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P R O C E E D I N G S

(Hearing convened at 12:30 p.m.)

(Transcript continues in sequence from

Volume 3.)

COMMISSIONER DEASON: Call the hearing back to order. I believe Mr. Beard has retaken the stand. Mr. Gatlin?

MR. GATLIN: Yes. I have no questions. We've looked over the documents, and we just have a couple points to cover, and Mr. Moore is going to cover part of it and Mr. Elliot the other part; just two or three questions in response to these exhibits.

COMMISSIONER DEASON: They will just do that when they take the stand for rebuttal?

MR. GATLIN: Yes, when they come up for rebuttal.

COMMISSIONER DEASON: Okay. Very well. Well, we need to identify the exhibits then, Mr. Riley.

MR. REILLY: This would be a composite exhibit, and shall I just short title the four different documents?

COMMISSIONER DEASON: Yes.

MR. REILLY: Okay. Composite exhibit made up of four documents, the first being a Brown & Root

1 fire flow -- a study concerning fire flow requirements
2 for the eight university buildings.

3 And then the second document is NFPA291,
4 Recommended Practice for Fire Flow Testing and Marking
5 of Hydrants.

6 And the third document is AWWA Manual M17,
7 Chapter 6, titled Flow Test. And the fourth and final
8 document is a February 1997 letter to Inspector Beard
9 from Wildcat Fire Protection.

10 COMMISSIONER DEASON: These documents will
11 be identified as composite Exhibit Number 28.

12 (Exhibit 28 marked for identification.)

13 COMMISSIONER DEASON: Redirect?

14 MS. O'SULLIVAN: No redirect.

15 COMMISSIONER DEASON: Okay. Exhibits.

16 MS. O'SULLIVAN: Staff moves Exhibit 21, I
17 believe.

18 COMMISSIONER DEASON: Yes, Exhibit 21 shall
19 be admitted with no objection.

20 (Exhibit 21 received in evidence.)

21 MR. REILLY: And I'd like to move -- 28, did
22 you say?

23 COMMISSIONER DEASON: Yes. And Exhibit 28
24 will be admitted with no objection with the
25 understanding that the Company may wish to address

1 some of these matters when they take the stand for
2 rebuttal.

3 (Exhibit 28 received in evidence.)

4 **MS. O'SULLIVAN:** I'd ask the witness be
5 excused.

6 **COMMISSIONER DEASON:** Yes. Thank you,
7 Mr. Beard. We appreciate you coming back. I'm sure
8 you're glad there are no questions.

9 **WITNESS BEARD:** Thank you. That's okay.

10 (Witness Beard excused.)

11 - - - - -

12 **MS. O'SULLIVAN:** Thank you. Our last
13 witness is Mr. William Scott Burns.

14 **COMMISSIONER DEASON:** Mr. Burns has not been
15 sworn?

16 **MS. O'SULLIVAN:** That's correct.

17 - - - - -

18 **WILLIAM SCOTT BURNS**

19 was called as a witness on behalf of the Staff of the
20 Florida Public Service Commission and, having been
21 duly sworn, testified as follows:

22 **DIRECT EXAMINATION**

23 **BY MS. O'SULLIVAN:**

24 Q Mr. Burns, please state your name and
25 business address for the record.

1 A My name is William Scott Burns. I work at
2 the South Florida Water Management District, whose
3 headquarters is located at 3301 Gun Club Road in West
4 Palm Beach, Florida.

5 Q And how are you employed at the Water
6 Management District?

7 A I'm the director of water use.

8 Q Have you prefiled direct testimony in this
9 docket consisting of 10 pages?

10 A I have.

11 Q Do you have any changes or corrections to
12 your testimony?

13 A Not at this time.

14 MS. O'SULLIVAN: Commissioner Deason, may we
15 have Mr. Burns' testimony inserted into the record as
16 though read?

17 COMMISSIONER DEASON: Yes. Without
18 objection, it shall be so inserted.

19 MS. O'SULLIVAN: We've passed out Exhibit
20 No. WSB-1, which the parties had agreed to admit into
21 evidence or to propose into evidence, which is the
22 water use permits issued by South Florida Water
23 Management District.

24 Q (By Ms. O'Sullivan) Do you have any
25 changes or corrections to this exhibit?

1 A No, I do not.

2 **MS. O'SULLIVAN:** May we have this exhibit
3 identified, please?

4 **COMMISSIONER DEASON:** Yes, it will be
5 identified as Exhibit 29.

6 (Exhibit 29 marked for identification.)
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1 DIRECT TESTIMONY OF WILLIAM SCOTT BURNS

2 Q. Please state your name and business address.

3 A. William Scott Burns. My business address is 3301 Gun Club Road, West
4 Palm Beach, Florida, 33406.

5 Q. State your occupation and position.

6 A. I am employed as the Director of Water Use with the South Florida Water
7 Management District (SFWMD or District).

8 Q. Please state a brief description of your educational background and
9 experience.

10 A. I received a B.A. in Geology from the University of South Florida in
11 1979. I am a Certified Professional Geologist (State of Florida certificate
12 no. 1251) I have been employed by SFWMD since July of 1979. My duties have
13 included Research Geologist (1979-1987), Director of Hydrogeology (1987-1991),
14 and Director of Water Use (1991-present).

15 Q. Please describe your present duties.

16 A. I review and approve Staff recommendations on applications for water use
17 permits. I am responsible for developing and applying SFWMD's water use
18 rules, and provide guidance and review regarding water use policy and rules
19 to SFWMD's water supply planning process.

20 Q. What are the water management districts' objectives regarding water
21 conservation?

22 A. The District strongly supports water conservation and diversification
23 of water supply resources in order to meet the needs of the region. Reclaimed
24 water is an integral part of the District's water conservation program and is
25 an important water supply alternative that reduces the amount of water lost

1 from the water supply inventory through deep well injection and discharge to
2 surface waters. District policies concerning water conservation and reuse
3 are:

- 4 • The District will require water conservation and efficient use of
5 water supplies.
- 6 • The District will engage in planning to assist counties,
7 municipalities, regional water supply authorities, private
8 utilities and others in meeting water supply needs.
- 9 • The District will maintain an aggressive public information/
10 education program for conservation and demand management
11 practices.
- 12 • The District will identify areas of critical water supply concern,
13 and develop special criteria for efficient use of water resources
14 in those areas.
- 15 • The District will require utilization of the lowest quality water
16 appropriate for the intended application or use.
- 17 • The District will require a reasonable amount of wastewater reuse
18 in water resource caution areas, consistent with State statutes
19 and rules.
- 20 • The District will encourage regional planning to develop solutions
21 to water supply problems. When appropriate, this will include the
22 utilization of local sources such as utility interconnects,
23 regional water supply planning, regional wellfields, regional
24 water authorities or other measures which diversify supply sources
25 without adding new demands on the regional supply system.

- 1 • The District will implement applied research projects to identify
2 and promote alternative methods of wastewater treatment, disposal,
3 and reuse for the purpose of increasing the engineering, economic,
4 and environmental feasibility of water reclamation and reuse.

5 A comprehensive approach has been initiated by the District to fulfill
6 the intent of these policies. The District has undertaken the development of
7 regional water supply plans to identify regional water supply problems and
8 potential water supply alternatives. These plans have been completed for the
9 Lower West Coast Water Supply Planning Area and are in development for the
10 remainder of the District. In addition, the District has designated water
11 resource caution areas and adopted reuse provisions as part of the District's
12 regulatory program. The District also has established a cooperative funding
13 program to encourage the use of alternative water supply sources, including
14 reuse, consistent with legislative direction.

15 Q. What is the District's definition of water resource caution area?

16 A. Water Resource Caution Areas (WRCA) are areas that have experienced or
17 are anticipated to have water supply problems in the next 20 years. Criteria
18 used to define these areas within the SFWMD are attached as District rule 40E-
19 23.053, Florida Administrative Code. These areas were formerly referred to
20 as Critical Water Supply Problem Areas and were required to be designated by
21 rule by each water management district pursuant to Chapter 62-40, Florida
22 Administrative Code. This chapter further states that a reasonable amount of
23 reuse of reclaimed water from domestic wastewater facilities shall be required
24 within these areas, unless such reuse is not economically, environmentally,
25 or technically feasible. The SFWMD's Critical Water Supply Problem Area Rule.

1 Chapter 40E-23, Florida Administrative Code, was adopted in October of 1991.
2 The SFWMD is currently in rule development to change Chapter 40E-23 to reflect
3 the new nomenclature.

4 Q. Can you provide an overview of water resource and water quality problems
5 in Lee County leading to the area in which Gulf Utility Company (Gulf) serves
6 being designated by the SFWMD as a WRCA?

7 A. The following criteria are used to designate critical water supply
8 problem areas:

- 9 (1) Areas that have been designated as a Reduced Threshold Areas as
10 identified in Rule 40E-20.302;
- 11 (2) Areas of special concern as determined through the water use
12 permitting process;
- 13 (3) Areas that have frequently experienced water shortage
14 restrictions;
- 15 (4) Areas that have been designated as a Restricted Allocation Area;
- 16 (5) Areas that are experiencing saline water intrusion; or
- 17 (6) Other areas with known water supply problems.

18 Lee County, including the Gulf utility area, was designated based on (1)
19 and (3).

20 Q. What is the District's definition of reuse?

21 A. The SFWMD definition of reuse is consistent with Chapter 62-610, Florida
22 Administrative Code, and is "The deliberate application of reclaimed water,
23 in compliance with Department and District rules, for a beneficial purpose."
24 Reclaimed water is defined as "Wastewater that has received at least secondary
25 treatment and is reused after flowing out of a wastewater treatment facility."

1 | Q. What are the benefits of reuse and who are the recipients of these
2 | benefits?

3 | A. Reuse water as a source of supply does not require a water use permit,
4 | which is a benefit in terms of time and expense. An additional benefit is
5 | that the application of reuse water is not restricted during water shortages,
6 | making the user drought-proofed for the volume of water contracted. Another
7 | benefit is that reclaimed water is often an affordable and reliable source of
8 | supply (depending on the agreement between the supplier and the end user) in
9 | areas where conventional supplies such as ground water are not available.

10 | The recipients of the benefits are generally the supplier, in meeting
11 | the conditions of the wastewater permit with the Department, and the end user
12 | in the form of a reliable source of water supply.

13 | Q. Does the SFWMD have any requirements for implementing reuse of reclaimed
14 | water?

15 | A. All applicants are required to evaluate the use of reclaimed water as
16 | part of obtaining a permit for water use. For water users, this involves an
17 | evaluation of using reclaimed water as a source of water. For public water
18 | suppliers, who control a wastewater treatment facility either directly or
19 | indirectly, this involves an evaluation of implementing a reuse program.
20 | Rules governing the consumptive use of water are set forth in Chapter 40E-2,
21 | Florida Administrative Code, (Consumptive Use Rule). Factors considered by
22 | the District concerning the use of reclaimed water are discussed below.

23 | All applicants for water use permits are required to evaluate the
24 | feasibility of utilizing reclaimed water as one of the conditions for issuance
25 | of a permit. As stated in Rule 40E-2.301(1)(h), Florida Administrative Code,

1 (Conditions for Issuance of Permits):

2

3 (1) In order to obtain a permit, permit renewal, or permit
4 modification under this chapter, an applicant must give reasonable
5 assurances that the proposed water use at the time the permit
6 application is deemed complete:

7 (h) makes use of reclaimed water source unless the applicant, in
8 any geographic location, demonstrates that its use is either not
9 economically, environmentally, or technically feasible; or in
10 areas not designated as Water Resource Caution Areas pursuant to
11 Chapter 40E-23, Florida Administrative Code, the applicant
12 demonstrates reclaimed water is not readily available.

13

14 In addition, all applicants for public water supply permits must submit
15 a Water Conservation Plan as part of the water use permit application. An
16 analysis of the feasibility for making reclaimed water available is one of the
17 required elements of the Plan. Section 2.6.1.H of the Basis of Review for
18 Water Use Permit Applications within the South Florida Water Management
19 District (March, 1994) addresses this requirement:

20

21 For those potable public water supply utilities who control,
22 either directly or indirectly, a wastewater treatment plant, an
23 analysis of the economic, environmental and technical feasibility
24 of making reclaimed water available [must be conducted as part of
25 the application]. Use of the Guidelines for Preparation of Reuse

1 Feasibility Studies, published by the Department [DEP] in November
2 1991 is suggested.

3
4 In order to facilitate communication between reclaimed water suppliers
5 and water users, District staff requests that all applicants for water use
6 permits contact the nearest wastewater utility regarding the availability of
7 reclaimed water. If reclaimed water is available for the project, the permit
8 applicant is required to submit an evaluation of the technical, economical,
9 and environmental feasibility of using reclaimed water. Consistent with the
10 DEP's review of utility reuse feasibility studies, the applicant's
11 determination of feasibility is considered final, and the conclusions are not
12 independently reviewed by District staff.

13 Additional clarification of District policy regarding reclaimed water
14 for areas inside water resource caution areas is found in Section 3.2.3
15 (Reclaimed Water Reuse Criteria) of the Basis of Review:

16
17 In those areas of the District which are designated as Water
18 Resource Caution Areas pursuant to Chapter 40E-23, reclaimed water
19 is required to be used, unless it is demonstrated by the Applicant
20 that its use is either not environmentally, economically, or
21 technically feasible.

22
23 Q. Does the SFWMD provide any incentives for applicants to implement reuse
24 projects, such as CUP credits?

25 A. For projects which need a supplemental backup source of ground water or

1 | surface water for use in the event that the reuse water system is temporarily
2 | not available, the District has issued 20 year duration permits for the backup
3 | supply. These longer term permits are only issued in areas where regional
4 | water supply plans have been completed. The SFWMD does not offer CUP credits.

5 | Q. Does SFWMD provide any other financial incentives for applicants to
6 | implement reuse projects?

7 | A. In addition to the District's planning and regulation activities, the
8 | District has an ongoing local partnership (cooperative funding) program as
9 | part of its outreach program. The District's partnership program is designed
10 | to provide financial as well as technical assistance to local governments and
11 | other organizations for water resource related stormwater and water
12 | conservation projects. The District has an established process for soliciting
13 | and considering requests by local governments and other organizations for
14 | cost-share projects. The District will cost-share up to 50 percent of the
15 | project's cost up to \$300,000. In the past, this program has provided
16 | approximately \$9.3 million for wastewater reuse projects.

17 | Q. Are you aware if Gulf has applied for such funding?

18 | A. Gulf applied for and received an Alternative Water Supply grant from the
19 | District for their Effluent Reuse Mixing System in the Fiscal Year 1997. The
20 | District will cost-share up to \$300,000 of the project's cost.

21 | Q. What is the present policy of the District in issuing or modifying
22 | consumptive use permits (CUPS) to applicants who utilize reuse or have reuse
23 | available to their property?

24 | A. All applicants for Water Use permits are required to evaluate the
25 | feasibility of utilizing reclaimed water as one of the conditions of issuance

1 of the permit. In those areas of the District which are designated as Water
2 Resource Caution Areas, reclaimed water is required to be used, unless it is
3 demonstrated by the Applicant that its use is either not environmentally,
4 economically, or technically feasible. The applicant would also need to
5 provide reasonable assurances that the requested allocation would not result
6 in adverse resource impacts.

7 Q. Gulf presently provides reuse to the San Carlos golf course (San
8 Carlos), the Vines County Club (The Vines), The Villages of Country Creek (The
9 Villages), and has a contract with the River Ridge Development (River Ridge).
10 Do these four customers have active CUPs? If yes, please state the permitted
11 withdrawal and expiration of the permits.

12 A. San Carlos, the Vines, and the Villages have existing consumptive use
13 permits. River Ridge has applied for a water use permit and the application
14 is currently under review. San Carlos is allocated for annual consumption of
15 104 million gallons per year (MG/yr) with a maximum month of 20.70 million
16 gallons per month (MG/mo). The Vines is allocated for 89 MG/yr and a maximum
17 month of 13.69 MG/mo, and the Villages is allocated for 147 MG/yr and a
18 maximum month of 23.60 MG/mo.

19 Each of these allocations take into account the available reclaimed
20 water. They also contain an additional volume of water as back-up allocation
21 in the even that reclaimed water flow are interrupted. These permits expire
22 December 15, 1997.

23 Q. How does the District make a determination of whether an applicant
24 should retain a CUP or what the appropriate permitted withdrawal should be if
25 reuse is used or available?

1 A. All applicants for Water Use permits are required to evaluate the
2 feasibility of utilizing reclaimed water as one of the conditions of issuance
3 of the permit. In those areas of the District which are designated as Water
4 Resource Caution Areas, reclaimed water is required to be used, unless it is
5 demonstrated by the Applicant that its use is either not environmentally,
6 economically or technically feasible. The applicant would also need to
7 provide reasonable assurances that the requested allocation would not result
8 in adverse resource impacts.

9 If reuse is demonstrated by the Applicant to be infeasible, District
10 staff's recommended allocation would be based on the calculated supplemental
11 crop requirement for the proposed irrigation. If reuse is demonstrated by the
12 Applicant to be feasible, District staff's recommendation would also take into
13 account the amount of available reclaimed water and an additional volume of
14 water as a back-up allocation, in the event that reclaimed water flows are
15 interrupted.

16 Q. Would customers already receiving reuse be able to increase withdrawals
17 if they chose to decrease their usage of reuse?

18 A. The customer would only be able to decrease their utilization of
19 reclaimed water if they demonstrated that its use is either not
20 environmentally, economically, or technically feasible. In addition, the
21 applicant would need to provide reasonable assurances that a higher allocation
22 would not result in adverse resource impacts.

23 Q. Does this conclude your testimony?

24 A. Yes, it does.

25

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

2 The witness is tendered for cross-examination.

3 **COMMISSIONER DEASON:** Let me ask a question.

4 The exhibit you just distributed, is it different than
5 what was distributed earlier or was attached to the
6 prefiled testimony?

7 **MS. O'SULLIVAN:** It's the same exhibit that
8 I distributed, I think, after the prehearing. It was
9 not attached to his testimony when it was prefiled,
10 and we supplemented that.

11 **COMMISSIONER DEASON:** Very well.

12 Mr. Reilly.

13 **MR. REILLY:** Just a few questions.

14 **CROSS EXAMINATION**

15 **BY MR. REILLY:**

16 **Q** Statewide, isn't it a trend to strongly
17 encourage golf courses to use reuse water when it is
18 available?

19 **A** Yes.

20 **Q** And the reason for this is that these golf
21 courses use huge amounts of water, and that by getting
22 them to use the reuse, this in effect protects the
23 limited water resources of Florida?

24 **A** There are a variety of reasons why golf
25 courses as well as other irrigation uses are directed

1 to examine the feasibility of using reclaimed water.

2 The one you've stated is one of a series.

3 Q Could you share some other reasons?

4 A Other reasons may include that there may be
5 a localized availability problem with conventional
6 sources that make the examination for an alternative,
7 affordable alternative source of supply beneficial.
8 There may be a desire to use a source of water which
9 is not subject to restrictions during water shortage
10 period times which may be considered beneficial.

11 The quality of the water may be in some
12 cases more applicable to the use intended than
13 conventional sources may be. Just be a few off the
14 top of my head.

15 Q Does River Ridge Golf Course have a
16 consumptive use permit yet?

17 A River Ridge application for consumptive use
18 permit is currently under review. The board has not
19 acted on that --

20 Q What quantities --

21 (Microphone adjusted.)

22 Q My question was, what quantity of water is
23 River Ridge seeking to have authority to withdraw?

24 A I don't have that information with me at
25 this time.

1 Q Are you aware of the agreement between River
2 Ridge and Gulf Utilities concerning the amount of
3 reuse that they have contracted to receive from Gulf?

4 A I have no first-hand knowledge of that
5 agreement.

6 Q Would it surprise you that they've agreed to
7 take a maximum of 1.5 million gallons a day?

8 A Again, I'm not familiar with that, and I
9 don't know if I would be surprised what my reaction
10 would be.

11 Q Okay. No knowledge about that. We had some
12 testimony earlier today about consumptive use permits
13 and whether people who have these permits might exceed
14 the requirements of those permits, and I would like to
15 know if you could enlighten us a little bit on what
16 the District does to verify or enforce permit
17 parameters?

18 A With regard to water use, the volumes of
19 water uses, there are a variety of things that we
20 would look at.

21 Q How would you keep a person from exceeding
22 their allotment?

23 A Beginning in 1993, District rules were
24 amended to require individual permit holders to submit
25 pumpage information to the District on a regular basis

1 for golf course use classes. That's principally
2 monthly totals that are submitted to the District on a
3 quarterly basis, and those withdrawals are reported by
4 source, and that is shown on the permit. That
5 information is reviewed and stored within our
6 post-permit compliance Staff.

7 Q So all withdrawals are metered? There's no
8 unmetered withdrawals?

9 A If you have received a permit pursuant to
10 the rules adopted in 1993, that would be a condition
11 on your permit, yes, that's correct.

12 Q And the staffing of the District is such
13 that there's no spot checking of meter readings from
14 time to time, or you don't feel that's necessary or --

15 A We have a staffing that affords us the
16 opportunity to evaluate field meter readings on a
17 frequency across our 16-county area of about once
18 every four years.

19 Q Do you have, however -- although that's on
20 an average basis, do you have standards or criteria
21 where you might have reason to perhaps check a permit
22 holder more frequently --

23 A Yes, we have that ability.

24 Q -- if intelligence came to you that would
25 indicate that would be warranted?

1 A Yes.

2 Q Does the Water Management District have any
3 standards to determine the economic feasibility of
4 requiring golf courses to take reuse?

5 A No, we do not.

6 MR. REILLY: That concludes our questions.

7 COMMISSIONER DEASON: Mr. Gatlin?

8 **CROSS EXAMINATION**

9 **BY MR. GATLIN:**

10 Q My name is Kenneth Gatlin. I represent Gulf
11 Utility. Does it help or hurt in getting a reuse
12 program established that the Utility is charging for
13 the reuse or not charging?

14 A I'm not just exactly sure how to answer that
15 question with regard to my role as issuance of
16 consumptive use permits.

17 Q You want as much reuse as you possibly can
18 get, don't you?

19 A Our agency seeks to promote water use
20 conservation. That could be done in a variety of
21 ways.

22 Q Sure.

23 A Reclaimed water is one of the opportunities
24 that are available.

25 Q Right. But couldn't you get a golf course

1 to take more water if there was no change?

2 A No. We look to encourage and direct the use
 3 of water through our consumptive use permitting
 4 process in a reasonable and beneficial manner. Our
 5 rules specify a formula by which we calculate what a
 6 reasonable irrigation use would be based on crop type,
 7 local rainfall conditions and soil types as well as
 8 the time of year. This is known as a Blaney-Criddle,
 9 a modified Blaney-Criddle relationship.

10 Q Do you prefer that golf courses use reuse
 11 water or not?

12 A I prefer that golf courses develop a
 13 reasonable supply of water which is consistent with
 14 our rules and at the same time is reasonable and
 15 beneficial for their purposes.

16 Q And you want some reuse water used by the
 17 golf courses, don't you?

18 A Reuse water has proven to be a beneficial
 19 water conserving methodology that our agency promotes.

20 Q You don't want to discourage it, do you?

21 A No, I do not.

22 Q Do you think it might discourage it if the
 23 golf course had to pay 50 cents per thousand gallons?

24 A Yes.

25 Q Or 23, or any price?

1 A I believe that there is a point upon which
2 the cost of an alternative water supply makes it less
3 attractive to pursue than a less expensive supply
4 source.

5 My understanding in this area of our
6 district, the greatest success in developing reclaimed
7 water has occurred when there is the lowest cost
8 applied to it.

9 Q Are you familiar with Gulf's discharge of
10 effluent and the reuse program?

11 A Yes, I am.

12 Q Are you satisfied with it?

13 A Yes, I am.

14 Q If a charge would discourage reuse by the
15 golf courses, you would be against it, wouldn't you?

16 A Could you repeat the question?

17 Q If a charge were to discourage reuse, you
18 would not be for that, would you?

19 A From my personal perspective, I guess, is
20 the best ability I have to answer that question. My
21 personal perspective is that I would not like to see
22 that happen.

23 Q And the economic question in the instance of
24 golf courses is that they have wells that has a
25 certain cost, and if effluent starts costing more than

1 that, they want to go to the wells, don't they?

2 A That has been my experience, and I've seen
3 that across our district, yes.

4 Q All citizens benefit from the reuse program,
5 do they not, in the broad picture?

6 A It's a difficult question for me to answer.
7 I think in general terms that's a reasonable
8 assumption.

9 MR. GATLIN: I have no further questions.
10 Thank you, sir.

11 COMMISSIONER DEASON: Redirect?

12 MS. O'SULLIVAN: Staff has no redirect.

13 COMMISSIONER DEASON: Exhibits?

14 MS. O'SULLIVAN: Staff moves in Exhibit
15 No. 29.

16 COMMISSIONER DEASON: Without objection, it
17 shall be admitted.

18 (Exhibit 29 received in evidence.)

19 COMMISSIONER DEASON: Thank you, Mr. Burns.

20 (Witness Burns excused.)

21 - - - - -

22 MS. O'SULLIVAN: That was the last Staff
23 witness we had listed.

24 COMMISSIONER DEASON: Very well.

25 Mr. Gatlin, are you prepared to move into your

1 rebuttal case?

2 **MR. GATLIN:** Just about. Just a second,
3 please. (Pause.)

4 Call Mr. Moore back to the stand.

5 **JAMES M. MOORE**

6 was called as a rebuttal witness on behalf of Gulf
7 Utility Company and, having been duly sworn, testified
8 as follows:

9 **DIRECT EXAMINATION**

10 **BY MR. GATLIN:**

11 **Q** You have been sworn earlier, have you not,
12 Mr. Moore?

13 **A** Yes, I have.

14 **Q** Have you prepared rebuttal testimony and
15 supplemental rebuttal testimony, or additional
16 testimony, rebuttal testimony, for presentation today?

17 **A** I have.

18 **Q** If I were to ask you the questions contained
19 in that prepared testimony, would your answers be the
20 same today?

21 **A** They would.

22 **MR. GATLIN:** Mr. Chairman, we ask that this
23 be inserted into the record as though read.

24 **COMMISSIONER DEASON:** Without objection, it
25 shall be so inserted.

Docket No. 960329-WS
Gulf Utility Company

GULF UTILITY COMPANY

REBUTTAL TESTIMONY OF

JAMES W. MOORE

1
2
3
4 Q. State your name, business address, and position with
5 the Company.

6 A. James W. Moore, 19910 S. Tamiami Trail, Estero,
7 Florida. I am President and CEO of Gulf Utility
8 Company.

9 Q. As you reviewed both Staff and Public Counsel's
10 exhibits do you have some general observations?

11 A. If the analysis and recommendations of both were
12 implemented, Gulf would cease to function as a going
13 concern. The Company would be unable to pay bond
14 interest. It would be impossible to obtain the
15 additional borrowings required to construct the plant
16 and facilities needed to meet the growth of our
17 service area. It appears that neither Staff nor OPC
18 carried through their studies and analysis to the
19 impacts on rate base and the operating income
20 statement, so it is hard to be precise, but the
21 following is a reflection of Public Counsel's
22 recommendation:

23 Per MFR
24 Operating Income (Present Rates) \$641,146
25 Interest Income 41,707

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1	Total Income	\$682,853
2	Interest Expense	<900,714>
3	Net Loss	<217,861>
4	OPC Proposed Rate Reductions	<898,018> ¹
5	Net Loss As Adjusted	<1,115,879>

¹ OPC Recommended Reduction in Revenues (Dismukes, page 2, lines 9-16).

Public Counsel's proposed revenue reduction of \$898,018 plus an additional reduction for an unknown amount for adjustments to rate base, would absolutely wreck the Company financially. It would wipe out the equity account, put the Company in default of its outstanding debt securities, and throw the Company in bankruptcy. Hopefully the Commission will ignore OPC's unrealistic recommendations. Similar analysis cannot be made for Staff testimony because staff has never shown a revenue deduction estimate attendant to their work.

PROPERTY TRANSACTIONS WITH AFFILIATE

- 20 Q. Both Staff and Public Counsel credit CIAC for \$160,928
21 stemming from a transaction with Caloosa Group in
22 February 1990. Would you briefly summarize that
23 transaction, then state your opinion.
- 24 A. In 1990, Caloosa Group, Inc. constructed \$160,928 of
25 on-site facilities in a subdivision called Caloosa

1 Trace and the owners were given stock upon the
2 transfer of the assets to the Utility. The ownership
3 of the Caloosa Group and the Utility are the same.
4 The transaction itself is very open and straight
5 forward with stock being issued for valuable assets.
6 There are two reasons the Commission should approve
7 the Company's accounting of this transaction, the
8 first being there is a substantial difference in the
9 conditions under which the stockholders obtained
10 service in contrast to other developers in the area;
11 and second, the Company's accounting of this
12 transaction strengthened the Company financially,
13 benefitting the customer over the long pull. Rather
14 than there being an issue of shifting the cost burden
15 to other developers or to the consumers, they both
16 have benefited.

17 Q. Would you briefly describe the general development of
18 the Company's service area?

19 A. Our certificated service area is between Ft. Myers and
20 Naples and has been one of the fastest growing areas
21 in the state. Normally, there have been 15-20
22 developers active in the area and, using the following
23 table shows the growth from 1982 to 1995.

24
25

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	<u>Water Operations</u>		<u>Wastewater Operations</u>	
	<u>Customers</u>	<u>m gal Sales</u>	<u>Customers</u>	<u>m gal Sales</u>
1983	1,889	117,888	375	41,380
1995	<u>6,835</u>	<u>627,159</u>	<u>2,299</u>	<u>195,775</u>
Increase:	4,946	509,271	1,924	154,395
ACG ¹	11%	15%	16%	14%

¹ Annual Compound Growth

Q. And what has been the construction program to meet that growth?

A. The present owners acquired the Company in 1982, and the major construction programs starting in 1988 were:

- 1988 • Constructed a second wastewater treatment plant (Three Oaks), with Capacity of 250,000 gpd
- 1989 • Constructed a 1 million gallon storage tank
- 1990 • Constructed new well field and 500,000 gpd water treatment plant
- 1991 • Constructed 250,000 gpd addition to Three Oaks WWTP
 - Constructed looping water mains
- 1994 • Constructed 500,000 GPD addition to Corkscrew WTP
- 1995 • Constructed 250,000 gpd addition to Three Oaks WWTP
 - Major water transmission lines installed

- 1 1996 ● Construction of water transmission mains
2 ● Relocate force main along Route 41
3 ● Construction of water and wastewater lines to
4 Florida Gulf Coast University
5 ● Construct 833,000 gpd addition to water
6 treatment plant
7 1997 ● Construct 750,000 gpd addition to Three Oaks
8 WWTP
9 1998 ● Construct new force main along Route 41
10 2000 ● Retrofit skids 1 and 2 at Corkscrew WTP
11 ● Construct deep well
12 ● Relocate water and wastewater lines to
13 accommodate U.S. 41 widening
14 Q. And how has construction been financed?
15 A. Up through 1987, it was financed through stockholders
16 and bank loans. In 1988, the stockholders converted
17 \$626,800 of loans to equity capital, and the Company
18 issued \$10 million of industrial development revenue
19 bonds. In 1990, it further strengthened the equity
20 base by \$160,928 when common stock was issued for the
21 assets of the Caloosa Group. By the year 2000, we
22 estimate another \$5-7 million of outside capital will
23 have to be raised.
24 Q. And how has the stockholder fared during this same
25 period of time?

1 A. The Company started in 1982 and through 1987, which
2 was just prior to the issue of the \$10 million of
3 IDRB's, the Company had a negative retained earnings
4 of \$329,788. Through 1995, the retained earnings were
5 a negative \$13,427. This data is taken from Exhibit
6 JWM-2, attached to my direct testimony. As this
7 summary shows, in the first 13 years of its existence,
8 the Company has not made money.

9 Q. Now let's go back to the development of the area and
10 the needs of the customers in Gulf's certificated
11 area. What are their water and wastewater
12 requirements?

13 A. Basically, potential customers need the availability
14 of the service. In any real estate development, some
15 group has to come up with "up front" money and
16 construct facilities so the capacity in water and
17 wastewater plants is available to serve the new homes
18 being built.

19 From the Company's viewpoint, anywhere from one to
20 five years prior to the builder getting their permit,
21 Gulf must provide the "up front" money to build this
22 Capacity; the stockholder, in large part, absorbed the
23 losses associated with this "up front" money. From
24 the builder's viewpoint, they contact the utility for
25 service, are issued a permit and proceed to build.

1 The benefits of the Company building plant capacity in
2 advance of the builder's needs go to the builders in
3 the area. Equity dictates this situation be brought
4 into balance.

5 Additionally, to return to the fundamental issue, how
6 is any utility with the earnings history of Gulf and
7 the prospective earnings attendant to Staff comments
8 and OPC recommendations going to attract additional
9 investment capital?

10 Q. Is Caloosa a large developer?

11 A. No, quite the contrary. It has only one Development
12 with 133 lots, of which 28 remain unsold today. No
13 new developments are planned or are being planned.

14 Q. With reference to the operating losses, what are your
15 observations?

16 A. For the period 1982-1988, the losses were from the
17 operations of the Company. In 1985 and 1988, service
18 availability charges were increased, and rates were
19 increased in 1986, 1988 and 1991. So the utility
20 operations were in the black after 1986. However,
21 starting in 1989, the losses and/or depressed earnings
22 are in large part related to the IDRB loans earmarked
23 for construction. The difference between the interest
24 on these loans earmarked for construction and the
25 interest income from temporarily investing this money

1 in government securities as the bond indenture
2 required was over \$1,500,000. This was the
3 stockholders' loss.

4 These losses are directly related to making water and
5 wastewater capacity available to the customers who
6 have purchased homes from 15-20 active developers in
7 the area. When Gulf stockholders absorb over
8 \$1,500,000 in losses, and the customers and developers
9 benefit by having the service available when and if it
10 is needed, there is a substantial difference in the
11 service provided the stockholders in Gulf/Caloosa and
12 the other developers in the area. For that reason,
13 there is no discrimination in the transaction where
14 Gulf issued stock for the assets of Caloosa.

15 Q. The amount in question is approximately \$160,000.
16 What is the effect on customer rates?

17 A. It will effect customer rates \$14,800 per year. They
18 have received much more benefit from our programs than
19 that.

20 Q. How have the customers benefitted?

21 A. The Company's programs have provided quality service
22 at reasonable prices to the area. The facilities
23 constructed were well planned and engineered and
24 brought economy of scale into the operations. With
25 customer growth and economy of scale, the Company was

1 able to maintain stable operations and stable rates.
2 We must be doing something right if we haven't
3 increased rates for six years, and the increase we are
4 requesting now for water and wastewater combined is
5 only two-thirds of the increase in the CPI over that
6 same period. Our customers will pay less in real
7 terms - in inflation adjusted dollars - for utility
8 service from Gulf than they did in 1991.

9 Q. How does a higher equity base benefit the customer?

10 A. Very significantly. With a higher equity base and
11 stable earnings, the Company will have better
12 prospects of successfully negotiating the refinancing
13 of the Industrial Development Revenue Bonds with lower
14 interest rates plus freeing \$1 million of required
15 reserve funds that then can and will be invested in
16 new facilities. The consumer will benefit from these
17 lower costs and the additional investment. Based on
18 discussions with our bond underwriters which were
19 suspended as the result of the FPSC initial
20 overearnings investigation, the debt refinancing will
21 produce a 250-300 basis point reduction in borrowing
22 costs which would reduce expenses \$250,000 annually.
23 The release of the \$1,000,000 in cash collateral would
24 reduce our borrowing requirements by a like amount,
25 producing an additional \$60-70,000 in annual expense

1 reduction and benefit rate payers accordingly. The
2 \$14,800 cost of the additional equity pales in
3 comparison to the \$300,000 plus benefit that a
4 stronger balance sheet can provide.

5 Q. Why is greater equity and a stronger balance sheet
6 important?

7 A. It is no different than an individual borrowing money
8 to purchase a home. Lenders require an adequate
9 equity base to support debt. If equity is further
10 reduced from its already low level, it will be even
11 harder to sell bonds to finance construction.
12 Attracting new equity to Gulf will be difficult until
13 it can demonstrate that it can sustain adequate
14 earnings in the future.

15 Q. What are your conclusions?

16 A. The Company's accounting for the Caloosa Trace
17 transaction strengthens the equity base of the
18 Company, reflects the continuing commitment of the
19 stockholders to provide quality service to the area,
20 and will benefit consumers over the long pull. In my
21 opinion, the accounting should be approved by the
22 Commission.

23 OFFICE RENTAL & OFFICE EXPENSE

24 Q. Staff has made an adjustment to office rent on the new
25 office building. Please comment on this.

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1 A. First and foremost, Gulf had outgrown the existing
2 space and could not expand its office on Bartow Blvd.;
3 second, there was a need for a more easily accessible
4 location to provide better service to our customers;
5 third, the new office provides greater efficiency;
6 fourth, the Company was unable to finance a new office
7 because of the large capital demands to build utility
8 plant to meet the growing needs of the area; and
9 fifth, a leading independent M.A.I. appraiser in the
10 area substantiated the rental charge as a market rate
11 for an independent third party, the bank who made the
12 loan on the office building. Finally, there was no
13 office space available in the area to lease from a
14 third party.

15 Based upon the above factors, it was management's
16 judgement that the new office facilities and the
17 rental was the most economical method of serving our
18 customers. Gulf rents only one-third of the building.
19 In late 1996, most of the remaining two-thirds of the
20 building was rented at a charge comparable to that
21 being paid by Gulf, again verifying the reasonableness
22 of the rental charge.

23 Q. Would you review some of the background on the need
24 for new office facilities?

25 A. The old office was located at the San Carlos water

1 plant and surrounded by residential subdivisions. As
2 the Company grew and the service area expanded, the
3 location was not convenient to many of our customers,
4 plus it raised safety questions with the traffic in
5 area where children are playing or waiting for school
6 buses. Coupled with this was the need for an
7 operations center to house new computer control
8 equipment for both the water and wastewater
9 operations, plus new laboratory facilities. The old
10 office is used for these purposes at this time, in
11 addition to offices for the Operations Manager, the
12 Field Service Supervisor, Water and Wastewater Lead
13 Operators and their staff, and for record storage.
14 Gulf was able to design the new office to serve our
15 unique needs. This increased efficiency and saved the
16 need for additional future staffing for sometime to
17 come. Even if we could have leased from others, it is
18 highly unlikely this would have been the case.

19 The new office is located on U.S. Highway 41 in a
20 convenient area for our customers, with a new drive-up
21 window for their convenience. Our bill payment at the
22 office and by automatic payment has increased 10-15%
23 since we occupied the new office.

24 Q. The third item you mentioned is the inability to
25 finance a new office.

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- 1 A. With the growth of the system, there is a large and
2 continuing need for capital. For the period 1996-
3 2000, the capital expenditure will be about \$9
4 million, of which about one-third will be funded by
5 CIAC. These amounts exclude on-site facilities that
6 are contributed by developer. This means we have to
7 raise \$5.0 to \$6.0 million of outside capital in a
8 five-year period. Financing growth has eaten into the
9 equity account, and with inadequate debt service
10 coverage, what little borrowing capacity we have left
11 has to be reserved for plant expansion. Gulf has no
12 excess cash flow from operations to cover required
13 debt service on that portion of the building it is not
14 leasing and was not leased at the time. Therefore,
15 the Company could not undertake to construct a new
16 office building itself.
17 Caloosa undertook the building, permitting Gulf to
18 design their own space, without any obligation to
19 support the remaining building with only a five year
20 lease commitment. The building and its location meet
21 the needs of Gulf Utility operations.
- 22 Q. And would you summarize Gulf's obligations under the
23 lease?
- 24 A. The lease is typical of such agreements in the area
25 and includes:

- 1 1. Annual Rental - \$47,172.00
- 2 2. Maintenance - \$818.96 per month for the first
- 3 year. Commencing with the second lease year and
- 4 each lease year thereafter, lessee's
- 5 proportionate share of estimated operating
- 6 expense shall be a monthly charge equal to 1/12
- 7 of lessee's share of actual operating costs of
- 8 previous year.
- 9 3. Terms - Five year lease, rent paid in advance on
- 10 the first day of each month in equal monthly
- 11 installments.
- 12 Q. Turning now to the report from the real estate
- 13 appraiser, would you summarize that report?
- 14 A. This report was done not for Gulf or Caloosa, but for
- 15 the bank which ultimately loaned the funds to mortgage
- 16 the building. The relevant portions of the report
- 17 itself have been identified as JWM Exhibit 5.
- 18 1. Firm - Allied Appraisers & Consultants, Inc.,
- 19 1642 Medical Lane, Fort Myers, Florida 33907,
- 20 (941) 939-1557.
- 21 2. Basis of study - Appraisal to estimate the market
- 22 value of the office building at 19910 South
- 23 Tamiami Trail, Estero, Florida to qualify
- 24 mortgage financing with Northern Trust Bank,
- 25 Bonita Springs, Florida.

1 3. Conclusion - "After considering comparable
2 rentals, it is our opinion the market rent for
3 the subject property is between \$10.00 and \$12.00
4 per square foot on a triple net basis."

5 Q. You indicate Lee Memorial Hospital, the not-for-profit
6 hospital serving Lee County, has leased about two-
7 thirds of the office building. Please comment on that
8 lease.

9 A. On May 13, 1996 the Lee Memorial Health System entered
10 into a five year lease with Caloosa Group, Inc. The
11 annual rental is \$77,520.00 (\$12.00 per rentable
12 square foot) based on 6,460 rentable square feet. The
13 maintenance expenses equal \$1.50 per rentable square
14 foot and are adjusted to years two through five
15 maintenance expenses identical to Gulf's lease
16 agreement.

17 Q. And what are your conclusions on the office rental?

18 A. It was and is the judgement of the management of the
19 Company that the new office building is required in
20 providing service to our customers, and the rental
21 charge is reasonable. The amount of rent is at market
22 value as substantiated by the independent appraisal
23 and confirmed by the rent being paid by the Lee
24 Memorial Hospital system. The rent does not exceed
25 the going market value and is inherently fair.

PRESIDENT'S BUSINESS EXPENSES

1
2 Q. Mr. Moore, Ms. Dismukes allocated to Caloosa some of
3 your expenses - business, conferences, administrative
4 and car expenses. What are your comments?

5 A. First, Caloosa is a very inactive company, and my time
6 and effort is spent on Gulf Utility. Caloosa has no
7 on-going business. Its only assets are the 29 lots
8 being sold by others and the office building we have
9 been discussing. If Gulf didn't exist, any and all
10 services performed by Gulf employees for Caloosa would
11 be contracted out at very little expense and no
12 benefits. There is practically no expenditures of
13 time or money by me for Caloosa. I notice Ms.
14 Dismukes on her Schedule 4 allocates the cost of
15 2.62%, the same as rent, office supplies and computer
16 depreciation. There is no relationship between the
17 allocation of these items to my limited expenditures
18 for business and conference. Regarding car expense,
19 there is virtually no usage of the car for Caloosa.
20 I sign checks, tax reports, etc. and that is done in
21 the office. Then Ms. Dismukes elects to allocate
22 11.11% of car expense based on payroll cost. Caloosa
23 is a Sub-Chapter "S" Corporation and distributes its
24 profits to its stockholders to eliminate double taxes.
25 Ms. Dismukes included these profits in her payroll

1 cost. These distributions are unrelated to Gulf and
2 Ms. Dismukes adjustments should be rejected.

3 REUSE RATE

4 Q. Ms. Dismukes has proposed a \$.25 per mgal rate for
5 reuse water. What are your comments on this proposal?

6 A. Ms. Dismukes failed to recognize that the golf courses
7 that use reuse water are not customers. Spray
8 irrigation is an integral part of the wastewater
9 treatment process for Gulf. Gulf has implemented a
10 program that produces the lowest overall cost for its
11 customers. It not only is the lower cost alternative
12 of deep well injection, advanced wastewater treatment
13 or holding ponds, but Gulf in large measure has little
14 capital invested in the effluent disposal system since
15 most of the capital requirements were met through
16 Gulf's effluent in 1988 agreement through which Gulf
17 negotiated with municipalities with both low quality and
18 Florida cities which have holding ponds or discharge
19 to rivers, with Gulf reuse irrigation being a
20 supplementary system. Gulf contracts with developers
21 recognize this fact, requiring the golf courses to
22 take all effluent even in the rainy season. Further,
23 substantial investment by the golf courses is required
24 to comply with regulatory agency requirements for
25 effluent storage. DEP regulations require a minimum

1 of three days effluent storage. This requires golf
2 course owner's land being set aside for holding ponds
3 and their bearing the costs of construction and
4 maintenance. Other utilities, such as Florida Cities
5 Water Company constructed advanced wastewater
6 treatment facilities to meet standards for discharging
7 effluent into the Caloosahatchee River, with the
8 associated cost included in the customers' rates. FCWC
9 uses the river discharge as its primary method of
10 effluent disposal with spray irrigation to nearby golf
11 courses as a secondary method. Gulf, on the other
12 hand, has only one method of effluent disposal and
13 that is spray irrigation on golf courses. It has
14 contracted with these golf courses to take all its
15 effluent, thus saving expensive treatment facilities
16 such as those required of FCWC. Gulf customers have
17 and will benefit from lower cost of spray irrigation
18 for effluent disposal.

19 Q. How should the cost of treatment be included in rates?

20 A. For comparison purposes, the cost of FCWC's AWT plant
21 and effluent line into the Caloosahatchee River is
22 included in the base rates. With Gulf, its contracts
23 with golf courses serves the same function, namely,
24 disposal of effluent that meets all regulatory agency
25 requirements. Any cost related to this disposal

1 system should be included in the basic rates, the same
2 as FCWC.

3 Q. Regarding the golf course reuse sites, do they use
4 groundwater as a source of water for spray irrigation
5 and do they need permits from SFWMD?

6 A. Yes, they do.

7 Q. And what are the groundwater permits of the reuse
8 sites in Gulf's service area?

9 A. San Carlos Golf Course: Consumptive use permit #36-
10 00308-W; average day allocation is 285,000 gpd;
11 maximum day allocation is 690,000 gpd; maximum year
12 allocation is 104,000,000. Lakes and wells are the
13 source of withdrawal.

14 Villages at Country Creek Golf Course: Consumptive
15 use permit #36-00479-W. Average day allocation is
16 403,000 gpd; maximum month allocation is 23,600,000
17 gpd; total annual allocation is 147,000,000 gallons.
18 Lakes and wells are the sources of withdrawal.

19 The Vines Golf Course: Consumptive use permit #36-
20 00737-W. Average day allocation is 244,000 gpd;
21 maximum monthly allocation is 13,700,000 gallons;
22 total annual allocation is 89,000,000 gallons. Lakes
23 and wells are the sources of withdrawal.

24 Q. Is some of the reuse water from the Corkscrew Water
25 Plant?

- 1 A. Yes. The FDEP permit allows Gulf to monitor the
2 allocation and results of mixing effluent from the
3 Corkscrew WTP and the Three Oaks WWTP. This
4 temporarily eliminates the construction of a \$2.5
5 million deep injection well, but timing and
6 requirement to construct this deep injection well is
7 the biggest uncertainty we face in the near future.
- 1 Q. Have you read the testimony of Ms. Edith Xanders?
- 2 A. Yes I have.
- 3 Q. What is your view of Ms. Xanders analysis of re-use
4 rates?
- 5 A. The text of Ms. Xanders testimony supports Gulf's
6 position, although she opens her testimony in support
7 of a charge for effluent. Beginning on page 3, line
8 20, of her testimony she discusses the factors to be
9 considered in Gulf's case (no alternative method of
10 effluent disposal, and alternative sources of water
11 available to effluent customers), and states this
12 "could justify the continuation of a zero charge for
13 reuse."
- 14 Q. What would be the impact on Gulf's operations if a
15 reuse charge was imposed?
- 16 A. As a general observation, it would take an operation
17 that is now low cost and efficient and subject it to
18 untold litigation and untold cost consequences to the

1 detriment to all parties, namely Gulf, the golf
2 courses, and finally our customers. Based on my
3 conversations with existing and prospective re-use
4 recipients it is clear at least three things would
5 happen:

6
7 First, existing users would take as little reuse water
8 as possible in order to avoid the expense. They would
9 supplement the minimal reuse take with water from
10 their existing well systems.

11
12 Second, prospective reuse sites would avoid or delay
13 as long as possible entering agreements to accept
14 reuse from Gulf. If ultimately accepting reuse, they
15 would limit contractually the amount they would agree
16 to accept to the least amount possible.

17
18 Third, on a daily basis Gulf would find itself unable
19 to dispose of effluent in the quantities it has
20 historically delivered to the sites it now serves.
21 This will create an operational problem to which there
22 is no immediate solution which could force a temporary
23 moratorium on new service.

24 Q. Do you know what experience Lee County Utilities (LCU)
25 has had with effluent disposal and effluent rates?

1 A. Beginning in 1995 LCU charged \$.21 per 1,000 gallons
2 to those who took their effluent. Because they had a
3 difficult time disposing of the effluent they
4 generated, they lowered the charge to \$.04 per 1,000
5 gallons in July 1996. The charge remains unchanged
6 since that time.

7 Q. Doesn't the South Florida Water Management District
8 (SFWMD) require users such as golf courses to take
9 effluent if it is available?

10 A. Yes they do if it is economically and technically
11 feasible. They also grant consumptive use permits to
12 "back up" or supplement the effluent water supply in
13 the event it is interrupted or not suitable or
14 unavailable for some other reason.

15 Q. Why then do you believe the existing and future golf
16 courses won't take all the effluent you are required
17 to dispose of?

18 A. It costs less to pump free well water than to pump
19 effluent that costs them money. Golf courses will
20 take effluent only to the extent they absolutely must
21 because of the cost. What regulator will tell them
22 they are taking inadequate quantities? What will they
23 base such a finding on? Who will force the golf
24 courses to take more than they say then can? What
25 will be the penalties? Today Florida law says when a

1 sewer line runs in front of a home the homeowner must
2 connect, but no agency will accept enforcement
3 responsibility. The reasons have a familiar ring:
4 inadequate staff, inadequate funding, etc. If and
5 when these types of arguments are sorted out as to the
6 required taking of effluent, we would long ago have
7 had to solve the very real and immediate problem of
8 effluent disposal. Nothing has changed as it relates
9 to the problems an effluent charge creates for Gulf.

10 Q. What other problems might occur?

11 A. It is a real possibility we will either be sued by
12 disposal site operators or they will declare their
13 contracts with Gulf void, refusing to accept effluent.

14 Q. How would you deal with these problems?

15 A. We would have to immediately request a court order to
16 force site operators to take effluent for the
17 immediate future. We would have to develop
18 alternative methods of disposal, which will be
19 expensive. Of course, the legal expenses attendant to
20 all this will not come cheap either.

21 Q. What would the consequences of any or all of this be
22 to your customers?

23 A. The cost of service to water and wastewater customers
24 would have to increase as Gulf develops the
25 alternative facilities to dispose of effluent and

1 reject water through methods other than spray
2 irrigation. Additionally, we could face a moratorium
3 on new connections as the FDEP has made clear
4 treatment plants cannot be operated at a capacity
5 beyond their ability to safely dispose of effluent.

6 Q. And what are your recommendations?

7 A. My recommendation is that the present method of
8 disposing of effluent be retained. Gulf has never had
9 any other method of disposal of effluent. We were
10 doing this long before the FPSC had any interest in
11 assigning charges for effluent. In Gulf's case, the
12 disposal method is an integral part of the treatment
13 process, just as an injection well or percolation
14 ponds would be. Costs have been avoided and customer
15 rates kept below what they otherwise would be as the
16 result. If the Commission creates a cost, the result
17 will be a disproportionate increase in customer costs
18 as willing takers of effluent will disappear and funds
19 will have to be spent to develop alternative methods
20 of disposal for reject and effluent water. In the
21 case of other utilities where they already have
22 additional and alternative disposal options, the
23 problems and costs created by a new charge for
24 effluent do not exist. Our goal is to maintain an
25 efficient and low cost operation, and the present

1 method of disposing of effluent does that.

2 COMPENSATION - STAFF & DIRECTORS

3 Q. OPC reduced the 6.5% payroll increase the Company
4 granted in 1996 as well as some individual salaries.
5 Would you comment on this?

6 A. The Company granted payroll increases in 1996 that
7 average overall 6.5%. The increase recognized merit
8 increases, increases with advancement in operating
9 licenses, and other factors. We attempt to be fair to
10 our employees and offer competitive salaries with
11 utilities in the area. Any analysis of personnel
12 costs should be broader based. The issue should be
13 whether Gulf has excessive payroll expense and whether
14 we are operating efficiently, not who the employees
15 are and what their salary or salary increase might be.
16 That is micro-management. If you follow the logic
17 that our expenses should be reduced because a
18 particular person is excessively compensated or is not
19 necessary to our operations, then we should be given
20 credit in the calculation of expenses where our
21 employees are underpaid or have not been hired at all
22 when compared to the industry as a whole. With access
23 to all the water and wastewater company filings, I
24 would think Staff has developed common-sized financial
25 information to address these issues. On a local

1 level, we find that our salary expense compares very
2 favorably to local utilities, based on the annual
3 survey results of the nine companies that operate in
4 Lee County (see Exhibit JWM-6). Gulf's 1995 wages
5 were about 12% lower than the average for other
6 utilities in Lee County, and we are attempting to
7 narrow that gap. Clearly there is room and
8 justification for wage and salary increases above the
9 increased cost of living. And, having granted such
10 increases, Gulf is still operating at a lower cost per
11 similar position than other area utilities. In the
12 same context, there are positions other utilities
13 staff that Gulf does not. For example, we employ no
14 staff engineers, attorneys, electricians, or rate and
15 regulatory personnel.

16 Personnel cost comparisons are even more favorable
17 when, adjusted for number of accounts we compare the
18 number of meter readers, customer service reps, field
19 service and maintenance personnel we employ to other
20 area utilities. We are able to employ fewer people
21 because we have pushed automation, cross-training,
22 required employees to perform duties in addition to
23 their primary job description, and generally made the
24 effort to work smarter in order to be a low cost
25 service provider. For example, customer service reps

1 call delinquent accounts now before a field service
2 rep is given a work order to discontinue service for
3 non-payment. Not only has delinquency gone down, but
4 the need for additional field service personnel has
5 also been reduced. The Commission should accept
6 Gulf's wage and salary structure, and reject OPC's
7 proposed reductions.

8 Q. Ms. Dismukes has recommended a reduction of \$30,234 in
9 Mr. Mann's salary. Would you comment on this?

10 A. Generally, my response is essentially the same as my
11 answer to the prior question. This type adjustment is
12 the worst kind of micro-management. If there are to
13 be deducts for individual employees that don't meet
14 Ms. Dismukes micro-management standards, where are the
15 credits for our efficiencies? Mr. Mann has been an
16 employee of Gulf for 10 years. He holds a Masters
17 Degree in Business Administration. He is a Certified
18 Public Accountant and a Chartered Financial Analyst.
19 He is an integral part of our management team. He is
20 the board liaison with the Company, providing
21 independent analysis and alternatives to those of
22 management for board consideration. He has
23 participated in all Gulf's borrowings and related
24 negotiations. He provided testimony and was a
25 participant in Docket No. 94-00418 Southwest Florida

1 Capital Corporation vs. Gulf Utility involving the
2 complex issue of CIAC. He is active in all tax-
3 related matters and works with our auditors in
4 preparation of our annual financial statements. While
5 he does not punch a time clock, the services he
6 provides Gulf are well worth the amount we pay him.
7 With the large capital requirement of our upcoming
8 construction projects, he will again be active in
9 raising the money to finance these projects.

10 Q. Would you comment on Director's fees paid by Gulf?

11 A. Gulf has a board consisting of 5 members, with only
12 non-employee directors paid a fee. Officers of the
13 Company who are board members do not receive director
14 fees. Directors of course have potential liabilities
15 in exercising their responsibility. It is a common
16 practice to pay directors fees for their services.
17 While our directors - just like those on any board -
18 may not attend every meeting, they are active,
19 involved, and participating between meetings in
20 meetings among themselves and in conversations and
21 meetings with management. The fees are reasonable
22 given the size of the Company, the size of the
23 construction and financing programs, and their
24 responsibility.

25 FLORIDA GULF COAST UNIVERSITY FACILITIES

1 Q. On pages 5 and 6 of his testimony, OPC Witness Mr.
2 Bidy states that the lines installed for the
3 University will serve not only the campus, but private
4 developments off campus as well. Would you comment on
5 this?

6 A. The facilities to serve FGCU were designed by the
7 university's engineers and considered only their
8 service requirements. In fact, the FGCU staff did not
9 want other lines interconnected with the campus lines
10 because they were concerned such connections would
11 negatively impact pressure and fire flow requirements
12 of the University. While Gulf approved the design of
13 FGCU engineers, it is clear their design only
14 considered current campus requirements.

15 Q. When did you begin providing service to FGCU?

16 A. In December 1996. Water was initially used to charge
17 and run the campus chiller system. Continuously since
18 that time water has been available and used for the
19 chiller system and construction purposes. It is my
20 conclusion Mr. Bidy is incorrect to say that service
21 has not yet been provided.

22 Q. Does that conclude your rebuttal testimony?

23 A. Yes, it does.

1 Q (By Mr. Gatlin) Were you here this morning
2 when the fire people testified?

3 A I was.

4 Q Did you hear their testimony concerning the
5 fire flows at the university?

6 A I did.

7 Q Have you been involved with the contract
8 with the university from the beginning?

9 A I have been involved since the beginning in
10 the negotiations of the contract.

11 Q What is your information as to the fire
12 flows at the university and the requirements of it?

13 A Well, what I can tell you is that during the
14 negotiations two of the large concerns that the
15 university had until the end were fire flow and the
16 fact that service would be uninterrupted.

17 We explained to them that like any other
18 utility, you can't guarantee that service will not be
19 interrupted. I mean, the power company can't do it,
20 the telephone company can't do it, and it's not
21 reasonable for us to warrant that there will be
22 uninterrupted service. I think they were satisfied
23 with that.

24 We had similar discussions related to fire
25 flows. They wanted very high fire flows, and I just

1 simply don't recall a number, but, you know, large
2 fire flows. At the time that these negotiations were
3 going on -- and I don't know how this all works -- but
4 I believe the State Fire Marshal has the authority to
5 approve these buildings as to, you know, their
6 adequacy for fire service; and one of our employees,
7 not myself, was involved in direct meetings with a
8 local official from the State Fire Marshal's office
9 and the contractor for the university discussing fire
10 flows.

11 It is the same issue that any developer
12 brings to the table. They would like you to be able
13 to provide them a million gallons a minute so that
14 they don't have to incur any expense related to the
15 construction of their facilities.

16 The university was unhappy that the
17 projected fire flows -- because at the time, remember
18 the facilities weren't in place and actual fire flows
19 couldn't be taken -- that we couldn't do that. In the
20 end -- and I don't know what discussions took place
21 outside our presence -- in the end, I had a
22 conversation with a supervisor from the State Fire
23 Marshal's office in Tallahassee about fire flows, the
24 developer's responsibility, which in this case is the
25 university system; and an agreement, a general

1 agreement that it's not reasonable that, you know, we
2 do more than we're doing, and that, you know, they
3 would require the university to construct facilities
4 that were -- met suitable fire protection standards.

5 Q Like sprinklers?

6 A Whatever; and that was the end of those
7 discussions. So that's -- I draw from that that the
8 State Fire Marshal satisfied themselves and their
9 office that fire protection at the university was
10 adequate based on the design that they approved for
11 construction and I assume is being constructed. So --

12 Q Have you heard from the Fire Marshal's
13 office recently at all relative to a lack of fire
14 protection?

15 A No.

16 Q And you --

17 A We haven't talked to them since that
18 conversation.

19 Q And you put water in the pipes at what time,
20 what day, going to the university?

21 A Well, the lines were officially put in
22 service -- I mean, they were there during construction
23 being pressure tested, but they weren't turned over to
24 the university until December of last year.

25 Q Has anybody from the university system

1 complained to you about the fire flows that are
2 presently --

3 A No. I think it was an issue of construction
4 costs and the desire for cost avoidance.

5 Q Mr. Moore, you have some exhibits attached
6 to this rebuttal testimony. Let's see if I can get
7 them straight here. You have JWM-5 through 8; is that
8 not correct?

9 A I believe that to be correct.

10 Q And they are -- No. 5 is Appraisals Report
11 and the sixth one is 1996 Wage Survey and the seventh
12 one is the rate case expense and 8 are the reuse
13 agreements; is that correct?

14 A I believe that's right.

15 MR. GATLIN: May we have those identified,
16 Mr. Chairman?

17 COMMISSIONER DEASON: Yes, I'm going to
18 identify JWM-5 through 7, which was attached to the
19 original rebuttal testimony, as Exhibit 30, and
20 Exhibit JWM-8, which is attached to the supplemental
21 rebuttal, as Exhibit 31.

22 MR. GATLIN: Would you mind repeating that
23 one more time?

24 COMMISSIONER DEASON: Yes. JWM-5 through 7
25 is Exhibit 30, and JWM-8 is Exhibit 31.

1 (Exhibit 30 marked for identification.)

2 (Exhibit 31 marked for identification.)

3 MR. GATLIN: Okay. Mr. Moore is available
4 for questions.

5 COMMISSIONER DEASON: Mr. Riley.

6 CROSS EXAMINATION

7 BY MR. REILLY:

8 Q Good afternoon.

9 A Good afternoon.

10 Q Are the water and wastewater lines going
11 into the university designed to serve the build-out?

12 A The water and wastewater lines that are
13 currently being constructed were designed by the
14 consulting engineers to the university. Those plans
15 were reviewed and approved as adequate by the Utility
16 company. I assume, based on discussions that we had
17 with them, that this design contemplated what they
18 were building. I don't know their thinking beyond
19 that.

20 Q Is it your understanding that this would
21 handle the phased additions to the university through
22 the year 2022? Have you seen any documents to that
23 effect?

24 A Well, in fact, the lines that are currently
25 in the ground, sir, what's there right now.

1 Q I understand that. But do you have any
2 knowledge about the capacity of those lines to serve
3 future phased additions to the universities?

4 A No, sir. All I know is that they're
5 concerned about the fire flows which I just referenced
6 earlier. I don't know. Their method of operation is
7 not full disclosure; it's "this is what we're doing
8 now".

9 Q But is it not true that Gulf Utility built
10 the lines and -- is it not true that the Utility owns
11 these lines and would be responsible for maintaining
12 these lines?

13 A That is correct, yes.

14 Q And yet you don't know really what the
15 capacity of these lines are to serve future phased
16 construction?

17 A We know that they're adequate for what's
18 been presented to us. If in the future -- you know,
19 it's like -- if I might use as a point of departure,
20 when we were talking about the fire flows earlier, and
21 they're talking about the three-story buildings in the
22 development known as Breckenridge, we had no idea that
23 three-story buildings were ever going to be built in
24 Breckenridge. I don't know that the Breckenridge
25 developer did either when the project first started.

1 They initially started with low-rise units
2 in the front of that project, and lines were built for
3 those low-rise units. Then the development changed
4 hands, either through foreclosure or sale, and the new
5 developer with a new plan comes in and he has to
6 upgrade what's already there to attempt to use the --
7 fire flow requirement -- if you want to talk to her,
8 I'll wait.

9 Q I'm listening.

10 A I'll wait.

11 Q Continue.

12 A The same holds true for the university. We
13 can't project what they're going to do beyond what's
14 already there, so I don't have -- I don't know. What
15 I did learn during this process was that every state
16 university's budget and -- both capital and operating
17 budget is based on the official student census
18 developed by the Board of Regents, and that is what --
19 and what percentage of that student census you get
20 depends on the budget dollars that follow that
21 population census. So depending how the university --
22 this university does in the political mix will depend
23 what happens to them in year -- in whatever their next
24 phase is and beyond, and that's really all I know.

25 Q But as these phases occur through whatever

1 growth pattern the university experiences, you really
2 don't have any knowledge about what the capacity of
3 those lines that you now own serving that university
4 are?

5 A Well, the knowledge that I have is that it's
6 adequate to serve what they have right now. If they
7 come in with -- you know, they're talking now, right
8 now for the first time, for example, about building
9 residence units on campus, which there was never a
10 residential component in the original campus design,
11 but now apparently, you know, they've taken a change;
12 and some of these facilities may well have to be
13 retrofitted, you know, to meet increased buildings
14 that weren't even, you know, contemplated. I simply
15 can't project what's going to happen with the
16 university.

17 Q Okay. I understand that you signed this
18 contract, the service agreement with the university;
19 is that correct?

20 A I didn't sign it. I believe Kathy Babcock
21 signed it.

22 Q But you negotiated it with the --

23 A For the most part, I did, yes, sir --

24 Q And you're familiar with the terms and
25 requirements of the --

1 A I'm --

2 Q -- document?

3 A I will tell you that -- I can refresh
4 myself, but I certainly don't have recall.

5 MR. REILLY: Can we give him a copy of the
6 contract --

7 WITNESS MOORE: Sure. I may have --

8 MR. REILLY: Well --

9 COMMISSIONER DEASON: Hold it. Hold it.

10 Mr. Riley, you all are talking at the same time. I
11 know it's not intentional, but the court reporter, I'm
12 sure, is having a very difficult time. I just caution
13 you to ask the question then terminate the question
14 and wait for a response; and let's try to cooperate
15 here and cooperate with the court reporter.

16 MR. REILLY: Thank you.

17 Q (By Mr. Reilly) If I could direct your
18 attention to the tables attached to the document --

19 A Yes.

20 Q -- and so you could just help me understand
21 what these tables purport to mean. They appear to be
22 a series of years of flows, I guess, anticipating
23 different phased development? Correct me if I'm --

24 A I'm sure that's correct. We require that in
25 every developer agreement. I don't have it right now,

1 but we do require that in every developer agreement.

2 Q And the Utility did expend the money to run
3 these lines to these buildings; is that correct?

4 A That is correct.

5 Q And it's not part of the projections or
6 plans of the Utility prior to the year 2022, to build
7 parallel lines to serve phased additions to the
8 university development?

9 A If I understand the question, we're not
10 required to build lines that aren't necessary to meet
11 service currently, no. Is that what you're asking?

12 Q It appears from my reading of this document
13 that this document contemplates future phased
14 construction of the university --

15 A Absolutely. We require this from every
16 developer. It also says to change the phasing plan
17 all they have to do is notify us.

18 Q But you have no information to share with
19 this Commission today concerning your understanding of
20 the capacity of the current line that has been
21 constructed?

22 A I don't know. I mean, I don't -- I don't
23 know what you're getting at. I'm sorry. I'm not
24 trying to --

25 Q Does this document obligate the Utility in

1 these future years to serve these additional phased
2 developments?

3 A It's a contract for service, yes, sir.

4 Q And you don't know whether the line that
5 you've currently constructed will meet this
6 contractual obligation?

7 A We know that it will meet the first phase
8 that they have designed and constructed and paid
9 connection fees for. We think that's what it will do,
10 and I don't offer an opinion beyond that, because it
11 would be just that, an opinion. I don't know. They
12 designed the line.

13 Q Does the service agreement between Gulf and
14 the university address the amount of customer deposits
15 the Utility will collect from the university?

16 A Yes, I believe it does.

17 Q And what is that amount?

18 A There are no deposits from the university.
19 In the negotiations it came back through the Board of
20 Regents' counsel through our counsel that the Board of
21 Regents as a sovereign entity, or whatever, does not
22 pay utility deposits; and I checked with John Williams
23 at the Commission, and he said we had the right to
24 waive those deposits, and we did.

25 Q Okay. When the Company borrowed \$10 million

1 in 1988, was it required to borrow the full
2 \$10 million?

3 A Well, you issue bonds, and that was the size
4 of the bond issue, yes, sir.

5 Q That you elected --

6 A I mean, we're not required to borrow
7 anything. To sell the bonds, that was the way the
8 issue was sized to meet the capital needs for the
9 framework that we were trying to finance.

10 Q So the Utility could have decided to borrow
11 9 million, 8 million, 7 million and --

12 A Or nothing.

13 Q Or nothing.

14 A Right.

15 Q I'd like to direct your attention to Page 8
16 of your rebuttal testimony.

17 A Let me get to it, please.

18 Q Okay.

19 A Right.

20 Q I direct your attention especially to
21 Lines 7 through 11 where you say "When Gulf
22 stockholders absorb over \$1,500,000 in losses and the
23 customers and the developers benefit by having the
24 service available when and if it is needed, there is a
25 substantial difference in the service provided the

1 stockholders in Gulf, Caloosa and the other developers
2 in the area." Is that a correct quote?

3 A You read it just right.

4 Q Thank you. Now, you state earlier on Page 8
5 and at the bottom of 7, that this essentially
6 caused -- that this is essentially caused by the
7 difference between the interest expense on the
8 \$10 million borrowed and the interest earned on the
9 temporary investment of excess funds in the government
10 securities; is that correct?

11 A That is correct.

12 Q Am I correct that if Gulf's management or
13 stockholders that made the decision -- let me rephrase
14 that -- that the decision of how to finance this
15 investment of new plant was made by the board of
16 directors of Gulf?

17 A That's correct.

18 Q It was not the Gulf customers that made this
19 decision?

20 A That's correct.

21 Q Now, since Gulf was not required to borrow
22 the full \$10 million in 1988 yet Gulf made the
23 decision to borrow this amount, wouldn't it be fair to
24 say that any losses that incurred as a result of this
25 borrowing can be attributed to the decisions made by

1 Gulf, not by its customers or developers?

2 A Yes.

3 Q I would like to explore a hypothetical with
4 you. Assume that an unaffiliated developer went out
5 and borrowed money to build lines that would
6 eventually be used to provide utility service, but it
7 borrowed too much money; and assume that this
8 development sustained losses because it borrowed more
9 money than needed.

10 Under that hypothetical, do you think it
11 would be appropriate for Gulf to treat this
12 unaffiliated developer any differently than any other
13 unaffiliated developer where all lines must be
14 contributed to the utility?

15 A You're going to have to say that again. I
16 lost you about halfway through.

17 Q Well, this developer made a similar mistake;
18 borrowed too much money and sustained losses as a
19 result of this decision, but it's not an affiliated
20 developer; and it came in, and do you believe that the
21 Utility should treat that developer any differently on
22 contributing the lines to the Utility?

23 A Well, they contributed the lines. I mean --

24 Q Do you think they should be charged a
25 less -- or do you think they should not be required to

1 contribute the lines?

2 A They would have already contributed them,
3 and I think they should have contributed them and --

4 Q But Caloosa did not contribute any lines,
5 did they?

6 A Well, we -- what Caloosa did was contribute
7 lines to Gulf in kind for equity. I mean, it's stated
8 and we agreed that that's what we did, and we're not
9 denying that or -- we are a related party, absolutely.

10 Q Are you sponsoring the Company's rate case
11 expense exhibit attached to your rebuttal testimony?

12 A Yes, I am.

13 Q Okay. Would you turn to Page 2 of your
14 Exhibit JWM-7?

15 A Is that the rate case expense --

16 Q Yeah, rate case --

17 A Okay; I do.

18 MR. GATLIN: Tell him the page.

19 Q (By Mr. Reilly) That's Page 1 on -- it's
20 not numbered. Are you there yet?

21 A I am. Yes, I'm sorry.

22 Q On this Page 2 of Exhibit JWM-7, you show
23 total rate case expense for Mr. Nixon to be 70,044; is
24 that correct?

25 A Yes, sir.

1 Q And that figure is made up of 31,891 of
2 actual through 2/12/97 and an estimate to complete of
3 38,153; is that correct?

4 A I think that's correct.

5 Q Assuming --

6 A Yeah.

7 Q -- my addition is correct. Now, on Page 4
8 of this same exhibit, if we could flip to that, this
9 shows a summary of Mr. Nixon's fees; is that correct?

10 A I believe it does.

11 Q And it shows actual expenses of 31,891 shown
12 on Line 24, and an estimate to complete of 6,262 shown
13 on Line 33 for a total of 38,153; isn't that correct?

14 A I think I read it the same way you do.

15 Q Okay. Now if we can turn back to Page 2 of
16 this same exhibit. Should the 6,262 be substituted
17 for the 38,153 estimated to complete Mr. Nixon's
18 services in this case?

19 A Whatever is the correct number should be in
20 there, and we would certainly, you know, confer with
21 Mr. Nixon and get it right if we've gotten it wrong.

22 Q He might not be the right person to confer
23 with.

24 A Why on earth not?

25 Q He might like the other figure.

1 A I think Mr. Nixon's reputation is excellent,
2 and I don't -- I wouldn't impugn his reputation.

3 Q No; and I didn't mean that, certainly. But
4 if our understanding of these support pages are
5 correct, that would change his figure from 70,044 to
6 38,153; is that correct?

7 A Yes. It is whatever it is or will be. We
8 tried to do that and get it right, and I hope we did.

9 Q We just felt like they picked up a wrong
10 number and just --

11 A May have. I just simply don't know. I'm
12 sorry.

13 Q And if this is true, then this would reduce
14 your rate case expense from 251 down to about 219,000?

15 A (Witness nodding head.)

16 Q Okay. Am I correct that the Company
17 requested a delay in filing rebuttal testimony in this
18 proceeding and a delay in the hearing?

19 A We did.

20 Q In order to effectuate this delay, your
21 attorney had to file a motion before the Commission;
22 is that right?

23 A I suppose so. I'm not sure of the
24 procedural requirements, but if it was necessary, I'm
25 sure he did it.

1 Q And if you turn to Page 32 of the rate case
2 expense exhibit, it does show on 1/15/97 that KWC
3 spent two and a half hours preparing and filing that
4 motion; is that correct?

5 A Yes.

6 Q The Citizens did not object to the Company's
7 request; is that your understanding, or do you have
8 any knowledge on that?

9 A I don't know. I don't think so.

10 Q Although the Citizens did not object to the
11 Company's request, would you agree that the ratepayers
12 should not bear this cost since it was a cost incurred
13 to benefit the Utility and not the customers?

14 A No. I think it's important to the
15 ratepayers and our customers to get it right, and
16 getting it right involved a delay.

17 Q Are you aware of your attorney filing an
18 objection to Citizens fourth set of the
19 interrogatories?

20 A Not specifically, no; but if you say it
21 happened, I'm sure it did.

22 Q Would you look at Page 43 and 44, Pages 43
23 and 44 of the rate case exhibit? Charges for this
24 effort are shown for 12/12/96 for \$345.00 and 12/18/96
25 for \$15.00; is that correct?

1 A I got the first one, and I didn't get the
2 second one.

3 Q That's on 12 --

4 A I'm sure that you're reciting from that
5 page, and I'll agree with you.

6 Q And if you turn to Page 31, there is also an
7 entry on January 7, '97 for review of Citizen's
8 response to Gulf Utility's objection to Citizen's
9 fourth set of interrogatories. Do you see that?

10 A Give me the date --

11 Q That's Page 31 --

12 A I'm there.

13 Q -- January 7th, '97. It's prepared -- well,
14 there's a little thing in there --

15 A Yes, I see it. I've got it.

16 Q -- Citizens' Response.

17 A I've got it.

18 Q Did your attorney discuss filing this motion
19 with you before it was filed?

20 A Absolutely.

21 Q Did your attorney inform you that a very
22 similar motion was filed in another rate case
23 proceeding, specifically Palm Coast, Docket
24 No. 951056-WS?

25 A I don't recall. I don't think so.

1 Q Did he inform you that the motion in the
2 Palm Coast case did not prevail and that the Utility
3 had to answer OPC's discovery?

4 MR. GATLIN: Mr. Chairman, I object to that
5 question. That's not correct. The motion we filed in
6 this case was identical to the one we filed in Palm
7 Coast, and in Palm Coast it was granted.

8 MR. REILLY: No. The --

9 COMMISSIONER DEASON: There's been an
10 objection, Mr. Riley.

11 MR. REILLY: I would argue that I'm stating
12 it correctly, that the motion was objected to because
13 we had --

14 COMMISSIONER DEASON: Let me suggest that if
15 this is a matter of significance, it can be briefed,
16 and the order will speak for itself; and I would be
17 very surprised if this witness has any knowledge of
18 that, Mr. Riley.

19 MR. REILLY: Okay.

20 Q (By Mr. Reilly) Let's turn back to the
21 total cost for rate case expense in the proceeding.
22 Now, if our assumption is correct on that one possible
23 mistake, your consultants and attorneys have estimated
24 total rate case expense of approximately 219,000; is
25 that correct?

1 A Based on your recalculations, somewhere
2 between 219 and the 251, yes, sir.

3 Q Do you have a copy of the MFRs handy?

4 A No, I don't.

5 MR. REILLY: Could I get a copy given to
6 this witness?

7 MR. GATLIN: Sure.

8 WITNESS MOORE: What page would you like me
9 to --

10 Q (By Mr. Reilly) 86. On this page it shows
11 your estimate of rate case expense at the time that
12 the MFRs were filed; is that right?

13 A That's correct.

14 Q And there's a total shown of 122,479;
15 correct?

16 A Yes, sir.

17 Q Can you tell the Commission what changed
18 between the time you filed your MFRs which estimated
19 this 122,000 and now where you've estimated an
20 increase of almost 80% for 219,000?

21 A Well, one significant thing was the
22 intervention of the highly trained, crack staff of
23 OPC, your involvement and your lines of questioning
24 and the extensive nature of the testimony required.
25 We brought in extra witnesses. We've had to do extra

1 work.

2 You know, rate case expense, you know, we
3 went through some testimony earlier where there was
4 some difficulty with -- you know, Kathy Welch had
5 trying to figure out our numbers. You know, we made
6 an effort to prepare the MFRs to the extent possible
7 we could with our own staff now.

8 We haven't done a rate case in, you know,
9 eight years. That was probably a mistake, in
10 retrospect, because we're not sophisticated in these
11 matters, and we're certainly not sophisticated in
12 matters of defending ourselves in a forum such as
13 this.

14 I don't see how the Company could do any
15 less than we did. I mean, we're right on the edge
16 right now. We've got contracts we can't sign because
17 we don't have the money to pay for them, you know.
18 We've got DEP saying, if you don't build a new sewer
19 plant, we're going to put a moratorium on you and
20 we -- or, we're not going to reissue your operating
21 permit; and we don't have the money to build an
22 expansion, and we've got your witnesses saying the
23 plant is not used and useful.

24 I don't know how we can do anything but put
25 on expert testimony to try and make our case the very

1 best we know how. I just don't know what else to do.

2 Q Did this Utility consider going the PAA
3 route?

4 A Absolutely.

5 Q With a rate decrease in water and a proposed
6 rate increase in wastewater?

7 A We did consider that, yes, sir.

8 Q And can you tell me why you chose not to
9 pursue that?

10 A Yes. Based on the advice we received and
11 researching -- the recent people that have attempted
12 to do that and ended up in a forum such as this, we
13 thought the delay would -- we thought the delay would
14 have been such we would have ended up here anyway, and
15 it would have taken a lot longer. We thought this was
16 the appropriate way to get this case done and over
17 with.

18 Q But had you --

19 A We made a business decision based on the
20 facts that were available to us.

21 Q But the Public Counsel's Office would not
22 have been involved at that point if you could have
23 pursued it to the PAA. You would --

24 A Yes; without your intervening at some point
25 or objecting to the outcome. That's correct.

1 Q And after our intervention, how many
2 depositions did we seek to hold with your witnesses?

3 A I don't know. Not many, no.

4 Q Would you believe me if I told you zero?

5 A If that's right, that's right; absolutely.

6 Q But --

7 A But if you're suggesting that your
8 involvement doesn't add expense to this case, I mean,
9 I'm -- absolutely that's not true.

10 Q Did your attorneys and consultants, when
11 they made this estimate, make the estimate on the
12 assumption that Public Counsel's Office would not
13 intervene in a case that's going straight to hearing?

14 A I think they did, yeah. I'd have to ask
15 them. I think they gave the best estimate they could
16 at the time. These people are all professionals.
17 They've all been practicing before the Public Service
18 Commission before. They're well-known to you and the
19 Commission and Staff. They're professionals. They
20 act as professionals. I think they gave their good
21 faith best estimates. That's what I think.

22 Q But when you discussed the pros and cons of
23 going PAA and developing this budget, it's your
24 recollection that they told you that in their judgment
25 Public Counsel's Office would probably not intervene

1 in a case that's being sent straight to hearing, or
2 did they tell you, well, now, if we set this straight
3 to hearing, that's going to cause the Office of Public
4 Counsel to intervene and --

5 A Well, I would hope that the Office of Public
6 Counsel would intervene on the merits of case, not
7 based on the forum; but I don't know what motivates
8 Public Counsel. But we know that they have gave the
9 best estimate they could at the time. I believe
10 that's what they did. I have no evidence to the
11 contrary, and anything you would ask me to speculate
12 on is just that, speculation.

13 Q Last question on this line. This decision,
14 however, was made with the assumption that we would
15 not intervene? I never did quite get an answer to
16 that question.

17 A This decision was predicated primarily on
18 the time frame that we could be assured of getting
19 through this case in, because we have got to get
20 financing for this Company, and with this cloud
21 hanging over our head we can't get it.

22 Q Okay. At the bottom -- we'll move on. At
23 the bottom of Page 16 to the top of Page 17 of your
24 rebuttal testimony you state -- I'll let you get
25 there. This is the bottom of Page 16 and top of 17.

1 You state that Ms. Dismukes' 11.11% allocation of car
2 expenses to Caloosa, your affiliate, is in error. Is
3 that correct?

4 A That's correct.

5 Q And you claim that in developing her
6 allocation factor, Ms. Dismukes included profits from
7 Caloosa Group that are distributed to you because
8 Caloosa is a subchapter S corporation and its profits
9 are distributed to stockholders. Is that an accurate
10 characterization of your testimony?

11 A Yes.

12 Q Do you have a copy of Ms. Dismukes'
13 testimony with you?

14 A No, I don't.

15 MR. REILLY: Could we hand that to him,
16 please?

17 MR. GATLIN: (Handing document to witness.)

18 Q (By Mr. Reilly) I'd have you turn to
19 Schedule 6 of Ms. Dismukes' testimony.

20 A I think I've got it.

21 Q Okay. Thanks. Would you agree with me or
22 accept, subject to check, that Ms. Dismukes calculated
23 the 11.11% allocation factor by taking the adjusted
24 salary shown on her Schedule 6 for your salary at
25 Caloosa of \$11,988 and divided this by the total

1 salary for you shown on her Schedule 6 of --

2 A I would have to read it. I mean, if
3 you'll --

4 Q Subject to check --

5 A I'd like to check it. I mean, I don't know
6 right now. I'm not -- I haven't studied this to try
7 and answer your question. I don't agree. I know I
8 don't agree with the basis of allocations.

9 Q Oh, I understand that. But I think it was
10 the nature of your criticism of that allocation we
11 felt wasn't fair, and so we wanted to explore with you
12 a little bit in cross-examination so that we could
13 perhaps show the error of your criticism of her
14 testimony; and that in fact the 11.11% can be achieved
15 by taking your Caloosa salary of 11,988 and dividing
16 it by your Utility salary of 107,895, and the math
17 produces her 11.11% adjustment. You know, can you --

18 A I follow your logic.

19 Q Okay. I just want you --

20 A Yeah.

21 Q Now, you may still disagree with her
22 allocation, but --

23 A Right.

24 Q -- perhaps not for the reasons you state.

25 A Let me go back to -- what page was the -- in

1 my testimony was the --

2 Q We're looking at your testimony bottom of
3 Page 16, top of Page 17.

4 A Right. I understand what you're getting at.
5 The logic doesn't follow.

6 Q Now, the starting point for the 11,988 of
7 your Caloosa salary was \$5,900 shown on Ms. Dismukes'
8 Schedule 6; is that correct?

9 A For her calculation it's appears that's
10 correct; yes sir.

11 Q And would you agree with me that the
12 difference between the 11,988 and the 5,900 is that
13 Ms. Dismukes believes that some of your Gulf salary
14 should be allocated to Caloosa?

15 A That's the way I would interpret this, yes.

16 Q Now, is it your contention that the \$5,900
17 which was the foundation for the 11.11% allocation
18 factor are the profits of Caloosa that were
19 distributed to you?

20 A You know what? I don't even know what was
21 distributed to me. I'd have to go back and check. I
22 mean, I simply don't know.

23 Q Okay. We're going to hand out a couple of
24 exhibits here.

25 COMMISSIONER DEASON: Mr. Riley, do you wish

1 to have these identified?

2 MR. REILLY: Yes please. The first is --
3 I'd like to get a number, if I could, and it's short
4 titled Excerpts from Staff Audit Work Papers.

5 COMMISSIONER DEASON: Exhibit 32.

6 (Exhibit 32 marked for identification.)

7 MR. REILLY: And the second is short titled
8 Response to OPC Document Request 23, Leasehold
9 Improvement Amortization.

10 COMMISSIONER DEASON: That's not what I've
11 been given.

12 MR. REILLY: Oops. Sorry. Let's try that
13 again. The short title of this exhibit is Response to
14 OPC Document Request Number 49, Wage Survey
15 Compilation of Wage Survey Data.

16 COMMISSIONER DEASON: And that will be
17 Exhibit 33.

18 (Exhibit 33 marked for identification.)

19 Q (By Mr. Reilly) Okay. If we could look at
20 this Exhibit No. 32, this exhibit contains some pages
21 from the Commission's Staff audit work papers. Would
22 you accept that?

23 A I'm looking. Which are you looking at?

24 Q No. 32. Did you -- this is the one titled
25 Excerpts from Staff --

1 A All right.

2 Q -- Audit Work Papers. Would you please turn
3 to the first numbered page of this exhibit?

4 A Okay.

5 Q Does this appear to be Caloosa Group Inc.'s
6 payroll register for yourself for the period --

7 A Yes --

8 Q -- 9/95?

9 A -- it does.

10 Q To 8/96?

11 A It does.

12 Q And does this show that you were paid a
13 salary of \$5,899.92, the same figure used by
14 Ms. Dismukes as the foundation for her allocation
15 factor of 11.11%?

16 A Yes, it does.

17 Q All right. We're going to change subjects
18 for a minute. I'd like to talk a little bit about the
19 lease of your office building. Gulf recently leased
20 the -- this new building; is that correct?

21 A Yes.

22 Q And when did the Company move into this
23 office?

24 A I don't remember exactly. I want to say
25 November of '95, I think. I think it was November of

1 '95.

2 Q And this is a building that's owned by
3 Caloosa Group, Inc., correct?

4 A It is.

5 Q And we've characterized Caloosa Group Inc.
6 as an affiliate of the Company? Is that a fair
7 characterization?

8 A That and more you've characterized it as.

9 Q Am I also correct that Gulf leases about a
10 third of the office building?

11 A Approximately, yes.

12 Q What is the name of this little office
13 complex?

14 A Gulf Professional Center.

15 Q And what makes up this center?

16 A That building.

17 Q Just one building?

18 A Yeah.

19 Q And there are no other buildings that
20 Caloosa owns?

21 A No.

22 Q And is it your opinion that the lease
23 transaction between Caloosa and the Company to be an
24 arms-length transaction?

25 A We did everything humanly possible to

1 ascertain and determine what arms-length was, and
2 that's what we think we did.

3 Q Now, am I correct that it was Gulf's
4 intention to occupy space in this building before it
5 was built?

6 A That's correct.

7 Q If I could have you --

8 A Gulf needed office space, right.

9 Q Under the circumstances, wouldn't the risk
10 associated with building an office be less than if no
11 occupants had agreed to occupy the space in the
12 building prior to construction?

13 A Well, it would certainly be less, but the
14 absolute risk wasn't mitigated at all. There wasn't
15 enough lease income from that to cover anything. I
16 mean, it was a risk that was borne by the owners of
17 the office building, which was Caloosa Group.

18 Q Who within Gulf Utility negotiated the lease
19 with Caloosa?

20 A I did. I absolutely did.

21 Q On behalf of Gulf.

22 A Absolutely. Both sides.

23 Q And you likewise --

24 A Both sides.

25 Q Well, in light of this negotiation with

1 yourself, would you describe a little bit --

2 A How I did that?

3 Q How you managed to negotiate with yourself.

4 A Yup. Before -- when we went out to
5 determine what we could afford to do, first we tried
6 to find office space to rent, then we tried to find
7 land to buy, then -- you know, land doesn't come in a
8 size that's just perfect for somebody. You buy what's
9 available and try and adapt to it.

10 This land was available. It was available
11 in one piece. The development order -- development
12 standards requirements and economic -- just, you know,
13 what have you, dictated a building of approximately
14 this size. As -- (Pause) --

15 Q I'd like to get you to look at your exhibit
16 JWM-6. This is an exhibit you prepared based on an
17 annual wage survey conducted for the 10 water and
18 wastewater utilities that operate in Lee County --

19 A Did you want me to finish my answer to that
20 other question, or do you just want me to stop?

21 Q Well, I thought you had stopped.

22 A No. You were talking, so I was waiting for
23 you to finish.

24 Q I didn't think I -- go ahead. Finish
25 your --

1 A Well, we went out and first had an
2 independent appraiser try and determine what the
3 market rates would be for lease. This was before any
4 building was built. We determined then whether it was
5 economically feasible if we could get a tenant what we
6 could lease it for.

7 We went to an attorney and said, prepare a
8 standard form of lease that can be used for the
9 leasing of this office building, and that lease, if
10 you will compare the two leases, the one with the
11 hospital and the one between Gulf and Caloosa, are
12 virtually identical.

13 It is a commercially acceptable lease. The
14 terms and -- you know, are all the same. So we bent
15 over backwards to attempt to establish an arm's-length
16 relationship between Gulf, as tenant, and Caloosa, as
17 owner of the building. That's the end of my answer.

18 Q And wearing the hat of the president of the
19 Utility, what efforts did you make to build a building
20 that met just the size needs of the Utility?

21 A We've looked for over five years for land
22 along US 41 for just that purpose, to try and buy a
23 piece of land and build a building for Gulf. The
24 numbers didn't work.

25 Gulf does not have excess funds to speculate

1 in office buildings, and I can only imagine what this
2 proceeding would be like if Gulf built an office
3 building out of its money and we had to try and
4 determine used and useful on that.

5 I think it appropriate that -- what we did
6 was entirely appropriate. We didn't use Gulf money.
7 We didn't put Gulf debt or equity at risk, and we
8 didn't impair what limited sources of funds we have to
9 build facilities to provide service by building an
10 office building.

11 I mean, it just seems like an absolutely
12 perfect thing to do. I mean, companies today all over
13 America are selling their fixed assets unrelated to
14 their main business so they can raise money for their
15 main businesses. You read about it all the time.

16 Q And so you're suggesting the money that goes
17 in the rent payment to Caloosa would not have more
18 than adequately funded the construction of its own
19 office building?

20 A No. I don't think it would have and it also
21 begs the question, where do we get the money. I mean,
22 there's not a money tree out there.

23 You know, you go to the bank and the bank
24 says, show us cash flow or other credit support that
25 will allow us to lend the money to build a speculative

1 office building. And the answer is, Gulf doesn't have
2 the credit.

3 Q Are you finished with your answer?

4 A Are you satisfied with it?

5 Q I don't agree with you, but I think the
6 Commission would like to move on to another subject
7 unless you want to --

8 A No. I'm --

9 Q -- continue with this answer any further.

10 A No. I'm trying to answer your question.

11 Q Are you finished?

12 A I am.

13 Q Can I direct your attention to JWM-6? Okay.

14 A Help me. Tell me --

15 Q This is attached to your testimony. It's
16 got Page 30 on it. Now, this is the exhibit which you
17 compared based upon an annual wage survey conducted
18 for the 10 water and wastewater utilities that operate
19 in Lee County --

20 A Right. Okay. I'm familiar with it. Thank
21 you.

22 Q And the conclusion that you draw -- excuse
23 me. Are you there?

24 A Yeah.

25 Q Are you ready?

1 A Thank you. I just was having a hard time
2 finding it.

3 Q And the conclusion that you draw from this
4 exhibit is that the salaries paid to Gulf's employees
5 are about 12% lower than the average for other
6 utilities and that your pay increases are attempting
7 to narrow that gap; is that correct?

8 A That's essentially what I said in my
9 testimony, yes, sir.

10 Q Now, I noticed in looking at this exhibit,
11 your salary is not included; is that correct?

12 A That's correct.

13 Q And what is your salary?

14 A I don't know what it is right now. It's
15 probably \$100,000.

16 Q Or 107,000?

17 A Give or take, right.

18 Q I also noticed that the salary of your
19 vice-president, Mr. Mann, is also not included?

20 A That's correct. What we attempted to do
21 here was to try and draw a rudimentary comparison that
22 showed how our personnel compared to the personnel in
23 other companies to -- and this is -- you know, you go
24 back to the issues of, you know, what it takes to put
25 on a rate case. I mean to say 6 1/2 percent is

1 excessive, I mean, well, what's not excessive? The
2 cost of living?

3 We -- you know, you don't speak to the
4 resumes of the people who work there, the length of
5 service, their education, whether they've been
6 cross-trained. I mean, if you all had done an
7 exhaustive analysis, I think you might be impressed
8 with the personnel we have and think them worth what
9 they're being paid. But just to pick a number, this
10 was an attempt to respond to that without, you know,
11 killing a forest.

12 Q Are you finished with your answer?

13 A Yes.

14 Q Am I also correct that the salary of
15 Mr. Messner is also not included, and he's your
16 operations --

17 A Manager. I'm not sure. I don't -- I'm
18 getting nods and -- negative. No, it is not.

19 Q It is not in there. Is the reason that you,
20 Mr. Mann and Mr. Messner are not included in this
21 exhibit is because there are no comparable individuals
22 that work for these other utilities?

23 A We could not, from the information in the
24 survey, come up with comparable positions; that's
25 correct.

1 Q Let me have you now look at this second
2 exhibit that I handed out, Exhibit No. 33, titled
3 Response to OPC Document Request Number 49, and --

4 A Got it.

5 Q -- what this represents is the underlying
6 survey that you used to create your one-page
7 document --

8 A Right.

9 Q -- at JWM-6.

10 A Right.

11 Q Would you accept, subject to check, that the
12 first page of this exhibit contains information taken
13 verbatim from your JWM-6 attached to your testimony,
14 and it also takes data verbatim from the wage survey
15 which follows this page? And we will check that.

16 A Page 1 of the survey here?

17 Q No, no. Actually, this is the very first
18 page right after the cover sheet. It is our little
19 schedule that attempts to wed the data in this
20 underlying survey with your one-page conclusions --

21 A Right.

22 Q -- of that survey. So this is a document we
23 prepared.

24 A Right.

25 Q And what we've done is we've taken your same

1 information in JWM-6 and it's showing up on the first
2 three columns, and I think it's exactly the same,
3 except I think our summation of all those numbers came
4 to 27,105 instead of your 27,176, but --

5 A That may well be --

6 Q -- otherwise, I think the numbers are all
7 the same.

8 A I'm fine with that.

9 Q Okay. Now, the next two columns to the far
10 right that I've added are based upon the survey which
11 is attached to the exhibit and which was provided in
12 response to OPC's Document Request No. 49, okay?

13 A Okay.

14 Q The two columns that we've added are the
15 average years of service for Gulf employees and the
16 average years of service for the group of survey
17 participants. Would you accept that, subject to
18 check?

19 A Sure.

20 Q And what we'll do is just take a look at a
21 couple of them. For instance, if we could look at the
22 customer service representative. For Gulf, the
23 average years of service is two, whereas for the group
24 of 10 companies, the average years of service is four;
25 and the way we can check to see --

1 A I --

2 Q Let's assume that we did that correctly.

3 A Yeah, I will.

4 Q And the customer service representatives --
5 okay. One second here. We'll just go on to -- let's
6 look at the maintenance mechanic under the Gulf
7 column. I think that's the last item on the list.

8 A Right.

9 Q I've shown that the average years of service
10 there is two, whereas under the average for all
11 companies the average length of service is 15 years;
12 is that correct?

13 A That's what you show --

14 Q And I can take you to that schedule.

15 A That's fine. I'm sure you reproduced it
16 accurately.

17 Q Let's go to the survey for a minute and go
18 to Page 7 of the survey. I have it numbered, circled.

19 A Right.

20 Q Now the maintenance mechanic is shown at the
21 very bottom, that's shown at the very bottom of this
22 comparison sheet.

23 A Correct.

24 Q But you apparently moved this person to the
25 category of maintenance supervisor; is that correct?

1 A That's correct.

2 Q Now, we gathered this because the average
3 salary for all the 10 employees as shown is that
4 39,389; is that correct?

5 A Right.

6 Q And the average years of service for the
7 Gulf employees is shown to be just two years?

8 A That's correct.

9 Q If you had not moved the Gulf maintenance
10 mechanic from the plant maintenance mechanic category
11 at the bottom of the page to the maintenance
12 supervisors' category, the salary you paid to this
13 individual would have been 42% higher than the average
14 for the 10 companies.

15 A It would have been, but again, this speaks
16 to the superficial nature of your objection to our
17 increases. The man's job is more accurately
18 represented as a maintenance supervisor.

19 He does supervise all the maintenance for
20 all our facilities. That includes the work -- the
21 operator's work for him, both water and wastewater.
22 He has a wastewater operator's license. He does
23 perform duties and takes hours' credit for plant
24 operations. He's a trained and licensed electrician.
25 He supervises these activities. It was an attempt to

1 get it in the right place. It wasn't an attempt to do
2 anything but that.

3 Q But when this survey was filled out, wasn't
4 it Gulf that told them where to put this man? I
5 mean --

6 A No. Well, I'm not sure if we actually told
7 them. I think what -- as I remember -- and I didn't
8 complete the survey, you know, personally myself --
9 you know, I think what it did was, you know, provide
10 by job title your employee and the other information
11 in an attempt to maintain some anonymity.

12 So, I mean, there -- it's possible that
13 there -- you know, it was miscategorized; but our
14 intent was to try and accurately portray the
15 information provided. That was the only intent. We
16 didn't intend to put him in the wrong category.

17 Q With two exceptions, would you agree that
18 the Gulf employees have fewer years of service than
19 the average of the 10 companies?

20 A Yes.

21 Q Would you also agree that in many instances
22 Gulf employees have less than 1/2 the years of service
23 of the average of the 10 companies?

24 A I would.

25 Q Now, you would agree with me that there are

1 other factors also important to consider --

2 A As I stated earlier, yes.

3 Q For example, a firm could pay less but have
4 better benefits in terms of retirement plans,
5 insurance, vacation, hours and the --

6 A Absolutely. Lots of things go into it.

7 Q But neither does your comparison
8 specifically take any of these things into
9 consideration?

10 A You're right.

11 Q Change the subject here. In your rebuttal
12 testimony on Page 5, Line 5, you state -- let's see.
13 Wait one minute. You state, "Construct 833,000
14 gallons per day addition to water treatment plant."
15 My question is, are you referring to the Skid 3
16 addition to Corkscrew?

17 A Yes.

18 Q And now if you have the MFR still, I just
19 want to check a number and have you refer to Schedule
20 F-3 on Page 157.

21 A I'm there as well.

22 Q On this Schedule F-3 referring to this same
23 Skid 3 --

24 A Right.

25 Q -- the number used in this schedule is

1 800,000 gallons per day.

2 A Right.

3 Q Could you just clarify --

4 A I believe it's 800,000.

5 Q Is the correct number?

6 A I believe that's correct, yes, sir.

7 Q Now, Page 29 of your rebuttal testimony, you
8 disagree with Mr. Biddy's recommendation to the water
9 and wastewater mains for Florida Gulf Coast
10 University; is that correct? Page 29.

11 A Yes, top of the page; yes.

12 Q And I think from Line 6 you state, "The
13 facilities to certify FGCU were designed by the
14 university's engineers and it only considered their
15 service requirements."

16 In fact, FGCU Staff did not want other lines
17 interconnected with the campus lines because they were
18 concerned such connections would negatively impact
19 pressure and fire flow requirements of the university.
20 While Gulf approved the design of the FGCU engineers,
21 it's clear their design only considered current campus
22 requirements." Is that correct?

23 A That's -- what you read is what I have in my
24 testimony.

25 Q It's also true that the university will not

1 be open until the fall of this year?

2 A Define "opened". Open for students.

3 Q Open for students, yes.

4 A Yes. They're taking -- as I think we have
5 said somewhere along the line, you know, there are
6 meters in the ground. They have been billed for
7 service, you know. I guess the water doesn't know
8 who's using it, but it's being used by the university,
9 and the university is getting a bill to be paid.

10 Q And you've that said these lines are only
11 for the university? Are you saying no other customers
12 can tap into lines that are running from the Utility
13 to the university?

14 A I think they could a portion of it,
15 absolutely; yeah, absolutely.

16 Q And what is the name of the road that's
17 right in front --

18 A Treeline.

19 Q Treeline.

20 A Treeline Runs north and south, yes.

21 Q And there's about 3,000 feet of --

22 A I'm not sure of the number of feet, but
23 there is, I think, several thousand feet of line; and
24 it's easily determined.

25 COMMISSIONER DEASON: Mr. Moore, could you

1 try to wait until Mr. Riley concludes his question
2 before you begin to respond? I think it's causing the
3 court reporter a little bit of a problem.

4 Q (By Mr. Reilly) Okay. In the prehearing
5 order we listed a number of issues, and one of the
6 issues, Issue 18, in the position it states that the
7 Company has 2.6 million gallons of ground storage,
8 less than 18 hours of peak demand. The amount of
9 adequate storage, including emergency storage, is
10 based upon an assessment of risk and degree of system
11 reliability. Do you endorse that position?

12 A I don't know where you're reading. I'm
13 sorry.

14 Q This is a position in the prehearing
15 statement.

16 A Which issue?

17 Q Issue 18. I understood you were -- yeah,
18 you're the listed -- no. Excuse me. I think that's
19 14. This prehearing statement changed a number of
20 times. Yes, it's 14. I'm sorry.

21 I see here in the changing of this position
22 that Elliot is actually listed, and so, you know,
23 we'll save that for him.

24 MR. REILLY: Okay. That concludes our --

25 COMMISSIONER DEASON: How much do you have

1 for this witness?

2 MS. O'SULLIVAN: I'd say about a half hour
3 or so.

4 COMMISSIONER DEASON: Okay. We'll go ahead
5 and take a 10-minute recess at this time.

6 (Brief recess.)

7 - - - - -

8 COMMISSIONER DEASON: Call the hearing back
9 to order. Staff.

10 CROSS EXAMINATION

11 BY MS. O'SULLIVAN:

12 Q Mr. Moore, you provided information in your
13 rebuttal testimony regarding the Caloosa Group and the
14 exchange of stock in the Utility for the lines of the
15 Caloosa Group; is that correct?

16 A Correct.

17 Q The Caloosa Group received stock in the
18 Utility in exchange for the lines in Caloosa's
19 development. Do you believe that the treatment of the
20 Caloosa Group's contribution as equity rather than
21 CIAC is more beneficial to the customers of the
22 Utility?

23 A I do, yes.

24 Q Could you explain why?

25 A Well, Gulf Utility Company needs to increase

1 its equity as part of a plan or overall effort to
2 stabilize its earnings. This was a way to get equity
3 into the Company that was straightforward and we
4 thought appropriate and continue to believe so.

5 You can get equity in the Company in two
6 ways. You can either earn it or contribute it.
7 Gulf's earnings history is such that as an investor,
8 it is going to be hard -- as an investor looking at
9 his investment opportunities, it is going to be very
10 difficult to convince someone that this is a good
11 investment vehicle for a return on their capital.

12 This was a way the existing shareholders can
13 contribute equity. We thought it appropriate. We
14 thought it was the right thing to do. If we could
15 have done it another way and accomplished the same
16 thing -- we just -- we just thought this was
17 appropriate.

18 Q So a shareholder could infuse equity dollars
19 into a company without doing it through a related
20 party developer?

21 A Sure.

22 Q And it's true that the Caloosa Group was the
23 only developer who was not required to contribute the
24 lines; is that correct?

25 A I believe that's correct, yes.

1 Q If you could turn to Page 8 of your rebuttal
2 testimony on this issue on Lines 18 and 21. On those
3 lines you refer to the Company's programs. To which
4 Company programs are you referring?

5 A Well, I'm talking -- what I mean by programs
6 is the basic operation and management of the Company,
7 its ability to fund and construct, operate and
8 maintain facilities in an appropriate manner. So all
9 the business plan of the Company.

10 Programs may not have been as well-defined
11 as I could have made it, but that's what I meant; the
12 activity of the Company toward the end goal of
13 providing the service that we should provide and the
14 way we should provide it.

15 Q Would you agree, though, that the Utility
16 could provide quality service at reasonable prices
17 regardless of whether certain transactions were
18 treated as equity or CIAC?

19 A I believe that historically we have done
20 that. Right now this Company is at a crossroads.
21 Earlier in the day the OPC witness said that, you
22 know, rate reduction of, you know, \$800,000 won't hurt
23 the Company. Well, that's not true.

24 The Company, as we sit here today, has a
25 contract in hand to double the size of the Three Oaks

1 wastewater treatment plant. That contract value is
2 about a million, nine. We had -- at the time the
3 overearnings investigation was initiated, we had
4 anticipated selling additional bonds based on certain
5 other activities related to the other bonds. Part of
6 that ability to finance was predicated on a certain
7 equity level.

8 That whole project of -- talking about the
9 company's business -- the project of raising money and
10 the project of building the plants, all are on hold
11 right now because our cash -- we don't have enough
12 cash to sign the contract to build the plant. Can't
13 fulfill the contract if we don't have the cash flow
14 without raising money; and it's not hard to see.

15 We need to have a higher equity layer.
16 Attracting more equity to this Company is very
17 difficult. Would you invest -- ask yourself the
18 question, would you invest in Gulf Utility based on
19 its earnings history and what's going on in the
20 Company today, or would you buy a savings account or
21 another stock or something like that.

22 So that's -- I think it's important. I
23 think every dollar of equity is important in Gulf.

24 Q Okay. Moving on to a different topic. I
25 believe you said in your testimony that the Caloosa

1 Trace development has 33 lots remaining. Is that
2 still correct to this date?

3 A I think it's 26 or seven now.

4 Q 26 or 27 that are left to be sold?

5 A That's correct.

6 Q Okay. And those will be sold, you believe,
7 within the next 18 months?

8 A Based on the level of absorption. We have
9 contracted this out to others. We have a contract
10 with a builder/developer named Mastercraft Homes who
11 has taken over responsibility for the sale of these
12 lots, and based on information we're receiving from
13 them, that should be done within -- well within that
14 time frame.

15 Q Turning to Page 18 of your rebuttal
16 testimony -- let me know when you get to that page.

17 A I'm there.

18 Q Beginning on Line 21 you state that for
19 comparison purposes, the cost of Florida Cities Water
20 Company's AWT plant and effluent line into the
21 Caloosahatchee River is included in the base rates.
22 You further state that any cost related to this
23 disposal system should be included in basic rates, the
24 same as Florida Cities.

25 Do you mean the basic rates by base facility

1 charge as opposed to the gallonage charge?

2 A Just basic rates to me means either --
3 and/or base or gallonage charge. Those are the base
4 rates.

5 Q Do you mean by that a separate reuse rate,
6 or within the general rates themselves --

7 A No. I have -- I want to make clear I mean
8 no reuse rate. I'm not implying anything being a
9 reuse rate. If I said that, I'm sorry; I made a
10 mistake.

11 Q Thank you. I'd like to ask you about the
12 San Carlos water line project. During your deposition
13 taken by Staff on December 19th of last year, you
14 indicated that the San Carlos water line project had
15 been placed in abeyance but not abandoned.

16 However, Ms. Andrews' rebuttal testimony on
17 Page 13 indicates that the project has been abandoned.
18 Could you clarify for the record if this project has
19 not been abandoned?

20 A It has been abandoned. Would you like more
21 explanation?

22 Q Certainly.

23 A Well, the project was initiated at the
24 behest of some health department staff. There's a
25 large area of old San Carlos Park -- this is -- the

1 origins of the San Carlos area are a land sales
2 company. There's a big part in the middle of the park
3 that has no central water or sewer system. The
4 shallow wells tend to mime the septic tanks.

5 With what we thought to be the support of
6 the health department, we put together a plan to run
7 water lines throughout there. You can only finance it
8 with a mandatory hookup provision from the County
9 Commission. That would -- in other words, once the
10 line is in front of your house, you've got to hook up.
11 However, there's a reluctance there if you believe
12 your well is working okay and it's not costing you
13 anything.

14 So the County Commission -- politically we
15 could not count to three and they would not -- we
16 could not get any additional support. I don't believe
17 that it's reasonable to think that project is going to
18 go forward anytime in the foreseeable future. We
19 consider it abandoned based on what's happened.

20 We could go forward with it, if we could.
21 We can't, and we don't see a time when we'll be able
22 to.

23 **MS. O'SULLIVAN:** All right. Thank you.
24 We're about to pass out an exhibit entitled Reuse Flow
25 Data for Existing Sites. I'd like to have that

1 identified, please.

2 **COMMISSIONER DEASON:** Yes. It will be
3 identified as Exhibit 34.

4 (Exhibit 34 marked for identification.)

5 **Q** **(By Ms. O'Sullivan)** As a late-filed
6 exhibit to your deposition you provided a schedule
7 showing annual 1996 effluent flows from the San Carlos
8 Golf Course, Vines Country Club and the Villages of
9 Country Creek. And another late-filed, you provided
10 an estimate of flows to River Ridge for 1997. Does
11 this exhibit properly reflect your late-filed
12 exhibits?

13 **MR. GATLIN:** You will note, Mr. Chairman,
14 that the answer was prepared by Mr. Messner.

15 **WITNESS MOORE:** I don't know.

16 **MS. O'SULLIVAN:** These were requested of
17 Mr. Moore during his depo. He may have had
18 Mr. Messner compile the information, but it was
19 Mr. Moore's deposition.

20 **WITNESS MOORE:** Well, if this is information
21 you requested, you know, I hope it's satisfactory, and
22 I believe it accurate if it's been prepared by these
23 two people.

24 **Q** And this is what you provided to us as your
25 late-filed?

1 A Okay.

2 Q Has Gulf begun providing reuse to the River
3 Ridge Property.

4 A Yes.

5 Q When did that begin?

6 A At the end of last year.

7 Q Is it fully -- at its full capacity? Or in
8 other words, its fully intended --

9 A No.

10 Q -- use right now?

11 A This speaks to, you know, the whole problem
12 with effluent reuse, you know. We have, you know, no
13 other source of disposal for effluent. Earlier in
14 this proceeding somebody asked the question -- I don't
15 know if it was to me or someone else -- that related
16 to the Three Oaks sewer plant, that we were limited to
17 running it at 650,000 gallons a day, and its rated
18 capacity was 750, had that changed; and the answer is
19 yes, it has.

20 We now can on a temporary basis dispose of
21 half a million gallons at the River Ridge project.
22 Well, we didn't have enough ways to get rid of
23 effluent, so we went to the developer of this project,
24 WCI Communities, and said, look, we -- they're not
25 developed yet. It's raw land out there. We need to

1 dump effluent. We know you're coming out of the
2 ground the first of next year. If you will go in
3 early and build your on-site lines, we will then
4 extend the effluent force main to your property;
5 because we were in a box.

6 We were running flows we needed to dispose
7 of. And so we were disposing of a very -- in a long
8 way -- we are disposing of a very limited amount out
9 of approved lined ponds that they have built onto the
10 ground into a bermed area around these ponds on a
11 temporary basis until the development is completed and
12 lines are put in to irrigate the golf course.

13 This is another example of cooperation when
14 cooperation doesn't cost money. And I will say to you
15 that if we said, we want to do this, but we're going
16 to charge you for it, I don't -- I think Gulf Utility
17 would have been in a heck of a bind.

18 Q So are you saying that you are pumping
19 effluent --

20 A Just the incremental amount of flow that
21 cannot be taken on the other sites at this time and
22 it's going into these permanent ponds that are then
23 being essentially overflowed -- it's been pumped --
24 but into this bermed up area of raw land while this
25 project is still under development.

1 Q And this is your most recent reuse site,
2 correct?

3 A Yes.

4 Q Is it correct that based on anticipated
5 customer growth to your wastewater system, Gulf will
6 need additional reuse sites beyond this property?

7 A Yes, absolutely; and we continue to look for
8 them on an ongoing active basis.

9 Q That was my next question. In response to
10 discovery, you had indicated that reuse agreements
11 were being discussed or pursued with other developers.
12 However, at your deposition you stated that additional
13 sites were not committing to reuse pending
14 finalization of this rate case.

15 A Absolutely true.

16 Q Since that time, have you had further
17 discussions with potential reuse --

18 A Only with one. It was a development known
19 as Corkscrew Pines who had agreed to take reuse, even
20 though they're not in development, yet on the same
21 basis that I just described for River Ridge; and we
22 had a meeting with the department -- DEP who said,
23 yeah, we would approve a spray irrigation plan for
24 their project.

25 They had agreed to go forward, you know, if

1 we would put the lines in if it became necessary.
2 It's our hope that we bought a couple years with the
3 River Ridge project, but you never know. We're not in
4 control of the development, so -- and they went so far
5 as we had a draft contract with them, and there's just
6 not any -- you know, they're not doing anything, and
7 they so stated.

8 Q In your contract with the River Ridge
9 property, you put them on notice that if the
10 Commission approved a charge, it would be applicable
11 to them; is that correct?

12 A Yes, we did. We felt like we had to make
13 them aware that this was a trend that was coming, and
14 it would have been less than honest to do otherwise.

15 Q Has Gulf had discussions with the Florida
16 Gulf Coast University regarding its taking reuse?

17 A We had, in the very beginning when we told
18 them that they would have to provide three-day storage
19 and run the lines and do all that. Their response is,
20 we may want to do that sometime in the future because
21 we're going to be the environmental university, but
22 right now we don't have enough money in our budget to
23 do the things that we prioritize higher than that.

24 Q You've discussed the Utility's benefit and
25 advantage in having the golf course receive this

1 effluent and store it especially in the rainy season
2 when they don't need it. Would you agree that the
3 golf courses do receive a benefit, though, and a value
4 in receiving reclaimed water for irrigation?

5 A It is a source of water for the golf
6 courses. It is a win-win situation. Somebody said
7 that earlier. What we have really created here -- you
8 know, this is one of those things that falls in the
9 category of "no good deed goes unpunished".

10 You know, we've been doing this before
11 anybody thought about doing it, and as a result, our
12 customers since the beginning of time have avoided the
13 cost of disposal facilities. You know, now we're
14 faced with, is it a benefit to them. Well, it's a
15 mutual benefit, and how much of a benefit is it, I
16 don't know how to measure that.

17 I know what their reaction as business
18 people will be to the continued taking and high level
19 of cooperation that we have enjoyed in the past will
20 be, and we will be put in a box from the get-go if
21 there's a reuse rate imposed.

22 Q Just one moment. (Pause)

23 A You know, I would just implore you to try to
24 understand that not every situation is the same.
25 Situations are different. It's not a cookie cutter

1 thing where you can just come in and say, this is the
2 way it works.

3 Q That was my next question was, would you
4 agree that the value may vary from customer to
5 customer and from different times of the year in terms
6 of value of receiving the effluent?

7 A You mean to a golf course --

8 Q Right.

9 A -- customer?

10 Q Right.

11 A Clearly they have more need for water of any
12 kind in a dry zone as opposed to when it's raining,
13 regardless of the source.

14 Q Turning to the allocation of these costs, do
15 you believe it would be difficult to allocate a
16 portion of the cost of the reuse system to the water
17 customers?

18 A I don't know what you mean by would it be
19 difficult.

20 Q In response to a Staff interrogatory
21 regarding the allocation of the portion of costs of
22 the reuse system to water customers, the Utility
23 indicated that such allocation would be complicated
24 since only 2,400 of Gulf's 7,000 water customers
25 receive wastewater service from the Utility.

1 Regardless of this disparity in customers,
2 wouldn't Gulf's water customers receive a benefit by
3 the preservation of water resources due to reuse?

4 A Yes, they would, as would every other water
5 user in southwest Florida that's in this aquifer.

6 Q Presently water from the Corkscrew water
7 plant is being disposed of through golf course
8 irrigation, correct?

9 A Yes, ma'am.

10 Q Did the Utility evaluate alternative
11 disposal sites and alternative disposal options and
12 determine that deep well injection was the only other
13 option?

14 A We did. Well, we had engineers do it. We
15 update our capital budgets at least annually, and our
16 five-year plan at least annually, capital budget plan
17 at least annually, and we -- you know, we have a
18 master plan for water and wastewater both, and we look
19 at these options.

20 The problem that you find just in a broad
21 view with Gulf is the other rational option in our
22 case would be evaporation/percolation ponds and where
23 land is available and the cost of acquiring the land
24 and running the pipes and what have you, this is the
25 least cost method available to us.

1 Q What would trigger your need to construct a
2 deep well injection system?

3 A The inability to dispose of the next
4 increment of effluent. It could have occurred when --
5 if we had been unable to negotiate the contract with
6 River Ridge, for example. We have no other way. And
7 we have -- you know, it's been designed and permitted
8 and, you know, we can go to bid anytime. I mean, it's
9 on the shelf. It's real, and it's a real
10 consideration that we have to live with.

11 Q What would the estimated cost of the deep
12 well be?

13 A The last engineer's estimate was in 1996 and
14 their estimate in 1996 dollars was right at two and a
15 half million dollars.

16 Q Two and a half million?

17 A Yes, ma'am.

18 Q And as presently planned, the injection
19 would be used solely for the Corkscrew reject water;
20 is that correct?

21 A It would be -- our intent would be to dual
22 permit it. You know, engineering-wise, or I guess the
23 chemistry of mixing the two waters is something that
24 is fairly complex. In other words, you mix the
25 effluent water with the reject water from the water

1 plant and in some cases there can be a tendency to
2 clog the pipe. So this is under continued review.
3 But our hope would be to dual permit it, you know,
4 where we would have the broadest flexibility.

5 Q Would you agree that the cost of disposing
6 of the reject water would be a cost in providing water
7 service, and that the water customers would receive a
8 benefit through the avoided cost of deep well
9 injection or another alternative disposal of the
10 reject water?

11 A Yes. There is definitely an avoided cost to
12 the water customers, and I would point out to you that
13 there is also an avoided cost to the wastewater
14 customers that is continuing and has always existed by
15 virtue of the fact we've not had to construct other
16 facilities.

17 Q Other witnesses, and I believe yourself,
18 have discussed the grant awarded by the South Florida
19 Water Management district of \$300,000. It's correct
20 that although approved, you will not receive the funds
21 until the project is completed; is that correct?

22 A I've got to tell you, you know, we got -- we
23 received notification of this grant -- I can't
24 remember. It was the end of last year, roughly. We
25 have been trying to get the details of the grant; a

1 contract, a letter of confirmation, you know, anything
2 that spells out how it comes to us and when it comes
3 to us.

4 We have had conversations up to and
5 including this week as to can you give us any more
6 specifics, and we don't have it. You know,
7 historically what they tell us, historically after the
8 completion of the project they give you the money.
9 That's -- but I don't know yet for sure.

10 Q When do you think the project will be
11 completed?

12 A Well, we have it scheduled to begin, I
13 believe, in April. It's a four-month -- I think it's
14 scheduled to complete in August. I know it's
15 scheduled to bid here in the next few weeks.

16 Q The effluent going to all three properties,
17 the three golf courses and communities, is metered and
18 the golf courses are responsible for all on-site
19 construction and maintenance of the irrigation
20 systems, correct?

21 A Yes, ma'am.

22 Q And additionally, it's been the developers
23 of golf courses' responsibility to pay for the main
24 bringing effluent to its property; is that correct?

25 A I'm sorry. I didn't hear you.

1 Q It has been the developers or golf courses'
2 responsibility to pay for the main bringing effluent
3 to its property?

4 A That's right. And, historically, with the
5 exception of the line to River Ridge, they have paid
6 for both the off-sites and on-sites.

7 Q Right. And the River Ridge agreement, which
8 is the most recent one, states the Utility will
9 construct the reuse main going to the property as well
10 as any required testing wells on the developers'
11 property. Could you explain why that policy has
12 changed, or that provision has --

13 A The policy hasn't changed. As I explained
14 to you earlier, we were up against the wall for
15 disposal of reuse. It was a timing issue with River
16 Ridge. They were a year away at least from needing
17 effluent. We needed to get rid of it right now, where
18 we couldn't use the existing sewer plant to -- beyond
19 the 650,000 gallons a day. So we struck the bargain
20 that we would build the line so they wouldn't have to
21 if they would construct ahead of time the holding
22 ponds so we could get some relief and be able to
23 dispose of more effluent. It was a matter of
24 necessity.

25 Q We discussed earlier the fact that the

1 contract with River Ridge indicates that if the
2 Commission does impose a charge, they're put on notice
3 that that may occur. Based on this agreement, hasn't
4 the developer agreed to take a stated amount of
5 effluent knowing he could be charged an unknown future
6 rate?

7 A I think implicit in that, he has, yeah.

8 Q Isn't this in effect a chance the developer
9 was willing to take to receive the benefit of the
10 irrigation water?

11 A I think you'd have to ask the developer
12 their motivations. We went to them and, you know, we
13 proposed the agreement, and we just tried to be honest
14 with them in the agreement. So obviously they must
15 think there's a benefit, and they signed the
16 agreement.

17 I think the benefit that they were focusing
18 on, though, was that they were avoiding the cost of
19 the off-site line to their property, and their
20 analysis said, this is a really a good deal for us so
21 we'll go ahead and build these ponds, and, you know,
22 then a year and a half from now we're not going to
23 have to build the off-site line to get it here.

24 Q Just one more question referring back to
25 Mr. Riley's questioning of you regarding the future

1 use or future consumption at the university. You said
2 that you do know the lines in place will meet the
3 capacity required by the buildings there now. How did
4 you arrive at that conclusion?

5 A Well, I'm traveling on the basis that they
6 wouldn't have been able to start construction, you
7 know, on the buildings unless they had satisfied all
8 the requirements to get a building permit. I mean,
9 they are required to get a building permit, so I'm
10 making that assumption. Does that -- is that the
11 answer -- did I answer the question? Did I answer --

12 Q I guess I'm --

13 A -- the right --

14 Q I guess I'm asking, you obviously had to
15 know what the capacities were required by those
16 buildings that are there now; is that correct, in
17 terms of water --

18 A Well, they gave -- yeah. They gave us
19 capacities and obviously -- yeah, you know. And based
20 on what they've given us, yeah, they do meet those
21 demands; sure.

22 Q And what are those demands?

23 A I don't recall. I mean, it's -- you know,
24 we're -- it's --

25 Q Per building --

1 A -- they've given us schedules of what their,
2 you know, their demands and peak flows and all that
3 are. You know, my contract -- I mean, I didn't do the
4 engineering or capacity work into that, but I assume
5 everybody is happy because the lines are in the
6 ground. You know, they paid the connection fees and
7 all that happened, so the buildings are going up; so I
8 assume there was a meeting of the minds on that.

9 Q Could you supply us with information
10 regarding what the capacity of the existing lines are,
11 or would somebody else who is going to testify next be
12 more appropriate to answer that question?

13 A Somebody is more appropriate than me. I
14 mean, do you mean the amount of flow or --

15 Q Just one moment. (Pause)

16 **MS. O'SULLIVAN:** We have nothing further.
17 Thank you for waiting.

18 **COMMISSIONER DEASON:** Redirect?

19 **MR. GATLIN:** Yes.

20 **REDIRECT EXAMINATION**

21 **BY MR. GATLIN:**

22 Q Mr. Moore, Mr. Riley asked you some
23 questions about with the average time with the Company
24 compared to the other companies. It turned out to be
25 about two years. Do you remember that?

1 A I do.

2 Q Do you think that implies that your
3 employees only have two years of experience in the
4 field that they're in?

5 A Well, it doesn't to me. I mean, you know
6 we --

7 Q Do you hire experienced people?

8 A We do hire experienced people. Good example
9 is the maintenance mechanic who has been in, you know
10 in this field in utilities for, you know, 10 or 15
11 years, I think.

12 Q And do you add employees as the growth
13 demands it within the system?

14 A Sure.

15 Q This situation could indicate that Gulf
16 salaries have been inadequate and they need to go
17 higher, won't it?

18 A Well -- yeah. Exactly. I mean, we have
19 turnover because people are going -- we do hire
20 people, and they do go to better jobs, and
21 particularly in the case of operators. They go to
22 other companies, because that is one skill that's
23 actually transferable. So that has been an experience
24 that we've had, and I guess I should have said that.

25 MR. GATLIN: Okay. That's all I have,

1 Mr. Chairman. I move Exhibit 30 and 31.

2 COMMISSIONER DEASON: Without objection

3 Exhibits 30 and 31 are admitted.

4 (Exhibits 30 and 31 received in evidence.)

5 COMMISSIONER DEASON: Other exhibits.

6 MR. REILLY: We would move Exhibits 32 and

7 33.

8 COMMISSIONER DEASON: Without objection

9 Exhibits 32 and 33 are admitted.

10 (Exhibits 32 and 33 received in evidence.)

11 MS. O'SULLIVAN: Staff moves Exhibit No. 34.

12 COMMISSIONER DEASON: Without objection,

13 Exhibit 34 is admitted.

14 (Exhibit 34 received in evidence.)

15 COMMISSIONER DEASON: Thank you, Mr. Moore.

16 (Witness Moore excused.)

17 - - - - -

18 MR. GATLIN: Call Mr. Cardey.

19

20

21

22

23

24

25

KEITH R. CARDEY

1
2 was called as a rebuttal witness on behalf of Gulf
3 Utility Company and, having been duly sworn, testified
4 as follows:

DIRECT EXAMINATION

5
6 **BY MR. GATLIN:**

7 Q Mr. Cardey, you have been sworn, haven't
8 you?

9 A Yes.

10 Q Have you prepared rebuttal testimony in this
11 case consisting of 23 pages?

12 A Yes.

13 Q If I were to ask you those same questions
14 today, would your answers be the same that's set forth
15 in --

16 A They would, except I want to make one
17 correction.

18 Q Okay.

19 A On Page 16, Line 21 there's a word that says
20 "including fire flows". It should be "excluding fire
21 flows". Other than that, my answers would be the
22 same.

23 **MR. GATLIN:** Mr. Chairman, I request that
24 this testimony be inserted in the record as though
25 read.

1 **COMMISSIONER DEASON:** Without objection it
2 shall be so inserted.

3 **Q** **(By Mr. Gatlin)** Mr. Cardey, you have three
4 exhibits, do you not, attached to your testimony?

5 **A** Yes, I do.

6 **Q** KRC-7, which is Test Year Rate Base as
7 Adjusted, KRC-8, which is Margin Reserve, KRC-9,
8 Comparison of Company MFR and OPC's Determination of
9 Used and Useful.

10 **A** Yes.

11 **MR. GATLIN:** Could we have those identified,
12 Mr. Chairman?

13 **COMMISSIONER DEASON:** Yes. Composite
14 Exhibit 35.

15 (Exhibit 35 marked for identification.)

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GULF UTILITY COMPANY

REBUTTAL TESTIMONY OF KEITH R. CARDEY

1
2
3 Q. State your name and business address.

4 A. Keith R. Cardey, 460 Oriole, Elmhurst, IL 60126.

5 Q. What is your occupation?

6 A. I am a consultant in the public utility field.

7 Q. And are you the same Keith R. Cardey who gave direct
8 testimony in this docket?

9 A. Yes, I am.

RATE BASE

10
11 Q. Have you reviewed both Staff's and OPC's proposed
12 adjustments to rate base and if so what are your
13 recommendations?

14 A. I have reviewed both studies, and in broad measure,
15 these studies do not reflect the operations of the
16 Company in the immediate future when the new rates
17 become effective. Except as noted below, their
18 proposed adjustments should be rejected.

19 On Exhibit_(KRC-7) I have summarized the adjustments
20 to rate base stemming from Staff's and/or OPC studies
21 that Gulf agrees with. There are four adjustments:

22 (1) A \$2,265 reduction in wastewater plant account
23 (Andrews' rebuttal testimony, page 12).

24 (2) A decrease of \$116,696 in cash working capital
25 (Nixon's rebuttal testimony).

1 (3) An increase of \$130,228 in Reserves for
2 Depreciation (Andrews' rebuttal testimony, page
3 8).

4 (4) increased CIAC in the water operations to reflect
5 the \$300,000 grant from South Florida Water
6 Management District's Alternative Water Supply
7 Grant Program (Andrews' rebuttal testimony page
8 12).

9 PREPAID CONNECTION FEES

10 Q. Staff has proposed that prepaid connection fees be
11 deducted in computing rate base. What are your
12 comments?

13 A. That recommendation is inconsistent with the legal
14 framework in determining just and reasonable rates and
15 should be rejected.

16 Staff said "these connections appear to be related to
17 plant already in service". There is no study
18 supporting that statement.

19 A "test year" synchronizes four basic determinants in
20 setting rates namely (1) the revenues produced under
21 the rate structure, (2) the expenses, including
22 depreciation and taxes incurred to produce these
23 revenues, (3) the property (rate base) that provides
24 the service, and (4) return on said rate base.
25 Staff's proposal destroys the orthodox method of

1 ratemaking outlined above as well as the fundamentals
2 in the MFRs and should be rejected.

3 The prepaid connection fees relate to future customers
4 and the Company's contractual obligation to meet their
5 service requirement.

6 In the test year in this case, the investment in non-
7 used and useful plant exceed prepaid connection fees,
8 including the \$300,000 to be received in the future
9 from the South Florida Water Management District by
10 21%. The Company's treatment of prepaid connection
11 fees is consistent with prior rate orders for Gulf.
12 Staff's and OPC's proposed adjustment for prepaid
13 connection fees should be rejected.

14 MARGIN RESERVE

15 Q. Mr. Bidy of OPC indicated a utility does not need a
16 marginal reserve. What are your comments?

17 A. Of course he's wrong. As a public utility, the
18 Company has an obligation to meet the service
19 requirements in its certificated area, including both
20 present and potential customers. A system that is
21 100% at capacity could not meet that obligation. On
22 this matter, the Commission said this in the Palm
23 Coast case: "Section 367.111(1) Florida Statutes,
24 provides that "each utility shall provide service to
25 the area described in its certificate of authorization

1 within a reasonable time." In order for a utility to
2 meet its statutory responsibilities, it must have
3 sufficient capacity and investment to meet the
4 existing and changing demands of present and potential
5 customers. Therefore, we have consistently recognized
6 margin reserve as an element in used and useful
7 calculations. Accordingly, we find that a margin
8 reserve must be included in the calculations for used
9 and useful plant for PCUC. (Palm Coast Utility
10 Corporation, Docket No. 951056-WS, Order No. PSC-96-
11 1338-FOF-WS, November 7, 1996)."

12 The argument normally advanced is marginal reserve
13 serves only customer growth, but in fact, it serves
14 both existing and new customers. Businesses expand
15 and need additional service, homes are remodeled and
16 new dishwashers or garbage disposal units may be
17 installed, families grow requiring more utility
18 service and, as systems get older, losses and
19 infiltration increase, so some margin reserve is
20 needed to meet these changing needs of existing
21 customers.

22 A good example of the increase from existing customers
23 is the Estero High School. Five years ago it had
24 total pupil enrollment of 1,226, and in 1996 it was
25 2,451.

1 In a growth company--and Gulf is growing at 5-7% a
2 year--there is an ongoing investment in margin
3 reserve. As one group of customers take service, a
4 margin reserve must be provided for another group.
5 The Company has a permanent investment in margin
6 reserve.

7 Q. How is reserve capacity treated in the electric
8 utilities?

9 A. The margin reserve is included in the rate base and a
10 return on and the return of the investment in the
11 margin reserve is included in consumer rates.

12 The doctrine that a utility company is entitled to a
13 fair return on property devoted to public service is
14 fundamental to rate regulation and should apply to
15 both electric and water companies. The electric
16 companies receive a fair return through rates charged
17 the general body of customers, while with Gulf Utility
18 Company the stockholder absorbs most of the cost.

19 In the final analysis, for Gulf to provide safe and
20 adequate service, it must have a margin reserve.

21 IMPUTED CIAC

22 Q. Neither Staff or OPC developed a rate base for the
23 test year, so there is no indication of the magnitude
24 of any adjustment where imputed CIAC offsets margin
25 reserve. However Ms. Dismukes, starting on page 20 of

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1 her testimony, indicate such an adjustment should be
2 made. What are your recommendations to the Commission
3 on this matter?

4 A. It is my recommendation the Commission not impute CIAC
5 to offset margin reserve. I believe imputing CIAC
6 deprives the owners of the Company of a return on and
7 a return of their investment in margin reserve. The
8 Commission has recognized the Company's obligation to
9 meet the service needs of existing customers as well
10 as anticipate the service needs within the area it
11 serves by including the investment in margin reserve
12 in rate base.

13 When the investment in plant is offset by imputed
14 CIAC, there is a mismatch of economics with the
15 stockholder, in large part, absorbing the cost of
16 meeting this obligation imposed on the Company.

17 Q. Turning to the water operations, what is the
18 investment in margin reserve and how much if imputed
19 would be offset by CIAC?

20 A. The margin reserve only applies to the investment in
21 Source of Supply and Water Treatment. The amount
22 allocated to Margin Reserve is 8.0% of the investment
23 in these functions as shown in Exhibit_(KRC-8), Column
24 6.

25 A summary of the margin reserve, CIAC if imputed, then

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1 the investment that would be included in rate base is
2 as follows:

3	Gross Investment	\$543,885
4	Reserve for Depreciation	<u>(146,555)</u>
5	Net	\$397,330
6	Imputed CIAC	<u>412,500*</u>
7	Amount Included in Rate Base	<u>\$<15,170></u>

8 * \$550 ERC x 1.5 yrs x \$500/ERC = \$453,750.

9 With an ongoing investment of \$397,330 (Net Plant) and
10 growing, \$15,170 would be deducted from rate base.

11 The loss of earning and loss of capital each year
12 would be:

13	Return: \$412,500 x .0925	\$ 38,156
14	Depreciation Expense: \$412,500 x .043	<u>17,737</u>
15	Annual Loss	<u>\$ 55,893</u>

16 The negative amount of \$15,170 results primarily
17 because capacity fees of \$550/ERC are based on gross
18 plant while the above computation reflects Reserve For
19 Depreciation of 27% of gross plant.

20 Included in the investment shown above is the cost of
21 the reuse holding tank and associated pumps, controls,
22 etc. The \$300,000 grant from South Florida Water
23 Management District to help financing this project
24 would be recorded as CIAC. Unless further allocations
25 are made to the \$300,000 grant, the losses to

1 stockholders will be substantially greater than shown
2 above.

3 Imputing CIAC as shown above ignores the Company's
4 obligation to serve the changing demands of present
5 and potential customers. There should be no imputed
6 CIAC in this case.

7 Q. In proposed rule making Docket No. 960258-WS, two
8 Staff witnesses, namely Mr. Robert J. Crouch, P.E. and
9 Mr. Norwell D. Walker, appeared on behalf of the
10 Staff. Are your recommendations in this case
11 consistent with these two witnesses?

12 A. Yes, it is. They recommended margin reserve with no
13 imputed CIAC. My testimony is consistent with the two
14 Staff witnesses in the above docket.

15 RENT

16 Q. Should the rental charges Gulf is paying on the new
17 office building be included in cost of service?

18 A. Yes, it should. Mr. Moore in his rebuttal testimony
19 pages 10 to 15 reviewed the factors management took
20 into consideration in leasing the new office,
21 including the fact the rent did not exceed the going
22 market value. Mr. Gatlin advised me that if the lease
23 is equal to comparable prices within the area, that
24 meets the test of reasonableness. In GTE Florida
25 Incorporated v. J. Terry Deason, etc. et al, Appellee

10 "We do find, however, that the PSC abused its
11 discretion in its decision to reduce in whole or in
12 part certain costs arising from transactions between
13 GTE and its affiliates, GTE Data Services and GTE
14 Supply. The evidence indicates that GTE's costs were
15 no greater than they would have been, had GTE
16 purchased service and supplies elsewhere. The mere
17 fact that a utility is doing business with an
18 affiliate does not mean that unfair or excess profits
19 are being generated without more. Charles F.
20 Phillips, Jr., The Regulation of Public Utilities 54-
21 55 (1988). "We believe the standard must be whether
22 the transactions exceed the going market rate or are
23 otherwise inherently unfair. See id. If the answer
24 is "no", then the PSC may not reject the utility's
25 position. The PSC obviously applied a different

1 standard, and we thus must reverse the FPSC's
2 determination of this question."

3 An explanation on page 6 of Gulf's December 6, 1996
4 response to the Audit Report dated November 25, 1996,
5 discusses the Utility rental charge for the Utility's
6 leased area of the building indicating an independent
7 appraiser give his opinion that \$15.00 per month
8 including taxes, maintenance and insurance was a
9 reasonable charge. In addition Lee Memorial Hospital
10 in 1996 leased two-thirds of the building at
11 comparable rental charges Gulf is paying. It is my
12 judgement that the rental charge is reasonable and
13 should be included fully in operating expenses.

14 PAYROLL - SERVICE PROVIDED CALOOSA

15 Q. Please comment on Staff's and OPC's allocation of
16 additional payroll to Caloosa.

17 A. The first observation is that I am the only witness
18 who reviewed the work Gulf's employees perform for
19 Caloosa, reviewed the time each employee spends on
20 Caloosa's work, then priced this time at the present
21 salaries and insurance benefits. The result of this
22 study was that the present allocation of payroll was
23 reasonable as set forth on page 13 and 14 of my direct
24 testimony.

25 This contrast with Staff and OPC that made no study of

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1 the work performed or the time spent by the personnel
2 who performed the work. Instead they compared the
3 payroll of the 5 employees who do the work for Caloosa
4 with total payroll, which includes plant operator,
5 meter readers and others. This ratio that includes
6 meter readers, plant operators, etc. has absolutely no
7 relationship to the work that the 5 Gulf employees
8 perform for Caloosa or the cost of that work.

9 Ms. Dismukes attempted to prove the hourly rate the 5
10 employees receive from Gulf were higher than from
11 Caloosa. Again she failed to deal with the facts and
12 came to the wrong conclusion. While I disagree with
13 her methods, the table shows the error in her study:

14 CALOOSA

			<u>Hourly</u>
	<u>Payments</u>	<u>Hours</u>	<u>Rate</u>
15			
16			
17	Mr. Moore	\$5,900	104 (a)
18	Ms. Andrews	\$3,474	42 (b)
19	(a)	2080 hrs/yr x 5¢	
20	(b)	2080 hrs/yr x 2¢	

21 On Exhibit No. (KHD-1) Schedule 6, Ms. Dismukes shows
22 for Mr. Moore an hourly rate of \$49.04 for Gulf and
23 \$22.69 for Caloosa. As the table shows, the actual
24 hourly rate for Caloosa is \$56.73, 2.5 times her
25 computation. A similar error is associated with Ms.

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1 Andrews hourly rate. The payroll adjustments proposed
2 by Staff and OPC for service provided Caloosa should
3 be rejected.

4 EXPENSES ALLOCATED TO CALOOSA

5 Q. OPC increased the allocation of office expense to
6 Caloosa. Do you agree with this allocation?

7 A. No, I do not. Again, OPC used an allocation that does
8 not apply to the facts. OPC used an allocation based
9 upon the payroll of 5 employees who provide a service
10 to Caloosa to total Company payroll that includes
11 plant operators, meter readers, etc. The payroll of
12 22 employees out of a total of 27 employees has
13 nothing to do with Caloosa. If you start out with an
14 allocation formula that is wrong, you end up with the
15 wrong answer.

16 Office expenses incurred by Gulf that are partially
17 allocated to Caloosa are security, office cleaning,
18 electric power at the office, office supplies, and
19 pest control. These total \$11,280 per year. It's
20 quite obvious the payroll of meter readers or plant
21 operators have nothing to do with these expenses.

22 Caloosa does have its own telephone and pays for their
23 own stationery and items directly related to Caloosa.
24 The five employees who do work for Caloosa in total
25 spend 2.6% of their time on Caloosa; 2.8% of the

1 office space was allocated to Caloosa and 2.8% of the
2 common expenses were allocated to Caloosa.

3 I have found, however, Caloosa should pay an
4 additional \$1,400 per year due primarily to the level
5 of office rent.

6	Water	\$ 924
7	Wastewater	<u>476</u>
8		\$1,400

9 Staff's and OPC's adjustments should be rejected by
10 the Commission.

11 BIDDY'S EXHIBIT TLB-2

12 USED AND USEFUL CALCULATIONS

13 WATER OPERATION

14 Q. Mr. Biddy on Exhibit_(TLB-2) made adjustments to the
15 used and useful determinations made by the Company in
16 the MPR for the water operations. What are your
17 comments?

18 A. As a general observation he ignored the Commission's
19 findings on this matter in the Company's previous rate
20 case; ignored a requirement for margin reserve, failed
21 to recognize the service needs of Florida Gulf Coast
22 University, and ignored the factual characteristics of
23 the storage facilities. There follows comments
24 related to specific allocations (lines 11-47) on
25 Exhibit_(TLB-2).

WELLS

1
2 In the prior case, the Commission found the San Carlos
3 supply and treatment plant 100% used and useful (Order
4 No. 24735, Docket No. 900718-WW, dated 7/1/91). There
5 has been no changes in the plant since that time, and
6 Mr. Bidy in reducing source of supply 14% is
7 inconsistent with that order, and regulatory
8 requirements as stated by Mr. Elliott in his rebuttal
9 testimony, page 7.

10 With reference to wells at Corkscrew, in the previous
11 case (Docket No. 24735), the Commission included 3
12 wells in used and useful property, and since then two
13 additional wells were activated for Skid 2 and Skid 3.
14 The MFR's are consistent with the previous case.

15 Mr. Elliott on page 6 of his rebuttal testimony, after
16 stating the design practice and regulatory
17 requirement, said the used and useful requirements
18 must be in concert with accepted design and regulatory
19 requirements.

20 Mr. Bidy's proposed adjustment for wells should be
21 rejected.

USED AND USEFUL CALCULATIONS

22
23 Mr. Bidy made an adjustment to water treatment plant
24 with no testimony to support the adjustment. Note II
25 on Exhibit_(TLB-1), states..."It is not cost effective

1 to size water treatment plant to meet instantaneous
2 demands like fire flow and peak hour demands." How
3 peak hour flows or fire flows fit into his
4 determination of used and useful he does not explain.
5 Mr. Bidy distorts the function of the flows developed
6 in the MFR's for determining used and useful. The
7 table below, which is taken from F-3 and F-5 of the
8 MFR, is developed as a reasonable procedure in
9 determining the investment in the supply and treatment
10 facilities utilized in meeting the service obligations
11 of the Company.

<u>Five Day Average (1995)</u>	<u>Flows</u>
3/24/95	3.294 MGD
3/25/95	3.294
3/26/95	2.594
3/27/95	2.255
3/28/95	<u>2.293</u>
Average	2.746
Growth - 1996	0.240
FGCU	0.073
Fire Flows	0.360
Margin Reserve	<u>0.297</u>
	3.716
Plant Capacity	4.215
% Used and Useful	88.2%

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1 The above flows of 3.716 MGD is Gulf's obligation in
2 providing service to its certificated area.

3 With reference to fire flows, in the design of the
4 plant capacity, peak day flow, excluding fire flows,
5 are used while in rate making, 5 day average flows,
6 plus fire flow are included.

7 In setting rates, four basic determinants are
8 required, namely (1) the revenue produced under
9 existing rates (2) the expenses, including
10 depreciation and taxes to produce these revenues, (3)
11 the property (Rate Base) to provide the source, and
12 (4) a return on rate base. The 88.2% used and useful
13 shown in the table above is used to determine the
14 investment to meet Gulf's legal obligation of
15 providing adequate service to its certificated area.
16 This method is consistent with the Company's previous
17 rate case, plus every case I have seen before this
18 Commission since the early 1970's.

19 In the design of treatment facilities, Mr. Elliott on
20 page 11 of his rebuttal testimony stated that peak
21 flows ~~including~~ ^{excluding} fire flows, are the determining
22 factors in adding or expanding treatment capacity.
23 The peak day of 1996 was 3.312 MGD.

24 With reference to the flows shown in the table on page
25 15, the five day average varies from 2.255 MGD to

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1 3.294 MGD, or a 31% difference. The five day average
2 is not used in the design of treatment plants.

3 A comparison of the peak flow and the five day average
4 is:

5 Peak Flow	3.312 mgd
6 5 Day Average	<u>2.746</u>
7 Difference	0.566

8 The difference of 0.566 mgd is greater than fire flows
9 of 0.360 mgd that Mr. Bidy excluded from his
10 calculation.

11 In conclusion, the flows shown in the MFRs and also on
12 page 15 and 16 of this rebuttal testimony is for the
13 purpose of allocating the investment in wells and
14 treatment facilities that is required to meet the
15 service requirements of Gulf in its certificated area.
16 If Mr. Bidy wants to isolate treatment plants, and
17 exclude fire service, the peak flows plus a margin
18 reserve has to be the basis of the allocation formula.
19 However, Mr. Bidy used 5 day average flows, excluded
20 margin reserve, and has distorted the use of the
21 formula in finding used and useful of treatment
22 plants. His adjustments should be rejected.

23 WATER TREATMENT PLANTS - ECONOMY OF SCALE

24 The Company MFR's are consistent with the Commission's
25 finding in the prior rate order 24735. In that order,

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1 the Commission recognized the economics of scale in
2 the construction of the Company's well supply and
3 water treatment facilities, and under this theory any
4 excess capacity is related to the last increment of
5 capacity. The economics of scale in the Corkscrew
6 well field is set forth in Appendix A of the MFR's.
7 In this case, the used and usefulness of the water
8 treatment plants is as follows:

	<u>Capacity</u>	<u>Flows</u>	<u>% Used & Useful</u>
10 San Carlos WTP	2.415 mg	2.415 mg	100%
11 Corkscrew WTP			
12 Skid 1	0.500	0.500	100%
13 Skid 2	0.500	0.500	100%
14 Skid 3	<u>0.800</u>	<u>0.301</u>	<u>38%</u>
15	4.215 mg	3.716 mg	88%

16 Under the principle set forth by the Commission in the
17 prior case, the excess capacity is related to Skid 3
18 which went into service in December 1996. What this
19 does is encourage utilities to build economies and
20 efficiencies into the system.

21 Mr. Bidy on Exhibit_(TLB-2), page 1, failed to
22 reflect the flow responsibility of the Company and
23 failed to recognize economy of scale in the used and
24 useful computation. His adjustments on water
25 treatment plant should be rejected.

1 LAND - CORKSCREW WTP

2 In the prior case, the land at Corkscrew WTP was found
3 to be 100% used and useful by the Commission. Nothing
4 has changed since that case.

5 Mr. Messner, in his rebuttal testimony, page 12, has
6 shown the land at the plant is used in the day-to-day
7 operations of the Company. Mr. Biddy's adjustment
8 should be rejected.

9 STORAGE

10 Mr. Biddy on TLB-2, line 36 and 40, says the storage
11 facilities are 70.07% used and useful.

12 He does not say how the 70.07% was arrived at but it
13 apparently represents what he called "dead" storage in
14 the tank. Mr. Elliott, on pages 8 and 9 of his
15 rebuttal testimony, pointed out the errors in Mr.
16 Biddy's discussion on the subject and again Mr.
17 Biddy's adjustment should be rejected.

18 BIDDY'S EXHIBIT TLB-2

19 USED AND USEFUL CALCULATION

20 WASTEWATER OPERATIONS

21 Q. Mr. Biddy on Exhibit_(TLB-3) made adjustments to the
22 used and useful determination made by the Company in
23 the MFR for the wastewater operations. What are your
24 comments?

25 A. As an opening statement, Mr. Biddy's proposed

1 adjustment should be rejected by the Commission.

2 A comparison of Exhibit_(TLB-3) and the Company's
3 determination of used and useful or the wastewater
4 treatment plant plus Mr. Elliott's rebuttal testimony
5 will show why Mr. Bidy is wrong.

6 On Exhibit_(KRC-9) is a comparison of the two studies.

7 My comments are:

8 (1) The capacity of the plants are the same in both
9 studies, namely 0.968 MGD.

10 (2) The difference in 1995 flows (lines 6 and 7) is
11 OPC used the annual average flows on the San
12 Carlos Plant while the Company used the peak
13 month flows in August 1995, and both studies used
14 peak month flows at Three Oaks.

15 The Company followed the same procedure as set
16 forth in the prior rate order. (Order 20272,
17 dated 11/7/88).

18 (3) The difference in growth stem from both a
19 difference in ERC growth and gals usage per ERC.
20 Note 2 (line 35) of Mr. Bidy's Exhibit_(TLB-3)
21 indicates he determined growth using the ratio of
22 1996 ERC to 1995 ERC. Using that ratio, the
23 results would be:

24	1996 ERC	4002
25	1995	3458

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1	Ratio	1.157
2	1996 flows 1.157 x 628,749	
3	(1995 flows)	= 727,463 mg
4	1996 Growth	98,714

5 Mr. Bidy used a growth of 0.075 in the exhibit,
6 which understated the growth as shown above.

7 More fundamentally, Gulf used a growth of 507 ERC
8 and 250 gallon per ERC. The 507 ERC growth is
9 detailed by customer classes on page 17 of
10 Cardey's direct testimony and the 250 gals/ERC is
11 set forth in the Company's tariffs and was used
12 in the Company's previous rate order.

13 Another difference is the Company included the
14 flows from Florida Gulf Coast University while
15 OPC did not. Mr. Moore, in his rebuttal
16 testimony, pages 28 and 29 has justified the
17 inclusion of FGCU in the test year.

18 (4) On line 10, the Company included margin reserve
19 while OPC excluded it.

20 As indicated on page 3 of my rebuttal testimony
21 and Mr. Elliott's rebuttal testimony pages 2-5,
22 margin reserve is needed if the Company is to
23 provide safe and adequate service in its
24 certificated area.

25 Again, by omitting margin reserve, Mr. Bidy has

1 an error in his calculation of used and useful.
2 If Mr. Biddy corrected the error in his study,
3 the percent used and useful would exceed 100%.

4 Q. Turning now to line 12 through 31 of Mr. Biddy's
5 Exhibit_(TLB-3), please comment on the adjustments to
6 the investment accounts shown.

7 A. My comments are these.

8 (1) Treatment Plant and Effluent Disposal: (lines 12-
9 14) - As I have just pointed out, Mr. Biddy has
10 errors in his used and useful calculation, and if
11 corrected, would show the plants are 100% used
12 and useful.

13 The fact that the Company has obtained permits,
14 taken bids, and intends to let a contract to
15 expand the Three Oaks Treatment Plant is further
16 evidence the existing plants are fully loaded.

17 (2) Land and Land Rights. Mr. Messner, in his
18 rebuttal testimony, has shown the plant site is
19 fully utilized and Mr. Biddy's adjustment should
20 be disallowed.

21 (3) Effluent Disposal/Reuse Facilities. Mr. Biddy
22 used the same percent used and useful as for
23 treatment plants. As pointed out in (1) above,
24 Mr. Biddy's error in his calculations carry over
25 to this adjustment and should be rejected.

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1 (4) On-Site Effluent Storage. Mr. Elliott in his
2 rebuttal testimony, pages 5 and 6, pointed out
3 the tanks are needed for compliance with DEP Rule
4 62-610 requiring Class 1 reliability. Likewise
5 the second chlorine tank is needed to meet the
6 requirement of the same rule.

7 This adjustment should likewise be rejected.

8 Q. Does that conclude your rebuttal testimony?

9 A. Yes, it does.

10

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

3 **COMMISSIONER DEASON:** Mr. Riley?

4 **MR. REILLY:** Give me just one minute. That
5 "including" changed to "excluding" changed some of my
6 questioning. One second.

7 **COMMISSIONER DEASON:** Surely. (Pause)

8 **CROSS EXAMINATION**

9 **BY MR. REILLY:**

10 **Q** Mr. Cardey, in referring to the issue of
11 margin reserve, there is a -- position of the Utility
12 is that the margin reserve also serves the changing
13 and increasing needs of existing customers, and on
14 Page 4 -- let's see; I think it's Line 22 -- you speak
15 of a good example of how the changing and increasing
16 demands of existing customers can be met by a margin
17 reserve.

18 **A** That's correct.

19 **Q** And my question to you is, do you know how
20 many of the 2,451 students that are at the school in
21 1996 are from new families that moved into the service
22 area as opposed to existing families that lived there
23 five years ago?

24 **A** No, I do not.

25 **Q** Would you not assume, if these are children

1 that lived -- were existing citizens of this community
2 in 1991, that for them to move to this school would
3 have caused them to move from some other school, and
4 although there would be more people at this school, it
5 would necessarily result in fewer students at the
6 other school?

7 A I tell you that's a complicated question. I
8 would assume the students were both -- some of them
9 grew up here and went to high school and some moved
10 in.

11 Q But, in fact, really, as schools continue to
12 grow and new schools are built and existing schools
13 are expanded to meet larger and larger enrollments, is
14 this not really more the result of normal growth of
15 the community as opposed to larger and larger sized
16 families in that community?

17 A Oh, I think that would be true, yes.

18 Q Okay. Thanks. On Page 15 of your rebuttal
19 testimony, you disagree with Mr. Bidy's adjustment on
20 water treatment plant. From Line 2 you state, "How
21 peak hour flows or fire flows fit into his
22 determination of used and useful he does not explain."
23 And my only comment on that -- or I'd like to ask you
24 a question. Did you have an opportunity to review
25 Mr. Bidy's TLB-1 exhibit that delineates his method

1 for calculating used and useful for water treatment
2 and water storage?

3 A Yes, I did.

4 Q And does that not help illuminate how he
5 made that calculation, explain on what basis he made
6 it?

7 A Well, I think he eliminated fire flows, but
8 peak hour flows, I don't know any of that was
9 delineated on that schedule. I'm not sure that he
10 really used peak hour flows.

11 Q Is it your understanding that Mr. Biddy
12 eliminated fire flow requirement in water storage?

13 A No; in the usage of -- in the supply and
14 treatment; in the supply and treatment facility.

15 Q But it is in his storage?

16 A I think so, yeah.

17 Q All right. Do you know that Mr. Elliot
18 testified in his rebuttal testimony on Page 12, Line 7
19 that the San Carlos water treatment plant and
20 Corkscrew water treatment plant were designed to meet
21 the maximum day water demand as a minimum design
22 requirement?

23 A Yes.

24 Q I'd like to read a statement to you and see
25 whether you agree or disagree with the statement.

1 "According to general design practice, fire flow and
2 peak hourly flows are stored in the ground storage
3 tanks or elevated storage tanks during off-peak hours.
4 Therefore, these instantaneous demands are provided by
5 storage facilities and high service pumps." Do you
6 agree with this general design practice?

7 A No.

8 Q And why not?

9 A I've been involved in too many systems where
10 you have to use all the capacity that you have, all
11 the well capacity and treatment capacity to meet the
12 needs of the system.

13 Q Would that put you at odds with Mr. Elliot's
14 position?

15 A No, I don't think so. What you just read to
16 me had to do with the design of the system.

17 Q Do you have a copy of Mr. Elliot's testimony
18 handy?

19 A No, I do not.

20 Q Could we provide that?

21 MR. GATLIN: (Handing document to witness.)

22 Q (By Mr. Reilly) And I would direct your
23 attention to Mr. Elliot's rebuttal testimony on Page
24 12, and that's Line 14, starting on Line 14; and here
25 he states, "Instantaneous demands, like fire flow and

1 peak hour demands, are included in the design basis
2 for water storage in high service pumping systems, not
3 plant treatment process capacities."

4 A That's what he said, yes.

5 Q But do you disagree with that?

6 A No. I've got to back up. But that's not
7 the question you previously asked me. You asked me
8 when there is a fire, for example, is it only supplied
9 out of the storage facility; and I say no, that's not
10 true. You have a fire, you have all the facilities
11 that you have on stream replacing -- either replacing
12 the water in storage or supplying it directly to the
13 fire.

14 Q But then you do agree with the statement
15 that the plant treatment processes should not be
16 designed to meet these two requirements of fire flow
17 and peak hour demands?

18 A Yeah, in a normal --

19 Q General --

20 A Small systems you've got a different
21 situation. If you have a small system with just a
22 well and a little chlorine, then it takes a little
23 different system; but in a larger system, that would
24 be true.

25 Q And in your judgment, a system the size of

1 Gulf, you --

2 A I would.

3 Q Go ahead.

4 A Yeah, I would agree with that; Gulf is a
5 larger system.

6 Q And it's your opinion that the treatment
7 process should be sized to meet fire flow and peak
8 hour demands?

9 A No, I didn't say that.

10 Q Well, we'll do your opinion, then.

11 A All right. You asked me whether I agreed
12 with Mr. Elliot, and I said I did.

13 Q And you do. Okay. Okay. On Page 19, Line
14 5 of your rebuttal testimony, you mention that
15 Mr. Messner in his rebuttal testimony, Page 12, has
16 shown the land at the plant -- and we're talking about
17 the Corkscrew water treatment plant now -- is used in
18 the day-to-day operations of the Company; is that
19 correct?

20 A That's correct.

21 Q Do you know that the Corkscrew water
22 treatment plant has expansion plans for several
23 facilities, including a 12,000 square foot
24 administration building and two 2 million-gallon
25 storage tanks?

1 A No, I'm not sure that -- I've never heard
2 that before.

3 Q So you're not aware of the Company's plans
4 to locate at this site substantial new --

5 MR. GATLIN: Mr. Chairman, I object. He
6 hasn't laid the predicate for that question.

7 COMMISSIONER DEASON: Mr. Reilly?

8 MR. REILLY: My question is, is he
9 personally aware of the Utility's plans to locate any
10 of the facilities on that site.

11 MR. GATLIN: Mr. Chairman, he hasn't
12 established the fact there are any existing plans.

13 MR. REILLY: I understand that the Company
14 has a master plan, and so my question is, is he aware
15 of the contents of that master plan as it relates to
16 this water treatment plant site.

17 COMMISSIONER DEASON: Ask him if he's aware
18 of a master plan. Then ask him if he's aware of the
19 contents of that plan.

20 Q (By Mr. Reilly) Are you aware or have you
21 reviewed the contents of any master plan?

22 A I've seen five-year projections. I don't
23 know if that's a master plan, but it's seems like a
24 projection.

25 Q In those materials that you have reviewed,

1 did any of them outline plans to locate additional
2 facilities on -- at the Corkscrew water treatment
3 plant site?

4 A Not in that detail, no.

5 Q Okay. On the same page, Line 12 -- this is
6 Page 19 -- you state that he, being Bidy, does not
7 say how the 70.07% was arrived at, but it apparently
8 represents what he called dead storage in the tank.

9 Could I have you refer to Mr. Bidy's
10 Exhibit TLB-1 and maybe we can have you comment on a
11 thing or two?

12 A Maybe I can answer something. I was not
13 able to figure out how Mr. Bidy arrived at used and
14 useful for storage facilities.

15 Q All right. Well, let me just see if we can
16 clarify that for you. Do we have a copy that could be
17 given to Mr. Cardey?

18 A No, I do not.

19 Q (Pause) And I've handed to you Mr. Bidy's
20 TLB-1. Let me get it, too. (Pause)

21 Okay. I'm looking at TLB-1, Page, I guess,
22 1 and 2 of three, and we're looking at Finished Water
23 Storage --

24 A Yes.

25 Q -- for the used and useful calculation

1 method. And you say that you don't understand what
2 he's saying here?

3 A Well, I was saying that over on Page TLB-2,
4 the 70.07, I could not put enough numbers together to
5 come out with that particular percentage.

6 Q On this issue, as I understand your
7 testimony, was that he called this -- 70.07 was --
8 apparently represents what he called dead storage.
9 And I would direct your attention to Mr. Biddy's
10 testimony at Page 9 where he specifically addresses
11 this issue of dead storage, and see if it comports
12 with your representation of his testimony.

13 And at Page 9, Line 18 he expressly states,
14 "No dead storage or retention storage is included in
15 my used and useful calculation, because design
16 engineers could have raised the storage tank to two
17 feet above the high service pumps or vice versa." So
18 it's my understanding he's not providing any dead
19 storage.

20 A If I made a mistake, I made the mistake.

21 Q All right. In your rebuttal testimony on
22 Page 20, from Line 24 you showed 1996 has 4,002 ERCs,
23 and 3,458 ERCs for 1995; is that correct?

24 A Yes.

25 Q Now, this number of 4,002 is not derived

1 from the historic data of F-10; is that correct?

2 A The F-10 that was in the MFR --

3 Q I'm sorry. Yeah, the F-10 --

4 A That would be true, yes.

5 Q Okay. Now, on Page 20, the growth of 1996
6 is 544 ERCs, which is the 4,002 less the 3,458; is
7 that correct, subject to check, according to your
8 numbers?

9 A Let's see. Where are we here?

10 Q At the bottom of Page 20 of your testimony,
11 you say 1996 ERCs 4,002, in 1995 ERCs is 3,458. So
12 the growth factor that at least we've been able to
13 arrive at is subtracting the '96 -- the '95 figure
14 from the '96 figure, which gives us 544 ERCs.

15 A Well, if that's -- if that's the correct --
16 yes.

17 Q Now, however, on Page 21, next page over,
18 Line 7, you also state, "More fundamentally, Gulf used
19 a growth of 507 ERCs and 250 gallons per ERCs." My
20 question is just one of clarification. Should the
21 1996 growth in your judgment be 507 or 544?

22 A Well, I used 507 in my calculation, and I
23 might mention that the -- and this is based on
24 revenues -- the actual revenues in 1996 were about
25 \$7,000 higher than the estimate we made in the MFRs,

1 and that's using both the I call present rates or the
2 rates before any adjustment. So our estimates of
3 growth were right on target. But the correct answer
4 is 507.

5 Q Okay. Thank you. Now, concerning effluent
6 disposal and reuse facilities, I think on Page 22,
7 Lines 21 -- starting at 21, you state, "Mr. Bidy used
8 the same percent used and useful as for treatment
9 plants."

10 Excuse me one second. (Pause)

11 Okay. I think what happened here is you
12 criticized Mr. Bidy for having the same used and
13 useful percentage for the treatment plants as it did
14 for its effluent disposal; is that correct?

15 A I don't know about the criticism. I made
16 the observation he used both of them -- the same
17 percentage in both of them.

18 Q And my question to you is, did you not do
19 the same thing? Do you have a different used and
20 useful figure for your effluent disposal than you do
21 for your treatment?

22 A No.

23 Q In your testimony on 23, Page 23, Lines 1
24 through 4, you referred to Mr. Elliot's rebuttal
25 testimony regarding on-site effluent storage; isn't

1 that correct?

2 A Well, yes, that's true.

3 Q Excuse me one second. (Pause) It's my
4 understanding we've handed out just an excerpt of this
5 DEP Rule 62-610 which is referred to, and the question
6 I have is -- if you have a copy of it just for a
7 minute --

8 A Yes.

9 Q Isn't it correct that the on-site effluent
10 storage requirement is three days of average flow,
11 according to this 62-16 -- 62-610?

12 A You're going to have to take that up with
13 Mr. Elliot. This is an area that I'm not acquainted
14 with.

15 Q And so any characterizations of what
16 Mr. Bidy did with this wouldn't be in your area?
17 Well, the reason I'm posing the question to you is, I
18 think on Page 23 of your testimony you say "Mr. Elliot
19 in his rebuttal testimony". Are you just reiterating
20 him and offering no expert opinion of your own?

21 A That's true.

22 MR. REILLY: That concludes our questioning.

23 COMMISSIONER DEASON: Staff.

24

25

1 CROSS EXAMINATION

2 BY MS. O'SULLIVAN:

3 Q Hello, Mr. Cardey.

4 A Hello.

5 Q I'd like to first ask you some questions
6 regarding prepaid CIAC. Is it correct that Gulf has
7 not reflected any prepaid CIAC and rate base for the
8 projected test year and in 1996?

9 A That's correct.

10 Q Does the Utility's prepaid CIAC balances
11 relate to lines, treatment plant, or both?

12 A Prepaid CIAC?

13 Q Yes.

14 A Basically it has to do to -- I call it
15 central plant.16 Q By central plant, are you referring to the
17 treatment plant?18 A Basically, treatment plant; could be
19 storage, wells, things of that nature.20 Q Will Gulf have to build any additional water
21 or wastewater plant beyond the plant included in this
22 filing in order to serve the future customers which
23 have prepaid CIAC?

24 A Yes.

25 Q Would that be for both water and wastewater?

1 A Well, certainly they have to expand the
2 treatment plant for wastewater, and they have plans
3 for, you know, transmission main and other mains to
4 move the water out into the distribution system. So
5 the prepaid fees, of course, they're used for both
6 facilities, both operations.

7 Q Turning to Page 2 of your rebuttal
8 testimony, Lines 16 through 18, you state that there
9 was no study supporting Staff's statement that the
10 prepaid connections appeared to be related to plant
11 already in service.

12 You're referring to the language in Staff's
13 audit report in Audit Disclosure No. 8; is that
14 correct?

15 A Yes.

16 Q Has the Utility performed an analysis to
17 demonstrate that the prepaid balances for both water
18 and wastewater are not associated with the used and
19 useful plant already included in projected test year
20 rate base?

21 A Basically, yes, and as to the way in which
22 they account for CIAC. If somebody prepays CIAC, it's
23 kept track separately. As soon as you get a customer,
24 then they transfer that from prepaid over to CIAC, so
25 at that point you have a matching of plant in service

1 and CIAC.

2 Q Is there any documentation or worksheet that
3 shows this?

4 A Well, that's just a matter of their internal
5 accounting procedures.

6 Q Would you expect that a prudent utility
7 would have to be aware of this in order to ensure that
8 it had sufficient capacity to meets its growth
9 requirements?

10 A I could not hear you. Sorry.

11 Q I'll repeat the question. Would you expect
12 that a prudent utility would have to be aware of this
13 in order to ensure that it had its sufficient capacity
14 to meet its growth requirements?

15 A Yes. Yes; uh-huh.

16 Q You've testified that the purpose of
17 including a margin reserve in rate base is to allow
18 plant and rate base which is necessary to serve future
19 customers that are expected to come on line in the
20 next year and a half or three years for water and
21 wastewater; is that correct?

22 A Well, I don't know about -- for margin
23 reserve are you saying?

24 Q That's correct.

25 A Yes.

1 Q Did Gulf specifically project an increase in
2 the demand factor for current customers in its
3 application?

4 A No.

5 Q Is it true that many of these customers that
6 have prepaid CIAC will connect in onto the system in
7 the next three -- I'm sorry -- the next year to three
8 years?

9 A I would think so, yes.

10 Q Referring now to your testimony on Page 10,
11 Lines 17 through 19, you state that you are the only
12 witness that reviewed the work of those five Gulf
13 employees that performed work for Caloosa; correct?

14 A Correct.

15 Q And you further state that neither Staff nor
16 OPC have made any study of the work performed or the
17 time spent by the personnel who performed the work; is
18 that correct?

19 A That's correct.

20 Q OPC identified in Exhibit No. 32 earlier
21 during Mr. Moore's cross-examination -- I can give you
22 a copy of that now. The schedules depict the earnings
23 and deductions for the five employees of Gulf that
24 also provide services to Caloosa in the period which
25 these schedules cover, September '95 to August '96.

1 Would you agree, or subject to check would
2 you agree, that these schedules were utilized by the
3 Staff auditor in making the determination of the
4 amount of times that respective employees spent on
5 Caloosa related work?

6 A For the amount of time spent?

7 Q Uh-huh.

8 A No.

9 Q Okay. Well, if you look at -- just a
10 moment. Do you have a copy of the audit report with
11 you there?

12 A No.

13 Q Okay. We can provide you with a copy.

14 (Pause) On Disclosure 3, which is Page 23, the second
15 paragraph, does it not indicate that the auditor
16 reviewed those documents?

17 A Well, I don't know whether it's this
18 document. They say they reviewed Caloosa and Gulf
19 payrolls. Whether it's this document I can't tell
20 you.

21 Q Doesn't the schedule speak to the earnings
22 and deductions for the five employees, though?

23 A Yes, it does; uh-huh. I might just mention
24 that the first one you gave me is Mr. Moore. His
25 salary is really \$5,900 a year. Now, that salary was

1 set in 1988 in the rate case at that period and hasn't
2 been changed since that time.

3 Now, behind this calculation, they have to
4 make the calculation to conform to the computer
5 program, and they put in an hours -- and they put in
6 an "hours worked," dollars per hour for payroll to
7 come out with this number.

8 Q Right. But even though that salary was set
9 back in 1988, I believe you said, it is still the
10 salary that's drawing -- or that he was indicated to
11 have drawn from September '95 to August '96, though;
12 is that correct?

13 A You mean of the amount shown there?

14 Q Right.

15 A Yes.

16 Q In preparing an analysis of the time spent
17 by those employees who performed services for Caloosa,
18 wouldn't it be logical to begin the analysis with
19 reports provided by the Utility which depict the hours
20 spent by each employee?

21 A Not in this case; and if you're referring to
22 this document, this document does not represent the
23 hours these employees spend on Caloosa. It was
24 developed in '88, not changed, and it -- the hours and
25 the -- and their payroll is put into the machine just

1 to come out with this \$5,900 a year.

2 Q But this is an earnings and deductions
3 report which indicates a specified number of hours for
4 Mr. Moore, in this case 260. Are you saying that
5 that's not the correct number of hours?

6 A That's not the correct number of hours.

7 Q How were those hours derived then? By
8 backing out the salary?

9 A No; those were developed from 1988. If you
10 want to come up to 1996, you have to sit down with
11 Mr. Moore, go over the functions he's served for
12 Caloosa and the time he spends on it. But you've got
13 to remember the calculation behind this is to fit the
14 computer program more than anything else.

15 Q Just a moment. (Pause) Even though you
16 just told us that this was derived from a computer
17 program, if you were to take the 260 hours a week
18 listed here for Mr. Moore and divide it by 52 weeks in
19 the year, the result is five hours per week; is that
20 correct?

21 A Your calculation at the bottom of the sheet
22 shows that, yes.

23 Q If you were to divide that five hours per
24 week by a 40-hour workweek, this would yield 12.5%,
25 which represents the percentage of time that was spent

1 by Mr. Moore on Caloosa related business. Would that
2 be correct?

3 A You went too fast for me.

4 Q If you were to divide five hours per week by
5 a 40-hour workweek, would that yield 12.5%, which
6 would indicate Mr. Moore's time spent on Caloosa
7 business?

8 A Well, I think so. It looks like that -- you
9 made that calculation.

10 Q Okay. Referring to your rebuttal testimony,
11 on Page 11 you have a chart there that indicates the
12 percentage of time that the Utility testifies is spent
13 by Mr. Moore and Ms. Andrews on Caloosa business; is
14 that correct?

15 A Correct.

16 Q You've indicated that the -- even though the
17 earnings and deduction reports indicate 260 hours per
18 year and that that's not correct, and you arrived at
19 5% for Mr. Moore. How did you arrive at that 5%?

20 A First thing I did with Mr. Moore and each of
21 the employees is to find out what functions they
22 perform for Caloosa, and the next thing I did was
23 determine how much time they spend doing those
24 functions.

25 And for Mr. Moore, for example, he spent

1 very little time on Caloosa on routine matters such as
2 signing checks or signing tax reports, and he does on
3 occasion spend some time, for example, on working on
4 the lease for the renting of the office building. So
5 it's those factors that went into building up the 5%
6 of his time that he spends on Caloosa.

7 Q Okay. Referring to your rebuttal testimony,
8 beginning on Page 12 you discuss the expense
9 allocations to Caloosa. In particular your testimony
10 takes issue with the office expense allocations
11 contained in Ms. Dismukes' testimony. correct?

12 A Correct.

13 Q Subject to check, Ms. Dismukes' allocation
14 factor for the office expenses to which you are
15 referring to is 2.6%; is that correct?

16 A The office expense is 2.8. The salaries are
17 2.6.

18 Q Just one moment. Did you just say that
19 Ms. Dismukes based hers as 2.8 instead of 2.6; is that
20 correct?

21 A Well, if you read at the bottom of the
22 twelve -- the five employees who do work for Caloosa
23 in total spent 2.6% of their time on Caloosa. 2.8% of
24 the office space was allocated to Caloosa, and 2.8% of
25 the common expenses were allocated to Caloosa.

1 Q We just handed you a copy of Ms. Dismukes'
2 schedule. Where on that schedule does she indicate
3 2.8 as opposed to 2.62?

4 A What are you trying to have me compare?

5 Q I believe you just stated that Ms. Dismukes
6 allocated 2.8.

7 A No; Keith Cardey allocated 2.8.

8 Q I understand. Would you agree that
9 Ms. Dismukes' allocation factors for the office
10 expense to which you are referring is 2.62?

11 A No, I wouldn't. I see the factor of 2.62,
12 but she has a lot of different items of expenses that
13 she's allocating; so I can't agree with that.

14 Q It's classified as business conferences, et
15 cetera. You don't agree that that amount includes the
16 same factors that your 2.8 is based upon?

17 A No.

18 Q What do you think should be some general
19 guidelines for allocating common expenses?

20 A First you have to know what the common
21 expenses are here, but this has to do with the office
22 building, and it has to do with security; it has to do
23 with cleaning the office; it has to do with the rent
24 of the office.

25 What I did is first I had the percentage of

1 payroll each of the five employees spend on Caloosa.
2 Now, the office is used for both administrative and as
3 well as customer accounting and collecting. So I took
4 the area of the five employees and the customer
5 accounting and collecting and totaled those. Now,
6 eliminated from that total, of course, is common area.

7 Then I took the area the five employees
8 occupy times their payroll and came out with a kind of
9 an allocation of their office to the total used
10 payroll and came out -- that was 2.8% of the total.
11 That means that 2.8% of the rent should be allocated,
12 2.8% of the security and the cleaning and the other
13 matters ought to be allocated to Caloosa.

14 Q Wouldn't direct payroll be a more reasonable
15 method of allocating employee benefits than allocating
16 based on square footage of space taken up in a office
17 building?

18 A Well, first, you're talking about employee
19 benefits. That's a different problem. That happens
20 to be health insurance and something of that nature.
21 Payroll would be appropriate for that. But, again, we
22 have five employees who have put a limited amount of
23 time on it. Now, Caloosa -- certainly a sewer plant
24 operator or a meter reader has absolutely nothing to
25 do with Caloosa.

1 Q Wouldn't it also be reasonable to allocate
2 car expenses of Mr. Moore based on his salary from
3 Caloosa over his total salary from Gulf and Caloosa
4 combined?

5 A Well, he's already testified that it's very
6 minimum use of that car for Caloosa and it's almost
7 entirely for Gulf.

8 Q But would it be reasonable, though, to
9 allocate car expenses by comparing the payroll in that
10 method?

11 A Not if he doesn't use the car for that
12 purpose, no.

13 Q One final question; almost one. Just a
14 moment. (Pause) Turning to your rebuttal on Page 13,
15 Lines 3 through 8, how did you arrive at the
16 additional 1,400 allocation of office rent contained
17 in your rebuttal testimony?

18 A That came directly from my direct testimony
19 and an exhibit that was attached to my direct
20 testimony.

21 Q Okay. Now, I just have one more area of
22 questioning. Gulf used a 1996 test year. Given that
23 some costs may not be incurred until 1997, if the
24 Commission disallows those plant costs which will only
25 occur in 1997, do you think the Utility would consider

1 filing a limited proceeding in the future?

2 A I would hope so.

3 Q Would that be more costly -- would that
4 incur more cost than having it included in this
5 proceeding?

6 A The best procedure is to include it in this
7 proceeding. It would be more beneficial to the
8 Company and cheaper for everybody.

9 MS. O'SULLIVAN: We have nothing further.
10 Thank you very much.

11 COMMISSIONER DEASON: Redirect?

12 REDIRECT EXAMINATION

13 BY MR. GATLIN:

14 Q Mr. Cardey, is Caloosa a going concern? Is
15 any time being spent by the employees now?

16 A Well, it's a going concern in the fact that
17 they have a office building, they have some lots for
18 sale, and they really have a tractor; but as far as
19 being, you know, a company with much activity, there's
20 very little activity.

21 Q If you took all of the Caloosa expenses out
22 of this case, what effect would it have in dollars?
23 Are we talking about very many dollars?

24 A For the office itself?

25 Q No. The Caloosa activities that --

1 A I can't hear you.

2 Q The Caloosa activities that are indicated to
3 Gulf, if you took that allocation out, would it be a
4 large number?

5 A Well, I have already -- they've already been
6 taken out, so the payroll is something like \$12,000 a
7 year. But to get back to your question, actually the
8 payroll has already been taken out.

9 Q Yes.

10 A And the expenses for common facilities has
11 already been taken out to a certain part. I suggest
12 another \$1,400, but they're already taken out, so
13 they're not large items.

14 Now, I guess your question is, if Caloosa
15 was not there, would the Company change its
16 operation --

17 Q Right.

18 A -- and the answer is no.

19 MR. GATLIN: That completes my questions,
20 Mr. Chairman.

21 COMMISSIONER DEASON: Okay. Exhibits.

22 MR. GATLIN: 35, I move them.

23 COMMISSIONER DEASON: Without objection
24 Exhibit 35 is admitted.

25 (Exhibit 35 received in evidence.)

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COMMISSIONER DEASON: Thank you, Mr. Cardey

we'll take a 10-minute recess at this time.

(Brief recess)

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(Transcript continues in sequence in

Volume 5.)

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