

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of

Application for rate
increase in Duval, St. Johns:
and Nassau Counties by
United Water Florida, Inc.

:
DOCKET NO. 980214-WS
:



PROCEEDINGS: **AGENDA CONFERENCE**
 ITEM NO. 45

BEFORE: CHAIRMAN JOE GARCIA
 COMMISSIONER J. TERRY DEASON
 COMMISSIONER SUSAN F. CLARK
 COMMISSIONER JULIA L. JOHNSON
 COMMISSIONER E. LEON JACOBS, JR.

DATE: **Tuesday, February 16, 1999**

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

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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PARTICIPATING:

JAMES ADE, United Water Florida.

JOHN GUASTELLA, Guastella Associates.

ANN CAUSSEUX, FPSC Division of Auditing &
Financial Analysis.

BARRY DAVIS, **TRISH MERCHANT** and **BOB CROUCH**,
FPSC Division of Water & Wastewater.

P R O C E E D I N G S

1
2 **MR. DAVIS:** Item 45 is proposed agency
3 action rate case of United Water Florida. This item
4 has been deferred twice already, and the utility has
5 presented the additional information to us.

6 There are utility personnel here ready to
7 speak as well as Water Management District people who
8 are available to answer questions on the reuse issue,
9 as well as the Ponte Vedra Golf Course has a
10 representative that can answer questions on the reuse
11 issue.

12 **CHAIRMAN GARCIA:** Are the utility persons
13 here to answer questions or to make a presentation?
14 You're on. No. If The light is off, you're on.

15 **MR. ADE:** The light is off, I'm on.

16 **CHAIRMAN GARCIA:** Mr. Talbot has promised me
17 that we're going to fix that before the end of my
18 tenure as chairman, so we're on a limited time clock.

19 **MR. DAVIS:** Chairman Garcia, we have some
20 people here to speak.

21 **CHAIRMAN GARCIA:** Okay. All right. Well,
22 Commissioners, then, we might as well as hear from the
23 company, and then unless Staff wants to -- and then
24 Staff can respond to any questions that the company
25 may pose.

1 **MR. ADE:** Mr. Chairman, I am Jim Ade of the
2 law firm of Martin, Ade, Birchfield and Mickler and
3 here representing United Water Florida. We also have
4 with us Mr. Walton Hill, who is the vice-president for
5 regulatory management -- regulatory matters for United
6 Water's management and services company; Mr. John
7 Guastella, who is the president of Guastella
8 Associates; Mr. Gary Mosley, who is the vice-president
9 and general manager of United Water Florida; and
10 Mr. Scott Schildberg, who is a lawyer in our office.

11 This docket has 36 issues in it and we
12 really only want to address a group of three issues
13 that really involve one issue primarily, which are
14 Issues 3, 5, and 6, which Mr. Guastella is going to
15 address; and when he's finished I then would like to
16 address Issue 12, which is the investment tax credit.

17 **CHAIRMAN GARCIA:** 3, 5, 6 and 12, then are
18 going to be --

19 **MR. ADE:** 3, 5, 6 in one group because
20 they're related, and then 12 separately.

21 **CHAIRMAN GARCIA:** Okay.

22 **MR. ADE:** And Mr. Guastella, do you want to
23 go?

24 **CHAIRMAN GARCIA:** Mr. Guastella, I would
25 just caution you that we are going to take a lunch

1 break at 12:30. That isn't for you to soak up the 30
2 minutes, but there are some citizens that we have
3 to -- that are here that want to speak on another
4 docket, so if you can be brief, we would appreciate
5 that greatly.

6 **MR. GUASTELLA:** Commissioners, I'm dealing
7 with the used and useful adjustments just as a broad
8 issue where I think it's important to recognize that
9 United Water Florida is not a developer related
10 utility. It's very significant because its cost of
11 providing service has to be recovered through the
12 utility operations, and there's no related developer
13 business to absorb any cost, nor is there an issue
14 regarding the risk of the success of the development
15 in terms of growth.

16 And I also would like to address the issue
17 in terms of what the Public Service Commission allowed
18 this company in the last case and some of the policy
19 at least in the last case it established for this
20 company, with respect to used and useful adjustments.

21 The Staff's used and useful adjustments
22 applies solely to the Blacks Ford wastewater treatment
23 plant and the related effluent disposal site and land;
24 and there are no other used and useful adjustments
25 being made by Staff.

1 With respect to the Blacks Ford wastewater
2 treatment plant and the effluent disposal site land,
3 the effluent disposal site land adjustment is really
4 geared to whatever Staff did with respect to the
5 Blacks Ford wastewater treatment plant. So we're
6 basically dealing with a very narrow used and useful
7 issue, namely the Blacks Ford wastewater treatment
8 plant.

9 Staff's entire adjustment relates to how it
10 calculated its margin reserve, and I'd like to point
11 out two areas where we think the margin reserve is
12 improperly applied.

13 One is Staff used committed capacity as
14 opposed to the actual growth projections upon which
15 the company had to expand its plant and meet demands
16 consistent with DEP regulations. The growth demands
17 are projected at a million gallons by the year 2001.

18 The committed capacity was at the time of
19 Staff's analysis about 488,000 gallons. It is now
20 about 650,000 gallons, and by the time the year 2,001
21 comes when the actual demands are indeed at the
22 million gallons as projected and for which the plant
23 was built, the committed capacity, or the approved
24 capacity, will have caught up to the actual capacity.

25 So I think it was inappropriate to use

1 committed capacity. It's not the basis for which the
2 plants are designed or the money is spent.

3 The other item with margin reserve is the
4 period that Staff uses. In the last case the
5 commission, in considering one of the water and
6 wastewater treatment plants, Ponce de Leon treatment
7 plant, used a five-year margin reserve in its
8 calculation for the wastewater treatment plants. In
9 this case even if the year and a half or two that
10 Staff uses were used but the actual growth were used
11 for the demands instead of the committed or approved
12 capacity, it would still reach 100% used and useful.

13 I think at least in some other cases Staff
14 has used or the commission has recognized at least
15 three years for water and wastewater treatment plants.
16 So we -- the company's position is that you really
17 should be using a period for margin reserve larger
18 than a year and a half or two years.

19 Which brings me to just a couple of other
20 issues that won't take very long at all. In the
21 Commission's last decision for this company, it
22 recognized with respect to the Ponce de Leon water and
23 wastewater treatment plant that even though the ratio
24 of demands to capacity was only at about 12%,
25 calculations showed -- that the Commission had made --

1 showed that it would not cost any less to serve just
2 the existing customers. In other words, the company
3 had to spend as much money to serve existing customers
4 despite the fact that at that time the ratio of demand
5 to capacity was a small percentage.

6 The same is true here, particularly with
7 respect to the effluent disposal site. They just
8 could not have spent any less money to serve existing
9 customers, and even not another customer comes on
10 line, the amount of money that was spent had to be
11 spent.

12 Another adjustment the Commission considered
13 in the last case when considering used and useful was
14 it really didn't have a significant impact. The
15 adjustment for a particular isolated plant out of this
16 entire system didn't have a significant impact. Here
17 we're talking about a used and useful adjustment of
18 something less than 3%. In other words, 97% of all of
19 United Water's facilities are, according to Staff,
20 100% used and useful.

21 When you reach that kind of a percentage, in
22 my opinion, it's very difficult to say then that this
23 plant isn't, for rate setting purposes, considered
24 100% used and useful. In other words, it doesn't have
25 that much of a rate impact on customers, although it

1 would on return.

2 And then to finish up, it's important that
3 this is not a developer related business, because if
4 the rates don't reflect the covering of the cost,
5 there's not some related business that's going to
6 absorb this, nor should absorb this, because of some
7 risk. This is directly affecting the ability of the
8 company to attract capital. And I don't think it's
9 reasonable to expect the stockholders to subsidize
10 this growth when the utility could not avoid but to
11 spend the money for Blacks Ford's treatment plant.

12 **CHAIRMAN GARCIA:** Thank you, sir. Mr. Ade?

13 **MR. ADE:** Mr. Chairman, Commissioners, to
14 address Issue 12, which is the cost rate that should
15 be used for the unamortized investment tax credits,
16 we've sort of found ourselves here in a situation
17 where we've sort of elevated form over substance. And
18 the position that the Staff has taken in the Staff
19 recommendation is that the only way to prove that a
20 utility company elected an option to election for the
21 investment tax credit is to produce a copy of the
22 election form.

23 The election form was probably filed in 1972
24 or 1973, and we just simply haven't been able to put
25 our hands on that form that's some 20-something years

1 old. However, there are more than one way -- there is
2 more than one way to prove any fact, and we believe in
3 this case we have certainly provided to the Staff and
4 to the Commission plenty of information upon which the
5 Commission can determine that the company is an Option
6 2 company.

7 I don't think we need to bog down
8 particularly in the details of the distinctions
9 between an Option 1 company and an Option 2 company.
10 I think we can simply suffice it to say that it has to
11 do with the way that you calculate the unamortized
12 investment tax credit that was taken. Investment tax
13 credit of course, was repealed in 1986, so you just
14 don't see much of this anymore; and all this occurred
15 because of elections that were made prior to that
16 period of time.

17 But in Order No. 10531, which was a 1981
18 docket which involved a rate case for, I'm going to
19 call it United Water Florida -- it was actually a
20 predecessor company of United -- actually it was the
21 same company, a different name for United Water
22 Florida -- the Commission acknowledged that United
23 Water Florida was an Option 2 election company by
24 utilizing the overcost of capital for the cost in
25 determining the investment tax credits in calculating

1 the cost of capital.

2 In other words, in 1981, in the 1981 docket,
3 the Commission did exactly what we're asking the
4 Commission to do now.

5 So 18 years ago -- or 17 years ago
6 probably, when the order came out, the Commission made
7 exactly the finding we're asking them to make today;
8 and until last year's rate case, until last year's
9 rate order, that had been the position of the
10 Commission and the company since that order had been
11 entered.

12 And, as a matter of fact, even two years
13 before that in Order 9533, which was a previous United
14 Water rate case, the Commission determined that it
15 agreed with the way that United Water Florida had
16 handled its investment tax credit and the amortization
17 of it and everything that follows.

18 Now, how did the Commission determine these
19 things in these previous orders if it didn't rely on
20 the election itself? Well, in the 1980 case, the
21 Commission relied on a -- an interrogatory that the
22 Commission propounded to the -- the Staff propounded
23 to the company, and it said and I quote, with just the
24 change of name: Does United Water Utility operate
25 under Option 1, 2 or 3 with regard to the investment

1 tax credits?

2 And the answer was: United Water Florida
3 operates under Option 2 with regard to the investment
4 of tax credit.

5 In the later case, the 1982 case, the
6 Commission relied again on an interrogatory, this time
7 served by public counsel on the company, which says:
8 Does the company operate under Option 1, 2 or 3 with
9 regard to the investment tax credits?

10 The answer was: The company operates under
11 Option 2 with regard to the investment tax credit.

12 So in those two cases the Commission did not
13 require the production of the piece of paper where the
14 election was made. It allowed that proof to be
15 carried by testimony, or sworn testimony, the
16 responses to the interrogatories, the answers to the
17 interrogatories.

18 Now, what happened in the case a year ago
19 that was different? The Commission in its order said
20 that the company had not carried its burden of proving
21 that it was an Option 2 case. Some of you will
22 remember that there was a reconsideration requested in
23 that case, and on the investment tax case --
24 investment tax credit issue, the Commission said when
25 we talked about those orders, those orders were not in

1 the record, that case, and, therefore, could not be
2 considered.

3 So the Commission changed in the last rate
4 case because the previous orders were not there. In
5 this case the previous orders are obviously there.
6 We've called attention to them. The previous answers
7 to interrogatories that you relied on 18 and 20 years
8 ago were there, are there in this case, and in
9 addition, in our MFRs we provided that under -- again,
10 the MFRs are sworn to -- that United Water Florida is
11 an Option 2 company.

12 So our current case is entirely different
13 from the last case, because all of the information
14 that the Commission found was not in the last case is,
15 in fact, before you in this case. And the only
16 difference in this case and the two previous cases
17 that held exactly what we are asking the Commission
18 today to hold is that we had the intervening case
19 where we didn't refer to the previous orders.

20 So I think this case is entirely different
21 from that last case. I think one thing we just need
22 to look at is what is the proof that a company has to
23 provide. Why after 27 years does the manner of proof
24 change? It just doesn't make a lot of sense. The
25 Commission has relied on statements by the company all

1 these years. The company has provided sworn
2 statements that says that we've done all of our
3 accounting in accordance with an Option 2 election,
4 and that's what we continue to do.

5 I think for the Commission today to say,
6 well, you've got to go back and find that piece of
7 paper is just placing an unreasonable burden on the
8 company.

9 **CHAIRMAN GARCIA:** Staff?

10 **MR. CROUCH:** Commissioners, I think the
11 basic argument in the margin reserve question on
12 Issue 3, the Blacks Ford plant is unique in that it is
13 a new system with virtually no history. Usually for
14 margin reserve we look at the history of the growth
15 for the last five years and either go a linear
16 regression or simple average to figure out what the
17 growth potential is.

18 There is no growth information on Blacks
19 Ford. This was a completely new plant built to a
20 million gallon capacity. It is not in operation yet.
21 It should be coming in operation soon.

22 The test year for this case was
23 December 31st, '99. We knew that there were going to
24 be roughly -- (gap in tape) -- that shows that by
25 2001, roughly two years from now, they will be at

1 488,000-gallon capacity. This is committed. We had
2 nothing else to go on. There was a good possibility
3 they could have a lot more than that, but we went
4 strictly on their committed developer projects plus
5 the flows that were transferred over.

6 So 488,000 out of a million gallons gave us
7 49% used and useful. And that was the only thing we
8 had to go on on that. Based on that, like I said, we
9 came up with the 49% used and useful. This was a
10 prudent investment, no argument, but we had nothing
11 else to go on other than their committed developer
12 projects.

13 **CHAIRMAN GARCIA:** Okay. Do you want to
14 address any of the other issues brought up by the
15 company?

16 **MS. CAUSSEAU:** In this case, as in the last
17 case in their MFRs they state that the election will
18 be supplied at a later date. That later date
19 obviously has not come.

20 In essence, there are also -- there's more
21 than one election. They have not been able to produce
22 any.

23 **COMMISSIONER CLARK:** Ann, let me just ask
24 you, are you saying the ones he referred to in the
25 1980 case and 1982 case where they answered the

1 interrogatories, that they were Option 2 for purposes
2 of investment tax credit; it has no bearing on --

3 **MS. CAUSSEAU:** It appears from other
4 information that we have that that was probably an
5 error on Staff's part at that time. We have an early
6 '80, I believe it is, '79 or '80, memo that lists the
7 companies that we knew the option, and they did not
8 fall under Option 2.

9 **COMMISSIONER CLARK:** Wait a minute. We had
10 an in-house list that said they were not an Option 2?

11 **MS. CAUSSEAU:** Yes.

12 **COMMISSIONER CLARK:** Why is that more valid
13 than an interrogatory to the companies that says they
14 were?

15 **MS. CAUSSEAU:** Because it was drawn from
16 some information which they had supplied earlier.

17 **COMMISSIONER CLARK:** It strikes me that
18 that's twice removed -- at least once removed from an
19 interrogatory; and the best evidence, I think, would
20 be the interrogatory. I mean, that's something we
21 produced, and the interrogatories are something they
22 produced.

23 **MS. CAUSSEAU:** We also have an audit noting
24 that they were Option 1.

25 **COMMISSIONER CLARK:** We do?

1 **MS. CAUSSEAU:** We do.

2 **COMMISSIONER CLARK:** What year was that?

3 **MS. CAUSSEAU:** It was in the early '80s.

4 **COMMISSIONER CLARK:** What did that audit
5 base that conclusion on?

6 **MS. CAUSSEAU:** It simply made the
7 statement. I don't know what it based the conclusion
8 on.

9 **COMMISSIONER CLARK:** But both those
10 statements came from --

11 **MS. CAUSSEAU:** Staff.

12 **COMMISSIONER CLARK:** -- Commission sources.

13 **MS. CAUSSEAU:** Yeah.

14 **COMMISSIONER CLARK:** As opposed to company
15 sources. Okay.

16 **CHAIRMAN GARCIA:** Okay.

17 **COMMISSIONER DEASON:** I know that you make
18 the election, but doesn't subsequent tax returns
19 reflect the effect of that election that was made
20 earlier, and can't that be verified in some way?

21 **MS. CAUSSEAU:** Well, the election is
22 supposed to be attached to the tax return in the year
23 in which it was made. Now, it appears to Staff, at
24 least, that they could request copies of the
25 election -- it would be a cost -- but it appears to me

1 that they could request copies of the election from
2 the IRS if they can't find them.

3 **COMMISSIONER DEASON:** But I guess my
4 question is, do subsequent years' tax returns reflect
5 the effect of the election so you can determine what
6 the election was that was made previously? Or is that
7 not evident?

8 **MS. CAUSSEUX:** It would be a ratemaking
9 treatment as opposed to a tax return.

10 **COMMISSIONER DEASON:** So it's really not
11 part of the tax calculation; it's just how the ITCs
12 are treated for ratemaking purposes?

13 **MS. CAUSSEUX:** Right. I mean, you would
14 have any carry-forwards or unused that were realized
15 later would be a part of any subsequent return.

16 **COMMISSIONER CLARK:** What is the
17 significance in terms of expenses or rates if they're
18 found to be an Option 2 as opposed to an Option 1?
19 And how long will we have to deal with this problem?

20 **MS. CAUSSEUX:** How long would we have to
21 deal with the problem?

22 **COMMISSIONER CLARK:** Yeah. Won't it go away
23 at some point?

24 **MS. CAUSSEUX:** 2025, maybe.

25 **COMMISSIONER DEASON:** It depends upon the

1 depreciation of the assets.

2 **MS. CAUSSEAU:** Yeah, it depends on the
3 asset depreciation, their lives. So it could be, I
4 would say, the outside would be 2025, because the last
5 credits were in '85.

6 **COMMISSIONER CLARK:** Okay.

7 **MS. MERCHANT:** Just looking at a rough
8 estimate -- and we don't actually have the revenue
9 calculation for this change -- but -- and there's
10 several different components that changed in the
11 capital structure, but the company's capital
12 structure -- overall rate of return was 8.69. Ours
13 was 8.12.

14 This would also -- change in the option from
15 1 to 2 would have an income tax expense effect, which
16 I don't have calculated. It looks like if you just
17 took the differences between their rate of return and
18 our rate of return, it's about a \$450,000 revenue
19 number. That's without taxes or anything. That's the
20 best guess. And I don't know if the company has any
21 more numbers to support that.

22 **COMMISSIONER DEASON:** Well, are you saying
23 that we're just capturing one side of the adjustment,
24 that we're not capturing the income tax expense side?

25 **MS. MERCHANT:** If you use Option 1, there is

1 no adjustment. The amortization is below the line.
2 If you use Option 2, you get overall rate of return
3 for the ITCs in the capital structure and income tax
4 expenses reduced by the amortization of the ITCs.

5 So there's -- for the Option 2 there's two
6 components to the ratemaking calculation. Option 1 is
7 just zero costs and no expense.

8 **COMMISSIONER DEASON:** So under the company's
9 filing, they're recognizing the amortization, the
10 expense portion of the ITC? They're recognizing that?

11 **MS. CAUSSEAU:** Yes. Under their filing
12 they are doing that, but there's also the other
13 adjustment which would be the interest synchronization
14 adjustment to the ITCs, and they're not doing that.

15 **COMMISSIONER DEASON:** So you're saying even
16 under their election they're not doing the calculation
17 correctly?

18 **MS. CAUSSEAU:** They're not doing it the way
19 this Commission has calculated; where you attribute
20 interest to the debt component of the cost rate to
21 reduce the tax effect.

22 **COMMISSIONER DEASON:** Now under Option 1, we
23 treat it as cost-free capital in the capital
24 structure?

25 **MS. CAUSSEAU:** Under Option 1 we treat it

1 as cost-free capital, and the capital structure, the
2 amortization is below the line. Under Option 2, it's
3 costed at the debt and equity component. Amortization
4 is above the line, and there is an interest
5 synchronization adjustment made which --

6 **COMMISSIONER DEASON:** And they have shown
7 the amortization above the --

8 **MS. CAUSSEAU:** Yes.

9 **COMMISSIONER DEASON:** But the net effect of
10 that is there's still -- under Staff's recommendation,
11 there's -- it's a net revenue requirement reduction?

12 **MS. CAUSSEAU:** Yes, I believe there is.

13 That's the 450,000 --

14 **MS. MERCHANT:** That was just a rough
15 estimate. That was just the difference between the
16 two requested rate of returns.

17 Commissioners, I also wanted to make another
18 point on the used and useful issue. Staff has
19 recommended that the utility receive AFPI on the
20 nonused and useful and that they be allowed to collect
21 guaranteed revenues on that nonused and useful
22 connection. So I just wanted to bring that to your
23 attention.

24 **MR. ADE:** Mr. Chairman, may I address some
25 of the questions that have been asked by the

1 Commissioners?

2 **CHAIRMAN GARCIA:** If the Commissioners want
3 to ask you a question, I think they can, but you've
4 been allowed to express your position, and Staff
5 responded to those issues.

6 Do any of the Commissioners have a question?

7 (No response.)

8 There being no questions, no, Mr. Ade. Is
9 there anything else?

10 Do you want to proceed item by item, or does
11 anybody want to make a motion?

12 **COMMISSIONER CLARK:** Let me just say with
13 respect to Issue 12, this strikes me, you know, if we
14 have consistently used and relied on their
15 representation that they were Option 2 -- I understand
16 we didn't do it in the last case, and the rationale
17 that Mr. Ade gave was that the previous orders where
18 we did acknowledge they were Option 2 or not in the
19 record. I don't know that there was a reason to do
20 that. But it strikes me that the best evidence is the
21 answer to the interrogatory and not something that we
22 have in house that suggests they were otherwise.

23 **MS. CAUSSEAU:** Well, those interrogatories
24 are also -- unless -- I think he said he had put them
25 in this record also. Those are also dated, but they

1 are --

2 **COMMISSIONER CLARK:** But my question -- I
3 guess maybe I'm not understanding. Would they have
4 changed from an -- could something have occurred
5 between 1981-82 and now to make them not an Option 2?

6 **MS. CAUSSEAU:** No.

7 **COMMISSIONER CLARK:** Okay.

8 **MS. CAUSSEAU:** But there wouldn't have been
9 anything to change on the other side of that either.

10 **COMMISSIONER CLARK:** Well -- but we had
11 evidence then in the way of interrogatories which they
12 swore to and said they were an Option 2. They still
13 say they're Option 2. To me that's the best evidence.
14 And to that extent I would -- with respect to 12, I
15 would make my recommendation we would deny Staff to
16 the extent they find them to be an Option 1 and that
17 they would be treated as an Option 2.

18 **CHAIRMAN GARCIA:** Is that a motion?

19 **COMMISSIONER CLARK:** Okay. I'll move that
20 on 12.

21 **COMMISSIONER DEASON:** Is your motion then to
22 approve Staff on all other issues, or did you want to
23 go issue by issue?

24 **COMMISSIONER CLARK:** Well, I was only
25 addressing 12. I guess I was still thinking about --

1 **COMMISSIONER DEASON:** Well, let me say that
2 we're in a PAA stage here and, you know, in the spirit
3 of moving this along I'll be willing to second that
4 motion; but I think the burden is squarely with the
5 company, and if this goes to hearing and there's a
6 protest, that an interrogatory response is all well
7 and good, but sometimes there needs to be
8 substantiation of just an interrogatory response, and
9 there needs to be their production of the document or
10 an explanation of why that document cannot be
11 produced.

12 **COMMISSIONER CLARK:** Okay.

13 **COMMISSIONER DEASON:** And that could have a
14 bearing. So just because we approve this as PAA is
15 not -- I don't think should be taken that it's
16 conclusive that we agree that the company has met
17 their burden of proof.

18 **COMMISSIONER CLARK:** Okay.

19 **CHAIRMAN GARCIA:** So -- but --

20 **COMMISSIONER CLARK:** And I'm willing to move
21 Staff on all other issues.

22 **CHAIRMAN GARCIA:** So we have a motion and
23 Commissioner Deason seconds that. We have an
24 amendment to 12 and they move all other issues. There
25 being no objection, show Item 45 approved as amended.

1 Item No. --

2 **UNIDENTIFIED SPEAKER:** (Inaudible comments
3 away from microphone.)

4 **COMMISSIONER DEASON:** Well, I understand
5 that if this issue is protested, I don't want it to be
6 assumed that we've already determined that the company
7 has already met their burden of proof simply because
8 they filed an interrogatory response.

9 **COMMISSIONER CLARK:** I agree with that.

10 **CHAIRMAN GARCIA:** Okay. Item 47.

11 (Whereupon other Agenda items were
12 discussed.)

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1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)


4 I, H. RUTHE POTAMI, CSR, RPR, FPSC
5 Commission Reporter,

6 DO HEREBY CERTIFY that the Agenda Conference
7 in Docket No. 980214 was heard by the Florida Public
8 Service Commission at the time and place herein
9 stated; it is further

10 CERTIFIED that I stenographically reported
11 the said proceedings from the audio tape recording of
12 the proceeding, and the same has been transcribed by
13 me; and that this transcript, consisting of 25 pages,
14 constitutes a true transcription of my notes of said
15 proceedings

16 DATED this 22nd day of February, 1999.

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H. RUTHE POTAMI, CSR, RPR
Official Commission Reporter
(904) 413-6734