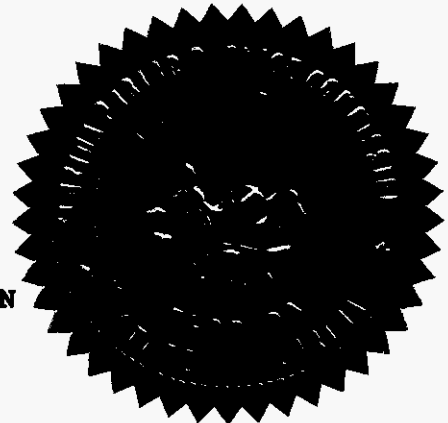


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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of : DOCKET NO. 951056-WS
 :
 Application for rate :
 increase in Flagler :
 County by Palm Coast :
 Utility Corporation. :



FIRST DAY - EVENING SESSION

VOLUME 3

Pages 312 through 358

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

APPEARANCES:
 (As heretofore noted.)

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P R O C E E D I N G S

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

(Transcript follows in sequence from
Volume 2.)

COMMISSIONER DEASON: Could I have your
attention please? The hour has arrived to begin the
evening customer hearing. I ask that you take your
places. And with that we will call this session to
order.

And while it may not be necessary, since
we've already been in hearing all day today, we are
going to go through some preliminaries, that being
we're going to have the notice read, and after the
notice is read I'm going to ask all of the attorneys
to introduce themselves to the audience so that they
know who the players are that are involved in this
hearing. Notice read, please.

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

COMMISSIONER DEASON: If you could please
stand, or at least indicate who is speaking and who
you are representing.

MR. GATLIN: My name is B. Kenneth Gatlin.

1 With me is Wayne L. Schiefelbein of the law firm of
2 Gatlin, Woods and Carlson, Tallahassee, Florida,
3 representing the applicant, Palm Coast Utility
4 Corporation.

5 COMMISSIONER DEASON: Thank you.

6 MR. HADEED: My name is Al Hadeed. I'm the
7 county attorney Flagler County, and appearing with me
8 as co-counsel is Mr. Arthur Sirkin, a resident of Palm
9 Coast.

10 MR. REILLY: Steve Reilly with the Office of
11 Public Counsel on behalf of the Citizens of the State
12 of Florida.

13 MR. MELSON: Richard Melson with the law
14 firm of Hopping, Green, Sams & Smith representing the
15 Dunes Community Development District.

16 MR. EDMONDS: Scott Edmonds and Bobbie Reyes
17 on behalf of the Commission Staff.

18 COMMISSIONER DEASON: There are also a
19 number of other Staff personnel that have been here at
20 the hearing. Some of those have been excused to
21 prepare for tomorrow's continuation of the technical
22 hearings. However, there are still some other Staff
23 members present. I'd ask for them to stand. There
24 may be some that greeted you in the back of the
25 auditorium. These persons are here to assist you. If

1 you have any questions you want to direct to a Staff
2 member directly, please feel free to do so. Thank
3 you.

4 Let me introduce myself. My name is Terry
5 Deason. I'm a member of the Public Service
6 Commission. I'll be chairing the hearing this
7 evening. With me on this panel of Commissioners to my
8 right is Diane Kiesling, and to my left is
9 Commissioner Julia Johnson.

10 I want to welcome you to this hearing this
11 evening. As I indicated earlier, we started this
12 hearing today at 10 a.m. with customer testimony, some
13 three and a half hours of customer testimony, if I'm
14 not mistaken. We then took a lunch recess and then we
15 proceeded into what we refer to as the technical phase
16 of the hearing where we are taking the expert
17 witnesses on behalf of the Utility company and the
18 various intervenors in this case. For those of you
19 that came in during that process there was cross
20 examination taking place of one of the company's
21 expert witnesses.

22 After we conclude the customer hearing this
23 evening, we will recess for the evening. We will
24 reconven tomorrow morning at 8:45 to continue the
25 technical phase of the hearing. If anyone cares to

1 join us at that time you're certainly welcome and are
2 encouraged to come and to listen to the cross
3 examination of the various expert witnesses.

4 The purpose of this hearing this evening is
5 to give you, the customers of this utility, an
6 opportunity to express your concerns directly to the
7 Commission concerning the request that has been filed
8 with the Commission for an increase in rates.

9 A lot of the background information that I
10 think you would find helpful is contained in the green
11 information sheet that is available to you in the rear
12 of the auditorium. Hopefully, most of you picked that
13 up as you entered the auditorium.

14 While I'm speaking about the green
15 information sheet, let me indicate to you that the
16 last page of this handout is designed to be detached
17 and that is for those individuals who do not wish to
18 give a formal statement here on the record this
19 evening, to nevertheless provide some comments to the
20 Commission. Those comments will not become part of
21 the official record, but nevertheless they will be
22 entered into the correspondence side of this docket.
23 That is another opportunity which is being made
24 available to you.

25 The procedure that we're going to follow

1 this evening is to swear in all of the witnesses who
2 wish to provide testimony on the record. This is
3 necessary so that your testimony will become part of
4 the record. This is an official hearing of the Public
5 Service Commission. Its being recorded by our court
6 reporter and will become part of the record. Your
7 testimony will become evidence upon which the
8 Commission may rely upon making its decision in this
9 cause.

10 Mr. Reilly of the Public Counsel's office
11 will be calling members of the public forward to give
12 their testimony. When he calls your name, we ask that
13 you come forward to the microphone to my right, which
14 is directly in front of the court reporter. We ask
15 that you begin by giving us your name and your
16 address, and if you think it would be helpful to the
17 court reporter and to the rest of us, you may wish to
18 spell your name so it will be accurate in the record.

19 After you give your name and your address,
20 we ask that you proceed with your statement. We're
21 not imposing any strict time limits on your
22 statements, but we do ask that you be mindful that
23 there are a number of people here who are waiting for
24 their opportunity to address the Commission.

25 At the conclusion of your statement, wait

1 for just a moment because there may be some clarifying
2 questions concerning your statement.

3 I believe that takes care of the preliminary
4 matters, and with that I'm going to ask all members of
5 the public who have signed up and wish to make a
6 statement this evening to please stand and raise your
7 right hand.

8 UNIDENTIFIED SPEAKER: Where do you sign up?

9 COMMISSIONER DEASON: In the rear of the
10 auditorium there's a yellow sign-up card that you can
11 fill out and you can provide that to the personnel
12 back there. Please raise your right hands.

13 (Witnesses sworn collectively.)

14 Thank you, please be seated. Mr. Reilly,
15 you may call your first witness.

16 MR. REILLY: Okay. Before calling the first
17 witness, we did have a man, James Tonges, who came by
18 and could not -- who could not attend the 6:30 session
19 but he has a little letter he would like to have
20 entered into the correspondence side of the record.

21 COMMISSIONER DEASON: That would be find.
22 If you could provide that to the court reporter she'll
23 see to it that it is entered on the correspondence
24 side.

25 MR. REILLY: And this gentlemen handed me

1 his yellow form at the conclusion of the morning
2 session so he could be the first to speak. So if he's
3 still here, Bob Marple.

4 **BOB MARPLE**

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

8 **DIRECT STATEMENT**

9 WITNESS MARPLE: My name is Bob Marple, like
10 Agatha Christy, M-A-R-P-L-E, not O. I live at 3
11 Boxwood Lane, and have lived there for 13 years.
12 During that time I've enjoyed the quality of water
13 provided by PCUC. Being a golfer who goes all over
14 Florida, I must say that the water quality here is
15 better than the average.

16 I would like to give an interesting
17 sidelight to begin with.

18 In February of 1941 Dr. Gillilan, a renowned
19 chemical engineer of MIT gave a symposium on water at
20 Franklin Institute in Philadelphia, Pennsylvania. At
21 that time he drew some graphs showing, and projecting,
22 the cost of water. At the year 2000 he projected that
23 water was going to become the most expensive commodity
24 on the market. I think with this rate increase that I
25 see here we're well on the way to reaching his

1 projections. I thought that was funny.

2 I attended the previous rate hearing and I'm
3 very pleased to see that none of the Commissioners
4 that were on that hearing board are here at this time,
5 at least I don't know of any who have been reappointed
6 from the previous hearing. I think this gives us much
7 more hope that we could have an equitable division. I
8 make this statement based on my 20 years experience as
9 a Commissioner in Pennsylvania where I learned to read
10 body language, and the body language of the last board
11 gave me the impression when I left that the decision
12 was preordained. Talking about body language, I
13 noticed that Mr. Jim Martin's accusatory language
14 toward the Commission stiffened several of your backs
15 up there. Please consider his salient points;
16 overlook the way he presented some accusations because
17 I think that the data that he presented is very
18 meaningful.

19 In my life I have based almost all of my
20 total impressions on the deeds of people. With ITT's
21 beautiful land planning, which drew me to Palm Coast,
22 came some very negative encounters of greed and
23 deceit. For instance, my early worries about water,
24 since I had heard from Dr. Gillilan, I went to the
25 welcome center, asked to talk to an engineer to find

1 out what the total water aquifer was in this area.
2 The engineer told me that we have 40 well sites
3 available for artesian wells, and these are available
4 to be increased as necessary. During my 13 years here
5 I'm still looking for that artesian well. Another
6 instance occurred in my endeavors to get a municipal
7 golf course. We approached ITT to purchase some land
8 off Old Kings Road, and were quoted a price of \$7,500
9 an acre. If you look at the recent property transfer
10 records, they indicate a sale price to Dimetri
11 Developers (phonetic) of \$1,000 an acre. This
12 suggests very creative accounting.

13 Having worked 38 years for a large chemical
14 company, I saw and experienced both the pros and cons
15 of creative accounting. I see it's your job to
16 investigate this creative accounting, to discover with
17 the help of the testimony we've received so far to
18 look in very deeply into this matter, because it is
19 there.

20 With large companies presently using bottom
21 line accounting developed by Harvard Business School,
22 recommendations are very careless about people. I
23 tell you that it is your job to protect the people.
24 You are the only line of defense between us and big
25 business, and you have been reading a little bit about

1 downsizing. It has now become a big word. I was
2 downsized in 1983 and I still try to stand tall.

3 I would like to make two requests for you:
4 Based on the testimony you have heard today I suggest
5 that you vote in public your final decision, that you
6 come back here and vote so we can see it. The last
7 people disappeared in Tallahassee. Should you shy
8 away from biting that bullet I have a second request.
9 In your decision, would you please include a two-year
10 privilege for the county Commissioners to purchase
11 from either PCUC or the new owners for a price of \$1
12 over the transfer, should it occur of the sewer and
13 water enclave that we are talking about. (Applause)

14 Now, I'd like to conclude with just a little
15 personal remark.

16 I'm 74 years old. This won't hurt me too
17 much. Bulletin PL 590 says I have about seven more
18 years to live. That's the IRS bulletin. However,
19 there are a lot of people who are trying to make both
20 ends meet here, young people. They are trying to meet
21 mortgages and food. Don't do it -- take it away from
22 them. Give them a chance to live like I did. Thank
23 you. (Applause)

24 COMMISSIONER DEASON: Thank you, sir.

25 MR. REILLY: Jack T. Carall.

JACK T. CARALL

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 CARALL: Good evening. My name is
7 Jack T. Carall, C-A-R-A-L-L. I live at 8 Warren
8 Place, Palm Coast, in Florida.

9 First, it comes to my -- I keep thinking why
10 now, a 34% increase when they are negotiating to sell?
11 Would it be more advantageous for them to let it go,
12 let the new people come in and try to get the
13 increase? But that's one way or the other.

14 The next thing I'd like to say is I think we
15 ought to get rid of the fact that all people in Palm
16 Coast are rich. Now there are the poor and the
17 affluent, and you have the in-between people that are
18 struggling to make the ends meet that can't get either
19 help from the government or help from the town. So
20 it's -- I feel that you should consider these people,
21 and we're not rich that we can afford another \$45 a
22 month or \$300 a year in additional -- of expenditures.

23 The government has dropped interest rates, I
24 guess, the last three or four times that they met,
25 which was, I assumed, to make it easier for large

1 businesses to borrow without going overboard, maybe
2 helping people get a better price on their product.
3 So I don't see why a corporation like the Utility has
4 to raise their money -- has to raise money to -- you
5 have to figure I'm not a public speaker -- to expand
6 themselves. If they're getting a lower interest rate.
7 Just a little thing.

8 When I first opened my savings account 55
9 years ago, I was getting interest of, I think, 1.75%.
10 I get interest on my account now, 55 years later, it's
11 2.3%. You know we're digressing and the big company
12 is getting all the money. My Social Security check
13 increased 2.6%, which was \$17 a month. They're asking
14 for 34% which is -- whatever.

15 I don't see how they can ask for something
16 that's so high and we're getting something that's so
17 low. I don't see how we can afford their increase.

18 I don't see anybody saying anything about
19 how much the ivory tower gets in salaries and perks.
20 Do they get an automobile to drive around? Do they
21 get two cocktail lunches and dinners? Do they have a
22 parachute pension plan? These things -- I'd like to
23 know what their expenditures are; how they spend their
24 money. They know how I spend my money because they
25 take it from me.

1 So why can't we get some kind of a brochure
2 that says the president gets whatever, 100,000,
3 200,000, 300,000 a year, plus stock options and things
4 like that. Because I read in the papers where
5 presidents, vice presidents that take stock options
6 sell them three, four months later and get \$3 million
7 or \$4 million in profits. I think that's what they're
8 doing to us. Sticking it to us. (Applause)

9 They're talking about a return for their
10 stockholders. I get a return on my income tax which
11 is nothing. I get a return on my Social Security
12 which is 2.6%. Why should we worry about a company
13 going under because of mismanagement, which it has to
14 be mismanagement from what I hear. Why should we have
15 to subsidize stockholders so they can get an
16 8-point-something return on their money? I don't get
17 that at my bank. I don't get that on the few stocks I
18 own. So I don't see why we have to supplement
19 anybody. If they want to buy stocks into a
20 corporation, they have to assume that they're going to
21 either make money or lose money. If they lose money,
22 they're going to have to accept it.

23 When I lived on Long Island, the Long Island
24 Railroad increased their fares by 17%. They lost 50%
25 of their riders. A year later they had to increase

1 their fare another 10% and they lost another 15% of
2 their riders. Here you raise the water bills, you're
3 going to lose a certain amount of usage. Waste is
4 going to be waste no matter what. But water usage is
5 going to lose. And if they lose, they're going to
6 come back for another increase and they're going to
7 lose some more and come back for another increase. I
8 say please, turn them down for the raise.

9 Thank you very much. (Applause)

10 MR. REILLY: Robert Forbes.

11

- - - - -

12

ROBERT FORBES

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

16

DIRECT STATEMENT

17 WITNESS FORBES: Good evening, everyone. My
18 name is Robert Forbes, just like the magazine. I live
19 at 46 Frederick Lane, Palm Coast, Florida.

20

21 This letter addresses the anticipated rate
22 increase for the Utility here. And in doing this, I
23 went back to look at my former bills covering about
24 eight to ten years since I've moved down to Florida
25 here from Memphis, Tennessee. Examining my water and
sewage bills I can conclude the following: Since 1987

1 water and sewer rates have been raised six times in
2 nine years. Six times. The cost per 1,000 gallons
3 over this time span has almost tripled. With 1987 as
4 an index of 100, 1995 stood at 287. Sewer costs have
5 paralleled this trend. Assuming a modest household
6 usage rate of 4,000 gallons per month, water and sewer
7 cost combined for a two-person household annually
8 would amount to over \$700.

9 The Utility changed its billing format
10 recently by breaking out for the first time base and
11 consumption charges. This allows the Utility to raise
12 each charge separately. For most industries, greater
13 output volume produced means lower cost per unit.
14 Greater consumption of water and sewage should result
15 in lower cost per gallon. The population of Palm
16 Coast, since 1987, has increased by 92%. What is the
17 reason for these constant increases in water rates
18 with the water rates going up and the population going
19 up? What is the reason for that? I ask the committee
20 here and the PSC to look into this.

21 The cost per unit for this service should be
22 down, not up. Your deliberations on the request for a
23 rate increase should bear in mind the points I've
24 listed. The Utility has to make an effort to better
25 control costs and reduce expenses, thus becoming more

1 efficient. Otherwise, rates will triple again in the
2 near future. And I see evidence of this as I walk
3 around the community. Every time I see a Palm Coast
4 truck come by, it's a new truck. What is the reason
5 for all of this? Have we looked into this? Have we
6 looked into the salaries? Let's examine the operation
7 of this outfit and see where they can make some
8 efficiencies.

9 Thank you very much. (Applause)

10 MR. REILLY: Thank you. I don't believe
11 there's any questions. Thank you, sir.

12 D. Scarborough.

13

- - - - -

14

ED SCARBOROUGH

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

18

DIRECT STATEMENT

19

WITNESS SCARBOROUGH: My name is Ed
20 Scarborough, and I live at 8 Crossview Lane. The name
21 is spelled S-C-A-R-B-O-R-O-U-G-H. My comments will be
22 rather brief.

23

I'm sure that the members of the Commission,
24 after looking at your educational background will
25 understand how easy it is to show a low rate of return

1 for a corporation. Having operated one for a short
2 period of time, I can tell you from experience that
3 the difficult part is to show a profit. It's very
4 easy to show a loss. And in the private portion of
5 industry, you get no brownie points for claiming a
6 slow rate of return. 1.64 rate of return is fairly
7 low, but I'm sure you understand how easy it is to
8 achieve that while at the same time making large
9 amounts of money. Excessive salary can be paid.
10 Excessive costs for plant and the equipment can be
11 engineered with indirect benefits accruing to the
12 people participating in this scheme. Contingency
13 funds can be overfinanced. And the list goes on and
14 on and on. This is very easy to do.

15 I don't pretend to be an expert in this
16 particular business, but I find it unusual that the
17 last time I checked, which was some time ago -- it may
18 have changed -- but the last time I checked two small
19 communities who get their drinking water by the most
20 expensive means possible, namely reverse osmosis,
21 desalinization of sea water, Beverly Beach and Palm
22 Bay, have lower water rates than we have here in Palm
23 Coast. And they do not have the economies of scale
24 that Palm Coast Utility has.

25 Their claim seems to be that the higher

1 their customer base becomes, the higher rate base they
2 charge. Think how ridiculous it would appear to be if
3 General Motors came out and claimed that since they
4 sold so many cars last year, that they now have to
5 raise their prices. No, quite the contrary. I agree
6 with one of the previous speakers who said that the
7 rates here should be going down, not up. And I urge
8 you -- and I know that you have the ability to do
9 this -- I urge you to look into the books and see the
10 real reasons for these rate increases.

11 And I'd like to close by saying I'm not an
12 expert in water companies. I know very little about
13 it. But I'm also not a Doctor, and I'm not an expert
14 in medical affairs, just I feel justified in
15 criticizing the brain surgeon when his knife slips and
16 cuts off the patient's toe -- I cleaned that up a
17 little bit for the benefit of the straight-laced
18 people in the audience. And Palm Coast Utility's
19 knife has definitely slipped. And I'm sure we can
20 count on you to correct the situation.

21 Thank you very much.

22 MR. REILLY: Thank you. Nancy Dance.

23

24

25

NANCY DANCE

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 DANCE: Good evening. My name is
7 Nancy Dance, just like you tap dance. I live at 3800
8 Old Kings Road. I'm Chairman of the Flagler County
9 School Board. And I'm here this evening on their
10 behalf.

11 We have currently five centers that are
12 users of PCUC. We have a new K through 8 center which
13 will be two schools under one roof coming on board
14 this fall. All toll that will make eight sites
15 currently that are using these utilities. Our total
16 average monthly bill currently is \$5,472.21. If this
17 rate increase goes into effect it will be \$6,779.34
18 per month. Over our fiscal year that will amount to
19 \$15,685.44.

20 In 1995-96 the legislature granted us a 2%
21 increase for operations. In '96-97 the legislature
22 granted us 1.5% increase for operations. It does not
23 take a genius to see that if these rate increases take
24 effect, our students are going to suffer. Costs will
25 have to be cut somewhere.

1 We understand that everyone has operational
2 increases. What we are asking for is a deep, hard
3 look at how much you put a burden on the school system
4 and the taxpayers of this county. Thank you.

5 MR. REILLY: I have Walter and Candy Monroe.
6 I'm not sure if one or either/or if we're going to get
7 a panel. Candy.

8 - - - - -

9 **CANDY MONROE**

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

13 **DIRECT STATEMENT**

14 WITNESS C. MONROE: Hi. My name is Candice
15 Monroe, M-O-N-R-O-E. I live at 5 Llethorne Place,
16 Palm Coast. I've lived here a year. New
17 construction. And I don't know as much as these other
18 people, but I'm just an average people here in Palm
19 Coast. And I'm sure there's a lot of young people
20 that couldn't be here tonight that I want you to know
21 that there are families here that really depend on the
22 water. I have a son that has new construction here
23 that's lived here six months. I have a daughter
24 that's lived here two years. They have children that
25 will be going to the schools here, and both my

1 son-in-law and my son work two jobs to support their
2 mortgages, new mortgages on new construction. And the
3 average pay up here is not anywhere near supportive of
4 what our water rates are right now.

5 I feel that new construction is important up
6 here. And if you look around you see that there's a
7 lot of builders, there's a lot of realtors, there's a
8 lot of people that care about the new construction.
9 And as far as I can see, nobody will come to Palm
10 Coast if the water goes any higher than it is right
11 now. I feel it's too high right now.

12 When we first came to Florida -- we have
13 been here 14 years -- we were told the water rates
14 were being raised because of conservation. So we all
15 kind of buckled down and we conserved and they raised
16 them more, and more, and more.

17 I just believe that there's no end to this.
18 It's just going to snowball. I believe the schools
19 the church, restaurants, every place is going to be
20 affected, and water is not something like cable. All
21 right. We don't have cable. We have an antenna. My
22 son has an antenna. My daughter has an antenna. We
23 chose to save our money that way. You have to have
24 water. We try to conserve all we can but there is
25 just no other way to make ends meet. Our pay has not

1 gone up as much as Palm Coast Utility's raises have
2 gone up, their increases.

3 I was so irritated about this and so upset
4 because we had just moved in and I've never written
5 any letters to the editor, the paper. I've never been
6 that way. I'm one of these I'll just sit home and
7 I'll just bite my nails about it and maybe somebody
8 else will talk about it.

9 Well, I wrote to the editor, I wrote to the
10 Public Service Commission. I called the Public
11 Service Commission. And went door to door and I tried
12 to do everything I could, and everybody, everybody I
13 spoke to, was really upset about it. And I don't
14 think they would have been upset about just a small
15 raise. This is a large raise. And they just cannot
16 afford it. I don't think it's justified.

17 If you looked into what the average pay is,
18 the average family pay -- I realize there are some
19 people that have a lot of money up here -- even the
20 people that have a lot of money don't want to spend a
21 lot of money on water. Water is a necessity. Like I
22 said, it's not your dish that's outside, it's not your
23 Cadillac in your garage; it's something we all need,
24 our children, our grandchildren. I'm talking about
25 the future of Palm Coast. If we're going to have a

1 future up here we have to keep the rates down.

2 We want to keep the growth in. We want to
3 keep new people coming in. Whether they are
4 retired -- and retired people don't get raises, and
5 average working people are not getting raises. I just
6 believe there's no end to this and I believe rates are
7 too high and there's got to be an answer and we're
8 relying on the Commission. We're relying on them to
9 help us. That's where we're supposed to go is to the
10 Commission and that's what we've done. We've put it
11 all before you. Thank you. (Applause)

12 MR. REILLY: This would be Walter Monroe.

13

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14

WALTER MONROE

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

18

DIRECT STATEMENT

19

20 WITNESS W. MONROE: My name is Walter
21 Monroe. I live at 5 Llethorne Place. My wife said we
22 have been here a year and we were drawn up here
23 because of our children. We wanted to be near our
24 grandchildren.

24

25 This is an attractive and a beautiful
community. We have spoken freely to many of our

1 friends about moving up and building. The contractors
2 seem to be doing their part. The banks seem to be
3 doing their part to keep this an attractive community
4 to come to for future people; retirees, young couples
5 just starting out. I'm just afraid that as these
6 increases go wild, the word is going to get out sooner
7 or later and this will no longer be such an attractive
8 community.

9 The retired people, such as myself,
10 usually -- not always but usually get 2 to 3% per
11 year. I really don't know a whole lot of people that
12 would look down on Palm Coast Utilities for increasing
13 their rates at a normal increase. But this is just
14 outrageous. I don't know if they just thought they
15 could slap us in the face and get away with it.

16 But I'm not a normal person that comes to
17 these meetings and usually speaks out, I let somebody
18 do it for me. But I'm here tonight. Thank you.

19 MR. REILLY: Thank you. Fred Mazella.

20 UNIDENTIFIED SPEAKER: He passes.

21 MR. REILLY: Commissioner Jack Nugent.

22 MR. GATLIN: I believe the county is
23 participating in this proceeding, and I don't have
24 Mr. Nugent listed as a witness.

25 COMMISSIONER DEASON: Is this an objection?

1 MR. GATLIN: Yes, it is an objection. I'm
2 sorry.

3 MR. REILLY: I would strongly urge that the
4 witness be allowed to speak. It's very common at
5 these public hearings that officials from local
6 government do come and speak as to the effects on the
7 community, and I think that tradition should be
8 continued here. (Applause)

9 COMMISSIONER DEASON: Does the county
10 attorney have anything to add to the --

11 MR. HADEED: He's not -- the Commissioner is
12 not a witness in the technical portion of the case.
13 He's just expressing the views of the community as
14 expressed through their elected officials.

15 MR. GATLIN: If he's a customer, that's
16 fine. But he's an official of the county and these
17 two gentlemen here are his lawyers. He must have been
18 listed as a witness.

19 MR. HADEED: Well, he is a customer.

20 COMMISSIONER DEASON: I'm going to overrule
21 the objection. I'm going to allow the Commissioner to
22 testify -- (Applause) -- with the understanding that
23 he is not here as a technical expert. He is here as
24 an elected official to provide input to the Public
25 Service Commission in his elected capacity as

1 representing the people of this community.

2 MR. REILLY: And he is also a customer.

3 COMMISSIONER DEASON: Commissioner Nugent,
4 you are also a customer.

5 COMMISSIONER JACK NUGENT: Yes, I am.

6 - - - - -

7 **COMMISSIONER JACK NUGENT**

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 COMMISSIONER JACK NUGENT: Thank you. My
13 name is Jack Nugent. I am a Commissioner of Flagler
14 County, but I happen to live in Palm Coast and
15 represent the people in District 1 in Palm Coast.

16 One of the things I'd like to do, and I
17 realize -- and I welcome you here tonight. I'm glad
18 that you came and that you're listening to all of
19 these people here from Palm Coast that do have an
20 objection to this increase. But you're the Public
21 Service Commission, and as such your sworn duty is to
22 serve and protect the public. And today, that public
23 is here represented by the citizens and taxpayers of
24 Palm Coast and Flagler County.

25 They are totally dependent upon Palm Coast

1 Utility Corporation for their most necessary drinking
2 water. I did some research. I'm not a lawyer. I'm a
3 Commissioner. But I'm not standing for reelection. I
4 took an oath to act in their best interest. You know
5 this. But let me read from the Florida Statutes,
6 366.01, legislative declaration. It says and I quote,
7 "The regulation of public utilities as defined herein
8 is declared to be in the public interest and this
9 chapter shall be deemed to be an exercise in the
10 police power of the state for the protection for the
11 public welfare and all of the provisions hereof shall
12 be liberally construed for the accomplishment of that
13 purpose."

14 And in 367.0822, Limited Proceedings -- and
15 this is interesting. I'm sure you're aware of this,
16 but I know that my colleagues out here are not. It
17 says: "Upon petition by its own motion, the
18 Commission may conduct limited proceedings to
19 consider, and act upon, any matter within its
20 jurisdiction. The Commission shall determine the
21 issues to be considered during such a proceeding, and
22 may grant or deny any request to expand the scope of
23 the proceeding to include other related matters." So
24 you do have the power to consider what I'm about to
25 ask of you.

1 The air we breathe cannot be sold for
2 profit; it can only be regulated to ensure its
3 cleanliness. And potable water, like air, is a basic
4 vital necessity, and if there's no other alternative
5 you are empowered to regulate and limit the profit of
6 a privately owned utility.

7 In Flagler County, the City of Flagler Beach
8 owns their own water utility. The City of Bunnell
9 owns their own water utility. And the citizens and
10 the farmers in west Flagler pump their own water out
11 of the ground. Unfortunately, the citizens in Palm
12 Coast cannot do that. They are not allowed to drill
13 their own wells. They are slaves to the PCUC for
14 water and for wastewater. They are captives to a
15 water company which its present owners, ITT, want to
16 sell it in order to fund their new business in Las
17 Vegas. If they can get a rate increase, they can
18 command a higher price.

19 Recently a group of administrators and
20 elected officials in Volusia County put together a
21 docket called the Volusia Alliance, and roughly, in
22 order for all of the cities and municipalities over
23 there to agree to control fairly the available water
24 supply. One paragraph stated that the executive
25 committee of this alliance, simply by a vote of those

1 members present, could agree to sell water to an
2 outside entity at a retail price, not share their
3 water with other less fortunate counties, but sell it
4 to them at a retail price.

5 The gentlemen from De Land rose up and
6 thanked the legal department from Southern States
7 Utilities for helping them draft the agreement. One
8 of the people that have the option to purchase Palm
9 Coast Utility happens to be Southern States Utilities.
10 And I guess you might wonder whether the ability to
11 acquire Palm Coast Utility might also be the ability
12 for Southern States Utilities, which has at least 100
13 other utilities in southern Florida, to be able to
14 link them together and take this water we have, which
15 we're calling a shortage and we have to watch it, to
16 take that water and sell it at a retail price to
17 someone else. In a spare moment you might want to
18 investigate whether Southern States Utilities is
19 seeking to control Florida's vital but very limited
20 water supply.

21 As you know, there's a public apathy group
22 in Washington that writes that the Florida Public
23 Service Commission is one of the three most compliant
24 PSC's in the United States. I don't believe that.
25 When I came to Florida seven years ago I found all

1 government and everybody connected with it amenable to
2 the public and to do what they want to do and to best
3 serve them. I don't think that that particular
4 statement is good but it's been made up there. And
5 it's a bad wrap for a state that needs to attract
6 commerce and industry and more citizens. I think you
7 can prove that otherwise. But you have the power to
8 change that now, today.

9 To show them wrong, to show service to the
10 public -- and I'll read again that part of Chapter
11 366.0822 wherein you have the ability to expand the
12 scope of the proceeding to include other related
13 matters.

14 So I ask you to expand the scope of these
15 proceedings and to include the question of who should
16 really own PCUC? Actually, I believe it's the
17 citizens of Palm Coast. (Applause)

18 It's the people who rely on that pumping
19 system for their only available water. Set aside the
20 option agreement for the moment, for the day. Set
21 aside the idea of the rate increase. You're allowed
22 to do that under this chapter I just read, under this
23 paragraph, and consider the idea of how you can help
24 Palm Coast citizens acquire PCUC. Help the people of
25 Palm Coast and Flagler County to agree. Instruct your

1 Staff to help them with the revenue bond process. You
2 have the power to prove to all America that the
3 Florida Public Service Commission is dedicated to
4 service to the public. Please take action. Thank
5 you. (Applause)

6 COMMISSIONER DEASON: Mr. Gatlin has
7 questions.

8 MR. GATLIN: Commissioner, may I ask you
9 just a couple of questions?

10 COMMISSIONER JACK NUGENT: Yes.

11 MR. GATLIN: Is the county in the process of
12 engaging a consultant to determine the value of Palm
13 Coast Utility Corporation?

14 COMMISSIONER JACK NUGENT: I think they have
15 gone out for bids to hire a consultant to find out
16 what it is worth.

17 MR. GATLIN: With the idea of purchasing
18 Palm Coast Utility Corporation.

19 COMMISSIONER JACK NUGENT: That's further
20 down the road. The idea of whether they can purchase
21 it or not depends upon the price that it may acquire.
22 That's why I'm asking the Service Commission here to
23 help us to find out how to do it, to find a way.

24 MR. GATLIN: But you're taking the next
25 necessary steps to get to that end, aren't you, that

1 is hiring a consultant?

2 COMMISSIONER JACK NUGENT: We haven't hired
3 a consultant. We've gone out for bids to see what the
4 consultant will cost.

5 MR. GATLIN: And you've narrowed the list
6 down to five consultants, haven't you?

7 COMMISSIONER JACK NUGENT: I'm not aware of
8 that. I'd have to check with the administrator. They
9 have not come back -- we had a meeting this morning,
10 as a matter of fact, of the Commission, and that
11 particular item was not discussed. It's further down
12 the road than that. I don't know if that is and I'm
13 not making that up. It simply has not come to us yet
14 as an item on our agenda.

15 MR. GATLIN: The bids are in, are they not?

16 COMMISSIONER JACK NUGENT: I can't answer
17 that. I don't know whether Mr. Shenault (phonetic) is
18 here tonight. Mr. Shenault is our administrator.

19 Again it has not been reported to the County
20 Commission. As you well know, sir, we're under the
21 sunshine law. Unfortunately, we don't get to
22 communicate with one another very easily.

23 MR. GATLIN: When will it be on the agenda,
24 do you know?

25 COMMISSIONER JACK NUGENT: I don't know.

1 MR. GATLIN: Will it be on the agenda?

2 COMMISSIONER JACK NUGENT: I'm sure, if the
3 bid comes back in, you know, and the bids are in, and
4 it's under discussion, it will be put under agenda.

5 MR. GATLIN: Thank you.

6 COMMISSIONER JACK NUGENT: You're welcome.

7 COMMISSIONER DEASON: Further questions?

8 Thank you, Commissioner.

9 MR. REILLY: Thank you. (Applause)

10 David Hertle.

11 - - - - -

12 **DAVID HERTLE**

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

16 **DIRECT STATEMENT**

17 WITNESS HERTLE: I'm David Hertle. I live
18 at 70 Covington Lane, Palm Coast. I have been a
19 resident in Palm Coast for three years coming from
20 upper New York state. When I came here I compared my
21 utility bills in New York with the utility bills down
22 here. I was surprised to find they are higher here in
23 Palm Coast, not substantially higher, but higher.

24 COMMISSIONER KIESLING: I don't want to
25 interrupt you -- I'm right here -- could you spell

1 your last time.

2 WITNESS HERTLE: H-E-R-T-L-E. Okay?

3 I did write a letter on January 3rd to the
4 Florida Public Service Commission outlining some of my
5 concerns. And I just want to reiterate them here
6 tonight.

7 When we came here one of the attractions in
8 Palm Coast was a beautiful area, well planned,
9 reasonable taxes and reasonable utilities. And
10 Flagler County is, I believe, the fastest growing
11 county in the United States. Although it's a small
12 county, percentage-wise it's the fastest growing. And
13 the greatest growth, of course, is in Palm Coast,
14 which is the bulk of Flagler County. And the reason
15 it has attracted so many people, young families and
16 people who have been downsized, people who are
17 retired, is because of the ambience and the reasonable
18 cost of housing and the reasonable taxes and
19 utilities.

20 In my letter to the Commission I asked that
21 the Commission compare the water and sewer rates in
22 Palm Coast with other near surrounding areas in this
23 area, such as Ormond Beach, St. Augustine, Daytona
24 Beach as examples, and determine for this general area
25 of north Central Florida what are the comparative

1 rates? What are some benchmarks that could be used to
2 compare in this particular area.

3 I did not receive a response to my letter.
4 I'm hoping that that will be done so that there will
5 be some equity in term of the area. What is happening
6 in this area relative to rates?

7 My concern is that with the added capacity
8 that has been put in for utilities here in Palm Coast,
9 and the fact that over the last few years, at least,
10 that the increase in population that has increased
11 significantly compared to what it had been when Palm
12 Coast was moving at a much slower pace, it would seem
13 to me that whoever owns the water and sewer company
14 would want to see the customer base grow
15 substantially. And I believe that if the rates are
16 continually raised, and especially at this pace, that
17 it's going to discourage people from moving to Palm
18 Coast. It will not only be reflected in their water
19 and sewer bills, but it will have to be reflected in
20 their taxes which pay for the schools and everybody
21 else here who is dependent on water. It's going to
22 increase everybody's rates; and, therefore, it's going
23 to have an act cumulative effect, not just on your
24 monthly utility bills, but on everything else, all the
25 other businesses who charged fees and services in Palm

1 Coast will raise their rates accordingly. So it will
2 become more and more expensive to live here and,
3 therefore, the rate of growth and the attractiveness
4 of living here will be decreased.

5 So my request is benchmark with other
6 communities in the north Central Florida area. Find
7 out how the percent rate increase over time compared
8 to what they've done and where they are presently, and
9 come up with something that is reasonable and
10 equitable for this area. Thank you. (Applause)

11 MR. REILLY: Donald A. Green.

12 COMMISSIONER DEASON: Mr. Green, before you
13 begin, were you here when I swore in witnesses or did
14 you come in a little later?

15 WITNESS GREEN: Late.

16 COMMISSIONER DEASON: I'm going to ask you
17 to stand and raise your right hand. Likewise, if
18 there is anyone else who has entered the auditorium
19 after I swore in witnesses, and you do intend to
20 testify, if you'd please stand and raise your right
21 hand.

22 (Witnesses collectively sworn.)
23
24
25

DONALD A. GREEN

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 GREEN: My name is Don Green. I've
7 lived at 26 Cheyenne Court in Palm Coast for almost 13
8 years.

9 Ladies and gentlemen of the Florida Public
10 Service Commission, I appreciate this opportunity to
11 appear before you tonight to make a brief statement,
12 and provide you with a copy of an open letter to the
13 Flagler County Board of Commissioners, which recently
14 appeared in our local newspaper and is pertinent to
15 this hearing.

16 In essence, it strongly urges the
17 Commissioners to actively pursue acquisition of the
18 Palm Coast Utility Corporation. This effort was
19 initiated in a less formal basis late last year to no
20 avail. No progress today. If it had been pursued,
21 and it is still not too late, this hearing would be
22 irrelevant and unnecessary.

23 This letter applies to the subject of this
24 hearing in that it emphasizes a situation whereby
25 profit motivated private ownership of a water and

1 wastewater facility is not in the best interest of the
2 public because of what appears to us to be
3 uncontrollable and unreasonable service charges.

4 We'd like to make it clear that we are not
5 criticizing the private enterprise system in the
6 United States, including the Utility. It's the best
7 system in the world from which we all benefit.
8 However, there must be reasonable limits placed on
9 monopolistic, no alternative public services provided
10 by private interests.

11 When charges for water and wastewater
12 services in an actively growing community with
13 hundreds of new hookups per year, such as Palm Coast,
14 trend towards the highest in the entire state of
15 Florida and exceed our local tax bills on an annual
16 basis, it is evidence that something is seriously out
17 of balance. In your capacity as the Florida Public
18 Service Commission it is your moral and legal
19 obligation to thoroughly investigate situations such
20 as this, and protect the public with fair and
21 reasonable utility charges.

22 Thank you for your time and attention.

23 (Applause)

24 MR. REILLY: Thank you. John Petty.

25

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JOHN PETTY

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 PETTY: Sir, there's a correction.
7 As you can see I'm not very pretty. The same is
8 petty, P-E-T-T-Y. I live at 92 Westchester Lane, in
9 Palm Coast.

10 MR. REILLY: It looks like an "R" there.

11 WITNESS PETTY: Oh. That's all right.

12 I have a few questions that I'd like to ask.
13 I'm not really appearing as a witness, but based on
14 the schedule of increases provided by PCUC, I took a
15 few of my back bills and compared them with the rate
16 today, with the proposed rate. And I don't know, I
17 came up with something like a 37.5 or a 38% increase
18 rather than a 34. And I'd like to have somebody
19 explain that to me, if I may.

20 I have another question: The bills are
21 broken down into a base and usage rate. Why is the
22 base rate being increased?

23 The people that are coming down here from up
24 north, snowbirds as they are commonly called, don't
25 use a drop of water during the months that they are up

1 north, but they are paying a base rate. Now, that
2 base rate is going to be increased. Now I'm a full
3 year resident. I'm a year around resident down here,
4 I'm a Floridian now. But I can't understand why that
5 base rate is being increased. If you're going to
6 increase the usage rate, the sewage rate, that's one
7 thing. But why the base rate? I'd like somebody to
8 explain that to me.

9 As a gentlemen pointed out earlier, this
10 thing is going to snowball. The increase is going to
11 schools, the increase is going to businesses, and it's
12 going to be reflected in the resident's taxes. And
13 we're going to go into a store and pay a higher price
14 because they are not going to eat that increase. They
15 are going to roll that right back on to us. And we
16 don't have anybody we can increase our prices to,
17 okay? We're stuck with it. Like Harry used to say,
18 "The buck stops here" and we're the ones that are
19 going to be swallowing up this increase.

20 I just wanted to finish off and tell you
21 that when I have visitors at my house, they better not
22 ask for water. They want scotch, they want gin, they
23 want vodka, fine. But water is the highest priced
24 thing I've got in my house and they are not going to
25 get it. (Applause)

1 Thank you.

2 MR. REILLY: Harry Gildred.

3 - - - - -

4 **HARRY GILDRED**

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

8 **DIRECT STATEMENT**

9 WITNESS GILDRED: I'm Harry Gildred. I live
10 at 29 Medford Drive in Palm Coast and have been a
11 permanent resident since '89, and in '87 and '88 we
12 decided to try this area, and it turned out to be a
13 marvelous place. We were vacationers, snowbirds for
14 '87 and '88, and the tide turned, and we became
15 permanent in '89.

16 I like to think that the United States is a
17 democratic institution in a sense. And all of us at
18 sometime or other have worked for companies, either
19 private or public. Normally one would think that such
20 companies operate in a competitive atmosphere. Now
21 it's true that there are some organizations that, as
22 in this particular case, have a monopoly. But let's
23 take a look at the spirit of this country. Basically
24 when an organization begins it is to stand on its own
25 two feet and operate competitively. And if they

1 cannot operate competitively, they have to face up to
2 the situation and make their own internal adjustments.

3 Now, let's take a look at the utility here.
4 They are really a monopoly. Now, when they began,
5 they set up an infrastructure that was to take care of
6 a very large scope of customers. It is perhaps
7 unfortunate that the total number of customers did not
8 arrive.

9 Now, if they were a normal company operating
10 here, what happens? Marketing people, sales people,
11 they get together and say we're just going to keep our
12 product and our rates up where they were because we
13 have creditors who have invested money with us, and so
14 we will continue to keep our rates up. What would
15 happen? That company and organization would not be
16 continuing very long.

17 Now, take a look at this particular set up.
18 The management apparently has decided that they want
19 to take care of their creditor and investors. They
20 are wishing to keep their rates up and they feel they
21 can do it because they have no competition. Now, does
22 that sound reasonable? I don't think so.

23 Now, if the rate continues at the value that
24 it is, or I should say at the amount that it is, there
25 have been written reports that their return on the

1 investment is down around 3%. They would like 9%,
2 which they are getting. That's very unfortunate, but
3 this is a business operation and the mere fact that
4 they are not going in the red, they are operating,
5 they are returning a 3%, it seems to me that with cost
6 reductions, work simplification they could perhaps
7 increase their rate of return. Merely because they
8 are monopolistic and a monopoly, I don't think they
9 have the right to go ahead and get up an arbitrary
10 unilateral decision that ensures that their rate of
11 return is going to continue at the original level.
12 This is not a Democratic spirit. They are taking
13 advantage of a large group of people who are held
14 captive by this situation. They're not going to be
15 really hurt if this rate increase does not come
16 through. They are receiving -- they have admitted at
17 least a 3% return, a 3% return is a plus. They're not
18 going to go down the drain or anything like that.

19 I would like to recommend, as a private
20 citizen, that the Public Commission here consider this
21 background. I think it's very important that the
22 public commission also represent all of us people who
23 are really a captive audience.

24 Thank you very much. (Applause)

25 COMMISSIONER DEASON: Thank you.

1 MR. REILLY: That concludes the requests to
2 speak that we've received so far.

3 COMMISSIONER DEASON: Thank you, Mr. Reilly.

4 Mr. Reilly has indicated that is all of the
5 individuals who have signed up to speak this evening.

6 I want to take this opportunity to thank
7 everyone for coming out this evening, and for those
8 who may have been in attendance and testified at the
9 morning session as well. Let me indicate that we're
10 going to recess for the evening, but well reconvene
11 tomorrow morning at 8:45 and you're certainly welcome
12 to come and attend that hearing then.

13 This hearing is adjourned for the evening.
14 Thank you all.

15 (Thereupon, the hearing adjourned at 7:45
16 p.m. to reconvene at 8:45 a.m., on July 2, 1996, at
17 the same address.)

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19 (Transcript continues in sequence in
20 Volume 4.)

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