

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of :
Workshop on reuse of :
reclaimed water. :

DOCKET NO. UNDOCKETED



VOLUME 1
Pages 1 through 105

PROCEEDINGS: WORKSHOP

CONDUCTED BY: ROSANNE GERVASI
 FPSC Staff Attorney

DATE: Tuesday, July 7, 1998

TIME: Commenced at 9:30 a.m.

PLACE: Betty Easley Conference Center
 Room 148
 4075 Esplanade Way
 Tallahassee, Florida

REPORTED BY: H. RUTHE POTAMI, CSR, RPR
 Official Commission Reporter
 MARY NEEL, RPR

1 **IN ATTENDANCE:**

2 **GREG SHAFER**, FPSC Division of Water &
3 Wastewater.

4 **JOANN CHASE**, FPSC Division of Water &
5 Wastewater.

6 **BOB CROUCH**, FPSC Division of Water &
7 Wastewater.

8 **JAMES McCROY**, FPSC Division of Water &
9 Wastewater.

10 **MARTIN S. FRIEDMAN**, Rose, Sundstrom &
11 Bentley, LLP.

12 **CARL. J. WENZ**, Utilities, Inc.

13 **M. SAMBAMURTHI**, United Water.

14 **JENNIFER B. SPRINGFIELD**, St. Johns River
15 Water Management District.

16 **RICHARD BURKLEW, JR.**, St. Johns River Water
17 Management District.

18 **BRIAN P. ARMSTRONG**, Florida Water Services.

19 **RAFAEL A. TERRERO**, Florida Water Services.

20 **MARK E. ELSNER**, South Florida Water
21 Management District.

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P R O C E E D I N G S

(Workshop convened at 9:30 a.m.)

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3 MS. GERVASI: Pursuant to notice, this time
4 and place has been set for an undocketed workshop on
5 reuse of reclaimed water conducted by the Staff. And
6 we thank you all for being here. And if anybody else
7 wants to give comments early on, there are several
8 other microphones up at the front of the room.

9 MR. SHAPER: My name is Greg Shafer. I'm a
10 bureau chief in the wastewater division, and we
11 welcome you all here today.

12 This workshop is a direct result of a
13 Commission directive to the Staff that came out of the
14 Alafaya docket on reuse, and the Commission instructed
15 the Staff to investigate whether or not we needed to
16 establish some rules and perhaps some statutory
17 changes to allow the Commission to work in the reuse
18 area and be most effective.

19 So we, the Staff, have identified some areas
20 that we believe may be important in terms of
21 discussion for purposes of identifying whether we need
22 rules and statutes. And the way the workshop will
23 flow today is that we're just going to try to work
24 through this list of topics that we've identified, and
25 what we really want is input from all of you.

1 We're not here to dictate things, and we
2 certainly haven't made up our mind on anything. What
3 we really want is some dialogue so that we can
4 understand the industry perspective and the other
5 agencies that might be represented, what their
6 perspectives are so that we can construct some
7 guidelines for our Commission that will help make them
8 most effective in of dealing with this area.

9 We do have a court reporter today, so that
10 necessitates that anyone who wishes to speak needs to
11 move to a microphone and identify themselves before
12 they make their comments. So if you believe that you
13 have something to add today or might have some
14 comments to make, please move on up to the front there
15 where the microphones are.

16 JoAnn, have I missed anything?

17 **MS. CHASE:** I think you've covered it.

18 **MR. SHAFER:** Okay. The first area that
19 we've outlined in the notice was reuse territory, and
20 I guess the main question from our perspective is,
21 does the Commission need to have a process whereby we
22 assign or define reuse territory much the same way
23 that we define water service territory and wastewater
24 service territory.

25 Is there anyone that would like to start

1 things off?

2 MR. FRIEDMAN: Greg, this is Marty Friedman.
3 As you know, this was an offshoot of the Alafaya reuse
4 docket that we were involved in on behalf of Alafaya,
5 and Mr. Carl Wenz of Alafaya is with me; Utilities,
6 Inc.

7 It seems to us that we've got a statutory
8 scheme for rate setting that seems to be working well.
9 We're concerned about any massive change in
10 legislation just because I think it opens up a lot of
11 possibilities to change a system that, I think, we
12 think is working fine.

13 With regard specifically to a reuse
14 territory, the reuse is going to come from two places.
15 One, in most cases the reuse comes from the effluent.
16 It's a by-product of a wastewater system.

17 In a couple of cases, two of which I know
18 that our firm was involved in, there were applications
19 to the PSC to provide nonpotable water, and in that
20 case the Public Service Commission granted water
21 certificates to them, but those were not -- and they
22 have water certificate service areas, but they were
23 not providing reuse of wastewater effluent.

24 It seems to me that when you provide reuse
25 as a by-product of your wastewater system, that your

1 wastewater certificate should cover it. Now, that's
2 not to say that there might not should be a separate
3 service territory under your wastewater certificate
4 that may or may not coincide with your wastewater
5 service area.

6 Like in the instance of Alafaya, as you all
7 know, we've entered into an agreement, although it
8 hasn't been formally signed yet, that's going to allow
9 Alafaya -- allow the City of Oviedo, if it desires to
10 do so within certain parameters, to come and provide
11 reuse within Alafaya's wastewater service area but not
12 including the areas that were covered by Alafaya's
13 reuse project plan that the Commission approved.
14 Other areas of the city we are allowing the city to
15 come in and provide that reuse if they want to.

16 So you've got a case there that eventually
17 Alafaya's reuse territory would not necessarily
18 coincide with its wastewater.

19 The same may also be true -- the opposite
20 may be true. Let's assume that there is a golf course
21 that may be outside of the utility service area, but
22 may not be able to get reuse from any other source.
23 And you all know national Water Management Districts
24 are trying hard to encourage wastewater reuse and to
25 reduce the use of potable water for golf courses or

1 well water from the aquifer for golf courses.

2 So there may be an instance where the
3 utility is going to want to have a reuse territory
4 that is greater than its wastewater territory. And I
5 guess the upshot of what our suggestion is, or at
6 least for discussion purposes, is to keep the reuse --
7 not to create different certificates for reuse, but to
8 merely have different territories for reuse, but have
9 it come within your wastewater certificate. And I
10 think that's somewhat consistent with what I have seen
11 in the past.

12 We filed a territory extension for another
13 client of ours in Marion County, and as part of that,
14 the Staff looked at what we were doing with the
15 effluent disposal. We were disposing it on a golf
16 course. And what the Commission Staff asked us to do,
17 and what we did, was to file a tariff sheet in our
18 wastewater tariff that says "effluent reuse" and a
19 price of zero.

20 So it seems to me that the Staff, at least
21 the staff involved in that case and some other cases
22 that I have had the same thing happen to, is that it's
23 recognized that effluent reuse is a by-product of
24 wastewater and, therefore, is appropriately something
25 that is within the wastewater tariff.

1 And I would -- you know, our position is to
2 make as little statutory change as necessary to
3 accomplish what we think we all need to accomplish.
4 And frankly I don't -- I know this all came out of a
5 big territory dispute between Alafaya and the City of
6 Oviedo.

7 That, to my recollection, is the only real
8 dispute that I have seen on reuse issues, and I
9 wouldn't want that one dispute to blow up in -- to
10 make it a federal case out of trying to change
11 everything when everything really doesn't need to be
12 changed.

13 I think a little tweaking, like we
14 suggested, is probably sufficient to take care of any
15 problems that may arise, and that I think all that
16 comes within your current statutory authority. So I
17 don't think there's any statutory requirements --
18 changes required to deal with this particular reuse
19 territory issue.

20 **MS. CHASE:** Marty, could I ask you a
21 question on that?

22 **MR. FRIEDMAN:** Certainly.

23 **MS. CHASE:** What you're kind of saying there
24 is that you think under the current statutory
25 framework that a wastewater utility that has -- their

1 certificated territory would also be their
2 certificated reuse territory if they could provide it,
3 and they might allow someone else to come in and
4 provide it, like you had that scenario where
5 apparently the utility is going to allow the City of
6 Oviedo to come into some of their wastewater territory
7 and provide reuse?

8 So are you saying that it's your position
9 that a utility right now under the current statutory
10 framework would have the right to provide that reuse
11 unless they allowed someone else to come? In other
12 words --

13 **MR. FRIEDMAN:** I think that's true. I mean,
14 I know that there's some disagreement, and that your
15 lawyers may or may not agree with that. But I think
16 when the reuse is a by-product of your wastewater
17 system, yes, I do.

18 I think if you're going to do the reuse like
19 East Central Florida Services and the one down in
20 Sarasota County, who I can't remember, you know, where
21 they take it from existing -- or prior irrigation
22 wells or take it from ponds, you don't have the same
23 situation. But when the reuse is a by-product of your
24 wastewater plant, I do believe that it is coexistent
25 with your existing territory. I don't think it has to

1 be coexistent with your existing wastewater territory.

2 **MS. CHASE:** But what you're saying is it's
3 coexistent with the existing wastewater territory;
4 unless the utility specifies something else; that by
5 having this wastewater territory, you have the right
6 to provide the reuse there before anyone else could --

7 **MR. FRIEDMAN:** Or the Commission decides
8 otherwise.

9 **MS. CHASE:** Well, if --

10 **MR. FRIEDMAN:** If the utility is unable to
11 do it.

12 **MS. CHASE:** See, I think that's a key
13 question, and I would be interested, if there's
14 anybody else here in the audience, particularly
15 anybody from cities, counties, anybody like that that
16 thinks differently. That's what we're trying to get
17 at; how do you interpret the current statute. I think
18 we've not really made any decisions on that.

19 **UNIDENTIFIED SPEAKER:** (Inaudible comments.)

20 **MS. CHASE:** Sam, could you please come to
21 the mike?

22 **MR. SAMBAMURTHI:** My name is Sambamurthi,
23 S-A-M-B-A-M-U-R-T-H-I. I represent United Water
24 Florida.

25 We really have not faced the reuse situation

1 at the present time, but we are just at the threshold
2 of it. Out of curiosity, I am raising this question,
3 not because I'm disagreeing with what Marty has said,
4 but if we conceptually agree that reuse is a water
5 consideration measure, then it throws a different
6 light.

7 The certificated area should more or less
8 coincide with the water certificated area more so than
9 the wastewater certificated area. Albeit, it is the
10 effluent that causes the production of reused
11 wastewater, reused water, but, nonetheless, the
12 ultimate use would be that to conserve water
13 withdrawals from our scarce resource that is the
14 ground water.

15 I think we should tread on that ground a
16 little bit more carefully in defining the certificated
17 areas.

18 **MS. CHASE:** Is it more than your suggestion
19 that there would be a separate service area for reuse
20 that could be part of water, part of wastewater, or --
21 is that what you're suggesting, that perhaps a
22 separate certificate?

23 **MR. SAMBAMURTHI:** If a utility is providing
24 water only service, then that utility should also have
25 the right to provide reuse water. There from that

1 reused water will come -- will be a subsequent -- you
2 know, something that needs to be deliberate -- it can
3 be acquired from an neighboring utility or somebody
4 else. You know, if he is prepared to provide reuse
5 service, maybe that somebody should receive
6 concurrence by the existing certificated water, you
7 know, for water only usage.

8 Whereas a water and a wastewater utility
9 that use certificated territory should cover both
10 water and wastewater certificates, and I do not see
11 any need for a separate certificate, but the existing
12 territory itself should be defined.

13 And by what you have being there, they
14 should have the prior right to provide as an exclusive
15 reuse provider.

16 MR. FRIEDMAN: And if I might comment a
17 moment. You know, my theory in allowing the
18 wastewater certificate to be the guiding certificate
19 as opposed to the water is because you have a certain
20 service area.

21 These people -- this is where you're getting
22 your sewage flow. Why shouldn't those people who were
23 giving you the sewage flow be the area that takes back
24 the by-product of that sewage flow? And that's why I
25 think that maybe it keys in, even though it --

1 obviously it's a water conservation method, and we
2 certainly all have to agree to that.

3 I think that because those people are
4 producing the effluent, the by-product of which is the
5 reuse water, that that is why it may key in better to
6 a wastewater service area than a water service area;
7 just a practical aspect of it, because you hate to
8 have a situation where somebody else may have the
9 right to spray reuse where you're getting the sewage
10 effluent from, and then you've got to ship the
11 effluent, you know, 50 miles to a golf course
12 somewhere else. It just doesn't make sense from a
13 practical or financial standpoint, frankly.

14 MR. SHAPER: Marty or Sam, either one, I
15 guess my question is, if you're going to by default
16 have reuse territory be either the same as water or
17 the same as wastewater, what's the point of entry for
18 an entity that's not regulated by this Commission to
19 be able to serve reuse within the regulated utility's
20 service territory?

21 MR. FRIEDMAN: Greg, my suggestion would be
22 the same as that you do for any other utility service;
23 and that basically is if the provider who has the
24 exclusive authority via its PSC certificate is not
25 willing and able to provide that service when it's

1 needed by whoever needs it, then I think that it
2 should be carved out of the utility service area and
3 given to somebody else, just like if -- just like your
4 sewer service area or your water service area.

5 If you're not willing and able to provide
6 it, and somebody else is, the customer is entitled to
7 have service from somebody, and it's this Commission's
8 duty to decide, you know, who that should be.

9 **MS. CHASE:** How would the Commission know
10 about that problem?

11 In other words, you're not saying they would
12 have to apply for the reuse territory to be the same
13 as their wastewater, it just is, and if there's a
14 problem, the Commission would go in and make some
15 decision? Is that what you're suggesting?

16 **MR. FRIEDMAN:** Yeah; just like they're doing
17 now. They apply for a wastewater service area, they
18 notice people, and --

19 **MS. CHASE:** Okay. So they would apply for
20 the reuse service territory.

21 **MR. FRIEDMAN:** Well, I don't know what you'd
22 do for the grant -- I mean, what you'd do for the
23 people that are already there now. I mean, probably
24 some type of grandfathering or just maintain the
25 status quo.

1 Like I say, my position has always been that
2 as the law exists today, reuse being -- when reuse is
3 a by-product of wastewater, that it -- that your
4 service area includes the right to dispose of the
5 reuse on that area.

6 **MS. CHASE:** I think some of the concerns
7 that we've had is that these problem areas would never
8 get to the Commission unless there's some vehicle for
9 that to happen. In other words, what you said
10 earlier, that the problem that -- the situation that
11 occurred with Alafaya and the City of Oviedo maybe
12 caused this docket.

13 It isn't the only one. We do know of
14 different instances around the state where there has
15 been some concerns with private utilities, public
16 utilities, and, you know, and even among privates.

17 There does not seem at this point that we
18 can see to be a vehicle to bring all of that to the
19 attention of the Commission. And, then, is it the
20 Commission who should be making that decision as to
21 who should provide the reuse?

22 You know, is our statute really that clear
23 where it would be the Commission that would make that
24 decision like it does in water and wastewater? I
25 think that's where we're at.

1 We're not sure -- isn't that true, Rosanne?
2 We're not really sure that the statute is all that
3 clear on that or where this point of entry would be
4 for that decision to be made?

5 **MR. FRIEDMAN:** Well, I think it's just like
6 any other time you interpret your statute; you've got
7 the best -- your interpretation is going to be prima
8 facie correct, not that it's certainly correct on
9 appeal, and then there's judicial process if somebody
10 thinks that what the Commission has done has exceeded
11 its jurisdiction; and there's a way to do that.

12 I mean, I think you all probably would take
13 action like that frequently where something may or may
14 not -- somebody may or may not agree as to whether
15 something you've done is within your jurisdiction.
16 You just -- you do it. You take the best guess you
17 can on what you think is what the Commission thinks is
18 correct, and if somebody disagrees with it, there's a
19 process for judicial review.

20 **MR. ARMSTRONG:** Brian Armstrong, Florida
21 Water Services, 1000 Color Place, Apopka, Florida.

22 I was wondering if somebody from Staff could
23 just give a brief summation on their view of the
24 Alafaya results. I know that has some significance
25 here on this issue. But could you just give a little,

1 brief synopsis of what occurred there?

2 **MS. CHASE:** Sure. As it relates to the
3 reuse territory?

4 **MR. ARMSTRONG:** Right.

5 **MS. CHASE:** Okay. And Marty and Carl are
6 here. They can chime in at any point.

7 But the situation with Alafaya Utilities is
8 it's a wastewater-only identity that provides service
9 in the city of Oviedo right now. They recently got a
10 large territory expansion that's partly in the City of
11 Oviedo and partly outside of it, but they provide the
12 wastewater only. The City of Oviedo provides the
13 water.

14 The City of Oviedo also has a very small
15 wastewater service area, and when they got the
16 wastewater territory for this new expansion, they also
17 intended to use that territory for residential reuse
18 service, and the main impetus to that is that they
19 have a treatment plant with a lot of excess capacity,
20 but they don't have any additional disposal.

21 So in order to fully utilize, or more fully
22 utilize, their wastewater treatment plant, they had to
23 have some reuse so this territory provides that and
24 allows them to better utilize their treatment plant.

25 In the wastewater amendment docket, the City

1 of Oviedo did protest, and part of the discussions
2 that went around was this provision of reuse service.
3 Now, that was not really ruled on in any way in that
4 wastewater certificated territory docket, but the City
5 of Oviedo did want and does want to provide reuse
6 territory within the city, and I'm assuming to those
7 new territories as well.

8 So the utility is going to be providing
9 service to the new territory, which is new
10 construction where the developers are required to put
11 in reuse lines in the residential area, so the lines
12 will be there, and retrofit is not necessary.

13 We did have some inquiries from the current
14 Alafaya customers that wanted the reuse and were
15 objecting to pay for all of this reuse expansion,
16 et cetera, et cetera, through their wastewater rates
17 when they couldn't get any reuse service. And they
18 said that the City of Oviedo was willing to come in
19 and provide reuse to them.

20 So the issue tangentially came up in their
21 reuse project plan docket when they were wanting to
22 provide reuse at least initially to the new territory
23 and maybe long-term to the existing service area, but
24 not now, and those customers wanted the service more
25 readily. And they had this assertion that the City of

1 Oviedo could come in and provide it, but the utility
2 wasn't letting them because that was their wastewater
3 territory.

4 So that's how it all came about. There
5 wasn't any dictum that the City could come in and
6 provide, and whatever. And what I'm hearing today is
7 that they're apparently working out an agreement.

8 But the issue is if you have a wastewater
9 utility that's providing reuse in part of the
10 territory, do they really have an obligation to
11 provide it in their whole territory if they want that
12 to be their reuse territory, like with
13 water/wastewater.

14 If you have a wastewater certificated area,
15 you not only have the right to provide the wastewater
16 service, you have the obligation, if someone asks for
17 service. So, you know, that kind of comes up; and
18 that kind of brought up the whole thing, should there
19 maybe be a separate reuse territory because it's a
20 separate service.

21 While it's a by-product of wastewater, it's
22 not really one-for-one tied to wastewater, and it's
23 also a source of water irrigation conservation. So is
24 it more of a water certificated issue?

25 MR. ARMSTRONG: The Commission didn't reach

1 any result, though, in that case?

2 MS. CHASE: No. What the Commission said
3 is, "Staff, study it. We want to know, you know, do
4 we have enough statutory authority to be setting reuse
5 territory? Should we be setting reuse territory?
6 Should we be getting involved in a dispute between a
7 City and utility over a City that wants to come in and
8 provide the reuse but the utility isn't willing or
9 able to?"

10 So that's why we're here now is to figure
11 out what our statute does say; what it does allow us
12 to do; do we want to go beyond that, or do we want to
13 clarify that; what do we think the Commission should
14 have jurisdiction over.

15 MR. SAMBAMURTHI: This is Sambamurthi again.
16 We had a similar situation with the City of
17 Jacksonville. What we did was -- in that situation
18 was it was a water certificated territory. There are
19 no separate reuse certificates, even now, I guess,
20 under the present rules.

21 But the city was willing to provide reuse
22 service, and we told the City that this is our
23 territory; we cannot -- but we will enter into an
24 agreement with them, and we will buy their reuse
25 service from them and retail it to whichever is the

1 ultimate end user of that would be, you know.

2 And it worked out in our favor. We were
3 able to enter an agreement with the City and resolve
4 that issue.

5 **MS. CHASE:** Right. I understand --

6 **MR. SAMBAMURTHI:** So that we could resolve
7 the integrity of our certificated area.

8 **MS. CHASE:** Right. We do understand that
9 there's a lot of what we've been calling gentlemen's
10 agreements out there where utilities and neighboring
11 utilities, whether they be governmentally owned or
12 whatever, making these agreements and arrangements.
13 What we're wondering is the scenarios when they're
14 not.

15 We know of one utility, a privately owned
16 utility, that does not provide reuse now, is not
17 capable yet of providing reuse. They will at some
18 point down the road. They have a governmentally owned
19 utility neighboring that wants to come in and provide
20 reuse in their territory, a golf course in their
21 service area, in their wastewater service area. And
22 so they give us a call and they say can they do that.

23 And they're not able to provide it now, but
24 they do have plans, and at the point in time they're
25 ready to provide that service, that customer would be

1 the most economical customer for them to serve,
2 cost-effective customer.

3 If this other utility comes in and provides
4 that service, then when they're ready to provide
5 reuse, they have to go elsewhere; it's more expensive,
6 you know, and that's where we're -- Staff -- where
7 we're in a quandary.

8 I don't know that we've drawn the conclusion
9 that a utility's wastewater territory is that they
10 have that exclusive right to provide reuse,
11 particularly in the case when a utility may not be
12 able to provide it now.

13 For instance, a City, Alafaya, is not really
14 in a position to provide reuse to that area in their
15 wastewater territory where they would have to retrofit
16 the lines.

17 Now, in the interests of promoting reuse,
18 which is a state objective, should the City be able to
19 come in there and provide it, whether or not the
20 utility is willing? I realize in a lot of cases
21 agreements are worked out. Perhaps -- you know, I
22 don't know if your position is that that's enough;
23 that the system is working, but that's what we're here
24 to discuss, whether it is, what problems you all see,
25 and what fixes there might be.

1 **MS. GERVASI:** I don't have a copy of the
2 Alafaya order, but my recollection is that the
3 Commission articulated that it's not necessarily true
4 that the reuse territory is going to go along with
5 wastewater or a water territory, certificated
6 territory, and asked the Staff to come back and do
7 some workshops and come up with a recommendation on
8 that.

9 And we're questioning whether or not it's
10 even a good idea to just have the reuse territory
11 parallel the water or the wastewater territory. It
12 seems to me it would put another entity in the
13 position of having to prove that they're more able or
14 better able to provide the service even if the utility
15 isn't able to provide it at all. What if the utility
16 isn't even producing effluent for reuse purposes? And
17 then you put another entity in the position of having
18 to prove that that's the case, if the territory just
19 goes along with water and wastewater.

20 So we're not sure that it's the best way to
21 go. We're certainly open to all the suggestions that
22 you're giving us here.

23 **MS. CHASE:** Wayne, did you have a comment?

24 **MR. SCHIEFELBEIN:** For the record, Wayne
25 Schiefelbein, Gatlin, Schiefelbein and Cowdery,

1 appearing on behalf of Florida Cities Water Company
2 and Palm Coast Utility Corporation.

3 I don't really have much in the way of
4 comments today. Florida Cities has, and hopefully
5 you've received, written comments particular to the
6 issue you're talking right now. You'll see a lot of
7 their comments are undecided.

8 They're interested in this issue. They
9 intend to continue to follow it and to be involved
10 with you all on it, but they're, I think, thinking
11 along with you all at this point.

12 Palm Coast had intended to be here. I'm
13 sure you can appreciate their current war zone that
14 Flagler County has turned into. They intend, as soon
15 as they're able to, to submit written comments in
16 response to your questionnaire, and they also intend
17 to at least monitor the situation, if not be an active
18 participant. So with that, I will go back to the
19 cheap seats.

20 **MR. SHAFER:** Let me just say regarding
21 written comments that we welcome any written comments
22 from any party that's interested on this issue, and at
23 this point there's real no timetable other than we
24 kind of want to get to a point where we can go to the
25 Commissioners with our recommendations in enough time

1 later this year to be able to formulate legislation,
2 if that's necessary, and rule changes, if those are
3 necessary. So at any point that somebody wishes to
4 file written comments or supplement comments that
5 they've already made, certainly we'll welcome that
6 information.

7 Also I did want to remind everybody there
8 are sign-up sheets, clipboards out there. Please let
9 us know you were here if you don't say anything.

10 **MR. ARMSTRONG:** I guess, we -- you know,
11 Florida Water does want to submit written comments and
12 appreciate the opportunity to do that.

13 What we wanted -- obviously we want to come
14 and listen to some facts and practicalities today. I
15 know the -- I believe the DEP and Management Districts
16 were invited. You know, we'd like to hear from them
17 at some point if their representatives are authorized
18 to speak, because that's all part and parcel of this
19 thing.

20 You know, we know DEP issues permits for
21 where reclaimed water can be spread, too, so they --
22 Management Districts have a very intimate knowledge of
23 these issues. So we'd love to have more give and take
24 with them.

25 We also want to make sure that the

1 practicalities are all thoroughly discussed. You
2 know, many places, cities, counties, possibly private
3 utilities as well, can say they have and can make
4 reuse available. However, we know that there are many
5 cities, counties -- and I don't know if it's happened
6 to IOUs yet, but it might -- that run out of reuse,
7 reclaimed water because they're charging too little,
8 and then you have that whole nightmare of people
9 paying having paid and paying flat charges a month
10 without any reuse available. That's a dynamic that
11 has to be considered.

12 Another dynamic is if there are other
13 providers that are entering IOU service territories
14 with reuse and they happen to take water customers off
15 line from the IOUs serving, there's a rate implication
16 there. The revenues would have to be recaptured by
17 that IOUs, and we're extremely concerned what the
18 Commission would do, given past decisions about used
19 and useful and issues like used and useful when
20 there's a decrease 'n consumption because of that kind
21 of event.

22 So it's akin to what you talk about what's
23 being discussed for a number of years in this stranded
24 cost for electric utilities, and it's something that
25 has to be thoroughly discussed. And, you know,

1 appreciate the workshop and, you know, we'd like to
2 make sure that all participants are here.

3 There's another aspect to this thing, and
4 that's the legal playing field. It's not level. It's
5 far from level, and we're concerned with some of the
6 dynamics that we see occurring with counties and
7 cities and growth management and other things that the
8 Commission has to be aware and that Staff has to be
9 aware of where -- right to the extent of comp plans
10 being drafted to narrow the areas that IOUs can serve,
11 whether it be water, wastewater and/or reuse so that
12 areas surrounding our territories are designated as
13 rural areas, not conducive for growth.

14 And you're going to find that up until the
15 time that the counties or the cities have facilities
16 near that area, and then you see those areas
17 converting from rural all of a sudden to something
18 else. It's a concern. It's happening, and the
19 Commission has to be aware it's happening and it has
20 to be, you know, cognizant to the fact that that
21 damages the utilities, the investor-owned utilities.
22 There's got to be a level playing field out there, and
23 there's not.

24 So all these things have to be discussed.
25 They have to be considered. They have to be thought

1 through, otherwise we're just going to find ourselves
2 taking poor decisions and then ending up in court time
3 and time again.

4 **MS. CHASE:** Brian, your comment about the
5 level playing field, that of course goes much further
6 than just reuse. I know that you understand that
7 that's water and wastewater.

8 Just a brief comment on that. The
9 Commission has recently entered into a memorandum of
10 understanding with the Department of Community Affairs
11 that does approve those comprehensive plans, so that
12 in amendment cases and certificate cases, when those
13 are filed we'll be getting their comments on it as
14 well. And if city, county, whatever, is protesting
15 the application or anything like that, we are going to
16 work with them to provide testimony as far as what
17 that agency's position on the need for service and the
18 comprehensive plan issues are.

19 But as far as reuse, we do have one issue on
20 reuse territory that goes to that level playing field
21 somewhat, because I think, as you know, if they -- if
22 a government utility objects to one of our private
23 utility's applications, we go through a hearing
24 process. The Commissioners make a decision, but the
25 Commission cannot stop a private utility from going in

1 and serving it anyway. Even if they make the decision
2 that the territory is the utility's, we cannot stop a
3 private utility from providing service in -- I mean, a
4 governmentally owned utility from providing service
5 within a private utility service area. They have to
6 take that to court to resolve that. I know we've had
7 some court cases to do that.

8 We were discussing in our Staff meetings for
9 purposes of reuse and reuse territory where you have
10 those kind of disputes, whether in the interest of
11 promoting reuse as a state objective, whether there
12 should be another forum other than the Commission,
13 perhaps, or whether the Commission should have some
14 added jurisdiction to actually make those decisions so
15 that you don't have things tied up in court and reuse
16 not being provided, whether it be by the government or
17 the private, because, you, know, there's some big
18 court case going on, or it's too costly, or -- you
19 know, it hinders the goal of trying to foster more
20 reuse being provided statewide.

21 So on the reuse territory topics for
22 discussion, that is what we're trying to get at in
23 Issue 4, Item 4, there. If there are disputes --
24 obviously if there are disputes between PSC regulated
25 utilities, the PSC can decide those, as far as reuse

1 goes. But if it's PSC and government, what forum
2 maybe could resolve those? Should it be the
3 Commission? Should it be another agency? Should it
4 maybe be the same as water and wastewater?

5 What we were thinking of is perhaps an
6 agency that has more statewide jurisdiction over this
7 issue, whether it be DEP, Water Management Districts
8 or somebody else. I don't know.

9 **MR. ARMSTRONG:** I know it's jumping issues
10 according to what the workshop -- on the agenda here.
11 But, you know, I think since the theoretical basis is
12 to maximize reuse in the state, and it's been one that
13 I know the IOUs have worked pretty closely with DEP
14 and Management Districts in securing and achieving
15 that goal -- I mean, the cart before the horse is
16 there if you discuss all these other issues without
17 first addressing the ratemaking treatment, and the
18 fact that the statues are there that's 100% used and
19 useful, and the Commission hasn't done that.

20 I mean, if you want to truly look at that
21 goal of encouraging reuse, it's time to implement that
22 statute the way it was intended to be implemented, and
23 you'll achieve that goal without question. The rest
24 can fall into place somewhere thereafter, but that has
25 to be the first place.

1 **MR. CROUCH:** That's even a topic we're going
2 to get to later on as to just exactly what does one
3 100% used and useful mean.

4 And I'm sure you've seen scenarios where a
5 utility who is sitting there with a sewer treatment
6 plant that's, let's say, 75% used and useful, perc
7 ponds are 75% used and useful, all of a sudden by
8 redesignating those as reuse because they're
9 recharging the aquifer, now they claim that that's
10 100% used and useful because it is now reuse, not
11 wastewater treatment.

12 Is that logical? We're going to get into
13 that more later on and into used and useful, but that
14 is one of the definite things that we're looking at
15 right now.

16 **MR. ARMSTRONG:** It would be my preference to
17 jump into that discussion now, but it's not my
18 meeting.

19 **MR. FRIEDMAN:** JoAnn, this is Marty Friedman
20 again.

21 On the issue of what agency should resolve
22 these kind of disputes, I think it's got to stay with
23 the Commission, because it is so intimately related to
24 wastewater and costs that it's something that you all
25 need to decide.

1 It may not be as much so now, but of course
2 when we first started using reuse for golf courses, we
3 looked at it as, gee, here's an inexpensive way for a
4 utility to get rid of its effluent rather than buying
5 land and sticking it in ponds; and we all thought,
6 boy, this is great; let's just give it away to get rid
7 of it.

8 And so there is a cost aspect to the reuse,
9 and I think that in order to have all of this jibe
10 together, that the Commission is the one that really
11 needs to continue to make these kind of decisions as
12 to who is best able to provide reuse service to a
13 particular area or customers.

14 The conflict with governments, unless you
15 want to deal with the big picture and, as Brian says,
16 maybe balance the playing field a little bit with a
17 major statutory change to give the Commission
18 jurisdiction over service areas of governments, which
19 I would certainly love to see, if you're not willing
20 to go that step, then we more or less have to stick
21 with what we've got and deal with reuse service areas
22 and the ability to serve the same that we do now with
23 wastewater.

24 **MR. CROUCH:** We've run into a couple of
25 hypo -- not hypothetical, but actual cases now where

1 the certificated utility, wastewater or water utility,
2 does not and has no immediate plans to provide reuse.
3 Right next door is a municipality that has plenty of
4 reuse that would like to come in and serve in that
5 territory, but the certificated utility says, no, we
6 don't want to give up permission yet.

7 It's been a gentlemen's agreement so far
8 between the people that can provide it and the people
9 that have the certificate. The certificated utility
10 says, we don't want to give up that right because we
11 might, five years downstream we might start providing
12 reuse, so we don't want to give up that right.

13 In the meantime, the goal of encouraging
14 reuse is stalemated, because here's somebody who can
15 provide it, here's a golf course who wants it, but
16 that golf course is in a certificated territory, and
17 the certificated utility says, we don't want to give
18 up the right.

19 **MR. FRIEDMAN:** Bob, I hope that's not one of
20 my clients. But my position would be, as I said
21 earlier, is that it's just like wastewater. If you --
22 if somebody has got an exclusive wastewater service
23 area, that doesn't mean it's theirs forever, and they
24 say, well, gee, in five or 10 years I want to provide
25 wastewater out there.

1 If the need is out there for wastewater
2 service, and the utility, the IOU, is not willing and
3 able to do that, I don't think this Commission would
4 have any qualms in taking that area out of its
5 certificated territory and letting whoever is the
6 entity that's able to provide the service to provide
7 it.

8 **MR. CROUCH:** So that's a --

9 **MR. FRIEDMAN:** And I don't think you would
10 do it any different with reuse than you would with
11 wastewater or with water.

12 **MR. CROUCH:** That is a different
13 certificated area then, because you could not take his
14 wastewater certificated area away from him. He's --

15 **MR. FRIEDMAN:** You could --

16 **MR. CROUCH:** -- providing wastewater
17 service.

18 **MR. FRIEDMAN:** If he's not -- well, if he's
19 not able to provide -- no, you wouldn't. What you
20 would -- and that's what I'm saying, Bob. What I
21 espoused is a -- is your certificate would still be a
22 wastewater certificate. Included in your wastewater
23 certificate would be a wastewater service area and a
24 reuse service area.

25 I'm suggesting that at least as a

1 grandfathering provision that those two service areas
2 would coincide, not to say that they couldn't change.
3 Like in Alafaya service area, we're at some point
4 going to at least allow the City the opportunity. I
5 frankly don't think they're going to do it, but we're
6 going to allow them the opportunity to come in and --
7 with some window of time to provide service, if they
8 want to retrofit and do that.

9 The opposite is also true. It may be a
10 circumstance where there's a golf course or other --
11 nursery or something outside of our service area that
12 may need reuse. We may be able to provide it outside
13 of our service area, in which case we would ask the
14 Commission to expand our reuse service area.

15 So I would see one certificate, but
16 different service areas, and so the Commission, if
17 there's a need for reuse service within a utility's
18 wastewater service area that the utility cannot meet,
19 then somebody else would be able to meet that need.
20 The customer ought to be able to get service, whether
21 it's water, whether it's sewer, or whether it's reuse.

22 If the customer needs it, the customer ought
23 to be able to get it from somewhere, and if the
24 certificated utility that has it in its exclusive area
25 isn't able to provide it, I can't tell you that you

1 ought to be able to just say, "Customer, you don't get
2 it." But I think the statutory scheme is there for
3 doing that now.

4 **MR. SHAFER:** Any other comments on the
5 issues relating to territory and certificates? Yes,
6 ma'am. Come up to the microphone, please.

7 We also have a microphone over here, too, at
8 the podium, if someone from the audience would like to
9 step up during our conversation.

10 **MS. SPRINGFIELD:** My name is Jennifer
11 Springfield. I'm with the St. Johns River Water
12 Management District, and I came in a few minutes late
13 so I didn't get to hear all of the comments.

14 But generally, at this point in time
15 anyway -- and I'm only speaking for our district,
16 because we haven't coordinated on the issue with the
17 other Water Management Districts or with the
18 Department of Environmental Protection, but I think
19 perhaps after this workshop that would be a good thing
20 for us to do and maybe provide some additional
21 comments to you after having done that.

22 Anyway, we would generally support the
23 Public Service Commission establishing reclaimed water
24 service areas for private utilities as a separate
25 service area from wastewater and water.

1 I heard a couple of comments that I don't
2 think we could -- would agree with at this point. I
3 don't think that reclaimed water service areas should
4 automatically be the same as wastewater or water, or
5 that there should be any kind of grandfathering, as
6 that was mentioned, although I don't think that would
7 precisely be what it would be.

8 But it seems that it should be considered
9 separately, that it's going -- there's going to be a
10 lot of different factors to take into consideration in
11 establishing a reclaimed water service area than there
12 would be for wastewater or water.

13 We actually would like to see -- we
14 understand that the private utilities that are
15 thinking about getting into the reclaimed water
16 business -- and we are encouraging all of the ones in
17 our district to think about that.

18 We would like -- we understand that they
19 need some protection, so to speak, in the way of a
20 service area, and we would like the Commission to
21 start setting those and looking at that.

22 I'm not sure of everything that would go
23 into making that determination, but if the Commission
24 doesn't start doing that, we would like the Commission
25 to make it clear that private utilities really don't

1 have any right, based on their wastewater and/or water
2 certificates, to provide reclaimed water; and that if
3 there is another entity that is ready, willing, and
4 able to do so within a private utility's water or
5 wastewater service area, we think that the private
6 utilities should not be permitted to put up any
7 roadblocks to that.

8 I mean, obviously we're coming from the
9 standpoint of trying to achieve the goal of getting as
10 much reuse as possible as soon as possible, as
11 efficiently as possible, and anything that would be an
12 impediment to achieving that goal we wouldn't support.

13 I would say in response to the specific
14 questions that you have in the agenda, that for the
15 most part, like Questions 2 and 3, we would answer
16 yes. Question No. 1, I really haven't had a chance to
17 come up with a list of things, but perhaps we could
18 help you formulate something on that.

19 I definitely think that the private
20 utilities should be -- it should be more than we might
21 want to provide reclaimed water at some indefinite
22 point in the future, that they need to have a plan to
23 actually do so within some reasonable time frame; and
24 then if they get a certificate, they need to be, as
25 somebody else mentioned, I think obligated to do, and

1 if they're not able to, then they need to let somebody
2 else who is able to come in and provide that service.

3 That's about it. Thanks.

4 **MR. SHAFER:** Okay. Thank you. Anyone else
5 on territory or certificate issues? (No response.)

6 I guess by special request we'll go ahead
7 and move down the list there to the used and useful
8 section, and I'll go ahead and put the monkey on
9 Brian's back.

10 **MR. CROUCH:** Remember, you asked for it.

11 (Laughter)

12 **MR. ARMSTRONG:** You know, again -- and to
13 talk about realities and facts, you know, I think a
14 preliminary fact that has to be understood by all, and
15 I've heard this a number -- we've heard this a number
16 of times -- you allow reuse at 100% used and useful,
17 and everybody's all of a sudden got to convert to
18 reuse and drive up capital costs and et cetera,
19 et cetera, et cetera, to get one 100% used and useful.

20 I don't think anybody sitting here could
21 ever say that's happened yet, nor would it happen,
22 given the fact that converting a plant to reuse,
23 particularly public access reuse, is a very expensive
24 process, and I don't think that -- and I say that with
25 a high level of certainty -- that you're going to have

1 a lot of plants that are smaller than what is
2 recommended for conversion to reuse all of a sudden
3 jumping to reuse to get 100% used and useful.

4 As a practical matter, it just doesn't make
5 any sense, and you're not going to see that happening.
6 And whenever anybody has that to say, you know, it
7 would be nice to have some support for that kind of a
8 comment, because I don't think you're going to find
9 any as a practical matter. People aren't going to
10 jump in to make huge investments for reuse facilities.

11 **MR. SHAFER:** I can appreciate your position
12 on that. Would you deny that there would be some
13 strategic response to that?

14 **MR. ARMSTRONG:** Yeah, I would, because of
15 the significant capital investments that are required,
16 particularly to go to public access reuse. And my
17 next comments, I guess, can clarify what I mean by
18 that.

19 What we see -- and, you know, even in our
20 rate case we all know that's there and you guys can't
21 really discuss too much about it -- but what we --
22 we're trying to do is saying where we have public
23 access, Class 1 reliable reuse, there should be no
24 question whatsoever that costs necessary to convert
25 that plant and then dispose of it as reuse should be

1 100% used and useful under the statute, and we limited
2 it to that in that case. That's our position.

3 As far as Class 1 reliability public access
4 free use, I mean, there are certain costs that are
5 incurred and redundancy requirements there that should
6 be without question given 100% used and useful reuse.

7 MR. SHAFER: Brian, just for clarification,
8 can you kind of give us examples of what the nature of
9 that type of reuse --

10 MR. ARMSTRONG: The nature?

11 MR. SHAFER: Right. There were --

12 MR. ARMSTRONG: Yeah. The easy ones are
13 like the filters; you know, the tertiary filters that
14 are there to treat -- give a third level of treatment
15 to wastewater.

16 MR. SHAFER: No, no. I'm really talking
17 about a different aspect of it, and that is, are you
18 talking about reuse to the home, to residential areas?
19 Are you talking about golf course? Are you talking
20 about --

21 MR. ARMSTRONG: Okay.

22 MR. SHAFER: -- perc ponds?

23 MR. ARMSTRONG: Well, I guess what I was
24 looking at was the first level; convert the plant, the
25 treatment plant itself. In order to convert to a

1 standard treatment plant to a Class 1 reliable
2 tertiary treatment plant, there are conversion costs.
3 There are additional redundancies. That's why --
4 simple example is the filters, you have the -- the
5 sand filters, whatever the filter process used as a
6 third level treatment. o

7 Another example would be the chlorine -- the
8 extra chlorination that goes on. Beyond that, then
9 you have your pipe, the reuse disposal pipe that's
10 necessary to get it out to your ultimate reuse
11 disposal method, whether that be a golf course or a
12 residential area or some other area, but it is the
13 actual pipe necessary to get to where you're disposing
14 of.

15 The third area, then, is your disposal
16 source itself; any pumping required to get the reuse
17 there and to spread it at that disposal source. So
18 really when you convert -- when you talk about
19 converting a plant to building a Class 1 reliable
20 plant, it's got to be all those components necessary
21 to achieve that higher level of treatment, all the
22 costs necessary to pipe that reuse water somewhere and
23 to pump it to get it there. Okay.

24 Then you have that second level, and this is
25 where my -- where the commentary comes in. The second

1 level really is the disposal method itself, and that's
2 what DEP has defined; these methods of disposal we
3 consider reuse. That's separate and apart from
4 converting a plant to water into reuse, Class 1
5 reliable reuse.

6 If it falls within the DEP's definition of a
7 disposal that is reuse, that also should be given the
8 100% used and useful treatment. That doesn't mean you
9 take it back, you take that reuse back, and go to the
10 treatment plant and say the whole thing is 100% used
11 and useful, but it does mean that that reuse disposal
12 source should be 100% used and useful.

13 **MR. CROUCH:** I think this is where you and I
14 have a major disagreement there, because if we use
15 Marco Island as an example in the last rate case where
16 with no additional expense whatsoever, but just
17 redesignating the perc ponds from effluent disposal to
18 reuse with no cost incurred whatsoever, just
19 redesignating them; because under DEP's broad
20 definition percolation recharges the aquifer;
21 therefore, it is a beneficial use.

22 By that definition, those perc ponds which
23 were not under effluent disposal were not 100% used
24 and useful. All of a sudden they became, quote,
25 "reuse," and the utility claimed 100% used and useful

1 with absolutely no expense whatsoever.

2 **MR. ARMSTRONG:** And there are flip sides to
3 that, too. But let me say that the DEP is the one who
4 made the determinant, and we've often heard about the
5 Commission being the economic regulator, and the
6 environmental regulator and other regulator, i.e.,
7 what is reuse, is DEP. The fact is DEP determined
8 that was reuse and that was the method to be
9 encouraged.

10 Now, there are other disposals that
11 aren't -- don't fall within the confines of the reuse
12 definition, and the -- what the DEP is saying is, "Be
13 there or get there, and we want you to have that
14 incentive to do so," which means the PSC, when it
15 comes -- you make that investment, and the PSC when it
16 comes to you it's 100% used and useful, with the one
17 proviso about prudence.

18 And the prudence is there to be determined.
19 The prudence is where DEP as well as the utilities can
20 give testimony on the prudence of the action taken,
21 and that -- you know, that's a separate issue. We all
22 know that.

23 But so far what we've seen is, you know,
24 just a concentration on used and useful, and you know,
25 very obviously from our perspective, it's knocked down

1 used and useful on facilities, and that's the best
2 determinant of keeping rates low.

3 **MS. CHASE:** Brian, let me ask you a
4 question. The fact that the statute does say to some
5 degree that the Commission shall deem reuse 100% used
6 and useful for ratemaking purposes, I think we
7 probably all can agree that the whole purpose behind
8 that statute is to encourage use. I mean, that's --
9 reuse is a good, a public good, and we should
10 encourage it; so, therefore, reuse facilities should
11 be given 100% used and useful.

12 Now, I think in doing that that what the
13 Legislature was probably intending was to promote
14 additional reuse and promote reuse in the sense of
15 like a conservation measure or another source of water
16 for irrigation or something like that.

17 What we were trying to get at in especially
18 that first question -- I realize that DEP has a
19 definition of reuse that's very, very broad; and for
20 purposes of their environmental concerns and for all
21 the reasons they made that definition, that's very
22 valid. But for purposes of ratemaking and having
23 customers pay 100% used and useful on something they
24 might not otherwise pay 100% used and useful, I think
25 we're kind of of the position that if it is cost

1 incurred to provide reuse as far as your first
2 scenario, the public access -- now, I don't know that
3 we've gotten exactly what that would be -- that maybe
4 that may make sense.

5 In order to encourage reuse, you allow 100%
6 used and useful on plant you would not otherwise allow
7 100% used and useful for public access or where it's
8 displacing irrigation -- you know, a source of
9 irrigation water or something like that, as opposed to
10 just -- because of the definition that another agency
11 developed, this thing that was always just a disposal
12 site is now considered reuse. Do you see what I'm
13 saying?

14 **MR. ARMSTRONG:** Yeah, I do.

15 **MS. CHASE:** I think there's a line we could
16 draw in between --

17 **MR. ARMSTRONG:** But the question there
18 doesn't become, is the water being -- is the
19 wastewater being treated, it is being reused? Is it
20 being reused? It's the DEP's --

21 **MS. CHASE:** Exactly.

22 **MR. ARMSTRONG:** -- summation that it's being
23 reused the way -- and who makes that determination?
24 Like I say, I've always heard, you know, the economic
25 and the environment. Well, they're the environmental.

1 They're the ones, and the management districts as
2 well, they're the ones who determine what reuse is,
3 what -- when the water that's being disposed of is
4 being reused, right?

5 So how then do you make it -- do you also
6 distinguish and say, well, it's only when you're
7 putting new ponds in there that it becomes reuse, and
8 why would you need to make that determination if --
9 unless you have a dispute with the fact that it's
10 reuse or not? And I've never heard of being able to
11 dispute that.

12 **MS. CHASE:** Rich, do you have a comment?
13 State your name first.

14 **MR. BURKLEW:** Oh, I'm sorry. I'm Rich
15 Burklew. I'm with the St. Johns River Water
16 Management District also, and I just wanted to give
17 our District's historical position on the definition
18 of reuse.

19 We understand the DEP definition and realize
20 that a number of the other Water Management Districts
21 accept that as a reuse for a variety of reasons that
22 maybe in their region that perc ponds may always be
23 reuse.

24 It's our contention that in the St. Johns
25 district there's a number of areas where that

1 definition should not apply, where perc ponds have
2 been located in some instances, or recharging regions
3 where the surficial aquifer is not real conducive to
4 drawing water from and it isn't effectively being
5 reused.

6 So in that broad intent, we would not like
7 to see projects like that considered reuse, because if
8 they are, it's that much of a disincentive to see
9 reuse take place in those areas.

10 So I just wanted to just make the point that
11 we're not all in agreement with that DEP definition.

12 **MR. FRIEDMAN:** Let me ask this: Bob, so if
13 I understand you all's position, it's that the perc
14 pond situation would not be reuse, but every -- all
15 the other irrigation methods would be for the purposes
16 of that statute?

17 **MR. CROUCH:** Not automatically. Now, if a
18 perc pond was being used for wet weather storage, in
19 that case it would come under the auspices of reuse;
20 it's a backup, because the golf courses can't take it
21 right now because of too much rain, so they use that
22 as backup, then I could see it.

23 But if it is -- the sewer treatment plant is
24 sitting here, it's been operating for the last 10
25 years and going out to this perc pond, and even DEP

1 has waffled on that and says if they've got two perc
2 ponds, if they've got a berm down the middle that they
3 can alternate, then they consider that reuse, but if
4 it's only one perc pond, then it's not reuse. That
5 was their escape on that one.

6 But if it's a case where the utility has
7 done absolutely nothing to change its method of
8 operation other than redesignate that perc pond, or
9 those perc ponds, as reuse, not as backup for weather
10 wet weather or anything else, but just changing it to
11 reuse and, therefore, now we want 100%, I cannot go
12 along with that.

13 But if it is a backup wet weather storage,
14 whatever, for a reuse, a legitimate reuse facility
15 where they are providing that extra treatment for it,
16 it is going to the golf course, it is going to
17 greenbelts, whatever, but during wet weather it needs
18 to go to the perc pond, then I could see perk ponds
19 being considered reuse.

20 **MR. FRIEDMAN:** Yeah. Well, 367's got a
21 definition of effluent reuse.

22 **MR. CROUCH:** Pardon me?

23 **MR. FRIEDMAN:** You've got a definition of
24 effluent reuse in 367, which means the use of
25 wastewater after the treatment process, generally an

1 irrigation or in-plant use.

2 MR. CROUCH: That is true.

3 MR. FRIEDMAN: So why would that necessarily
4 include redesignating the perc pond?

5 MR. CROUCH: We don't think it should, but
6 we have had rate cases come in where the utility has
7 claimed that.

8 MR. SHAFER: Let me just say that Bob
9 doesn't think that it should. Some of us haven't made
10 up our mind, and some of us disagree, so I'll make
11 that clarification.

12 Going back to one thing that Rich said
13 towards the end of your comments about disincentive, I
14 didn't follow what you're saying there. If you
15 could --

16 MR. BURKLEW: Basically if -- in many cases
17 it's much less expense to put in perc ponds in a
18 region, just from a capital cost standpoint. So at
19 least in the region I'm working in -- and it may be
20 applicable statewide -- but certainly in the coastal
21 areas perc ponds are much preferred.

22 You know, you can have good rates. But
23 we've had instances where folks have not opted to put
24 a pipeline to a golf course just based on the cost
25 element. They just did the perc pond and there was no

1 regard for -- or there was no benefit or -- I'm not
2 sure of the word I'm looking for -- but no credit
3 given to the resource considerations in that case.

4 I mean, we'd like to, you know, at least see
5 that part of the equation. It may still be that perc
6 ponds would have to go in. And certainly the point is
7 well made. You know, perc ponds aren't by any means
8 always evil. You know, those backup to reuse systems,
9 you certainly have to have other wet weather disposal
10 options, and we've seen that very vividly in the last
11 few years.

12 **MR. SHAFER:** So what you're really saying is
13 that a perc pond is kind of the minimum thing to be
14 designated as reuse, and so a lot of the utilities opt
15 for that as opposed to doing some higher level that
16 would meet a -- that would really do a better job, in
17 your view, of maintaining the resource?

18 **MR. BURKLEW:** Yeah. From a resource
19 perspective, the best use of available sources, a perc
20 pond wouldn't be the best choice just on that
21 criterion in a number of cases.

22 **MR. ARMSTRONG:** But it's obviously -- I
23 mean, I don't know -- I don't want to put words in
24 your mouth either, but it's obviously the most
25 economical thing to do a perc pond instead of going to

1 some other reuse. And if that's what the intent of
2 your question was, I mean, that's pretty obvious.

3 And I think you're -- what you're suggesting
4 is maybe with some additional incentive, then instead
5 of doing a perc pond, the utility might in certain
6 circumstances put a line down and go to some other
7 higher treatment and go to a golf course.

8 **MR. BURKLEW:** Yes.

9 **MR. ARMSTRONG:** And that's what everybody
10 would like to see encouraged at a minimum.

11 **MR. SHAFER:** Brian, going back to your
12 example a minute ago, I don't know that there's a lot
13 of disagreement from us in terms of the investment
14 beyond the treatment plant. The investment --

15 (Technical problems.)

16 **MR. SHAFER:** Maybe we can just go ahead and
17 take a break now and get these things -- let's go
18 ahead and take a quick break.

19 (Brief recess.)

20 - - - - -

21 **MR. SHAFER:** Before we called a time out, I
22 wanted to ask Brian a question about a scenario that
23 he was describing. And basically my question is this:
24 I think pretty much we can all agree and live with
25 that pretty much everything beyond the treatment plant

1 in terms of reuse, there shouldn't be a lot of debate.

2 I mean, Bob obviously identified the perc
3 pond situation. But beyond that, I don't think
4 there's a lot of debate about what goes on beyond the
5 treatment plant. But the upgrades that you were
6 talking about in terms of getting a treatment plant
7 ready for reuse quality effluent, I'm assuming that
8 your position is that that capital investment ought to
9 be treated as 100% used and useful as well.

10 MR. ARMSTRONG: Yeah. If you're -- an
11 easiest example is where you're taking a standard
12 wastewater treatment plant and you're converting so as
13 to meet the higher level treatments necessary and
14 redundancy necessary for public access Class 1
15 reliable reuse, that that would fall within the 100%
16 rule.

17 MR. SHAFER: Okay. Now, there are
18 situations out there where that level of treatment is
19 required for effluent disposal that would not
20 necessarily be considered reuse.

21 MR. ARMSTRONG: I'm not an engineer. Can
22 somebody clarify for me when that is required, when
23 that tertiary sand filters and extra chlorination
24 and --

25 MR. SHAFER: Right. For example, if you

1 were discharging to surface waters or something of
2 that nature, would that not require a fairly high
3 level treatment.

4 **UNIDENTIFIED SPEAKER:** In most cases it is;
5 in some other cases it's not. We have plants, like a
6 couple of plants, that we discharge to surface water
7 we don't have to have filters. We have to have the
8 chlorination facilities, but we don't -- are not
9 required to have filters.

10 **MR. SHAFER:** Excuse me. Could you state
11 your name, please?

12 **UNIDENTIFIED SPEAKER:** And it is not reuse.

13 **MR. SHAFER:** Give us your name, sir.

14 **MR. TERRERO:** Ralph Terrero with Florida
15 Water.

16 **MR. ARMSTRONG:** And, Greg, what Ralph was
17 saying at the end there, too -- and I suspected that's
18 what you meant -- but clearly surface water discharges
19 aren't considered reuse.

20 **MR. SHAFER:** Right.

21 **MR. ARMSTRONG:** Under any definition of --
22 we've ever seen.

23 **MR. SHAFER:** Okay.

24 **MR. ELSNER:** I'm Mark Elsner, South Florida
25 Water Management District. And St. Johns has given

1 their perspective of what reuse is and not, and we're
2 talking surface water discharge and is it reuse or
3 not.

4 In the South Florida Water Management
5 District our ground water system is easily recharged
6 from the surface. So in our area, perc ponds are
7 considered reuse and do serve a beneficial service in
8 recharging an aquifer that's heavily used. And, in
9 fact, we debate the question often of is it more
10 cost-effective to build a huge percolation system that
11 recharges the aquifer as a whole and serves many more
12 users than a pipeline -- a very expensive pipeline
13 system that only serves a discrete number of users.

14 Along those same lines, surface water
15 discharge, and that we have utilities, and these are
16 government owned utilities that are actually looking
17 at the feasibility and cost-effectiveness of treating
18 it to a high enough standard to discharge it to our
19 canal system versus a pipeline system that serves just
20 a certain numbers of users, whereas our canal system
21 recharges all of the lower east coast's surficial
22 aquifer system, Biscayne aquifer, that serves many,
23 many, many users versus a discrete pipeline system
24 that only serves a few.

25 So that when we're looking at reuse, we're

1 looking towards that end of possibly surface water
2 discharge becoming labeled as reuse, because it is
3 being constructed for not disposal, but for a
4 beneficial purpose, and diminish the demands on our
5 regional system, Lake Okeechobee.

6 **MR. CROUCH:** If they go into surface water
7 or into the canals down there now, they require
8 additional treatment; am I correct?

9 **MR. ELSNER:** Yes.

10 **MR. CROUCH:** Whereas going into perc ponds,
11 just secondary treatment is sufficient going to perc
12 ponds. There's no additional treatment required.

13 **MR. ELSNER:** Depending on the situation --
14 and I'm an ex-DEP employee who used to regulate
15 wastewater treatment facilities in that area, and I
16 know things have changed over time. But 62.610 is
17 currently under modification, and they're breaking it
18 out into indirect potable reuse, which are systems
19 that are intentionally designed to recharge
20 well-filled versus rapid rate systems. And that's
21 debateable. And I don't know the specifics about it,
22 but in the past a perc pond primarily was just
23 secondary treatment.

24 My experience, some utilities put filters
25 on, some didn't, and, you know, the filters were just

1 another level of treatment to -- as preventive
2 maintenance to keep the ponds working longer.

3 But, no, the rules didn't require filters
4 for most situations.

5 **MR. SHAFER:** You raise an interesting
6 question from a rate setting perspective, and that is,
7 if you have reuse investment, and the end of the line
8 user, for example, as a golf course as opposed to perc
9 ponds or some other type of use that would be more
10 directly beneficial to all the wastewater customers,
11 is it an easier argument from a rate setting
12 perspective to sell the wastewater customers that they
13 ought to pay some of that investment if the use is
14 more easily attributable to them directly as opposed
15 to having them pay for the necessary investment and so
16 forth to provide the local golf course or, you know,
17 some agriculture use or whatever, that, you know, the
18 benefit is more isolated to a particular end user?
19 Interesting question.

20 **MR. ELSNER:** You know, and you're
21 actually -- you're getting a return back, at least
22 some nominal fee from the golf course or the end user
23 who's paying for it. And that's something we've
24 debated and within -- with the Water Management
25 District we have -- the Legislature has created two

1 categories; water supply development and water
2 resource development.

3 Water supply development is more local type
4 projects, such as a local utility going to reuse, a
5 local utility going to reverse osmosis. But if these
6 projects have regional significance, they could
7 qualify for funding from the Water Management District
8 under our water resource development program, you
9 know, where you do have the large capital investment
10 to acquire lands or increase levels of treatment. But
11 that's a question that we struggled with the last
12 couple years from the utility perspective of, you
13 know, how -- who is the beneficiaries and how do they
14 participate in the project.

15 **MR. SHAFER:** In your district in terms of
16 specifically like residential reuse, is that -- is
17 there a market developing there where customers are,
18 you know, pretty well adjusted to the idea that that's
19 a good substitute for irrigation purposes and that
20 sort of thing and that they can be charged some nearly
21 compensatory rate?

22 **MR. ELSNER:** In our area we have a diverse
23 application of reclaimed water, and each area dictates
24 the need. For example, in Cape Coral they've
25 constructed a dual water distribution system. They

1 didn't have sufficient reclaimed water to meet the
2 needs, so they've supplemented that with surface water
3 from their canal systems; but in that area everybody
4 had private wells tapping into an aquifer causing
5 saltwater intrusion.

6 So both from a local perspective, the
7 utility perspective as well as water management
8 perspective, to eliminate that concern over water
9 quality degradation, that was a great application for
10 reclaimed water to get rid of those private wells.
11 And I believe they adopted an ordinance to make it
12 mandatory that you'll pay for the availability. You
13 don't have to use it, but you're going to pay for it
14 to be there; where in other areas like the -- Jupiter
15 golf course irrigation has been very effective about
16 diminishing the concern over saltwater intrusion.

17 So we've approached reuse from a resource
18 base, and one shoe doesn't fit all, one size doesn't
19 fit all, and that each situation may have a different
20 outcome. And also within the -- our water management
21 district, but I think throughout Florida, reuse is
22 going to be put in among other water supply
23 alternatives to look at the cost-effectiveness of it.

24 Through our water supply planning efforts,
25 we have to identify all the sources of water

1 available, quantify those sources so that then the
2 local government and utilities can choose from those
3 sources to meet their future needs.

4 So that what you're going to see, I think,
5 besides reuse, is you're going to have other
6 alternatives start to be developed such as -- for
7 storage and recovery, a different type of way to store
8 it; reverse osmosis and going to a poorer quality
9 water.

10 So I think what you're seeing is just the
11 tip of the iceberg, that you're going to have things
12 coming up in the future that aren't the norm.

13 **MR. ARMSTRONG:** Greg, I guess a couple
14 comments, too, on that, and the first one is the
15 education process, which is extremely important.

16 I mean, obviously we sitting here can
17 educate each other, and, you know, I know I find that
18 when we have those workshops and you can be informal,
19 you know, there's a lot of education that goes on here
20 with experts and with people in the field. But you
21 brought up customers and their concerns.

22 There needs to be a great deal of education
23 to customers and, you know, to fill customers' heads
24 with the idea is, well, you don't benefit because a
25 golf course is getting this reuse is, you know, number

1 one, the wrong move, you know; and to allow them to
2 even have that perception is the wrong move. It's
3 anticonservation. It's anti a lot. There are people
4 out there that fill customers with that kind of
5 concept.

6 We all can fall and slip into that -- into
7 a -- giving credence to that kind of a wrong concept
8 when we say -- you know, the perception is if we put
9 reuse in the lines in front of their houses and
10 they're using it, they get more of a benefit than
11 going to the golf course, because, you know, the kind
12 of public access reuse we're talking about, going to a
13 golf course, there is that benefit, and there's
14 possibly many benefits, but the one is that that golf
15 course isn't taking from the aquifer.

16 It's not using aquifer water. It's just --
17 you know, that aquifer water is there for our
18 customers to use because the golf course is taking the
19 reuse. You know, it might be the most economically
20 beneficial thing as well, you know, as a second
21 factor; and there are probably a number, given the
22 circumstances.

23 But education is critical, you know, we all
24 have to work a hell of a lot towards getting that
25 education process out there so that customers don't,

1 you know, get this perception, and that's all it is,
2 because it's not factual, but they get the perception
3 that if I'm not getting the reuse in front of my
4 house, I shouldn't have to pay for it.

5 To level the playing field, you know, that
6 concept is something that, you know, we need to keep
7 at the top of our minds often, and because I just
8 heard about ordinances being passed. And, you know,
9 there are ordinances out there, city and county
10 ordinances that say if you've got central water,
11 you've got to connect; central wastewater, you've got
12 to connect; reuse available, got to connect or pay a
13 service availability fee or pay a reuse availability
14 fee.

15 If what we're talking about is the
16 tantamount -- the paramount benefits of water
17 conservation and protecting the environment, we have
18 to have situations, and it has to be forced, that
19 those kinds of mandatory connects apply to
20 investor-owned, and whether that's got to be done
21 through legislation that says, you know, the counties
22 must include all utility providers water/wastewater
23 reuse in their ordinances or what, I don't know.

24 We're trying to work county by county to get
25 them in whatever way we can to acknowledge, number

1 one, sitting there as a board of county commissioners,
2 you're not a board of directors for your county
3 utility, particularly these small ones that are just
4 thinking about getting into the business because they
5 have illusions of huge money streams which are, you
6 know, being pumped into their heads.

7 But they've got to understand you're not a
8 board of directors, and you're not there to do comp
9 plans to stop the growth of investor-owned. You're
10 not there to take other actions to benefit your county
11 utility. If you're -- you're there to protect the
12 public interest, obviously, yes, and to -- and you
13 have police powers, yes.

14 If your goals are the ones we just talked
15 about, we all talk about, and that's protecting the
16 environment and conserving water, you -- that goal
17 should apply, and those ordinances and mandatory
18 hookups should apply to investor-owned as well as
19 your own county utility department; and that's not
20 happening.

21 You know, in most instances that's not
22 happening, and it's even happening where they're
23 specifically indicating that you'd -- no, it doesn't
24 apply to investor-owned. Now, that's not a level
25 playing field, number one, because that makes --

1 that's not making us competitive with them. But it
2 also -- the paramount consideration here is it's not
3 conducive to the goals of water conservation and
4 protecting the environment.

5 So that's -- you know, if there's someplace
6 where it's, you know, the seed, to let everything else
7 grow properly, that's the seed that has to be planted,
8 that those mandatory provisions have to apply; and not
9 only apply, but be enforced. You know, obviously
10 there's a wastewater connection, mandatory connection
11 right now, but there's no enforcement, and there's no
12 wherewithal right now to enforce it.

13 Whether that's because we haven't seen the
14 disastrous impacts on the environment that are
15 possible or whether it's because we haven't seen the
16 water conservation, you know, ethic spread far enough,
17 I don't know, but, you know, it's something that we
18 all should keep in our minds. It's a level playing
19 field that's keeping those two paramount goals in
20 focus and saying, that's not just counties and cities,
21 that's -- should be investor-owned as well.

22 MR. CROUCH: I agree with you 100% on that,
23 especially where the water is available, the utility
24 has made it available, and yet the customer's got
25 private wells and is not made to hook on.

1 That's got to be the county brought into
2 this, which I don't think we have any county
3 representatives here today, but it's going to take
4 county enforcing that from the county ordinances; and
5 here again, that's education. I agree with you.

6 **MR. ARMSTRONG:** Well, I guess -- you know, I
7 guess it's education. I guess it's -- it's got to be
8 part of the discussion of all of us who are interested
9 in those two big goals, that everybody has to have
10 that in mind when we're talking with county
11 commissioners and we're talking with others that can
12 have an impact on those kinds of things; because I
13 known we've had that discussion, and those -- you
14 know, a light bulb goes off in their head often when
15 you're talking to them about that.

16 And then you start to see a willingness to
17 move along to try and achieve the goals by making
18 those mandatory connections applicable to
19 investor-owneds, but it should be universal. You
20 know, it's got to be universal. That's what's going
21 to help us achieve the goal.

22 **MR. SHAFER:** Anybody else?

23 **UNIDENTIFIED SPEAKER:** Is that -- a couple
24 years ago there were some statutory changes that do
25 specify, allow governments to adopt ordinances to

1 require them to connect or pay for reclaimed water
2 systems. Is that more of a relationship between the
3 investor-owned utility and the local government?

4 I'm trying to think of what avenue you would
5 have that would require customers to hook up, and I
6 understand there is one -- in fact, I think it's one
7 of your cases, where a local government has passed an
8 ordinance that would require connection to an
9 investor-owned utility.

10 **MR. ARMSTRONG:** And that's what I mean.
11 It's case by case at this point where some -- you
12 know, the county could pass an ordinance that says,
13 because of these pol -- you know, police powers that
14 we have and because of the public interest being
15 served, you know, water conservation and protecting
16 the environment, we have the ability of passing an
17 ordinance that applies to all the utilities in terms
18 of mandatory connections for water, wastewater reuse.

19 At least, you know -- and the practical
20 matter is at least you want to say for new lines and
21 new development and new houses. They have that
22 authority, and some have done it. The predominant way
23 it's done, though, is to say that this applies to --
24 you know, you must connect if there's a county central
25 facility in front of your house or in front of your

1 lot, and it doesn't apply to the investor-owneds.

2 The statute, the -- you know, the Florida
3 statutes require connection to a central wastewater
4 facility, and that is blanket; that's investor-owned
5 and government owned, but the -- and a couple years
6 ago amendments were made to put some teeth into it in
7 terms of defining power and enforcement, but, you
8 know, that hasn't happened just yet either because it
9 is such a touchy issue.

10 But I think the first step is to get -- to
11 start applying that prospectively and, you know,
12 making it just for new construction, and then together
13 with that saying it's got to be all utilities,
14 investor-owned as well as government owned. And then
15 you're going to -- you're going to have a big jump
16 right away in terms of achieving those benefits of
17 conservation and protecting the environment.

18 **MS. SPRINGFIELD:** Can I ask a procedural
19 question, which is I wanted to make a few additional
20 comments on the used and useful issue? And are we
21 going question by question or --

22 **MR. SHAFER:** We've been pretty free form
23 here so far, so just jump in there and address what
24 you want to.

25 **MS. SPRINGFIELD:** Okay. Well, on the very

1 first question -- I guess that's Number 17 -- I know
2 that Rich and Mark have spoken to that, and I just
3 wanted to suggest for your consideration that instead
4 of -- and actually I wasn't aware that this was a
5 definition of reuse in the statute, in Chapter 367, so
6 I'm going to go back and take a look at that, as
7 somebody pointed out.

8 But Rich and Mark have both spoken to this
9 issue already, and I just wanted to add that you might
10 consider utilizing the expertise of the Water
11 Management Districts on a case-by-case basis when
12 determining whether a utility's proposed reuse project
13 really is reuse. And, also, I think it's related to
14 Questions 18 and -- I'm sorry -- 19 and 20.

15 And perhaps if you -- if the Commission
16 could establish some general criteria that could be
17 applied on a case-by-case basis with the assistance
18 from the Water Management Districts, because as Mark
19 and Rich pointed out, what is considered reuse by the
20 Water Management Districts depends very much upon the
21 location, the physical geographic location. And we
22 make that determination on a case-by-case basis, and I
23 think it's something that has to be done on a
24 case-by-case basis.

25 And we have had, I think, the expertise,

1 along with the department. I mean, not that the
2 department should be cut out of having any, you know,
3 input on this issue, but we would be happy -- speaking
4 for my district and I think probably the other
5 districts as well -- I mean, we would really be glad
6 to provide some assistance in making that
7 determination, and if we could formalize that in some
8 way so that it, you know, it actually happens on a
9 routine base, then I think you might -- that's
10 something that might be worth considering.

11 **MR. FRIEDMAN:** Does that mean that the Water
12 Management District would consider a perc pond as a
13 reuse, as being reuse, if it were located in an area
14 that it was recharging a drinking water aquifer?

15 **MS. SPRINGFIELD:** I'll let -- is Mark still
16 up here?

17 **MR. CROUCH:** He left.

18 **MS. SPRINGFIELD:** I think the answer is yes.
19 I'm an attorney, and these guys are more technical.
20 Rich is a geohydrologist, and I'm not sure what Mark
21 is.

22 **UNIDENTIFIED SPEAKER:** I think in a number
23 of cases reuse would be -- or perc ponds would be
24 considered reuse. You've got a number of regions in
25 particular, I know in Mark's area, where the Biscayne

1 aquifer is all -- you know, that's their source. So
2 you can't find a place where a perc pond isn't reuse
3 in much of South Florida.

4 And, really, for a lot of our region, also,
5 when you get into more of the Ridge areas, in those
6 areas where the surficial aquifer is highly utilized
7 or there's very good movement between the aquifer
8 systems in some areas where you don't have many clays,
9 like particularly the Ocala region, that sort of
10 stuff, perc ponds are an excellent way to recharge the
11 aquifer.

12 The point I was just trying to make is
13 there's a lot of regions where you do have significant
14 clays in the source aquifer being recharged that water
15 can't reasonably be reused, and we don't really see
16 the potential for it in the near future.

17 **MR. FRIEDMAN:** That definition seems to make
18 more sense from a practical standpoint than maybe
19 looking at a strict definition of whether it's a pond
20 or whether it's not, or whether your -- you know,
21 there's black and white. I mean, certainly if it goes
22 on the irrigation on a golf course or homes, everybody
23 agrees it's reuse, and maybe if it's put in a storage
24 tank, everybody agrees it's not; and then in between
25 are these perc ponds that sometimes may or may not

1 depending on whether they actually recharge the
2 aquifer, depending on their geographic location.

3 **MR. SHAFER:** It makes way too much sense.

4 **MR. CROUCH:** You've all hit something here
5 that's near and dear to my heart, and that is
6 case-by-case basis. As a professional engineer, I
7 hate a rule that says thou shall automatically give
8 100%, or thou shall not do this, because there are
9 extenuating circumstances in virtually every case.

10 And any time we come up with a rule that
11 says you call it reuse, you get 100%, that makes my
12 hair bristle, because it just flies contradictory to
13 an engineer's creed, that says it's just automatic,
14 it's going to be.

15 And I think that on a case-by-case basis we
16 get Water Management District to testify from
17 different cases, we've had DEP testify, and like Greg
18 said earlier, we don't all up here at this table
19 agree, but as an engineer, I feel that a case-by-case
20 basis with the arguments presented pro and con have
21 got to be more applicable here than a blanket rule
22 that says call it reuse, get 100%.

23 **MR. FRIEDMAN:** So in spite of what you said
24 about -- say, I don't know anything about Marco
25 Island, but assume that that perc pond that has always

1 been disposal all of a sudden they call it reuse, but
2 if it does, in fact, recharge a drinking water
3 aquifer, then the fact that they merely changed the
4 name of it would mean that it would be included 100%,
5 would it not?

6 **MR. CROUCH:** That was their claim; that it
7 was reuse, therefore it's 100%. But from looking at
8 the geology down there, the only aquifer that's
9 recharging might possibly reach Key West. It's not
10 helping the aquifer at all anywhere around South
11 Florida.

12 **MR. FRIEDMAN:** But were it, then you would
13 have taken a different position?

14 **MR. CROUCH:** Possibly -- yes.

15 **MR. ARMSTRONG:** And there -- you know, it's
16 been a while since that Marco Island situation. But,
17 you know, the reuse rules have been in effect in 1989,
18 so I don't think you hold the company accountable for
19 the fact that the Commission has been taking its used
20 and useful shot at those perc ponds before that.

21 But, Bob, also, factually, you know, that we
22 did -- there were -- those additional investment and
23 additional perc ponds associated with the -- going to
24 reuse that the company made additional perc ponds, and
25 it is a wet weather disposal source associated with

1 that, too, so, I mean, there are a lot of facts, and
2 we don't need to get into the specific of it, but I'm
3 going to defend that Marco Island one. (Laughter)

4 But I guess, you know -- and you all know
5 Ralph Terrero. Most of you do. And he wrote
6 something about 20 minutes ago before the break even.
7 He put "recharge aquifer," you know, as a key point on
8 a piece of paper and handed it to me; and I think that
9 is -- if everybody can agree to that being a key
10 determinant, and I think everybody would, that is a
11 huge guidepost for everyone.

12 And, Bob, if I could just pass something by
13 you. I mean, you have a situation where a utility has
14 an opportunity to put a perc pond in an area that has
15 a confined layer, clay layer or whatever, so you don't
16 have a lot -- as much recharge as if they went another
17 couple of miles to somewhere else and spent some
18 additional money to pump and pipe it there.

19 Your view on the statute and the implication
20 of saying we want to encourage reuse so you get 100%
21 used and useful, what would be your view in that
22 situation if the utility decided to go the couple of
23 miles and pump and pipe and get it to where it's going
24 to -- 100% recharge?

25 MR. CROUCH: Here again, on a case-by-case

1 basis. By showing that it cost them extra money to go
2 over but to get a beneficial recharge out of it, I
3 would recommend approval of it, as opposed to that
4 clay barrier there that's not going to percolate very
5 well at all.

6 And, again, I'm saying on a case-by-case
7 basis you come in and present your arguments and
8 here's why we put that extra half mile of pipe, here's
9 why we put the perc ponds over there. Logical. And I
10 would favorably consider that.

11 **MR. ARMSTRONG:** It does sound logical, and
12 it does sound like a -- you know, it does sound like a
13 guidepost, and it sounds like what would be used as a
14 guidepost working with the, you know, the
15 environmental experts and the utilities.

16 The key -- you know, I know what your
17 concern is regarding you want a case-by-case as
18 opposed to having some rules. But, you know, from a
19 utility perspective, you know, we're caught in that
20 quandary -- you probably are as well -- the quandary
21 of, you know, rules give you guideposts, rules tell
22 you that you can invest with some -- you can't say
23 certainty because there's always -- you know, you
24 never know what kind of consumption is going to occur,
25 but with some level of surety about what you'll be

1 able to include in rate base so they at least have an
2 opportunity to recover your investment, and -- you
3 know, we all know, given what's gone on the last
4 several years in rate cases, that there -- that
5 certainty is wiped out totally.

6 Hopefully with the recent Court decisions
7 coming down, we'll get some level of certainty. And,
8 again, that's why this -- these kinds of workshops are
9 appreciated. But, you know, I think right now we
10 favor this kind of -- now that we have involvement,
11 we have a reuse coordinating committee that's been
12 meeting so regularly, I think we'd favor some sort of
13 rules, some sort of guideposts, Bob.

14 But, you know, I guess some discretion can
15 be built into it, but, you know, we have some real
16 concerns without -- if we don't have something more
17 certain when we make investments and go that extra
18 two miles.

19 **MS. CHASE:** Brian, let me ask you this: We
20 have Issue 21, or Question 21, or whatever, says
21 "Should utilities be required to submit a reuse
22 project plan to the Commission prior to permitting to
23 determine the prudence?"

24 I think if it were more case by case, what
25 is your thought on -- right now we have the

1 Statute 367.081(7), the reuse project plan statute,
2 which is sort of an optional thing. Utilities are
3 allowed to file under that.

4 If it were more a requirement to determine
5 the prudence, that might help -- assuming we do this
6 case by case -- that might help utilities, because you
7 would come in before you invest, and you would get
8 approval on the concept of it.

9 **MR. ARMSTRONG:** And a year or two later
10 after somebody has intervened and caused a full public
11 hearing, and in the meantime the county or city
12 utility creeps closer to your territory and then
13 decides that they have service available and can take
14 that service from you that you were planning on
15 serving, we're certainly not in favor of ever adding
16 to the requirements in order to -- and don't think
17 that encourages reuse.

18 I understand what you're saying, JoAnn, and
19 there is some -- you know -- you know, we know about
20 power plant siting. You know, there is some benefit
21 there when you're talking about large investments, but
22 we have some real -- you know, look at the reuse
23 project plan statute.

24 And, you know, a utility comes in and tries
25 to implement the statute, and what happens? It gets

1 blown up into a full-blown rate case. You know, the
2 Commission has annual reports. They can determine
3 whether or not there's an overearning, and there's a
4 good basis to determine. It's done for electric and
5 others to determine whether they're going to overearn
6 if they put that investment into rate base and into
7 rates.

8 But, you know, for one reason or another it
9 becomes -- it comes out of that confine of that
10 statute, which is a limited proceeding, and it becomes
11 a full-blown rate case. Well, that's not the intent
12 of the statute. Nobody can say it is. And it's a
13 problem.

14 MS. CHASE: So your answer would be make the
15 rule more definite, more --

16 MR. ARMSTRONG: Yeah.

17 MS. CHASE: -- finite.

18 MR. ARMSTRONG: And don't require more
19 hearings and more whatever, because that's not going
20 to speed up the process. That's going to just delay
21 the process.

22 MR. SHAFER: Does anybody else have any
23 comments on that?

24 MR. WENZ: JoAnn, this is Carl Wenz with
25 Utilities, Inc. We're the parent company of Alafaya.

1 And, you know, in Alafaya we came in prior
2 to doing anything on reuse because it was uncharted
3 territory at that point. I'd have to agree with
4 Brian, that I'm not advocate of the word "required,"
5 but if you don't come in beforehand and get approval
6 and know where you stand with the Commission, you
7 know, you're assuming that risk just like you are with
8 any other management decision.

9 And, you know, as far as requiring customers
10 to hook up to a reuse system, I'm not an advocate of
11 that either, but in Alafaya we have an availability
12 charge where customers are given an incentive to hook
13 up. I think it's \$5 a month if you don't use the
14 service, and it's \$9 a month if you do use it. So,
15 again, it's your choice.

16 You know, the Alafaya case worked out very
17 well because everybody knew where everybody stood in
18 the plan, and it was somewhat discretionary to us
19 whether we wanted to do reuse or not. And we weren't
20 going to proceed with it without, you know, fair
21 treatment from the Commission, and we were treated
22 fairly. So the project is moving ahead.

23 **MS. SPRINGFIELD:** I'd like to comment on
24 that. I'd like to say, first, that we're really here
25 today mainly to listen and learn, and, you know, we're

1 obviously not the experts by any means when it comes
2 to ratemaking; and so a lot of -- you know, any
3 opinions -- well, not all of them, but some of our
4 opinions that we might express today are just subject
5 to change; go back and think about it and talk to
6 others.

7 Our governing board is meeting today, and if
8 it weren't for that, there might be some other people
9 here from St. Johns.

10 But we would like for there to be greater
11 coordination between the Public Service Commission and
12 our district when it comes to a private utility that's
13 contemplating a reuse project.

14 The existing MOU hasn't really achieved --
15 in my opinion, anyway, hasn't really achieved that to
16 the extent that we would like to see. And Question 21
17 seems to touch on that in that if it were required,
18 then perhaps it would enhance the coordination between
19 the agencies and -- but I'm not -- you know, we're not
20 advocating for this, but I think, too, that a lot
21 times with reuse projects the timing of things is
22 really critical.

23 And we've seen it happen where, you know,
24 the Water Management District might require a utility
25 to implement a reuse project and then they have to go

1 to the Public Service Commission to actually be able
2 to do that and -- for ratemaking, and then for one
3 reason or another, that's where, you know, the brakes
4 are put on, you know, at least for some time.

5 And we think that perhaps if we did more
6 coordination up front, like perhaps if they submitted
7 their reuse plans to both agencies at the same time
8 and we coordinated, where you guys who are the experts
9 when it comes to economic feasibility would help us
10 with making that determination, because we have to
11 make a determination regarding economic feasibility
12 before we require somebody to do a reuse project.

13 **MS. CHASE:** Well, let me ask you that. Do
14 utilities file reuse plans with you and with DEP?

15 **MS. SPRINGFIELD:** Well, under the statute if
16 they have prepared a reuse feasibility study in
17 accordance with the DEP requirements, then they can
18 submit that to the Water Management District, and it
19 satisfies the requirement for a similar study for
20 consumptive use permitting purposes.

21 And I don't know how much you want to get
22 into that, because that's -- there is a fairly
23 controversial issue associated with that which
24 concerns whether the Water Management Districts have
25 to accept the permit applicant's determination of

1 feasibility or whether we make that determination.

2 **MS. CHASE:** Well, what I was wondering is,
3 is that the point of entry, or whatever. If a Water
4 Management District gets one of those, or DEP, perhaps
5 that would be at the point where we could share.

6 **MS. SPRINGFIELD:** I think that would be, you
7 know, appropriate, and if that's not happening,
8 then -- you know, then -- we sometimes don't get the
9 reuse feasibility studies either at the time that
10 they're submitted to the Department; and we've been
11 trying to change that so that we get them sooner as
12 well. And, you know, maybe we could -- I mean, that
13 seems like a pretty -- something that would be pretty
14 easy to do is to change our procedures so that whoever
15 is being submitted the reuse plan, whichever agency
16 is, you know, being submitted a reuse plan first, that
17 that then is distributed to the other interested
18 agencies and then we could perhaps coordinate, you
19 know, on evaluating that plan.

20 As far as in the consumptive use permitting
21 process, we're under some fairly tight time frames,
22 and I think that's one reason our coordination hasn't
23 been as good as it might be.

24 Just one more thing on that particular
25 question is that we would encourage the -- if you did

1 move in this direction towards requiring utilities to
2 submit these plans prior to permitting for the Public
3 Service Commission to evaluate, we would encourage
4 that it be limited, that the prudency determination be
5 limited to the economic prudency and not whether it's
6 prudent in terms of the water resources.

7 **MR. FRIEDMAN:** JoAnn, you may or may not
8 recall that -- although it may not have been
9 required -- but in the Alafaya case, we had -- you all
10 noticed both DEP and the Water Management District,
11 and both -- representatives of both those agencies
12 showed up at our -- at the customer meeting.

13 I don't know what advanced documentation
14 they asked for or did not ask for, but I do recall
15 neither one of them said a word. So even though that
16 may not be something that is formally done in your
17 rules, certainly something happened between the Staff
18 in that case and the staff of the Water Management
19 District and DEP that they got notice of what was
20 going on. So I think at least to some extent
21 informally that happens anyway.

22 **MS. CHASE:** I think that, yeah, it can
23 happen, and it did happen in that case, but without
24 some sort of a formal procedure or something, then it
25 is left up to individuals and whatever, and maybe

1 that's the -- maybe we can close that loop maybe just
2 fixing the MOU or whatever.

3 But I think we were really envisioning that
4 with this particular issue, requiring utilities to
5 submit it might be a good for everyone, including the
6 utilities, as far as that certainty that you're not
7 waiting and being second guessed in a rate case. We
8 just wanted to get feedback on that thought.

9 **MR. McCROY:** And I concur again with what
10 Staff was saying in Item 21 in that when we had
11 Alafaya come in for the reuse case, we had the Water
12 Management District on board, DEP was on board, and we
13 were on board, and it's a lot easier for us to make
14 suggestions and make recommendations and give and take
15 in that point of time than have the plan to go
16 through, be approved, and then come to us and --
17 typically me -- with this grandiose plan and we want
18 you to pay for it.

19 And then we go in and start looking at some
20 items that we consider may or may not be prudent for
21 us to be taking care of at that period of time. So if
22 we can get that prior to coming here in a formal
23 setting and review process together, I think it kind
24 of hedges the problems that we have in the -- when we
25 do that.

1 So if the "required" is giving everybody
2 some uncomfortable feelings, then maybe we can use
3 another word. But I think it behooves you to get
4 everybody on board prior to coming to the Commission
5 with a final plan for approval.

6 **MS. CHASE:** Well, along those lines, if
7 utilities are required -- and I'm assuming they are --
8 if they're going to go into reuse, they have to file a
9 reuse feasibility study, or something, with DEP.
10 Would there be an objection to whenever you're filing
11 anything like with DEP or the Water Management
12 Districts you file it with us, too? That way whether
13 or not we have a docketed matter, we have that
14 document. I mean, we then can look at it and decide
15 if we need to get involved or if there's something --
16 would there be an objection there?

17 **UNIDENTIFIED SPEAKER:** On reuse feasibility
18 studies, if somebody is doing a feasibility study,
19 that means they don't want to get in the reuse
20 business. They're showing economically that it's not
21 feasible to do it. If they've made the decision to
22 get into it, they're going to skip that step and that
23 cost of doing a feasibility study, and they're going
24 to develop a master plan. That's what you need to
25 capture.

1 **MS. CHASE:** Okay. So it's an either/or.
2 You're going to file either a master plan to do
3 something or you're going to file a reuse feasibility
4 study saying you're not going to get into the
5 business.

6 **MR. ELSNER:** Every time we've received the
7 reuse feasibility study it's to show that it's not
8 economically, technically, or environmentally feasible
9 to it. And our rules say that the applicant's
10 determination is final; and we don't second-guess
11 that, the South Florida Water Management District.

12 But those folks that have decided reuse is
13 feasible are already developing a master plan. In
14 some cases they do ask for participation by the Water
15 Management District. Others, it's done and we just --
16 here it is. So I think that's what you -- that's the
17 thing you're trying to capture, and I don't know that
18 procedurally where you do that at.

19 **MR. SHAFER:** Have you found yourself in a
20 situation where a master plan was filed and you
21 didn't -- and your Water Management District wasn't in
22 total agreement with that master plan? How was
23 that -- if you had that happen, how was that resolved?

24 **MR. ELSNER:** I don't recall a situation
25 where we haven't agreed with a utility going in that

1 direction.

2 **MR. TERRERO:** I believe that, you know,
3 whenever you get to the point, Greg, it's a matter of
4 you have agreed with the Water Management District,
5 how are you going to approach the plan for effluent
6 disposal.

7 Also in there, reuse feasibility studies, we
8 usually have to put it in the records every time we
9 have an application for a new modification of the
10 plant or a new permit application for the operation of
11 the plant, or a new CUP.

12 We sometimes -- I can't agree with him in
13 reference of they are usually accepted. We -- for
14 example, St. Johns is very picky about it, so we have
15 to go sit down with the people, go over what we have;
16 but it's usually -- it's a long process, and I believe
17 that, you know, that it was an MOU between the Public
18 Service Commission, DEP, and the Water Management
19 District.

20 So every time that we submitted it to either
21 of those agencies, we thought it was coming to you
22 people here. Sometimes, is what we're saying, is it's
23 not feasible to do it, we do it. We do the report.
24 But sometimes if we're doing 100%, like, let's say
25 Marco Island, most of the wastewater is being reused.

1 It's a very short form. It's just one letter, we're
2 doing this, we're doing that, and that takes care of
3 it. So it's very short and sweet. But then you don't
4 see the project, what the project is, what the project
5 consists of. So there's a -- it's a lack there, and,
6 you know, to me it's very questionable what are we
7 going to be able to take from there as used and
8 useful.

9 In some of these utilities like, let's say,
10 Marco Island that's been mentioned so much, it's
11 almost fully developed. So anything you're going to
12 do there is going to be the ultimate. They build
13 out -- you don't want to go there with a 6-inch pipe,
14 then come back next time with an 8-inch, then come
15 back with another 10-inch pipe.

16 You have to go there and do the whole
17 shebang and move on. And it's hard to do it without
18 knowing what's going to happen to the investment we're
19 making. And, you know, this is in cooperation with
20 the Water Management District because they do share
21 costs with us in most of these projects.

22 **MR. McCROY:** Well, Ralph, I guess that's
23 where I'm saying that it would behoove everyone to get
24 on board earlier, come to us with that information.

25 I hear what you're saying about the used and

1 useful adjustment. I can tell you when -- in the
2 reuse cases that we've dealt with for the last two
3 years, we've been very liberal on the reused -- the
4 used and useful adjustment. We totally agree with you
5 if the capacity is best suited to build a 10-inch
6 line, to build a 10-inch line. I mean, that's -- I
7 don't think that's a big argument, at least not for
8 me.

9 I can't speak for Bob. That's my
10 supervisor. So I can't speak for him. But for me
11 from a technical standpoint, if you're presenting a
12 project and you're looking at the build-out of the
13 project, and it behooves you to put in a 10-inch line,
14 I think that would be nitpicking to come back and try
15 to justify an 8-inch line.

16 But I still say it behooves the utility to
17 get with PSC as well as the Water Management District
18 and the DEP when you're formulating these plans so we
19 have a bit of the apple prior to any finalization of
20 the plan. That way it comes over to us a lot
21 smoother, and the transition, I think, would be a lot
22 better.

23 **MR. ARMSTRONG:** I guess just for
24 clarification, too, so we go -- you know, because this
25 is just for information and discussion. But, you

1 know, what Ralph and others have indicated, reuse
2 feasibility studies are done both for management --
3 Water Management Districts when you have CUP renewals
4 as well as when you have capacity analysis reports you
5 file with the DEP, that you would do a reuse
6 feasibility study at that point.

7 So there are -- and there are many of these
8 studies -- as has been indicated, many of them say
9 it's not economically feasible, boom. So there's no
10 recovery required and no request for recovery
11 required.

12 Like for the CUP renewal process, you do the
13 reuse feasibility study as a matter of course; and
14 like Ralph said, you might -- or you'd be doing reuse
15 if it's a one-pager.

16 So again, for information, you know, a hard
17 and fast rule that you send a copy every time you do
18 these things would be unduly -- you know, unduly
19 burdensome at that point.

20 And, again, you know, James, I can see the
21 point about some -- you can look at the electric plant
22 siting requirements where you come in for preapproval
23 of the siting and -- which entails preapproval of
24 other things as well, I guess.

25 But, you know, the certain -- I guess our

1 only preference is to have these workshops, to have a
2 full discussion of just what it is that we're trying
3 to achieve to have us all walk away with guideposts
4 and guidelines of what it is we want to achieve, and I
5 think a lot of it can start resolving itself.

6 And to start putting a requirement in as
7 opposed to a -- what exists now, which is an
8 alternative to do a reuse project plan, to do a
9 requirement that you come in for preapprovals just
10 could end up being against the goals that we want to
11 achieve, because it could be another source of delay,
12 delay, delay, delay, delay.

13 Because you remember -- you know, we all
14 have to remember we don't do the reuse unless we do
15 have the permits to do so unless it has been approved
16 by the environmental folk. You know, so I can
17 understand what the perfect world would do, which
18 would be every project you have, come in and get an
19 electric site permit, you know, or something
20 equivalent to it.

21 But that's a perfect world, and that's not
22 the world we live in when we have consumer advocates
23 and others out there that, you know, don't want to see
24 an increase in rates, period, for whatever -- and
25 whatever way they can achieve not getting a rate

1 increase, it will be attempted; and that means,
2 extending, extending, extending.

3 **MR. ELSNER:** Another important part, and
4 Ralph brought it up, is that the Water Management
5 Districts are governed by the same set of statutes.
6 However, we each have our own set of rules on how we
7 implement those statutes. So our approaches are very
8 similar, but there are differences in the way we
9 approach reuse as well as others. So you need to keep
10 that in mind.

11 And all but one Water Management District
12 does not regulate the use of reclaimed water. We do
13 not issue a consumptive use permit to a golf course
14 that's using 100% reclaimed water. So that's a point
15 that if a wastewater utility is getting into the reuse
16 business, they don't have -- if they're not going to
17 effect their consumptive use permit, they don't have
18 to come in the Water Management District and let us
19 know.

20 Most of them do, to find out, you know,
21 what's the water resource situation in that area, who
22 are the large users in that area; but we don't issue a
23 permit solely for the use of reclaimed water.

24 **MS. SPRINGFIELD:** Can I clarify just for the
25 record? St. Johns River Water Management District

1 doesn't require a consumptive use permit if the use is
2 100% reclaimed water.

3 However, there are very few cases where
4 that's the case. And we do allocate reclaimed water.
5 For example, if a golf course needs a well to provide
6 water to its clubhouse facilities or drinking
7 fountains or pool facilities or anything like that,
8 then they wouldn't have to get a consumptive use
9 permit. And as part of that consumptive use permit we
10 would allocate the reclaimed water as well as
11 allocation ground water for the other uses.

12 We also typically provide backup sources for
13 most of the reclaimed water uses, and if a reclaimed
14 water user needs a backup source to their reclaimed
15 water source, then they would need a consumptive use
16 permit.

17 **MS. CHASE:** Along the lines of Issue 21
18 about requiring the submission of reuse project plans,
19 that is something, of course, we'll continue to
20 discuss and consider.

21 But I think Jennifer brought up a really
22 good point, and James, that we do need to find a way
23 where the DEP, the Water Management Districts, the PSC
24 get involved earlier on together to try to resolve
25 some of these issues.

1 We're thinking if we were to do that, that
2 we would not necessarily have the delays after the
3 fact that we are experiencing now and the differences.
4 So really it's to try to find a better way to do the
5 process is what we're looking for.

6 But along those lines, I think the
7 utilities, the private utilities, should bear some
8 responsibility here, too. If you are, and you know
9 you are, providing a reuse plan to the DEP, to the
10 Water Management District for approval, don't assume
11 we're going to get it. I mean, hopefully, we are
12 going to find a way to make that work, but don't
13 assume we're going get it. And what would it hurt to
14 send it to us to make sure? I think it's in your best
15 interests to do that, to share the information early
16 on, but we'll consider -- you know, we'll continue to
17 discuss that question.

18 **MR. ELSNER:** I just have one other comment.
19 I apologize. I had to walk out a minute ago when we
20 were talking about beneficial reuse, and when I walked
21 back in we talked about a coordinated effort possibly
22 between DEP, the Water Management Districts and the
23 Public Service Commission to determine what reuse is.

24 Under the South Florida Water Management
25 District, we've adopted the DEP definition as our

1 definition of reuse. So if you get our involvement,
2 we're going to say -- and I'll just bring up Marco
3 Island, since that's been the plant of choice -- we're
4 going to say that, yeah, perc ponds, that's part of
5 our definition, so that's reuse.

6 But what you're trying to get at is more of
7 beneficial reuse and actually is there a bang for your
8 buck. So we really need to get a little further than
9 is it reuse and talk about, you know, what are the
10 sort of questions, what is beneficial or not, because
11 those ponds, they may not be charging a fresh water
12 aquifer, but they may be serving as saltwater
13 intrusion barrier. And I'm not that familiar with the
14 situation.

15 So there's different purposes for reuse,
16 and, you know, what level are you looking at in the
17 way of saying -- what level of benefit are you looking
18 at to say, yeah, this is reuse and it is 100% used and
19 useful or it isn't; and if that's where you're going,
20 we need to put a framework together to get to that
21 bottom line.

22 **MR. CROUCH:** Is deep well injection still
23 being approved down there?

24 **MR. ELSNER:** Yes. And in South Florida we
25 have very large utilities, and it's not our disposal

1 method of choice, but it's extremely important to a
2 reuse system during inclement weather times to be able
3 to get rid of this water when you can't spray irrigate
4 with it. So it does have its place within the reuse
5 arena, but it's not our preferred choice of disposal.

6 **MS. CHASE:** Are we finished with used and
7 useful?

8 **MR. SHAFER:** I just have one question. I
9 had a question I wanted to ask the folks from
10 St. Johns, and that was, since you have a slightly
11 different take than DEP on the definition of reuse in
12 some cases, have you had situations arise where you've
13 had to resolve that difference of opinion with DEP?

14 **MR. BURKLEW:** On the only cases I've been
15 involved with, they've been systems that didn't have
16 any other source, it was just reclaimed. So we
17 offered an opinion, but that's all we had the ability
18 to do. We really didn't have the authority through a
19 water use permit to have a little more leverage, if
20 you will. So basically we just kind of saw that boat
21 go by and didn't really have much of an opportunity
22 other than to comment.

23 I don't know if Jennifer may have a little
24 more experience in other areas of the district.

25 **MS. SPRINGFIELD:** Well, I can't think of any

1 specific instances, projects where we differed. There
2 may be some.

3 But we have commented on their rule. When
4 they were in rulemaking, the Phase I of their
5 Chapter 62.610, which is now in effect, I believe, the
6 Phase I that -- where they were dealing with the
7 definition, we commented and, you know, we had
8 discussions with DEP staff about the differences
9 between how we define reuse and how they define reuse;
10 but I can't think of any cases where it's been an
11 issue.

12 **MS. CHASE:** Do you actually have reuse
13 defined in your rules anywhere?

14 **MS. SPRINGFIELD:** Yes.

15 **MS. CHASE:** You do?

16 **MS. SPRINGFIELD:** Yes.

17 **MS. CHASE:** Could you provide that to us?

18 **MS. SPRINGFIELD:** Sure.

19 **MR. BURKLEW:** I had one question just for
20 you all on Number 18 on the reuse facilities. When
21 you all look at reuse facilities -- I realize the
22 focus is just on reclaimed claimed water, but we're
23 seeing progressively, and particularly with this
24 drought, we're just starting to see that a lot of
25 folks, when they make these commitments in contracts

1 and stuff to get rid of reuse, it's resource's benefit
2 to unload as much as they can; but when it gets real
3 dry, we're really seeing the need to supplement a lot
4 of these systems.

5 Do you all as a matter of routine look at
6 those alternative sources and the capital costs that
7 go into providing that backup? Is that considered
8 part of the system in y'all's evaluation? I wasn't
9 sure how that was done.

10 **MR. SHAFER:** (Pause) He's telling me to go
11 ahead, and I really don't have a lot of experience in
12 working on the reuse cases.

13 **MR. McCROY:** When someone submits a reuse
14 plan to us, as part of the review we do talk with them
15 about the instances where there may not be enough
16 reuse and how would they plan on handling that. But
17 really that's under the discretion of the engineer or
18 the utility who is proposing the plan.

19 We typically accept what they bring to us as
20 feasible and capable to handle whatever the system
21 demands and it may acquire, but I do know of some
22 systems that at critical times have to supplement the
23 reuse water with potable water. So it's not uncommon
24 that it has to be done, but it really behooves the
25 engineer to think about that.

1 MR. CROUCH: I'd like to provide just a
2 little background on something. Earlier I think Brian
3 said that we had been looking at reuse since about
4 '89.

5 In about 1989 I got a call from DEP when
6 they were coming up with their definition, their rule,
7 and they made the statement that reuse facilities
8 fully should be recovered in rates, and they asked me
9 if that was a legitimate -- if that was a valid
10 statement, that they would be fully recovered in
11 rates. And I said yes, because from an economic
12 standpoint rates come under two different categories,
13 existing customers and future customers; and that a
14 legitimate reuse facility, yes, the expenses for that
15 legitimate reuse facility should be recovered in
16 rates. No argument.

17 In the last few years we've made a quantum
18 leap in logic -- or illogic, depending on your
19 viewpoint -- that changed that to say that they will
20 be 100% used and useful.

21 Now, a little background: When I say the
22 difference in rates between existing customers and
23 future customers, there is a mechanism in our rate
24 structure that says existing customers will pay for
25 what is used and useful. But if it is not used and

1 useful, if it's held for future customers, it can come
2 under a category called AFPI, allowance for funds
3 prudently invested; and that is one of the biggest
4 stumbling blocks -- I see people sitting there shaking
5 their heads "no," because there has always been
6 controversy over AFPI, whether it is something that
7 actually gets rates back to the utility or not.

8 AFPI is a very questionable aspect of rates,
9 but when DEP called on this rule in about '88, '89,
10 their question was "Could legitimate reuse facilities
11 be fully recovered in rates?" My answer: "Yes."

12 Since that time, though, the quantum leap
13 has been that that automatically means 100% used and
14 useful, that that automatically means existing
15 customers are going to pay for the whole show; and
16 this is where as an engineer I find fault in that jump
17 in logic, because although most cases this does not
18 happen, theoretically, and in several actual cases a
19 reuse facility can be greatly oversized for existing
20 customers.

21 And under the concept that says it's 100%
22 used and useful, that would mean that existing
23 customers would pay for that whole facility, even
24 though a sizable percentage of it is dedicated for
25 future customers, and that's an element of the

1 equation that is not represented here today. There's
2 nobody here speaking for the customers.

3 If it's decided that anything that's called
4 reuse is 100% used and useful, that means existing
5 customers pay for it. And that, in my opinion in a
6 nutshell, is what this whole used and useful argument
7 is about. Is it 100% used and useful? Do existing
8 customers pay for the whole thing, or do we look at it
9 on a case-by-case basis?

10 Now, even the courts just recently in their
11 decision when they upheld 100% used and useful still
12 said that prudent sizing will be a consideration.
13 Now, in my opinion again, that's an escape clause
14 right there that if something is greatly oversized, I
15 am not going to recommend that 100% of it be placed on
16 the shoulders of the existing ratepayers.

17 My recommendation will be otherwise, and
18 then the Commissioners will make their decision based
19 on whatever they feel.

20 **MR. ARMSTRONG:** And let's put that in
21 perspective in the history, and, you know, I
22 appreciate the history you have there, but there's
23 some very telling things that come from that history.

24 In '89 you recall when the reuse definition
25 was being established and you said, yes, they can

1 recover their investment in rates, you tell us now --
2 you know, and we understand what your perspective was,
3 current and existing customers, AFPI, they can recover
4 it in rates. So that's what DEP was informed.

5 History showed thereafter that there wasn't
6 100% recovery from existing customers. So the statute
7 is changed. The Legislature makes the determination
8 with the support of Management Districts, DEPs,
9 utilities, et cetera, environmentalists to say 100%
10 recovery should be from existing rates.

11 Number one, the Commission -- you have some
12 prior knowledge where you diverged from others. Your
13 knowledge then should have been crystallized, that
14 there was that divergence when the statute was
15 enacted, because that was very clearly a divergence
16 from what was done before by making that investment
17 recoverable from not only existing, but future as
18 well.

19 The Commission ultimately decided to ignore
20 the statute and stick with your prior concept. So
21 that's a source of contention, and that's one where I
22 hope we can at least get past that. I mean, it's
23 clear. I mean, I don't think it's unclear to anybody
24 what that statute means. Now the Court has said what
25 that statute means.

1 AFPI, Bob, we've had the discussions, we've
2 had the rulemaking. Every Staff accountant that's
3 ever talked on the issue said it doesn't work. We all
4 know it doesn't work. It doesn't allow recovery of
5 the investments. It's not -- even mathematically
6 allow recovery. And since we've talked about our
7 case -- and sometimes there's \$7 million worth of
8 revenue requirement associated with nonused and
9 useful.

10 That AFPI rate allows recovery about a half
11 million dollars a year. Obviously AFPI under the
12 concept that's always touted, it's -- was supposed to
13 recover \$7 million a year because that's what the
14 revenue requirements associated with the nonused and
15 useful is. It doesn't work, and everybody knows that.
16 So that has to be clear.

17 Whenever anybody talks about AFPI, I won't
18 use the word "honest," but there's something there to
19 suggest that that's there taking care of things is
20 wrong.

21 Used and useful, I mean, what is
22 happening -- used and useful, yes, it's a requirement.
23 It's a requirement in every state that I know of in
24 terms of utility regulation to look at used and
25 useful. It's in our water and wastewater statute, and

1 for years that's what we heard from water and
2 wastewater Staff was, well, we've got to do that by
3 statute. And we said, well, it's in the electric
4 statute, too, but you don't do the electric what's
5 done to us, you know.

6 The obvious -- the easiest example is the
7 lines that we talked about before. Nobody goes to the
8 electricians or to the telephones or anybody else and
9 says, all right, you've got to pipe past 100 lots,
10 50-yard connected tips -- 50% used and useful. Hey,
11 do it. Reduce my electric rates for me. Why isn't it
12 fair to them if it's fair to us?

13 Why? Because it's not fair. It's not done
14 anywhere else in this country. So I guess what needs
15 to be done is the premise. Everybody's premise of
16 what used and useful and what that connotes has to
17 really get some refinement, and I understand that's
18 difficult at times. But, you know, it's got to be
19 refined. It's got to be understood.

20 I mean, and that used and useful concept is
21 in the electric, but it's not applied to them in the
22 same way as applied to us. And why not? Is it
23 because they're -- you know, it's reasonable for them
24 and it's not reasonable for us? Baloney. It's
25 reasonable for everybody to look at it the way you

1 look at it for electricians, and that's what should
2 happen here.

3 But that's going beyond the scope of the
4 reclaimed and the reuse obviously, but, you know, it's
5 a workshop. It's informal, and it should be
6 discussed, and it makes me feel better. (Laughter)

7 But, you know, this process and having these
8 things and having the fact that we have a -- you know,
9 a reuse coordinating committee that's there, and I
10 understand the PSC goes to it.

11 The fact that there is a lot of practical
12 requirements here -- you know, Bob, your views
13 obviously have to -- you know, are very telling, you
14 know, and your history of 1989 and coming through the
15 statutes is very telling, and it's very informative to
16 all of us.

17 But we have -- I think what really needs to
18 be done is to first clarify where we're going, you
19 know, where we're heading and what are the goals we're
20 trying to achieve, because I think that should be
21 pretty easy; and that's conservation of water and
22 that's, you know, encouraging conservation of water,
23 encouraging protection of the environment. And then
24 you can step from there and say the little nuances
25 between recharging aquifers.

1 Mark makes a great point in terms of
2 saltwater intrusion barriers, because there is some
3 aspect to that in a place we all know and love. And,
4 I mean, it can be refined over time, but I hope the
5 process we'll all go through now that's been initiated
6 by this is to establish that refinement and come to a
7 place where there is consistency between the economic
8 and the environmental regulation, where there is some
9 certainty to a utility and its investors when they
10 make investments.

11 And I think that's everybody -- that's the
12 concept here, why we're all sitting here and I -- it
13 really seems like it's achievable, particularly
14 because we have the involvement that we have.

15 **MR. SHAFER:** Okay. I think it's probably a
16 pretty reasonable time to break for lunch. 1:30;
17 reconvene at 1:30, recognizing how far away we are
18 from anything other than the local commissary.

19 (Thereupon, lunch recess was taken at 12:00
20 p.m..)

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22 (Transcript continues in Volume 2.)

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