesting material,

1 but we spent most of the morning and most of the
2 afternoon doing some of that work and tomorrow we'll
3 continue.

4 We're looking at those costs. And we have
5 to structure our decision based on the laws of the
6 state, and we're going to do our best to try to keep
7 you in mind. That's why we're listening to your
8 testimony.

9 WITNESS KOTTKE: We won't -- go ahead.

10 COMMISSIONER GARCIA: If you will let me
11 finish.

12 I can't stand up here and say I agree with
13 you, the Company should be shut down, because then I
14 wouldn't be able to judge this case. And that's what
15 we're doing.

16 We have to look at all of the facts. And as
17 much as my heart may go out to you and I feel the
18 problems that you're facing, it's neither here nor
19 there in terms of what I can say to you. It's part of
20 what we're taking into account when we make our
21 decision.

22 Clearly, your opinions and those of your
23 neighbors affect the outcome of this case. And we
24 understand your concern. And we'll try to do our best
25 when we look at this best -- we will not try, we will

1 do our best when we look at this material. And
2 hopefully the outcome will be to everyone's benefit.

3 WITNESS KOTTKE: I don't mind paying this
4 bill. But when we're gone and not using one drop of
5 water, I can't stomach that.

6 COMMISSIONER GARCIA: Our Staff tried to
7 explain it. I'll try to put it in terms -- and
8 clearly, when you're on the receiving end of the pain
9 on this, it's much more difficult.

10 But you have to realize that these
11 calculations are done by putting the cost all out.
12 And as much as you may not agree with those costs and
13 how they have been determined in the past, if we were
14 to change those costs the way that you want them done,
15 that would mean that those people -- and I guess I
16 could make an argument for you as a hypothetical
17 argument, someone who lives here with a family all
18 year long would be paying for some of the service that
19 you receive when you're here. Because the costs that
20 are taken into that base facility charge are fixed
21 costs.

22 In other words, a pipe is a pipe is a pipe.
23 And whether you get water twice a year or 365 days a
24 year, the pipe costs the same thing. And so that's
25 how it's built into the system.

1 WITNESS KOTTKE: Okay. Explain this to me.
2 Utility companies, they're allowed expenses hurricanes
3 and everything. Lee County Electric or Florida Power
4 and Light, they don't sock it to you like that. They
5 have a lot of expenses, too, by the way, and they
6 don't sock it to you. \$5 a month we pay. That's all
7 we pay.

8 COMMISSIONER GARCIA: And in many of those
9 cases we are also looking at those costs and we make
10 those determinations.

11 WITNESS KOTTKE: I think that Avatar, big
12 stockholder in that company, controls it all; that's
13 what I think. They haven't got too good a track
14 record, by the way.

15 COMMISSIONER GARCIA: That's your opinion --

16 WITNESS KOTTKE: That's on television, too.

17 Up north we rent an apartment, we pay for
18 sewer and water, we pay for five months it might shock
19 you, \$6.30 all I pay. So there's something rotten in
20 Denmark someplace.

21 I'd like to know where -- when I'm not using
22 your service at all, get a new meter, we are charged
23 for it. Then you're telling me you're keeping up the
24 lines. We pay for it.

25 COMMISSIONER GARCIA: Sir, I am going to try

1 again. I'm not keeping up the lines. I don't own the
2 lines, I don't profit by this rate case. None of our
3 Staff does.

4 We look at the numbers. Those are numbers
5 that are audited that the Company gives us. Our Staff
6 audits the Company. You have your attorney, which
7 also goes through it with their accountants. In this
8 particular case, you even have a customer who is
9 participating on their own.

10 This is how that the process is set up. I
11 wish I can tell you, you know, because I feel for you,
12 your water is free from now on. I can't do that.

13 What I can tell you is that in the sewer
14 part of this case we're looking at all of the issues
15 that are being brought before us and we're going to
16 try to maybe an outcome that is fair, just and
17 reasonable for everyone involved.

18 WITNESS KOTTKE: Over there, like they said,
19 they told me, I'll come for you, comes in this ear --
20 first it goes in this ear, out the ear is all the
21 satisfaction I get.

22 Out there, "Well, we've got to keep up the
23 lines." Well, this complex is 15 years old. I've
24 never seen them repairing a line out there yet. So
25 there has been no expensive repairing out there.

1 That's just a cop out.

2 So that's all I've got to say. But
3 something had better be done because it's really
4 boiling the pot, all these condo complexes. I'll tell
5 you. Thank you.

6 COMMISSIONER GARCIA: Thank you. (Applause)
7 (Witness Kottke excused.)

8 - - - - -

9 MR. McLEAN: JoAnn DeNigris, please.

10 Commissioners, there are 16 more customers
11 that are signed up at this point.

12 COMMISSIONER JOHNSON: Okay.

13 **JOANN DENIGRIS**

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

17 WITNESS DeNIGRIS: My name is JoAnn
18 DeNigris. I live at 983 Narcissus Street, North Fort
19 Myers.

20 COMMISSIONER JOHNSON: Could you spell your
21 last name?

22 WITNESS DeNIGRIS: D-e-N-I-G-R-I-S.

23 COMMISSIONER JOHNSON: Thank you.

24 WITNESS DeNIGRIS: I concur with some of the
25 people that have testified previously that it's very

1 convenient to schedule a meeting when most of the
2 snowbirds are up north. It seems to happen all the
3 time. We can't get testimony from these people. They
4 are up north, they probably don't even know the
5 meeting is being held. I don't even know if they were
6 mailed a notice.

7 I would like to state that one month we
8 received a zero usage on our billing. We were still
9 billed for the basic water and sewer rate due to a
10 misread meter which was subcontracted. And I just
11 want to say that the money was taken up front for that
12 basic water.

13 We also, we had problems with our sewer back
14 in February of '96. We had a backup of sewage in our
15 home. We contacted Florida Cities Water. They came
16 out, assessed the situation. There was a blocked pipe
17 in the street.

18 Evidently, this is an outdated gravity sewer
19 system. This is what we were told. They have not
20 maintained this sewer line since we've lived there.

21 We spoke with several authorities there. I
22 have not seen any maintenance on these lines. I am
23 one of the participants that went out and got
24 signatures from a lot of the people in my area. In
25 speaking with them, they have experienced problems

1 with flushing their toilets. When they came out to
2 assess the situation, they found quite a bit of sand
3 in the lines; due to this being a gravity system, most
4 naturally there's going to be sand out there.

5 I would like to know why they have not
6 maintained the lines? What are we paying for? I know
7 we're paying for sewage to go out, but they need to
8 maintain these lines as well.

9 I would like some of those questions
10 answered.

11 COMMISSIONER GARCIA: Let me ask you a
12 question. You said you had a sewer break within your
13 house and it was -- was it your fault, was it the
14 Company's fault?

15 COMMISSIONER KIESLING: That's not what she
16 said. She said there was a sewage backup into her
17 house and it was a problem with the sewer line out
18 under the street.

19 COMMISSIONER GARCIA: What did the Company
20 do about that?

21 WITNESS DeNIGRIS: They came out and
22 assessed the situation. They found a lot of sand.
23 Evidently, they subcontract out to a company that has
24 to pump out the lines. They noted that there was
25 quite a bit of sand in the lines.

1 And as I have, you know, gone out this week
2 to get signatures, a lot of the residents in our area
3 are experiencing flushing problems. That sand is
4 going to build back up in that system again, and they
5 said it would happen again.

6 COMMISSIONER GARCIA: Are you still having
7 problems with your line?

8 WITNESS DeNIGRIS: To date, no. I'm just
9 afraid we're going to have a backup of sewage again in
10 the home.

11 COMMISSIONER GARCIA: If anybody does have a
12 problem, there's a 1-800 number there of the
13 Commission where you can call us. It's on that yellow
14 sheet you all have. Okay.

15 Just like if you're here and don't want to
16 come up here, you don't necessarily have to do that.
17 Just speak to one of our Staff; and while we're here,
18 they can get your address and we can take care of that
19 problem.

20 WITNESS DeNIGRIS: I want to know why the
21 lines weren't maintained? What are we paying for? Is
22 that part of the maintenance?

23 I've lived in the neighborhood -- I was not
24 there when they put the sewer lines in. The
25 subdivision was built back in the '70s.

1 COMMISSIONER GARCIA: And that's what the
2 Company told you, right, that the lines weren't being
3 maintained? They told you that?

4 WITNESS DeNIGRIS: The line was not
5 maintained.

6 COMMISSIONER GARCIA: Okay. And they said
7 they had contract --

8 WITNESS DeNIGRIS: They pumped out quite a
9 bit of sand in the line.

10 COMMISSIONER GARCIA: Well, we'll make sure
11 to ask the Company tomorrow during the proceedings.

12 WITNESS DeNIGRIS: I'd appreciate it. You
13 know, our rates are high. And, you know, if we're
14 paying for sewage to go out, they should be able to
15 maintain the system. And I will quote, "It is an
16 outdated gravity sewer system." I wouldn't know that
17 in layman's term myself, I'm quoting someone.

18 COMMISSIONER GARCIA: Right.

19 WITNESS DeNIGRIS: It's a gravity system.

20 COMMISSIONER KIESLING: Let me add one thing
21 about the timing of the meeting last summer that our
22 Staff came down here and held.

23 We are required by statute to go from an
24 application for a rate increase through the end of the
25 case within eight months. We don't have any

1 discretion on that. The Florida Legislature set that
2 time period for us to do it. They also set out some
3 of the requirements, like holding that customer
4 hearing.

5 And we also have no control over when a
6 Company files their application for a rate increase.
7 So if they file it at a time that then puts that
8 customer hearing in the middle of the summer, there's
9 nothing we can do to alter that time frame. Only the
10 legislature can change that.

11 WITNESS DeNIGRIS: I'm not saying it's any
12 control of yours. It's just very convenient that
13 they've done this. And they know what they are doing
14 when they schedule these meetings.

15 COMMISSIONER KIESLING: Okay. But I just
16 wanted to be clear --

17 WITNESS DeNIGRIS: Yeah, I know there's no
18 control --

19 COMMISSIONER KIESLING: -- I mean, we're
20 only doing what we can do.

21 WITNESS DeNIGRIS: I understand that. I
22 just wanted to make the point that, you know, it's
23 very convenient for them to schedule when most of the
24 residents in North Fort Myers are not full-time
25 residents.

1 I also want to comment on a resident that
2 lives in our neighborhood. He's an elderly gentleman
3 has been a Florida Cities Water customer for over 20
4 years. The gentleman did not receive a bill for his
5 utility. They shut his water off. There was some
6 dispute there whether he had received it or not.

7 He had to physically go down to Florida
8 Cities Water and pay the bill to get the water turned
9 back on. Unfortunately, this is a 20-year customer.
10 They wouldn't work with him. They shut him off.

11 He did not receive the bill. You know,
12 whether he misplaced it or they did not mail it,
13 that's here nor there. But to shut off a 20-year
14 customer, they have no value in customer service.

15 Thank you. (Applause)

16 COMMISSIONER KIESLING: Thank you.

17 (Witness DeNigris excused.)

18 - - - - -

19 MR. McLEAN: Norm Jueschke, please.
20
21
22
23
24
25

NORM JUESCHKE

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

5 WITNESS JUESCHKE: I'm Norm Jueschke. I
6 live at 5800 Inverness Drive in North Fort Myers.

7 COMMISSIONER KIESLING: Spell your last
8 name, please.

9 WITNESS JUESCHKE: J-U-E-S-C-H-K-E.

10 My biggest concern is the double billing
11 that I'm getting for the service facility. This is
12 ridiculous. In all my years of business I never heard
13 of a customer being billed for a supplier's facility?
14 You pay for their service. You do not pay for their
15 facility. You do not own their facility.

16 I was very much interested tonight when I
17 found out that Avatar is the owner of Florida Cities
18 Water Company. And with their reputation, I can
19 understand why they're pulling this scam. (Applause)

20 A few months ago we attended a similar
21 meeting at North Fort Myers High School regarding the
22 rate increase. At that time we were assured that this
23 would cover their expenses and they could operate
24 without a further increase. After that, we get this
25 double billing for their facility; and now again we're

1 faced with another rate increase.

2 Frankly, I do not think that the Florida
3 Public Service Commission is doing an adequate job.

4 UNIDENTIFIED SPEAKER: That's right.

5 WITNESS JUESCHKE: And I would like people
6 here to stand up if they agree with that. Do you
7 agree that Florida --

8 THE AUDIENCE: (Complies) (Applause)

9 WITNESS JUESCHKE: There's your answer. I'm
10 not alone in this. Believe me, when it's time to vote
11 we're not going to forget what's happened here.

12 We, I think, are justified in having better
13 service and better treatment from the Florida Public
14 Service Commission. Thank you.

15 MR. WILLIS: Thank you.

16 (Witness Jueschke excused.)

17 - - - - -

18 MR. MCLEAN: Harry Hitch, please.

19 **HARRY HITCH**

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

23 WITNESS HITCH: My name is Harry Hitch. I
24 live at 5899 Guest Court, right across the street from
25 the water plant.

1 I've got a hat on that says "No to Drugs"
2 and I also want to say "No to Avatar."

3 As far as some of the billings go, I've got
4 recent bills, like I got one here for 61.60. And then
5 it goes to -- that's for four units. I've got one
6 unit on the next bill, 38.29. Then I don't use any
7 water. I don't know, I really held my water a long
8 time. (Laughter) And at my age that's not hard.

9 Then I get a bill the following month for
10 \$80.29. You know, it's up and down. When you're on a
11 fixed income like I am, you like to know what your
12 expenses are each month.

13 I've complained about this and they tell me
14 it's my fault. Yeah. Because if my bill fluctuates,
15 I should complain about it. I says, "Well, I am
16 complaining about it." You know, I don't know what
17 they're trying to tell me. They give me a lot of
18 double talk.

19 But I get a bill here for 66.26, 59.61, then
20 it jumped up to 87.66. There's the wife and I living
21 in the house. That's all. Just the two of us. We do
22 the same thing day in and day out. (Laughter)
23 Nothing changes. We got a routine. How can the bill
24 go up and down when we're doing the same thing?
25 (Laughter)

1 I really think that Avatar, like they've
2 said here, is out for profit. They don't care one
3 fiddly damn about me or anybody else in this room. I
4 think if they -- over the years, that if the money
5 that was taken in was properly used, we would have the
6 facilities that are needed to take care of the
7 wastewater.

8 I don't think it's ever been managed
9 properly to begin with. I think they made sure that
10 all of the stockholders got good dividends and
11 probably the presidents and all of the vice presidents
12 got nice salaries. But as far as we're concerned, I
13 didn't think they care one little bit about us.

14 That's all I have to say.

15 COMMISSIONER GARCIA: Sir, could you see
16 someone on Staff about the bills so they can look into
17 it for you? Just show someone from our Staff, Cissy,
18 the bills real quick.

19 WITNESS HITCH: All right.

20 COMMISSIONER GARCIA: Okay? Thank you.

21 (Applause)

22 COMMISSIONER JOHNSON: Thank you.

23 (Witness Hitch excused.)

24 - - - - -

25 MR. McLEAN: Bonnie Cornell.

BONNIE CORNELL

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

5 WITNESS CORNELL: My name is Bonnie Cornell.
6 I live the 5936 Little Stone Court.

7 COMMISSIONER GARCIA: Last name again?

8 WITNESS CORNELL: Cornell.

9 Okay. I'm here more or less representing
10 some of the landlords in North Fort Myers. I sold my
11 home in Indiana, moved down here, bought a triplex.
12 The triplex is my home. I live there and I rent the
13 other two units, which is my income. Okay.

14 I've always had excellent tenants, never had
15 a problem. It's getting to the point now where I am
16 so embarrassed with the water bill that I have now
17 agreed to pay their garbage bill; but they are very
18 good tenants, so I pick that up monthly.

19 The last people I got in my apartments, they
20 could not afford the \$150 that's required. They are
21 very good tenants, paid on time. Excellent people. I
22 loaned them the money for the \$150 because that was
23 the only deterrent they had to that property.

24 I have had more trouble renting the property
25 in the last year than I ever have, and it's because of

1 the water bill. Everybody that comes up to me is
2 saying, "We cannot afford North Fort Myers' water
3 bill."

4 My question is this: Is this what North
5 Fort Myers wants? We're driving people away. They
6 don't want to rent -- and these are nice people. They
7 don't want to rent in our area, they can't afford it.
8 Is this what we want for North Fort Myers?

9 We're not going to have any new people come
10 in. Because, I mean, they just say the water people
11 in North Fort Myers, we cannot afford. So I'm
12 speaking for landlords, not landlords that are
13 absentee landlords. I live on my property.

14 I love Little Stone Court and I want to see
15 it maintained the way it is, but we're not going to
16 get the quality of people if they cannot afford their
17 water.

18 And that was just a statement I wanted to
19 make.

20 COMMISSIONER GARCIA: Thank you.

21 COMMISSIONER JOHNSON: Thank you very much.

22 (Applause)

23 (Witness Cornell excused.)

24 - - - - -

25 MR. McLEAN: Dana McGrath, please.

DANA MCGRATH

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

5 WITNESS MCGRATH: Commissioners, for the
6 record, I am Dana McGrath, the owner of Gem Real
7 Estate located in North Fort Myers. I am not a
8 customer of Avatar Florida Cities, thank God.

9 (Applause)

10 I'd first like to commend the Public Service
11 Commission for extending the decision until everybody
12 has a chance to do this. This is the first time I've
13 seen that done and I'm pleased to see it.

14 I wonder how many of the sitting
15 Commissioners here were here two years ago when the
16 200% increase was passed? I believe, Ms. Johnson, you
17 were here; is that correct?

18 COMMISSIONER JOHNSON: I don't think I
19 participated in that case but I was serving on the
20 Commission I think at the time.

21 WITNESS MCGRATH: Yes. Yes. I was here, as
22 well. I wasn't a customer then either, thank God.

23 I've read the testimony of two of the
24 witnesses, which I'm sure you have, Ms. Walla and I
25 believe it is Ms. Dismukes. I don't know how to

1 pronounce it, and I apologize.

2 In my humble opinion, if this testimony is
3 found to be at all factual, this whole proceeding
4 ought to stop on the basis of the faulty application.
5 I think that's the first thing the PSC has to
6 determine is whether the original application by
7 Florida Cities was flawed and, if so, by what design.

8 As the owner of a real estate business which
9 serves these hostage camps, I've just yesterday met
10 with another couple in the area captured to discuss
11 the selling of their home. I can tell you after 18
12 years I'm sick to death of people running from this
13 utility company.

14 One of the big reasons they are selling is
15 the item before you this evening. They were
16 newlyweds. I sold them the home. You gave them the
17 200% increase immediately after. For that I have to
18 thank you. They then made the mistake of having a
19 child -- I've made that mistake myself, I know how
20 that goes.

21 They weren't quite prepared for the water
22 and sewer use of a new baby, and so they are going to
23 sell the home that they've painted, they've sodded and
24 the sod died because they couldn't water their lawn.
25 You would have to be crazy to water your lawn with

1 these water bills.

2 They're concerned because of the recent
3 incredible increase -- in '93 to them is recent --
4 made living difficult. The proposed increase may be
5 impossible to pay. That's a heck of a reason to have
6 to leave your home, I believe.

7 But you need to know that people are out
8 there living like this as a result of your decisions
9 and the decisions of this Company.

10 The effect of such high utility costs I was
11 happy to explain to them, you can imagine how happy,
12 will directly affect the resale value of their home;
13 because the next newlywed couple has to look at the
14 utility bills as immediate costs before they can
15 service a mortgage payment -- which reduces the amount
16 of mortgage they qualify for, which reduces the amount
17 these people will get for their house.

18 Worry not, they are going to blame me. I
19 don't blame them. I didn't do it.

20 When the cost of water and sewer service is
21 nearly as much or more than the electric service,
22 something must be done, people. That's asinine.

23 THE AUDIENCE: Yes. (Applause)

24 WITNESS McGRATH: In addition to the
25 incredibly high cost, this proposal at its best

1 increases rates by 17% with no end in sight and only
2 perhaps begrudging acceptance forthcoming from the
3 Company.

4 In the event the PSC grants even a 17%
5 increase this soon after the last incredible increase,
6 it will be a travesty worthy of some investment of
7 time and monies into the motivation of such a
8 decision.

9 Thank you for your time. May God help you
10 make the right decision for these people. Are there
11 any questions?

12 COMMISSIONER JOHNSON: Any questions? Thank
13 you, sir.

14 WITNESS McGRATH: Oh, I am surprised. Thank
15 you very much. (Applause)

16 (Witness McGrath excused.)

17 - - - - -

18 MR. McLEAN: Don Artis, please.

19 **DON ARTIS**

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

23 WITNESS ARTIS: My name is Don Artis,
24 A-R-T-I-S. I live at 40185 Yarmouth Court, North Fort
25 Myers.

1 I'd like to ask the Commissioners before I
2 make any comments, are we addressing tonight the
3 original 23% increase, or the proposed interim
4 increase of 18%? The letter come out just said "rate
5 increase." I'm not sure which increase we're
6 addressing tonight.

7 COMMISSIONER JOHNSON: It's really the
8 entire rate -- entire case.

9 WITNESS ARTIS: The original increase that
10 was asked for?

11 COMMISSIONER JOHNSON: Yeah.

12 WITNESS ARTIS: Which was 23%, in that
13 range? Is that what we're talking about tonight?
14 What are we talking about?

15 COMMISSIONER JOHNSON: Yeah, we're
16 addressing their proposal for rate increase, which was
17 the 23%.

18 WITNESS ARTIS: Is Florida Cities Water
19 proposing another increase?

20 COMMISSIONER JOHNSON: No, it's the same one
21 they proposed.

22 WITNESS ARTIS: The same one.

23 COMMISSIONER JOHNSON: Right.

24 WITNESS ARTIS: The one we addressed at our
25 meeting at North Fort Myers High School July 26th,

1 '95.

2 COMMISSIONER JOHNSON: Right, uh-huh.

3 COMMISSIONER GARCIA: Correct.

4 WITNESS ARTIS: I gave testimony that night,
5 and I'm prepared to give the same exact testimony
6 tonight. I would presume that my testimony of
7 July 26th, 1995, is a matter of record, but I'll be
8 very happy to go through my statement again.

9 COMMISSIONER KIESLING: Since none of the
10 Commissioners were there, that was our Staff that was
11 conducting that one, I personally would like you to
12 given it to me again so that, you know, I can respond
13 to anything that you may want, or a question.

14 WITNESS ARTIS: Okay. And this testimony
15 was based on the facts at that time. And I'm going to
16 read this statement to you.

17 I've already given you my name. I've
18 resided at this address for seven-and-a-half years
19 now. in order to put this request -- and I'm referring
20 to the 23% rate increase -- into proper perspective,
21 it is necessary to refer to the 174.5% increase which
22 Public Service Commission approved which became
23 effective July 1, 1992.

24 If the proposed 23% increase is granted, it
25 will mean we will have had our wastewater rates

1 increased about 200% in three short years. It will
2 also mean that customers in the North Fort Myers
3 Division will be paying monthly, on average based on
4 5,000 gallons of water used, the following: \$36.77
5 more than their Barefoot Bay Division. \$23.94 more
6 than their Golden Gate Division. \$30.47 more than
7 their South Fort Myers Division.

8 Also I understand we will be the highest
9 cost area in the state of Florida for wastewater.
10 There should not be this much disparity.

11 Who benefited from the 1992 increase? I
12 have not seen any change or improvement in the quality
13 of service to my home. Most people feel that if you
14 pay more for something you're going to get more in
15 exchange, or at least see some tangible evidence of
16 improvement in service or product. To my knowledge,
17 the North Fort Myers customers have not benefited in
18 any way whatsoever.

19 Florida Cities Water told us at one of their
20 informational meetings that we got a renovated,
21 upgraded, state-of-the-art wastewater treatment plant.
22 We did not get anything. Florida Cities Water got it
23 and we, the customers, are paying for it.

24 Now they tell us this 23% increase is
25 necessary so they can pay for expanding the wastewater

1 treatment by 25%. They say this expansion is required
2 pursuant to Florida Department of Environmental
3 Protection capacity analysis requirements. They also
4 state that one of the main reasons for the rate
5 increase is the projected deterioration of the
6 Division's rate of return.

7 Florida Cities Water tells us they need to
8 expand the plant from 1 million gallons per day to
9 1.250 million gallons per day. We also have been told
10 they cannot release more than 1 million gallons of
11 treated water per day into the Caloosahatchee River,
12 so the plant has to be modified to allow it to send
13 the additional 250 gallons of treated water per day to
14 Lochmoor Country Club for irrigation purposes.

15 I ask the Commission representatives and
16 Staff to look very carefully at this arrangement. You
17 almost have to have a home at Lochmoor or play golf
18 there on a regular basis to appreciate that Lochmoor
19 cannot pour an additional 250,000 gallons of water on
20 the golf course on a daily basis.

21 Whenever we have rainy season, as we have
22 almost every summer, the golf course is so wet you
23 cannot even take golf carts off the cart paths. It
24 has been a sloppy, wet, muddy mess during rainy
25 season. There is no way they are going to irrigate

1 the golf course and pour another 250,000 gallons of
2 treated wastewater on to an already over-wet, soggy
3 golf course.

4 The ponds and small lakes of Lochmoor Golf
5 Course also overflow during the rainy season. So this
6 idea of pouring all of that extra water in there just
7 doesn't make sense at all.

8 I'd also like to say -- since part of their
9 expansion was to put a line in from the wastewater
10 plant down to one of the ponds at Lochmoor, and it's
11 very visible -- I live about 150 yards from where this
12 line comes in; and when we play golf, it's right there
13 by the tee. And since that line has been in, I don't
14 think it's been observed more than two or three times
15 that any water has been pumped into there.

16 Yesterday I rode and played in a foursome
17 with the owner of Lochmoor. And we also talked to the
18 golf course superintendent, and he confirmed there has
19 not been that much water brought in from the
20 wastewater plant.

21 Now, somebody has got to have records of
22 this. And it makes you wonder if this expansion was
23 developed based on this theory and there's no need to
24 pump that water in there because they're not expelling
25 that much flow.

1 Anyhow, I think that's a major point that
2 somebody should check into to see if that was really
3 necessary. I understand it probably costs about
4 \$600,000 to run that line down there.

5 Practically all businesses and industries
6 operate in a competitive environment where competition
7 is the real driving force for establishing rates and
8 pricing. Not so here. Florida Cities Water is a
9 monopoly. They have no competition. The customers in
10 the North Fort Myers Division are a captive group. We
11 have no other water company to turn to.

12 It is all well and good that the
13 environmentalists mandate upgrading or enlarging
14 facilities, but they apparently give no consideration
15 as to who is going to pay for it. Certainly, Florida
16 Cities Water has not objected to the environmentalists
17 about the cost of their mandates about they have been
18 able to pass all of this expense to the poor captive
19 customers. (Applause) And neither has the Public
20 Service Commission seemed to have any concern as to
21 sticking the customer through rate increases.

22 Something is missing in this entire
23 procedure. Consideration should be given to the cost
24 impact on the customer. Florida Cities Water and/or
25 the Public Service Commission should stand up to the

1 environmentalists and tell them that the customers
2 cannot continue to pick up the tab.

3 Has Florida Cities Water or the Public
4 Service Commission done a demographic study of the
5 customer base in North Fort Myers? Does either the
6 Company or the Commission know what the average median
7 income is of this customer group? I think you would
8 find a rather low income level, and the mix would be
9 predominantly retirees living on fixed income of
10 Social Security and/or pension. I also think you
11 would find a lot of low income couples with children.
12 Also a demographic study of the entire county would
13 show that residential growth has been south, not
14 north.

15 You all don't seem to understand it. We are
16 protesting this rate increase but we feel it has
17 reached the point where we simply cannot afford it.

18 Personally, my working career spanned a
19 period of 42 years working for companies in an
20 industry that was regulated by either the Interstate
21 Commerce Commission, the Federal Maritime Commission
22 or the Public Utilities Commission of Ohio. From time
23 to time I was involved in ratemaking and requesting
24 rate increases from the regulatory bodies. However,
25 we were never able to base a rate increase on capital

1 improvements such as building new facilities or
2 renovating or enlarging facilities, or making major
3 purchases of machinery or equipment. Reserves for a
4 built up from operating income in order to make major
5 capital improvements. We never heard of a regulatory
6 body guaranteeing a company their rate of return.
7 Prudent and efficient management determined how good
8 your rate of return would be.

9 And in this rate case I believe the
10 Commission is wanting to ensure Florida Cities Water
11 something like 9.8% return. And that's good in any
12 business. You know, who would not want to be in
13 business if somebody would guarantee you were going to
14 get that rate of return?

15 We certainly hope you take the people's
16 protest seriously and we hope this is not an already
17 done deal. Thank you. (Applause)

18 COMMISSIONER KIESLING: Mr. Artis, just so
19 you understand, we do not guarantee a rate of return
20 to anyone. We allow them the opportunity to earn that
21 return if they can do so through good management. So,
22 you know, we don't guarantee it.

23 WITNESS ARTIS: I'm sorry, but some of the
24 documentation that I have in here -- maybe it doesn't
25 say "guarantee," but it might use the word "ensures"

1 that they get a rate of return.

2 I'm sorry, I disagree with you on that. But
3 in some of this document documentation it says that
4 their rate of return would be ensured.

5 COMMISSIONER KIESLING: That's a surprise to
6 me. Because the statute and our regulations and our
7 practice all say they have an opportunity to earn that
8 rate of return, not that they are guaranteed it.

9 WITNESS ARTIS: Okay. Thank you.

10 (Witness Artis excused.)

11 - - - - -

12 THE AUDIENCE: Florida Cities maintained the
13 increase was necessary in order to maintain a fair and
14 reasonable return of 9.08%. Is that what you --

15 COMMISSIONER JOHNSON: That's not on the
16 record, sir. If you'd like to --

17 THE AUDIENCE: I'm asking for my own --

18 COMMISSIONER JOHNSON: You cannot ask unless
19 you are sitting here sworn to for purposes of the
20 record. You can come back; and if the other witnesses
21 don't mind you coming ahead of them and testifying
22 again, you can do that.

23 THE AUDIENCE: Sure.

24 COMMISSIONER JOHNSON: Could I have your
25 name?

1 WITNESS MORGAN: Morgan. William Morgan.

2 - - - - -

3 **WILLIAM MORGAN**

4 resumed the stand on behalf of the Citizens of the
5 State of Florida and, having been previously sworn,
6 testified as follows:

7 WITNESS MORGAN: I've never attended one of
8 these. I thought you all was the bad guy, and you
9 were the good guys. But he's the bad guy, you're on
10 our side, and you all just like trying to find out,
11 sort through the facts or something, and you're going
12 to make a determination if this over a three-year
13 period 200% rate increase is fair. Is that right?

14 COMMISSIONER JOHNSON: No. We aren't
15 looking at 200% rate increase.

16 WITNESS MORGAN: '92.

17 COMMISSIONER JOHNSON: We're not going back
18 to the '92.

19 WITNESS MORGAN: Oh. So this is just the 22
20 that was asked, shooting it down to 17.

21 COMMISSIONER JOHNSON: Right. But as the
22 gentleman asked before, this isn't just the -- we're
23 not going to just looking at the 17. What happened is
24 we issued an order, a proposed agency action. That
25 was appealed by the customers. But they weren't just

1 appealing the 17, they were appealing the rate
2 increase. So we're looking at the entire increase
3 that was proposed.

4 WITNESS MORGAN: Yeah. Because I picked up
5 on that drift.

6 So I get 6% on my \$140. I get 6%, they make
7 9.8. (Applause)

8 But anyhow, this says, "to obtain a fair and
9 reasonable return -- is necessary in order to obtain a
10 fair and reasonable return of 9.8%." So that's what
11 the gentleman prior to me being here was discussing,
12 that that's the guaranteed 9% profit due to Florida
13 Cities.

14 COMMISSIONER GARCIA: Let me try to explain
15 it without being technical what the -- let me try to
16 explain it without being technical. That's what they
17 are allowed as a maximum.

18 WITNESS MORGAN: As a maximum. What's the
19 minimum?

20 COMMISSIONER GARCIA: There is none. If
21 they lose money, it's out of their pocket and their
22 shareholders'.

23 WITNESS MORGAN: Doesn't sound like they are
24 losing money.

25 COMMISSIONER GARCIA: Well, no, no, I'm

1 trying to explain it so you'll understand. That's how
2 it works. They are taking a risk with the money. If
3 they were, let's say, to make a mistake in the running
4 of the Company and that was not justified in the
5 proper running and functioning of that Company, that's
6 out of their hide, not yours.

7 WITNESS MORGAN: But then they come to you
8 ask for a rate increase.

9 COMMISSIONER GARCIA: And they don't get it.

10 WITNESS MORGAN: Well, then, why are they
11 getting the one now? If I understood correctly, they
12 were only allowed to pump a million.

13 COMMISSIONER GARCIA: I'm sorry?

14 WITNESS MORGAN: How much water -- what is
15 being talked, I personally don't have any facts on
16 salaries, amount of water gallons and so on and so
17 forth, or anything else. What the cost not reading
18 meters and/or reading meters.

19 COMMISSIONER GARCIA: That's filed.

20 WITNESS MORGAN: You've got that?

21 COMMISSIONER GARCIA: We have that.

22 COMMISSIONER KIESLING: It's also available
23 in your public library. They are required to file a
24 copy of their minimum filing requirements at the
25 public library so any of you all can go in and look at

1 that.

2 WITNESS MORGAN: Okay.

3 COMMISSIONER KIESLING: I also just wanted
4 to indicate that what it says here is Florida Cities
5 maintained that the increase was necessary. It
6 doesn't say we found that. It's what they are saying.
7 They're alleging that it is.

8 WITNESS MORGAN: Yeah. That's what I said.

9 COMMISSIONER KIESLING: Yeah. They can say
10 anything they want. It doesn't mean that that's what
11 we're going to decide or it doesn't mean that they
12 define what the standard is.

13 WITNESS MORGAN: So that has not been
14 determined yet?

15 COMMISSIONER KIESLING: Correct.

16 COMMISSIONER GARCIA: Right. That's what
17 we're sitting here trying to do.

18 WITNESS MORGAN: But they are shooting for
19 the maximum.

20 COMMISSIONER GARCIA: No. I mean, they can
21 shoot for whatever they want. That doesn't
22 necessarily mean they're going to get it. They have
23 to file their records and they have to justify that.

24 WITNESS MORGAN: Oh. I thought you said the
25 maximum they could get --

1 COMMISSIONER GARCIA: No, no, no. Whatever
2 we approve.

3 Let's say we did approve something. Let's
4 pick out a number, 10%, that we said that was a fair,
5 just -- fair rate of return for them. That would be
6 the maximum they could earn on their investment in
7 this Company in running this utility.

8 If something went wrong, if the Company
9 broke down through their negligence, that cost would
10 be theirs, not yours. In other words, they couldn't
11 come back to us and say, "I want another 50% to pay
12 for something I did wrong." They don't get that.

13 WITNESS MORGAN: Hypothetically, what would
14 happen to us? They would turn off our water?

15 COMMISSIONER GARCIA: Hypothetically, they
16 can't get it from you, period.

17 No, they have to keep operating the
18 franchise. They have to keep running the Company,
19 because that's part -- it's like all other types of
20 utility. In other words, the service they have to
21 continue to provide.

22 COMMISSIONER KIESLING: They have to get it
23 from the shareholders. It's the shareholders who
24 would lose if that would occur.

25 WITNESS MORGAN: And at the library there is

1 a printed record of how much the shareholders would
2 receive then?

3 COMMISSIONER KIESLING: Well, there's also a
4 printed record of every single cost that they are
5 alleging they should receive higher rates to cover
6 broken down by what their salaries are, everything.
7 Everything you're asking.

8 WITNESS MORGAN: And you're all aware of
9 this --

10 COMMISSIONER KIESLING: Oh, yes.

11 WITNESS MORGAN: -- and you have the power
12 to determine whether what they are attempting to do is
13 fair and reasonable, versus what the people who have
14 to pay that feel is fair and reasonable, versus the
15 total --

16 COMMISSIONER GARCIA: This is why we're
17 listening to your testimony.

18 WITNESS MORGAN: -- versus the total gross
19 profit of Florida Cities?

20 COMMISSIONER GARCIA: Exactly.

21 WITNESS MORGAN: Okay. I think I got this a
22 little bit. Thank you, sir.

23 COMMISSIONER GARCIA: Our pleasure.

24 (Applause)

25 COMMISSIONER JOHNSON: Our court reporter

1 has been going for two hours now. We're going to take
2 a 15-minute break in order for her to rest her fingers
3 for a while.

4 (Brief recess taken.)

5 - - - - -

6 COMMISSIONER JOHNSON: Ladies and gentlemen,
7 we're going to reconvene the hearing. Public Counsel,
8 could you call your next customer.

9 MR. McLEAN: Yes, ma'am. Belle Morrow.

10 (Pause) Commissioner, I'm sure Ms. Morrow is here
11 because she just spoke to me on an issue or two.

12 UNIDENTIFIED SPEAKER: Belle is going to
13 come in in just a moment. Somebody has gone to get
14 her right now.

15 COMMISSIONER JOHNSON: Okay.

16 COMMISSIONER KIESLING: Why don't you just
17 take the next one and we'll take her after that.

18 MR. McLEAN: Good suggestion. Ms. Katwyn
19 Smith. Oh, here's Ms. Morrow now.

20 - - - - -

21

22

23

24

25

BELLE MORROW

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

5 WITNESS MORROW: My name is Belle Morrow. I
6 live at 691 Camellia Drive, North Fort Myers. I have
7 lived in October will be 33 years.

8 COMMISSIONER KIESLING: Ma'am, excuse me.
9 Could you talk a little more into the mike? Because I
10 can hardly hear you and I don't know that anyone in
11 the back could.

12 WITNESS MORROW: Oh. Well, usually I talk
13 so loud I don't need a mike.

14 COMMISSIONER KIESLING: Drown us out.

15 WITNESS MORROW: I was just going to come up
16 here and kind of reiterate some of the things I read
17 in the depositions by Cheryl Walla and Jeri Victor.
18 Mostly, I was really curious about the \$30 lunches and
19 \$65 dinners, and I was wondering how many martinis you
20 get for that? And I hope you will look at it very
21 closely.

22 Like I said, that was all I was going to
23 really talk about. But listening to all of these
24 other people, I have made notes and I hope I will be
25 able to make sense out of them to sound a little

1 logical to you.

2 For one thing, I was on the Board of
3 Trustees for Lee County Electric Co-op for six years.
4 And in that six years, I sat on their Finance, Audit
5 and Rate Committee, so I think I do know a little bit
6 about what goes on.

7 One of the things we always did was to look
8 very closely at the budget. We would cut the budget,
9 and we certainly did not allow \$65 dinners for
10 anybody. Or \$30 lunches. Even when the trustees
11 would go out of town on meetings, we were told to stay
12 around \$25 for the day. Not for one meal, for the
13 day.

14 I think that Florida Cities Water definitely
15 needs to look into their budget.

16 I would like to know what they do about
17 their bidding procedures when they put out for work.
18 Do they go for low bids? Or do they do like other
19 companies, do they hire people that they know? Do
20 they hire companies to do their work that they own or
21 have some stock in? Are they making a double profit
22 on us by doing that? And I sincerely hope that you
23 people will look into those things.

24 And I really want to commend Jeri and Cheryl
25 on all of the research they have done. Because I have

1 given a little bit of time by going down to the law
2 library and looking things up but I feel like a real
3 piker compared to the work that those two gals have
4 done.

5 And as far as some of the other complaints
6 about the work force, I often see one and two and
7 three water trucks sitting together under a shade tree
8 doing what I don't know. Maybe listening for the
9 radio to see if there's a complaint. I have no idea.

10 And on the meter reading, from having been
11 there for six years on the board, I know if they are
12 having trouble with their meter readers they could
13 call the co-op, make arrangements and get bids from
14 the co-op to read the water meters at the same time
15 they are out reading the electric meters. And I
16 guarantee you the electric meters get read every
17 month.

18 And some gentleman said about printing out
19 information and the co-op sending it out? They do.
20 Every month we get a newsletter with your co-op bill.
21 And the Florida Cities Water, it might be three,
22 perhaps four months now, they've come up with a new
23 billing form and they have sent out little fliers with
24 those bills. But it has not been an ongoing for a
25 long time thing. It has been very recent.

1 I think perhaps they need to look into
2 downsizing in their executive staff. It has worked at
3 the co-op. The co-op has cut about a hundred people
4 off of their staff in the last year or two years and
5 the plant is still working just as efficiently as it
6 ever did.

7 I believe I have covered all my notes. And
8 I think what everyone else has covered here has been
9 well thought out. Dawn Coward has done an excellent
10 job, too, in garnering information to present to you
11 people. And all I can say really for all of us is
12 please look into all of the cracks and crevices before
13 you make a decision against the general public.

14 And I'm going to say something here that you
15 may not approve of. It is not for the record. This
16 is just a personal statement I would like to make if I
17 may.

18 COMMISSIONER KIESLING: If you're testifying
19 it's on the record. We can't just decide to --

20 WITNESS MORROW: Okay. I will say it
21 anyway, then, it doesn't really matter. But to all
22 the people who are here, Cheryl and Jeri have put a
23 lot of time and money of their own into this
24 investigation to present a case for you, and I think
25 we should pass the hat to help them defray the

1 expenses they have had.

2 COMMISSIONER JOHNSON: Thank you very much.

3 (Applause)

4 (Witness Morrow excused.)

5 - - - - -

6 MR. McLEAN: Ms. Katwyn Smith, please.

7 COMMISSIONER JOHNSON: Katwyn Smith?

8 (No response.)

9 MR. McLEAN: Linda Momsen.

10 COMMISSIONER JOHNSON: Repeat that one.

11 MR. McLEAN: Yes, ma'am. I believe it's

12 Linda Momsen, 1003 A-P-E-L Lane.

13 Mr. William Momsen, same address.

14 (No response.)

15 Laura Nilsson.

16 - - - - -

17 **LAURA NILSSON**

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

19 the State of Florida and, having been duly sworn,

20 testified as follows:

21 WITNESS NILSSON: My name is Laura Nilsson.

22 It's N-I-L-S-S-O-N. I live 930 Narcissus Street in

23 North Fort Myers.

24 I bought a house back in 1992, I qualified

25 for HUD. I'm a single parent. I have been single now

1 for ten years; my son is over here; he's 12 year old.

2 And the first rate increase with the water I
3 opposed. I called the water company; they said,
4 "Okay, thank for calling, we'll write it down. Maybe
5 if enough people call it will make a difference."

6 Well, it didn't make a difference.

7 Then they proposed another rate increase and
8 I thought, "Well, I'll just stop watering my lawn but
9 I'm still making ends meet."

10 Well, last month I spent \$6.50 on water
11 usage. I got a \$52 water bill. It's like I can't cut
12 back any more. That is it.

13 Now somebody brought it up that they are
14 driving young people out, and they are. You are. You
15 are driving me out of my house. I don't even wash my
16 car anymore. My grass is dead. You can go down
17 Narcissus Street, you'll know my house, my lawn looks
18 like sand. That's my house.

19 And I just wanted to come forward to let you
20 people know there's people like me out there. And
21 that's all I have to say. (Applause)

22 (Witness Nilsson excused.)

23 - - - - -

24 MR. McLEAN: Marilyn Miller.

25

MARILYN MILLER

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

5 WITNESS MILLER: Marilyn Miller. And I live
6 the 2161 Lochmoor Circle in North Fort Myers.

7 I have lived in North Fort Myers in my house
8 since 1983. And I have always paid my bills on time.
9 And initially -- and until last year, my water bill
10 routinely came due on the 30th day of the month and I
11 can count on that.

12 For some reason, since this rate increase
13 has been requested, my bill is being backed up. I am
14 now back to the 26th. I don't know the reason for
15 that. But I can tell you I have saved all of my bills
16 since 1983; I've routinely paid on the 30th; it's now
17 being backed up for some reason.

18 The other thing that I have noticed since
19 this rate increase was requested is that I'll plan to
20 pay the bill a couple of days before it's due because
21 I really don't want Florida Cities to have the money
22 any sooner when I'm paying sometimes \$120 a month for
23 a water bill. I will send the bill out a couple of
24 days before it's due. I routinely now get cutoff
25 notices in the mail. And that has to cost something.

1 If they look back at the record of how long
2 I have been a customer and how I have routinely paid,
3 they do not need to send those notices and increase
4 the charges that are obviously being passed on to us.

5 The other thing I want to comment on is I
6 got a copy of the notice of proposed agency action
7 that was issued back in November. And I thought there
8 was some real interesting points in there then and I'm
9 wondering to what extent the Commission has looked
10 into these issues.

11 It's stated in there that the expansion that
12 is the current cause, I guess, of the rate increase
13 was required only three years after this plant came on
14 line in 1982 and that there's another expansion
15 projected in the year 2000.

16 The expansion that's stated in here is
17 allegedly necessitated by growth. But I've lived
18 there since 1983, I have not seen growth in our area.
19 There have been no major developments. I'm wondering
20 where this increased effluent is coming from.

21 If you look at the increase in the customers
22 versus the increase in the effluent, it doesn't appear
23 to be consistent. It appears that the effluent far
24 exceeds the customers in this area.

25 The conclusion I come to is that you have to

1 question then whether the increase in capacity is
2 being necessitated by growth or whether it's possibly
3 problems with infiltration of storm water in the
4 system.

5 And I thought it was interesting to hear a
6 lot of the customers who, like me, have lived here for
7 a long period of time who, like me, have never ever
8 seen anyone out maintaining the lines. And I doubt
9 that many of the lines were even installed by Florida
10 Cities Water. I would guess that in my subdivision it
11 was developed by a developer, the developer put in the
12 collection system. And I think that needs to really
13 be looked into. Because if the problems with the
14 increased effluent causing the need to expand the
15 plant are due to lack of maintenance, that obviously
16 is not a good prudent business practice that they've
17 just let the lines deteriorate to the extent where
18 there's been a lot of infiltration.

19 The proposed order also states that,
20 "Factors which are increasing the investment in the
21 operating plant are not matched by concomitant growth
22 in customers." And again I think that kind of raises
23 a red flag, at least in my mind, as to are there other
24 problems, and are those problems something that
25 Florida Cities Water could have done something about

1 to avoid this need for increased capacity?

2 I also have a real problem with the fact
3 that the parent company of Florida Cities Water is
4 Avatar. Avatar has significant property holdings in
5 adjacent areas, namely Cape Coral. But if you look,
6 they have absolutely no property other than the
7 property that their facilities are located on in the
8 service area.

9 The excessive rate increases we have endured
10 over the past years has devalued our property, as you
11 are hearing people -- the realtor testified he's
12 having a difficult time selling property in our area.

13 But yet indirectly the fact that our
14 property is being devalued is actually enhancing
15 Avatar's holdings in Cape Coral. You can go over
16 there and you can have a reasonable water bill, you
17 have a reuse water that you pay, I think now it's \$7 a
18 month, and you can water your lawn as much as you
19 want. We don't have that luxury. I pay \$120 to water
20 my lawn.

21 I'm wondering, too, if the PSC has compared
22 the rate increases of the Florida Cities Water
23 divisions in areas where Avatar does have significant
24 land holdings? I'm wondering and I wouldn't be
25 surprised if there --

1 COMMISSIONER GARCIA: I'm sorry, could you
2 repeat that? I missed that.

3 WITNESS MILLER: I'm wondering if the PSC
4 has compared rate increases of those Florida Cities
5 Water Company divisions that are in areas where Avatar
6 does have significant land holdings, where they are
7 developing and attempting to market their property,
8 and compare that to an area such as ours, where they
9 have no invested interest, no land they are developing
10 and trying to market.

11 And I'm wondering why the order recommended
12 any increase when it expressed, quote, "concern over
13 the Florida Cities Water planning process and directed
14 Florida Cities Water to file a current master plan
15 with the Commission." And I'm wondering what the
16 result of that was, if they have filed the master plan
17 and what that revealed.

18 And this kind of comes in line with some of
19 the previous speakers have said. I feel that there's
20 something fundamentally unfair about a government who
21 supposedly is our protector allowing a monopoly to a
22 private, for-profit, nonpublicly traded Company and
23 then giving them -- actually guaranteeing them -- a
24 rate of return provided they jump through all of the
25 hoops.

1 There's no incentive for a company such as
2 Florida Cities Water Company to do anything to
3 streamline their operations with an eye toward
4 lowering their operating costs. And I think a lot of
5 the testimony we've heard here tonight indicates they
6 don't really care about streamlining their operation,
7 about making it more responsive to the customer,
8 making it a leaner company.

9 There's something fundamentally wrong with
10 allow a rate increase to a company that ignores the
11 Clean Water Act by allowing unpermitted discharge into
12 the Caloosahatchee River, thereby exposing itself to
13 liability for millions of dollars in fines.

14 I spoke earlier today with an attorney with
15 the Department of Justice in Washington, D.C. because
16 I was aware of the EPA action that has been pending
17 against Florida Cities Water. He told me that
18 recently there was an eight-day-long bench trial here
19 in Fort Myers in federal court regarding these
20 violations. And in addition to the violations at the
21 waterwaste plant, there has also been violations at
22 other plants known as Barefoot Bay and Carrollwood.

23 The Department of Justice attorney informed
24 me that Avatar had six attorneys representing them in
25 this eight-day trial. And I'm just wondering if that

1 is reasonable and if we, the customers, are going to
2 end up somehow paying for that in a rate base.

3 The judge, I was informed, has not yet
4 issued a decision on the amount of the fine; but the
5 Department of Justice attorney advised me that he --
6 they requested a \$5 million fine.

7 I feel that Avatar is a company that will do
8 anything for a profit. There have been a lot of press
9 recently about the land development schemes where
10 property is sold for several times its value to
11 unsophisticated out-of-town people. This Company
12 should not be in the utility business. And we, the
13 residents in the Waterway Estates service areas,
14 should not be saddled with one of the highest rates
15 from the state for a service that is a necessity.

16 That's all I have. (Applause)

17 MR. GATLIN: Do you recall the name of the
18 DOT attorney you talked with?

19 WITNESS MILLER: Yes. Anthony Quinn.

20 COMMISSIONER KIESLING: Any relation?

21 MR. GATLIN: Are you sure?

22 WITNESS MILLER: He had a letter but he goes
23 by Anthony. It was like T. Anthony Quinn.

24 MR. GATLIN: Thank you. That's all I have.

25 COMMISSIONER JOHNSON: Thank you,

1 Ms. Miller.

2 (Witness Miller excused.)

3 - - - - -

4 COMMISSIONER JOHNSON: Next customer.

5 MR. McLEAN: Marilyn Miller.

6 COMMISSIONER JOHNSON: That was Marilyn

7 Miller.

8 MR. GATLIN: He's one behind.

9 MR. McLEAN: I'm not too good with names
10 tonight. And Mr. Gatlin again straightened me out.

11 Don Paight.

12 COMMISSIONER JOHNSON: Is it Paton?

13 WITNESS PAIGHT: Paight. P-A-I-G-H-T. Don
14 Paight.

15 COMMISSIONER JOHNSON: Mr. Paight, were you
16 sworn in?

17 WITNESS PAIGHT: No, I was not.

18 COMMISSIONER JOHNSON: Ms. Miller, were you
19 here when we swore in the witnesses?

20 WITNESS MILLER: No, I was not.

21 COMMISSIONER JOHNSON: So you have not been
22 sworn?

23 COMMISSIONER KIESLING: How about Laura
24 Nilsson, were you sworn in?

25 WITNESS NILSSON: Yes.

1 COMMISSIONER KIESLING: Yes? Okay. So at
2 least we know where the defining line is.

3 COMMISSIONER JOHNSON: How many more
4 witnesses do we have?

5 MR. McLEAN: Mr. Paight, and Mr. Andresen
6 after that. And that's all.

7 COMMISSIONER JOHNSON: Mr. Paight and Mr --
8 why don't we have -- and Ms. Miller, we'll swear you
9 in now. If you could stand, please. And there was
10 one other name I think you said?

11 MR. McLEAN: Mr. Miller, Mr. Paight and
12 Mr. Andresen.

13 COMMISSIONER JOHNSON: Okay. If you could
14 raise your right hand. (Sworn)

15 COMMISSIONER JOHNSON: Ms. Miller, now that
16 you're sworn, do you just reaffirm your testimony?

17 WITNESS MILLER: I reaffirm the testimony
18 that I gave.

19 COMMISSIONER JOHNSON: Thank you very much.

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DON PAIGHT

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

5 WITNESS PAIGHT: I just wanted to
6 reiterate --

7 COMMISSIONER JOHNSON: Give your name and
8 address, please.

9 COMMISSIONER KIESLING: Don Paight.
10 P-A-I-G-H-T, 4622 Mackinaw Avenue, North Fort Myers.
11 And again I just wanted to reiterate what already has
12 been said regarding the high rates take we pay in
13 North Fort Myers.

14 I recently attended a public hearing for a
15 rate increase for City of Fort Myers Utilities. In
16 that public hearing, they did a study by an
17 independent consultant, I believe it was Burton and
18 Associates, looking into rates throughout South
19 Florida area for water and sewer utilities.

20 From the water and sewer utilities from
21 Florida Cities Water that was shown in that rate study
22 were the highest of any in this area. Not just by a
23 little; but over the City of Fort Myers, I believe the
24 figure was 72% higher than what is being paid there.
25 Significant increases.

1 Again, just wanted to state my opposition to
2 the rate increase based on the amount we're being
3 charged compared to other utility companies throughout
4 our area. And really don't understand why the rates
5 are so much higher. It's not just a few percent but
6 significantly higher than anybody else that's
7 providing utility services in our service area
8 throughout Lee County.

9 Thank you.

10 COMMISSIONER JOHNSON: Thank you very much,
11 sir. (Applause)

12 (Witness Paight excused.)

13 - - - - -

14 MR. McLEAN: Mr. Paul Andresen.

15 **PAUL ANDRESEN**

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

19 WITNESS ANDRESEN: Good evening. My name is
20 Paul Andresen. I reside at 4610 DeLeon Street, Fort
21 Myers.

22 Wastewater treatment and service existence
23 infrastructure to accounts receivable and liability
24 schedule sentence and plenteous volume absence and
25 maladaptive, ill disciplined, unpreparedness,

1 incompetency and pillar-to-post inefficiency to
2 industrial manufacture commercial and residential
3 capacitization of utility availability of management
4 forthgoing, conduct and present reflection, to wit,
5 the influential impression of our state's economy and
6 citizen's establishment and stability in weighty and
7 grave procedural discourse.

8 The examples herein is a generously
9 verbiaged profundity of glibly, oh, so officiously,
10 can't miss and wouldn't steer you wrong misdirection,
11 which a turn around in conscious demeanor is eminently
12 evidenced innuendo of lack of leadership callowly
13 undisciplined, false, magnified in proffer and
14 nonperformance of upkeep of municipal infrastructure
15 where basis transpires might create the law
16 componentially in manipulativeness and red herring.

17 The exaltations of balance sheets, accounts
18 liability for our abrupt departure from manifest
19 direction by the weighing present and proceed a
20 degredation of lackeyish servitude instills the
21 concept ordinary service liability satisfaction
22 recipients are the purpose. Keep with the dimension
23 for the existence of a utility corporation and
24 functions which accentuate tangible dimension
25 parameters of service.

1 The league of incumbent, mindless rampant
 2 sacrifice beyond our awares tactic, which culminate of
 3 eschewalment guilt-edged elite proffering one hand is
 4 observed tilting the lily while the mate soft-pedals
 5 of Rome's Nero's bed partners sense of conscience and
 6 above-board. Ethically ensusiants, closed holdings,
 7 the penurious tenure of ratepayers illustration and
 8 ill-managed gambit collusion forswear embezzlement
 9 with depreciatory, revulsive making away with the
 10 goods.

11 MR. GATLIN: No questions.

12 COMMISSIONER JOHNSON: Are there any
 13 questions?

14 MR. GATLIN: No questions.

15 MR. McLEAN: No, ma'am, thank you.

16 COMMISSIONER JOHNSON: Thank you.

17 MR. McLEAN: Thank you, sir.

18 (Witness Andresen excused.)

19 - - - - -

20 COMMISSIONER JOHNSON: Any other customers
 21 to testify tonight?

22 MR. McLEAN: No, ma'am, that concludes the
 23 customers who have signed up thus far.

24 UNIDENTIFIED SPEAKER: Anybody could just
 25 address the Commission?

1 COMMISSIONER JOHNSON: We will need to swear
2 you in, and then you can approach the bench and ask
3 any question and make any statements you might want to
4 make.

5 UNIDENTIFIED SPEAKER: Ma'am, this has
6 nothing to do with truth, it has to do with logic.

7 COMMISSIONER JOHNSON: We still have to
8 swear you in so we can make it a part of the official
9 record. There's another gentleman that's going to,
10 why don't you just both stand.

11 (Witnesses collectively sworn.)

12 - - - - -

13 **ROBERT WILKE**

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

17 COMMISSIONER JOHNSON: Thank you, you may be
18 seated. You can ask your question. Your name and
19 your address?

20 WITNESS WILKE: My name is Robert Wilke,
21 W-I-L-K-E. And I live at 4318 South Pacific Circle.

22 I think we just heard the real reason for
23 why we have the mismanagement and we have the
24 extremely high cost of our water. I lived every place
25 in the country; you never had to pay water bills like

1 this, you know.

2 Over here she stated the reason. I always
3 think when there's something that's not quite up to
4 par, things are not functioning the way they should
5 be, we're having gross mismanagement, look at an
6 economic reason. And the economic reason I think here
7 is that -- excuse me, I'm nervous talking in front of
8 a microphone.

9 Anyhow, the reason I see here is that we in
10 North Fort Myers are paying the highest in the
11 state -- I think the second highest in the nation as
12 far as water utilities go -- is because the Avatar is
13 making a higher profit off of this one and selling
14 their profit -- I hope I can get this straight for you
15 folks -- they are selling their properties over in
16 Cape Coral and wherever else they have their holdings
17 as far as property to our detriment because our
18 properties are being devaluated simply because we have
19 the highest water bill of anybody around, the second
20 highest in the state if not in the nation.

21 That's the only comment I have to make.

22 COMMISSIONER JOHNSON: Thank you very much.

23 Any questions?

24 MR. McLEAN: No, ma'am. Thank you.

25 MR. GATLIN: None. (Applause)

1 (Witness Wilke excused.)

2 - - - - -

3 ERWIN ZIEMANN

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

7 WITNESS ZIEMANN: My name is Erwin Ziemann,
8 Z-I-E-M-A-N-N.

9 COMMISSIONER KIESLING: Would you spell that
10 again into the mike? I couldn't hear you.

11 WITNESS ZIEMANN: My name is Erwin Ziemann,
12 Z-I-E-M-A-N-N. I live at 4290 Glasgow Court, North
13 Fort Myers.

14 I have several questions I want to ask. One
15 is who audits the books for Avatar on the operation of
16 the water system?

17 COMMISSIONER KIESLING: Our Staff audits the
18 books of Florida Cities Water Company, who is the
19 Utility.

20 WITNESS ZIEMANN: After you have heard today
21 about the slipshod operation, you think that you're
22 getting a good audit? I doubt it.

23 COMMISSIONER KIESLING: All right.

24 WITNESS ZIEMANN: My second question is: Is
25 there anyone in the Engineering Staff here?

1 COMMISSIONER JOHNSON: Mr. Walden.

2 WITNESS ZIEMANN: You heard earlier in the
3 testimony of one of the witnesses here that they found
4 sand in the water line, their sewage line, which is a
5 definite indication of very much leakage.

6 How much more of that is in their system
7 that we don't know about that we're paying for? And
8 there's no way that we can take care of it. Their
9 operation certainly is lacking as far as maintenance
10 and knowing what is going on. And we're being billed
11 for it by them expanding a system that we don't even
12 know if it is necessary. And they admitted that the
13 system was bad in that area.

14 Who's going to do the checking to make sure
15 that we're really getting our money's worth?

16 MR. WALDEN: I can't give you a definitive
17 answer to who is going to do the checking but I'll
18 tell you this: From the testimony that's come out
19 this evening and also today, earlier today, from the
20 customers, I believe that it's been brought to the
21 attention of the Company in front of the Commission
22 that they do have a significant problem with
23 maintenance of some of their lines and that the
24 customers are up in arms about it. And I believe the
25 Company will be doing some follow-up on this.

1 In addition to that, I intend to correspond
2 with the Company and do some of my own inspections to
3 find out what different steps they are going to take
4 that they haven't taken already to take care of the
5 sand problems in the lines.

6 I'm just going to say one other thing, since
7 you weren't here earlier today. There was a
8 significant amount of testimony on the technical
9 portion of the hearing about allegations of
10 infiltration and inflow. That's generally where sand
11 comes from, and it's something that is a very
12 important part of this proceeding.

13 WITNESS ZIEMANN: My last question is, if
14 Avatar decides to get out of the business and sell the
15 plant, who gets the plant? Who gets the profit?

16 After all, we are the ones that are paying
17 for all this expansion and everything else. They're
18 making a profit on it so they can double dip and make
19 a profit on selling the plant; is that correct?

20 COMMISSIONER JOHNSON: Marshall, do you want
21 to handle that one?

22 We are answering it. Hold on one second
23 please.

24 MR. WILLIS: It all depends on who they sell
25 the plant to.

1 WITNESS ZIEMANN: I am sorry, I can't hear
2 you.

3 MR. WILLIS: It depends on who they sell the
4 plant to. And let me explain that.

5 Because if they sell the plant to another
6 utility regulated by the Commission, basically the
7 Commission only allows the investment for the new
8 company purchasing the plant that this Company has in
9 the system, so there will be no real profit that you
10 will have to fork out.

11 If they sell it to a municipal system, such
12 as Lee County or some other unregulated company like
13 that, we have no control over what happens at that
14 point. That goes out of our hands and that becomes
15 Lee County's problem and what they do with it.

16 WITNESS ZIEMANN: Thank you.

17 MR. McLEAN: No questions.

18 COMMISSIONER JOHNSON: No questions?

19 MR. GATLIN: No questions. (Applause)

20 (Witness Ziemann excused.)

21 - - - - -

22 COMMISSIONER JOHNSON: Ms. Miller?

23 WITNESS MILLER: I just have something that
24 this gentleman's testimony made me think about also.

25 With respect to the EPA action, I don't know

1 how familiar the Public Service Commission is with
2 that. But it's interesting that the United States of
3 America has not only sued Florida Cities Water for the
4 Clean Water Act violations but they have also sued
5 Avatar Holdings, Inc. And the judge is going to
6 decide whether to hold Avatar Holdings liable for that
7 fine because Avatar Holdings, in their opinion, so
8 pervasively controls Florida Cities Water that it's
9 basically an alter ego type situation.

10 So I think the Commission should also look
11 into that and, as the gentleman said, probably audit
12 Avatar Holdings, too.

13 COMMISSIONER JOHNSON: Thank you for the
14 information. (Applause)

15 Ladies and gentlemen, that ends our public
16 testimony aspect of this hearing. Tomorrow we will
17 reconvene the technical portion of the hearing. The
18 hearing starts at 8:00 a.m. in the morning and we will
19 go throughout the day until we conclude the technical
20 portions.

21 We will be issuing an order or a decision on
22 this case July 16th. You will receive notice of
23 that -- we usually issue a press release and the press
24 generally covers that. To the extent that there are
25 questions, you do have the 1-800 number and you can

1 reach us through that number.

2 I'd like to thank all of you for coming out
3 tonight. I know it's been a long one, but we
4 appreciate all of you comments. We want you to know
5 that your comments and your testimony do make a
6 difference.

7 Thank you again.

8 MR. JAEGER: Commissioner Johnson, could I
9 explain something?

10 COMMISSIONER JOHNSON: Sure.

11 MR. JAEGER: The agenda conference is
12 July 16th and it will probably take a few weeks to get
13 the order out, but there will be a press release. But
14 the order probably won't one be out until August.

15 (Thereupon, the hearing adjourned at 9:15
16 p.m. to reconvene at 8:00 a.m., Thursday, April 25,
17 1996, at the same address.)

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19 (Transcript continues in sequence in
20 Volume 5.)

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