

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO. 960329-WS

Application for increase :  
 in rates and service :  
 availability charges in :  
 Lee County by Gulf :  
 Utility Company :

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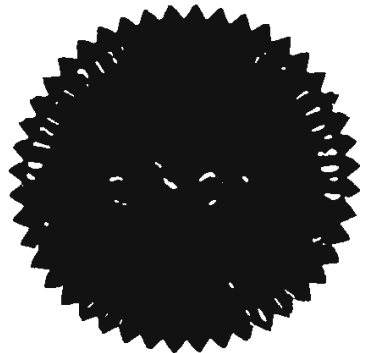
Investigation of rates : DOCKET NO. 960234-WS  
 of Gulf Utility Company :  
 in Lee County for :  
 possible overearnings :

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SECOND DAY - MORNING SESSION

VOLUME 3

Pages 333 through 509



PROCEEDINGS: HEARING

BEFORE: COMMISSIONER J. TERRY DEASON  
 COMMISSIONER SUSAN F. CLARK

DATE: Thursday, March 6, 1997

TIME: Commenced at 8:30 a.m.

PLACE: Elks club of Bonita Springs  
 3231 Coconut Road  
 Bonita Springs, Florida

REPORTED BY: ROWENA NASH  
 H. RUTH POTAMI, CSR, RPR  
 Official Commission Reporters

APPEARANCES:

(As heretofore noted.)

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**P R O C E E D I N G S**

(Hearing convened at 8:30 a.m.)

(Transcript continues in sequence from

Volume 2.)

**COMMISSIONER DEASON:** Call the hearing to order.

I believe Ms. Dismukes, when we left yesterday, was on the stand. And, Mr. Gatlin, I believe you may inquire.

**MR. GATLIN:** Thank you.

**KIMBERLY H. DISMUKES**

resumed the stand as a witness on behalf of the Citizens of the State of Florida and, having been previously sworn, testified as follows:

**CROSS EXAMINATION**

**BY MR. GATLIN:**

**Q** Have you ever prepared a rate case for a utility? Water and sewer utility?

**A** I was employed by a firm that was hired to prepare MFRs for a utility. The case never came to fruition.

**Q** When was that?

**A** When was that?

**Q** Yes.

**A** Probably about seven years ago.

1 Q Have you ever prepared a set of MFRs in  
2 Florida for a Florida rate case?

3 A I've never prepared a set of MFRs, no. But  
4 like I said, the case that I just referred to was a  
5 Florida water utility.

6 Q But you did not prepare the MFRs?

7 A No. We started the process, and it was  
8 never completed.

9 Q What was the name of that company?

10 A St. George Island Utility.

11 Q Do you have any experience in securing  
12 financing for a company, either equity or debt?

13 A No.

14 Q How many rate cases have you participated in  
15 before the PSC, approximately?

16 A This PSC?

17 Q Yes, these folks.

18 50?

19 A No, no, that's too high. Across the United  
20 States it's been about 160, 170 cases. Here in  
21 Florida it's much less than that. It may be 20, 15.

22 Q Did you ever see a rate application in  
23 Florida that you thought should be granted as applied  
24 for?

25 A Not in its entirety, no.

1           Q     In a rate case isn't the Commission  
2 reviewing whether the utility is providing adequate  
3 service at reasonable rates? Isn't that the question?

4           A     Could you repeat it?

5           Q     Yeah. Is the utility providing adequate  
6 service at reasonable rates?

7           A     Is this utility providing adequate service  
8 at reasonable rates?

9           Q     No, that's a generic question for all rate  
10 cases.

11          A     Is that a generic question that the  
12 Commission looks at?

13          Q     Yes.

14          A     Yes, I believe so.

15          Q     You understand that Gulf in this situation  
16 has had very stable rates. The last increase for  
17 wastewater was 1988. The last one for water was 1991.  
18 And compared to the increase asked in this case, since  
19 1988, has the CPI gone up -- CPI gone up about 22% or  
20 18%? 28% or 22% -- I'm sorry. I'll start over.

21          A     Okay.

22          Q     Gulf has not had an increase since 1988 and  
23 1991, but the CPI has gone up about 28% in that time.  
24 Doesn't that indicate to you that this company has  
25 fairly stable rates?

1           A     Yes. They said the utility has not had a  
2 rate increase since 1988 on the sewer side and 1991 on  
3 the water side; its rates have been stable since that  
4 time.

5           Q     And you understand in this case Gulf was  
6 proposing to reduce the rates of two-thirds of its  
7 customers?

8           A     Gulf is proposing to reduce its rates for  
9 its water customers yes, that's correct; but by less  
10 than what the Staff had thought it ought to be reduced  
11 by in the overearnings investigation, as well as less  
12 than what I'm recommending in this particular docket.

13          Q     Well, what I asked you were, did you know  
14 that two-thirds of the customers will get a rate  
15 decrease as proposed by Gulf?

16          A     My answer was yes, and then I went on to  
17 explain.

18          Q     Okay. How do you do your analysis of a rate  
19 case? Let me ask you, do you go to the particular  
20 accounts or subjects and make a determination on each  
21 one of those as to what's proper?

22          A     Well, it involves more than that. I mean,  
23 basically I'll review the MFRs and highlight things  
24 that -- you know, my field may be inappropriate or  
25 overstated or out of line or whatever. And then we go

1 through the discovery process, and we get information.  
2 I evaluate the information and make recommendations on  
3 adjustments, et cetera. And analyses are performed,  
4 calculations are done.

5 In some instances there are theoretical  
6 questions or policy issues where my position doesn't  
7 change from case-to-case, so that would be pretty  
8 standard in all water and wastewater cases.

9 Q Refer to your Schedule 1, which is a summary  
10 of your adjustments. I'm not talking about the  
11 amounts of them, but isn't this typical, you look at  
12 the cost of capital and give your opinion as to what  
13 it ought to be? Then you look at revenue adjustments,  
14 billing adjustments, salary adjustments?

15 A Yeah. I mean, basically, I will look at the  
16 cost of capital. Typically, we don't focus on the  
17 cost of equity, but I'll focus more on capital  
18 structure issues. I look at the rate base, any  
19 adjustments the utility's made. And I look at  
20 expenses. Sometimes I make adjustments for salaries,  
21 sometimes I don't.

22 Q But you look at those issues separately, do  
23 you not, to make a determination?

24 A Yes.

25 Q And then each of those numbers -- each of



1 that analysis for each subject has a number, some  
2 number?

3 A Yes.

4 Q And then you list the amount and the  
5 subjects in your summary?

6 A Yes.

7 Q You don't, in this case, show, as I  
8 understand it, what that does for this utility in the  
9 way of rate decreasing. Or are you recommending them?

10 A It does show a rate decrease.

11 Q And that's kind of a fallout number, isn't  
12 it?

13 A Well, it's the results of the adjustments  
14 that I'm proposing, yes.

15 Q Right.

16 A If you want to call it a fallout number,  
17 that's fine.

18 Q And that's the end of your recommendation?

19 A As far as my testimony goes, yes. I did not  
20 in this particular case incorporate the  
21 recommendations on the used and useful. I have in  
22 other dockets done that.

23 Q Well, these numbers that you got from these  
24 different subjects are combined, and that's the  
25 revenue adjustment that you think ought to be made?

1           A     Yes.

2           Q     Do you ever go beyond that?

3           A     I have in terms of larger cases in electric  
4 companies where the Commission -- I believe this  
5 Commission -- sometimes tests interest coverage ratios  
6 relative to what the final recommendation might be.

7           Q     In this case you have not made any  
8 determination as to what the affect your adjustment  
9 would have on the financial integrity of this Company,  
10 have you?

11          A     No, I have not done any financial ratio  
12 analysis. That's typically not done in the water and  
13 wastewater industry. But this Company is financially  
14 strong when it came into this rate increase, and we  
15 are not talking about substantial decreases. So I  
16 don't see how a rate decrease on either side will  
17 substantially harm this Company, or will harm this  
18 Company.

19          Q     Aren't you talking about a \$898,018 decrease  
20 in revenue requirement?

21          A     Yes.

22          Q     And it's your opinion that the Company will  
23 remain financially sound?

24          A     Yes.

25          Q     And will be able to attract \$5 million worth

1 of debt money?

2           A     That, I don't believe, I'm really qualified  
3 to render a opinion on in the sense that I've never  
4 been out in the market trying to raise capital. The  
5 Utility back in 1988 was able to raise \$10 million, so  
6 I would suspect that they would be able to raise  
7 \$5 million now if that's needed. And I'm not sure to  
8 what degree their capital -- how much capital they  
9 need to raise. They still have some money left over  
10 from their previous bond issue.

11           Q     You're not offering an opinion as to that,  
12 are you?

13           A     No.

14           Q     Would it concern you if there was a  
15 financial problem with the Company after this rate  
16 case?

17           A     Yes.

18           Q     In what way?

19           A     Well, I think you don't want to be in a  
20 position where you are putting a utility out of  
21 business. I mean, they are here for a public purpose,  
22 and we want them to remain viable so the customers can  
23 receive quality service. So I wouldn't want to be in  
24 a position where I am putting the utility in financial  
25 distress.

1 Q And you don't mean to be advocating that in  
2 this case, do you?

3 A No, I do not.

4 Q What test year did you use for this case?

5 A 1996.

6 Q Projected '96?

7 A Yes.

8 Q You differ then with the Staff; they did not  
9 use that test year.

10 A Well, I don't know that I would go that far.  
11 I think what Staff did was test the reasonableness of  
12 the projections against the most recent 12-month  
13 period. And I don't know that the adjustments that  
14 they are necessarily proposing are not in sync with  
15 the projected test year.

16 Q You think that -- from your reading they are  
17 in sync; is that correct?

18 A The reading of the what?

19 Q From your reading of what they've done and  
20 compared with what you've done, they are in sync with  
21 the test year of 1996 projected?

22 A Yes, I think so. Like I said, I mean, one  
23 way you test the reasonableness of a projection is to  
24 get the most recent historical information, and they  
25 went up through August of 1996. And there may be some

1 differences. And I believe some of your witnesses  
2 have pointed them out, that when you look at that  
3 12-month period, you forgot that for three months  
4 during that period we had X number of expenses. That  
5 can be taken care of through an adjustment.

6           So I think that's a perfectly good way to  
7 test the reasonableness --

8           Q     Of the test year.

9           A     -- of the test year. Or they could take  
10 1995 and index it, that's another way to do it. Or  
11 you can take part of 1996 that's known and annualize  
12 it. I've seen that done.

13           So, I mean, I don't think it's inconsistent  
14 with a methodology that's designed to test whether or  
15 not the expense, if it had been projected, are  
16 reasonable at the rate base.

17           Q     So it's not a change of test year?

18           A     I don't think it's a change of test year. I  
19 mean, I didn't see any testimony on that.

20           Q     Would you point me out to the page in your  
21 testimony where you struck some testimony yesterday?

22 Page 20?

23           A     Yes.

24           Q     Line 18?

25           A     Yes.

1 Q Why was that stricken?

2 A Basically, it was stricken because with the  
3 exception of how the retirements are treated, it would  
4 be a fallout issue. That the Staff -- I took that  
5 recommendation out of the Staff's audit. The Staff's  
6 audit used a time period that ended, I believe, in  
7 1996 for purposes of calculating depreciation. And  
8 once I went back and reviewed it, the depreciation  
9 should be a fallout issue based upon what the  
10 Commission decides the plant should be in this  
11 proceeding. Okay?

12 And then I think everybody has agreed that  
13 the retirements should be treated as the Staff had  
14 recommended. I believe in Ms. Andrews' testimony she  
15 has agreed with that. And that I believe it actually  
16 increases the test year expenses or rate base; I'm not  
17 sure. But it's beneficial to the Company. And I  
18 don't disagree with that. I think that's an  
19 appropriate adjustment.

20 Q You had stated in your testimony that the  
21 depreciation expense was overstated; is that correct?

22 A Yes. That was an error.

23 Q Now, is there a table that goes with that  
24 that needs to be modified?

25 A Yes. Schedule 14, that's the schedule

1 that -- no, that's not right. Sorry.

2 Schedule 15, I'm sorry.

3 Q That would be changed to what?

4 A That would essentially be zeroed out. In  
5 other words, all of those reductions, the reductions  
6 to -- or the increase in accumulated depreciation and  
7 the reduction to depreciation expense would be zeroed  
8 out.

9 And I don't recall the number that  
10 Ms. Andrews said would be the number for the treatment  
11 of the retirements, but I have no dispute with that.

12 Q Okay. You used, basically, the Staff's  
13 audit as a basis for your opinions, did you not?

14 A Some of them, but not all of them.

15 Q I didn't hear you.

16 A Some of them, but not all of them. And when  
17 you say basis of my opinions, I use it as a foundation  
18 or a starting point sometimes. There have been many  
19 instances where I have not agreed with what an audit  
20 recommends, and I don't accept it. So I only include  
21 in my recommendation an audit recommendation, or  
22 something similar to it, to the extent that I would  
23 agree with it independently of whatever the Staff's  
24 recommendation or reasoning is.

25 Q In several instances you used as the basis

1 of your opinion, the audit and not have gone behind  
2 the audit, have you?

3 A No. Almost in all instances I will go  
4 behind the audit and look at the work papers to ensure  
5 that I agree with and can follow what they've done.

6 Q Now, for example, the time of employees, you  
7 didn't make any independent study, did you? Interview  
8 the employees as to how much time they're spending?

9 A No. I used an objective document, a  
10 document that was produced by Caloosa. It was their  
11 payroll register. It showed how much they paid the  
12 Caloosa employees, and it also showed on that document  
13 the number of hours that those employees worked. And  
14 I felt that was a very objective measure on how much  
15 time they spent on Caloosa versus the Utility, as  
16 opposed to an interview where the purpose of that  
17 interview is for the rate case.

18 Q Do you intend in your recommendation to  
19 treat prepaid CIAC and the imputation of CIAC on  
20 margin reserve overlapping?

21 A You wouldn't want to double count that.  
22 Okay?

23 Q Isn't that what you're doing?

24 A No, that's not what I'm doing. My  
25 recommendation is that to the extent that there is



1 plant in rate base that is supported by prepaid CIAC,  
2 okay, that prepaid CIAC should be included in rate  
3 base.

4 To the extent that you've also got a margin  
5 reserve, okay, that you should impute CIAC associated  
6 with that margin reserve. But you certainly, to the  
7 extent that you wouldn't want more CIAC in there  
8 either imputed or prepaid, then you have plant in  
9 service.

10 So I would not want or recommend that the  
11 Commission double count that.

12 Q You indicated in your testimony that there  
13 is plant related to the prepaid CIAC, do you not?

14 A I don't think I characterize it like that.  
15 I used the Staff's audit. The Staff audit said that  
16 the Utility had prepaid CIAC, and I believe the words  
17 were that it appeared to be related to plant that was  
18 already in service. And I went back, and I looked at  
19 the Staff work papers in that regard.

20 I also looked at some responses to our  
21 discovery concerning prepaid CIAC to see if I could  
22 make a determination of whether or not the Utility had  
23 accurately reported prepaid CIAC versus nonprepaid  
24 CIAC. And it wasn't clear. The response to an OPC  
25 interrogatory where it was supposed to enlighten me,

1 it did not, what the purpose was. I mean, that was  
2 the way it was asked. When I got it, it just didn't  
3 help me make a determination whether or not there was  
4 prepaid CIAC supporting current plant.

5           The Staff's audit and the associated work  
6 papers, there was one audit request where the auditor  
7 asked for the Utility to identify what plants the  
8 prepaid CIAC was related to, and the response to the  
9 audit request was, well, we don't know because the --  
10 they don't know where the water comes from, it all  
11 flows out of the two plants, they are interconnected,  
12 or whatever. So that may be the basis of the Staff's  
13 concern that there may be plant in service associated  
14 with prepaid CIAC.

15           Q     You did not make an independent study, did  
16 you, trace the dollars to the prep?

17           A     I attempted to through the information that  
18 I asked for through the Staff's audit work papers, and  
19 it was not possible.

20           Q     Okay. You had an analysis of the cost of  
21 the property being rented by the Utility, did you not?

22           A     Yes.

23           Q     But you did not use market value, did you?

24           A     I did not -- excuse me?

25           Q     You did not consider market value?

1           A     Market values? I'm not sure I understand  
2 what you mean.

3           Q     Market value of the rent?

4           A     Did I do an analysis of what other property  
5 was renting for?

6           Q     Yeah.

7           A     No, I did not. I looked at what it would  
8 have cost this Utility had it built the facility  
9 itself.

10          Q     Let me ask you if you agree with this  
11 statement: We believe the standard must be whether  
12 the transaction exceeds the growing market rate or are  
13 otherwise inherently unfair. If the answer is no,  
14 then the PSC must not reject the utility's position.  
15 Do you agree with that?

16          A     That's from the GTE case?

17          Q     Right.

18          A     No, I have no dispute with that. I think  
19 the Commission needs to look at this in great detail.  
20 I personally don't think that the market comparisons  
21 that have been done support the lease rate that's  
22 being charged to the Utility.

23          Q     Well, you have another renter in the same  
24 building who is paying the same rent that is not  
25 affiliated. Isn't that some indication of it?

1           A     That is perhaps an indication of it, but I  
2 think you need to look at it in a broader perspective  
3 to make sure that the leases are comparable. I have  
4 not seen the lease with the hospital; it has not been  
5 entered into the record. I'm aware of the fact that  
6 the Utility has substantially improved the property  
7 through a leasehold improvement. That those costs are  
8 being requested to be borne by ratepayers which would  
9 effectively raise the lease cost to \$14.69 per square  
10 foot, which is outside the range of what the appraiser  
11 did. And it's also \$2.69 more than what the hospital  
12 is renting for.

13           Q     But -- excuse me.

14           A     The -- according to the testimony of  
15 Mr. Moore, the maintenance fee per square foot for the  
16 hospital is \$1.50, whereas my calculations show, at  
17 least for '96, the maintenance cost per square foot is  
18 2.50 for the Utility.

19                     So there are a variety of things that may be  
20 different between the hospital and the Utility which  
21 haven't necessarily been accounted for if you look  
22 just strictly at the cost per square foot.

23           Q     But in the final analysis, you have not made  
24 a market value study to determine the market value of  
25 that rent?

1           A     I personally did not, but I did study in  
2 detail. We asked the Utility to provide us with all  
3 documents that support the lease rate, and I studied  
4 those documents in detail to determine the degree to  
5 which that information supported lease rate. And I  
6 think I just enumerated for you the reasons why that's  
7 not necessarily a valid comparison.

8           Q     And so for that reason you did not use  
9 market value?

10          A     Well, it depends on how you want to look at  
11 market value. I think one measure of market value is  
12 what the Utility could have built the project for.

13          Q     Do you have that information?

14          A     Yes.

15          Q     What they could have built the property --

16          A     Yes.

17          Q     Where do you have that?

18          A     Where do I have it?

19          Q     Uh-huh.

20          A     At \$60.16 a square foot.

21          Q     What document are you looking at?

22          A     I'm looking at a piece of paper where I  
23 performed the calculations myself, but --

24          Q     The calculation of the market value?

25          A     The cost -- what it would have cost the

1 Utility to build its office space.

2 Q Okay. What is the source of your  
3 information?

4 A The source of my information is the cost of  
5 the building that Caloosa built, plus the cost of the  
6 land, and I got a cost per square foot. And I  
7 multiplied that times the square footage of the  
8 Utility's office building and determined it would have  
9 cost the Utility roughly \$236,000 to build the office.

10 Q Did you know that the Utility could not get  
11 money to build the building?

12 A No, I don't know that for a fact. I know  
13 that that's what's -- I wouldn't even say that that's  
14 alleged by Mr. Moore. He kind of states in his  
15 rebuttal testimony that they evaluated it, they felt  
16 like this was the best option. They may not have been  
17 able to get the money to build the entire 11,000  
18 square foot building, but the Utility is only  
19 occupying 3,900 square feet. And it's just beyond me  
20 that if the Utility could raise \$10 million in 1988,  
21 that they couldn't raise \$250,000 today.

22 Q But you are not representing to this  
23 Commission that this is a market value number?

24 A Like I said, it all depends on how you want  
25 to characterize market value. I think market value

1 can also be looked at as what the Utility would have  
2 paid had it built the building itself. That's market  
3 value.

4 Q That's very speculative, isn't it?

5 A Speculative?

6 Q Uh-huh.

7 A The building was just built.

8 Q No. I mean, as to your cost that you're  
9 asserting here today.

10 A I don't believe it's speculative.

11 Q Have you talked to builders? Where did you  
12 get these numbers from? Did you talk to builders as  
13 to whether they could build that size building? Is it  
14 zoned to build that type of building that you're  
15 talking about? Would it meet the standards for  
16 buildings in Lee County? You don't know all that, do  
17 you?

18 A Well, the numbers are taken directly from  
19 what it cost Caloosa to build the 11,000 square foot  
20 office building. So, I mean, they are recent costs.  
21 \$60 a square foot, I mean, that's a nice estimate of  
22 what it would cost to build a house or a building.

23 Q You are not in the business of appraising  
24 values of buildings, are you?

25 A No, I'm not. But I've been involved in

1 several utility rates cases where appraisals have been  
2 used, and I've testified on those subjects.

3 Q So you offer yourself as an expert on market  
4 values?

5 A In the context of this particular instance,  
6 yes. You're dealing with an affiliate relationship.  
7 The Commission has to determine whether or not that's  
8 reasonable, if they need a benchmark to determine  
9 whether or not that's reasonable, and I think that's  
10 fully within the purview of my expertise, yes.

11 Q And the final analysis, though, is that you  
12 did not make a study of market value, you made a cost  
13 study?

14 A I think that's been asked and answered.

15 Q Remind me what the answer is.

16 A I believe that the Commission can use as a  
17 basis for market value what it would have cost this  
18 Utility to build that building. And my adjustment, my  
19 recommendation, does precisely that.

20 Q Did you interview Mr. Moore on the services  
21 he performs for Caloosa?

22 A No. We did ask him at his deposition,  
23 though, what services he performed for Caloosa.

24 Q One of your recommendations is that there be  
25 a rate set for the reuse water to go into these golf



1 courses. And you say the Company can count on 139,000  
2 per year for that at your rate. After hearing what  
3 those golf course people said yesterday, do you still  
4 think it's a good and reliable thing to do to depend  
5 on that amount?

6 A Well, that's a good question.

7 Q I thought it was.

8 A Clearly, the golf courses indicated a  
9 reluctance to pay much of anything for the effluent,  
10 that the Commission needs to evaluate -- I don't --  
11 and sincerity is not the right word, but clearly the  
12 golf courses' best interest is not to pay anything if  
13 they can get away with it.

14 Q Sure.

15 A You've got a situation where they are  
16 threatening to shut off the valves. They're  
17 threatening not to allow the Utility to use wet  
18 weather storage. They are making all kinds of threats  
19 such to influence the Commission so that they won't  
20 have to pay possibly for reclaimed water.

21 Q Isn't that rather harsh to say they're  
22 making threats? These are businessmen and want to  
23 have the best cost, as little cost as possible, to run  
24 their business. And they would prefer just to turn on  
25 their pumps if they have to pay --

1           A     Well, they -- sure. Their option, to the  
2 extent that the water management districts allow it,  
3 would be to turn on their pumps. To the extent that  
4 they can -- and I'm not sure that all of them can --  
5 supply the amount of irrigation that they need through  
6 their own permits. So clearly, that's their  
7 alternative to the extent that the water management  
8 district would allow that.

9           They are all coming up for renewal here in  
10 the near future, and I think it's a little ambiguous  
11 as to what the water management district is going to  
12 allow them to do. It's clear that given the fact that  
13 we are in a water caution resource area, that they  
14 have to take that reclaimed water from Gulf.

15          Q     How does the water management district  
16 determine how much was actually used by the golf  
17 course from their wells?

18          A     I have no idea how they determine it.

19          Q     Then you don't know of any enforcement  
20 program they have to make sure that these courses are  
21 in compliance with the water management amounts?

22          A     No. And actually, if you listen to the  
23 testimony of some of the water -- some of the golf  
24 courses yesterday relative to what their permits show,  
25 it would appear that they're pumping more than they

1 should be. But that's -- I mean, to me --

2 Q Are you going to report them to the water  
3 management district?

4 A No. I think the Utility should.

5 COMMISSIONER CLARK: Can I interrupt for  
6 just a minute?

7 WITNESS DISMUKES: Yes.

8 COMMISSIONER CLARK: From what did you  
9 conclude they were pumping more than they were  
10 supposed to be?

11 WITNESS DISMUKES: Well, I looked -- each  
12 one of them indicated how much they were buying from  
13 Gulf versus how much they were pumping on their own --  
14 not buying, getting from Gulf. And I compared that to  
15 their permitted flow. And there was one of them that  
16 was outside what the permit allowed.

17 It's the Vines Country Club. I have that  
18 the permit allows 243,000 gallons per day.

19 COMMISSIONER CLARK: Where did you get that  
20 number?

21 WITNESS DISMUKES: I can get it for you.  
22 It's in Mr. Moore's rebuttal testimony. It's also in  
23 a response to one of our interrogatories.

24 COMMISSIONER CLARK: I have in my notes, it  
25 says, they were using about 200,000 gallons a day and

1 40% of it was the reuse water. And that their permit  
2 is for 89 million gallons per year.

3 WITNESS DISMUKES: Right.

4 COMMISSIONER CLARK: Does that put them over  
5 their permit amount?

6 WITNESS DISMUKES: My notes -- see, my notes  
7 showed that they used 200,000 gallons per day which is  
8 from Gulf, which represents 40% of the irrigation that  
9 they use. So I took the 40%, divided it into the  
10 200,000 to get their total usage.

11 COMMISSIONER CLARK: And what is the total  
12 usage?

13 WITNESS DISMUKES: The total would be  
14 700,000 gallons per day.

15 COMMISSIONER CLARK: And that's more than 89  
16 million per year?

17 WITNESS DISMUKES: Yes. The 89 million per  
18 year, which I've got that same number, if my  
19 calculations are right, my interpretation of what the  
20 man said is correct, they're using 73 million gallons,  
21 is being provided by Gulf. And then 182,500,000 is  
22 being provided by some other means, either surface  
23 water or out of wells.

24 COMMISSIONER CLARK: Let's assume, they pump  
25 that much every day, isn't it?

1           **WITNESS DISMUKES:** Yes, that's on an annual  
2 flow basis.

3           **Q**        **(By Mr. Gatlin)** Could you describe what  
4 enforcement program the water management district has?

5           **A**        No, i do not know what enforcement programs  
6 the water management district has. But that's clearly  
7 something that I think would be in the best interest  
8 of the Utility to get in contact with the water  
9 management districts about.

10          **Q**        Well, at the moment the Utility is  
11 discharging its effluent for nothing.

12          **A**        That's correct.

13          **Q**        Right. So that's a good deal for any  
14 utility, isn't it?

15          **A**        Well, it would be a better deal if they  
16 could derive revenue from it.

17          **Q**        Well, you think they could depend on 139,000  
18 a year in revenue?

19          **A**        Yes.

20          **Q**        So it would be prudent for Gulf to depend on  
21 that 139,000?

22          **A**        Well, I think you need to look at not only  
23 the three golf courses that they currently have on  
24 line, but they also have the River Ridge, which I  
25 think Mr. Moore indicated was on line now.

1           My understanding, from looking at that reuse  
2 agreement, is that they have a substantial amount of  
3 capacity, up to 1.5 million gallons per day and that  
4 they have also agreed to take reuse at whatever rate  
5 is set by this Commission.

6           The amount that the Utility is spraying on  
7 the three golf courses that we heard from yesterday is  
8 about equivalent to what River Ridge says it can take  
9 annually.

10          Q     Aside from that situation, there are some  
11 times in the year that golf courses can take hardly  
12 any effluent; is that correct?

13          A     That's correct. I don't know about hardly  
14 any, but there are periods when there's a lot of rain  
15 and the golf courses testified yesterday that they  
16 took it, even though they didn't particularly want to,  
17 in order to help Gulf out. And that is a beneficial  
18 arrangement. I think Gulf is to be commended for the  
19 fact that they've gotten these golf courses to dispose  
20 of their effluent. And it's not my purpose here to  
21 penalize Gulf, nor to penalize Gulf's customers.

22          Q     I think you were familiar with the Lee  
23 County rates, weren't you?

24          A     Yes.

25          Q     And that you probably know that they've just

1 reduced theirs from 21 cents to 4 cents per gallon,  
2 per 1,000 gallons?

3           A     That is not my understanding. That is what  
4 is in the rebuttal testimony of Mr. Moore. The  
5 tariff, or the rate sheet which is included in the  
6 testimony of the Staff witness Ms. Xanders -- I think  
7 I've pronounced that right -- shows that they are  
8 charging 21 cents per 1,000 gallons during the dry  
9 season, and 4 cents per 1,000 gallons during the wet  
10 season.

11           Q     That's right, that's what I meant.

12           A     Well, that's not dropping the rate from 21  
13 to 4. It's dropping --

14           Q     They were charging 21 for the wet season,  
15 also.

16           A     Well, that's correct.

17           Q     He said that he could not get anybody to  
18 take it, so they dropped it to 4 cents; is that  
19 correct?

20           A     Yes. And that's perfectly within the  
21 purview of this Commission. They could have a  
22 structure that is exactly the same, 25 or 21 cents  
23 during the dry season and 4 cents during the wet  
24 season.

25           Q     You participated in the Florida Cities'

1 North Fort Myers rate case, didn't you?

2 A Yes.

3 Q And there was a rate set then for the golf  
4 course discharge; is that true, 13 cents? I think you  
5 recommended that rate.

6 A Florida Cities' North Fort Myers is 21  
7 cents. Florida Cities' South Fort Myers is 13 cents.

8 Q Okay. Did you know that recently Florida  
9 cities has been put on notice by that golf course that  
10 they will no longer pay for the effluent?

11 A No.

12 Q There will be a proceeding in the Commission  
13 that you can catch up on that, if you like, in the  
14 next couple weeks.

15 A I do recall seeing an application by Florida  
16 Cities for a reuse rate, and perhaps that is to lower  
17 it. I don't know though.

18 MR. GATLIN: That's all the questions I  
19 have.

20 COMMISSIONER DEASON: Redirect.

21 MR. REILLY: No redirect.

22 COMMISSIONER DEASON: Exhibits.

23 COMMISSIONER CLARK: Mr. Chairman, may I ask  
24 a question?

25 COMMISSIONER DEASON: Surely.



1           **COMMISSIONER CLARK:** One of the things that  
2 concerns me with setting a rate taking the effluent is  
3 that we need them to take it when it's wet, too, or  
4 when they don't need it.

5           **WITNESS DISMUKES:** I agree.

6           **COMMISSIONER CLARK:** Could you give them a  
7 credit for when they took it in the -- give them some  
8 incentive for taking it during the wet season, as a  
9 credit against whatever they were charged?

10           **WITNESS DISMUKES:** I think that that would  
11 certainly be reasonable, your giving them an incentive  
12 to take it. And then when they really need it to  
13 irrigate, et cetera, and it's more valuable to them,  
14 they pay for the value of it at that time. I think  
15 that's clearly reasonable.

16           **MR. REILLY:** I move the composite exhibit.

17           **COMMISSIONER DEASON:** And that would be  
18 Exhibit 19. It will be admitted without objection.

19           Thank you, Ms. Dismukes.

20           (Exhibit 19 received in evidence.)

21           (Witness Dismukes excused.)

22           - - - - -

23           **WITNESS DISMUKES:** Thank you.

24           **COMMISSIONER DEASON:** That concludes the  
25 Public Counsel's direct case; is that correct?

1           **MR. REILLY:** That's correct.

2           **COMMISSIONER DEASON:** I believe we have some  
3 witnesses that we need to get on the stand as quickly  
4 as possible today; is that correct?

5           **MS. O'SULLIVAN:** Yes, we have the witness  
6 from the fire districts. Also, if you'd like, we can  
7 move in the testimony of the Staff witnesses that were  
8 stipulated.

9           **COMMISSIONER DEASON:** Okay. We'll go ahead  
10 and address the stipulated witnesses.

11           **MS. O'SULLIVAN:** All right. The first  
12 witness we'd like to move in is the testimony of  
13 William Allen of the Department of Health and  
14 Rehabilitative Services consisting of three pages. He  
15 had no exhibits. We request that Mr. Allen's  
16 testimony be inserted into the record as though read.

17           **COMMISSIONER DEASON:** Without objection, it  
18 will be so inserted.

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## 1 DIRECT TESTIMONY OF WILLIAM D ALLEN, P E.

2 Q. Please state your name and business address.

3 A. William D. Allen, P.E., Florida Department of Health and Rehabilitative  
4 Services (FDHRS), Lee County Public Health Unit, 60 Danley Drive, Unit #1, Ft  
5 Myers, Florida 339076 Q. Please state a brief description of your educational background and  
7 experience.8 A. I have a B.S. in Engineering. I am a registered professional engineer  
9 in Florida, Pennsylvania and West Virginia, and a registered professional  
10 surveyor in Pennsylvania. I have worked 38 years in construction,  
11 engineering, and environmental engineering management, the last 7 1/2 years  
12 specifically in potable water projects.

13 Q. By whom are you presently employed?

14 A. I am employed by the Florida Department of HRS, (FDHRS) Lee County  
15 Public Health Unit, Environmental Engineering.16 Q. How long have you been employed with the Lee County Public Health  
17 Department and in what capacity?18 A. I have been employed by FDHRS 5 1/2 years as a professional engineer,  
19 administrator, and director of Environmental Engineering.

20 Q. What are your general responsibilities at the Public Health Unit?

21 A. My responsibilities include project and permit application reviews,  
22 issuance of permit approvals, compliance with Florida Department of  
23 Environmental Protection (FDEP) rules, supervision of 18 persons consisting  
24 of staff engineers, technicians, and clerks. I also perform inspections of  
25 utilities for compliance and enforcement of state regulations and

1 | consultations with public and utility management.

2 | Q. Are you familiar with Gulf Utility Company, particularly the water  
3 | treatment system?

4 | A. Yes.

5 | Q. Is the plant in compliance with its permit(s)?

6 | A. Yes.

7 | Q. Are the utility's treatment facilities and distribution system  
8 | sufficient to serve its present customers?

9 | A. Yes

10 | Q. Does the utility maintain the required 20 psi minimum pressure  
11 | throughout the distribution system?

12 | A. Yes.

13 | Q. Does the utility have an adequate auxiliary power source in the event  
14 | of a power outage?

15 | A. Yes, at both plants.

16 | Q. Are the utility's water wells located in compliance with Rule 62-  
17 | 555.312, Florida Administrative Code?

18 | A. Yes.

19 | Q. Does the utility have certified operators as required by Chapter 61E12-  
20 | 41, Florida Administrative Code?

21 | A. Yes.

22 | Q. Has the utility established a cross connection control program in  
23 | accordance with Rule 62-555.360, Florida Administrative Code?

24 | A. Yes.

25 | Q. Is the overall maintenance of the treatment plant and distribution

1 facilities satisfactory?

2 A. Yes.

3 Q. Does the water produced by the utility meet the State and Federal  
4 maximum contaminant levels for primary and secondary water quality standards

5 A. Yes

6 Q. Does the utility monitor the organic contaminants listed in Rule 62-  
7 550.410, Florida Administrative Code?

8 A. Yes.

9 Q. Do recent chemical analysis of raw and finished water, when compared to  
10 regulations, suggest the need for additional treatment?

11 A. No.

12 Q. Does the utility maintain the required chlorine residual or its  
13 equivalent throughout the distribution system?

14 A. Yes.

15 Q. Has Gulf's water system been the subject of any enforcement action by  
16 the Lee County Health Department within the past two years?

17 A. No.

18 Q. Do you have anything further to add?

19 A. Gulf Utility Company management has always been cooperative and has made  
20 every effort to comply with federal, state and local regulations.

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1           **MS. O'SULLIVAN:** Next, is the testimony of  
2 Andrew Barienbrock of the Florida Department of  
3 Environmental Protection, consisting of three pages.  
4 Again, no exhibits. We request that Mr. Barienbrock's  
5 testimony be inserted into the record as though read.

6           **COMMISSIONER DEASON:** Without objection, it  
7 will be so inserted.

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## DIRECT TESTIMONY OF ANDREW BARIENBROCK

1 |  
2 | Q. Please state your name and business address.

3 | A. Andrew Barienbrock, Florida Department of Environmental Protection, 2295  
4 | Victoria Avenue, Suite 364, Fort Myers, Florida 33901

5 | Q. Please state a brief description of your educational background and  
6 | experience.

7 | A. I have a B.S. in Zoology from the Ohio State University and an MS in  
8 | Marine Biology from NOVA Southeastern University. I have been with the  
9 | Department of Environmental Protection (FDEP) for five years.

10 | Q. By whom are you presently employed?

11 | A. Florida Department of Environmental Protection.

12 | Q. How long have you been employed with the Department of Environmental  
13 | Protection and in what capacity?

14 | A. Five years. I began with the Department working in domestic wastewater  
15 | and I am currently the Environmental Manager for the Domestic Wastewater  
16 | Compliance and Enforcement Section.

17 | Q. What are your general responsibilities at the Department of  
18 | Environmental Protection?

19 | A. My responsibilities include the supervision of professional employees  
20 | responsible for conducting compliance and enforcement activities and  
21 | permitting activities relating to domestic wastewater treatment and disposal  
22 | systems, residual disposal sites, and underground injection control

23 | Q. Are you familiar with the Gulf Utility Company wastewater treatment and  
24 | collection system in Lee County?

25 | A. Yes.

1 Q. Does the utility have any current construction permits? If yes, explain  
2 what the permit is for and when it expires.

3 A. No. However the utility has recently applied for a new "wastewater  
4 permit" in order to construct an expansion to 1.5 MGD at the Three Oaks  
5 wastewater treatment plant.

6 Q. What is the permitted capacity of the WWTP?

7 A. The Three Oaks WWTP has a permitted capacity of .750 MGD and the San  
8 Carlos WWTP has a permitted capacity of 0.218 MGD.

9 Q. Are the wastewater treatment facilities of sufficient size to serve the  
10 present customers?

11 A. The Three Oaks facility is large enough to serve the present customers.  
12 However, at the San Carlos WWTP, it appears that changes may need to be  
13 implemented in order to service the current customers.

14 Q. Are the treatment plants located on the site so as to minimize adverse  
15 effects resulting from odors, noise, lighting?

16 A. Yes.

17 Q. Is the wastewater collection system adequate to serve the present  
18 customers?

19 A. Yes, to the best of my knowledge.

20 Q. Is the overall maintenance of the collection system satisfactory?

21 A. Yes, to the best of my knowledge.

22 Q. Do the pump stations and lift stations meet DEP requirements with  
23 respect to location, reliability and safety?

24 A. Yes, to the best of my knowledge.

25 Q. Does the utility have the appropriate number of type of certified



1 operators as required by Rule 62-602, Florida Administrative Code?

2 A. Yes.

3 Q. How often and how much time is the certified operator required to spend  
4 at the wastewater plant during a week?

5 A. The San Carlos WWTP requires a Class C or higher operator for 3 hours  
6 per day, 5 days per week. Further Three Oaks WWTP requires a Class C or  
7 higher operator for 6 hours per day, 7 days per week

8 Q. Is the overall maintenance of the wastewater plants and equipment  
9 satisfactory?

10 A. Yes.

11 Q. Do the facilities meet all applicable Technology Based Effluent  
12 Limitations (TBELS) and Water Quality Based Effluent Limitations (WQBELS)?

13 A. Yes.

14 Q. Does the utility have any citations, violations, or corrective orders  
15 in regard to the wastewater treatment plant and effluent disposal system?

16 A. A letter has been issued requesting that the issue of capacity at the  
17 San Carlos WWTP be addressed.

18 Q. Do you have anything further to add?

19 A. No, I do not.

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1           **MS. O'SULLIVAN:** Lastly, the testimony of  
2 Troy Rendell, William Troy Rendell, of the Staff with  
3 the Public Service Commission consisting of nine  
4 pages. We request that it be inserted into the record  
5 as though read.

6           **COMMISSIONER DEASON:** Without objection, it  
7 shall be so inserted.

8           **MS. O'SULLIVAN:** Mr. Rendell had three  
9 exhibits identified as WTR-1, -2, and, -3. We request  
10 that they be identified and admitted into the record.

11           **COMMISSIONER DEASON:** The prefiled testimony  
12 of Mr. Rendell will be inserted in the record and the  
13 exhibits attached thereto will be identified as  
14 Composite Exhibit No. 20 and likewise shall be  
15 admitted in the record.

16                   (Exhibit 20 marked for identification and  
17 received in evidence.)

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## DIRECT TESTIMONY OF WILLIAM TROY RENDELL

1 |  
2 | Q. Would you please state your name and business address?

3 | A. My name is Troy Rendell, and my business address is 2540 Shumard Oak  
4 | Boulevard, Tallahassee, FL 32399.

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

6 | A. I am employed by the Florida Public Service Commission as a Public  
7 | Utilities Supervisor in the Rates and Charges Review Section, Bureau of  
8 | Economic Regulation, Division of Water and Wastewater

9 | Q. How long have you been employed with the Commission?

10 | A. Since November, 1987.

11 | Q. Would you please give a brief description of your educational background  
12 | and professional experience?

13 | A. I graduated from Gulf Coast Community College in 1985 with an Associate  
14 | of Arts Degree in Business Administration. In 1987, I graduated from the  
15 | Florida State University with a Bachelor of Science Degree in Finance.

16 | After graduation, I was employed as a comptroller for Port Panama City  
17 | Marina, Inc. In November 1987, I began working for the Florida Public Service  
18 | Commission as a Regulatory Analyst I in the Bureau of Gas Regulation, Division  
19 | of Electric and Gas. In January, 1991, during a structural reorganization of  
20 | the Commission, I joined the Division of Auditing and Financial Analysis in  
21 | the Bureau of Accounting. In October, 1991, I transferred to the Division of  
22 | Water and Wastewater as a Regulatory Analyst IV in the Bureau of Industry  
23 | Structure and Policy Development. On March 1, 1994 I accepted my current  
24 | position within the Bureau of Economic Regulation. I am also a Class B  
25 | practitioner which makes me eligible to practice before the Commission

1 Q. Have you had cause to testify in other dockets before the Florida Public  
2 Service Commission?

3 A. Yes. I testified in Docket No. 930880-WS, Investigation into the  
4 Appropriate Rate Structure for Southern States Utilities, Inc. I have also  
5 filed direct testimony in Docket No. 880002-EG, the Energy Conservation Cost  
6 Recovery (ECCR) docket.

7 Q. What are your present responsibilities with the Commission?

8 A. I am responsible for supervising a technical professional staff who are  
9 involved in accounting and rate aspects of formal rate applications, service  
10 availability, and limited proceedings. My responsibilities also include  
11 preparing and presenting expert testimony concerning accounting and rate  
12 matters at formal hearings before the Commission, as well as advising and  
13 making recommendations to the Commissioners. I am also responsible for  
14 conducting research, generic investigations and recommending statutory and  
15 rule changes, and Commission policies on areas of my responsibility.

16 Q. What is the purpose of your testimony in this proceeding?

17 A. The purpose of my testimony is to provide information regarding the  
18 proper methodology of calculating the annualized operating water revenues for  
19 Gulf Utility Company (Gulf) for the seven month period of April through  
20 November 1996, and the period from November 1996 through the effective date  
21 of the final water tariffs in this instant docket. I am also testifying to  
22 the appropriate regulatory accounting treatment of property contributed from  
23 the Caloosa Group, Inc. (Caloosa), an affiliated developer.

24 Q. When did the commission initiate the overearnings investigation for Gulf  
25 Utility?

- 1 A. By Order No. PSC-96-0501-FOF-WS, issued April 11, 1996, the Commission  
2 initiated an overearnings investigation and held \$353,492 or 16.92 percent in  
3 annual water revenues subject to refund. Pending the resolution of the  
4 investigation, Gulf Utility was ordered to undertake a surety bond, letter of  
5 credit or escrow agreement in the amount of \$179,203, which represents a six-  
6 month time frame, plus interest. Also, by that order, the overearnings  
7 investigation was combined with this current rate proceeding.
- 8 Q. Has the commission issued any subsequent orders concerning any  
9 additional potential water overearnings?
- 10 A. Yes. In the current docket, Order No. PSC-96-1310-FOF-WS, was issued  
11 on October 28, 1996. As indicated in this order, Gulf filed its current  
12 application for an increase in wastewater rates and a decrease in water rates  
13 on June 27, 1996. In its application, Gulf requested an interim water revenue  
14 decrease of \$141,709 and a permanent water revenue decrease of \$155,935. In  
15 its filing, the utility did not request interim water rates, but instead  
16 requested that its proposed final rates be effective simultaneous with its  
17 proposed interim wastewater rates. In Order No. PSC-96-1310-FOF-WS, the  
18 Commission determined that it could not make a final determination regarding  
19 the potential overearnings of the water system at the time of interim.  
20 Therefore the Commission approved the company's proposed final rates on an  
21 interim basis, pending the determination of the appropriate final water rates  
22 in this case.
- 23 Q. Has Gulf Utility implemented the lower water rates pursuant to Order No.  
24 PSC-96-1310-FOF-WS?
- 25 A. Yes, the tariff sheets containing the interim reduced water rates were

1 | approved on November 1, 1996

2 | Q. What is the proper methodology to determine the test year water revenues  
3 | for the two periods?

4 | A. The water revenues should be annualized for each period the two  
5 | different water rates were in effect. For the first period, April through  
6 | November 1996, the revenue should be calculated based upon the appropriate  
7 | billing determinants for the test period ending 1996 at the rates in effect  
8 | as of October 31, 1996. For the second period, November 1996 through the  
9 | effective date of the final rates, the revenue should be calculated based upon  
10 | the appropriate billing determinants for the test period ending 1996 at the  
11 | lower water rates at November 1, 1996.

12 | Q. Why is it necessary to calculate annualized test period water revenues  
13 | for two different periods?

14 | A. The two calculations must be done so that the appropriate refund, if  
15 | any, for each time period can be accurately determined. As stated earlier,  
16 | 16.92 percent of annual water revenues were held subject to refund beginning  
17 | April 11, 1996 pending a final determination by the Commission. Gulf Utility  
18 | filed an escrow agreement on May 15, 1996 and began depositing 16.92 percent  
19 | of its monthly water revenues into this account. As a result of the interim  
20 | water rate reduction approved in Order No. PSC-96-1310-FOF-WS, the amount of  
21 | revenues held subject to refund was reduced to 9.39 percent on a prospective  
22 | basis. This amount is in addition to the amount of revenues previously held  
23 | subject to refund pursuant to the overearnings investigation.

24 | By lowering the water rates, two distinct refund periods were created  
25 | to determine any potential overearnings. Further, since two different

1 amounts were held subject to refund, two different annualized calculations  
2 must be made to determine if any refunds are necessary

3 Q. How should the revised interim revenue requirement be calculated to  
4 determine any potential interim refunds or overearnings?

5 A. The staff of the Commission should remove adjustments made in the rate  
6 case test period that do not relate to the period interim rates are in effect.  
7 Examples of these adjustments would be plant in service which was not in  
8 service during the interim collection period but will be in service after the  
9 final rates go into effect. Expenses which will be recovered only after final  
10 rates are established, such as rate case expense, should also be removed.  
11 After these items are removed, the staff should then calculate a revised  
12 revenue requirement for the interim period using the same data used to  
13 establish final rates.

14 Q. Will it be necessary for the staff of the commission to calculate two  
15 different revised revenue requirements for the interim collection period to  
16 determine any potential water overearnings?

17 A. No. The same calculated revised water revenue requirement should be  
18 used to compare against the two annualized water service revenues. The only  
19 difference would be a calculation of two different overearning percentages,  
20 if any.

21 Q. Have you researched any documentation between Gulf Utility Company and  
22 Caloosa Group, Inc.?

23 A. Yes. I have reviewed several developer agreements between these two  
24 corporations on file with the Commission. I have also reviewed Gulf's tariff.

25 On December 17, 1986, Gulf filed an agreement dated April 17, 1986 with

1 Caloosa. This developer agreement was signed by Russell B. Newton, Jr. for  
2 the Caloosa Group and James W. Moore, for Gulf. This agreement covered an  
3 unnamed project, owned by Caloosa, consisting of 20 phases of development. On  
4 October 4, 1988, the Commission received two additional rebate agreements  
5 between these two corporations. The first one was dated April 17, 1986 and  
6 covered property identified as Unit 16, Phase I, owned by Caloosa. This  
7 agreement was also signed by Russell B. Newton, Jr. and James W. Moore.  
8 Since this rebate agreement was dated the same as the above-mentioned  
9 developer agreement and signed by the same parties, I assumed that it covered  
10 the same project, but only related to Phase I of the development.

11 The next rebate agreement was dated May 5, 1987. This agreement covered  
12 Unit 16, Phase II, which was owned by Caloosa Group, Inc. As with the  
13 previous two, this agreement was signed by Russell B. Newton, Jr., on behalf  
14 of Caloosa, and James W. Moore, on behalf of Gulf.

15 On February 3, 1989, the Commission received three more rebate  
16 agreements. The first two were dated August 10, 1987. The first agreement  
17 was between Carl N. Fisk and Caloosa, as one party and Gulf as the other.  
18 This agreement was signed by Russell B. Newton, Jr., Carl N. Fisk, and James  
19 W. Moore, and covered Unit 16, Phase V-A. I am not sure what, if any, the  
20 relationship is between Carl Fisk and Caloosa or Gulf. The second one covered  
21 Unit 16, Unit V. The third one was dated October 5, 1988 and covered Unit 16,  
22 Phases VI & VII. All of these referenced agreements are attached to my  
23 testimony as Composite Exhibit WTR-1.

24 Q Do you believe that the developer agreement filed dated April 17, 1986  
25 covered all of the development in unit 16?



1 A. Yes. Based upon my review of this agreement, this agreement covers  
2 twenty phases of an unnamed development. Subsequent rebate agreements were  
3 filed between these two parties which covered separate phases of Unit 16  
4 development. I believe that the first developer agreement was the umbrella  
5 agreement for the development of Unit 16. Then the parties entered into  
6 subsequent rebate agreements for each phase of Unit 16 to cover various plant  
7 additions.

8 Q. What relevance do these agreements have to this instant rate case?

9 A. In the audit report filed November 21, 1996 in this rate case, Exhibit  
10 KLV-1 attached to Kathy Welch's testimony, there was an audit disclosure which  
11 related to these transactions. Specifically, Audit Disclosure No. 1 indicates  
12 that assets received as a result of these transactions were booked by Gulf to  
13 equity instead of contributions-in-aid-of-construction (CIAC)

14 Q. Have you reviewed any documentation that indicates this?

15 A. Yes. I have reviewed an Unanimous Written Consent to Resolutions by the  
16 Board of Directors of Gulf which was contained in the audit workpapers. This  
17 resolution indicated that owners of Caloosa were given stock in Gulf in  
18 consideration for contributed lines in the amount of \$160,928. This stock was  
19 issued to James W. Moore, and the Russell B. Newton, Jr. Revocable Trust.  
20 This resolution is attached to my testimony as Exhibit WTR-2.

21 Q. Do you believe this was the appropriate regulatory treatment for this  
22 transaction?

23 A. No. I believe that any contributions made by developers, including an  
24 affiliated corporation, should be booked to CIAC.

25 Q. On what do you base your conclusion?

1 A. First, I based my opinion upon the developer agreements and rebate  
2 agreements entered into by Gulf Utility Company and Caloosa Group. The  
3 definition portion of the first developer agreement of Exhibit WTR 1, dated  
4 April 17, 1986 indicates that any property received by the utility, from the  
5 developer, should be considered CIAC. This is shown in Section 1(c) of this  
6 agreement. Further, Sections 1(j)&(k) of this agreement, indicate that the  
7 water lines which are constructed by the developer should be considered on-  
8 site and off-site facilities. Sections 3 and 4, of the agreement, cover the  
9 installation and contribution of all on-site and off-site facilities. Also,  
10 as indicated on subsequent rebate agreements in Exhibit WTR-1, the developer  
11 agreed to transfer the facilities to Gulf Utility as CIAC.

12 Q. Is the provision for donated lines consistent with the approved tariff  
13 on file with the Commission for Gulf Utility Company?

14 A. Yes. Specifically, this contribution is consistent with Original Sheet  
15 No. 32 and Third Revised Sheet No. 33. Sections 3.0, 4.0, and 6.1 address  
16 the contributions of property by developers and indicate that these should be  
17 considered CIAC. I believe that Gulf Utility should treat contributions from  
18 all developers consistently. This will ensure nondiscriminatory treatment of  
19 contributions from all developers.

20 Q. Have you attached the service availability policy section of Gulf  
21 Utility Company's approved tariffs to your testimony?

22 A. Yes. They are attached as composite Exhibit WTR-3.

23 Q. Is the treatment of donated lines as CIAC also consistent with  
24 commission rules?

25 A. Yes. Specifically, Rule 25-30.585, Florida Administrative Code

1 | designates that, at a minimum, the cost of installing water transmission and  
2 | distribution facilities and sewage collection facilities should be considered  
3 | CIAC.

4 | Q. Based upon your review, how should these contributions be treated?

5 | A. Consistent with Audit Disclosure No. 1, the amount should be recorded  
6 | as a credit to CIAC and reversed as a debit to common equity. To do otherwise  
7 | would allow the company an opportunity to earn a rate of return on the plant  
8 | which should have been contributed.

9 | Q Does that conclude your testimony?

10 | A Yes, it does.

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1           **MS. O'SULLIVAN:** Thank you.

2           Commissioner Deason, I do not believe that  
3 Mr. Beard and Mr. Kleinschmidt were in attendance when  
4 you swore the witnesses in. Maybe we should swear  
5 them in now.

6           **COMMISSIONER DEASON:** Okay. I am going to  
7 ask those individuals, as well as any other witnesses,  
8 that may be in the room today who were not in the room  
9 yesterday, please stand and raise your right hand.

10           (Witnesses collectively sworn.)

11           **COMMISSIONER DEASON:** Thank you. Please be  
12 seated.

13           **MS. O'SULLIVAN:** Staff will call Thomas  
14 Beard. And with Mr. Beard I believe is Mr. Porter,  
15 his attorney.

16           **MR. PORTER:** Jim Jessell, Jr. with Porter  
17 and Jessell.

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**THOMAS M. BEARD**

1  
2 was called as a witness on behalf of the Staff of the  
3 Florida Public Service Commission and, having been  
4 duly sworn, testified as follows:

**DIRECT EXAMINATION**

5  
6 **BY MS. O'SULLIVAN:**

7 Q Good morning, Mr. Beard. Could you please  
8 state your name and business address for the record?

9 A My name is Thomas Miller Beard. My business  
10 address is 8013 Sanibel Boulevard, Fort Myers, Florida  
11 33912.

12 Q And by whom are you employed and in what  
13 capacity?

14 A San Carlos Park Fire Protection District and  
15 in the capacity of the fire inspector.

16 Q Have you prefiled direct testimony in this  
17 docket consisting of six pages?

18 A Yes, I have.

19 Q Do you have any changes or corrections to  
20 your testimony?

21 A I believe there's a couple of things that  
22 probably need to be cleared up, but basically the  
23 testimony will be the same.

24 Q Okay.

25 A But I'm sure there is a couple of things

1 I'll be crossed on.

2           **MS. O'SULLIVAN:** Commissioner Deason, we  
3 request to have his testimony inserted into the record  
4 as though read.

5           **COMMISSIONER DEASON:** Without objection, is  
6 shall be so inserted.

7           **Q**       **(By Ms. O'Sullivan)** Mr. Beard, did you  
8 file an exhibit identified as TMB-1?

9           **A**       Yes, I did.

10          **Q**       Do you have any changes or corrections to  
11 that exhibit?

12          **A**       No. I do not believe so.

13          **MS. O'SULLIVAN:** May we have this exhibit  
14 identified please, Commissioner Deason?

15          **COMMISSIONER DEASON:** Yes. It shall be  
16 identified as Exhibit 21.

17                   (Exhibit 21 marked for identification.)

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## DIRECT TESTIMONY OF THOMAS M BEARD

1  
2 Q. Please state your name and business address.

3 A. Thomas M. Beard. My business address is 8013 Sambel Boulevard, Ft  
4 Myers, Florida, 33912.

5 Q. Please state a brief description of your educational background and  
6 experience.

7 A. I graduated from high school. I am currently enrolled at Edison  
8 Community College and working toward an A.S. degree in Fire Science. I have  
9 over 13 years in the fire service as a certified firefighter, fire inspector,  
10 and instructor.

11 Q. By whom are you presently employed?

12 A. The San Carlos Park Fire and Rescue Service District

13 Q. How long have you been employed with the district, and in what capacity?

14 A. I have been employed by the district for over 13 years. I have been a  
15 fire inspector for the past five years.

16 Q. What are your general responsibilities?

17 A. I am responsible for inspecting all new buildings during construction  
18 phases for code compliance. I also conduct annual inspections of existing  
19 buildings, public education, and fire flow tests.

20 Q. Does Gulf Utilities, Inc. (Gulf) provide fire flow to the San Carlos  
21 Park Area?

22 A. Yes.

23 Q. Are you familiar with Gulf Utilities Inc.'s fire hydrant system?

24 A. Yes, in the context of my duties.

25 Q. How many of the hydrants in your fire district are on Gulf's water lines?

- 1 A. Of the 619 fire hydrants in the district, 397 are served by Gulf. 56  
2 hydrants are in commercial areas, and 341 are located in residential areas.
- 3 Q. Are Gulf's fire flow capabilities adequate?
- 4 A. No, as detailed below, the fire flow in some areas is low.
- 5 Q. Who is responsible for the fire flows?
- 6 A. It is my understanding the utility company would be.
- 7 Q: Who is responsible for the maintenance of the hydrants?
- 8 A: There is a maintenance agreement between the utility company and the  
9 department.
- 10 Q: Who is responsible for testing the fire hydrants?
- 11 A: As the local fire official, I am responsible
- 12 Q. Is there a minimum fire flow requirement?
- 13 A. In residential areas the minimum requirement would be 750 gallons per  
14 minute (gpm). In commercial areas the fire flow depends on the size of the  
15 building, but a minimum flow of 1500 gpm would be a good standard. We use a  
16 formula to calculate the fire flow for a building using the area of the  
17 building, the type of construction, and the occupancy hazard.
- 18 Q: Are these requirements specified by county ordinance or other  
19 governmental body?
- 20 A: Yes. Section 12 of the Lee County Development Order. The order is  
21 attached to my testimony as TMB-1.
- 22 Q. Does Gulf meet all of these requirements in its service area?
- 23 A. No. There are some residential areas that do not produce 750 gpm and  
24 there are commercial areas that do not produce that either
- 25 Q. How many hydrants in commercial areas do not meet fire flow needs?



- 1 A. 35 of the 56 fire hydrants in commercial areas served by Gulf.
- 2 Q. How many hydrants do not meet the fire flow needs in residential areas?
- 3 A. 75 of the 341 fire hydrants in residential areas served by Gulf
- 4 Q. Where are the problem areas?
- 5 A. All of Gulf Utility's Island Park area and the commercial area on
- 6 Rockefeller Circle both have areas of reduced fire flows.
- 7 Q. What are the causes of the low fire flow?
- 8 A. The problem is caused by reduced pumping pressure in the water lines
- 9 Reduced fire flow capacity can also be caused by small diameter lines, and
- 10 build up in the water lines, or scaling, which reduces the diameter of the
- 11 line.
- 12 Q. What could be done to correct this problem?
- 13 A. The pressure could be increased in the lines, or, if the lines are
- 14 blocked, they could be cleaned out.
- 15 Q. Has the Gulf Utility Company reduced pressure in the water lines over
- 16 the years?
- 17 A. Yes, fire flow tests that have been done in the past have had higher
- 18 pressures.
- 19 Q. How does reduced pressure effect existing buildings that are fire
- 20 sprinkled and designed at higher pressures?
- 21 A. The system may not work the way it was designed if it was calculated at
- 22 higher pressures.
- 23 Q. Does a lower fire flow cause difficulty for the construction industry?
- 24 A. Yes. Low fire flow results in extra costs to the builder from having
- 25 to fire sprinkler the building, or having to build four hour fire walls to

1 | reduce building size. It limits the development of areas. In some areas  
2 | drafting ports into lakes had to be built to compensate water supply.

3 | Q. How does this affect the fire department?

4 | A. It reduces the fire flow available for fighting fires and it creates a  
5 | limited water supply for fire fighting.

6 | Q. Have you ever discussed this with any Gulf Utility representative?

7 | A. Yes. Utility representatives said that Gulf is not responsible for fire  
8 | flows, only potable water.

9 | Q. Do you know of anyone who has built a building that has been impacted  
10 | by this reduced fire flow?

11 | A. Yes, in the Constitution Boulevard and Rockefeller Circle area. The  
12 | Domino's Pizza building (a 8000 sq. ft. business office complex) had to build  
13 | three four-hour walls. Peppermint Tree day-care (8000 sq. ft.) had to add a  
14 | fire sprinkler system. Wogoman Tile a 2,500 sq. ft. storage building had to  
15 | build a four-hour wall, and All County Insulation a 2500 sq. ft. storage  
16 | building, had to build a four-hour wall, all because of reduced fire flow in  
17 | this area. In the Island Park area the quality of water is so bad that a fire  
18 | flow test can not be done without the Gulf Utility Company pre flushing the  
19 | hydrants the day before the fire flow test. There are also drafting hydrants  
20 | in apartment complexes for additional water supply.

21 | Q. What is the fire flow in that area?

22 | A. The fire flow is around 750 gpm or less.

23 | Q. Are there any commercial areas in the Gulf Utility tariff district for  
24 | which Gulf does not provide water service.

25 | A. Yes, the Jean Street area is in their service area and there are no

1 hydrant lines on half of the street. The water lines from Gulf Utility are  
2 over 1000 feet away, which is a 6" or 8" line in a residential area. The  
3 other half of Jean Street is serviced by Florida Cities Water Company (Florida  
4 Cities) with a 10" line off of a 16" line. The fire flows on these lines are  
5 in excess of 2000 gpm. The fire flows from the Gulf Utility side are around  
6 750 gpm.

7 Q. What are the location requirements pertaining to fire hydrants in the  
8 San Carlos district?

9 A. Commercial buildings require a hydrant within 400 feet.

10 Q. Is there another utility company in your area that provides fire flow?

11 A. Yes, Florida Cities.

12 Q. Does Florida Cities experience similar fire flow problems?

13 A. No.

14 Q. Please explain the differences between the utility companies as far as  
15 the fire related issues that you deal with.

16 A. There is not a fire flow problem with any the Florida Cities fire  
17 hydrants. Florida Cities does not have to be present during the fire flow  
18 tests. Florida Cities will make repairs to broken public fire hydrants with  
19 no cost to the fire department. Any broken fire hydrants in the Gulf utility  
20 area must be repaired by the fire department at our expense.

21 Q. Is your department responsible for the fire and safety protection of the  
22 Florida Gulf Coast University?

23 A. Yes.

24 Q. Is the pressure and flow provided to the University sufficient to  
25 provide adequate fire protection to the University?

1 | A. No. The water lines to the University are dead end lines which provide  
2 | 1348 gpm.

3 | Q. Does this conclude your testimony?

4 | A. Yes.

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1           **MR. O'SULLIVAN:** The witness is tendered for  
2 cross.

3                           **CROSS EXAMINATION**

4 **BY MR. REILLY:**

5           **Q**     Good morning, Mr. Beard. How are you doing?

6           **A**     Fine, thank you.

7           **Q**     In your direct testimony you were asked if  
8 Gulf met all the fire flow requirements in the service  
9 area. And on Page 2, Line 23, you state, "No. There  
10 are some residential areas that do not produce 750  
11 gallons per minute, and there are commercial areas  
12 that do not produce this either." Is that correct?

13          **A**     That's correct.

14          **Q**     So there are areas, commercial areas, where  
15 the Utility is unable to produce even the 750 gallons?

16          **A**     Yes, sir.

17          **Q**     And what is the required pressure to meet  
18 the commercial fire flow needs?

19          **A**     Specifically, according to the development  
20 standards, there is no specified amount. But if you  
21 do not meet certain requirements, they will not  
22 approve your development order. As in a residential  
23 area, if do you not meet the 750 gallons, your  
24 development order will be cancelled. Okay? You would  
25 have to come back and, say, sprinkler all your

1 buildings, which is a very large expense to the  
2 contractor. That never happens. Okay?

3 Q Okay. You were also posed a question, is  
4 the pressure and flow provided to the university  
5 that's under construction sufficient to meet their  
6 fire flow needs. And I believe on Page 6 of your  
7 testimony you state: "No. The water lines to the  
8 university are dead end lines which provide 1,348  
9 gallons per minute."

10 My question to you is: What is your  
11 understanding of their fire flow needs?

12 A My understanding is I have done the fire  
13 flow calcs for the buildings out there. Based on the  
14 square footage as stated in the Lee County development  
15 code, using the Hayes and Williams formula for the  
16 fire plug and using the formula they use to calculate  
17 fire flow, and most of the buildings do not come up to  
18 fire flow units. I have those -- I have that document  
19 here if you want to review that.

20 Q And this is your analysis of each building?  
21 What, there's as many of nine buildings they're  
22 contemplating?

23 A At this time there's seven buildings.

24 Q Seven buildings?

25 A Yes, sir.

1           **MR. GATLIN:** Can I have a copy?

2           **WITNESS BEARD:** Yes, sir. (Tendering)

3           **MR. REILLY:** I think we'll just -- I think  
4 rather than me trying to look at that document and  
5 understand it, I think we'd be better served if you  
6 could tell me what that document says. Now, I just  
7 noticed on the cover page it said eight buildings, and  
8 you mentioned seven buildings. How many buildings did  
9 this study evaluate?

10          **A**     I'm sorry, eight buildings.

11          **Q**     Eight buildings.

12          **A**     There's seven numbered buildings, and  
13 there's a building they call the broadcast building,  
14 which is the new public television studio.

15          **Q**     Now, will the fire flow requirements differ  
16 from building to building?

17          **A**     Yes, they do.

18          **Q**     And could you tell me -- just summarize the  
19 fire flow requirements per building.

20          **A**     Sure. Building 1 is 53,304 square feet.  
21 It's noncombustible construction. Light hazard  
22 occupancy. They get all the credits for being  
23 noncombustible construction. They take the credit for  
24 being a light hazard occupancy. Based on the formula  
25 that Lee County uses in the development standards, the

1 fire flow comes up that they need 2,493 gallons. This  
2 is an unsprinklered building.

3 Q And real quickly, without even all the  
4 detail, what were the numbers on the remaining  
5 buildings?

6 A I've got a building that requires 2,252.  
7 That's Building 2. That is not sprinklered.

8 Q 3?

9 A Building 3 is a sprinklered building, it's a  
10 Class B occupancy. It's the auditorium. That will be  
11 fire sprinklered so the fire flow is met on that  
12 particular building.

13 Their Building 4 is 26,425 square feet. And  
14 the fire flow on that building would be required to  
15 1,755 gallons per minute.

16 Building 5 is 22,033 square feet. The  
17 required fire flow on that would be 1,603 gallons.

18 Building 6 is 5,448 square feet. That has  
19 met fire flow. The required flow is 797 gallons per  
20 minute.

21 Building 7 is 5,150 square feet. The  
22 required flow on that is 755 gallons per minute, and  
23 the broadcast building is 32,261. The fire flow on  
24 that is 1,939 gallons per minute.

25 Q And it's my understanding when you went out



1 and tested the main line that comes in to serve the  
2 university, you got a result of 1,348 gallons per  
3 minute?

4       A     Originally, that came from the models that  
5 were done. Okay? The computer models at the time,  
6 that 1,348. I did a fire flow test with one of the  
7 Utility representatives at the Food Lion. And they --  
8 before the lines were in, they did a computer model  
9 that was generated to calculate what the anticipated  
10 flow would be. Since then, I've done several tests  
11 out there.

12       Q     Could you give me the updated information?

13       A     Yes, sir, with various results. One test  
14 was performed on 1/13/97, with a number of 1,192.  
15 Another test that was performed on 1/13/97, come up  
16 with 1,042. That's at 20 psi.

17               Another test that was performed on 1/16/97,  
18 the fire flow test came out at 1,064. When we went  
19 out there to -- let me give you these other two. On  
20 1/22/97, we came up 1,099 gallons per minute. We did  
21 another test on 1/22/97. We got the same figure,  
22 1,099 gallons per minute.

23               Now, if there was a request put in from  
24 Brown & Root to the State Fire Marshall's Office and  
25 it was cc'd to the engineer, the State Fire Marshall,

1 Gulf Utility, and everybody involved, everybody shows  
2 up except a representative from Gulf Utility. The  
3 fire flow test that we conducted on that day, which  
4 was the 20th, we got quite different numbers. We came  
5 up with 1,455. We come up with 13,344.

6 Q Is this the same? What location are we  
7 talking about now?

8 A The same location.

9 Q The same location, okay.

10 A We come up with another figure of 1,446.  
11 Actually, a couple of these tests were done at the  
12 entrance. And the fire marshal's tests we went to the  
13 most remote locations. A couple of these tests that  
14 I've done, we did at the entrance to the loop road.  
15 And then we went back and tested the same ones that  
16 the fire marshal had done.

17 Q What is the practical effect of these  
18 results? That there's less fire flow than what is  
19 deemed to be necessary? That there would be a greater  
20 likelihood that the fire department could not  
21 successfully respond to a call to put out a fire at  
22 these locations?

23 A I believe what you are saying is correct.  
24 With a reduced fire flow, we -- in the fire service,  
25 we use a formula called an ideal rate of flow where

1 they do a hydraulic or an algebra calculation of what  
2 kind of water you need if a building is enveloped in  
3 fire to put it out. If you don't meet the fire flow,  
4 you could not put out the fire. You've got to be able  
5 to reduce the heat. And the process we use to reduce  
6 the heat is the application of water.

7 Q Right. Do insurance companies -- to what  
8 extent do they get involved in this whole process? Do  
9 they try to determine what the risk factors are? Are  
10 there higher premiums for the end user, for the  
11 building owner?

12 A I do know this, that in our area that --  
13 where we use insurance service offices, everybody else  
14 doesn't. They'd rate the fire department, and that's  
15 called a dry sort of rating. In the unincorporated  
16 areas where we have no hydrants, we would be  
17 classified a nine. And this is a very complicated  
18 process that takes in not only the water system, but  
19 the fire department training, the personnel,  
20 everything. They critique the fire department and  
21 rate it. In areas that we have hydrants, we are rated  
22 a four, which is a very good rating, unless it does  
23 affect insurance.

24 Q Have you read Mr. Elliot's rebuttal  
25 testimony?

1           A     Yes, I have.

2           Q     And in his testimony he said that a fire  
3 flow test should last at least 10 minutes for the high  
4 service pumps to kick on. Can your department provide  
5 proper protection if you have to wait more than 10  
6 minutes to receive the required fire flows?

7           A     No, sir. 10 minutes is too long for a fire  
8 to burn without putting the proper amount of water on  
9 the fire. I have a letter from another contractor,  
10 Wildcat Fire Protection out of Tampa, and I asked them  
11 how do you do fire flow tests. Basically, they use  
12 the same procedures that I do, according to the  
13 American Water Works Manual 17 and according to NFPA  
14 291. I have those documents here if you'd like to  
15 look at them.

16                     Basically, they use the same procedures that  
17 I do. These are proven and tested procedures  
18 throughout the nation. Nowhere does it say to leave  
19 the hydrant run for 10 minutes; until the pressure  
20 stabilizes, generally two to three minute, as  
21 Mr. Elliot stated. That's about what we do, three to  
22 five minute tests.

23                     Any more than that -- I can't imagine  
24 turning on the hydrant and letting it run full bore  
25 for 10 minutes. That would be -- this is Florida. We

1 have a water problem anyway. The property damage that  
2 can be incurred from letting the hydrant run for so  
3 long, it's just wasting water. If somebody says for  
4 use, and you're pouring 1,000 gallons a minute, you're  
5 talking 10,000 gallons of water ever fire flow test.  
6 I do quite a few fire flow tests and use -- there's a  
7 lot of water.

8           **MR. REILLY:** That concludes my questions. I  
9 have just a question to pose to the Chairman. This  
10 man has done a great deal of work in studying this  
11 question and coming up with these fire flow results.  
12 I would like to have this entered into the record.

13           This is not my witness. I guess I'll yield  
14 to Staff to decide what they desire to sponsor, have  
15 their witness sponsor, but --

16           **MR. GATLIN:** Mr. Chairman, I would like to  
17 see that -- (Simultaneous conversation.)

18           **MR. REILLY:** -- and obviously.

19           **MR. GATLIN:** -- authored that study.

20           **MS. O'SULLIVAN:** I think you could ask  
21 Mr. Beard to file a late-filed exhibit of the  
22 documents.

23           **MR. REILLY:** Well, that's -- all right. I  
24 propose to do that. I personally would like to have  
25 that entered into the record, and I certainly would

1 like to give counsel here an opportunity to review  
2 that information prior to the time it is admitted.  
3 But that would be my motion, with that caveat that  
4 Mr. Gatlin have a chance to review it and interpose  
5 any legitimate objections he might wish to interpose.

6 MR. GATLIN: May I look at the copies of it  
7 now?

8 COMMISSIONER DEASON: Yeah. We are going to  
9 take a five-minute recess and let the attorneys look  
10 at the documents.

11 MR. REILLY: But otherwise that concludes  
12 our questions.

13 (Brief recess.)

14 - - - - -

15 COMMISSIONER DEASON: Call the hearing back  
16 to order.

17 Mr. Reilly, Mr. Gatlin, I note that we had  
18 taken a break and you were going to review some  
19 documents. Is an exhibit going to be requested at  
20 that point, or are we going to wait?

21 MR. REILLY: I would request that it be  
22 admitted, yes.

23 COMMISSIONER DEASON: First of all, we need  
24 to identify it. And is there more than one document,  
25 or is it just one?

1           **MR. GATLIN:** No, it's several.

2           **MR. REILLY:** I would just suggest a  
3 composite, Mr. Beard's composite exhibit. Just get a  
4 short title.

5           **COMMISSIONER DEASON:** What I'm going to do,  
6 Mr. Reilly, is I'm going to give this back to you.  
7 And I'll let you organize it however you wish.

8           **MR. REILLY:** A little later, I'll --

9           **COMMISSIONER DEASON:** Do you have  
10 availability of some type of copy machine? Or are you  
11 going to try to make copies after we get back to  
12 Tallahassee?

13           **MR. REILLY:** I can do that, yes.

14           **MR. GATLIN:** Mr. Chairman, we could make  
15 copies at noon today.

16           **COMMISSIONER DEASON:** Okay.

17           **MR. GATLIN:** Because I've just seen these  
18 documents, and I'm having a little problem with --

19           **COMMISSIONER DEASON:** My concern is, is that  
20 I don't want to detain Mr. Beard any longer than  
21 necessary. So if we can agree that he will no longer  
22 be needed to verify the documents, well, then, I will  
23 allow you to copy them at lunchtime; and then we'll  
24 discuss after lunch exactly how we're going to proceed  
25 with the documents.

1           But I don't want them to have an objection  
2 after Mr. Beard has left that somehow since the  
3 witness is not here that there is an objection to the  
4 accuracy of the documents. Do you understand my  
5 concern?

6           **MR. GATLIN:** I do. Could Mr. Beard be  
7 available on-call this afternoon if he's --

8           **COMMISSIONER DEASON:** I have no idea.  
9 Ms. O'Sullivan.

10          **MS. O'SULLIVAN:** I could check with him. I  
11 would propose that we treat it as we do all late-filed  
12 exhibits, that if we have objections, we deal with  
13 them at a later date.

14          **MR. REILLY:** Of course, they're here now as  
15 opposed to late-fileds. The only difference --

16          **COMMISSIONER DEASON:** The only problem is,  
17 Mr. Reilly, is that we have one copy of the documents  
18 and it's normal procedure to have copies available for  
19 persons to review and at least have some opportunity  
20 to do that review before actually documents are  
21 admitted into the record, if we are not going to do it  
22 as a late-filed.

23          **MR. PORTER:** Mr. Chairman?

24          **COMMISSIONER DEASON:** Yes.

25          **MR. PORTER:** We have access to a copy



1 machine. We'd be more than happy to make copies and  
2 bring them back within an hour after he's done  
3 testifying.

4 **COMMISSIONER DEASON:** Will that be  
5 sufficient for everyone's needs?

6 **MR. GATLIN:** Yes. But I would prefer to  
7 have Mr. Beard available for some cross examination.

8 **COMMISSIONER DEASON:** Mr. Beard, let me ask  
9 you, how long can you spend with us today? I know you  
10 have other responsibilities.

11 **WITNESS BEARD:** Yes, sir. Unfortunately, I  
12 have a meeting at the school at 2 p.m. this afternoon,  
13 a conference.

14 **MR. GATLIN:** May I take his deposition?

15 **COMMISSIONER DEASON:** Mr. Beard -- I mean,  
16 Mr. Gatlin.

17 **MR. GATLIN:** It's all right.

18 **COMMISSIONER DEASON:** How long are you going  
19 to need to actually look at the documents before you  
20 can ask questions?

21 **MR. GATLIN:** It may be resolved at  
22 lunchtime, or if we take a break before then. We had  
23 people looking at them during the break then, but  
24 didn't really get to a conclusion.

25 **COMMISSIONER DEASON:** Mr. Beard, if we take

1 a lunch break from 11:30 to 12:30, can you rejoin us  
2 at 12:30?

3 WITNESS BEARD: Yes, sir.

4 COMMISSIONER DEASON: And we can have copies  
5 at that time.

6 WITNESS BEARD: Yes, sir.

7 MR. REILLY: That sounds good.

8 COMMISSIONER DEASON: We'll just take it up  
9 at that point then, and we'll take an early lunch and  
10 get back early enough that Mr. Beard, to the extent he  
11 has to have questions asked, he can be here and still,  
12 hopefully, make his 2 o'clock appointment.

13 WITNESS BEARD: Thank you, sir.

14 CROSS EXAMINATION

15 BY MR. GATLIN:

16 Q Mr. Beard, how did the school get its  
17 building permit or occupancy permit when you say they  
18 don't meet the flow requirement?

19 A It's a state facility. We have no  
20 forwarding; we have no jurisdiction there. It's under  
21 the jurisdiction of the State Fire Marshal's office.

22 Q Have you or the fire marshal conversed with  
23 Gulf Utility about this?

24 A No, sir. I've talked to the fire marshal,  
25 and I haven't got their results of the same fire flow

1 tests. I've talked to Mr. Weatherbee out of their  
2 office, and he seemed to believe that the fire flow  
3 tests did not come up to what they needed. They have  
4 not provided --

5 Q I'm sorry, I missed who he says.

6 A When we went out and did the fire flow tests  
7 at the university, the state fire marshal was present.  
8 We all conducted the tests together, and we all took  
9 the same figures. We went back to our offices and  
10 calculated the results. I have not seen his results.

11 He said -- and if we are using the same  
12 formula, they're going to be the same. I believe  
13 Mr. Weatherbee, who is the inspector dealing with the  
14 university said he had thought that Tom Mutchler, who  
15 was the supervisor for the fire prevention out at the  
16 State Fire Marshal's Office said that they did not  
17 meet it. I'm not sure.

18 Q How will you find out what the State  
19 Marshal, fire marshal said?

20 A I asked him to call me and fax me the  
21 results, and they have not done that to this day.

22 Q When was that?

23 A Last week. Actually, I talked to him  
24 again -- we were out there Tuesday, I believe. I took  
25 the fire crews out there to do walk throughs so they

1 would become familiar with it. Mr. Weatherbee was out  
2 there, and I asked him where the results were. And he  
3 said, well, Tom's got it, but they haven't sent me  
4 what they found.

5 Q Would they reach a conclusion in their  
6 statement as to whether the fire flows were adequate  
7 in their opinion or not?

8 A They are going to reach a statement, I'm  
9 sure they will.

10 Q Have you dealt with the fire marshal before?

11 A We've worked with them on occasion.

12 Q What's their general procedure when they are  
13 involved in something like this?

14 A I'm not sure, sir. The only time I deal  
15 with them is -- there's a leased building that Florida  
16 Gulf Coast University is using, and I inspect it.  
17 They also inspect it. And then we deal with the issue  
18 of the Florida Gulf Coast University. Those have been  
19 my only connections with the State Fire Marshal's  
20 Prevention Bureau.

21 Q And what are you saying are the required  
22 fire flows at the university?

23 A I believe that was submitted on those  
24 documents of what would be required, all the figures  
25 some buildings meet it; some buildings don't. If it

1 were a private business in the county, they would come  
2 back and tell them to fire sprinkler all these  
3 buildings.

4 Q That's been done with one building, hasn't  
5 it?

6 A That's been done with one building because  
7 it is a Class B assembly.

8 Q Will the Utility system loop the lines as  
9 the university grows?

10 A I believe so.

11 Q And will that increase the pressure?

12 A Oh, absolutely.

13 Q Did the fire marshal indicate that any of  
14 the other buildings have sprinklers?

15 A Yes.

16 Q And that would change the required flow at  
17 those buildings, would it not?

18 A Yes.

19 Q So how many buildings are we talking about  
20 now? How many has he said there should be sprinklers  
21 in?

22 A I'd have to look at the papers. I think  
23 there's three buildings that met fire flow, and the  
24 others did not.

25 Q And those three, those that do not meet fire

1 flows, will they have to install sprinklers?

2 A No, they won't do it.

3 Q Would that be a way to solve the question  
4 that you've raised?

5 A Oh, absolutely. A sprinkler system would be  
6 designed around the available fire flow. Absolutely.

7 Q Would the county code, if it were  
8 applicable, require sprinklers to be in place in this  
9 situation?

10 A Yes, it would.

11 Q And what code does the fire marshal use?

12 A I'm not sure.

13 Q I think you indicated that there was a new  
14 ordinance that went into effect in 1992 that is now  
15 the ordinance relating fire flows to Lee County; is  
16 that correct?

17 A Yes, sir, that's one of the things. I cited  
18 it was Lee County Development, Section 12. Since then  
19 they've changed it to --

20 Q 10?

21 A Lee County Development -- I've got a copy of  
22 that also. Basically, the two documents, the context  
23 is exactly the same. They just rolled the old  
24 development standard into the new development code.

25 Q And when you use -- excuse me. Were you

1 finished?

2 A Go ahead, sir.

3 Q And you recognize that this code, this Lee  
4 County ordinance, imposes the requirements on the  
5 developer; is that correct?

6 A Yes, sir.

7 Q And since the new ordinance went into effect  
8 in 1992, all buildings have been built in this area  
9 according to the county specification; is that  
10 correct?

11 A Yes, sir.

12 Q And they are meeting fire flow requirements?

13 A Some do, some don't. Some buildings have  
14 had to build four-hour walls to cut the building size  
15 down to reduce the square footage. One building I  
16 know of in particular has had to fire sprinkler the  
17 building.

18 Q What part of the system was that in?

19 A These buildings, one is on Liberty Square  
20 Circle, which is a new area that comes off the  
21 Constitution Boulevard, and some areas around  
22 Rockefeller Circle.

23 Q Were the pipes, the lines, in the ground  
24 when the developer developed that building?

25 A Yes.

1 Q They had been underground about 25 years,  
2 hadn't they?

3 A I'm not sure, sir.

4 Q They have been under the ground a long time,  
5 haven't they?

6 A I won't say 25 years because at the Dominion  
7 Center, which is not 25 years old -- that fire  
8 department has only been there about 20 -- since 1964.  
9 And 30-something years, there wasn't really much out  
10 here at that time. The Dominion Child Care Center had  
11 to put in a draft well on Rockefeller Circle because  
12 there were no hydrant lines. So some of those have  
13 been added, I'd say, in the last 10 years or so.

14 Q There's no requirement in the code to  
15 require retrofit of water lines to fire, is there?

16 A Nope.

17 Q And when you build in the older sections --  
18 I mean, build new buildings where the old lines are  
19 there, you are required to do things like put  
20 sprinklers in and fire walls, aren't you?

21 A If the fire flow is not met, yes.

22 Q It would be a fairly large expensive  
23 project, wouldn't it, to retrofit Gulf Utility's lines  
24 to make certain that nobody would have to build thick  
25 walls or have to put sprinklers in?



1           A     That could be a big expense, yes.

2           Q     Do you assert that fire flow in other  
3 sections of the certificated area of Gulf do not meet  
4 fire flows?

5           A     Yes.

6           Q     Which sections are that?

7           A     Island Park.

8           Q     And what would be the fire requirement  
9 there?

10          A     In some areas 750. I just conducted a fire  
11 flow test for the Terraverde subdivision. I came up  
12 with 692 gallons per minute. The developer is trying  
13 to build a multifamily complex there. They don't even  
14 meet the 750. I have that test for you; I'll dig it  
15 out.

16          Q     How did you describe that section?

17          A     Multifamily.

18          Q     No, I mean you had a name, didn't you?

19          A     Terraverde.

20          Q     Have you made any tests on Three Oaks  
21 Parkway?

22          A     Yes, sir.

23          Q     And what was the flow there?

24          A     Very good.

25          Q     Is the critical number on the chart, the

1 flow number? I mean, that 1,594 GPM, is that the  
2 critical number you're looking --

3 A If it's on the fire flow test, it says flow  
4 equals, and then there's a number, GPM at 20 psi  
5 residual, that is the number. It's the bottom line in  
6 the second section.

7 Q Did you indicate that the fire flow to  
8 Island Park had gone down? Was not as high as it used  
9 to be?

10 A Some of the tests I have show that it's up  
11 and down. I've got some tests that I've done in the  
12 Tide Water Island area. A few tests that I've done  
13 are 600 to 700 gallons per minute. And then seven  
14 days later, we get 1,000.

15 Q Those lines in that section were put down  
16 20, 25 years ago, weren't they?

17 A I can't say that they were put down 25 years  
18 ago. I have no idea.

19 Q How long have you been here?

20 A In Fort Myers? I've been here 37 years.

21 Q How long have you been familiar with this  
22 territory?

23 A For the last -- I've been employed with the  
24 fire district for over 13 years as a firefighter.  
25 I've been doing inspections for the last five or six.

1 Q Those lines are older than that, aren't  
2 they, older than 13 years?

3 A I'm not sure.

4 Q They are not new lines, are they?

5 A No.

6 Q Have you noticed them being installed since  
7 you've been here?

8 A I believe in some of the new developments  
9 they've had lines installed, they've had to.

10 Q I'm talking about the one that we're talking  
11 about, Island Park Village.

12 A Island Park Village, that was probably built  
13 in the early '80s, I'd say.

14 Q Before the development code went into  
15 effect?

16 A Yes.

17 Q And there's no -- I think you indicated  
18 earlier there was no requirement to retrofit these  
19 lines by the county?

20 A No.

21 Q Have you taken any tests at the Winn Dixie  
22 Plaza?

23 A Yes, sir.

24 Q What is the fire flow there?

25 A They have good fire flow in that area.

1 Q 1,000?

2 A Oh, yeah.

3 MR. GATLIN: That's all I have. Thank you,  
4 Mr. Beard.

5 WITNESS BEARD: Sir, I have that fire flow  
6 test from Terraverde if you want to put that with the  
7 other copy.

8 MR. GATLIN: Do you have the documents?

9 MR. REILLY: They've just been sent to the  
10 copier, so they will be ready for everybody.

11 COMMISSIONER DEASON: Mr. Beard, we  
12 appreciate your being with us. We are going to excuse  
13 you for now and ask you to return after lunch.

14 WITNESS BEARD: Thank you very much.

15 COMMISSIONER DEASON: Thank you.

16 You may call your next witness.

17 (Witness Beard excused.)

18 - - - - -

19 MS. O'SULLIVAN: The next witness is Bernard  
20 Kleinschmidt.

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**BERNARD KLEINSCHMIDT**

1  
2 was called as a witness on behalf of the Staff of the  
3 Florida Public Service Commission and, having been  
4 duly sworn, testified as follows:

**DIRECT EXAMINATION**

5  
6 **BY MS. O'SULLIVAN:**

7 Q Good morning.

8 A Good morning.

9 Q Mr. Kleinschmidt, please state your name and  
10 business address for the record?

11 A Bernard O. Kleinschmidt, and I'm at 20241  
12 South Tamiami Trail.

13 Q By whom are you employed and in what  
14 capacity?

15 A The Estero Fire District, and I'm in the  
16 capacity of the fire official for that district.

17 Q Have you prefiled direct testimony  
18 consisting of five pages?

19 A Yes.

20 **MS. O'SULLIVAN:** Commissioner Deason, may we  
21 have Mr. Kleinschmidt's testimony inserted into the  
22 record as though read?

23 **COMMISSIONER DEASON:** Are you going to ask  
24 him if the answers to the questions are the same?

25 Q (By Ms. O'Sullivan) Oh, I'm sorry. Let me

1 ask you if you have any changes or corrections to your  
2 testimony.

3 A No, ma'am, I don't.

4 COMMISSIONER DEASON: All right. Without  
5 objection, the prefiled testimony will be inserted in  
6 the record as though read.

7 Q (By Ms. O'Sullivan) Mr. Kleinschmidt, did  
8 you also file Exhibit BOK-1 attached to your  
9 testimony?

10 A Yes, ma'am, I did.

11 Q Do you have any changes or corrections to  
12 that exhibit?

13 A No, ma'am.

14 MS. O'SULLIVAN: Commissioner Deason, may we  
15 have that exhibit identified?

16 COMMISSIONER DEASON: Yes. It will be  
17 identified as Exhibit 22.

18 (Exhibit 22 marked for identification.)

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DIRECT TESTIMONY OF BERNARD O. KLEINSCHMIDT

- 1
- 2 Q. Please state your name and business address.
- 3 A. Bernard O. Kleinschmidt. My business address is 20241 S Tamiami Trail,  
4 Estero, Florida 33928.
- 5 Q. Please state a brief description of your educational background and  
6 experience.
- 7 A. I have two A.S. Degrees, one in Criminal Justice and the other in Fire  
8 Science Technology. I have a B.S. Degree in Public Administration. I have  
9 approximately 11 years as a Certified Firefighter with the last 7 being a  
10 Certified Fire Inspector.
- 11 Q. By whom are you presently employed?
- 12 A. The Estero Fire Control and Rescue Service District.
- 13 Q. How long have you been employed by the district, and in what capacity?
- 14 A. Since June of 1996, in the capacity of Captain, and currently as Deputy  
15 Chief. My duties are to act as the district's "Authority Having Jurisdiction"  
16 concerning Fire Code and Building Code compliance within the district.
- 17 Q. What are your general responsibilities?
- 18 A. I am responsible to ensure compliance with currently adopted Fire and  
19 Building Codes within the district. This includes new construction,  
20 remodeling, occupancy and site access.
- 21 Q. Does Gulf Utilities, Inc. provide fire flow to the Estero District?
- 22 A. Yes.
- 23 Q. Are you familiar with Gulf Utilities, Inc.'s fire hydrant system?
- 24 A. Only portions that I have had direct involvement with.
- 25 Q. Who is responsible for fire flows?

1 A. The water utility company.

2 Q. Who is responsible for maintaining fire hydrants in your district?

3 A. I was advised that Gulf Utilities that there was an agreement with the  
4 fire district. I am told that this agreement places that responsibility on  
5 the fire district. I have not personally seen this agreement.

6 Q. Who is responsible for testing the fire hydrants?

7 A. Fire Districts are graded by an organization called the Insurance  
8 Service Organization (ISO). This organization classifies fire departments  
9 throughout the U.S. This grading system is used by insurance companies to set  
10 rates within the area covered by the respective department. Part of this  
11 grading system covers available fire flows. It takes into consideration the  
12 placement and capacity of fire hydrants along with any maintenance program  
13 that is used to ensure their operation. In order to maintain our ISO rating,  
14 we have to provide a maintenance program or contract an outside agency to  
15 provide this service. In the past maintenance programs provided by the water  
16 utility companies have been cost prohibitive. It is because of this most  
17 fire districts have chosen to provide the service in-house.

18 Q. Is there a minimum fire flow requirement?

19 A. Yes. Single family homes are required to have a minimum fire flow of  
20 750 gpm. Fire flow in commercial areas is dictated by the type of buildings,  
21 size, spacing and use. These variables are plugged into a mathematical  
22 calculation to determine the required minimum fire flow for each building.  
23 Also hydrant spacing in these areas is different. Residential spacing is 500'  
24 where as commercial is 400' to the furthest accessible point of the building's  
25 exterior.



1 Q. Are these requirements specified by county ordinance or other  
2 governmental body?

3 A. Yes. Lee County has adopted a Developmental Order to control all growth  
4 within the county. Section 12 of this order covers this information

5 Q. Does Gulf Utilities meet all of these requirements in its service area?

6 A. No. Not at the time of the fire flows that I have presented and  
7 attached in Exhibit BOK-1.

8 Q. What are the causes of low fire flow?

9 A. Many variables can affect fire flow: size of pipe, pump pressure,  
10 obstructions, etc.

11 Q. How does reduced pressure effect existing buildings with fire sprinklers  
12 that were designed for higher fire flows?

13 A. Systems are designed with a minimum fire flow in mind. Because of  
14 contractor and material costs, systems are designed to perform to standard  
15 using the least amount of materials. Once the fire flow is determined, the  
16 system is designed to minimums keeping a small safety factor in mind. If the  
17 minimum fire flow is not maintained, the system will not function as designed  
18 and can be overwhelmed in the case of a fire. Fire sprinklers are designed  
19 to either extinguish or contain fires in the beginning stages of growth. If  
20 the system does not have the designed fire flow available, the fire can grow  
21 faster than the system can react.

22 Q. Does a lower fire flow cause difficulty for the construction industry?

23 A. As a result of lower available fire flows, buildings would be required  
24 to have other safety factors installed. This could result in the building  
25 being sprinklered, fire walls being constructed to break-up excessive floor

1 space, and even the spacing between building being increased to protect them  
2 from fire spread. This would pose a problem for the building industry, but  
3 as with all other building costs the burden would eventually be passed on to  
4 the end user, the consumer.

5 Q. How does lower fire flows affect the fire department?

6 A. Rule of thumb for firefighters is that it takes approximately 1 gallon  
7 of water per minute to extinguish 100 cubic feet of burning material  
8 Example: A building is full of combustible material and is consumed with fire  
9 upon arrival of the fire department. The dimensions of the building are 20'  
10 x 20' x 10'. The volume of the building is 4000 cubic feet. This building  
11 would require a fire flow of 40 gallons per minute to extinguish the fire.  
12 Obviously this is a quick rule used to determine whether enough water is  
13 available to fight the fire or simply write off the building and not just  
14 protect the surrounding structures. This rule does not take into  
15 consideration that the building contains empty air space and that it is not  
16 full to the ceiling with material. But, consider a 63,000 square foot  
17 furniture warehouse loaded with material. Normally with a 20' ceiling. Using  
18 the formula this building would require the fire department to pump 12,600  
19 gallons per minute. Fire flow does make a difference.

20 Q. Have you had any other problems with the utility's fire flow?

21 A. Yes. We are asked by contractors to perform fire flow tests in areas  
22 of future construction. This allows the contractors to plan fire systems and  
23 buildings. My experience has been that the water system contains so much  
24 debris that in some cases a fire flow was not successful due to the debris  
25 obstructions coming through the hydrants. One case in particular stands out

1 I was conducting a fire flow test in the Wildcat Run subdivision. The test  
2 is conducted by placing a pressure device on the hydrant and flowing water  
3 through it. Every time we flowed water through the device it would get  
4 clogged up with roots, wood and construction debris that was in the water  
5 pipe. These are not water lines under construction. They are the water lines  
6 that are currently in use to provide drinking water to the residents of  
7 Wildcat Run. I was asked to flush a hydrant in the Breckenridge sub-division.  
8 This request was from the residents association president. I began to flow  
9 the hydrant and the water was a dark rusty color. I explained that the water  
10 always looks like this but clears up within a few seconds. The hydrant flowed  
11 for 20 minutes and the water never did clear up.

12 Q. Do you have anything further to add?

13 A. No. I do not.

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1 MS. O'SULLIVAN: Was 22 reserved for  
2 Mr. Beard's Composite Exhibit that was being copied  
3 right now?

4 COMMISSIONER DEASON: We have not yet  
5 assigned a number to that.

6 MS. O'SULLIVAN: Okay. The witness is  
7 tendered for cross.

8 COMMISSIONER DEASON: Mr. Reilly.

9 CROSS EXAMINATION

10 BY MR. REILLY:

11 Q Good morning.

12 A Good morning.

13 Q In your prefiled direct you were asked the  
14 question: Does Gulf meet all of the fire flow  
15 requirements in its service area? You state on Page  
16 3, Line 6: No, not at the time of fire flows that I  
17 have presented and attached in Exhibit BOK-1. So it  
18 is your conclusion here and it is still your testimony  
19 today that Gulf does not always meet its fire flow  
20 requirements in its service area?

21 A On those two exhibits, that's correct.

22 Q And do you have an opinion as to how they  
23 are meeting their requirements, generally speaking,  
24 throughout their service area?

25 A There is a limited area of my district that

1 they cover. There is a lot of unwatered, unserviced  
2 area in my district.

3           Generally, they do meet the 1,500 GPM at 20  
4 psi residual throughout the portion of my district  
5 that they do cover. But in these two cases, and now,  
6 I'm sure there are some others, that they don't.

7           Q     Directing your attention to this exhibit  
8 that you had, you had the two fire flow test records.  
9 One shows 939.78 gallons per minute at 20 psi, and the  
10 other at 1,154.93 at 20 psi. Could you tell me where  
11 those areas, exactly, are located?

12          A     I don't have those in front of me.

13          Q     Were they commercial areas or --

14          A     I don't have them in front of me. If you've  
15 got a --

16          Q     I have a copy here.

17          A     -- have a copy, I can tell you where they  
18 are located. The one location is U.S. 41 north of the  
19 Estero River. That's a commercial area with U.S. 41  
20 frontage. And the other one is the Breckenridge Bath  
21 and Tennis Club, which is a residential area with  
22 multifamily multistory.

23          Q     And in your judgment, in these same areas,  
24 what is the required fire flow?

25          A     In the residential it would be the same 750

1 gallons per minute. The problem that we had in  
2 Breckenridge was that they were putting in multifamily  
3 and multistory buildings. Because of the lower fire  
4 flow, the developer was forced to go in and subdivide  
5 the floor space of the building with four-hour fire  
6 walls and to sprinkler the building.

7 Q Okay. On Page 5, Line 10, you state that  
8 the hydrant flowed for 20 minutes and the water never  
9 did clear up.

10 A Yes, sir.

11 Q Are you aware of Mr. Elliot, the Gulf  
12 Utility witness Mr. Elliot, who said that fire flow  
13 tests should last at least 10 minutes for the high  
14 service pumps to kick on?

15 And my question is did you see significant  
16 flow increase during this entire 20-minute test that  
17 you ran?

18 A No, sir, I didn't. And getting back to that  
19 statement, the industry standards of taking fire flow  
20 tests, it's supposed to be at a worst case scenario.  
21 The worst case scenario being at a peak demand time of  
22 the day and before those pumps kick in with the  
23 stipulation, the worst case scenario is that those  
24 pumps won't kick in because of whatever failure.  
25 That's why the 10-minute delay on the fire flow test

1 is contraindicated on any industry standard for taking  
2 fire flows for the fire department.

3 Q Very good. Did I understand you to say  
4 that, though, during this 20-minute duration you did  
5 not see a significant increase in flow even after it  
6 crossed the 10-minute interval.

7 A No, sir, we did not. Keep in mind we did  
8 not have gauges on the flow. We were just flushing  
9 the hydrant so that it wouldn't -- unless it would  
10 have been something very appreciable that could be  
11 detected either by sound or by sight, it wouldn't have  
12 been detected.

13 Q Can your fire department properly meet its  
14 fire protection obligations if you have to wait more  
15 than 10 minutes to receive fire flows?

16 A Absolutely not.

17 MR. REILLY: No further questions.

18 COMMISSIONER DEASON: Mr. Gatlin.

19 **CROSS EXAMINATION**

20 **BY MR. GATLIN:**

21 Q What's your fire department, sir?

22 A Estero, sir.

23 Q Isn't that where a bunch of firemen were  
24 fired recently?

25 A Yes, sir.

1 Q About 14?

2 A 11.

3 Q 11. And why were they fired?

4 A I really don't know, sir. That wasn't my  
5 decision.

6 Q Were you there at the time of the firings?

7 A Yes, I was.

8 Q And who is operating the fire department?  
9 Who are the personnel operating the fire department?

10 A Administratively?

11 Q The people on the trucks and go on the fire  
12 calls and so forth, who are those?

13 A The suppression activities of the Estero  
14 fire district were contracted to a private company.

15 Q Wackenhut?

16 A Yes, sir.

17 Q Were they trained fireman -- are they  
18 trained fireman?

19 A Yes, sir.

20 Q Before this started with you?

21 A Yes, sir.

22 COMMISSIONER CLARK: Mr. Gatlin, what was  
23 your last question?

24 MR. GATLIN: Before they started with you.

25 COMMISSIONER CLARK: With you?



1           **MR. GATLIN:** With the fire department.

2           **COMMISSIONER CLARK:** You need to enunciate.

3 I'm having trouble understanding.

4           **MR. GATLIN:** I'm sorry.

5           **Q**        **(By Mr. Gatlin)** You submitted two fire  
6 tests, did you not, with your testimony?

7           **A**        I've submitted four fire tests.

8           **Q**        Okay.

9           **A**        And two were brought into an exhibit.

10          **Q**        What were the dates of those fire tests?

11          **A**        I don't have them in front of me. They've  
12 been submitted.

13          **Q**        1995?

14          **A**        Yes. One was January 19, 1995, and the  
15 other one was December 18, 1995.

16          **Q**        Now, you've made tests since 1995 that show  
17 there is adequate fire flows at those places, haven't  
18 you?

19          **A**        The U.S. 41 north of the Estero River, we  
20 have done fire flow tests there, but there hasn't been  
21 any construction there to determine whether or not it  
22 was adequate or not. The Breckenridge, even with any  
23 increase in fire flow, they were still forced to  
24 subdivide into sprinklered buildings.

25                   As a matter of fact, this month I have

1 another 30-unit three-story building coming out of the  
2 ground.

3 Q Have you taken any fire tests from those  
4 specific sites that you did in 1995?

5 A Yes.

6 Q And what were the results then?

7 A Those are the ones in the exhibit.

8 Q Since 1995?

9 A Yes, sir, just in the past few weeks.

10 Q Okay. What do they show?

11 A Do you have the copies?

12 MR. REILLY: This is Mr. Beard's.

13 WITNESS KLEINSCHMIDT: No, no. My flows  
14 that I did at Breckenridge.

15 On February 28, 1997, I flowed the same two  
16 hydrants that were flowed on December 18, 1995.

17 Q (By Mr. Gatlin) And what did you find?

18 A I found an increase from 1,154 to 2,466.

19 Q That's adequate flows, is it not?

20 A I'm not sure, sir. They have sprinklered  
21 that building, and by sprinklering that building they  
22 deleted any minimum fire flow requirements.

23 Q Right. So they don't have an adequate fire  
24 flow requirement, so the 2,000 is satisfactory?

25 A With the building being sprinklered, yes.

1 Q Is there anything wrong in sprinklering  
2 buildings? Isn't that a legitimate way to protect  
3 from fires?

4 A Absolutely.

5 Q And the code requires that, does it not?

6 A No, sir, it does not. It requires it as an  
7 alternative to not having minimum fire flows.

8 Q That is one way to build a building and  
9 satisfy the fire flows?

10 A Absolutely.

11 Q And the code allows that?

12 A Yes, sir.

13 Q And it allows fire walls, does it not?

14 A Yes, it does.

15 Q How long have you been working at the  
16 district?

17 A Since June of 1996.

18 Q Why did you not bring to the attention of  
19 the Commission those later fire flows at the same  
20 place? Why did you pick 1995 instead of 1997?

21 A These fire flows --

22 Q Yes.

23 A -- were any? I did a scan on our computer  
24 to give me any fire flows that were conducted in my  
25 district that did not meet 1,500 GPM at 20 psi

1 residual.

2 Q So why didn't you give the Commission those  
3 later? You were just trying to find the bad ones? Is  
4 that what you were doing?

5 A Any one that did not meet that minimum of  
6 1,500 GPM. These other tests were conducted after  
7 that was done.

8 Q Two years later.

9 A Well, they were done at the request of the  
10 developer because they were building in that area.

11 Q What's the situation with the size of lines  
12 in that development?

13 A I have no idea.

14 Q Hasn't that system been recently looped?

15 A I don't know.

16 Q Would that not affect the fire flow?

17 A Yes, it would.

18 Q In your direct testimony you said that you  
19 have not looked at the maintenance agreement between  
20 the fire department and Gulf Utility; is that correct?

21 A I have not seen a maintenance agreement.  
22 I'm told there's one in place, but no one can produce  
23 it for me.

24 Q Who have you asked?

25 A I've asked my chief, and I've asked Gary

1 Hall with Gulf Utility.

2 Q Don't you really have to have that to know  
3 what the duties you have, as opposed to Gulf Utility?

4 A No, sir, I don't. I'm tasked with  
5 maintaining those hydrants whether I do it myself or  
6 it's subcontracted by the Gulf Utility, as long as  
7 it's done by someone.

8 Q Wouldn't it be better for your citizens and  
9 Gulf's customers if you get a copy of that agreement  
10 and see what each party has responsibility for?

11 A If that document does exist.

12 Q Would you all like to see one?

13 A I'd love to have a copy of it.

14 (Tendered document.)

15 COMMISSIONER DEASON: Can we have one for  
16 the court reporter, please?

17 MR. GATLIN: May we have this identified,  
18 Mr. Chairman?

19 COMMISSIONER DEASON: No, but we can  
20 identify it. It will be identified as Exhibit 23.

21 (Exhibit 23 marked for identification.)

22 Q (By Mr. Gatlin) And the fire department  
23 does not have a copy of this agreement?

24 A None that can be recovered at this time.

25 Q Why is that?

1           A     I have no idea, sir. This is dated 1992.

2           Q     That's right. It's been in effect since  
3 1992.

4           A     Yes, sir. Do you happen to know who signed  
5 this, since there is no signature on it?

6           Q     I didn't look. Mr. Moore, and the fire  
7 chief, and Ray what? I can't make out his name.

8                     Joseph Linzalone. He's the fire chief.

9           A     He's no longer the chief at that district  
10 and hasn't been for over two years, sir.

11          Q     Well, are you saying that the agreement is  
12 not in effect now?

13          A     No, I'm not saying that. I'm saying that  
14 nothing since the relief of Chief Linzalone has been  
15 brought to our attention. Maybe this needs to be  
16 rewritten.

17          Q     That is the one that is in effect now and  
18 spells out the parties responsibilities; is that  
19 correct?

20          A     If this is indeed in effect, then I would  
21 say that, yes, sir.

22          Q     The Section 10 of the Lee County Ordinances  
23 that you have referred to and Mr. Beard referred to  
24 also, that's the development-type ordinance, is it  
25 not, that applies to developers to make certain that

1 they provide fire protection?

2 A Yes, sir, it does deal with that.

3 Q Under the agreement and under the ordinance,  
4 aren't you supposed to notify Gulf Utility before you  
5 make a fire flow test?

6 A Under the ordinance, no. And I haven't had  
7 a chance to read this agreement, but it may be in  
8 there.

9 Q Look at Section 10.825, Paragraph 4. Will  
10 you read that and then tell me who you think should  
11 notify Gulf?

12 A This deals with hydrant spacing.

13 Q You are right. I had the wrong page, a page  
14 earlier. Letter C as part of 10.892.

15 MS. O'SULLIVAN: Mr. Gatlin, what section of  
16 the order is that? Development order is that?

17 MR. GATLIN: 10. (Indicating)

18 Q (By Mr. Gatlin) Have you had a chance to  
19 read that?

20 A Yes. I have.

21 Q What does that say to you?

22 A It says fire flow tests shall be witnessed  
23 by the fire department and other authorities having  
24 jurisdiction who desire to do so.

25 Q Doesn't that indicate an intention of the

1 ordinance that utilities be notified when a fire test  
2 is made?

3 A Not to me, sir. Under the fire code, the  
4 Utility Company is not an authority having  
5 jurisdiction.

6 Q You just want them to have more flows, but  
7 not any jurisdiction?

8 A No, sir. I believe -- and again, I didn't  
9 write that document. But I believe, using the  
10 terminology "authority having jurisdiction," that  
11 comes from the fire code, and that refers to the fire  
12 officials, sir.

13 Q If Gulf were to let you know that they were  
14 interested in testing fire flows when you did, would  
15 you notify them?

16 A That would depend upon my relationship with  
17 Gulf Utility, sir.

18 Q Is there a problem with your relationship  
19 with Gulf Utility?

20 A Not that I know of as of yet.

21 Q But wouldn't it be very professional to do  
22 that if they want to participate?

23 A Yes, sir, it would.

24 Q And in many instances the Utility has  
25 participated, hasn't it?



1           A     Oh, absolutely.

2           Q     Don't you think it would be effective if you  
3 talked to Gulf Utility and sat down with them and  
4 tried to work some problems out if they exist?

5           A     Yes, sir, if the problems are identified.

6           Q     Would you meet with them?

7           A     Oh, absolutely.

8           MR. GATLIN:   Okay.   Thank you.

9           COMMISSIONER DEASON:   Redirect.

10          MS. O'SULLIVAN:   Just a few questions on  
11 redirect, Mr. Kleinschmidt.

12                                    **REDIRECT EXAMINATION**

13          **BY MS. O'SULLIVAN:**

14          Q     The labor situation at the Estero Fire  
15 Department, has that any impact on taking fire flow  
16 tests?

17          A     No, ma'am, it hasn't.   I'm the one that  
18 conducts the fire flow tests, and I've been  
19 continuously employed there.

20          Q     Is it correct that you filed your testimony  
21 in early January of this year?

22          A     Yes, it is.

23          Q     And when were the 1997 tests taken?   Was  
24 that before or after you filed your testimony?

25          A     One, I believe, was done in December.

1 Q December of '97 or --

2 A December of '96.

3 Q Okay.

4 A And one in January, I believe, if I recall  
5 what I read.

6 Q Let me give you that exhibit again briefly.

7 A Okay.

8 Q Are those two documents the tests that you  
9 referred to earlier that you conducted recently?

10 A Yes, ma'am. One was February 28th of '97.  
11 And the other one was the same date, February 28th of  
12 '97.

13 MS. O'SULLIVAN: All right. Thank you. No  
14 further questions.

15 COMMISSIONER DEASON: Exhibits.

16 MR. GATLIN: I move Exhibit 23.

17 COMMISSIONER DEASON: Without objection,  
18 Exhibit 23 is admitted.

19 (Exhibit 23 received in evidence.)

20 MS. O'SULLIVAN: Staff moves Exhibit 22.

21 COMMISSIONER DEASON: Without objection,  
22 Exhibit 22 is admitted.

23 Thank you Mr. Kleinschmidt for being with us  
24 today.

25 (Exhibit 22 received in evidence.)

1 (Witness Kleinschmidt excused.)

2 - - - - -

3 MS. O'SULLIVAN: Thank you.

4 COMMISSIONER DEASON: Staff you may call  
5 your next witness.

6 MS. O'SULLIVAN: Our next witness is Kathy  
7 Welch.

8 Let me know when you are ready to begin,  
9 when you get set up there.

10 All set?

11 WITNESS WELCH: Okay.

12 - - - - -

13 KATHY L. WELCH

14 was called as a witness on behalf of the Staff of the  
15 Florida Public Service Commission and, having been  
16 duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. O'SULLIVAN:

19 Q Ms. Welch, please state your name and  
20 business address for the record.

21 A Kathy Welch, 3625 N.W. 82nd Avenue, Suite  
22 400, Miami 33166.

23 Q And by whom are you employed and in what  
24 capacity?

25 A The Florida Public Service Commission. I'm

1 the district audit supervisor for Miami.

2 Q All right. Have you prefiled direct  
3 testimony in this docket consisting of 16 pages?

4 A Yes, I have.

5 Q Do you have any changes or correction to  
6 your testimony?

7 A Yes, I do.

8 Q Please let us know what those are. If you  
9 could try to speak a little bit closer to the  
10 microphone so we can all hear you.

11 A Page 16, Line 8. The number 49,200 should  
12 read 14,819.

13 MR. GATLIN: What was the page number?

14 WITNESS WELCH: 16, Line 8.

15 COMMISSIONER CLARK: Kathy, what was that  
16 number again?

17 WITNESS WELCH: It was 49,200, and now it's  
18 14,819.

19 Q (By Ms. O'Sullivan) And your next  
20 correction?

21 A In the audit report that's attached to the  
22 testimony, Page 24, the number that reads 6201.81  
23 should read 7476.20. The number that reads 5001.81  
24 should read 6276.20.

25 MR. GATLIN: 67 --

1           **WITNESS WELCH:** 6276.20. The number that  
2 reads 3301.19 should read 4142.29. The number that  
3 reads 1700.62, should read 2133.91. And Page 34  
4 should be deleted. Those are all my corrections.

5           **Q**        **(By Ms. O'Sullivan)** With those  
6 corrections, if I were to ask you the same questions,  
7 would your testimony be the same today?

8           **A**        Yes, it would.

9           **MS. O'SULLIVAN:** Commissioner Deason, may we  
10 have Ms. Welch's testimony inserted into the record as  
11 though read?

12           **COMMISSIONER DEASON:** Without objection, it  
13 shall be so inserted.

14           **MS. O'SULLIVAN:** Thank you.

15           **Q**        **(By Ms. O'Sullivan)** Ms. Welch, did you  
16 also file an exhibit identified as KLW-1 with your  
17 testimony?

18           **A**        Yes, I did.

19           **Q**        And I believe you just made a correction to  
20 that exhibit previously?

21           **A**        Yes, I did.

22           **Q**        Do you have any other corrections to that  
23 exhibit?

24           **A**        No, I don't.

25           **MS. O'SULLIVAN:** Commissioner Deason, may we

1 have that exhibit identified?

2 COMMISSIONER DEASON: Yes. Exhibit 24.

3 (Exhibit 24 marked for identification.)

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## DIRECT TESTIMONY OF KATHY L. WELCH

1

2 Q. Please state your name and business address

3 A. My name is Kathy L. Welch. My business address is 3625 NW 82nd Ave.  
4 Suite 400, Miami, Florida.

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

6 A. I am employed by the Florida Public Service Commission as a Regulatory  
7 Analyst Supervisor in the Division of Auditing and Financial Analysis

8 Q. How long have you been employed by the Commission?

9 A. I have been employed by the Florida Public Service Commission for  
10 seventeen years and six months.

11 Q. Briefly review your educational and professional background

12 A. I have a Bachelor of Business Administration degree with a major in  
13 accounting from Florida Atlantic University. I have a Certified Public  
14 Manager certificate from Florida State University. I am also a Certified  
15 Public Accountant licensed in the State of Florida. I was hired as a Public  
16 Utilities Analyst I by the Florida Public Service Commission in June of 1979.  
17 I was promoted to Regulatory Analyst Supervisor on January 2, 1990

18 Q. Please describe your current responsibilities.

19 A. Currently, I am a Regulatory Analyst Supervisor with the  
20 responsibilities of administering the Miami District Office, reviewing  
21 workload and allocating resources to complete field work and issue audit  
22 reports. I also supervise, plan, and conduct utility audits of manual and  
23 automated accounting systems for historical and forecasted financial  
24 statements and exhibits.

25 Q. Have you testified before this Commission or any other regulatory

1 | agency?

2 | A. Yes. I have filed testimony in the following cases Tamiami Village  
3 | Utility, Inc. rate case, Docket No. 910560-WS; Tamiami Village Utility, Inc.  
4 | transfer to North Fort Myers, Docket No. 940963-SU; and General Development  
5 | Utilities, Inc. rate case, Docket No. 911030-WS.

6 | Q. What is the purpose of your testimony today?

7 | A. The purpose of my testimony is to sponsor the staff audit report of Gulf  
8 | Utility in this proceeding. The audit report is filed with my testimony and  
9 | is identified as K LW-1.

10 | Q. Were you responsible for this audit report?

11 | A. Yes. I was the supervisor in charge of this audit

12 | Q. Please review the audit exceptions in the audit report.

13 | A. Audit Exceptions disclose substantial non-compliance with the Uniform  
14 | System of Accounts, a Commission rule or order, Staff Advisory Bulletins, and  
15 | formal company policy. Audit Exceptions also disclose company exhibits that  
16 | do not represent company books and records and company failure to provide  
17 | underlying records or documentation to support the general ledger or exhibits

18 | Audit Exception No. 1 addresses an adjustment made in the last rate case  
19 | order. Order No. 24735, issued July 1, 1991, on page 7, reduced plant by  
20 | \$20,721 and accumulated depreciation by \$9,648 to remove 72% of the cost of  
21 | a Lexus automobile. However, the Lexus should be fully depreciated by October  
22 | 1, 1996, so no adjustment is needed for the forecasted test year ended  
23 | December 31, 1996.

24 | Audit Exception No. 2 addresses the composite amortization rates for  
25 | Contributions in Aid of Construction (CIAC). Commission rule 25 30 140.



1 Florida Administrative Code, states:

2 "the CIAC plant shall then be amortized either by account, function or  
3 bottom line depending on availability of supporting information. The  
4 amortization rate shall be that of the appropriate account or function  
5 of the related CIAC plant. Otherwise, the composite plant amortization  
6 rate shall be used."

7 The utility has amortized contributed property consistent with the  
8 related asset, but the cash received is being amortized at a rate of 4.35%  
9 for water and 3.13% for wastewater. The utility does a true-up to determine  
10 a composite rate. The utility calculates 1) total depreciation for water  
11 divided by total plant for water and the same for wastewater, and 2) total  
12 CIAC amortization divided by total CIAC for water and for wastewater. Then  
13 the utility multiplies the difference in these two rates by the ending balance  
14 of CIAC and makes an adjustment.

15 The composite depreciation rates, excluding intangible and common plant  
16 for 1996, using the plant at August 1996, are 3.2% for water and 3.5% for  
17 wastewater. The utility should be computing yearly composite rates to  
18 amortize the cash CIAC. By correcting everything to the composite rate the  
19 utility is eliminating its computations of amortizing the contributed plant  
20 at the same rate as the plant. The true up should only apply to the cash  
21 CIAC. The audit computed amortization expense for the projected test year  
22 1996, using the August 1996 balance of CIAC. The computations of the  
23 composite rate and the adjusted balances are included in the audit report  
24 I recommend that the utility's projected 1996 amortization expense be  
25 increased by \$12,966.85 for water and decreased by \$7,328.67 for wastewater

1 | The audit also calculated the 13-month average accumulated amortization. This  
2 | calculation used the utility's general ledger for the period ending September  
3 | 1996. This average, when compared to MFR Schedule A-14 results in a reduction  
4 | to the water MFRs of \$115,371.53 and the wastewater MFRs should be reduced by  
5 | \$98,456.33.

6 |         The staff computation does not include forecasted CIAC not yet recorded.  
7 | This CIAC is for the University (\$261,350) and for the force main on Corkscrew  
8 | (\$127,525.92). Even if these were amortized for an entire year, using the  
9 | average CIAC amortization, the increase would only be \$11,588 for both water  
10 | and wastewater, not the \$213,827.86 difference above.

11 |         Audit Exception No. 3 addresses charitable contributions. Commission  
12 | Rule 25-30.115(1), Florida Administrative Code, requires that "Water and  
13 | wastewater utilities shall, effective January 1, 1986, maintain its accounts  
14 | and records in conformity with the 1984 NARUC Uniform Systems of Accounts  
15 | adopted by the National Association of Regulatory Utility Commissioners." The  
16 | NARUC Uniform System of Accounts (USOA) prescribes that "donations for  
17 | charitable, social, or community welfare purposes" should be charged to  
18 | Account 426 - Miscellaneous Nonutility Expense, a below-the-line account. The  
19 | utility has included \$1,910 (\$1,269.60 water and \$640.40 wastewater) of  
20 | charitable contributions in accounts 675.8 and 775.8, miscellaneous expenses  
21 | for the period September 1995 to August 1996. I recommend that these expenses  
22 | be reclassified to a below-the-line expense account.

23 |         Audit Exception No. 4 addresses revisions to the utility filing. While  
24 | reviewing the utility filing, the auditors found several discrepancies between  
25 | the MFR schedules. The utility verified the errors which are contained in the

1 | audit report. The corrected numbers were used as a basis for all audit work  
2 | performed.

3 |         Audit Exception No. 5 addresses the forecasted working capital  
4 | allowance. The utility filing did not provide any forecast methodology for  
5 | the projection of working capital. The audit staff requested the calculations  
6 | supporting the methodology. The utility could not provide the information  
7 | Therefore, the auditors generated the most current working capital available  
8 | using August 1995 through August 1996 balances to generate a 13-month average  
9 | These amounts were compared to the utility forecast and the utility was  
10 | requested to provide reasons why the amounts would change from September to  
11 | December.

12 |         In addition to the differences between the to-date projections and the  
13 | utility forecast, the utility projection excluded certain accounts that the  
14 | Commission usually includes in the allowance and included some accounts which  
15 | are sometimes excluded. The staff audit report lists the to-date information  
16 | for the working capital items as well as the utility projections. The  
17 | accounts that were not included by the utility are prepaid income tax (CiAC  
18 | tax payable was included) and accrued expenses. The utility also included  
19 | unamortized debt discount of \$389,922. The balance used by staff is  
20 | \$394,954.19. These numbers are based on accounts 1811, 1812, and 1813  
21 | These accounts were also traced to the utility's cost of capital schedule  
22 | Therefore, they are included in two places in the filing and one set should  
23 | be removed. The utility has also included miscellaneous current assets. This  
24 | consists of interest receivable. In previous cases, interest receivable has  
25 | been disallowed from working capital. In Order No. PSC-96 1320 FOF-WS, issued

1 on October 30, 1996, in Docket No. 950495-WS (Southern States Utilities, Inc.)

2 The Commission stated that:

3 Commission policy has been to exclude interest income and  
4 interest-bearing accounts for ratemaking purposes. In accordance  
5 with this policy, the accrued interest receivable account will be  
6 excluded.

7 Also, by Order No. 10557, issued February 1, 1982, in Docket No. 810136-  
8 EU (Gulf Power Company) the Commission held that "These amounts represent  
9 earnings on other assets and should not be included in working capital."

10 Based on past Commission action, I recommend that this account be  
11 excluded from working capital. Interest accrued consists almost entirely of  
12 the Industrial Revenue Bonds interest accrued. The utility has recalculated  
13 its projection of these accounts to be \$269,790. The audit calculated an  
14 average of \$287,918.49.

15 The utility also requested that accounts receivable be increased for  
16 growth of 6% and for the University addition. No dollar projections were  
17 provided for the University. If the balances for August 1995 to November 1995  
18 were increased by growth of 6%, accounts receivable would increase by an  
19 average of \$14,550.36 each month. Multiplying this number by four months and  
20 dividing it by thirteen would increase average accounts receivable by \$4,477.  
21 In response to audit requests, the utility has also provided a revised  
22 projection for materials and supplies of \$37,476.50 which is \$2,237.56 higher  
23 than the staff average on the previous page.

24 Audit Exception No. 6 addresses depreciation expense and accumulated  
25 depreciation. In preparing projections for depreciation expense, the utility

1 reduced depreciation expense for retirements. Retirements should only be  
2 adjusted to accumulated depreciation. The utility's adjustment understated  
3 the forecasted depreciation shown on MFR Schedules B 13 and B 14. The utility  
4 also used an incorrect rate in the calculation of depreciation for the  
5 proforma for the Corkscrew addition. To determine depreciation expense for  
6 future periods, the audit used plant at August 1996 and used the utility's  
7 rates. Depreciation on fully depreciated plant was removed and the net was  
8 compared to the utility forecast. The audit includes a detailed computation  
9 which results in an increase to depreciation expense of \$102,236.10 for water  
10 and \$46,688.74 for wastewater.

11 The audit also computed accumulated depreciation. I recommend that the  
12 accumulated depreciation balance at December 31, 1996 be reduced by  
13 \$172,607.60 for water and \$158,464.90 for wastewater. This adjustment is  
14 based on a thirteen-month average. If the projected additions are included  
15 in the forecast for a full year, accumulated depreciation should be increased  
16 by \$32,468.38 for water and \$8,838.97 for wastewater.

17 The forecasted accumulated depreciation on MFR Schedule A 1, p. 1,  
18 includes an additional \$93,220 for the Corkscrew addition. The increase in  
19 depreciation expense included the used and useful forecasted depreciation  
20 expense on the Corkscrew addition for the months September through December.  
21 The increase of \$93,220 is offset by a used and useful adjustment of \$50,930.  
22 Because the addition will not be in service a full year until 1997, these  
23 costs will not be incurred for a full year in the projected test year 1996.

24 Q. Please review the audit disclosures in the audit report.

25 A. Audit Disclosures disclose material facts that are outside the

1 definition of an Audit Exception.

2         Audit Disclosure No. 1 addresses property transactions with an  
3 affiliated company. Caloosa Trace is a development which is owned by the same  
4 owners as the utility. When developers connect to the system, the lines and  
5 hydrants are contributed by the developers and recorded on the books as a  
6 debit to plant and a credit to CIAC. The net rate base effect is zero. On  
7 February 20, 1990, Gulf Utility Company recorded water assets of \$59,683.50  
8 and wastewater assets of \$92,815 for the Caloosa Trace Development, Phase I  
9 and \$8,429.76 of water assets for Unit 16, Phase 8. Instead of a credit  
10 entry to CIAC, the owners were given stock in the utility in exchange for the  
11 assets. This treatment increases rate base and increases the equity portion  
12 of the cost of capital equation. The utility states that the transaction was  
13 reviewed by Gulf's auditors and is in compliance with all rules and  
14 regulations of the FPSC as well as generally accepted accounting principles.  
15 Also, the utility comments that this transaction increases the level of  
16 equity, which has historically been below desired levels. I recommend that  
17 the affiliate transactions should be required to be treated the same as non-  
18 affiliates.

19         Audit Disclosure No. 2 addresses director fees. For information  
20 purposes, I have disclosed the director fees charged to miscellaneous expenses  
21 for the test year. These fees amount to \$11,970 for water and \$6,030 for  
22 wastewater.

23         Audit Disclosure No. 3 addresses affiliate transactions. Caloosa Group  
24 is a land development company which is an affiliate of Gulf Utility. Five of  
25 Gulf's employees also work for Caloosa and are paid by both companies.

1 Caloosa is charged \$50 per month for the use of Gulf's computer system for  
2 payroll, general ledger, and minimal accounts payable. The utility estimates  
3 usage at two to three hours a month. Caloosa is also charged \$50 per month  
4 for office rent and supplies. However, Caloosa purchases its own separate  
5 supplies. Backhoe diesel fuel purchased by Gulf is billed to Caloosa at cost.  
6 The \$1,200 a year charge is credited \$396 each to water expense materials and  
7 supplies-A&G and miscellaneous expense and \$204 each to the same expenses in  
8 the wastewater system.

9 The percentage of Caloosa payroll to total Caloosa and Gulf payroll  
10 during the last audit was 12.67%. The most recent payroll register shows  
11 Caloosa payroll at 2.13% of total payroll. To determine the difference, the  
12 auditors reviewed the hours shown on the Caloosa Earnings and Deductions  
13 report and the pay shown and then arrived at an hourly rate. As indicated in  
14 the audit report, the hourly rates used for Caloosa and Gulf appear to be very  
15 different. In addition, expenses have been charged to Caloosa for the  
16 employee benefits or for business expenses and car expenses of James Moore,  
17 the utility president.

18 The audit attempted to determine expenses considered to be related to  
19 employees who perform tasks for both companies for the year ended August 31,  
20 1996. It then allocated these costs at the 2.13% payroll ratio and compared  
21 these costs to the \$1,200 a year currently being charged. This method may  
22 understate the amount because the allocation basis used is total company  
23 payroll and many of the expenses relate to James Moore, who probably should  
24 be allocated on an individually higher basis than on a total company basis.  
25 This method also understates the amount because of the difference in rates

1 used. However, the audit used a payroll basis because no other allocation  
2 method could be determined. I do not believe that this is the best method  
3 since Caloosa does not have billing or the high amount of payables as Gulf.  
4 But, using this method results in an additional billing to Caloosa of  
5 \$5,001.81. The details of this calculation are in the audit report.

6         Audit Disclosure No. 4 addresses office rent. Gulf entered a lease with  
7 Caloosa Group to lease new office space. The former office is being converted  
8 into offices for operations personnel and storage. The costs associated with  
9 this new office lease are estimated at \$59,830.

10         The lease with Caloosa Group is for 33.71% of the building. If no  
11 proven outside market exists for affiliate rental property, a cost basis  
12 analysis may be used to determine the rent. The audit report presents a  
13 calculation using original cost, rate of return, and depreciation. This  
14 calculation results in a \$20,319.74 reduction to the stated lease amount.

15         Currently, Caloosa has a lease with an outside party, the Hospital Board  
16 of Directors of Lee County. This lease started in May 1996. The lease is a  
17 five year lease for 6,460 square feet at \$12 per square foot. The lessee is  
18 required to pay a proportionate share of operating expenses and is given a \$15  
19 per square foot improvement allowance. The utility also has a report from a  
20 real estate broker which concludes that the appropriate market rental rate for  
21 smaller tenants would be \$15 per square gross, inclusive of common area  
22 maintenance charges including taxes and insurance. Caloosa is charging  
23 \$14.50. However, an analysis performed on various office space, in the same  
24 report, shows gross rent after adjustments ranging from \$11.76 to \$15.47 with  
25 similar build-out offers. The maintenance costs paid with the Gulf lease are



1 | estimated and a portion may be refunded based on actual costs. Expenses for  
2 | Gulf include \$9,827.52 related to Gulf's share of common expenses of Caloosa  
3 | which include insurance, property taxes, electric, lawn care, and garbage  
4 | This amount is \$3,599.56 higher than the annualized expense incurred for the  
5 | first seven months of 1996.

6 |       Audit Disclosure No. 5 addresses the San Carlos water line project. As  
7 | of December 1993, the utility had charged \$11,826.87 of invoices, mainly from  
8 | Humphrey & Knott, for the San Carlos waterline project to a deferred account,  
9 | 862.13-Engineering for water system development. Recently, the utility added  
10 | \$17,773.59 to this account for invoices from Missimer and Humphrey and Knott.  
11 | The account is being amortized over 5 years. \$8,183.76 is the projected  
12 | amortization during the forecasted test year. The utility originally  
13 | described this project as construction work in process. During the last  
14 | audit, when asked why this had not been charged to construction in process as  
15 | part of the water line costs, the utility responded that it had not yet  
16 | received approval from the county for the installation of the line or required  
17 | mandatory hookups. The current audit again questioned this project. The  
18 | utility responded that it had abandoned this project because the County  
19 | Commission would not require mandatory hookups. The amortization is still  
20 | being included in the forecast.

21 |       Audit Disclosure No. 6 addresses projected plant. The filings prepared  
22 | by the utility contained forecasted plant additions in both the 1996 MFR plant  
23 | schedules (A5) and in the water rate base schedule as a proforma that has not  
24 | yet been completed. The filing includes projections of \$2,561,563 for the  
25 | water system and \$902,890 for the wastewater system.

1           The contracts did not break down amounts between water and wastewater  
2 Therefore, the audit reviewed the contracts in total. The estimates are  
3 \$189,433 more than what is shown in the MFR exhibits. In addition,  
4 miscellaneous plant projections for water (MFR Schedule A 5) are overstated  
5 as of August 1996 by \$143,513.14 and wastewater projections are understated  
6 by \$3,959.96. This creates a net understatement of plant in the exhibits of  
7 \$49,879.82. Based on our analysis, net plant forecasts seem to be understated  
8 based on current projections. However, based on construction work in process  
9 dollars, it is questionable whether these amounts will be completed in 1996.  
10 In addition, the 13-month average effect is incorrect since these additions  
11 were not made in the months they were projected.

12           Audit Disclosure No. 7 addresses CIAC. The audit examined CIAC as of  
13 August 1996. At that time, the general ledger balance was \$109,292 more than  
14 the water MFR schedules and \$30,640 less than the wastewater MFR schedules.

15           Audit Disclosure No. 8 addresses prepaid CIAC. Excluding the CIAC  
16 received from the University, the utility has a balance of \$550,999.25 in the  
17 water prepaid connections account and \$207,304.50 for wastewater. In the  
18 MFRs, the utility has projected \$171,680 of water CIAC to be transferred from  
19 the prepaid account (A-12). The utility has not projected any prepaid CIAC  
20 transfers for wastewater during this time period. All the connections in  
21 prepaid CIAC appear to be related to plant already in service. However, the  
22 only utility adjustment made to used and useful plant was to the proforma  
23 plant addition for the Corkscrew water plant. Even though the utility is not  
24 yet collecting revenue related to these contributions, it is earning a return  
25 on the assets to which the contributions relate since the assets were

1 considered 100% used and useful. Therefore, I recommend that the prepaid CIAC  
2 of \$379,319.25 for water (\$550,999.25-\$171,680 projected) and \$207,304.50 for  
3 wastewater be included in rate base

4       Audit Disclosure No. 9 addresses revenue projections. The audit used  
5 the actual revenues for September 1995 through August 1996 to look at the  
6 reasonableness of the utility's projected revenues. These actual revenues are  
7 substantially lower than those projected in the utility's filing. Even if the  
8 1995 portion of these revenues are increased by growth of 6%, as estimated by  
9 the utility, the revenues are still understated by \$59,948 in the water system  
10 and \$90,371 in the wastewater system. The difference is probably due to the  
11 utility including revenue from the new University for the entire year. But,  
12 since the University is not yet complete, the audit's numbers do not contain  
13 any revenue from the University.

14       Audit Disclosure No. 10 addresses a customer survey. The utility  
15 performed a customer satisfaction survey and included the costs in the  
16 forecast. This is the first time the utility has performed the survey and it  
17 intends to perform the survey annually. The costs related to the survey  
18 total \$9,744.04, allocated \$6,431.07 to the water system and \$3,312.97 to the  
19 wastewater system.

20       Audit Disclosure No. 11 addresses the engineering for the new  
21 University. The utility charged two invoices for engineering costs related  
22 to the new University to accounts 631 and 731, Contract Services, Engineering  
23 during the September 1995 to August 1996 period used by the auditors to  
24 determine expenses. These invoices related to the preliminary survey. They  
25 were charged \$1,029.36 to the water system and \$310.00 to the wastewater

1 | system.

2 |         Audit Disclosure No. 12 addresses accounting costs for the overearnings  
3 | investigation. In October 1995, the utility paid Keith Cardey \$6,183.50  
4 | (\$4,204.78 water and \$1,978.72 wastewater) to review the overearnings case.  
5 | The utility charged these costs to accounts 635.8 and 735.8 for water and  
6 | wastewater, respectively. These costs fall into the period used by staff to  
7 | determine the reasonableness of expenses. These costs should be non-recurring  
8 | and may more appropriately be added to deferred rate case expenses since it  
9 | was the overearnings investigation that triggered the rate case.

10 |         Audit Disclosure No. 13 addresses the vice president's salary. The  
11 | utility's forecasted expenses include a salary for the Vice-President of the  
12 | Company, Randall Mann, of \$49,608. Mr. Mann does not maintain an office at  
13 | the utility site but has an office in Jacksonville. He was asked to provide  
14 | a letter which stated how much time he spends on utility business. It states,  
15 | "The amount of time spent per week on these various duties varies considerably  
16 | depending on the needs of the company." The list of duties that he provided  
17 | includes accounting, financial, tax, and other duties mainly including  
18 | reviewing and making decisions, setting policy, and preparing tax schedules.  
19 | A more complete listing is included in the audit report.

20 |         Audit Disclosure No. 14 addresses the expense forecast. The utility  
21 | prepared its forecast of expenses using a zero based budgeting approach.  
22 | Filings for projected test years usually trend a historic period using growth,  
23 | inflation, and other known changes. Because the utility's forecasted numbers  
24 | were difficult to evaluate and the utility had available actual data through  
25 | August 1996, the auditors decided to determine expenses for the period of

1 | September 1995 to August 1996 and determine any known changes that should  
2 | occur from September to December 1996. There are two major changes that are  
3 | going to occur. They are the additions of the University and Corkscrew  
4 | projects. The utility fully projected the University in its filing. The  
5 | utility projected the Corkscrew addition in rate base, but did not include it  
6 | in the forecast of expenses. The auditors prepared an analysis of the  
7 | balances from September 1995 through August 1996, added the utility proforma  
8 | adjustments for the University and the Corkscrew addition, and then did an  
9 | analysis of other known changes. The audit report includes a schedule  
10 | detailing this calculation. This analysis reveals that the expenses in the  
11 | filing are \$110,380.04 less for water than the prepared analysis. The  
12 | majority of this is due to the \$118,303.50 of expenses the utility expects to  
13 | incur for the Corkscrew plant addition. For wastewater, the analysis reveals  
14 | that the expenses in the filing are \$20,601.93 more than the utility projected  
15 | in its forecast.

16 |         Audit Disclosure No. 15 addresses James Moore's expenses. The expenses  
17 | used in Disclosure 14 include \$1,867.93 of local business meals and \$120.38  
18 | of entertainment for James Moore. Descriptions of business meals include  
19 | discussing health insurance plans, trusts and investments, engineering  
20 | services, waterline projects, etc. The entertainment included drinks for a  
21 | San Carlos Water Line Project and a golf outing to discuss keeping insurance  
22 | costs down.

23 |         Audit Disclosure No. 16 addresses taxes other than income. Based on  
24 | audit analysis, the regulatory assessment fees and property taxes are  
25 | incorrect. In addition, I believe the payroll taxes are allocated incorrectly

1 | between water and wastewater. First, the utility's projected revenues do not  
2 | generate the regulatory assessment fees (RAF) projected in the filing. My  
3 | calculations indicate the RAF should be decreased by \$715 for the water system  
4 | and \$1,051 for the wastewater system.

5 | The audit also reviewed the 1996 projected property tax. Based on this  
6 | analysis, I believe the expense was underestimated. The audit report includes  
7 | the calculation I used to determine an increase to property tax of \$7,504 for  
8 | water and ~~\$49,200~~<sup>\$14,819</sup> for wastewater.

9 | Payroll taxes were allocated using a 66%/34% customer ratio, or \$43,806  
10 | for water and \$22,567 for wastewater. If the taxes were allocated based on  
11 | the payroll accounts, they would be allocated at 62.61% for water and 37.39%  
12 | for wastewater. This would reduce payroll taxes for water by \$2,462.26 and  
13 | increase taxes for wastewater by \$2,462.26.

14 | Q. Does this conclude your testimony?

15 | A. Yes, it does.

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1           **MS. O'SULLIVAN:** Thank you. The witness is  
2 tendered for cross.

3           **COMMISSIONER DEASON:** Mr. Reilly.

4           **MR. REILLY:** Good morning, Ms. Welch.

5           **WITNESS WELCH:** Good morning.

6           **MR. REILLY:** That mountain of files is so  
7 intimidating, I'm going to choose not to ask any  
8 questions at this time.

9           **COMMISSIONER DEASON:** Mr. Gatlin.

10                           **CROSS EXAMINATION**

11 **BY MR. GATLIN:**

12           **Q**     You did not determine, did you, the revenue  
13 effect on the Company if your recommendations were  
14 accepted by the Commission?

15           **A**     No, I didn't; that's not my job.

16           **Q**     And when you did the audit study and the  
17 audit report, you were not concerned with the  
18 financial impact of the study on Gulf, were you?

19           **A**     No --

20           **Q**     That's not your job?

21           **A**     -- not part of my determination.

22           **Q**     And you are not really involved in the  
23 determination of what working capital is used, are  
24 you?

25           **A**     No, I'm not.

1           Q     What you do is try to follow what you think  
2 is the Commission's policies as set forth in the  
3 digest of water and sewer?

4           A     We try and report what the Company has used  
5 and what they haven't put in.

6           Q     Your calculation of working capital allows  
7 for \$268,585.71, but for working cash capital; is that  
8 correct?

9           A     Excuse me, what page are you on?

10          Q     I'm on Page 15 of your deposition.

11          A     Okay. Let me find it in the report, and  
12 I'll --

13          Q     Okay.

14                   I'm not having any luck.

15          **MS. O'SULLIVAN:** Mr. Gatlin, is that Audit  
16 Exception No. 5 that we are addressing?

17          **MR. GATLIN:** I didn't have a number down,  
18 it's just a question I asked in deposition.

19          **WITNESS WELCH:** Okay. Could you -- I've  
20 found the exception. Could you ask me again, please?

21          Q     **(By Mr. Gatlin)** Does it provide cash  
22 working capital in the amount of \$268,585.71?

23          A     I don't think there's any opinion attached  
24 to this disclosure that says what cash working capital  
25 should be. What the cash amount is?



1 Q Yes.

2 A From the books?

3 Q No. As a result of your analysis.

4 A I've shown what the cash was for a 13-month  
5 average period.

6 Q The cash working capital for the period?

7 A Cash working capital? There is no opinion.  
8 There's no total of what working capital should be.  
9 268,585 is what the cash balance is. There's no  
10 opinion drawn on what working capital should be in  
11 this disclosure.

12 Q Well, maybe we didn't communicate at the  
13 deposition. I asked a question, how much cash working  
14 capital does your determination provide for the  
15 Company? And you said \$268,585.71.

16 A And then I think I clarified your question  
17 by asking you are you referring to cash, and I said  
18 that that was what the cash balance in the working  
19 capital calculation was.

20 Q What is your opinion as to what working  
21 capital should be?

22 A I haven't made an opinion.

23 Q But you've presented the numbers and facts  
24 in accordance with what you understand to be  
25 Commission policies and rules?

1           A     I reported what was in working capital by  
2 the Company and what accounts were not included, and I  
3 reported some Commission policies that would indicate  
4 that some accounts would not be included based on  
5 policy. I haven't made any decision based on that.  
6 The Commission makes various decisions on working  
7 capital at different times.

8           Q     I didn't hear the last part of what you  
9 said.

10          A     The Commissioners makes decisions on what  
11 should or should not be in working capital. I just  
12 reported what was and what wasn't.

13          Q     That's right. And you supplied them, the  
14 Staff and the Commissioners, the information to  
15 determine working capital.

16          A     Right. But there's no conclusions here, and  
17 I haven't made any.

18          Q     But you supply the facts and the principles  
19 that you think are necessary for them to make a  
20 determination according to their policy?

21          A     Yes, I have.

22          Q     And I believe you agree that working capital  
23 allowance should provide cash for the Utility in the  
24 future?

25          A     That's the definition of working capital,

1 yes.

2 Q I asked you at the deposition, do you think  
3 the working capital allowance should provide cash for  
4 the utility in the future.

5 MS. O'SULLIVAN: Mr. Gatlin, have you  
6 provided the witness a copy of her deposition --

7 MR. GATLIN: Sure.

8 MS. O'SULLIVAN: -- am I to ask the witness  
9 if she has a copy in front of her?

10 MR. GATLIN: I don't have but one.

11 MS. O'SULLIVAN: I can give her my copy.

12 WITNESS WELCH: I remember the question.

13 Q (By Mr. Gatlin) Do you remember the  
14 answer?

15 A I remember that I said that that was a  
16 definition or that that appeared to be a reasonable  
17 definition.

18 Q Right. Now, how did you determine the rent  
19 that should be allowed that Gulf pays for Caloosa?

20 A I don't think there was an opinion on that  
21 either, but let me find the disclosure. I think the  
22 disclosure only contains information. I don't believe  
23 it has an opinion.

24 Q If I were to ask you the question, how do  
25 you determine if the rent to pay Caloosa for the

1 building is fair and reasonable. What would be your  
2 answer to that?

3 A I would say that there's a lot of different  
4 ways that it should be looked at.

5 Q And you said also that it depends on if  
6 there's an outside market; is that correct?

7 A That's certainly how the Commission has  
8 looked at telephone-affiliated transactions in the  
9 past and whether there's an outside market or not.

10 Q And you understand that that's what the  
11 Commission is supposed to do, don't you, to determine  
12 if the price is market value?

13 A I also understand that the Commission looks  
14 at prudence of management decisions.

15 Q Well, it can look at that in determining the  
16 amount to be allowed, but it's still market value,  
17 isn't it?

18 A I think if there's affiliate transactions,  
19 the policy has normally been to use the lower of cost  
20 or market. And if an outside market exists, to go  
21 ahead and allow market. But that doesn't necessarily  
22 mean that that management made a prudent decision in  
23 this case.

24 Q Have you been told about the GTE Commission  
25 hearing?

1           A     I don't believe so.

2           Q     You are not kept up to date on what  
3 changes --

4           A     I get a lot of orders across my desk every  
5 day, but I couldn't remember right now what it was  
6 about.

7           Q     Well, it was about affiliated transactions.  
8 And let's see if you agree with what they say.

9                     "We believe that the standard must be  
10 whether the transaction exceed the going market rate  
11 or are otherwise inherently unfair. If the answer is  
12 no, then the PSC may not reject the utility's  
13 decision."

14          A     Could you read that again, please?

15          Q     Sure. Would you like to look at it?

16          A     That would make it a lot easier.

17                 MS. O'SULLIVAN: Mr. Gatlin, I'm sorry for  
18 interrupting. Which GTE cases are you referring to?

19 A Commission decision or a court decision?

20                 MR. GATLIN: A Supreme Court decision.

21                 MS. O'SULLIVAN: GTE versus Clark?

22                 MR. GATLIN: Deason.

23                 MS. O'SULLIVAN: Oh, sorry.

24                 COMMISSIONER CLARK: But he wasn't on that  
25 case. (Laughter)

1 Q (By Mr. Gatlin) I've highlighted the  
2 section I've quoted, but you are free to look at it.

3 (Tendering document.) Did you look at it?

4 A Yes, I did.

5 Q Does that spell out the policy the  
6 Commission should follow?

7 A Yes.

8 Q And in this case, we have the rental of the  
9 same building to a nonrelated party and we have an  
10 appraisal by a qualified appraiser which we contend  
11 supports the rent being paid. Is that an appropriate  
12 way to find out market value?

13 A It shows the appropriate -- it shows market  
14 value for that particular property. It doesn't say  
15 that the company using that space is prudent or a good  
16 management decision.

17 Q Well, you are not suggesting that it's not,  
18 are you? I mean --

19 A The appraisal also showed that you can get  
20 comparable space for \$11.76 a square foot.

21 Q But space of this quality for that purpose,  
22 the purpose it's being used, was supported by the  
23 appraisal and the rent to the unaffiliated party, is  
24 that true?

25 A That's true.

1           Q     But you are suggesting that Gulf should have  
2 found another building?

3           A     I'm not saying that they should have. I'm  
4 saying that there were other options. They could have  
5 found another building, they could have built the  
6 building themselves. There are a lot of different  
7 decisions that they could have made that the  
8 Commission should weigh.

9           Q     You are not contending that the decision is  
10 imprudent, are you?

11          A     I haven't looked at all aspects of the  
12 decision, so I couldn't make that determination. But  
13 I think there's certainly questions that could be  
14 asked.

15          Q     Did you ask them?

16          A     Did I? No.

17          Q     You were the person to find out, weren't  
18 you?

19          A     I think I found out the information about  
20 what it would have cost to rent the building, what it  
21 would have cost to build the building, and I've put in  
22 there what the comparable rental rates are.

23          Q     Is that the way you found market value in  
24 your opinion?

25          A     How?

1 Q The way you just described.

2 A I believe so.

3 Q You want to apply market value, do you not?

4 A I have both original cost and market value  
5 information in this disclosure.

6 Q Do you have a choice as to which is used?

7 A Do I have a choice?

8 Q Yes.

9 A I didn't use either. I didn't make an  
10 opinion. I just reported it.

11 Q You reported that?

12 A Yes.

13 Q For both cost and market value?

14 A Right.

15 Q And your audit report would support a market  
16 value finding?

17 A I think if I had wanted to put that it  
18 supported a market value finding, I would have put an  
19 opinion in there.

20 Q Well, then it does not support either?

21 A I think I'm just giving a bunch of different  
22 facts.

23 Q Which would support a market value or either  
24 cost?

25 A I think if you don't look at prudence, it



1 supports a market value.

2 Q Well, you're not suggesting any imprudence,  
3 as I understand your testimony.

4 A I think the Company could have looked -- and  
5 I don't know whether they did or not -- at building  
6 the building themselves or looking at comparable -- or  
7 other lease space that might have cost less. I think  
8 that would have been a prudent management decision.

9 Q You understand what the building situation  
10 was for, don't you?

11 A No, I'm not sure what you are referring to.

12 Q That they had an office in a building near  
13 the treatment plant.

14 A Yes, I was in that building.

15 Q And they needed more room.

16 A Yes.

17 Q And they kept those offices for the field  
18 work people and plant. Then they had to find another  
19 building. And they found out -- do you understand  
20 that they did not -- could not buy a building  
21 themselves?

22 A No, I really don't know anything about their  
23 financing situation.

24 Q At the moment they decided or made the  
25 decision to move in this way, to rent this part of the

1 building and have Caloosa build the building, was  
2 there any imprudence in your opinion?

3 A I really don't know the management decisions  
4 that went into play to make that decision.

5 Q Did you try to find out?

6 A No, I didn't.

7 Q So you don't have any basis for saying they  
8 are imprudent?

9 A I didn't say they were.

10 Q But you don't have any set basis for saying  
11 that?

12 A No. I am reporting a lot of different  
13 facts.

14 Q And you know the hospital rented part of the  
15 building?

16 A Yes, I do know that.

17 Q That would be an indication of market value,  
18 wouldn't it?

19 A Yes, it would.

20 Q You mentioned the customer survey in your  
21 testimony and in your report. Do you have a position  
22 on that? Should they do those surveys --

23 A I don't think a position is stated in the  
24 report.

25 Q You don't take a position?

1           A     (Shakes head.)

2           Q     Just reporting the facts?

3           A     That's right.

4           Q     You believe that Gulf has good customer  
5 service, don't you?

6           A     Yes, I do.

7           Q     You mentioned in your audit report and in  
8 your testimony also that you were not satisfied with  
9 the way the Company did its budget.

10          A     I certainly wasn't satisfied with the backup  
11 that they provided for their forecast.

12          Q     I want to hand you -- have you look at this  
13 document, two documents: one with a white binder and  
14 one with a black binder? Did you examine these books  
15 when you were doing the audit?

16          A     I wasn't given those books.

17          Q     You've never seen these books?

18          A     No.

19          Q     Ms. Andrews didn't show you the books?

20          A     No.

21                **COMMISSIONER CLARK:** Ms. Welch, you need to  
22 give an audible response.

23                **WITNESS WELCH:** Sorry. I was told there  
24 were work papers and that they looked through the work  
25 papers to give me answers, but I wasn't given those

1 binders.

2 Q (By Mr. Gatlin) Did you ask for these  
3 books?

4 A I asked for all the work papers supporting  
5 the forecast.

6 Q And apparently they just pulled some pages  
7 out and gave you those pages?

8 A Probably. (Pause)

9 COMMISSIONER DEASON: Mr. Gatlin, do you  
10 wish to have this identified?

11 MR. GATLIN: Yes. It's a five-page  
12 document. On the front page on the upper line is the  
13 docket number, Ms. Welch's name. The first line at  
14 the left is Gulf Utility Company. We'd like that  
15 identified, if we may.

16 COMMISSIONER DEASON: Yes, it will be  
17 identified as Exhibit 25.

18 (Exhibit 25 marked for identification.)

19 MR. GATLIN: The one on the first page is  
20 the wage requirements for Gulf Utility Company. Did  
21 you see this document before?

22 A No, it was not provided to me.

23 Q Did you ask for it?

24 A I asked for backup for all of the forecasts.

25 Q Look at that page. Is that the way you

1 think it ought to be done to project the year, the  
2 test year?

3 A It appears to be a reasonable methodology.

4 Q Turn to the next page. It's sewer, a  
5 Florida Power and Light bill. And it's similar to --  
6 no. Did you ask for this information?

7 A I asked for all the information regarding  
8 the forecast. And this is 1995. This doesn't show  
9 anything related to the forecast or how they came up  
10 with the forecast number.

11 Q So that wouldn't be acceptable?

12 A No.

13 Q What did you want done that you felt would  
14 support it?

15 A What I wanted done was for them to back up  
16 their line numbers with numbers. This probably would  
17 have supported if they used this number in coming up  
18 with their 1996 numbers. But from this, I can't tell  
19 that.

20 Q What did you understand the budgeting method  
21 to be?

22 A I was told by Ms. Andrews that they used a  
23 zero-based budgeting approach. Or it might have been  
24 Brook Rivers. But I was told that they used a  
25 zero-based budgeting approach and that the only

1 supporting documentation that they had for the expense  
2 forecast were the revised filing exhibits that they  
3 had that they put in their exhibits.

4 MS. O'SULLIVAN: Commissioner Deason, I'm  
5 going to, I think, pose an objection here or a  
6 question -- request that we further identify what this  
7 exhibit is besides Gulf Utility Company wage  
8 requirements. I'm not quite sure it's been  
9 identified, what this is, what the date of it is,  
10 where it came from, and she's being crossed on it.

11 MR. GATLIN: Well, of course, we'll identify  
12 this later. If necessary somebody from the Company --  
13 and I haven't offered it yet either.

14 MS. O'SULLIVAN: Okay.

15 COMMISSIONER DEASON: Please proceed,  
16 Mr. Gatlin.

17 Q (By Mr. Gatlin) The next page is FPL  
18 bills, 1995. Have you ever seen that?

19 A No. It looks something similar to what we  
20 did in another case.

21 Q The last page -- excuse me. Are you  
22 finished?

23 A In another case we did something similar.

24 Q The last page of the documents is a revenue  
25 expenses document for 1996. Did you see that?

1           A     No.

2           Q     If you had been able to see that, would that  
3 help in making your decision?

4           A     I really don't know. I'd have to compare it  
5 to the forecast and look at the backup they had  
6 backing up these numbers. These are just numbers, and  
7 I would need to see how they actually came up with  
8 these numbers.

9                     This statement itself, no, it does not  
10 provide support.

11          Q     Were you not told that each item of the  
12 requirements of doing business was looked at every  
13 year to see if that was acceptable?

14          A     Yes, that I was told.

15          Q     And if there was some reason to have more in  
16 the budget, and there was a reason for it, they would  
17 increase it?

18          A     Yes.

19          Q     And what you wanted done was take --

20                     **COMMISSIONER CLARK:** Who is "she,"

21 Mr. Gatlin.

22                     **MR. GATLIN:** She?

23                     **COMMISSIONER CLARK:** I thought you said  
24 "what she wanted done."

25                     **MR. GATLIN:** What you wanted done, is what I

1 should have said. I'm sorry.

2 COMMISSIONER CLARK: Okay.

3 Q (By Mr. Gatlin) Is what you wanted done is  
4 a listing of the 1995 expenses and then something that  
5 indicated how the 1997 expenses would be derived --  
6 I'm sorry, 1995 and 1996.

7 A That would have been an acceptable way to  
8 back up a forecast.

9 Q Does it make any difference which way you  
10 use to come at the numbers?

11 A I think you need to have documentation for  
12 whichever way you choose, and I wasn't provided with  
13 that. And the documentation I was provided, for  
14 different parts of the forecast, did not seem to  
15 relate to actual data obtained to date.

16 Q One of the complaints you have about the  
17 method of documentation that Gulf has is that it's  
18 difficult to audit, isn't it?

19 A Well, that's certainly one complaint. But  
20 there were errors found in the forecast data that was  
21 looked at.

22 Q Errors in that the actual numbers were  
23 different?

24 A Errors in that the Company, for instance, in  
25 plant --



1 Q Yes.

2 A -- put in the university in January '96  
3 numbers when the university wasn't even going to be  
4 completed until probably, I think, January of '97.

5 In addition, each of the additions per  
6 month, if you let me look it up, there were several  
7 additions that they had forecasted throughout the year  
8 that had not been made. The main one was the  
9 university being included in January numbers.

10 Q Excuse me, go ahead.

11 A For CIAC the actual additions that had been  
12 forecasted up until that time didn't tie to what the  
13 Company had actually incurred. And for working  
14 capital, the Company was basically unsure who even did  
15 it. Originally, I was told that Mr. Cardey did it.  
16 And when Carolyn Andrews called Mr. Cardey, she found  
17 out that she had done it.

18 Q Isn't that not unusual in a projected test  
19 year that the numbers don't come out exactly?

20 A There's certainly some variance, but I think  
21 the university was a major component of the forecast.

22 Q And your problem with that was that it was  
23 put in in 1996?

24 A In January.

25 Q And do you know when it went into service?

1           A     No, I don't. But I know it didn't go into  
2 service before I left there.

3           Q     If it went into service in 1996, December,  
4 would you have a problem with that?

5           A     Yeah. It affects 13-month average.

6           Q     Is it your position the Commission should  
7 not include that in rate base if it went in in  
8 December?

9           A     I'm not saying that it shouldn't be  
10 included, I'm saying that if you are going to do a  
11 financial statement or an exhibit that shows 13-month  
12 average and you're saying this is forecasted to be in  
13 and it's not, it's a major difference between forecast  
14 and actual.

15          Q     If it were installed, or any other part of  
16 the plant were installed in '97, would that be  
17 completely out?

18          A     That's really an engineering decision. I  
19 know of instances where the Commission have allowed it  
20 in the full year. That would not be my decision to  
21 make. I'm reporting what the differences are.

22          Q     In fact, the Commission has the option to  
23 include 24 months after the test year, doesn't it?

24          A     They certainly do.

25          Q     Did you make any determination as to whether

1 the projections were reasonable?

2 A I think the reason I looked at the actual  
3 data was to determine whether the projections are  
4 reasonable.

5 Q And what did you conclude?

6 A Well, what I concluded was for expenses they  
7 did come somewhat close after we added Corkscrew in,  
8 but the Company, admittedly, when they said they filed  
9 their projections originally, had not included  
10 Corkscrew in there. So in order to make their  
11 projections somewhat accurate, we had to add that in.  
12 Then it came close.

13 Q The projection's about 95% correct?

14 A After Corkscrew was added.

15 Q Right. That's a fairly good test or a good  
16 performance for projected test years, isn't it?

17 A If it's coming close to actual? Yes. Now  
18 the plant didn't. We are just talking about expenses  
19 now.

20 Q The plant did not?

21 A I think there were several additions that  
22 needed to be added in that still hadn't been done in  
23 order to make it come close to projection.

24 Q With those added in it comes close; is that  
25 correct?

1           A     Yes.

2           Q     Was the problem about the plant the numbers  
3 themselves that you had a problem with?

4           A     Well, the estimates that they did give me  
5 that -- the formal estimates that they had given me  
6 were not the same estimates that they had included in  
7 their exhibits.

8           Q     Did Gulf offer any explanation?

9           A     I don't remember asking since I came close  
10 and I reported that it was close to what the Company  
11 actually projected.

12          Q     Should there be a double deduction from rate  
13 base in determining a final rate base?

14          A     I'm sorry, I don't know what you are talking  
15 about.

16          Q     Let me back up, I'm sorry.

17                   They have prepaid CIAC, is that true?

18          A     They have prepaid CIAC.

19          Q     By the way, did you match that up with  
20 existing plant?

21          A     I do have an exhibit from Carolyn Andrews  
22 that shows which wastewater treatment plant prepaid  
23 CIAC relates to. However, I was told by her that she  
24 could not identify which plant the water relates to.  
25 But I do have one for wastewater, yes.

1           And I did ask at the time if that was  
2 existing plant or if any additions needed to be made  
3 to that plant, and the answer was no.

4           Q     And what have you done in your analysis?  
5 Have you been able to tie prepaid CIAC to the plant in  
6 existence, used and useful plant?

7           A     The reason I just reported it and asked an  
8 engineer to review it was because I didn't know how  
9 much of the plant was used and useful. But I do have  
10 a listing of the wastewater, prepaid CIAC, and to  
11 which different plants it relates to.

12          Q     Does that take up all the prepaid CIAC?

13          A     No. There's also water.

14          Q     All the prepaid CIAC does not relate to  
15 present plant?

16          A     I don't know that for sure.

17          Q     Do you know opposite that? I mean, do you  
18 know either way?

19          A     I'm saying that according to the exhibit I  
20 was given by the Company, wastewater prepaid CIAC can  
21 be matched to individual plants --

22          Q     Okay.

23          A     -- existing and in service. How much they  
24 are used and useful, I really don't know at this  
25 point.

1 Q And in arriving at rate base, you add the  
2 prepaid CIAC to the rate base then if it's used and  
3 useful?

4 A You would reduce rate base by prepaid CIAC.

5 Q Then you would add it to the formula --

6 A It would be a credit, yes.

7 Q It would take it out. Okay.

8 That is to take all CIAC out, isn't it?

9 CIAC cannot be in the rate base under any description;  
10 is that right?

11 A CIAC is removed from rate base, yes.

12 Q So if you make the deduction for the prepaid  
13 CIAC and then you imputed CIAC on the margin reserve,  
14 it would be a double whammy, wouldn't it?

15 A I don't know anything about margin reserve.  
16 It's an engineering determination.

17 Q Well, it's not your intention that CIAC  
18 should be deducted twice, is it?

19 A No. But if it relates to used and useful  
20 plant, I think it should be removed.

21 Q But not removed again in the margin reserve?

22 A No. (Pause)

23 Q Was the projected test year ending 1996  
24 approved by the Commission for use in this case?

25 A Yes.

1           Q     And what period of time did your report  
2 cover, your audit report?

3           A     It covered the forecast year.

4           Q     The complete year?

5           A     If you are referring to the numbers that I  
6 reported, I did report some numbers that ended in  
7 August because I was using them for reasonableness  
8 tests, not to try and restate a test year.

9           Q     But you ended up with the 1996 projected  
10 test year; is that correct?

11          A     I believe I did because I asked the Company  
12 to support any additions that would have come after  
13 that time.

14                   MR. GATLIN: Thank you, Ms. Welch.

15                   That's all I have.

16                   COMMISSIONER DEASON: Redirect.

17                                   REDIRECT EXAMINATION

18 BY MS. O'SULLIVAN:

19          Q     Just a few questions, Ms. Welch. Could you  
20 explain the difference between an exception and the  
21 disclosure in your audit report?

22          A     An exception reports differences between  
23 rules and facts, errors in -- actual errors on the  
24 company books; and disclosures are usually more  
25 philosophy related, just pointing out things that

1 might be wrong.

2 MS. O'SULLIVAN: Nothing further.

3 COMMISSIONER DEASON: Exhibits.

4 MR. REILLY: Staff moves Exhibit No. 24.

5 COMMISSIONER DEASON: Without objection,  
6 Exhibit 24 is admitted.

7 (Exhibit 24 received in evidence.)

8 MR. GATLIN: I'd like to move Exhibit 25.

9 MS. O'SULLIVAN: Staff would object to  
10 Exhibit 25 based on the authenticity of the exhibit.

11 Ms. Welch was only crossed on Pages 1 and 2, I  
12 believe. We are not sure when this was created, where  
13 it was created, what it purports to demonstrate.

14 COMMISSIONER DEASON: There's been an  
15 objection, Mr. Gatlin.

16 MR. GATLIN: That's right. She's right.  
17 Flat out right. (Laughter)

18 COMMISSIONER DEASON: Exhibit 25 is not  
19 admitted.

20 Staff, you may call your next witness.

21 MS. O'SULLIVAN: Our next witness is Edith  
22 Xanders.

23

24

25



**EDITH XANDERS**

1  
2 was called as a witness on behalf of the Staff of the  
3 Florida Public Service Commission and, having been  
4 duly sworn, testified as follows:

**DIRECT EXAMINATION**

5  
6 **MS. O'SULLIVAN:** Are you ready, Ms. Xanders?  
7 Please state your name and business address for the  
8 record.

9 **A** My name is Edith Xanders. My business  
10 address is 2540 Shumard Oak Boulevard, Tallahassee  
11 32399.

12 **Q** And how are you employed?

13 **A** I am employed as a regulatory analyst IV.

14 **Q** With the Public Service Commission?

15 **A** With the Public Service Commission.

16 **Q** Have you prefiled direct testimony in this  
17 docket consisting of 12 pages?

18 **A** Yes, I have.

19 **Q** Do you have any corrections or changes to  
20 your testimony?

21 **A** I have one update to my testimony. On Page  
22 9, Lines 1 through 4, I have testified that in the  
23 Aloha case the Commission voted not to allocate any of  
24 the reuse costs to the water customers because it did  
25 not believe that Aloha was engaged in a valid reuse

1 project at the Phase 1 stage.

2           Since I filed my testimony, a decision has  
3 been rendered in that case where the Commission has  
4 found that Aloha was engaged in a reuse project, in a  
5 valid reuse project plan, and approved all three  
6 phases. In the final decision the Commission decided  
7 not to allocate any reuse costs to the water customers  
8 because of the poor quality of water.

9           Q     With that correction, if I were to ask you  
10 the same questions today, would your testimony be the  
11 same?

12           A     Yes, it would.

13           MS. O'SULLIVAN: Commissioner Deason, may we  
14 have Ms. Xanders testimony inserted into the record as  
15 though read?

16           COMMISSIONER DEASON: Without objection, it  
17 shall be so inserted.

18           COMMISSIONER CLARK: Can I just ask a  
19 question?

20           Ms. Xanders, it was more than just the poor  
21 quality of the water in the Aloha case, wasn't it?

22           WITNESS XANDERS: That was my understanding.  
23 I may have missed something.

24           COMMISSIONER CLARK: Okay. But at any rate  
25 we can look to the order to see the reasons.

1           **WITNESS XANDERS:** Yes.

2           **COMMISSIONER CLARK:** And the order probably  
3 isn't out yet, is it?

4           **WITNESS XANDERS:** No, I don't think it is.

5           **COMMISSIONER CLARK:** Okay.

6           **Q**        **(By Ms. O'Sullivan)** Ms. Xanders, did you  
7 also file Exhibit Nos. EHX-1 and EHX-2 with your  
8 testimony?

9           **A**        Yes, I did.

10          **Q**        Do you have any changes or corrections to  
11 either one of those exhibits?

12          **A**        I have one correction to my exhibits. In  
13 Exhibit EHX-2, Page 7 of 8, there is a handwritten  
14 "no" next to the meter tap-in charges. That "no"  
15 should have been removed. I understand from Collier  
16 County that those meter charges apply.

17          **Q**        Is that the only correction?

18          **A**        Yes, it is.

19          **MS. O'SULLIVAN:** I'd like to have that  
20 exhibit identified, please?

21          **COMMISSIONER DEASON:** Yes, Exhibit 26.

22                    (Composite Exhibit 26 marked for  
23 identification.)

24

25

## DIRECT TESTIMONY OF EDITH HOLMAN XANDERS

1 |  
2 | Q. Would you please state your name and business address?

3 | A. My name is Edith Holman Xanders. My business address is 2540 Shumard  
4 | Oak Boulevard, Tallahassee, Florida 32399-0850.

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

6 | A. I am employed by the Florida Public Service Commission (FPSC or  
7 | Commission) as a Regulatory Analyst IV in the Bureau of Policy Development and  
8 | Industry Structure, Division of Water and Wastewater.

9 | Q. Please give a brief description of your educational background and  
10 | professional experience.

11 | A. I received a Bachelor of Science Degree with a major in Finance from The  
12 | Florida State University in April 1991. I am currently pursuing a Master of  
13 | Business Administration Degree at The Florida State University and expect to  
14 | receive that degree in August 1997.

15 | In September of 1991, I joined the staff of the Public Service  
16 | Commission as a Regulatory Analyst I in the Division of Water and Wastewater's  
17 | Bureau of Certification. At the time, I was in the Certification Section of  
18 | the Bureau of Certification. I was subsequently moved to the Intergovernmental  
19 | Section, which has been renamed the Policy Development Section of the Bureau  
20 | of Industry Structure and Policy Development. In September of 1995, I was  
21 | promoted to my current position of Regulatory Analyst IV.

22 | Since joining the Policy Development Section, I have worked on several  
23 | rate cases involving reuse issues. In these cases, I was responsible for  
24 | analyzing the prefiled testimony regarding reuse, developing the record on  
25 | reuse, analyzing the record after the hearing and drafting a recommendation

1 | for the Commission's decision.

2 | Q. What is the purpose of your testimony in this proceeding?

3 | A. The purpose of my testimony is to recommend that a reuse rate be  
4 | approved and to present criteria that the Commission should consider to  
5 | determine the appropriate reuse rate. Gulf Utility Company (Gulf) did not  
6 | discuss reuse rates in its prefiled direct testimony and the Commission has  
7 | never considered this issue for this utility. I will also discuss the  
8 | implications of allocating some of the revenue requirement associated with  
9 | reuse of reclaimed water to water customers. I will provide a background of  
10 | previous Commission cases involving this issue, and discuss how to determine  
11 | the amount that the water customers should share.

12 | Q. Would you please discuss briefly the general background information  
13 | regarding Gulf's reuse operations?

14 | A. All of Gulf's effluent is disposed of through reuse. The utility  
15 | currently provides reuse at no charge to three customers - San Carlos Golf  
16 | Course, Vines Country Club and the Villages of Country Creek. According to  
17 | the agreements provided through discovery, San Carlos has been a customer  
18 | since 1982, Vines Country Club has been a customer since 1984, and Villages  
19 | of Country Creek has been a customer since 1987. A fourth customer, River  
20 | Ridge, signed an agreement with Gulf in May of 1996 and is expected to receive  
21 | service at the end of 1996. Two of the customers - the Vines Country Club and  
22 | the Villages of Country Creek - receive reuse from the Three Oaks Wastewater  
23 | Treatment Plant that is mixed with the reject water from the Corkscrew Water  
24 | Treatment Plant. Corkscrew is a low pressure membrane treatment facility that  
25 | provides potable water. River Ridge will also be receiving reuse from Three

1 Oaks in this manner. Gulf has not requested approval of a reuse rate in this  
2 case.

3 Q. What is the purpose of a reuse rate?

4 A. Although reuse is a method of effluent disposal, it is also considered  
5 a source of water. As such, it is a commodity that has value. A reuse rate  
6 recognizes that the utility is providing a service with some value. A reuse  
7 rate is typically not a fully cost based rate, but rather a contribution to  
8 the cost of providing reuse. As a result, the bulk of the cost of reuse  
9 operations is generally paid for by the utility's other customers. I would  
10 note that reuse rates are generally structured as a gallonage charge.

11 Q. What should the Commission consider to determine the appropriate reuse  
12 rate?

13 A. I believe that several factors should be considered when establishing  
14 a reuse rate. Depending on the reuse arrangement, some factors may be given  
15 more weight than others. These factors include the utility's alternatives for  
16 effluent disposal, the customers' alternative sources of water and the cost  
17 of these alternatives. The Commission should also consider the contents of  
18 the reuse agreement between the utility and the customers, the reuse rates in  
19 the area, and the utility's ability to secure additional customers.

20 Q. What specific factors should be considered in this case?

21 A. As mentioned previously, at this time, Gulf is dependent on reuse as its  
22 only source of effluent disposal. Therefore, pricing of reuse should be done  
23 to encourage its use by present and future customers. All of Gulf's present  
24 reuse customers are golf courses which use the reuse for irrigation. If these  
25 reuse customers can secure other sources for all or a portion of their

1 | irrigation needs, then the cost of those alternatives must be considered in  
2 | setting a reuse rate. Also, if Gulf is not able to secure other reuse  
3 | customers and the current customers elect to secure alternative sources, then  
4 | the utility may find itself in a situation that prevents or limits its ability  
5 | to dispose of treated effluent on the golf courses. An analysis of the  
6 | specific circumstances in this case could justify the continuation of no  
7 | charge for reuse service. In that situation, a zero charge is a "rate" which  
8 | must be approved by the Commission and must be reflected in the utility's  
9 | tariff. Currently, there is no tariffed rate for reuse for this utility.

10 | Q. Why should the Commission consider the contents of the reuse agreement?

11 | A. First, the agreement between the utility and the customer may indicate  
12 | the conditions under which the customer can break the contract. If the  
13 | contract is easily broken, then the customer may opt to secure additional  
14 | sources, if available. Second, reuse agreements generally detail the  
15 | relationship between the utility and the customer. Usually these agreements  
16 | will tell the Commission which party paid for the lines, which party maintains  
17 | the lines, the flows that the customer will accept, the location of the point  
18 | of delivery, whether the customer is willing to pay for the service, and, if  
19 | so how much. This information is helpful for the Commission in evaluating the  
20 | appropriate reuse rate.

21 | Q. Should the Commission approve the same reuse rate for each of Gulf's  
22 | reuse customers?

23 | A. Not necessarily. Unlike rates for water and wastewater service, a reuse  
24 | rate is typically market driven. This is because reuse customers often have  
25 | alternatives for irrigation and cannot be forced to take reuse. The

1 | availability and cost of these alternatives may be different for each  
2 | potential reuse customer. Also, the terms under which reuse is provided can  
3 | be different for each customer. For example, in one case, a customer may  
4 | provide the line to transmit the reuse, whereas in another case, the utility  
5 | may pay for the line. In pricing reuse, the Commission should evaluate the  
6 | circumstances for each reuse customer independently, which may result in  
7 | different rates.

8 | Q. What other reuse rates are in this area?

9 | A. I contacted the utilities in the region regarding their reuse rates and  
10 | requested that they fax me a copy of their current rates. A summary of their  
11 | rates is attached as Exhibit EHX -1 and their responses are attached as  
12 | Exhibit EHX-2.

13 | Q. The next part of your testimony concerns allocating the reuse costs  
14 | among the water and wastewater customers. How are the revenue requirements  
15 | associated with an investor-owned water and wastewater utility typically  
16 | recovered from its customers?

17 | A. The conventional method of determining the costs that relate to water  
18 | and wastewater service has been fairly straightforward; that is, to the extent  
19 | practical, costs are recovered from the cost causer. Therefore, costs  
20 | associated with the provision of water service have been allocated to the  
21 | water customers, and those associated with the provision of wastewater service  
22 | have been allocated to the wastewater customers. However, with the evolution  
23 | of reuse of reclaimed water as a method of effluent disposal and water  
24 | conservation, the distinction is not as clear. In recognition that water  
25 | customers benefit from the conservation facilitated by reuse, it is now



1 appropriate to consider whether a portion of the wastewater or reuse costs  
2 should be shared by the water customers.

3 Q. Would you please explain how reuse of reclaimed water can benefit the  
4 water customers?

5 A. When reclaimed water is used to fill the irrigation needs of golf  
6 courses, citrus groves and other end users, the water customers benefit  
7 because reclaimed water helps to preserve ground water supplies for potable  
8 water needs. This is particularly important in areas where water supply  
9 concerns have been identified. Therefore, reuse for irrigation is both an  
10 efficient and environmentally sound use of the treated wastewater effluent.

11 Q. How should this benefit of reuse to water customers be recognized?

12 A. In 1994, the Florida Legislature recognized the benefit of reuse to  
13 water users by creating Section 367.0817, Florida Statutes, which in part,  
14 clarified the Commission's authority to allocate the costs of providing reuse  
15 among any combination of the utility's customer base. Specifically, Section  
16 367.0817(3), Florida Statutes, states:

17 All prudent costs of a reuse project shall be  
18 recovered in rates. The Legislature finds that reuse  
19 benefits water, wastewater, and reuse customers. The  
20 commission shall allow a utility to recover the costs  
21 of a reuse project from the utility's water,  
22 wastewater, or reuse customers or any combination  
23 thereof as deemed appropriate by the commission.

24 This legislation recognizes that all customers benefit from the water resource  
25 protection afforded by reuse and that in certain cases, it is appropriate for

1 | water customers to share in the cost of the reuse system.

2 | Q. Is it necessary for a utility to have filed a reuse project plan in  
3 | order for Section 367.0817(3), Florida Statutes to be implemented?

4 | A. No. This issue has been considered in several rate cases where the  
5 | utility did not file a reuse project plan. The utilities involved and the  
6 | dockets where this issue was considered are: Rotonda West Utility Corporation  
7 | (RWU), Docket No. 950336-WS; Southern States Utilities, Inc. (SSU), Docket No.  
8 | 950495-WS; Palm Coast Utility Corporation (PCUC), Docket No. 951056-WS; and  
9 | Florida Cities Water Company - Barefoot Bay Division (FCWCBB), Docket No.  
10 | 951258-WS. The Commission is currently considering this issue in one docket  
11 | involving a reuse project plan - Aloha Utilities, Inc. (Aloha), Docket No.  
12 | 950615-SU.

13 | Q. What was the Commission's decision in these dockets?

14 | A. In the RWU case, the Commission's consideration of the issue initially  
15 | favored an allocation of a portion of the total wastewater system revenue  
16 | requirement to the water system. However, the wastewater system revenue  
17 | requirement increase was relatively small, and any significant shift would  
18 | have resulted in a wastewater system revenue requirement decrease. The size  
19 | of the revenue requirement increases to the water and wastewater systems led  
20 | the Commission to conclude that the sharing of the wastewater revenue with the  
21 | water customers was not appropriate at that time.

22 | In the SSU case, the Commission voted not to allocate any of the revenue  
23 | requirement associated with reuse to the water customers since it believed  
24 | that other issues must be considered when allocating some of the reuse costs  
25 | to SSU's water customers due to the unique nature of SSU's size. These issues

1 | were not explored during the hearing, and, as a result, the Commission voted  
2 | not to allocate any of the revenue requirement.

3 |         In the PCUC case, Palm Coast provides secondarily treated effluent to  
4 | the Dunes Community Development District (the Dunes). The Dunes then further  
5 | treats the reuse to public access standards and resells it to its customers.  
6 | The Commission concluded that because the Dunes resells the reuse to its  
7 | customers for irrigation, the majority of the benefits of reuse inure to the  
8 | water customers of the Dunes, not the water customers of PCUC. In addition,  
9 | the Commission found that the provision of reuse to the Dunes benefits PCUC's  
10 | wastewater customers since this service allows PCUC to dispose of its effluent  
11 | without the need for additional disposal sites. Accordingly, the Commission  
12 | voted not to allocate any of the costs associated with reuse to the water  
13 | customers.

14 |         In the FCWCBB case, the Commission found that the inability to quantify  
15 | benefits to the water customers should not deter the Commission from  
16 | recognizing their existence. Accordingly, the Commission found it appropriate  
17 | to base its methodology of the revenue requirement allocation on a comparison  
18 | of the revenue requirements associated with the utility's AWT plant versus  
19 | another environmentally acceptable alternative of disposal. This resulted in  
20 | the Commission voting to allocate 5% of the difference in the revenue  
21 | requirements to the customers of the water system. The reason the Commission  
22 | chose 5% of the difference was that allocating the entire difference would  
23 | have resulted in a shift that was unreasonable.

24 |         In the Aloha case, Aloha was the first utility to submit a reuse project  
25 | plan pursuant to Section 367.0817, Florida Statutes. In PAA Order No. PSC-95-

1 1605-FOF-SU, issued December 28, 1995, the Commission voted not to allocate  
2 any of the reuse costs to the water customers because it did not believe that  
3 Aloha was engaged in a valid reuse project at the Phase I stage. The PAA  
4 order has been protested and a final decision is still pending.

5 Q. In instances when the Commission finds it appropriate to allocate some  
6 reuse costs to water customers, how should that amount be determined?

7 A. The amount should be based on the benefits of reuse that accrue to the  
8 water customers.

9 Q. How should the Commission quantify the benefit to the water customers?

10 A. The Commission should attempt to quantify as accurately as possible the  
11 benefit to the water customers in determining how much reuse costs should be  
12 shared. If reuse is implemented over another environmentally acceptable  
13 alternative of effluent disposal, the water customers should be responsible  
14 for at least a portion of the additional costs incurred to implement reuse  
15 over those costs necessary to provide the alternative methods of effluent  
16 disposal. In this way, the rates of the wastewater customers would recover  
17 the costs of effluent disposal needed to provide them safe and adequate  
18 wastewater service. Any costs above that could be identified as costs  
19 incurred for the conservation and protection of the water supply and logically  
20 recovered at least in part through the water rates.

21 In certain cases, the Commission may be able to quantify the benefit of  
22 reuse to the water customers in terms of cost avoidance. For example, using  
23 reuse for irrigation should reduce the demand for potable water on the water  
24 system. Eventually, this may result in a lesser need for expansion of the  
25 water system. As a result, the water customers may avoid the cost of

1 | expanding the facilities. Another example would be an instance in which a  
2 | water utility may be negotiating for an exchange of reuse for potable water  
3 | with a neighboring utility in order to help supply the future demand of the  
4 | utility's water customers. This arrangement could result in a cheaper, and  
5 | perhaps a vitally needed source of water for the utility.

6 |         This case is a good example of where the water customers have benefitted  
7 | from cost avoidance. The effluent provided by Gulf from the Three Oaks  
8 | Wastewater Treatment Plant is mixed with the reject water from the Corkscrew  
9 | Water Treatment Plant, which is a low pressure membrane treatment facility  
10 | that provides potable water. Obviously, this benefits the water customers  
11 | because it provides a method of disposing of the concentrate from the  
12 | Corkscrew plant. James Moore, President of Gulf, has testified in his  
13 | prefiled direct testimony that when the company expanded its water facilities,  
14 | it was uncertain whether they would have to construct a \$2.5 million deep well  
15 | to dispose of the reject water. Because the DEP has expanded the permit that  
16 | allows Gulf to mix the water and the wastewater effluent, Gulf does not need  
17 | the construction at this time.

18 | Q.     Should any costs be borne by water customers if the Commission is unable  
19 | to precisely quantify the benefits of reuse, or reuse is the only  
20 | environmentally acceptable alternative?

21 | A.     Yes. Reuse is recognized as a viable source of water for irrigation and  
22 | a means of water conservation. Therefore, allocating some of the reuse costs  
23 | to the water customers may still be appropriate even when the Commission is  
24 | unable to precisely quantify the benefits of reuse, or when reuse is the only  
25 | environmentally acceptable alternative. (See Order No. PSC 96-1147-FOF-WS.

1 | issued September 12, 1996). In this regard, the price of water will include  
2 | costs incurred for the protection and efficient use of water resources. One  
3 | way of allocating the costs to the water users when the Commission is unable  
4 | to precisely quantify the benefits of reuse is to require the water customers  
5 | to pay at least the amount that the reuse customers are paying. For example,  
6 | when the City of Hollywood constructed its reclaimed water system, it  
7 | determined that the amount of revenue generated by the reuse customers would  
8 | be approximately \$150,000 annually. The City decided that the water customers  
9 | should likewise be responsible for \$150,000 per year since the provision of  
10 | reuse resulted in a reduction in competing aquifer withdrawals. The  
11 | wastewater customers were then responsible for the remaining costs. As a  
12 | result, the wastewater customers incurred about 75% of the entire cost of the  
13 | facilities. Admittedly, quantifying the benefits in this manner is a judgment  
14 | call. However, as I testified earlier, the Commission has had to use judgment  
15 | in previous cases where it allocated costs to the water customers.

16 | Q. What other criteria might be used to determine this allocation?

17 | A. Other criteria to consider in determining whether and how much of the  
18 | reuse costs to allocate to the water customers include the average usage of  
19 | the water customers, the level of the water rates, the magnitude of the water  
20 | and wastewater revenue increases, and the need to send a stronger price signal  
21 | to achieve water conservation. In this proceeding, the water customers' rates  
22 | may be decreased. This should be taken into consideration when determining  
23 | whether to allocate any costs.

24 | Q. If the Commission decides to allocate a portion of the wastewater  
25 | revenue requirement to the water customers, how do you suggest these costs be

1 recovered within the rate structure?

2 A. I believe the revenue requirement allocated to water customers should  
3 be recovered entirely through the gallonage charge. The benefits of reuse to  
4 water customers involve the need for water conservation. As such, it would  
5 be appropriate to recover these costs through the usage charge so that  
6 customers who use more water pay more of these costs.

7 Q. How should the utility record the revenue it collects due to this shift  
8 on its annual report filed with the Commission?

9 A. This revenue should be recorded on the water operating statement as a  
10 separate line item under Miscellaneous Revenue. In this way, it can be easily  
11 subtracted from water revenue before calculating the achieved rate of return  
12 for the water system for overearnings purposes. Likewise, it must be added  
13 to the wastewater revenue before calculating the achieved rate of return on  
14 the wastewater system. These steps are necessary since the costs associated  
15 with this revenue will remain on the books of the wastewater system.

16 Q. Does this conclude your testimony at this time?

17 A. Yes, it does.

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1 Q (By Ms. O'Sullivan) Ms. Xanders, have you  
2 prepared a brief summary of your testimony?

3 A Yes, I have.

4 Q Go ahead.

5 A There are two parts to my testimony. In the  
6 first part I recommend that a reuse rate be  
7 implemented, and I present criteria that should be  
8 considered by the Commission and the Staff in  
9 evaluating the appropriate reuse rate. These criteria  
10 include the Utility's alternative sources of effluent  
11 disposal, the customers' alternative sources of water  
12 and the cost of these alternatives.

13 I also testified that the Commission should  
14 also consider the contents of the reuse agreement  
15 between the Utility and the customers, the reuse rates  
16 in the area and the Utility's ability to secure  
17 additional customers. I would like to stress that I  
18 consider zero to be a reuse rate. And if the  
19 Commission should approve a zero rate, this rate  
20 should be included in the Utility's tariff.

21 The second part of my testimony concerns  
22 allocating the reuse costs among the water, wastewater  
23 and reuse customers pursuant to Section 367-0817(3)  
24 Florida Statutes. In this section I discuss  
25 implications of allocating a portion of the reuse



1 revenue requirement to Gulf's water customers, provide  
2 a background of previous Commission cases involving  
3 this issue and discuss different methods of how to  
4 determine the amount of revenue requirement to be  
5 allocated. That concludes my summary.

6 **MS. O'SULLIVAN:** Thank you. Commissioner,  
7 the witness is tendered for cross.

8 **COMMISSIONER DEASON:** Mr. Reilly.

9 **CROSS EXAMINATION**

10 **BY MR. REILLY:**

11 **Q** I understand you are not recommending a  
12 reuse rate in this case; is that correct?

13 **A** I am recommending that a rate be  
14 implemented. I am not recommending --

15 **Q** The amount?

16 **A** -- a specific level.

17 **MR. REILLY:** No further questions.

18 **COMMISSIONER DEASON:** Mr. Gatlin.

19 **CROSS EXAMINATION**

20 **MR. GATLIN:** What's the difference in having  
21 no rate in a tariff and no rate without a tariff?

22 **A** Could you repeat that?

23 **Q** Gulf doesn't have a rate now. They don't  
24 offer the service at all.

25 **A** Correct.

1 Q So why would it improve anything to have a  
2 tariff that has zero in it?

3 A Well, I consider reuse to be a service. And  
4 right now the Company's wastewater customers are  
5 paying entirely for the reuse service. And having a  
6 reuse rate of zero in the tariff shows that the  
7 Commission has looked at this issue and decided that  
8 it would be equitable for the wastewater customers to  
9 continue paying for the reuse and the reuse customers  
10 do not pay anything.

11 Q The people aren't paying anything now. And  
12 if you have a zero tariff, would they pay anything?

13 A Mr. Gatlin, I'm sorry, I can't hear you.

14 Q My fault. These reuse folks, these country  
15 clubs, are not paying anything now.

16 A Right.

17 Q And how would that improve the situation if  
18 we had a tariff that said they didn't pay anything?

19 A It would show that the Commission has looked  
20 at the issue and approved that the reuse customer  
21 should not pay anything.

22 Q You understand Gulf has not requested a  
23 reuse rate?

24 A Right.

25 Q And, in fact, Gulf doesn't consider that it

1 has any reuse customers?

2 A That's my understanding of Gulf's position.

3 Q When you determine a reuse rate, you  
4 determine one thing, would be if the customer has any  
5 alternative source of supply; is that correct?

6 A That's one of the factors listed in my  
7 testimony.

8 Q Right. If Gulf had no alternative source to  
9 these golf clubs, it would have to look for a more  
10 expensive method of disposal, wouldn't it?

11 A It would have to look for another method of  
12 disposal.

13 Q And do you understand the one that's under  
14 consideration and has been referred to in the  
15 testimony is a 2.5 million deep well injection costing  
16 \$2.5 million?

17 A I have heard of a \$2.5 million deep  
18 injection well.

19 Q Would the customers in this situation be  
20 better off with a \$2.5 million deep well or the golf  
21 courses?

22 A They would probably be better off with the  
23 golf courses, but that's what should be considered.

24 Q You are familiar with the fact that Lee  
25 County has reduced its rates to 4 cents a gallon

1 during the wet season, haven't you?

2           A     That's my understanding, only during wet  
3 weather.

4           Q     Right. And that's the problem of disposing  
5 effluent, isn't it? One of them is the wet weather  
6 discharge.

7           A     I could see that would be a problem.

8           Q     And the golf courses have all the water they  
9 want and won't take anymore, that's a problem, isn't  
10 it?

11          A     Correct.

12          Q     Did you know that the golf course served by  
13 Florida Cities at North Fort Myers has sent notice  
14 that they will no longer pay for the effluent?

15          A     No, I did not.

16          Q     You'll probably know next week.

17          A     I'll look out for it.

18          Q     And do you know that Lee County is still  
19 having a problem with the discharge of this effluent?

20          A     No, I didn't know that.

21          Q     Have you seen the newspaper this morning?

22          A     No, sir.

23                   (Tendered document.)

24          Q     Have you had a chance to look at that?

25          A     I've reviewed the first few paragraphs.

1           Q     Okay. Look at the paragraph in the second  
2 column, the first paragraph up at the top. Doesn't  
3 that say the county's having a problem with the golf  
4 courses taking the water, the county is not able to  
5 dispose?

6           A     It says that the county is not able to  
7 dispose as much of it as it would like.

8           Q     Right. And that coincides, goes with the  
9 fact, that the county lowered the rate to 4 cents,  
10 doesn't it?

11          A     I believe that's why they did it.

12          Q     And would you agree that this article spells  
13 out a general problem with disposing of effluent on  
14 golf courses?

15          A     For Lee County, yes.

16                MR. GATLIN: May we have that identified?

17                COMMISSIONER DEASON: Sure. It will be  
18 identified as Exhibit 27.

19                    (Exhibit 27 marked for identification.)

20          Q     (By Mr. Gatlin) You say that the market  
21 should determine the price, what other utilities are  
22 charging for effluent. Don't you say that?

23          A     I said that reuse rates in the area are one  
24 factor to consider.

25          Q     Isn't the competition really not Lee

1 County's system or Florida Cities; isn't the  
2 competition the measure of the economic cost between  
3 using their own wells and what the effluent costs?

4 A I would say yes. But I would also say that  
5 the reuse rates in the area are a good gauge as to  
6 what other customers have agreed upon.

7 Q The alternatives you consider is the cost of  
8 alternatives whether or not the customer could secure  
9 alternative sources, the cost of those alternatives,  
10 and the Utility's ability to secure other customers.  
11 Is that a good summary of your analysis?

12 A Those are the factors that I consider.

13 Q Yes. Have you done any study or do you have  
14 any information as to what would be the basis of  
15 allocating this reuse cost to other customers, water  
16 customers and wastewater customers?

17 A Could you please repeat that?

18 Q The statute, and I think the Commission  
19 policy, is that they can -- you can -- the Commission  
20 can put part of the cost on the water customers or  
21 wastewater customers and reuse customers. Have you  
22 done any study as to indicate what the amount is and  
23 what benefit in terms of dollars the water customers  
24 would have?

25 A I have not done any study. I've worked on

1 cases where we've considered this issue.

2 Q Did you have studies in those cases?

3 A No, we didn't.

4 Q You indicated that reuse is a benefit to  
5 wastewater customers, I believe?

6 A To wastewater customers?

7 Q Uh-huh.

8 A Yes, sir.

9 Q Reuse disposal is a cost. In this case, it  
10 is an avoided cost, isn't it? If it is.

11 A It's my understanding that the reuse has  
12 allowed avoidance of the \$2.5 million injection well.

13 Q You indicated the reuse rates are what other  
14 customers have agreed upon. And for that to be any  
15 influence, don't you have to ask the questions, did  
16 they install the lines, did they build three-day  
17 storage ponds, do they have alternative sources?

18 A I think those are all factors that need to  
19 be considered.

20 Q Yeah. You wouldn't just look at Lee County  
21 and what they're charging and say -- because you  
22 wouldn't know what facilities the county had to  
23 install as opposed to the golf course, would you?

24 A Could you repeat that?

25 Q Sure. You indicated that an influence on

1 the rate for reuse was what other utilities were paid  
2 by golf courses?

3 A Right. That's one thing that should be  
4 considered.

5 Q Yes. But in using that as a criteria, don't  
6 you need to know who installed the lines, did they  
7 build three-day storage ponds, do they have  
8 alternative sources?

9 A For the others utilities?

10 Q Yes.

11 A Well, that information would be helpful. I  
12 just say that one thing, that the Commission should  
13 look at the reuse rates in the area just as a gauge.

14 Q But to really know if it was similar, you  
15 would have to make some kind of study of those other  
16 utilities, wouldn't you?

17 A Probably.

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

19 COMMISSIONER DEASON: Redirect.

20 MS. O'SULLIVAN: No redirect.

21 COMMISSIONER DEASON: Exhibits.

22 MS. O'SULLIVAN: Staff moves Exhibit 26.

23 COMMISSIONER DEASON: Without objection,  
24 Exhibit 26 is admitted.

25 (Exhibit 26 received in evidence.)



1           **MR. GATLIN:** I move Exhibit 27.

2           **COMMISSIONER DEASON:** Without objection,  
3 Exhibit 27 is admitted.

4           (Exhibit 27 received in evidence.)

5           **MS. O'SULLIVAN:** Commissioner Deason, our  
6 next witness, Mr. Burns, will be available after 1:00.  
7 He's driving here from West Palm Beach.

8           **MR. GATLIN:** Is that the only other witness?

9           **MS. O'SULLIVAN:** That's our last witness,  
10 right.

11           **COMMISSIONER DEASON:** I think we indicated  
12 to Mr. Beard that we were going to take an early lunch  
13 and request that he be back the 12:30 with copies of  
14 the exhibits. So given that it's 11:25 now, we will  
15 go ahead and recess for lunch.

16           **MR. REILLY:** We do have those copies  
17 available to hand to everybody right now that needs to  
18 get a copy.

19           **COMMISSIONER DEASON:** Yes, please do that.  
20 Unless there is any other business we can take care of  
21 before lunch, we'll go ahead and recess for lunch. We  
22 will reconvene at 12:30.

23           (Thereupon, lunch recess was taken at 11:30.)

24           (Transcript continues in sequence in Volume 4.)

25