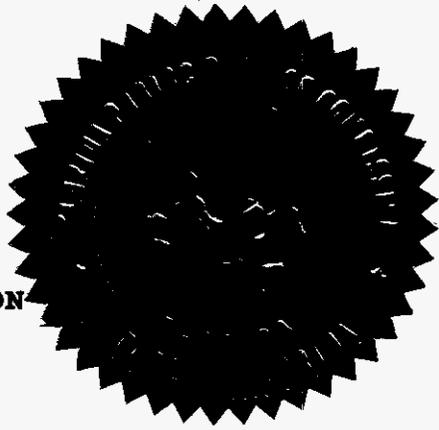


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO. 951056-WS

Application for rate :
increase in Flagler :
County by Palm Coast :
Utility Corporation. :



FIRST DAY - MORNING SESSION
VOLUME 1

Pages 1 through 140

PROCEEDINGS: HEARING

BEFORE: COMMISSIONER J. TERRY DEASON
COMMISSIONER JULIA L. JOHNSON
COMMISSIONER DIANE K. KIESLING

DATE: Monday, July 1, 1996

TIME: Commenced at 10:00 a.m.

PLACE: The Knights of Columbus Building
51 Old Kings Road
Palm Coast, Florida

REPORTED BY: JOY KELLY, CSR, RPR
Chief, Bureau of Reporting
ROWENA NASH HACKNEY
Official Commission Reporters

DOCUMENT NUMBER-DATE

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FPCO-RECORDS/REPORTING

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8 Smith, Post Office Box 6526, Tallahassee, Florida
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10 behalf of **Dunes Community Development District.**

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25 behalf of the **Commission Staff.**

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P R O C E E D I N G S

(Hearing convened at 10 a.m.)

COMMISSIONER DEASON: Ladies and gentlemen, if I can have your attention, please. I believe the hour has arrived for the hearing to begin, so I would like to ask everyone to please take their places. Thank you.

We will begin this hearing by having the notice read.

MR. EDMONDS: Pursuant to notice, this time and place has been designated for a hearing in Docket No. 951056-WS, application for a rate increase in Flagler County by Palm Coast Utility Corporation.

COMMISSIONER DEASON: Thank you. Take appearances.

MR. GATLIN: B. Kenneth Gatlin and Wayne L. Schiefelbein of the law firm of Gatlin, Woods and Carlson, 1709-D Mahan Drive, Tallahassee, Florida, appearing on behalf of the applicant, Palm Coast Utility Corporation.

MR. HADEED: Al Hadeed, County Attorney for Flagler County, appearing on behalf of Flager County. An associate with me as co-counsel is Arthur Sirkin. 1200 East Moody Boulevard, Suite 11, Bunnell, Florida 32110.

1 MR. REILLY: Jack Shreve and Steve Reilly
2 with the office of Public Counsel on behalf of the
3 Citizens of the State of Florida.

4 MR. MELSON: Richard Melson of the law firm
5 Hopping Green Sams & Smith, P.A., appearing on behalf
6 of one of the customers of the Utility, Dunes
7 Community Development District.

8 COMMISSIONER DEASON: Thank you.

9 MR. EDMONDS: Scott Edmonds and Bobbie
10 Reyes, 2540 Shumard Oak Boulevard, Tallahassee,
11 Florida, on behalf of Commission Staff.

12 COMMISSIONER DEASON: Thank you. Ladies and
13 gentlemen -- and let me take this opportunity to
14 welcome everyone to this hearing at this time. Let me
15 introduce myself, my name is Terry Deason. I'm a
16 member of the Public Service Commission. I will be
17 chairing the panel of Commissioners which will be
18 hearing this case today.

19 Seated on my right is Commissioner Diane
20 Kiesling, and seated to my left is Commissioner Julia
21 Johnson.

22 We have a number of members of the Staff of
23 the Public Service Commission in attendance at the
24 hearing today. You probably met one or two of our
25 representatives as you entered the auditorium and

1 should have provided you with this green special
2 report which contains all of the background
3 information concerning the petition which has been
4 filed by Palm Coast Utility Corporation with the
5 Public Service Commission.

6 We also have some members of the Staff of
7 the Public Service Commission seated to my far left.
8 I'm going to ask all members of the Staff of the
9 Commission to please stand. And if there are any in
10 the back of the auditorium, if you could stand also.

11 These persons are here. They are going to
12 be processing the case on behalf of the Commission,
13 but they are also here to assist you. So if you see
14 anyone that's standing and if you have a question you
15 would like to discuss with someone one on one, any of
16 these individuals would be more than glad to give you
17 assistance.

18 The purpose of the hearing today is to give
19 you, the customers, an opportunity to express your
20 concerns to the Public Service Commission concerning
21 the petition which has been filed which is requesting
22 an increase in rates. It is also your opportunity to
23 give information to the Commission concerning the
24 quality of service which is being provided to you by
25 this utility Company.

1 Since we are kind of in a crowded situation,
2 I'm not so sure that when we took appearances everyone
3 got to see who was speaking into the microphone, so
4 I'm going to review that for your benefit at this
5 time.

6 We have representing the utility Company
7 Mr. Gatlin, Mr. Schiefelbein. Could you stand?

8 (Audience response.)

9 Ladies and gentlemen, please.

10 We also have representatives from Flagler
11 County. And, gentlemen, I apologize, I did not catch
12 your last names. Could you please stand and repeat
13 your names to the audience, please?

14 MR. HADEED: Yes. We are Al Hadeed and
15 Arthur Sirkin, representing Flagler County as
16 intervenors. (Applause)

17 COMMISSIONER DEASON: Thank you. And we
18 have Mr. Jack Shreve and Mr. Steve Reilly representing
19 the Public Counsel's Office. (Applause)

20 And Mr. Rick Melson representing the Dunes
21 Community Development. (Applause)

22 Ladies and gentlemen, as I indicated, the
23 purpose of the hearing this morning is to give you,
24 the customers, an opportunity to express your concerns
25 to the Commission. So that's going to be the first

1 order of business. After we take all customer
2 testimony, we are going to proceed into what we refer
3 to as the technical portion of the hearing where
4 witnesses representing the various parties which have
5 just introduced themselves to you will be presenting
6 their expert witnesses. They will be addressing such
7 issues such as accounting, finance, engineering and
8 rate structure, things of this nature.

9 You are more than welcome to stay and to
10 listen to those witnesses give their testimony and to
11 hear them being cross examined by the various parties
12 and our Staff.

13 The procedure we are going to follow today
14 is that in just a moment I'm going to ask all the
15 members of the public who wish to testify to stand and
16 to be put under oath. The reason for this being done
17 is so that your testimony will become part of the
18 official record in this proceeding and will constitute
19 evidence upon which the Commission can rely in making
20 its decision. This is an official hearing of the
21 Public Service Commission. It is being reported by
22 one of our court reporters.

23 After you are sworn in, Mr. Shreve or
24 Mr. Reilly, one, will be calling your name. When your
25 name is heard, we will ask that you please come

1 forward to the microphone to my right, right in front
2 of the court reporter. When you come forward, please
3 begin by giving us your name and your address. And if
4 you think it would be helpful to the court reporter,
5 you may wish to spell your name so it will be accurate
6 in the record. You may then proceed with your
7 statement.

8 We have no strict time limits on your
9 statement, but we do ask that you be courteous to your
10 neighbor, realize there are many people here today,
11 many of whom who have signed up who wish to testify
12 and will be waiting for their opportunity. So we ask
13 that you be succinct, tell us all that you want us to
14 know, but be as brief as possible.

15 At the conclusion of your statement, we ask
16 that you remain for just a moment, there may be a few
17 clarifying questions from the various parties which
18 are represented here today.

19 For those who do not wish to actually come
20 forward and give a public statement, the last page of
21 this handout is designed so that it may be detached
22 where you can provide written comments. Those written
23 comments will not become part of the official record,
24 but it is an opportunity for you to make your
25 comments, have those submitted to the Commission, and

1 it will entered into the correspondence side of the
2 docket.

3 I've also been asked to remind everyone that
4 when you come forward, to speak directly into the
5 microphone. The sound system is set such that it
6 tries to project, but we are in kind of a crowded
7 environment so you need to get as close as you can to
8 the microphone.

9 Okay. I believe that pretty well covers my
10 opening remarks. Do we have any preliminary matters
11 we need to discuss before we get into customer
12 testimony?

13 MR. EDMONDS: Yes, we do.

14 COMMISSIONER DEASON: What are those?

15 MR. EDMONDS: First of all, I just wanted to
16 get as part of the record regarding the notice for the
17 hearing, the Utility timely filed its notice and sent
18 that notice to the customers. The Florida
19 Administrative Weekly notice was timely filed;
20 however, inadvertently, the notice that the Commission
21 files was filed on 6/21 instead of 6/17. This error
22 is harmless because the other two notices were timely
23 filed, but I did want that to be reflected on the
24 record.

25 COMMISSIONER DEASON: Let me ask, is there

1 any objection to the notice by any party? No
2 objection. Let the record reflect no objection to the
3 notice.

4 MR. EDMONDS: Thank you. The second
5 preliminary matter is we have had requested by our
6 court reporter that the date for the transcripts in
7 this hearing to be due to be moved back one week. The
8 CASR currently reflects that transcripts are due on
9 July 10th. I would move that that date be modified to
10 July 17th. And correspondingly I would move that the
11 date for the briefs to be due in this case be moved
12 from July 24th, back one week to July 31st.

13 COMMISSIONER DEASON: So it would be the
14 same amount of time to prepare and file briefs?

15 MR. EDMONDS: That's correct.

16 COMMISSIONER DEASON: Any objection? No
17 objection.

18 MR. EDMONDS: The next preliminary matter is
19 that I want the record to reflect that from the list
20 of witnesses, Blanca Rodriguez from the Department of
21 Environmental Protection, the parties have stipulated
22 to her testimony and, therefore, she will not be
23 present for cross examination.

24 COMMISSIONER DEASON: Very well. So when we
25 reach the point to when that witness is supposed to

1 appear, we will simply have that testimony inserted
2 into the record and cross examination waived.

3 MR. EDMONDS: Thank you.

4 MR. SCHIEFELBEIN: Pardon me.

5 COMMISSIONER DEASON: Yes.

6 MR. SCHIEFELBEIN: If we are going to get
7 into those sorts of matters, very briefly I have a
8 request that we deviate from the prescribed order of
9 witnesses in the prehearing order. I have somewhat of
10 an unusual request, but I would ask that the Staff
11 auditor, Robert Dodrill, testify before Public Counsel
12 witness Kimberly Dismukes.

13 Ms. Dismukes in her testimony agrees with or
14 adopts several of the propositions put forth by
15 Mr. Dodrill. It will be our position that those
16 positions by Mr. Dodrill are not admissible. I will
17 not get into that now as to why. And since I intend
18 to do voir dire of Mr. Dodrill on both his
19 qualifications and the underlying facts that he relied
20 on, I'm faced with a dilemma where I could have that
21 evidence, inadmissible evidence, coming in through the
22 conduit of Ms. Dismukes' testimony. And I can deal
23 with that if we stick to the prescribed way, but I
24 think it would expedite matters, unless any parties
25 had an objection, if we were to do Mr. Dodrill before

1 Ms. Dismukes.

2 COMMISSIONER DEASON: There's been a request
3 to take Mr. Dodrill out of order and to place him
4 before Ms. Dismukes. Is there any objection to that?
5 Mr. Shreve.

6 MR. SHREVE: Commissioner, this is the first
7 we've heard of this. It seems like something that
8 should have been brought up at the prehearing
9 conference. We'd like to give it some consideration.
10 We don't know at this point whether we have any
11 objection or not to it coming out of order.

12 COMMISSIONER DEASON: Very well.
13 Mr. Schiefelbein, we will give the parties an
14 opportunity to consider that. Obviously, we are going
15 to have some time before we get to that stage of the
16 hearing. And in case I forget, please bring it up
17 again; but we will give the parties an opportunity to
18 review that, and we will take it up at that time.

19 MR. SCHIEFELBEIN: Thank you.

20 COMMISSIONER DEASON: Other preliminary
21 matters?

22 MR. EDMONDS: The only other preliminary
23 matter is that Staff has a list of orders for official
24 recognition. Do you want to take that up at this
25 time?

1 COMMISSIONER DEASON: Let's wait and do that
2 after we conclude the customer testimony.

3 MR. EDMONDS: Thank you.

4 COMMISSIONER DEASON: Other parties have
5 preliminary matters? I believe not. We can proceed
6 then into receiving customer testimony. As I
7 indicated, I'm going to ask all the members of the
8 public who have signed up and wish to make a statement
9 to the Commission today to please stand and to raise
10 your right hand.

11 (Witnesses collectively sworn.)

12 COMMISSIONER DEASON: Thank you. Please be
13 seated. Mr. Shreve.

14 Before Mr. Shreve calls his first witness,
15 let me announce that someone left a set of keys
16 outside by the coffee counter, and they are presently
17 in the back of the room at the sign-in table. So if
18 you have misplaced a set of keys, they may be yours,
19 so check on that. Mr. Shreve.

20 MR. SHREVE: Mr. Chairman, are you going
21 forward with the public testimony before the opening
22 statements? I had understood that there had been a
23 request for opening statements. It doesn't make any
24 difference to us.

25 COMMISSIONER DEASON: I apologize. I did

1 not realize that there had been a request for opening
2 statements.

3 MR. SHREVE: There has been, yeah.

4 COMMISSIONER DEASON: Opening statements are
5 contemplated. Is that contained in the prehearing
6 order? Supposed to be.

7 Okay. Five-minute limit. Very well.

8 Ladies and gentlemen, I apologize. The
9 parties to this proceeding have requested the
10 opportunity to make brief opening statements. This
11 probably will be beneficial and give you some
12 background information as well, and it is customary
13 that opening statements are taken before we get into
14 either the customer testimony or the technical
15 testimony. So with that, we are going to proceed into
16 opening statements.

17 Mr. Gatlin, I would presume that you will go
18 first. Hold on for just a moment.

19 Yes, sir.

20 UNIDENTIFIED SPEAKER: A request. We are
21 seated here; we have everyone with their back to us,
22 we do not know who is speaking and who they represent.
23 I would wish they would identify themselves.

24 UNIDENTIFIED SPEAKER: I agree with him.

25 (Applause)

1 COMMISSIONER DEASON: That is a good point.
2 I'm going to ask the parties who have their backs to
3 the audience, if you would -- you have two options:
4 You can either take the microphone, and you can stand;
5 or else before you speak, if you'll raise your hand so
6 the persons will know who is speaking, it would be
7 much appreciated.

8 Right now, Mr. Gatlin is going to give his
9 opening statment. And as I indicated, he is
10 representing the utility Company in this proceeding.
11 He will go first, and we will go down the table in
12 giving opening statements.

13 Mr. Gatlin, you may proceed.

14 MR. GATLIN: Thank you, Mr. Chairman.

15 Palm Coast Utility came under this
16 Commission's jurisdiction in 1980. During the 16
17 years, Palm Coast has rendered excellent water and
18 wastewater utility service. The Florida Department of
19 Environmental Protection witnesses in this case attest
20 to that fact and that the water and wastewater service
21 is in compliance with all public health and safety
22 standards. Palm Coast has been awarded the FDEP Water
23 Treatment Operation Award recognizing Palm Coast's
24 effective operation and maintenance program and
25 recognizing Palm Coast's commitment to maintaining and

1 protecting the drinking water and facilities.

2 Since 1980 when Palm Coast came under the
3 Commission's jurisdiction, the Commission has issued
4 21 orders regarding the rates and charges by Palm
5 Coast Utility. That involved four full blown rate
6 cases.

7 The last proceeding considering the rates
8 and related issues started as an investigation by the
9 Commission. 63 issues were considered by the
10 Commission in that proceeding. The proceeding was an
11 investigation started in February of 1988 and lasted
12 for nearly three years. The 63 issues covered every
13 conceivable issue that anybody thought might sometimes
14 be relevant. The hearings lasted for days. There
15 were hundreds of exhibits. OPC and Staff participated
16 fully.

17 Now we come to this case. Some of the
18 issues in this case have appeared in each of the Palm
19 Coast rate cases for the last 16 years. In fact, Palm
20 Coast in most significant instances has followed the
21 findings of the Commission as set forth in the last
22 Order, 22843, in presenting and preparing this case.
23 This has been done, in the words of Mr. Guastella,
24 quote, "in order to avoid any unnecessary
25 controversy," end of quote.

1 However, OPC and Staff are asking the
2 Commission to repudiate the policies established for
3 the last 16 years regarding this Utility in some
4 instances. One of those instances relates to the
5 calculation of cost of capital by putting CIAC in the
6 calculation at zero cost. This, of course, distorts
7 the capitalization and distorts the revenue
8 requirement. It's never been done by the Commission
9 in any Palm Coast case. In fact, OPC specifically
10 requested it in the last case, and the Commission
11 turned them down. Further, it has not been done in
12 any case, to my knowledge, involving a utility under
13 the Florida Commission's jurisdiction. And also, to
14 my knowledge, not anywhere else in the United States.
15 It would set this Commission on an untried approach.
16 It would depart from the regulated practice of this
17 Commission for the last 35 years, and it would
18 establish a precedent to be followed by the Commission
19 in all future rate cases.

20 The other one is a margin reserve. OPC says
21 there ought not be a margin reserve. This has been an
22 issue in the last two cases, raised by OPC, and the
23 Commission has declined to take OPC's position. The
24 Staff auditor in this case has decided that his
25 opinion is that appraisers by -- qualified appraisers

1 should not be accepted any longer by the Commission.
2 That violates what this Commission said in the last
3 case. In fact, the last case, in fact, told this
4 Company that's the way to do it. When there's an
5 affiliated transaction, you get an independent
6 appraiser and you determine the cost. And that's the
7 way it's been done for the last 16 years in this
8 Company. The Staff auditor would change that policy.

9 In summary, we ask this Commission not to
10 depart from these past policies that have been set
11 carefully for the last 16 years. All of these that
12 I've mentioned and many others have already been
13 decided by the Commission in past cases, and we would
14 ask the Commission not to depart from those decisions.

15 COMMISSIONER DEASON: Thank you, Mr. Gatlin.

16 MR. GATLIN: Thank you.

17 COMMISSIONER DEASON: Mr. Hadeed. If you
18 will either stand or indicate to the audience that you
19 are the individual speaking and remind them who you
20 are representing.

21 MR. HADEED: Yes. Good morning. My name is
22 Al Hadeed. Again, I'm the County Attorney for Flagler
23 County. I want to welcome the Commission to Flagler
24 County On behalf of our local government, and I want
25 to welcome the Staff and the parties to the

1 proceeding.

2 The county commissioners are unable to be
3 here today. Today happens to coincide with the
4 regularly scheduled meeting of the Board of County
5 Commissioners. I'm not sure which hearing I would
6 rather be at, that commission or this Commission. It
7 looks like this one is far more attended in any event.

8 Our presence before you is in your history
9 unprecedented. This appearance is prompted by a great
10 deal of alarm and anxiety within our community about
11 the magnitude of the rate increase that's been
12 requested. In the water service revenues, the
13 requested increase is 27%. In the wastewater service
14 revenue, that increase is 47%.

15 We are a community which is very
16 predominantly a retiree community with many
17 individuals on fixed incomes. Because we are not a
18 county that has an industrial or manufacturing base,
19 we have a high predominance of low paying service
20 jobs. We also have a very disproportionate number of
21 very low to moderate income family households, many of
22 whom are single parent households. So these rates,
23 the magnitude of them, generate a great deal of
24 concern within our populace.

25 Now, we concede that the Utility is entitled

1 to a fair return on its investment for its utility
2 operations. But where we part company with the
3 Utility is the size of the rate base on which the
4 return is predicated. That is our primary difference.

5 Keep in mind that Palm Coast is a planned
6 community by a single developer, a large entity
7 accommodating over 46 thousand platted lots with a
8 development plan which is in excess of 50,000 acres.
9 So we have a utility system that's sized for that kind
10 of build out, a design population of 224,000 people,
11 yet we only have 10% of that population within the
12 Palm Coast service district approximately. So, number
13 one, we have a concern about present ratepayers paying
14 for capacity for future ratepayers.

15 A secondary concern is that the system was
16 designed and installed in the late '60s and '70s and
17 that system is not designed in an appropriate way.
18 There are many dead-end lines. Many lines are not
19 looped. There's a large degree of flushing. And
20 present ratepayers do not want to be saddled with
21 costs that are associated with a design that has not
22 been appropriate and not been effective and economic.
23 So those are the concerns that we have and that we
24 bring to the hearing, and we appreciate very much your
25 consideration. Thank you. (Applause)

1 COMMISSIONER DEASON: Mr. Shreve.

2 MR. SHREVE: Thank you, Mr. Chairman. I'm
3 Jack Shreve, Public Counsel. This is Steve Reilly,
4 the attorney handling this case on your behalf.

5 It seems like we started coming here, and we
6 did start coming here years and years ago. I can
7 remember we were first contacted and asked to come in
8 and represent you against the rate increases.

9 I would also at this time thank the county
10 and Mr. Hadeed and Mr. Sirkin for coming into this.
11 You find very few communities and cases where the
12 county actually comes in and fights on behalf of the
13 customers the way they are for you, and I think on
14 your behalf I would like to thank them. (Applause)

15 I'll be very brief because we are here to
16 hear from you. Now the Company has asked for a
17 \$3 million rate increase. Over the years since in the
18 last rate case, they have been able to take inflation
19 adjustments all along. They've been able to take
20 pass-throughs all along.

21 This community was built in the beginning by
22 ITT, and the Utility was built to service ITT in their
23 development, for no other reason. It wasn't put out
24 here to serve you before you came. There's no reason
25 for you to have to support this community or this

1 Utility by a bigger percentage than is actually living
2 here. It's not right. There's no reason to place
3 that burden on you. (Applause)

4 The problems with the expense of the
5 flushing that Mr. Hadeed mentioned, that is an ITT
6 decision. They decided what type of facilities to put
7 out here; you didn't have anything to do with that.
8 It's going to be sold and passed on, and I hope ITT or
9 the new utility keeps the responsibility that should
10 be there for the community and they are able to go
11 ahead and increase their rates in the future and get
12 some of the money from future customers.

13 One of the issues -- and Mr. Gatlin is
14 right, there have been a lot of issues over the years
15 that the Public Service Commission has decided upon.
16 This is a different Public Service Commission. We're
17 going to keep bringing them back as long as they keep
18 coming back in here for rate increases. One instance
19 is margin reserve. There's absolutely no excuse for
20 you the present customer to be paying a future charge
21 for future customers coming on-line, and that's
22 exactly what margin reserve is. (Applause)

23 Of course there are decisions out there that
24 have gone against us in the past, but we'll go ahead
25 and run them again and keep hitting them. There is

1 investment out there that's been paid for by customers
2 that you are not being given credit for, but ITT is
3 using that money to their benefit and not being
4 counted in this case. I hope the Public Service
5 Commission will look at that and decide that, okay, in
6 the past we didn't have a good view of it, but now we
7 are going to do what's right and just.

8 Not only are we not in favor of, but do
9 oppose the \$3 million rate increase that they have
10 asked for. We would ask that there be a significant
11 rate decrease on your behalf. Thank you. (Applause)

12 COMMISSIONER DEASON: Mr. Melson.

13 MR. MELSON: Commissioners, I'm Rick Melson
14 representing the Dunes Community Development district.
15 Dunes is interested in this case for two reasons.
16 First, we're a bulk water customer of Palm Coast; and
17 second, we're Palm Coast's only effluent reuse
18 customer.

19 The bulk water rate basically looks like
20 it's noncontroversial. The Utility is seeking to
21 increase water rates across the board by the same
22 percentage amount, and we have got no problem with
23 that approach. Now the bulk water rate to the Dunes
24 does start out being lower than the Utility's general
25 service rate, and you will hear testimony to remind

1 you that the Commission set the rate at that lower
2 level because Dunes up front paid an advance capacity
3 charge that refunded 100% of the Utility's investment
4 in the water plant that's necessary to serve the
5 Dunes. So the bulk water rate to the Dunes does not
6 reflect a return on investment because that's already
7 been taken care of through the advance capacity
8 charge.

9 The second issue is more controversial.
10 It's an effluent reuse rate. Palm Coast is proposing
11 to set a rate of 67 cents per 1,000 gallons for
12 effluent, even though the effluent it provides to us
13 is not suitable for reuse in public access areas
14 without further treatment. If you act consistently
15 with your past orders which say that where both
16 parties benefit from effluent reuse there should be
17 some sharing of incremental costs, then I believe you
18 will have to conclude that no rate is appropriate in
19 this case.

20 The evidence will show you that Dunes owns
21 and operates that pumping station that pumps effluent
22 to us. We own the transmission main through which
23 that effluent gets to us. We own a 1.6 million gallon
24 a day advanced wastewater treatment plant and
25 associated wet weather storage that takes the

1 secondarily treated effluent from Palm Coast and
2 treats it to the higher standards necessary to apply
3 it in public access areas. And we own and operate the
4 effluent reuse distribution system within our
5 development.

6 We pay over \$26,000 a year in pumping cost
7 alone to pump the effluent from Palm Coast to us, and
8 we reimburse Palm Coast for every penny that they pay
9 on effluent reuse, even down to replacing a \$32 fuse.
10 The district's investment in our reuse facilities
11 totals over \$4 million, and our customers already paid
12 through rates all of the incremental cost of the
13 effluent that they use to irrigate their lawns and
14 common areas. Palm Coast, on the other hand, has no
15 incremental costs. It treats the effluent that they
16 send to us to exactly the same level that they have
17 got to treat all of their effluent under their DEP
18 permit requirements.

19 You will hear testimony from the Utility
20 that their proposed rate was based on a cost
21 allocation with consideration given to the value of
22 service. Well, that sounds fine in theory, but it
23 really doesn't hold up in this case. The testimony
24 will show that the costs that were allocated,
25 primarily the cost of a 6 million gallon storage tank

1 and the cost of a new rapid infiltration basin or RIB,
2 are not incremental costs. They are costs the Utility
3 would have incurred to service its own wastewater
4 customers whether or not it ever provided a gallon of
5 effluent to Dunes.

6 Now the Utility will tell you that the
7 storage tank wouldn't have been built, but for Dunes.
8 That the storage tank provides flow equalization and
9 improves the quality of effluent going to the Dunes.
10 Well, we believe that recent version of the facts is
11 simply wrong. The DEP permit application says that
12 tank was built to provide wet weather storage for
13 their own spray fields. If you accept the Utility's
14 version, though, that that tank was built to serve
15 Dunes, then it's not a prudent investment because any
16 flow equalization or quality problems could have been
17 dealt with at a lot, lot lower cost.

18 On the Utility's value of service rationale,
19 does the effluent have a value to Dunes? Sure it
20 does. Even with our capital investment, it's the
21 lowest cost source of irrigation water available to us
22 today. But does our agreement to take effluent from
23 Palm Coast have a value to them? You bet. We provide
24 disposal of 1 million gallons a day on an annual
25 average basis, and that's expected to grow into the

1 future. Without us, Palm Coast would have to have
2 additional effluent disposal capacity of their own,
3 and their last million gallons a day of effluent
4 disposal capacity cost them almost \$2 million.

5 What happens if the Commission approves an
6 effluent reuse rate in this case? Well, it's hard to
7 predict. But maybe our customers will resist the
8 doubling that would result in their irrigation rate
9 and start watering their lawns less. One thing is for
10 sure though, we'd have to do something we have never
11 done before, and that is look to see are there other
12 sources of nonpotable water, surface water perhaps,
13 that would be a more effective way for our customers
14 to irrigate.

15 In closing, let me say that the Staff may
16 view this case as an opportunity for the Commission to
17 look at its policy for pricing effluent reuse. But
18 the facts of this case are unique. In every other
19 situation anybody in this room knows about, a utility
20 treats effluent to tertiary standards, to the higher
21 standards before it sends it to a reuse customer. In
22 this case the customer provides that treatment and
23 pays that cost directly. So any policy you establish
24 in this case is going to have very limited application
25 in any other case you are going to see in the future.

1 Thank you.

2 COMMISSIONER DEASON: Thank you, Mr. Melson

3 (Applause)

4 MR. SHREVE: Mr. Chairman?

5 COMMISSIONER DEASON: Yes.

6 MR. SHREVE: While we are still on the
7 public part of the testimony, we'd like to place into
8 the correspondence side of the record over 2,300
9 letters that were received by us which were requesting
10 our intervention in the case and opposing the rate
11 increase.

12 COMMISSIONER DEASON: You have those? Very
13 well. Just provide those to the court reporter, and
14 she will make sure that they are received in the
15 clerk's office at the Commission.

16 You may call your first witness, Mr. Shreve.

17 MR. SHREVE: Mr. Rosen.

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JOEL ROSEN

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

DIRECT STATEMENT

WITNESS ROSEN: Good morning, Commissioners, and others. I didn't know I was going to be the first one this morning, but that's okay. I'll be glad to start off.

COMMISSIONER DEASON: Sir, could we have your --

WITNESS ROSEN: 56 Cochise Court, Palm Coast.

COMMISSIONER KIESLING: What's your name?

WITNESS ROSEN: Joel Rosen.

COMMISSIONER DEASON: Thank you.

WITNESS ROSEN: I'd like to first start off by complimenting the water company. I definitely feel that we in Palm Coast are very fortunate that we do have some of the best water in Florida. I lived in the Fort Lauderdale area for many years and had to use bottled water, so I don't think there's any concern as far as service and the quality of the water we receive. And I have no problem with the water company raising their rates to reflect inflation. And, of

1 course, the law gives them that ability to
2 automatically, I believe, raise it, what? 11%? I'm
3 not sure of that figure, but somewhere. And they have
4 done that.

5 But I would like to first point out to the
6 Commission that I don't feel that they are user
7 friendly. Let me give you an example. And this is
8 something that they did not have to go to anybody to
9 ask for a rate increase, but in a sense they got a
10 rate increase.

11 About a year ago we got a notice that they
12 no longer would allow us to pay our bills in a local
13 establishment, either at their office or anybody
14 else's. For those of us that brought our bills to the
15 office, that meant a 32 cent increase in our rate
16 every month. When I went there and said, you know,
17 every other utility company in this area has at either
18 one of the food stores, or whatever, has a place where
19 we can pay our bills, it did not seem like they were
20 very concerned about that. So bear in mind that that
21 32 cent doesn't sound like a lot, times 12, was a rate
22 increase that they didn't even have to apply for.

23 Secondly, I wonder in their figures if they
24 are considering something. And that is, whenever you
25 raise rates, you create situations that you may not

1 have really thought about. Being on a school board up
2 north for 10 years, I discovered that when people move
3 into a community, there is a number of things they
4 look at. One certainly is property tax. Secondly --
5 we did a survey one time -- secondly, was utility
6 bills. And I maintain that they are going up 34%, or
7 something in that neighborhood, will actually affect
8 the growth of this community because as people start
9 to look and say, well, gee, these are really high
10 utility's here in Palm Coast, they are more likely to
11 look at another community where there's a more
12 reasonable rate. So I'm not quite so sure that the
13 figures that they are projecting at the present time
14 of income may really come to fruition, because I think
15 it may slow very likely, affect the growth of the
16 community. And that's something that I think that the
17 Commission needs to look very closely at.

18 Another point is that the average person
19 here in the community is not going to just be affected
20 by the larger water bill. Let me give you an example.
21 Let's take the school district here in our county.
22 They are a large user of water. Well, obviously, if
23 their rates go up, guess who's going to pay? It's
24 going to be the taxpayers because they are going to
25 need more money, and they are going to go back and

1 raise their property taxes to reflect that. Hopefully
2 the school district will be commenting at this hearing
3 later on.

4 So it's really double jeopardy against the
5 people in the community. And that's something I think
6 the water company, the Commission and someone has to
7 consider. A 34% increase also doesn't give the
8 average person, whether they are working -- and, of
9 course, we know we have a lot of retirees -- a chance
10 to adjust their budgets. Most of us, and I think
11 probably all of us, live on some kind of a budget.
12 And just to say, okay, next year, guys, this is it,
13 34%, when, as you all know, the government, the
14 industry and whatever, certainly pensioners, are not
15 going to get a 34% increase. They are lucky if they
16 get a 2% this year in their increases.

17 So I think if the water company legitimately
18 needs increases, that that should be done over a
19 number of years so everybody here in the community has
20 a chance to adjust. I guess it boils down to what is
21 a reasonable profit verses the public good in this
22 community. And I guess, obviously, that is part of
23 your charge to make that decision.

24 The second one we heard earlier; should
25 current customers be penalized for future growth. And

1 obviously, I'm here to say no. There needs to be a
2 better way to do that so that we are not penalized for
3 coming here to the community early on and making this
4 a great community. So that's about all I have, and I
5 thank you for listening to me.

6 MR. SCHIEFELBEIN: Thank you, Mr. Rosen.

7 COMMISSIONER DEASON: Questions? Thank you.

8 MR. SHREVE: Mr. Manuel Rivera.

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MANUEL RIVERA

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

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DIRECT STATEMENT

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WITNESS RIVERA: Good morning,

16

Commissioners. My name is Manuel D. Rivera, 6 Bowman

17

Place, Palm Coast. The last name is spelled

18

R-I-V-E-R-A.

19

To the honorable members of the Florida

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Public Service Commission, my name is Manuel D.

21

Rivera, speaking both on my behalf and approximately

22

130 homeowners of the Indian Trails East section of

23

Palm Coast.

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We lodged our complaint before the Public

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Service Commission on February 29, 1996, where we

1 questioned PCUC's recapture of capital expenditures
2 through depreciation rates, the Consumer Price Index,
3 and the potential enticement of a 34% increase in
4 water and sewer rates that would benefit both buyer
5 and seller in a transaction which presumably hinges
6 upon the outcome of this rate hearing.

7 After filing our complaint, discovery by the
8 office of the Public Counsel and by members of the
9 Florida Public Service Commission Staff, tends to
10 corroborate that our reasons therein given were not
11 unfounded. Further testimony in this hearing will
12 attempt to prove that PCUC in its application for the
13 increase has either intentionally or by carelessness
14 used improper land values, using not original costs,
15 but affiliate's transfer value or appraised value;
16 improper capitalized expenses; stand-alone income tax
17 rates verses parent effective incomes tax rates.

18 In addition, there is the question of
19 intercompany charges, which are difficult to identify
20 if the party making them is reluctant to disclose
21 their original nature. PCUC, as a captive company,
22 cannot dispute or reject the charges from the parent
23 or affiliates, but merely runs them through its books
24 where they become cost of doing business and are
25 ultimately paid by the consumers.

1 Finally, it is common knowledge that PCUC's
2 parent company sold extensive holdings to another
3 utility with only one remaining prized asset left that
4 stands to benefit both parties but for dire financial
5 consequences to a large segment of Palm Coast's
6 citizens.

7 Think for a moment. After the April
8 temporary increase, on an average a two-person
9 household bill went about \$15. If the Commissioners
10 grant a full 34% increase, the monthly average bill
11 will boost by close to \$45, which added to
12 pre-increase rates of \$55 to \$60, will make it an
13 overall charge of a \$100 a month. Honorable
14 Commissioners, this is unconscionable. (Applause)

15 A designated rate increase application
16 motivated by greed which must, therefore, be fully
17 scrutinized and struck down. Thank you. (Applause)

18 COMMISSIONER DEASON: Questions?

19 MR. SHREVE: Thank you, sir. Mr. Korwek.
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1 therefore, you do have time to make it in top, top
2 performance.

3 I understand by a former water company
4 employee that there are certainly ways to save in your
5 own organization. I understand that you are heavy
6 with management from supervisors up, they outnumber
7 the employees. I also understand that with your
8 seminars, business trips, conferences and whatnot, I
9 am sure they are not all necessary. Also, I
10 understand that there are men, supervisors, managers,
11 that eat daily on the expense payroll and, therefore,
12 we end up paying for that. (Applause)

13 Our school teachers, I have just become
14 aware that for a \$2,000 raise, that goes on for 10
15 years to make that \$2,000. My son is just starting,
16 that's how I know that.

17 I also understand that you have sold -- and
18 yet it's denied -- to that Minnesota Company. They
19 have been caught lying and cheating in Collier County,
20 their affiliate down there. We have newspaper
21 articles to prove it when they are trying to jimmy
22 their figures. Apparently the same can be done by any
23 company.

24 I really -- all I can say is we are small
25 homes here on the whole, low paying jobs, tiny pieces

1 of property, and do not allow this to go through.

2 Thank you.

3 MR. SHREVE: Thank you. Gerald Wills.

4 - - - - -

5 **GERALD WILLS**

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 **DIRECT STATEMENT**

10 WITNESS WILLS: My name is Gerald Wills. I
11 live at 5 Rickenbacker Drive, Palm Coast. The last
12 name is spelled W-I-L-L-S.

13 We moved here from Levittown, Pennsylvania.
14 And when we first got here, we were told about
15 irrigating our lawn. The one in charge was checking
16 the irrigation system, the meter there -- well, not
17 the meter, but the programmer, and he said, "You set
18 it for 10 or 15 minutes per zone." I found out later
19 on that 10 or 15 minutes per zone just ruined the
20 grass. But he said that, "Once you see the bill from
21 the utility Company, you'll know why." And that was
22 true. So we stopped using the irrigation system
23 because of the cost. So as a result we have a lot of
24 weeds in our grass.

25 Now, I don't want to read out all these

1 figures here, but in Levittown we were paying about
2 one-third the cost of what we are paying down here.
3 Like I said, I won't read all these figures but just
4 in comparison, from 1-10 to 4-9-96, here in Palm
5 Coast, we used 10,710 gallons of water. At Palm Coast
6 Utility we are charged \$147.49 for that 10,710
7 gallons. In Pennsylvania we paid a base charge for
8 that same period of \$42.50 plus \$1.91 for an excess
9 charge, which came to 44.41. So the previous
10 difference there is for Palm Coast it would be 147.49.
11 For lower Bucks County in Pennsylvania is 44.41. Now,
12 the percentage of the Palm Coast charge to the lower
13 Bucks charge is 332%.

14 Now with the 11% increase, interim increase,
15 it would be 163.71, whereas Levittown was 44.41, which
16 is a 369% difference there. Now what they want is a
17 34% increase, which would be 197.64 for Palm Coast and
18 44.41 for Levittown. That means a 445% difference.

19 So that is -- my only point is why can they
20 charge so much less up there in Levittown, which is
21 very close to Philadelphia, and they charge so much
22 down here? I just don't see why they rate that
23 difference in price. That's all I have to say.

24 (Applause)

25 MR. SHREVE: Thank you, sir.

1 Mr. Grossman.

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3 **H. EDWARD GROSSMAN**

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 **DIRECT STATEMENT**

8 WITNESS GROSSMAN: Good morning. My name is
9 Ed Grossman. I live at 83 Clubhouse Drive. That's in
10 Palm Coast. I've been a resident of Florida for over
11 20 years. I am a World War II vet. There's lots of
12 vets that do live here in Palm Coast.

13 Now, unlike the previous speakers, I'm not
14 going to speak about the current rate increase.
15 There's enough people here that are going to tell you
16 about the inconsistencies, the fact that the utility
17 Company apparently don't know the difference between
18 an operating budget and a capital budget. And they
19 seem to blend them together.

20 What's missing from the green sheet that was
21 given to us is an unknown player, and that player is
22 the Minnesota Mining Company -- the Minnesota Power
23 Mining Company and their subsidiary, Southern
24 Utilities. And let me tell you what Southern
25 Utilities says.

1 By the way for those of you who have a
2 computer and are on internet, mark this down, you can
3 get complete information. It's www.mmpower.com. That
4 will give you their home page, and you can extract
5 beaucoup information regarding Southern Utilities.

6 Southern Utilities or rather Minnesota Power
7 affiliate purchased land from ITT. ITT obviously is
8 getting out, and they went in two directions to get
9 out. Number one, they sold off an awful lot of land
10 to Lehigh Corporation. And as a sweetener for that
11 deal, they have the Sheraton Hotel chain, which they
12 own worldwide, they sold off one of the jewels located
13 here in Palm Coast to sweeten the deal so that they
14 could sell that land to the Lehigh Corporation, who
15 has bought the hotel and, of course, is developing the
16 land that they sold off.

17 Now, the sweetener in the land that they
18 sold to Minnesota Power is the sweet, sweet, lucrative
19 utility Company. This is nothing new with Lehigh. I
20 shouldn't call them Lehigh, because Lehigh is the
21 subsidiary that controls the land acquisitions. The
22 water acquisition is controlled by Southern States
23 Utilities in Florida.

24 And it's very interesting. They boast about
25 how much money they make. And they say this, and I am

1 quoting this from their page. They have pages that
2 are aimed toward investors. "Minnesota Power is now
3 just" -- they run no utilities anywhere. They control
4 utilities in Wisconsin and Minnesota. But they run no
5 utilities. Everything is done through subsidiaries.

6 The water utility revenues of Southern
7 Utilities in the year 1995 was \$69 million. And they
8 say this, "Water rate increase, Southern States
9 Utilities filed a request in mid-1995 for rate
10 increases averaging" -- notice the similarities --
11 "averaging 33%, representing \$18.6 million in
12 additional annual revenue for its water and wastewater
13 treatment customers. Part of the increase is expected
14 to take effect subject to refund" -- because it's
15 under bond. You know, the temporary increase --
16 "refund in February and the final regulatory decision
17 expected in late 1996."

18 Now they are also -- Southern States
19 Utilities, the affiliate of Minnesota Power, has been
20 growing at a rate of roughly 3% to 5% over the years.
21 "Southern States" -- and I'm reading from their
22 handout -- "is the largest privately held water
23 utility in Florida. Four times as large as any other
24 independent water utility in the state in terms of
25 revenue."

1 Now, what we're talking about here is a
2 concerted effort -- and, incidentally, it's
3 interesting to note that the present president of ITT
4 formally worked for Minnesota Power. This is where
5 the connection comes in. I think this hearing should
6 be called, rather than a rate increase, we call it a
7 rape increase. (Applause)

8 When Southern Utilities took over the water
9 in South Carolina, within a year the rates went up to
10 34%. Here in Florida -- and we are talking about near
11 Tampa Bay, the Tampa Bay area and Orange County. They
12 are involved there, too. They are involved in Volusia
13 County, which is our neighboring county, and in that
14 regard they are trying to put pressure on, they formed
15 a water alliance, Volusia Water Alliance. It's an
16 alliance of 17 cities and towns within its borders,
17 and also involved are representatives of West Volusia
18 fern growing industry; Southern States Utilities, the
19 largest private water provider in Volusia County. It
20 should be noted that they are also in another
21 neighboring county and that is St. Johns --
22 St. Augustine. It's in St. Johns County, I think.

23 What they have done is surround us, this
24 Southern Utilities, with pressure points so this goes
25 through. As a matter of fact, I think this rate is a

1 stalking horse for Southern Utilities who now have the
2 option of buying it subject to the regulatory rules.
3 If the rate increase goes through, then it's a done
4 deal. I personally think, and I'm paranoid enough to
5 think that it's a done deal already. (Applause)

6 I won't go further into it because there is
7 an awful lot of stuff, and there is an awful lot of
8 people waiting to get on. But something I would like
9 to speak about that's understandable by everybody, I
10 note that everybody except Commissioner Kiesling is an
11 attorney. Commissioner Kiesling, of course, could be
12 an attorney, but she's also the chair of the
13 wastewater --

14 COMMISSIONER KIESLING: I am an attorney.

15 WITNESS GROSSMAN: That makes it complete.

16 COMMISSIONER DEASON: And I am not an
17 attorney.

18 COMMISSIONER KIESLING: Commissioner Deason
19 is not an attorney. He is an accountant.

20 WITNESS GROSSMAN: Okay. But I note that
21 you are the only member of the wastewater association,
22 and I suppose you are the expert in this field since
23 you regulate all types of utilities, electric,
24 etcetera.

25 But I want to talk to you now about justice

1 and this -- (Audience response.)

2 The corporate alliance of ITT and Minnesota
3 Power, I call it corporate logic. And I know that you
4 Commissioners occupy such high grounds, you are
5 appointed by the Governor. At some times -- and then
6 you have many hearings in different utilities, and
7 sometimes justice fades from your vision. And you are
8 thinking, talk to us as Commissioners, as judges, not
9 like a jury, but I'm not going to do that because you
10 are the only jury that this community has left. You
11 are the jury. For what we are taught, all of us, and
12 you are all attorneys, Commissioner -- you are not an
13 attorney, but they were taught -- and I'm not either
14 -- that the law is a handmaiden of justice and this is
15 what I want to talk about. I would like to address --

16 UNIDENTIFIED SPEAKER: Get off the mike.

17 WITNESS GROSSMAN: I would like to address
18 the Commissioner, not judges, persons, not legal
19 automatons. It must be difficult to erase one's
20 decision on justice. Justice isn't easy to discover.
21 Sometimes it hides in the shadow of corporate logic.

22 Now, you get hired guns, hired utility
23 lawyers and engineers who make anything sound true,
24 and that's the logic, the corporate logic I'm talking
25 about. And logic -- pure logic is painful to behold.

1 It is easier and far risky to deal with logic. Nobody
2 can criticize anybody if the logic isn't perfect. But
3 what if in the pursuit of logic we abandon justice. I
4 empathize with you how hard it must be as individuals,
5 the responsibility to take into account people who
6 hurt and who suffer because of the PSC decisions. It
7 must be difficult to manipulate the law so that the
8 decision comes up just.

9 This corporate logic, Commissioners --
10 (Audience response.)

11 UNIDENTIFIED SPEAKER: Enough.

12 COMMISSIONER DEASON: Ladies and gentlemen.
13 Mr. Grossman, how much more do you have? Are you
14 about finished?

15 WITNESS GROSSMAN: I'm just about finished.

16 COMMISSIONER DEASON: All right. Please
17 wrap up, okay. Because there are many, many people
18 who are awaiting their opportunity to speak to the
19 Commission.

20 WITNESS GROSSMAN: Okay. I'll conclude with
21 just one short sentence. Remember the power of
22 justice. Jurors circumvent the law to read out
23 justice. People will break the law to obtain justice.
24 Veterans will die in wars to win it. People can live
25 without food or shelter or love. This is a species,

1 we people, that can bear any kind and character of
2 pain except one pain, the pain of injustice. And as a
3 citizen of Palm Coast, a citizen of Florida, I
4 demand -- I demand the natural justice of Palm Coast
5 and ask you to reject the rate application of the
6 utility Company and consider a rate decrease in its
7 place. Thank you. (Applause)

8 MR. SHREVE: Thank you, Mr. Grossman.

9 MR. SHREVE: Mr. LaRue.

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LUTHER J. LARUE

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

15

DIRECT STATEMENT

16 WITNESS LaRUE: My name is Luther J. LaRue,
17 L-A-capital R-U-E. I live at 13 Coral Reef Court
18 North in Palm Coast.

19 I have lived here approximately two years,
20 having moved here from the state of New Jersey, and I
21 lived for many years in New Jersey. In the course of
22 my tenure there, I have seen both -- well,
23 essentially, water supply companies owned in some
24 cases by corporations but more often run by
25 authorities, public authorities established under the

1 framework of the state government.

2 But, typically, sewer facilities have been,
3 in my experience, handled by authorities. Now, I
4 don't want to make a case for authorities because they
5 have their weaknesses, too. But I think an underlying
6 consideration here is -- and I regret that there are
7 no county commissioners here. I hope our county
8 attorneys will carry the message back to those
9 commissioners along the lines that we should give some
10 consideration -- and, hopefully, this will be
11 initiated before these new rates, whatever they may
12 be, are set -- as to whether or not the county should
13 establish an authority and take over either the
14 water -- the complete utility of water and sewer or
15 alternatively the sewer authority only.

16 And I would ask the Commissioners -- and,
17 incidentally, may I say I appreciate your being here,
18 and I commend you for having this hearing. I will
19 raise this question with regard to you people. I am
20 astonished at the number of Staff that you have
21 brought here, that you even employ much less that you
22 have brought here to this hearing. (Applause)

23 This is an example of the kind of thing that
24 raises questions in my own mind as to whether I should
25 bring up this thing of authorities, because they have

1 a tendency to expand in that direction as so many
2 governmental agencies do. But I don't want to
3 digress. I would like to come back to the possibility
4 that the county commissioners give some thought to the
5 possible acquisition of this whole thing or some part
6 of it. And I would like to ask the Commission, you
7 Commissioners, to as you evaluate and run the numbers,
8 you look at the possibility of what might these rates
9 be in the first case for water; and secondly, for
10 handling of the sewer situation if the functions were
11 handled by a governmental authority which would,
12 number one, not require a profit; number two, would
13 pay no federal income taxes on that profit; and,
14 number three, would not require a return on
15 investment. So those are possibilities that occurred
16 to me.

17 Now, I would raise this question, I ask to
18 you consider, is there a physical interconnection
19 between the water supply company and the -- I'll call
20 it the sewer function of this whole thing. If there's
21 no physical interconnection, then we could look at the
22 possibility of having a separate ownership and
23 operation of those two different functions.

24 Now I might say -- and it has been a good
25 number of years. My last number of years in New

1 Jersey, I lived out in the countryside and I had my
2 own well, so I did not pay any water rates. And I had
3 a septic system, so I did not pay for sewage. So it's
4 been a long time since I've look at any of these
5 rates.

6 But going back about 15 years I was on the
7 governing body of a municipality that ran a water
8 utility. And my recollection is that the costs of
9 producing water, essentially, are very little.

10 I don't know where you get your water here,
11 but let's assume that a good part of it is from
12 pumping from ground sources. Now, the cost of pumping
13 water is minuscule. So the big costs are distribution
14 and the maintenance of the distribution system. So
15 when I look at these rates -- and, first of all, I am
16 astonished at the difference between Hammock Dunes and
17 Palm Coast generally. But it occurs to me that what
18 you are charging, the bulk rate for Hammock Dunes of
19 \$1.01 is probably a good rate for anybody in this area
20 and maybe that's what we should be starting from
21 instead of \$3.60.

22 So, now, let me say that I have not made
23 even a preliminary analysis of this Company or the
24 costs and revenues that are associated. If I were to
25 really get involved I would make a vigorous analysis.

1 But I leave that to the Staff, the prolific Staff of
2 the Commission, to look into all these things very
3 carefully.

4 Then it comes down to what is included in a
5 rate base? And this has been alluded to by other
6 speakers as to, number one, what are these items, and
7 how are they valued? Are they valued in way that's
8 fair to the consumer?

9 Is this back on?

10 UNIDENTIFIED SPEAKER: Yes.

11 WITNESS LaRUE: Either someone is anxious to
12 see me finish, or I have an enemy in the crowd.

13 In any case, I would hope that the
14 Commission Staff would look very carefully at all of
15 these things that are involved in the rate base. I am
16 a free market promoter, and I have no problem with
17 having a company earn a reasonable rate on their
18 investment. But we do need to know on what are we
19 calculating that rate of investment. Then I would
20 like to look at this over a period of time. It seems
21 to me that the proposed rate runs on out there into
22 infinity, if you will. We have no idea how many years
23 ahead we are looking. There is a statement in here
24 that this rate would give them a rate of return of
25 8.84%. Well, when? In 1996, 1997? How about when we

1 reach, as somebody said, build out, when we have
2 220,000 people here and the revenues are tremendous?
3 Is this an average over that period of time? I would
4 be interested to know.

5 Now, one other thing that occurs to me.
6 Well, let me drop back for just a moment. We are
7 taking about what's involved in the rate base, but
8 also what is involved in the cost. Somebody has
9 already referred to some of the management salaries
10 and travel and charging meals to their expense
11 accounts, and so forth. I would also like for you to
12 look at what is being paid by this Utility to the St.
13 Johns Water District, and is that a reasonable amount,
14 and do we get any value for that? I would hope at
15 some point that somebody will enlighten us as to what
16 is the St. Johns Water District, and how much is that
17 costing us, and is it a self-perpetuating
18 organization?

19 One last thing. I had written a letter to
20 the president of the Palm Coast Utility Corporation
21 and asked him to enlighten me as to how much of the
22 costs of this expansion represent an overlay by the
23 Federal EPA, requirements by the EPA, that were over
24 and above what the utility corporation considers
25 necessary. And I think they are interested in the

1 health of their customers. They don't want to poison
2 us and lose us as customers.

3 At the county, I don't know. I assume the
4 county has a health department, so what kind of
5 requirements do they have? And then the state,
6 there's been some reference to the state environmental
7 protection. Is there a state board of health? I
8 don't know. The state has regulations.

9 In any case, what I'm asking -- and I would
10 to ask you to look at this -- how much has been
11 imposed by the federal people over and above
12 everything that the people in the State of Florida
13 think would be adequate to provide safe and high
14 quality potable water to our citizens here, and can we
15 quantify that? And can we get information on this so
16 that we can take it to our representatives and seek
17 compensation, recompensation from the federal
18 government for these overlays of requirements that
19 they seem to impose on local people.

20 Off the top of my head, I think that what's
21 being asked for here is exorbitant. I'm not going to
22 try to make any case about how hard it is for us to
23 pay these bills because, looking at this from the
24 other side of the coin, that's not the problem of the
25 utility corporation. But it is our problem and has

1 been pointed out to you, it is your responsibility to
2 look carefully at this for us and protect us against
3 unnecessarily exorbitant rates. Thank you so much for
4 allowing me to testify.

5 MR. SHREVE: Thank you, sir. Ivy Sterling.

6

- - - - -

7

IVY STERLING

8 appeared as a witness and, having been duly sworn,
9 testified as follows:

10

DIRECT STATEMENT

11

12 WITNESS STERLING: Good morning. My name is
13 Ivy Sterling, and I live at 11 Fenwick Lane, Palm
14 Coast, Flagler County, speaking as a concerned citizen
15 and a ratepayer.

16

17 Mr. Chairman, fellow members of the Public
18 Service Commission and members of the Office of Public
19 Counsel, on a personal note it should be noted that I
20 have been involved in issues involving the Flagler
21 County government, as well as issues facing the Palm
22 Coast community for the past decade. Based upon my 27
23 years of working experience and knowledge at home and
24 abroad with the various forms of government: county
25 municipal and state, it is extremely important in a
democratic society for each of us to possess the
fullest information upon which to base our decisions.

1 Perhaps the result of this hearing may be in favor of
2 the customers. But, honestly, I don't think so. This
3 hearing is about big money and greed. (Applause)

4 Over 34% in the water and sewer rate are big
5 money in the cost of living for those of us who are
6 retirees and living on fixed incomes. However, this
7 hearing will definitely be a wake-up call for all the
8 residents of Palm Coast.

9 Gentlemen, we are not here today, not only
10 to oppose the extravagant rate increase in the water
11 and sewer, but also to express our opinions and to
12 give our inputs to the board which will enable each
13 member of the board to look at the issues
14 constructively and objectively in your decision
15 process on these vital issues.

16 It is suggested that the PSC and the Office
17 of Public Counsel get together and do a thorough
18 investigation of the PCUC on the maintenance costs
19 operation for an annual year. (Applause)

20 Also, the PSC and the OPC should have their
21 own professional engineer to check over all the PEP
22 system and other stuff and then see what ought to be
23 included in the rate base and whatnot and so on. The
24 investigation should be done before the board makes
25 any decision on the rate increase.

1 For instance, let's look at the Department
2 of Transportation. They're building a brand new weigh
3 station on I-95. Does anyone know what type of
4 agreement is made for the connection of the
5 water/sewer? Is the PCUC going to connect the water
6 and sewer lines to the weigh station? If so, what is
7 the cost for the hookup and the connection lines?
8 This matter should be looked into by the PSC and the
9 OPC, because we think this cost should be included in
10 the rate base.

11 My next question. Let's reexamine the
12 48,000,000 lots and the CIAC. Previous records show
13 that the 48,000 lots has been reduced to 46,438 lots
14 because certain lots have been defined as duped lots.
15 In addition, PCUC has represented that 15% or 6,966
16 lots will not be built on, which means that the entire
17 cost of the utility system, water and sewer, will be
18 financed from contribution in aid of construction from
19 39,472 lots. The CIAC must be challenged again and
20 again until equity is achieved. Each of the 46,438
21 lots is supposed to pay for a portion of the water and
22 sewer. The PCUC is forcing 39,474 lot owners to bear
23 the entire cost of the system which will be available
24 to 46,438 lots.

25 Once again, my question is: Does the PSC

1 have the authority to change the CIAC for the PCUC to
2 benefit individuals who owns two lots? It seems to us
3 like a ripoff of the other customers. This also needs
4 to be checked into by the PSC and the OPC.

5 The question becomes whether the Public
6 Service Commission represents the customers' interests
7 or the PCUC. For example, in 1994 the PCUC and the
8 county commission decided to compromise on a new
9 agreement to be drafted for the Palm Coast service
10 district fire hydrant maintenance fee. It was also
11 stated that the PSC will have to approve the
12 agreement. Please join me and let us reexamine some
13 of the statements made by the PCUC staff and our
14 elected county officials. These statements are
15 written in the newspaper of the News Tribune and I
16 quote, "Commissioner Jack Nugent ended a year-old tug
17 of war between the PCUC and the county clerk over fire
18 hydrants in Palm Coast. In the end it was compromised
19 on both sides of the issues that brought about the
20 settlement. Crosby has steadfastly refused to pay the
21 1992/93 fiscal year hydrant agreement, contending that
22 according to an agreement drafted in 1981, the number
23 of hydrants and how they were built, the Palm Coast
24 service district was in error.

25 The Utility demanded payment of 143,500,

1 arguing that the county already had agreed to the
2 number of hydrants. Nugent's proposal set the number
3 of hydrants in the Palm Coast service district at
4 1,200 and uses that figure as the base for future
5 years.

6 The agreement establishes that there were 93
7 new hydrants added in this fiscal year, and the
8 Utility would be paid \$67 for a hydrant. Under the
9 old agreement, PCUC charged the Palm Coast service
10 district \$100 for an equivalent hydrant serving three
11 or more houses. The fee was reduced by a third when
12 only two homes were served and by another third for
13 one house.

14 The clerk contended that the 149 of the
15 1,435 hydrants are overlapping. 79 hydrants are
16 identified in PCUC data as privately owned and are
17 being charge twice. And 62 commercial hydrants are
18 being charge at the \$100 each, rather than the one-,
19 two-, three-thirds methodology. The county commission
20 voted to pay the full \$143,500 bill, less 10%. Crosby
21 paid half last summer but withheld the rest claiming
22 the count of 1,435 equivalent hydrants that the bill
23 was based on cannot be justified.

24 Under the old agreement, according to the
25 Utility, the hydrant count could have been 1,528 which

1 would result in a bill of \$152,800 for 1993/94.

2 Under the agreement offered by Nugent, the
3 same bill would be 126,231, using the base figure of
4 1,200 hydrants at \$100, and add in the additional 93
5 hydrants at \$67. The agreement still has to be
6 drafted and signed by the Utility and county
7 commission. The Utility attorney, Mr. Chiumento,
8 said, 'It will also have to be reviewed and approved
9 by the Public Service Commission,' end of my quote.

10 Now, why have I presented you some of the
11 details of our struggle for fairness? Simple. In the
12 present application for an outrageous rate increase,
13 there is a request that these hydrant fees be drafted
14 as individual items, whose numbers were audited by the
15 clerk of the court as indicated. Attorney Chiumento
16 claimed that the final agreement that was reached
17 between the final Palm Coast Service District Board of
18 Commissioners had to receive the approval of the PSC.

19 As of this moment, I am unaware of any
20 approval needed or, worst yet, was the agreement ever
21 submitted for approval by the PSC? If these are not
22 the facts, gentleman, then what are the facts?

23 It is my understanding that the PSC looked
24 upon the hydrant fee as taxes imposed by the Palm
25 Coast Service District Board of Commissioners. And if

1 the commissioners approved the fees, then there could
2 be no legal involvement of the PSC, because the PSC
3 cannot set taxes which are part of the ad valorem
4 taxes, nor can the PSC overrule the decision of the
5 Board of Commissioners when it comes to setting a tax
6 rate.

7 So now comes the PCUC dressed up in the
8 clothing of the Minnesota Power and Light and tell us
9 that they are dropping the fees for the hydrants and
10 swallowing the maintenance. If this is true, why is
11 the PCUC asking for such an outrageous rate increase?
12 Once again, the community is left at the mercy of the
13 corporation. The Committee for Responsive Government
14 came before the county commission several times about
15 two years ago and suggested that the Commission put
16 themselves on the mailing list of the PSC and then
17 send a letter of intent to purchase the PCUC, but
18 nothing was done about it.

19 Look at where we are now. When we look
20 around here in Palm Coast, we don't have to wonder why
21 government has a bad name. Here we are with our
22 economic, financial, environmental well-being in the
23 hands of bureaucrats who bleed hot air instead of
24 question. There is an old and still relevant
25 statement and that is, "A community gets the

1 government it deserves." And, gentlemen, with that
2 note I close my presentation and thank each of you for
3 your attention. (Applause)

4 (Witness Sterling excused.)

5 - - - - -

6 MR. SHREVE: John Scripp.

7 **JOHN L. SCRIPP, III**

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

11 **DIRECT STATEMENT**

12 WITNESS SCRIPP: My name is John L.
13 Scripp, III. Scripp is spelled S-C-R-I-P-P. John L.
14 Scripp, III, 14 Curry Court, Palm Coast, Florida. I
15 am speaking as an individual who opposes the rate
16 increase and who publicly thanks the Flagler County
17 Commissioners for their support on behalf of the
18 citizens.

19 We better hurry up and decide this, this
20 rate increase is increasing. Three months ago it was
21 a plus 34%, but listening to Mr. Hadeed and looking at
22 your green sheet, it's now up to -- if you average out
23 those figures, it's up to 37.1%.

24 Why do I and probably everyone here oppose
25 the rate increase? I can give you one reason. As a

1 member of the Palm Coast civic association, I know
2 that organization and others have been unable to get
3 materials and information requested in order to
4 understand Palm Coast Utility's alleged justifications
5 for the rate increase. If the public and the Public
6 Counsel have difficulty or can't get all of the
7 information they need, if the utility Company can
8 refuse to disclose all of what has been requested,
9 then we have good reason to oppose any utility
10 increase, and I hope that you will oppose this one.

11 I saw one of those requests to the judge for
12 forced consent, and two items I remember. There were
13 requests for audits of Palm Coast Utility and its
14 staffing to determine their costs, which Palm Coast
15 Utility labeled as irrelevant for the citizens to get.

16 How can the citizens be protected from a
17 private water utility that is a monopoly? Palm Coast
18 Utility is a monopoly. We citizens can't shop around
19 for a better price in a free market. We have no
20 choice, we must drink Palm Coast Utility's water, but
21 we shouldn't have to swallow it's unfair rate
22 increases. (Applause)

23 Thus, we hope the Public Service Commission
24 -- and I note your name, Public Service Commission.
25 You are not called the "Private Utility Service

1 Commission"; you are called the Public Service
2 Commission. (applause)

3 Therefore, we hope that the Public Service
4 Commission would act primarily in the best interest of
5 the taxpayers. And after all, we pay you something.
6 I understand as part of our water bills, that the
7 Public Service Commission gets around \$400,000
8 annually from Palm Coast Utility resident customers to
9 pay to be regulated and staffed by the Public Service
10 Commission. \$400,000 a year we are paying. If
11 Flagler County owned the utility or regulated it, I
12 understand that \$400,000 would not have to be paid by
13 the taxpayers.

14 Already Palm Coast Utility has requested and
15 granted a plus 11% increase, which I think was too
16 much. Finally, I oppose the rate increase and I hope
17 that you will do the same. Thank you very much.

18 (Applause)

19 MR. REILLY: Everett King. Mr. Everett
20 King.

21 WITNESS KING: I'm here, but I don't wish to
22 speak now. People are doing well without me.

23 MR. REILLY: Okay. Thomas Radlet.

24

25

THOMAS RADLET

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:

DIRECT STATEMENT

5
6 WITNESS RADLET: Good morning. My name is
7 Thomas Radlet. That's R-A-D-L-E-T. I live at 1
8 Bleau, B-L-E-A-U, Court in Palm Coast. I'm also
9 president of the Palm Coast Civic Association.

10 I am an engineer, And I also hold a master's
11 degree in business, but I'm not expert in the
12 specialized aspects of utility financing. But
13 included in the correspondence and documents generated
14 by this request is the testimony of three qualified
15 experts. One of these people is a member of your own
16 Staff. Their testimony, 74 pages of it, is very clear
17 and includes resumes showing their qualifications to
18 give expert testimony. Reading their reports gives a
19 very clear picture of this situation. I'd like to
20 quote a few excerpts from these reports. I feel these
21 represent the core of the application and need to be
22 stressed.

23 On March 29th, the Public Counsel submitted
24 a list of 34 items and 31 questions to assist them in
25 preparing their presentation of this case. After

1 studying what responses were received and the original
2 application data and other available information, the
3 two experts from private consulting firms submitted a
4 statement of basic position through the office of
5 Public Counsel on June 3rd. I'd like to quote one
6 paragraph there.

7 "The Utility has understated its revenue by
8 failing to include all revenue from Hammock Dunes,
9 revenue earned by its subsidiary and revenue from
10 other water and wastewater systems for which the
11 Utility provides service. The Utility's expenses are
12 overstated due to the transactions with its
13 affiliates, inclusion of inappropriate and
14 nonrecurring expenses and failure to properly account
15 for nonused and useful operations expenses.

16 "The Utility's cost of capital is
17 overstated, because the Utility did not include
18 cost-free CIAC, contribution in aid of
19 construction" -- I learned something -- "and the
20 amount of cost-free investment tax credit in its
21 capital structure. The Utility's rate base is
22 overstated due to the inclusion of substantial amounts
23 of plant that is nonused and useful.

24 "Instead of an rate increase proposed by the
25 Utility, the rates should be reduced by at least \$3

1 million." End of quote. (Applause)

2 This summary is liberally supported with
3 testimony, statistics and calculations, and I
4 certainly would not presume to try to add to it in any
5 way.

6 The expert from your Staff who conducted an
7 audit on the application filed a separate report on
8 May 31st. He lists five exceptions and seven
9 disclosures as a result of his audit. He summarizes
10 his exceptions and I quote, "Audit exceptions disclose
11 substantial noncompliance with uniform system of
12 accounts, with a Commission rule or order, with Staff
13 advisory bulletins and formal Company policy. Audit
14 exceptions also disclose Company exhibits that do not
15 represent Company books and records and Company
16 failure to provide underlying records or documentation
17 to support the general ledger or exhibits," the end of
18 the quote.

19 The disclosures also point out some
20 discrepant areas. One I think is especially worth
21 repeating. In the last rate case from this Utility --
22 it's number, I believe, is 36.0816, referring to the
23 recovery of rate case expense, PCUC was instructed,
24 quote, "At the conclusion of the recovery period, the
25 rate of the public utility shall be reduced

1 immediately by the amount of rate case expense
2 included in the rates." Now, this you should have
3 happened about April of 1993.

4 COMMISSIONER DEASON: Excuse me for just a
5 moment, sir.

6 WITNESS RADLET: Yes, sir.

7 MR. GATLIN: Mr. Chairman, this witness is
8 reading testimony.

9 WITNESS RADLET: What did he say?

10 COMMISSIONER DEASON: You are not on.

11 MR. GATLIN: I don't have a switch.

12 WITNESS RADLET: What is that, now?

13 COMMISSIONER DEASON: We are going to have
14 to turn on Mr. Gatlin's microphone. Just hold on for
15 a second.

16 WITNESS RADLET: Sure.

17 MR. GATLIN: Are we on now?

18 COMMISSIONER DEASON: Mr. Gatlin, raise your
19 hand. Okay. This is Mr. Gatlin speaking. Go ahead,
20 sir.

21 MR. GATLIN: This witness is reading
22 testimony that has been stricken from the proceeding,
23 and I object to it. (Audience response.)

24 WITNESS RADLET: I didn't know that when I
25 prepared this statement. It was done this morning.

1 COMMISSIONER DEASON: Ladies and gentlemen,
2 please. The court reporter can only pick up one
3 person at a time and cannot pick up the audience, and
4 we are trying to determine what is happening here.

5 I assume Mr. Gatlin is making an objection
6 to the testimony that is being given. And that
7 objection is that he is providing testimony that has
8 previously been stricken.

9 MR. GATLIN: He is quoting testimony that
10 has been stricken from -- the issue has been stricken
11 and the testimony.

12 WITNESS RADLET: I'll have to refer that
13 to --

14 COMMISSIONER DEASON: Excuse me just a
15 moment, sir. You do have an attorney here.

16 WITNESS RADLET: That's what I was going to
17 do.

18 COMMISSIONER DEASON: Right. Mr. Reilly is
19 here.

20 WITNESS RADLET: I'll refer that to
21 Mr. Reilly.

22 MR. REILLY: I do not believe the Staff
23 audit has been stricken, the portions that he's
24 referring to.

25 MR. GATLIN: Oh, yes, it has, Mr. Chairman.

1 It's the very part that has been stricken.

2 MR. REILLY: Would you repeat those, the
3 particular part that he raised?

4 WITNESS RADLET: There's one paragraph and
5 it's in the Staff audit report which I have here.

6 COMMISSIONER DEASON: Does that concern the
7 rate case, the expense adjustment?

8 MR. GATLIN: Yes.

9 MR. REILLY: That single issue, I believe,
10 was stricken by the Prehearing Officer at the
11 prehearing conference; is that correct?

12 COMMISSIONER KIESLING: It was stricken by
13 agreement of the parties.

14 MR. EDMONDS: That's correct.

15 COMMISSIONER KIESLING: It was not stricken
16 by me. It was stricken by agreement of the parties.

17 WITNESS RADLET: Well, maybe I can clean
18 this up. I don't consider that the most important
19 thing in here. And if it's been stricken, I didn't
20 know about it, so can we go on?

21 COMMISSIONER DEASON: Please. We understand
22 the situation, and if you can just go forward with
23 your testimony. And we understand that the issue
24 concerning rate case expense has been stricken.

25 WITNESS RADLET: Mr. Reilly, do you agree

1 with this?

2 MR. REILLY: Go ahead.

3 WITNESS RADLET: I said, do you agree with
4 just kind of dropping this issue out of there?

5 MR. REILLY: I believe so, yes.

6 WITNESS RADLET: Okay. Fine.

7 MR. REILLY: That one issue.

8 WITNESS RADLET: Fine. On June 14th, the
9 Flagler County attorney, Mr. Hadeed, filed an
10 intervenor's memorandum requesting option agreement
11 documents. He states, quote, "It is obvious that the
12 requested rate increase is connected to the impending
13 acquisition of PCUC by Minnesota Power. Further, the
14 acquisition is part of a larger transaction with
15 Minnesota Power involving PCUC's parent company.

16 MR. GATLIN: Mr. Chairman, this issue has
17 also been stricken. (Audience response.)

18 MR. REILLY: Repeat that.

19 COMMISSIONER DEASON: Hold on. Hold on.

20 MR. GATLIN: I have an objection to the
21 statement.

22 WITNESS RADLET: I quoted from a letter that
23 I received, a copy of which that Mr. Hadeed filed, an
24 intervenor's memo written on June 14th. That's not
25 exactly ancient history. And if it's been stricken

1 from the record, I don't know anything about it. And
2 I don't believe it was mentioned here this morning.

3 COMMISSIONER DEASON: Let Mr. Reilly confer
4 to determine what he needs to do to respond to the
5 objection.

6 WITNESS RADLET: Go ahead.

7 MR. REILLY: The issue of discovering the
8 details of the option agreement was stricken over the
9 objections of Public Counsel at the prehearing
10 conference. I believe that witnesses from the public
11 have come and express their concerns about this
12 agreement, and I would think it's totally appropriate
13 to receive in the context of their concerns on this
14 issue. And I don't think the public should be
15 restricted in their comments. (Applause)

16 COMMISSIONER DEASON: Commissioner Kiesling.

17 COMMISSIONER KIESLING: Well, I certainly
18 agree that the public should not be limited in their
19 comments on that issue. However, what the witness was
20 reading from was part of the memorandum and petition
21 to intervene that was filed by Mr. Hadeed. It was not
22 testimony that was filed by any witness. And to that
23 extent, you know, you can read it. But it is simply
24 the allegations that Flagler County made in seeking to
25 come into this case, and those allegations do not

1 carry the weight of testimony. So that was my only
2 comment is that I agree with Mr. Reilly. People
3 should be able to tell us about anything they want to
4 tell us about as it relates to this case or their
5 concerns.

6 WITNESS RADLET: Yeah, I agree with you,
7 ma'am.

8 COMMISSIONER KIESLING: Well, thank you.
9 (Laughter.)

10 COMMISSIONER DEASON: Sir.

11 WITNESS RADLET: Yes.

12 COMMISSIONER DEASON: Just a second. I'm
13 glad that you agree, I'm glad that Commissioner
14 Kiesling agrees, but I'm the one who has to make a
15 ruling on the objection, okay --

16 WITNESS RADLET: Fine.

17 COMMISSIONER DEASON: -- before you can
18 testify any further.

19 Now, Mr. Gatlin, you are saying that the
20 issue has been stricken.

21 MR. GATLIN: Yes, I do.

22 COMMISSIONER DEASON: That was over the
23 objection of Public Counsel. Public Counsel is
24 maintaining that the public has great latitude in
25 being able to provide information to the Commission.

1 I agree with that. The objection is noted, but I will
2 recognize that the Commission has historically allowed
3 nontechnical witnesses, members of the public, great
4 latitude in presenting their concerns to the
5 Commission, and following that precedent, I'm going to
6 allow this witness to continue. (Applause)

7 MR. GATLIN: Mr. Chairman, I understand the
8 Commission's attitude about the witnesses, but in this
9 particular instance he's reading from a document that
10 cannot and will not be part of this record.

11 COMMISSIONER DEASON: We understand the
12 nature of the document from which he is reading, and
13 I'm going to allow him for purposes of his testimony
14 to continue that quote. And if he needs to somehow
15 summarize that or give his opinion on that, I'm going
16 to allow him that opportunity, realizing that the
17 source document itself is not part of this record.

18 MR. GATLIN: Thank you, Mr. Chairman.

19 WITNESS RADLET: Thank you. To complete
20 that, it's going to take a lot less time than the rest
21 of this.

22 But, going on -- and, again, I'm reading
23 from a letter from Mr. Hadeed which was dated June
24 14th. "It is logical to assume that the purchase
25 price of the Utility is based in part on the

1 consideration paid for other assets and is based on
2 the outcome of these rate proceedings. The situation
3 suggests that the option agreements are indeed
4 materially relevant to the rate increase petition,"
5 end quote.

6 This, by the way, supports some contentions
7 that I made in the letter I wrote to you, gentlemen
8 and ladies, on the 3rd of May, talking about this rate
9 increase. I would add here that if this rate increase
10 is granted, we will certainly have the highest water
11 rates in Central Florida, if not the entire state.
12 Rates that are now -- and one gentleman was comparing
13 them to Pennsylvania. We don't have to go that far.
14 Rates that are now twice as high as communities just
15 over the county line to the south. And it will make
16 our water bill in a good many cases higher than our
17 real estate taxes which is a real distinction for this
18 county.

19 Ladies and gentlemen, in summary this entire
20 situation is just another example, I believe, of the
21 arrogance of this Utility and its complete lack of
22 respect for you and for the customers it serves.
23 We've already mentioned, with objection, their failure
24 to follow your instructions from the last rate case
25 and their failure to respond to requests for

1 information, add to that their actions on the increase
2 you granted of 11% to take place this past April.
3 Their March 25th announcement of the new rates did not
4 state they were approved and would be included in the
5 April bill. When questioned, PCUC, as usual, insulted
6 our intelligence by blaming you for this confusion,
7 stating that you would not allow them to include that
8 information in the notice. That was in the newspaper.

9 There are other unpublicized items in this
10 rate package. Ms. Sterling talked at length about the
11 fire hydrant situation. Because of this protracted
12 and rather bitter disagreement with the county a
13 couple of years ago -- back up just moment. The fire
14 hydrant charges have been billed separately to the
15 county up to now. They are not going to be if this
16 rate package goes through. And only because of the
17 diligence of the county clerk this situation was
18 corrected at a significant saving to the county and
19 this, apparently, is no longer going to be possible.

20 The new package also reduces the sprinkler
21 charges to business. I assume this expense still
22 exists and, well, it can only come from one source.
23 The connection charges are also significantly
24 increased in this package.

25 Ladies and gentlemen, thank you for your

1 patience with me. I certainly didn't intend to cause
2 these problems that came up. I apologize for possibly
3 repeating items you may have heard, but I feel that
4 it's obvious that you have not been given complete
5 data on this application by the Utility. That's
6 certainly borne out by the conclusions the experts who
7 analyzed this application and by the request from our
8 county attorney to include reasons in this review.

9 You should deny this increase totally; or at
10 the very least, instruct the Utility to prepare and
11 return with a request that presents you and the public
12 with the total picture and pertinent facts. It's not
13 fair to you or to the citizens affected by this
14 situation to ask you to make a decision with so many
15 facts either distorted or omitted entirely. Thank
16 you.

17 MR. REILLY: Cora Soper.

18 - - - - -

19 **CORA SOPER**

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 **DIRECT STATEMENT**

24 WITNESS SOPER: I want to thank people for
25 letting me come up here. And it took me a little

1 while to get from the back.

2 UNIDENTIFIED SPEAKER: Speak into the mike.

3 WITNESS SOPER: My name is Cora Soper. I
4 live at 54 Blare Castle Drive. I live at Blare Castle
5 Drive in the Woodlands, Phase 2, Woodlands of Grand
6 Haven.

7 I have not been very satisfied with the
8 quality of my water in the six years that I've lived
9 here. I've gone too many times to the water company
10 to complain. I even took a sample of the water in a
11 clear glass which I was going to put in my microwave
12 oven to make myself some coffee. Stuff was floating
13 around in there, so I didn't make my coffee. I
14 covered it up with a piece of plastic and a rubber
15 band and took it to the water company when they opened
16 and asked them, could I please see the manager who ran
17 this Company. They sent me out a vice president.

18 I asked him to look at my water which was
19 drawn out of the cold water spigot, and asked him
20 would he like to consume this water, which he refused
21 to do. Stood there with his hands in his pocket.
22 "But you expect me to drink this water," I say. No.
23 I have to go out and buy my water. I buy my water to
24 cook in. I buy my water to drink, make coffee and tea
25 in.

1 And my other complaint is that it breaks out
2 my son. He takes a shower, he stays in a rash. He's
3 had the rash for six years. It has not gone away. I
4 have tried every soap on the market, back down to
5 Neutrogena. It has still not solved the problem. You
6 shouldn't have to when you shower, have to go around
7 scratching yourself because you are itching.

8 I am very dissatisfied with the rate
9 increase. There are so many of us who live here, who
10 are on a fixed income and what kind of an increase did
11 I get in January? A 2.4. My husband a 2.4. How are
12 we ever going to come out and pay a water bill that's
13 11% higher. No, you are forcing me out. You are
14 forcing me out of this county because I cannot take
15 the utility -- water utility bill and be able to pay
16 it.

17 I also know that the real estate property is
18 down. My neighbor had her house right next to me. It
19 took three and-a-half years to sell. She lost a lot
20 of money.

21 When I came here six years ago, my property
22 was worth 89,9. I asked the real estate if I put my
23 house up on sale, what will I get? Around 74,000.
24 What a drop.

25 And I don't drink this water. I refuse to

1 drink this water, and I'll bet if everybody was honest
2 in here -- because where I live, I live on a dead-end
3 pipe, and they have come and flushed it once in a
4 while. But you should see my ice trays. My ice trays
5 have to be washed out every week because there's
6 yellow inside of them. And it gets to a point, after
7 you've scrubbed them so much, you can't get the ice
8 out because you wash all the wax and coating off.

9 Why should their water be this way? It
10 isn't good quality service water. And with all their
11 increases, it's still not going to be any better. And
12 I thank you for your time. (Applause)

13 MR. SHREVE: Thank you. Mr. Arnold Levy.

14

15 **ARNOLD R. LEVY**

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 **DIRECT STATEMENT**

20 WITNESS LEVY: Good morning. My name is
21 Arnold, middle initial R, Levy, L-E-V-Y, and I live at
22 7 Cotton Court, Palm Coast.

23 I would like to comment on two aspects of
24 the matter before you, as an ordinary citizen and
25 resident of Palm Coast speaking on behalf of many of

1 my friends and neighbors. First, we have long felt
2 that our current water rates are too high, not because
3 of our own usage, but because year after year we are
4 forced to pay the price of ITT's egregious
5 overestimate of the growth of Palm Coast. ITT built a
6 plant to service almost a quarter of a million people,
7 a number that years later is 10 times our actual
8 population. Why should the residents of Palm Coast
9 year after year bear the burden of a big corporation's
10 bad planning, planning that we had no part in?

11 My last bill showed 12,230 gallons for
12 irrigation compared with 2,920 for personal use. 81%
13 of my usage was irrigation. The numbers on the
14 previous bill were 4,600 and 16,070 gallons. 75% for
15 irrigation. My water bills are bigger than my bills
16 from FPL. And the biggest component of my water bill
17 is irrigation. My friends and neighbors in Palm Coast
18 all agree that irrigation usage makes up the bulk of
19 their water bills.

20 Given the already high cost of irrigation,
21 raising our rates is likely to cause Palm Coast
22 residents to take steps to reduce consumption. Those
23 of us who, like me, can afford to, will opt to dig
24 wells to provide our irrigation. Those who, like my
25 86-year-old mother, live on a fixed income will have

1 to cut down on irrigation, let their lawns brown out
2 and their plants die, resulting in rundown
3 neighborhoods, lower property values, slower growth
4 and a serious decline in the quality of life in Palm
5 Coast. (Applause)

6 These reactions, together with other water
7 saving measures, would significantly lower usage and
8 inevitably cause the Company to seek to increase its
9 rates again. Each increase in rates will drive more
10 residents to dig wells or reduce consumption. Usage
11 will keep declining; rates will keep rising. I urge
12 the Commission to nip this in the bud, don't let the
13 inflationary spiral begin. Thank you. (Applause)

14 MR. SHREVE: Thank you, sir. Miller David.

15 - - - - -

16 **MILLER DAVID**

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

20 **DIRECT STATEMENT**

21 WITNESS DAVID: My name is Miller David. I
22 live at 1 Winchester Place. The last name is David,
23 D-A-V-I-D.

24 I came to Palm Coast five years ago. Before
25 I purchased the house which I live in right now, my

1 first question to the realty was, "What are the costs
2 of the utilities?" He told me. I ran back and I
3 figured it out, and I figure that's affordable. But
4 in the last couple of years it has been going up and
5 up and up.

6 And my general outlook on this whole
7 problems is that ITT is very arrogant, and the people
8 who run ITT are arrogant. I mean, you look right at
9 these people, the two attorneys who are sitting at
10 this table now. Look at the body language, and you
11 can see the arrogance in them, that we have to sit and
12 take their arrogance and then pay a salary to them.
13 This is corporate greed. This is not for -- to make
14 up for the utilities for what -- their investment.

15 We know that every company in the United
16 States has to make money, but they don't have to push
17 their hands way down in my pockets to pull that money
18 out.

19 I'm going to refer to the hydrants some lady
20 spoke about. A lot of us here in this crowd have
21 hydrants near to our homes or not far from our homes
22 which are inoperable. They are not working. I have
23 never seen anybody where I live -- I'm talking for
24 myself -- come to that hydrant, which is half a block
25 away from me, to test and see if my house caught on

1 fire, if that hydrant is workable. But yet, still,
2 the County of Flagler had to pay ITT to maintain the
3 hydrants which are not working. That's not fair to me
4 personally, and I don't think it's fair to the other
5 customers. And I think the Commissioner -- the
6 members on the PSC should take a very hard look at
7 what the utility Company is trying to do to the
8 customers who are residing in Palm Coast.

9 And with that interim that we have already
10 paid, like somebody said, that is a done deal. And
11 what is coming ahead might be a done deal, too; we
12 don't know. But you, three members of the Public
13 Service Commission, have the authority to weigh the
14 facts and the measures that the utility Company has
15 provided to you.

16 I don't know how much they have provided to
17 you, how much figures they have provided to you. But
18 if I go to a bank and ask the bank to give me a
19 quarter of a million dollars, the bank will then turn
20 around and ask me, "How would you repay that hundred
21 -- quarter million dollars?" And then I'll have to
22 show them why I want the money and how I intend to
23 repay it.

24 Well, I think, it's an obligation to the
25 utility Company to show us why they are requesting

1 that increase from the Commission and how they intend
2 to spend that money to meet the needs of the
3 community. So I urge you, gentlemen, sitting there --
4 and ladies, sitting there this morning to take a very,
5 very hard look at that request. Thank you very much.

6 COMMISSIONER JOHNSON: Mr. David. Over
7 here, Mr. David. And this may be a question more
8 appropriately addressed by Staff. You had stated that
9 the Utility was responsible for maintaining the fire
10 hydrants, but the ones in your neighborhood are not
11 operating. Is that an issue in this case and to what
12 extent do we have any authority over that kind of
13 issue?

14 MR. EDMONDS: It's not an issue in the
15 prehearing order.

16 COMMISSIONER JOHNSON: Is that something
17 that we can look into or is that something under the
18 regulatory authority of some other entity?

19 MR. EDMONDS: I believe it's within our
20 jurisdiction.

21 COMMISSIONER JOHNSON: Okay. Perhaps we can
22 have one of our Staff members meet with you after or
23 sometime during this proceeding and get a little more
24 information on that. Public Counsel.

25 MR. REILLY: Well, I was going to say, of

1 course, quality of service is very much an issue in
2 the proceeding.

3 COMMISSIONER JOHNSON: I had one other
4 question for the -- thank you, Mr. David. I know a
5 lot of people are leaving. Oh, I'm sorry, Mr. David,
6 I think the Utility may have a question for you.

7 You can go ahead and ask him. My question
8 related to someone else.

9 COMMISSIONER DEASON: This is
10 Mr. Schiefelbein speaking.

11 WITNESS DAVID: This is who?

12 COMMISSIONER DEASON: This is Mr.
13 Schiefelbein speaking --

14 WITNESS DAVID: Schiefelbein?

15 COMMISSIONER DEASON: Yes. He's got a
16 question for you, sir.

17 WITNESS DAVID: Certainly. Who does he
18 represent, sir?

19 COMMISSIONER DEASON: He represents the
20 utility Company.

21 WITNESS DAVID: The utility Company. Okay.
22 Go ahead, sir.

23 **EXAMINATION**

24 BY MR. SCHIEFELBEIN:

25 Q Mr. David?

1 A Yes, sir.

2 Q I just want to get some basic information
3 regarding the hydrants that you refer to. First of
4 all, when were these hydrants inoperable? Can you
5 give an approximate time?

6 A I cannot give an exact data on these things,
7 sir. I'll have to go to the county commission's
8 office and get the exact hydrants and their locations.

9 Q I understand your inability to indicate an
10 exact time. Can you give an approximate time?
11 Perhaps a year?

12 A The approximate year was when Mr. Sid Crosby
13 came to one of our meetings at the civic association,
14 and he was very disturbed about the hydrants. I was,
15 too. Because I'm living near to a hydrant and if
16 there is as fire, I have to take my water hose from my
17 house, use my water from the house, which I am paying
18 you for. So I'm boxed in and I pay on both sides.

19 Q Mr. David, can you tell us is this the
20 hydrant that is near your house that was inoperable?

21 A Mr. -- whatever your name is. I'm not
22 specifically saying the hydrant near to my house.

23 Q All right. Well, which --

24 A Like I told you, I'm living in the area of 1
25 Winchester Place for four years, and I have never seen

1 the utility Company come to that area and that
2 particular hydrant to check to see if it's operable or
3 not. I don't know about the other areas, but I'm
4 talking for myself, the hydrant near to me.

5 And the county clerk specifically said a
6 little over a year ago that there were hydrants that
7 the county was paying for that was not working. He
8 was upset and I was upset.

9 COMMISSIONER JOHNSON: Thank you, Mr. David.

10 WITNESS DAVID: Thank you very much, ma'am.

11 COMMISSIONER JOHNSON: We are going to have
12 some Staff members try perhaps meet with you and see
13 if we can at least explore and investigate that issue.
14 Thank you very much.

15 WITNESS DAVID: I would appreciate that very
16 much. Thank you.

17 MR. SHREVE: Thank you, Mr. David.

18 COMMISSIONER JOHNSON: Mr. Chairman, I had a
19 couple of other questions, and I see that we are
20 losing people. I know that two witnesses ago,
21 Ms. Clara -- it was either Super or Soper -- testified
22 on some quality of service problems that she was
23 having with respect to particles being in the water
24 and she was not quite satisfied with the Utility's
25 response. I was wondering if a Staff member could

1 also -- and I think she's is sitting back there by
2 Mr. Lowe -- if a Staff member could also meet with her
3 and help investigate whatever issues she might have
4 with respect to quality of service.

5 The one final issue was our first speaker,
6 Mr. Rosen, had stated that there was nowhere where the
7 citizens could pay their -- or my understanding is
8 that there was nowhere they could deliver their bills
9 locally and that they now had to incur a charge in
10 mailing their bills. To the extent that that is an
11 issue, I'd like for the Utility, if they could, in
12 their portion of our testimony, respond to that and
13 help me better understand why the local citizens can't
14 pay their bills where they live.

15 Personally, I have a problem with that. And
16 to the extent that can be explained and further
17 explored, I'd appreciate it.

18 MR. GATLIN: Sure, be glad to.

19 MR. SHREVE: Thank you, Mr. Chairman.

20 Mr. Edwin Behrendt.

21

22

23

24

25

EDWIN BEHRENDT

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:

DIRECT STATEMENT

5
6 WITNESS BEHRENDT: I'm Ed Behrendt, 6
7 Criston Court, Palm Coast.

8 MR. SHREVE: Is that Darrent?

9 WITNESS BEHRENDT: B-E-H-R-E-N-D-T. Like
10 most of us, I had a preparation but a lot of it would
11 be redundant to go over now, other people have
12 addressed certain items. And in an attempt to really
13 keep this thing going, I'm just going to bring up a
14 couple of things that people seem not to have looked
15 at, or I felt were important and maybe others don't.

16 Palm Coast Utilities provided us with a rate
17 increase schedule, breaking it down not only into your
18 rates prior to May 10th, I think it was, your interim
19 rate increase and the proposed final rate, but they
20 also broke it down to each category. And it might be
21 interesting to look at that for a moment because that
22 34% may scare you, but I think there is a little room
23 left to scare the hell out of you. Excuse the
24 expression.

25 On your water service, your water bill

1 consists of your basic fees and your consumption
2 amounts. You'll notice that the rate prior to the
3 requested increase, which includes the interim, was
4 \$10.55 a month for a basic fee. That's going to go --
5 if it follows this proposed rate request, will
6 finalize at 15.36 or \$15.36 a month. This is a 45.6%
7 increase in the portion of your bill over which you
8 have no control. You cannot adjust your water
9 consumption. Nothing you do will affect that 45%
10 increase because that is your basic fee --

11 On the gallonage per 1,000 charge, per 1,000
12 gallons, it's going to go up from 360, eventually, if
13 all goes in accordance with their request, to 452,
14 which is a 25.5% increase. That you can control
15 slightly by some of your curbing of water consumption,
16 but many of you ask, "How far can you curb it?"

17 Your wastewater service -- and here they
18 have done a reversal in a sense that your monthly
19 minimum basic fee is going from \$11.10 eventually, to
20 13.46 under the proposed request, which is a 21.25%
21 increase. But your gallon charge or your consumption
22 charge -- well, I can't say consumption for sewers,
23 can I? But on your sewage charge for 1,000 gallons,
24 your fee is going to go from a \$2.93 per 1,000 gallons
25 to \$4.66, which is a 59% increase in the waste usage.

1 Now, that brings your cost of using your water, and
2 your sewage charge that's related to it, to a higher
3 value than the cost of the water itself. I have never
4 in my life, living in various parts of the country,
5 found where it costs more for every gallon of water I
6 used to process the sewage than the actual water that
7 I participated and bought, simply because how much of
8 that water is used outside to wash the driveway, wash
9 your car, water a few petunias, maybe wash down your
10 canoe, drinking water -- well, eventually, that's
11 going to -- I don't know what the ratio is yet. But
12 it's just very, very strange that the consumption on
13 the sewer or the effluent portion of the bill is going
14 up to where the actual per 1,000 gallons is more
15 expensive than the water that you purchase in the
16 first place.

17 The cost to me -- and I could only base it
18 upon my own figures for my household, which I think
19 might be somewhat similar to other people -- but when
20 I took my March bill, March 4th, '96, and broke it
21 down off my water bill, which is strictly as it was,
22 and it cost me a total of \$58.80. That's based on a
23 5,690 gallon total consumption. Based on the proposed
24 rate increase, if it reaches the ultimate proposed
25 that they ask for, that will now go up to \$81.06 or

1 approximately \$1,000 a year, keeping in mind that
2 March is not the heaviest water use period during the
3 year, generally. But that's going to come out to
4 \$1,000 a year.

5 I've only been here two years, in my new
6 house two years. It's 2,500 square feet, fully air
7 conditioned like most other homes down here, all the
8 nice features you have in a new home. And that comes
9 out to 11% more than my total electricity bill on a
10 totally electric house. Now, how many times do you
11 turn on the water a day in your home as compared to
12 the times your air conditioner runs or your lights or
13 your refrigerator and freezer, any number of items.
14 It comes out to 65% of my municipal taxes or tax bill
15 on my home, which is a waterfront home so, therefore,
16 it's worth more because it's on the waterfront. And I
17 can easily see why some people, that water charge, if
18 it went through, would actually exceed the cost of
19 their taxes.

20 One other thing I wanted to go over very
21 briefly is that when you talk about the request for a
22 34% increase and start breaking it down into various
23 categories, based on what you read in the paper over a
24 period of time and giving it a plus or minus factor,
25 inflation has been approximately 3% a year times six

1 years. Now, I'm basing this on the fact that the
2 Public Utility Commission or Palm Coast informed we
3 ratepayers that the last rate increase they've had,
4 bona fide rate increase, was in 1990 approximately.
5 It's been six years. This is out of the periodical
6 they sent out. I also understand, spoken here today
7 by one of the people from -- or by the experts up
8 here, that they've had like cost adjustments in
9 between, which I wasn't aware of.

10 But, anyway, if your inflation has gone up,
11 say, an average of 3% a year, that is an increase of
12 18%. Wages have gone, from what I've figured out
13 talking to various people, at about 2.25 average per
14 year, and a lot of people aren't getting anything for
15 raises year after year. That would come out to 13.5%.
16 And pensions, God forbid the pensions, the social
17 security has been less than 3%. Many pensions haven't
18 gone up anything, so that comes out -- averages out to
19 about 9% over six years.

20 How can we justify a basic increase in a --
21 water basic charges are 45%, which is 28% over what
22 inflation has forced on it. All of your breakdowns,
23 rather than go through them, it's just the proposed
24 final rates would produce increased revenues for
25 utility categories from 3.25% to 41% above the

1 six-year inflation factor. How can you possibly
2 generate a request that's going to be 41% above what
3 has been proven to be the factors for that six-year
4 period? It just makes no sense to me whatsoever.

5 I know people have said to me, "You are
6 comparing apples and oranges when you are talking
7 about a water or a sewer system in Connecticut versus
8 Florida." I claim that you are talking apples and
9 apples. The big difference is where you bought them.

10 Now, in Connecticut we had water. I assume
11 it had the same basic H2O, whatever you want to use.
12 And I imagine sewage might be the same except a little
13 different odor, depending if it's okra or peas or
14 whatever it may be. But when you start talking
15 about -- in Connecticut now, water, if I take the
16 proposed rates that they have given us, that they
17 claim to be 34% which averages out to
18 37-point-something, if I take those proposed rates and
19 take just the basic fee, if I don't use a drop of
20 water or flush a toilet or if I'm gone and lock up the
21 house for a month, it's going to cost me 30 bucks.
22 That's \$360 a year without using a drop of water or
23 flushing a toilet. In the state of Connecticut, when
24 I left two years ago, it cost me \$334 for an entire
25 year of water and sewers, including consumption,

1 disposal and basic fees.

2 Now, I only bring that up to emphasize one
3 thing. I don't know where ITT comes with their cost
4 of doing business, but I can certainly tell you that
5 in the state of Connecticut or in New York or some of
6 your northern states, they have a hell of a lot more
7 problems in giving water to their customers than you
8 have here in Florida, Mr. ITT, whoever you may be.

9 In New England you've got many elevation
10 changes. We don't have elevation changes down here.
11 We've got big fire ant hills. And maybe a tree is
12 likely to grow on top of them. Florida is flat.
13 Where I came from in New England you had 1,500 to
14 1,800 foot hills to go over, requiring massive pump
15 stations. Yes, we had reservoirs. You are not lucky
16 enough to have reservoirs down here. That's all from
17 aquifers, and it may cost more to produce the water by
18 getting it from the ground. However, our reservoir
19 was 45 miles away. I assume it cost something to get
20 it 45 miles to our homes.

21 What about the concentration of rock ledges
22 and so forth in Connecticut, the glacier line, and a
23 freeze line. Every pipe in Connecticut has to be a
24 minimum of 42 inches below grade because of your frost
25 line. We don't got that down here. And the highest

1 thing is wages. What does a person earn here that
2 digs a ditch as compared to in Connecticut which has
3 the highest cost of living in the country? So how can
4 you equate the cost of giving sewer systems or water
5 systems in Florida to the highest per capita income
6 state in the United States, and I can get my water for
7 25% of what they are projecting here? It makes no
8 sense to me whatsoever. There is either a lot of
9 padding or whatever it may be. (Applause)

10 I'm going to end it with saying that I don't
11 know, I haven't followed the selling system down here
12 or who they propose to sell to, ITT, in their bail-out
13 procedure. But it sure seems to me that this is not
14 necessary for the growth of our community and the
15 projected growth of our community even, because we are
16 not growing that fast, that's number one. Or is it
17 just simply a very, very good way of improving your
18 chances of selling your Utility in a hurry to whoever
19 it may be? (Applause)

20 MR. SHREVE: Thank you, sir.

21 COMMISSIONER DEASON: Mr. Shreve, before you
22 call your next witness, is Ms. Soper still here at the
23 hearing?

24 MR. SHREVE: Soper.

25 COMMISSIONER DEASON: Okay. You may call

1 your next witness.

2 MR. SHREVE: Yes, Mr. Chairman. Marcel
3 Menard.

4

- - - - -

5

MARCEL MENARD

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

DIRECT STATEMENT

10 WITNESS MENARD: The name is Marcel Menard,
11 39 Felwood Lane, here in Palm Coast. I think that
12 most of the embellishments by Ms. Sterling and
13 Mr. Radlet and Mr. LaRue has been taken care of.
14 There are just a few pertinent things I would like to
15 ask or bring to mind.

16 In the communique that was mailed to us
17 dated June the 12th about these meetings today and
18 tomorrow, they had also put at the bottom a purpose of
19 procedure about another meeting. So on that day which
20 was to have been June 20th, I left home, I came down
21 here thinking this is where this procedure is taking
22 place. Well, there was no one here. I went to the
23 Utility office and there is a girl there and she said
24 to me -- or I asked her, "Where is this meeting?" And
25 she looked at me and she said, "What meeting?" So I

1 showed her the letter. She knew nothing about it. Do
2 you know where the meeting was? In Tallahassee. Now
3 there was no way I could get there in 15 minutes, but
4 I'm here this morning. (Applause)

5 Most of the points that are brought out are
6 very important, and I'll just reiterate a couple.
7 First of all, the prospectus on the income of the
8 Utility, breaking down their cost of operation, we
9 don't have figures for that. They don't want us to
10 know.

11 The second one, like I mentioned, was the
12 method of communication that they've maintained with
13 us or the lack of. My most important question -- and
14 with this I will end my little talk here -- where is
15 this water coming from? I'll tell you where it's
16 coming from. The good Lord brought the water to us.
17 It's in the ground. They don't have to pay for it.
18 They are pumping it free, but they are charging you
19 for gallon of water. How can they sell you something
20 that the good Lord delivered? Thank you.

21 MR. SHREVE: Thank you, sir. Lynn Ortiz.

22 COMMISSIONER DEASON: Mr. Shreve, how many
23 more witnesses?

24 MR. SHREVE: Six after this one.

25 COMMISSIONER DEASON: We are going to have

1 to take a break after this witness so the court
2 reporters can change their paper in their machines and
3 get things coordinated, and we'll go ahead and take
4 this witness before we take that break.

5

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6

WILLIAM H. JUDY

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

10

DIRECT STATEMENT

11

WITNESS JUDY: My name is William H. Judy.

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I live at 24 Carlington Court in Palm Coast. I am the
Chairman of the Palm Coast Service District Advisory
Council.

Mr. Chairman, members of the Commission, the
advisory council is appointed by the Board of County
Commissioners to represent some 26,000 residents in
the service district. We make recommendations to the
Board of County Commissioners, but we have
responsibility also for a budget which was referred to
by some of the earlier speakers in discussing the fire
hydrant fee. That is part of the service district
budget.

We asked the county commissioners and
council to intervene against this increase. The

1 advisory council voted unanimously that we felt that
2 we should intervene in this case against the increase.
3 Our objection is to the size of the increase for both
4 the water supply and the sewage.

5 Now, we all enjoy the quality and
6 reliability of the water supply and the sewage
7 processing. We feel that this is a definite plus.
8 The Service District Advisory Council requested or
9 recommended to the County Commission in 1994 and again
10 in 1995 that the county consider purchase of the
11 Utility. I know that is not an issue here this
12 morning, but it has been brought up by a couple of the
13 persons who have testified here this morning.

14 We ask that the County Commission consider
15 this for two reasons. One of the reasons is we felt
16 that the Palm Coast Utility was a viable, very
17 effective operating entity. The second reason and
18 perhaps the principal reason that we requested the
19 County Commission -- recommended that the County
20 Commission consider purchasing the Utility is that we
21 felt that the rates, even at that time, were higher
22 than they should be and we anticipated that there
23 would be additional increases. Even today the
24 Commission is discussing employing or has employed a
25 consulting firm to evaluate the feasibility of

1 purchasing this Utility.

2 On the issue of the increase and the
3 requested increase in the rates, this we know; this
4 Palm Coast Utility, years ago, put in place the
5 infrastructure for water and supply for collecting
6 sewage and for the fire hydrants throughout more than
7 46,000 lots over 50,000 acres. This system is in
8 place. The utility Company, years ago, put into place
9 a water treatment plant and a sewage treatment plant
10 and recently has put a state of the art system for
11 processing water which is brackish or which might have
12 salt in it.

13 We know that the Utility already has the
14 water treatment and water processing capacity for the
15 current residential and commercial requirements, not
16 only of the Palm Coast service district, but of
17 several other entities in the county. They are
18 supplying -- for example, they are supplying the
19 airport. And a major industrial area is going into
20 the airport and a fly-in community is being considered
21 at that point.

22 The Utility supplies, of course, the school
23 system. Not all of the schools within the service
24 district are supplied by the utility corporation. The
25 Utility also recently has supplied water to Hammock

1 Dunes and to areas east of the intercoastal waterway
2 which are not within the Palm Coast service district.
3 So many parts of the area of this county called, "The
4 Hammock," including a small community known as
5 Marineland are purchasing water from this Utility.
6 The Utility appears to be -- this we know, the Utility
7 appears to be in good financial condition. It has
8 taken on these additional services at the airport and
9 the areas east of the intercoastal waterway.

10 In the publicity put out by the utility
11 corporation, they suggest that it will cost the
12 Utility more money per customer to take on additional
13 customers. I think this is rather unique in the
14 annals of business because it is seems to me, in my
15 understanding of business, that as you take on more
16 customers, you make more money; you don't lose more
17 money. And I think a question that this Commission
18 might want to ask is: Then why is the Utility
19 interested in taking on more customers if they know
20 they are going to lose money on these new customers?
21 Why did the utility corporation take on sales of water
22 to the airport which is owned by the Flagler County,
23 and why did they agree to supply water to The Hammock?
24 Why did they agree to supply water to Marineland if
25 they are losing money per customer.

1 This we feel: The size of the rate increase
2 creates financial burden on current residents and a
3 highly negative impact on potential new businesses and
4 residents seeking to come into this community. Not
5 only into the Palm Coast service district, but also
6 into the airport, businesses seeking to come into
7 there. There is a large industrial park considered
8 there. There's a large industrial area west of US-1,
9 and, of course, the fly-in community.

10 We think that the proposed increase would
11 cause an increase in the school budget, and one rough
12 estimate is approximately up to \$400,000 per year.
13 That is going to have to be paid by taxpayers not only
14 in the service district, but also taxpayers from all
15 over this county because the budget of the school is
16 paid for by taxpayers. So the increase in the water
17 to the schools, to the headquarters of the school, to
18 the high school, to the elementary schools, the
19 current, the current schools, could be a little more
20 than 400,000 per year.

21 We think that current customers should not
22 have to pay for past design mistakes, nor should we
23 have to pay for future customers. This town could
24 also have as a -- also an a/k/a also known as
25 cul-de-sac town. I can show you on the map one street

1 of about one mile which has 56 cul-de-sacs on it. The
2 water line runs to the end of each of these
3 cul-de-sacs and periodically the fire hydrants and the
4 water system is bled at each of these cul-de-sacs.
5 Why? Because this is a dead-end system. It's not a
6 closed system. So a question which could be raised is
7 why are we, as customers, have to -- why should we pay
8 for this design fault? Why don't we have a return
9 system for the Utility -- for the water supply pipes
10 within Palm Coast?

11 One estimate is that it might take nearly as
12 much water to flush the system as it does to supply
13 the customers for a day. This is a lot of water for
14 which no revenue is obtained.

15 It is for these reasons that the Palm Coast
16 Service District Advisory Council on behalf of the
17 service district residents, approximately 26,000
18 residents, object to the size and we object to the
19 rationale for the proposed rate increase. We ask this
20 Commission to give careful consideration to the
21 analysis and conclusions of Public Counsel Shreve and
22 Reilly and the county counsel Hadeed and Sirkin.
23 Thank you very much, Commissioners. (Applause)

24 COMMISSIONER DEASON: Thank you.

25 MR. SHREVE: Thank you Mr. Judy.

1 COMMISSIONER DEASON: We are going to take a
2 five-minute recess at this time, and it is our plans
3 to conclude all customer testimony before we break for
4 lunch. Five-minute recess.

5 (Brief recess.)

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7 COMMISSIONER DEASON: I believe our court
8 reporter is all set to go, and we have a number of
9 witnesses yet to hear so I'm asking everyone to please
10 come back into the auditorium and to take your seats.

11 I'm going to call the hearing back to order.
12 We are back on the record. I'd please ask that you
13 keep your conversations down so that everyone can
14 hear.

15 And, Mr. Shreve, you may call your next
16 witness.

17 MR. SHREVE: Yes, sir. Rosalie Locke.
18 Rosalie Locke.

19 Mr. Jim Martin.

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JIM MARTIN

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:

DIRECT STATEMENT

5
6 WITNESS MARTIN: My name is Jim Martin, and
7 I live at 3 Woodfair Place, Palm Coast, Florida.

8 COMMISSIONER KIESLING: Sir, would you
9 please speak directly into the microphone?

10 WITNESS MARTIN: Okay.

11 COMMISSIONER KIESLING: Thank you.

12 WITNESS MARTIN: Just to personalize this
13 for a moment, I am, I think, one of those rare
14 creatures who was in at the beginning of Palm Coast
15 Utility Corporation's jurisdictional takeover of the
16 Palm Coast Utility Corporation.

17 In 1980 my neighbor came to me and asked me
18 if I would become involved in a public hearing that
19 was being held, at which time the Palm Coast Utility
20 Corporation would become under the jurisdiction of the
21 PSC. I attended that meeting at the old county
22 courthouse, and it was a meeting in which the poor
23 people didn't know what was happening to them.

24 In a sense what I am doing and am going to
25 do is to give you some oral history of what has

1 happened to one person since 1980 until its present
2 moment. And it seems like old-times, because when I
3 testified at the original hearing in the county
4 courthouse, Mr. Gatlin rose up and opposed my
5 testimony. It seems like we are back to square one
6 again.

7 We are gathered here today -- it sounds like
8 we are about to unite two lovers in marriage but this
9 is not true. To take the analogy to marriage a step
10 further, you could say that we are part of a shotgun
11 wedding. What we are referring to is this so-called
12 public hearing. The question has to be asked what
13 kind of a public hearing is it, and does it resemble
14 in any manner, shape or form the concept of fairness?
15 We ask this question because normally hearings are
16 stylistic dances in which the PSC plays the role of
17 arbiter. At least that is that is what the script
18 calls for. We, however, in this instance before us,
19 would like to put the PSC in the docket.

20 Before we continue it should be stated for
21 the record that my recall is not total and in some
22 instances we may have the figures not exactly correct;
23 But we excuse ourselves since what we are bringing to
24 the attention of this so-called protector of the
25 interest is an effort to remember some of the high

1 points of our involvement with Palm Coast Utility
2 Corporation, the Public Service Commission, the
3 Department of Environmental Regulation, the St. Johns
4 River Water Management Board and finely the State
5 Department of Health.

6 If I may be allowed to place our remarks in
7 their proper setting, we have testified at the first
8 so-called public hearing which was held in the old
9 county courthouse, which I have mentioned to you.

10 At the last hearing one of the PSC members
11 became incensed when his objectivity was questioned
12 and he demanded that the questioner put up or shut up.
13 Unfortunately, the individual collapsed under the
14 pressure of their assault because he did not
15 understand the environment in which he was operating.
16 Every citizen has the right to exercise his gut
17 reaction to events which are occurring around him
18 whether or not proof in the legalistic sense can be
19 offered. We are bringing democracy to Russia while we
20 are losing it on our own nation.

21 In 1980 the Palm Coast Utility Cooperation
22 made an end run around an incompetent and anti-Palm
23 Coast County Commission and sneaked through an
24 amendment to the state statutes which placed the Palm
25 Coast Utility Corporation under the domination of the

1 Public Service Commission. It has been downhill all
2 the way.

3 Why, you ask, if the Public Service
4 Commission is a governmental institution noted for the
5 presumed fairness would any utility seek to come under
6 its jurisdiction? Was the PCUC seeking fairness for
7 the customers? Will all those who believe in the
8 tooth fairy please line up on the left-hand side of
9 the room. One has to understand the history of public
10 utility commissions in order to deal with what is
11 going on in Florida and more particularly Palm Coast.

12 During the 1920's when the Insull empire
13 collapsed, the various state governments went berserk
14 and began to establish public service commissions
15 whose primary purpose was to protect the public. As
16 these commissions became more and more effective, the
17 utilities realized they had to move in order to
18 protect their interest and they began an assault on
19 the procedures, on the processes which would
20 eventually end up with the commissions being
21 practically taken over by the utilities.

22 As a matter of fact, a nationwide study made
23 by Merrill Lynch showed that the Florida Public
24 Service Commission was the most pro-utility commission
25 in the nation. The manner in which the residents and

1 lot owners of Palm Coast have been treated by the PSC
2 testified to the truth of that finding.

3 I attended the first public hearing, as I
4 mentioned. It was a pathetic scene with the hearing
5 officer kowtowing to the Utility representatives.
6 When the Staff attorney for the PSC was questioned by
7 this witness as to how the rights and interests of the
8 public could be protected, only then did the Staff
9 attorney reveal the existence of the office of Public
10 Counsel whose responsibility is to make certain our
11 interests are protected.

12 When it was suggested that the hearing be
13 postponed until the Public Counsel's office could
14 participate, this suggestion was rejected. This has
15 been the pattern of performance on the part of the
16 Commission ever since.

17 The very first rate increase was never
18 legitimately put in place. The PSC accepted the
19 evidence from PCUC presented, and the PSC even
20 pretended that the PCUC was a newborn utility. And it
21 took us seven years before the PSC finally ruled for a
22 full-fledged investigation of the cost and the
23 beginning of PCUC. By this time records were gone and
24 a grand game of stonewalling came into being with the
25 result that even today we do not know the true cost of

1 PCUC. Questions have been raised over the years, but
2 the answers have died because the PSC has been
3 manipulated by the attorneys of the PCUC.

4 Let me itemize some of the areas in which
5 the PSC has turned a blind eye, and then each of the
6 customers can evaluate the worth of PSC as regards our
7 struggle for fairness.

8 One, documents on file with HUD, ICD
9 represented -- that's the parent company at the time,
10 ICDC -- represented that it would cover \$30 million of
11 operating expenses of the Utility. We can find no
12 evidence of the implementation of this commitment.

13 Item 2, as to the investigation into the
14 cost of the PCUC, this was subsumed into a rate case
15 pending at the same time and, therefore, it fell under
16 the time line of eight months, which allowed the
17 Utility to escape its responsibilities. It would
18 reveal that the cost of the water system was included
19 in the lot cost. This fact was revealed through an
20 IRS audit which showed that ICDC was deducting the
21 cost of the water system as part of the lot cost,
22 while PCUC was taking depreciation on the same system.
23 This is defined as double deduction. An adjustment
24 was made with the IRS, but this had nothing to do with
25 the cost of the water system as far as the individual

1 lot owners were concerned. At this time we were
2 assisted by Bill Loeb, who has since moved out of the
3 community.

4 For the record, Bill Loeb was the former
5 general counsel for the Internal Revenue Service and
6 had extensive experience with ITT. When the fact that
7 the cost of water was in the lot was made known to the
8 PSC, they ran from that conclusion seeking refuge in
9 the claim that the PSC had no jurisdiction over ICDC,
10 and if the lot owners felt they had a cause, they
11 could take the matter to court.

12 Item 3. During the course of one hearing, a
13 Staff came up with a recommendation that the Utility
14 customers were entitled to a \$778 refund because the
15 Staff recommended reduction in the sewer availability
16 fee from \$1,598 to \$820. For reasons never fully
17 revealed, the Staff member who came up with these
18 figures was removed from the study and a new member
19 who had no experience with the situation was placed in
20 charge.

21 In addition, the attorney hired by Palm
22 Coast Civic Association was denied the opportunity to
23 appear at the meeting which considered the revision of
24 the refund. The attorney for the Palm Coast Civic
25 Association could not convince the court to reschedule

1 his appearance and, hence, the Utility got away
2 without being made to answer the questions which had
3 been raised.

4 The PSC allowed this injustice to incur. It
5 was rumored that PSC supplied the Staff member with
6 the figures that resulted in a refund of only \$132,
7 which, incidentally, PCUC wants back if you reread the
8 request for the increase in the sewer availability
9 fee.

10 During the time that the sewer and
11 availability fee was under consideration, more than
12 4,000 lots were deeded. The accuracy of this
13 statement can be verified by a review of the deeding
14 done during that period. At the deeding of a lot, the
15 sewer availability fee must be paid in full which, at
16 the instance before us, was \$1,598. However, ICDC
17 never refunded the \$132 to the lot owners who had paid
18 1,598 and which ICDC had collected upon the deeding of
19 the lot. This means that 4,000 lots which were
20 transferred during the rate review process never
21 received a refund. As near as can be determined, this
22 amounts to \$520,000. When this fact was brought to
23 the attention of the PSC, they again weaseled out of a
24 commitment to protect the customers by claiming they
25 had no jurisdiction over ICDC; yet, they claimed to

1 have approved the revenue agreement between ICDC and
2 PCUC.

3 Item 4. At another hearing it was revealed
4 that the cost of the water system was included in the
5 lot. The Commission ducked this issue by claiming
6 that the PSC had no jurisdiction over ICDC which,
7 again, is an interesting conclusion. At about the
8 same time the Staff recommended a special docket on
9 the sewer availability fees since there were many
10 questions as to how this figure was submitted. This
11 request for detail review was never met.

12 Among those who study the effectiveness of
13 the public utility commission, there is a recognized
14 endorsement of the need to break up the concentration
15 of power. At the moment the members of the Commission
16 act as judge, jury and prosecutor with all of the evil
17 consequences that can derive from such a distortion of
18 authority.

19 5. Comes the PEP system. An analogy
20 between the PEP system and the Chernobyl disaster
21 might be drawn. Our attention was focused more on the
22 PEP system recently because of the debate in Congress
23 on the issue of clean water. Over and over again it
24 was pointed out the need for the protection of
25 groundwater. Yet, here we have a community planed for

1 250,000 or more residents being created with 22,000
2 lots, out of a total of 48,000 registered lots -- the
3 source, the Federal Trade Commission records --
4 scheduled to be serviced by a PEP system. Damn few
5 lot owners or residents are aware of the PEP system
6 and its implications.

7 Why had the PEP system been visited upon us?
8 Is it because it is the best sewer created by the mind
9 of man? Or is it because it is the cheapest way to
10 get rid of what is not wanted?

11 The answer is simple. ICDC was faced with a
12 staggering dilemma, how to deed out lots and get rid
13 the tax burden while collecting sewer and water
14 availability fees. A day doesn't pass that we are not
15 made aware of the enormous water problem in Florida
16 and particularly in Flagler County. At the moment
17 there is no reliable figures as to the water resources
18 available to meet the needs of our community. All
19 kinds of contradictory information is floating around.

20 Prior to his death, the former building
21 inspector provided information which claimed the
22 developer was in violation of the density factor. The
23 developers claimed that 15% of the lots in Palm Coast
24 will not be built on. The former executive director
25 of the state planning agency stated that this was

1 fantasy. No resolution was ever made of this
2 question. Apparently the PSC has accepted the fantasy
3 figure which distorts the entire cost structure of the
4 Utility.

5 Not only that, but in the interim since this
6 problem was raised, we find ICDC going throughout the
7 community and subdividing reserved parcels which are
8 creating additional pressure on the water and sewer
9 system, yet nothing is being done about it. Here we
10 have the Planning Department of Flagler County either
11 unaware of this contradiction or unwilling to take on
12 a developer.

13 Even the St. Johns Water Management Board is
14 concerned about the enormous amount of water being
15 used by golf courses. It could be that we will have
16 to make a choice whether we play golf or die of
17 thirst. Other communities through history have gone
18 down the drain -- no pun intended -- when faced with
19 such contradictions.

20 Just stop and think. Here you have a city
21 of the future -- ICDC's propaganda -- which will have
22 22,000 PEP systems at build-out. What does this mean
23 to the community of Palm Coast? It means that
24 suspended over the groundwater supply will be
25 23,100,000 gallons of effluent. Should this gamble be

1 allowed to occur? In reviewing the documentation on
2 design and the operation of the PEP system, we know
3 the formula which was used to indicate the amount of
4 leakage from the system. This leakage of a poisonous
5 substance into the groundwater which takes place under
6 the best of circumstances -- just because ITT is going
7 into the gambling business in Las Vegas does not mean
8 we should allow this corporation to gamble with the
9 security and well being of our community. (Applause)

10 As the gamblers ITT Corporation are, they
11 are laying off their liabilities on Minnesota Power
12 and Light who is sharpening knives for a feast of our
13 well being. Does the PSC have the legal means, and
14 even more importantly, the courage to protect our
15 community from this secret assault on our environment,
16 on our economic well-being?

17 How many know that the Italian-American Club
18 is on the PEP system as well as the Council on Aging?
19 And we could go on and on. Each of these
20 installations is costing the community additional
21 money because they have not been hooked onto a gravity
22 feed system. Why not? Because ICDC wants to hedge on
23 the cost of developing the parcels and shift the cost
24 to the customer.

25 Furthermore, the time has come for us to

1 demand a cost analysis be made of the difference in
2 operating expenses between the gravity feed system and
3 the PEP system. What is the life of the fiberglass
4 tanks which are at the heart of this rinky-dinky
5 system? What tests are being done to see if the tanks
6 have been cracking because of the acidity of the
7 effluent thereby leaking poison into the groundwater.
8 When this study is made, it will confirm the need for
9 a two-tier building system or the abandonment of the
10 PEP system and the completion of the gravity feed
11 system.

12 Right now the gravity feed system is
13 subsidizing the PEP system. This situation will get
14 worse and worse as time goes on and the number of PEP
15 systems are increased. The accounting system must
16 reflect the work being done via job cards which each
17 particular employee is doing. Having had some
18 experience in cost accounting, it would be difficult
19 to believe that a breakdown of costs as between PEP
20 system and gravity feed system does not already exist.
21 Like so many things, this cost factor is being kept
22 from us because of the financial danger it exposes
23 PCUC to, as well as ICDC.

24 And last but not least, the latest bully on
25 the block, Minnesota Power and Light. This could be

1 one of the reasons why ICDC has decided to cut and run
2 while there is still time to confuse the issue and
3 stick our community with the horrendous error of PEP
4 system which management made in pursuing a solution to
5 its sales program.

6 Look at the record of the past and make up
7 your own mind as to the fairness of the rulings on the
8 part of the prior PSC members.

9 Imagine the Staff of PSC recommending a
10 sewer availability fee of 820. This fee could be
11 broken down to a fee of 355 for gravity fee and 465
12 for PEP. Here we have the owner of a lot on a gravity
13 feed system being asked to pay 1,243 as a subsidy for
14 the PEP system.

15 Let's look how this PEP system has impacted
16 our community and will continue to impact our
17 community. Let's take one example. Section 34. In
18 the first rate application which was submitted to the
19 Flagler County Board of Commission and which was never
20 approved, PCUC represented that the sewer system in
21 Section 34 would cost \$2,336,235. Under the proposal
22 before the Commission, the PEP system will cost
23 3,552,000, or an increase of 1,215,000. If there is a
24 disagreement with this calculation, let's see the
25 evidence.

1 One cannot escape the feeling that the
2 customers of PCUC are being set up by Minnesota Power
3 which picked up the residue of the Palm Coast land,
4 namely 13,000 acres, which ICDC has sold them while
5 apparently demanding a sweetheart deal before they
6 would purchase the property.

7 This rate increase request and the increase
8 in availability fees represents a direct assault on
9 the community of Palm Coast. We now see a joining of
10 forces of ICDC, PCUC and Minnesota Power. There is in
11 evidence a purchase agreement covered by an option to
12 purchase; yet, this community has not been made aware
13 of the terms of this contract because PCUC is up to
14 its old tricks, in that the test period for this rate
15 increase application does not include the date of the
16 option.

17 When dealing with criminals, the police have
18 a term which is called a modus operandi. We are
19 witness to modus operandi of PCUC in action. At the
20 very first hearing the PSC failed to protect our
21 community and allowed ITT to syphon off \$25 million by
22 way of a line of credit issued by Manufacturers
23 Hanover. The deal was signed months before PCUC came
24 under the jurisdiction of the PSC and, therefore, the
25 claim was made that the purposes of this loan could

1 not be re-examined so the customers of PCUC were stuck
2 with the payment. Remember, this was the time that
3 the interest rates were at double digits.

4 Unless we are able to meet this threat
5 head-on, this community will die a slow and agonizing
6 death.

7 Over the years Palm Coast has been the
8 victim of bureaucratic mumblety-peg. If there ever
9 was an argument for community ownership of the
10 Utility, it has been and will be strengthened by the
11 artful dodging of the PSC.

12 In closing, let us once again turn to the
13 PEP system. Because ICDC and PCUC have been able to
14 manipulate these agencies: DER, PSC, St. Johns Water
15 Management, State Health to a fair-the-well our
16 community has suffered. It is incumbent upon us to
17 demand answers to the following questions. Wasn't the
18 PEP system originally allowed to be installed on a
19 limited basis because of its experimental nature? Why
20 did the Department of Environmental Protection
21 originally request a \$1 million bond and a review of
22 the operational features of the system by an outside
23 engineering firm in order to determine whether or not
24 the PEP system could go communitywide in Palm Coast?
25 Why were the auditing procedures removed so now there

1 is no source, other than the Utility, for determining
2 what is happening in the instance of the PEP system?
3 Should the PSC investigate the destructive impact that
4 the PEP system has and will have on the gravity feed
5 system? How much truth is there in the rumor that the
6 effluent which is being dumped into the pump stations
7 on the gravity feed system is eating up the concrete
8 and causing all kinds of trouble? Should not the PSC
9 forbid the installation of any further PEP system
10 until an objective analysis can be made of the
11 environmental and financial impact such a system will
12 have on the future of Palm Coast?

13 Look at the testimony of Jeff Martin from
14 DEP. Nowhere is there any mention of the PEP system.
15 It's like it didn't exist. Did Martin inspect the
16 lift stations and determine whether there was any
17 evidence of deterioration? Was any effort made to
18 determine what happens to the effluent which is being
19 pumped out of the collection chambers? Has any effort
20 been made to verify the destructive aspect of the
21 effluent which is being dumped into the gravity feed
22 system? Has Martin reviewed the history of the PEP
23 system? What independent evaluation has been made by
24 interviewing the PEP users? Is there any evidence in
25 the files of the DEP which could indicate why PCUC was

1 given carte blanche as regards any further monitoring
2 of the PEP system? Have the customers on the PEP
3 system been fully informed of their rights? For
4 example, have they received notices that they can
5 appeal to the DEP for a resolution of problems which
6 are being ignored by PCUC?

7 In seeking to justify the installation of
8 the PEP system, the excuse is given that because of
9 the low volume of fluid in the system it is not
10 possible to move the waste through the system. As
11 evidence of this conclusion, one can point to areas in
12 Seminole Woods where the laterals are being used as
13 storage areas for waste, which when tests show the
14 laterals to be full, then they are pumped out and the
15 effluent taken to the main plant.

16 As for their being insufficient fluid in the
17 laterals to move the waste, why is it not possible to
18 use the water which is being pumped into the ground in
19 order to maintain the purity of the water? Of course
20 this will increase the volume of effluent being
21 processed through the sewer system, but this expense
22 will be minuscule compared to the disaster which faces
23 the community today.

24 According to the freedom of information
25 document, ICDC represented that the total cost of the

1 sewer and water system would be \$263 million. Where
2 are we going with these constantly escalating cost
3 figures? ICDC will continue to exploit the ignorance
4 of this community just as long as they can get away
5 with it.

6 The location of the wells, many of which
7 were grandfathered in by ICDC when trying to avoid new
8 specifications enacted by the St. Johns Water
9 Management. These wells were noted in the original
10 plan for Palm Coast, but instead of deeding these
11 sites at the outset of Palm Coast, many were held back
12 until growth appeared so ICDC could claim a higher
13 value for the sites based on phoney appraisals.

14 To accept the reasoning of PCUC and ICDC as
15 to the worth of these utility sites is to admit that
16 Palm Coast could be built while the utility sites
17 would be designed for outer space. ICDC and PCUC
18 cannot claim a higher and best use for sites which are
19 needed by the Utility. In order to meet the second
20 criteria, which is using appraisals, namely the
21 comparables, the appraisers hired by ICDC to do the
22 work went as far away as Port Orange to come up with
23 comparables. Why didn't they use the redevelopment
24 figures now being generated by the renovation of 42nd
25 Street in New York?

1 To allow such an argument is to indicate for
2 another time the liability -- inability of the PSC to
3 deal with the distortions which PCUC are capable of
4 generating as a justification for the exploitation of
5 our community.

6 We close this statement with a request that
7 the PSC begin to act as a protector of the innocent
8 customers and not as a justifier for rate increases
9 which are asked for by a Utility which has never
10 provided the Commission with the true facts.

11 Take the instance of granting an interim
12 rate increase while the present increase is under
13 consideration. A reading of the record will show that
14 this idea of granting an interim rate increase came
15 about when the Commission was confronted with a
16 utility on the brink of disaster and in need of
17 sufficient cash flow to maintain its viability. It is
18 doubtful if there ever was a more stable utility in
19 the state of Florida.

20 As testimony to this fact is the option
21 which Minnesota Power holds to purchase PCUC. Is the
22 PSC telling us that Minnesota Power is purchasing a
23 utility in crisis?

24 The whole concept of pass-through should be
25 revisited since it is apparently a one-way street.

1 When the Utility can provide information that expenses
2 have increased, then the Commission automatically
3 grants the necessary adjustment to the rate structure.
4 What happens when expenses are reduced? Why doesn't a
5 reduction in the rates occur? This inequity shows the
6 unwillingness of the Commission to deal with reality.

7 It would appear that the members of the PSC
8 are victims of their own ideology, and we wind up in
9 the same prison as they are except we can't leave
10 whenever we wish. We cannot allow the customers to be
11 placed in a straitjacket when it comes to the time
12 element. Past experience shows that the attorneys for
13 the Utility begin a program of procrastination and
14 stonewalling with the express purpose of eating up
15 time. This carefully crafted delay forces a decision
16 which has not been adequately researched and resolved.
17 This must stop.

18 The strategy of compartmentalization must
19 cease. The various agencies which come into play are
20 manipulated, which results in conclusions being
21 arrived at which are false and dangerous to the well
22 being of our community.

23 Rebuilding of the system is being done in
24 areas which confirms the question which has been
25 raised as to the quality of construction. From facts

1 made available in other hearings, it showed PCUC
2 taking 40 or 50 years depreciation on part of the
3 system. How come after 20 years we are placing
4 sleeves in the system? Is this an admittance that
5 infiltration is out of control? What is the life of
6 these sleeves? Isn't it true that marketability
7 studies prepared by ICD showed a build-out in 115
8 years? If sleeves have to be placed in the system
9 after 20 years, would anyone like to tell us what is
10 going to happen over the next 95?

11 Again, we are confronted with the question
12 as to why the customers are being asked to pay for the
13 incompetence of management. Such expenses should not
14 be allowed into the computations used in setting the
15 rate structure.

16 What presentation would be complete without
17 reference to the Internal Revenue Service? In the
18 first place, PCUC and ICDC -- one never knows from one
19 we are dealing with -- asked for a ruling from the
20 IRS. I can't figure out what it means. Maybe the PSC
21 will be able to do it. Nor can we fluff off the fact
22 that with the increase in the sewer availability fee,
23 this community could be called on to shell out
24 \$29,078,000, which is derived from multiplying 7,000
25 lots -- that's what I think is still on the books of

1 ICDC -- times 4,154, which is the new combined sewer
2 and water availability fee. The present tax would be
3 \$20,935,160, which means that this community will
4 suffer a tax increase of over \$8 million.

5 This tax increase can be avoided if the PSC
6 denies the request for the increase in the sewer and
7 water availability fees. So you see how deceitful
8 government can be for not revealing the full facts and
9 their impact on the well being of the community? No
10 wonder government has such a bad name.

11 Finally, it is obscene to allow the
12 community's hired guns to come into our community and
13 weave a pattern of deceit and befuddlement. Listen to
14 the responses which one gets when asking PCUC for an
15 explanation of their statements. Time and time again
16 we hear the same old song sung by the attorney for
17 PCUC. It goes like this. The Company, PCUC, objects
18 to the request which seeks certain documents because
19 such a request is irrelevant, unduly burdensome and
20 confidential. If one were creative, one might take
21 this excuse and make it into an aria in a Gilbert and
22 Sullivan operetta. It has a lot of rhythm,
23 irrelevant, unduly burdensome and confidential. One
24 cannot believe the number of times this excuse has
25 been thrown in the face of those seeking the facts.

1 **TOM GALLAGHER**

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 **DIRECT STATEMENT**

6 WITNESS GALLAGHER: Tom Gallagher, Star
7 Route Box 537S, Bunnell, Florida.

8 MR. GATLIN: Mr. Chairman, may I inquire if
9 this witness is a customer, or what his interest is?

10 WITNESS GALLAGHER: I am a lot owner.

11 MR. GATLIN: You own a lot in the service
12 area of Palm Coast?

13 WITNESS GALLAGHER: I'm on the service area
14 of Palm Coast, yes, sir.

15 And I'd like to just go over a few of the
16 things that have been said today. Mr. Gatlin said we
17 have good water. Well, I've seen notices on the TV
18 bulletin board from the cable company that said if you
19 are on dialysis, don't drink the water. Don't change
20 your fish water or give this water to your animals.
21 What are we doing here? Who gave permission for the
22 PCUC to take away the chloramine and use only chlorine
23 in the water for extended periods of time?

24 I believe that this would make some of our
25 elderly citizens in the community pre-dialysis,

1 drinking that water. That's one thing.

2 The flushing of the water is another thing.
3 I believe, like it was mentioned before, that the
4 amount of water flushed daily is equal to the amount
5 drawn for daily consumption. And a case in point, I
6 would say, is the recent contract that the county went
7 into in the airport to provide water and sewer
8 availability. My understanding is they have to
9 guarantee the Utility 30,000 gallons of water a day
10 drawn down. There aren't enough establishments in the
11 airport to use that. So what is going to happen?
12 That water will have to be flushed away. We'll be
13 paying for it, the customers will be paying for it.
14 And I don't understand why these systems weren't
15 looped in the beginning.

16 This county is unique in a lot of ways, and
17 according to charts and maps that the St. Johns Water
18 Management has, and I've studied them pretty good, we
19 get, at best, 4 to 12 inches of recharge per year.
20 That's because of the lay of the land, the hard clay,
21 the coquina, and we just don't get the recharge that
22 other areas in this state get. This water was given
23 to us by God as somebody else said, but it is our
24 water that we are allowing this Utility to use to be
25 able to give us potable drinking water. Well, that's

1 all well and good, but how much of a profit can they
2 make on our natural resource? This is something
3 that's never been taken into consideration.

4 The company, Minnesota Company, now is with
5 a lease option, as I understand, and from what I've
6 heard the lease option is good until 1999. So what
7 could happen here? One of the scenarios that I
8 envision is that the Minnesota Company would go for
9 this increase for 38%, and in 1999 say, "Gee whiz, we
10 weren't making enough on this anyhow, so let's give it
11 back to PCUC, ICDC." And ICDC comes back into the
12 picture and they say, "Well, if they couldn't make
13 money, we need a rate increase." And here we go all
14 over again three years from now.

15 The recent 1% increase that was just a
16 pass-through increase for the residents of Palm Coast
17 was never given to any commercial businesses in the
18 county. And I would question why one gets an increase
19 and the other doesn't. How do we make fish of one
20 and, you know, blood of another. I don't understand
21 it. Or flesh of another. It just doesn't sit well
22 with me.

23 What I would like to see on that agreement
24 that the county has with the water and sewer
25 availability to the airport, they claim there is an

1 eight-inch fire line going to be put in to the
2 airport. And I forget the figure how much it is a
3 month per customer for the fire line. But,
4 interestingly, in the same report that they gave,
5 Hammock Dunes has only a six-inch fire line. Well,
6 how could that be with the enormity of Hammock Dunes?

7 I was a New York City fireman for 20 years,
8 and I recall one time we had a super pump system. And
9 they brought it in at a very large fire we had, and
10 they put it into operation and all the mains got
11 drained out, sucked dry within a matter of minutes,
12 that we had to shut the whole system down just to be
13 able to get fire fighting equipment back in operation
14 at various locations at this huge fire. So it's
15 beyond my thinking that they could be serviced with a
16 six-inch line. And that's all that the Company is
17 paying for, a six inch line; yet a commercial customer
18 in an airport is going to pay for an eight-inch line.
19 It boggles my mind. I'm not an engineer, but it seems
20 that, you know, something is wrong somewhere.

21 The Board of Health that we used to have, as
22 Mr. Martin eluded to, in this county, we don't have
23 anymore. So we don't know what the status of the PEP
24 systems are as far as leakage into our system, and all
25 their reports go to the DER. I don't know how to get

1 them reports. They should be published for us to know
2 what is happening to our natural resource. It's just
3 astounding that we can't get those types of things.

4 I could probably go on and on. One other
5 thing that I had mentioned one time at a Board of
6 Commissioners meeting, I had asked them once to send a
7 letter of intent to purchase the Utility, and they
8 looked at me like I had three heads. But at the time,
9 I mentioned that PCUC was enjoying a 9.37% rate of
10 return on their investment. I didn't get any denial
11 from anybody in PCUC about that so if they are
12 enjoying 9.37% right now, I think that's pretty darn
13 good. What are we looking for another 38% for? You
14 know, where is this supposed to come from? I didn't
15 notice any money trees in the whole area, and I've
16 traveled all around here having run for commissioner
17 at one time. So I would like to know where this money
18 is going to come from. We are going to have to just
19 stay dry in my estimation.

20 So these are the things that I've noticed
21 and some of the people have brought up these points.
22 I would like to just thank you for your time and hope
23 for your consideration on this because it is a very
24 vital matter to everybody.

25 MR. SHREVE: Thank you, Mr. Gallagher.

1 MR. GATLIN: I have a question for him.

2 COMMISSIONER DEASON: There is a question.

3 MR. GATLIN: Yes, sir. Would you mind
4 telling us the location of your lot that you own in
5 Palm Coast?

6 WITNESS GALLAGHER: Yes. It's down in
7 Seminole Woods.

8 MR. GATLIN: Seminole Woods?

9 WITNESS GALLAGHER: Yes, sir.

10 MR. GATLIN: Is it in your name?

11 WITNESS GALLAGHER: Yes, sir.

12 MR. GATLIN: Okay. Thank you.

13 WITNESS GALLAGHER: And as an aside, you've
14 tried to collect a \$24 fee twice in one year. Thank
15 you.

16 MR. SHREVE: Acacio Gazo. G-A-Z-O.
17 Mr. Gallo.

18 **S. GEORGE GALLO**

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

22 **DIRECT STATEMENT**

23 WITNESS GALLO: I'm so glad -- well, first
24 let me say my name is George Gallo. I live in the
25 Woodlands of Palm Coast. I'm awfully glad that some

1 of the comments that Mr. Martin made about the PSC
2 referred to prior PSCs and not members here today,
3 because I am hoping that some of our concerns will be
4 more, let's say, fairly dealt with by the current
5 Commission. (Applause)

6 I, and many people I have spoken with,
7 strongly oppose the rate increase. PCUC says they
8 need it to regain a fair rate of return. But as many
9 have commented before me, this must be viewed as
10 suspect. The more likely scenario is that they want
11 it as a sweetener -- that word, too, has been used
12 before -- for the buyer of ITT land, else why do they
13 withhold so tightly the terms of the option to buy the
14 Utility which they have granted to Minnesota Power.
15 And it turns out from what I heard today that that is
16 a buddy-buddy company if Mr. Ariscod (phonetic)
17 formerly was associated with Minnesota Power.

18 And why are they as far behind on rate of
19 return as they say they are? Palm Coast is growing
20 rapidly and so is their rate base. Besides, they have
21 been raising their rates annually to match the rise in
22 the Cost of Living Index.

23 Palm Coast is a community that was conceived
24 and handsomely launched by ITT. One would think they
25 would want to leave this community, their creation, as

1 a monument to their good works, yet here we see the
2 largest and most vital single facility in Palm Coast,
3 the water company, committed to a third party via the
4 option to buy. A third party whose utility
5 subsidiary, Southern States Utility, has a track
6 record that scares the hell out of us. Somebody else
7 used that word so I'm piggybacking on it.

8 Focusing for a moment on the coming sale of
9 the Utility, ITT might have granted Palm Coast the
10 right of first refusal which, although not written
11 into Florida law, is seen by many as the right thing
12 to do. But they didn't do it. Public relations
13 people will find this a classic example of what not to
14 do to a community, especially one they could be proud
15 of.

16 ITT lawyers will likely remind us ITT is a
17 business, not a charity. But when they were deciding
18 who should get the Utility, they didn't know how high
19 our bond underwriter might say we could go to get it.
20 They just decided to cut us out altogether. I doubt
21 their stockholders would see this as good business.

22 Honorable Commissioners, this rate case and
23 the disposal of the Utility cannot be discussed
24 independently. In light of this, we think every cent
25 of the rate request should be denied, including the

1 interim increase. You must not let ITT strike this
2 rabbit punch at Palm Coast as they pull away from us.
3 Please don't stand by and let this happen to us.

4 Thank you. (Applause)

5 MR. SHREVE: Thank you, sir. Mr. Carl
6 Sugar. Mr. Sugar. He's gone. Mr. Chairman, that's
7 the last one that we had that signed in.

8 COMMISSIONER DEASON: Thank you, Mr. Shreve.
9 I want to thank all those members of the public who
10 came to testify and for all of you who have stayed
11 during the duration of this. We are going to recess
12 for lunch and when we reconvene we will go ahead and
13 start taking the technical testimony and we will begin
14 with the Company's case. We will stand in recess for
15 lunch until 2:45.

16 (Thereupon, lunch recess was taken at 1:35.)

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18 (Transcript continues in sequence in
19 Volume 2.)

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