

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO. 991643-SU
:
APPLICATION FOR INCREASE IN :
WASTEWATER RATES IN SEVEN :
SPRINGS SYSTEM IN PASCO :
COUNTY BY ALOHA UTILITIES, :
INC. :

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VOLUME 2
Pages 114 through 276



PROCEEDINGS: HEARING

BEFORE: COMMISSIONER E. LEON JACOBS, JR.
COMMISSIONER LILA A. JABER
COMMISSIONER BRAULIO L. BAEZ

DATE: Monday, October 2, 2000

TIME: Commenced at 2:15 p.m.
Concluded at 5:40 p.m.

PLACE: Spartan Manor
6121 Massachusetts Avenue
New Port Richey, Florida

REPORTED BY: KORETTA E. STANFORD, RPR
TRICIA DeMARTE
Official FPSC Reporters

APPEARANCES: (As heretofore noted.)

FLORIDA PUBLIC SERVICE COMMISSION

DOCUMENT NUMBER-DATE

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2 (Transcript continues in sequence from
3 Volume 1.)

4 COMMISSIONER JACOBS: Okay. We're prepared to
5 go back on the record. Now, we're ready to engage in the
6 technical hearing portion of the proceeding. Counsel.

7 MR. JAEGER: Yes, Commissioner. We had several
8 preliminary items. Something that was brought to my
9 attention on the break in mid morning was that Issue 40,
10 Aloha's position, refers to Issue 12. In renumbering the
11 issues that position should have referred to Issue 10, so
12 that's a correction to the prehearing order. It should be
13 a reference to Issue 10 in Aloha's position.

14 The next preliminary matter is, we have eleven,
15 what we call, Category One stipulations and three Category
16 Two stipulations, and you've already taken care of the
17 first one, that was about MacColeman being excused from
18 cross. Did you want to go individually on those
19 stipulations, or has the Commission looked them over and
20 just wants to move them in mass?

21 COMMISSIONER JACOBS: Do I have -- I don't see a
22 stipulation.

23 MR. JAEGER: It's in the prehearing order.
24 There's 14 stipulations in the back of that order.

25 COMMISSIONER JACOBS: Okay. I was looking.

1 There they are. I see.

2 MR. JAEGER: It's your pleasure if you want to
3 go over each individual one and read it into the record or
4 what.

5 COMMISSIONER JACOBS: Let's go through them
6 individually.

7 MR. JAEGER: Okay.

8 COMMISSIONER JACOBS: The first is --

9 MR. JAEGER: We've already done that.

10 COMMISSIONER JACOBS: -- that Mr. MacColeman's
11 prefiled testimony be inserted in the record as though
12 read. And the parties are in agreement on that, I assume.
13 Okay. We'll grant that. Number 2.

14 MR. JAEGER: Okay. That's the wastewater
15 treatment plant expansion from 1999 to 2000.
16 Plant-in-service should be reduced by \$122,524, which
17 reflects the appropriate allowance for funds used during
18 construction rate of 9.08 percent. Also, corresponding
19 adjustments should be made to reduce accumulated
20 depreciation and depreciation expense.

21 COMMISSIONER JACOBS: Okay. We've glanced down
22 through these, and there don't seem to be any questions on
23 any of them. So why don't we just go ahead and approve
24 adoption of all of the Category One and Category Two
25 stipulations?

1 MR. JAEGER: Okay. One more preliminary matter,
2 after the prehearing conference, the parties agreed to
3 another stipulation, and the new stipulation is the AFUDC
4 will be calculated based on the overall cost of capital
5 approved in this rate case. The effective date will be
6 October 1st, 2001, and the monthly discount rate will be
7 calculated in accordance with the appropriate rule. And I
8 think all the parties have agreed to that stipulation.

9 COMMISSIONER JACOBS: Okay. No further
10 questions on that.

11 MR. JAEGER: Okay. I think Mr. Fudge has
12 identification and admission of judicial official notice
13 list as an exhibit. I'll let him take care of that.

14 COMMISSIONER JACOBS: Okay. Mr. Fudge.

15 MR. FUDGE: Commissioners, I have passed out to
16 the parties and to the court reporter a copy of the
17 official recognition list. The parties have no objections
18 to that list, and we would like to move that into the
19 record as Exhibit 3, Official Recognition List.

20 COMMISSIONER JACOBS: We didn't mark the others,
21 so this will be Exhibit 2.

22 MR. FUDGE: Okay.

23 MR. JAEGER: Commissioners, I had on my issue --
24 I mean, exhibit list that that late-filed was going to be
25 Exhibit 2, but I guess I misunderstood. The late-filed

1 that was due to be filed on September -- I mean, October
2 the 16th was the Exhibit 2 is what I had written down.

3 COMMISSIONER JACOBS: We did -- we didn't mark
4 it, but to be consistent, we'll mark that as
5 Exhibit 2 late-filed -- as a late-filed exhibit.

6 (Exhibits 2 and 3 marked for identification.)

7 MR. DETERDING: Commissioner Jacobs, if I
8 understand you correctly, Exhibit 2 is the response to
9 customer concerns and --

10 COMMISSIONER JACOBS: Correct, the late-filed
11 response.

12 MR. DETERDING: -- Exhibit 3 --

13 COMMISSIONER JACOBS: Exhibit 3 is the
14 recognition list.

15 MR. DETERDING: Okay.

16 COMMISSIONER JACOBS: Does that take care of all
17 the preliminary matters?

18 MR. BURGESS: Commissioner Jacobs, I had a
19 preliminary matter or, perhaps, two.

20 COMMISSIONER JACOBS: Proceed.

21 MR. BURGESS: Commissioner Jacobs, we had
22 proffered rebuttal testimony at the prefiled date, and
23 that was subject of a motion to strike by Aloha. We
24 responded, and it was determined by the Prehearing Officer
25 that Aloha was correct and that our testimony was not to

1 be allowed, that it was to be stricken. And I am offering
2 now an oral motion for reconsideration of that ruling.
3 And I would offer as the basis for that that the order
4 that denies the testimony, that strikes the testimony,
5 is -- contains a misapprehension of fact and a
6 misapplication of law. And the issue of fact, it appears
7 from my reading --

8 COMMISSIONER JACOBS: Before you argue that --
9 Staff.

10 MR. JAEGER: I'm sorry?

11 COMMISSIONER JACOBS: We have -- he's raising a
12 motion to reconsider the order granting the motion to
13 strike rebuttal.

14 MR. JAEGER: Yes, Commissioner. By rule he is
15 allowed to make the motion for the full panel to
16 reconsider, and then the panel may consider whether that
17 motion should be granted.

18 COMMISSIONER JACOBS: Okay. Go ahead.

19 MR. BURGESS: Thank you, Commissioner. The
20 basis of the ruling appears to be contained in the last
21 paragraph before the order in paragraphs that the issue of
22 inflow and infiltration has been identified as an issue
23 and should have been addressed by the OPC in our direct
24 testimony. In fact, we did address it. That perhaps
25 could be the initial raising of the issue from our

1 standpoint. And I would say that if the notion -- if the
2 theory of the order is that the issue was identified prior
3 to the testimony being presented, it was not. The order
4 that created all of the issues came out subsequent to our
5 filing of testimony.

6 And so as far as being identified as any
7 specifics that we should have addressed, it was free-form
8 at the time that we filed our testimony; that is, we filed
9 our testimony based on the initial filing by the company.
10 And so that the testimony predated the time that the issue
11 was actually specified or was actually crystallized. And
12 I'm not sure whether I'm reading the order right with
13 regard to that, but if I am, then there's a
14 misapprehension of fact.

15 And as to application of law, it appears that
16 the order places upon the Public Counsel as a party the
17 obligation to anticipate an adverse position by another
18 party, and that is contrary to the case law, as I
19 understand it, and as we cite it in our response to the
20 company's motion to strike.

21 I would further point out that if, in fact, it
22 is simply that an issue is going to exist in a case and
23 everybody knows it, that that prohibits the allowance of
24 rebuttal testimony to be filed, then that would prohibit
25 almost all of the company's rebuttal testimony, because

1 the company's rebuttal testimony on I&I, just as an
2 example, just as ours was, is something that they knew
3 about ahead of time; that it is, in fact, a major part of
4 this rate case, and it is something for which they had
5 hired an expert and had the opportunity to offer expert
6 testimony at the outset. And that is one of the things
7 that the Court looks at when it determines whether or not
8 rebuttal testimony is going to be allowed. And so I'm not
9 sure I've got the full understanding of the basis upon
10 which the -- our rebuttal testimony was rejected, but to
11 the extent that I -- to the extent that I do understand
12 what is here, it would appear to me that it applies to
13 almost all of the company's rebuttal testimony as well.

14 So I would simply move that the order be
15 reconsidered because it appears to have a misapprehension
16 of fact; that is, that the issue was crystallized prior to
17 the testimony offered initially by the Public Counsel's
18 Office, and secondly, that the order appears to place on
19 Public Counsel as a party the obligation to anticipate the
20 theory espoused by a following witness; that is, the
21 testimony offered by Mr. MacColeman.

22 Perhaps I have put the cart before the horse a
23 little bit in that these are all items that
24 Commissioner Jaber is familiar with because she has been
25 dealing with this as Prehearing Officer, but

1 Commissioner Jacobs and Commissioner Baez are not familiar
2 with. We filed testimony about infiltration and inflow,
3 and in our -- in the time that we filed our testimony, and
4 we filed testimony stating that that was excessive; that
5 is, that the amount that the company is now experiencing
6 is excessive.

7 Subsequent to our testimony in the normal flow
8 of events, Staff's testimony followed. Staff sponsored
9 the testimony of Mr. MacColeman, who is an employee of
10 DEP. One of the statements that Mr. MacColeman made is
11 that DEP has no opinion as to the level of inflow and
12 infiltration that is considered to be excessive. Our
13 rebuttal testimony came back and stated contrary to what
14 Mr. MacColeman is stating. In fact, DEP has gone on
15 record as accepting and adopting the ten states standards
16 which would indicate that this particular company's inflow
17 and infiltration is excessive.

18 So we have the progression of events being our
19 general addressing of inflow and infiltration as being
20 excessive, and subsequently, a Staff witness stating that
21 DEP has no opinion on whether -- on what level is
22 excessive, and then we followed with rebuttal testimony
23 saying contrary to the testimony of the Staff witness,
24 that, in fact, DEP has gone on record as adopting a
25 standard which would indicate that this company's inflow

1 and infiltration is excessive. So --

2 COMMISSIONER JABER: Mr. Burgess, can I ask you
3 a question on that?

4 MR. BURGESS: Yes.

5 COMMISSIONER JABER: Help me understand. You, I
6 think, by your own admission, you're not rebutting the
7 utility testimony. You filed testimony to rebut
8 Mr. MacColeman's testimony --

9 MR. BURGESS: That's correct.

10 COMMISSIONER JABER: -- a Staff witness. Why
11 isn't it appropriate to cross-examine Mr. MacColeman? I
12 mean, by your own admission, you're not rebutting the
13 utility's testimony and isn't it --

14 MR. BURGESS: This is my understanding of the
15 process that the Commission follows: That the utility
16 filed its initial case, and we presented a proposition in
17 response to that and in rebuttal to that, I suppose, and
18 that is that they should not -- that the company's flows
19 and electric costs and chemical costs should be adjusted
20 to reflect a reduction as a result of removing excess
21 inflow and infiltration. That was what we said should
22 happen.

23 Subsequent to that, had we filed at the same
24 time Staff filed, then, I mean, I don't know whether it
25 would change the circumstance or not, but then Staff

1 followed with testimony that appeared to be in response to
2 Mr. Bidy's testimony; that is, about his assertion that
3 the I&I is excessive. And the testimony that was
4 sponsored by Mr. MacColeman said, DEP takes no position on
5 whether this company's I&I is excessive. And it is in
6 response to that, it is that that we did not anticipate,
7 that, what we did not anticipate, was that there would be
8 an expert that would follow our expert that would say that
9 the governing body, the governing agency that would
10 examine this has no standards on this. And that is the
11 point that Mr. Bidy then focussed on in rebuttal
12 testimony; that is, to state that, no, in fact, contrary
13 to what Mr. MacColeman says, DEP has gone on record as
14 saying that.

15 So the reason we didn't is, it was not at that
16 point an item, an issue that we considered to be even in
17 controversy; that is, what DEP's standards would be. And
18 so we didn't -- the company had not stated that DEP's
19 standards -- that DEP accepted this.

20 COMMISSIONER JABER: So there is company
21 testimony on the issue of I&I. OPC filed testimony on the
22 issue of I&I, and then we have Mr. MacColeman that says
23 DEP has no opinion on it. If that testimony --
24 Mr. MacColeman's testimony, as I recall, it was one
25 question.

1 MR. BURGESS: Yes.

2 COMMISSIONER JABER: If that testimony was
3 stricken, would you have any objection?

4 MR. BURGESS: I think it would certainly take
5 away the justification that we would have for filing the
6 rebuttal testimony on the I&I.

7 COMMISSIONER JABER: Alternatively, if
8 Mr. MacColeman was available for cross today, could you
9 also cross-examine him?

10 MR. BURGESS: Yes, but I'm not sure that takes
11 away the right to file rebuttal testimony. Part of it
12 is -- well, we had the opportunity to depose
13 Mr. MacColeman to try to get a better clarity, and I will
14 say maybe that is the way to go. At the time, I had no
15 inkling that there was anything improper with choosing the
16 approach. And I realize this is not something for the
17 Commission to consider necessarily in arriving at a
18 decision on legal procedure, but, in fact, at the time, it
19 was something that we did as a -- what we consider to be
20 an accommodation for the various other parties and
21 ourselves, and that is, circumvent the need to schedule a
22 deposition in Tampa where all of us would have to go down
23 to Tampa on kind of a last minute situation, and instead
24 said, basically I made the tactical decision, well, we'll
25 simply address it in rebuttal testimony.

1 And, you know, that's just a fact. And I won't
2 try to hide from it, but it doesn't seem to me that that's
3 the kind of thing that necessarily should diminish our
4 right to file rebuttal testimony.

5 MR. WHARTON: May I, Commissioner?

6 COMMISSIONER JACOBS: Are you done, Mr. Burgess?

7 MR. BURGESS: Yes. Thank you. Thanks,
8 Commissioner.

9 COMMISSIONER JACOBS: Mr. Wharton.

10 MR. WHARTON: First, we have gotten into the
11 broader argument of the merits of the issue rather than
12 perhaps staying within the confines of what is appropriate
13 for a motion for reconsideration, but having said that, I
14 want to address that, and obviously, I'm shooting from the
15 hip here. The Prehearing Officer had the benefit of the
16 motion we wrote and the argument we made and the
17 authorities we quoted, and the response that OPC wrote and
18 the arguments they made and the authorities we quoted.

19 What you've got here is not rebuttal testimony.
20 It does not refute the testimony of an adverse party,
21 which is the Black's dictionary rebuttal testimony. I
22 want to just read you a couple of lines from the testimony
23 that's been proffered. Mr. Bidy says, "The purpose of my
24 rebuttal testimony is to offer comments on the testimony
25 of Public Service Commission Staff Witness David G.

1 MacColeman." He says on the next page, "My comment" --
2 and these seem out of context, but they give you the
3 flavor. "My comment is that Mr. MacColeman was speaking
4 of the normal daily average flow." Two sentences down,
5 "Mr. MacColeman certainly knows that," and then he fills
6 in a couple of sentences of substantive testimony.

7 MR. BURGESS: Excuse me. The motion for
8 reconsideration is limited to the inflow and infiltration,
9 to the I&I.

10 MR. WHARTON: And we have moved to strike all of
11 his testimony.

12 COMMISSIONER JACOBS: All of the rebuttal?

13 MR. WHARTON: Pardon?

14 COMMISSIONER JACOBS: All of the --

15 MR. WHARTON: Just the rebuttal of Mr. Bidy,
16 and that is the motion that was granted.

17 COMMISSIONER JABER: Right. But Mr. Burgess is
18 clarifying that his motion for reconsideration is limited
19 to the testimony as it related to inflow and infiltration.

20 MR. WHARTON: Okay. Then let me address -- then
21 let me give the examples from that specific question and
22 answer. Here, one of Mr. Bidy's answers under the
23 first question regarding I/I is, "Mr. MacColeman did not
24 go on to say as he could have to make his answer more
25 clear." That is exactly what Mr. MacColeman should be

1 sitting up there and being cross-examined about.

2 The way this came down, understand something, we
3 would have taken Mr. MacColeman's deposition if, in fact,
4 this motion was not granted, and we have no opportunity to
5 do that now. We would have conducted our activities
6 differently in terms of our response and what depositions
7 we would have taken. This, again, is testimony that is
8 not rebutting anything. It is clarifying what
9 Mr. MacColeman said.

10 Well, Mr. MacColeman is an expert who said
11 exactly what he felt like he could say at the time that he
12 filed his testimony. Mr. Bidy is an expert who was free
13 to talk at length not only about his opinions about I/I,
14 and there is going to be significant discussion during
15 Mr. Bidy's testimony between myself and him on that issue
16 but also about what he knows about DEP and I/I. He
17 brought this issue up, and then we rebutted his testimony.
18 Mr. MacColeman could have been called in here. He could
19 have been cross-examined on this. Mr. Bidy could have
20 testified more if he wanted to. Mr. MacColeman could have
21 made his answer more clear in his testimony if he saw fit.

22 And I think it's fair to say, Commissioners,
23 that -- and not to cast aspersions on Mr. Burgess at all,
24 who I greatly respect, but the way this thing came down
25 was, there were calls around saying, can we stip out

1 MacColeman? And Mr. Burgess said, we can stip him out if
2 he'll agree to this line, and then I think Mr. Jaeger will
3 tell you that he wrote a line after talking to
4 Mr. Burgess, and he ran it by Mr. MacColeman, and
5 Mr. MacColeman said no.

6 And then Mr. Burgess, I assume, was going to
7 say, well, then we can't stip him out, but he still
8 stippled him out, and then suddenly we saw the rebuttal
9 testimony. And we have not had a chance to address that.
10 We can't possibly address it now. It can't possibly be
11 cured by bringing Mr. MacColeman in here. We've got a
12 stipulation. It's already been approved, and I just don't
13 think it's proper rebuttal testimony. Mr. Bidy could
14 have gone on all he wanted to, and he went on for many,
15 many pages about I/I, and apparently, these are things he
16 wishes he would have said up front.

17 COMMISSIONER JACOBS: Staff.

18 MR. JAEGER: Commissioners, as you know, the
19 position for reconsideration should be based on a mistake
20 of fact or law, and I think that's the first thing you
21 have to look at. And what was funny, I would have thought
22 the stronger position would have been where we took a --
23 you know, Mr. MacColeman said, well, you should use
24 150 gallons as opposed to 134. I would have thought that
25 is definitely adverse to Mr. Burgess's position on

1 calculating used and useful, but where Mr. MacColeman
2 takes no position whatsoever, I really -- it's sort of
3 hard for me to see where that's adverse. It's like, you
4 know, I'm not in this. That's something, you know, for
5 your other witnesses, and I don't think -- you know, he
6 didn't have to do that analysis to the ten states
7 standards. Nothing in his job, you know, at that point
8 made him do anything.

9 So I think Mr. Burgess has failed to show that
10 there's been a mistake of fact or law on the I&I issue and
11 that, therefore, reconsideration should not be granted.

12 COMMISSIONER JACOBS: Commissioners, questions?

13 COMMISSIONER BAEZ: I'm sorry. And the
14 substance of Mr. MacColeman's response was that they take
15 no position?

16 MR. JAEGER: Yes.

17 COMMISSIONER BAEZ: That's the sum of --

18 MR. JAEGER: I could read the question and the
19 sentence if you want, the exact deal.

20 COMMISSIONER BAEZ: If you've got it available.

21 COMMISSIONER JABER: Ralph, in doing that, why
22 can't that question be stricken? I realize it's a Staff
23 witness. If the answer to the question is, DEP has no
24 opinion, then what purpose does that testimony serve in
25 this record?

1 MR. JAEGER: Commissioners, that might be -- we
2 might remove that, if that would help Mr. Burgess.

3 MR. WHARTON: May I briefly respond,
4 Commissioner?

5 COMMISSIONER JACOBS: Go ahead.

6 MR. WHARTON: There is at least the inference in
7 Mr. Biddy's testimony that one document produced by DEP,
8 the consent final judgment, does get into the excessive
9 I/I issue. So I think it's relevant to have that in the
10 record.

11 MR. JAEGER: The question, it says, "What does
12 DEP consider excessive I&I? Is there an acceptable amount
13 of I&I, i.e., such as a percentage of normal flows?" And
14 it just says, "FDEP accepts engineering standards for
15 infiltration and inflow. Excessive flows are those flows
16 which interfere with the treatment process."

17 And then the next question, I guess this is the
18 one, "In DEP's opinion, does Aloha have excessive I&I, or
19 was it directed to try to reduce its I&I since its total
20 flows were so far over its capacity?" And it says, "The
21 Department has no opinion as to whether the I&I for this
22 or any utility is excessive. I believe this has been
23 answered in previous questions." And then he goes on to
24 say, "It was known that during storm events, inflow into
25 the system did occur and cause operational problems. The

1 extent of infiltration was not known by the Department.
2 Total flows and plant capacity are being resolved by the
3 interim upgrade to the plant as allowed by the permit in
4 ARCFJ." It stands for "Amended Consent Final
5 Judgment" (sic). And that's his testimony on I&I.

6 COMMISSIONER BAEZ: Mr. Jaeger, I guess
7 Mr. MacColeman's response to that doesn't take a position
8 one way or the another, and if we follow
9 Commissioner Jaber's suggestion that that response be
10 stricken, what you're left with is a consent -- is
11 whatever determination the consent decree, and I guess my
12 question is, can that stand on its own?

13 MR. JAEGER: I think the consent final judgment
14 can stand on its own. And I'm not -- I don't see where
15 the utility has been led down the path for, you know,
16 relying on this where the consent final judgment would
17 stand on its own.

18 MR. WHARTON: And if I may, Commissioner Jacobs.

19 COMMISSIONER JACOBS: Go ahead.

20 MR. WHARTON: While the consent final judgment
21 can stand on its own, this is a separate voice. And,
22 Commissioner Baez, in some cases, and it's difficult for
23 me to tell you right now what way we'll present this
24 evidence to you in the posthearing filings, but not taking
25 a position is a position, particularly if someone else is

1 inferring you have taken a position. And if it is so
2 harmless, why can't we leave it in?

3 COMMISSIONER BAEZ: Well, if you're casting a
4 nonposition, a statement of nonposition as actually taking
5 a position, then there's no merit to your argument that
6 what OPC is offering is not rebuttal. I mean, it's --

7 MR. WHARTON: Well, again, it's not the taking
8 of a position. Perhaps that was the improper use of the
9 phrase, but it is evidence. It is evidence that we don't
10 take a position. And there may be inferential evidence in
11 this case to the contrary, the DEP did take a position
12 when we're talking about striking out testimony from the
13 DEP witness. And I guess, again, I would say if, in fact,
14 that sentence says what everyone seems to say it says,
15 what's the harm of leaving it in?

16 COMMISSIONER JABER: Mr. Jaeger, let me ask you
17 one more question. With respect to the stipulation on
18 Mr. MacColeman's availability at the hearing, any
19 Commissioner can move to reconsider that that stipulation
20 be unapproved?

21 MR. JAEGER: Yes, Commissioner. If you voted, I
22 think, with the affirmative -- I mean, like, if it had
23 been a split vote and you had voted it not to be approved,
24 then you couldn't have, but since you all voted for it,
25 any of you may.

1 COMMISSIONER JABER: So we can move to
2 reconsider that that stipulation be undone, and
3 Mr. MacColeman can be available for cross-examination?

4 MR. JAEGER: Yes, Commissioner.

5 COMMISSIONER JACOBS: Is he the one you called
6 this morning?

7 MR. JAEGER: I didn't call him because
8 Mr. Fletcher told me something that OPC might be making
9 this ore tenus motion for reconsideration.

10 COMMISSIONER BAEZ: Okay. So is he still
11 available?

12 MR. JAEGER: So I delayed calling
13 Mr. MacColeman.

14 COMMISSIONER BAEZ: Because my first impulse was
15 to say, why don't we get him down here? And, you know,
16 everybody can get presented.

17 MR. WHARTON: And all I can say is as strongly
18 as I can -- first of all, I want to relate something to
19 you that is neither here nor there, but I want to relate
20 it to you so that you will know that. I am not aware of
21 any other forum, legal forum where the judge would reject
22 a stipulation of the parties, just for what it's worth,
23 maybe that doesn't apply to the PSC.

24 Secondly, I've conducted -- because a judge
25 doesn't decide what evidence comes in; the parties do

1 and -- in other forums. And I'm not saying that is
2 somehow binding on this panel.

3 COMMISSIONER BAEZ: But, Mr. Wharton, we just
4 went through some discussion as to whether we allowed 14
5 stipulations to come in here.

6 MR. WHARTON: I know.

7 COMMISSIONER BAEZ: Then --

8 MR. WHARTON: I know. I believe that's unusual.

9 COMMISSIONER BAEZ: Is it or isn't it?

10 MR. WHARTON: And I did. And I just think
11 that's not the way stipulations are treated, say, at DOAH,
12 but I don't want to get bogged down on that point because
13 I'm not saying that's something binding on you all, not
14 today, not right now, because what we've got here, with
15 all due respect, is a case of stipulator's remorse. And
16 we conducted our activities totally different than what we
17 would have. You're asking me now to cross this man
18 without taking a deposition. I've heard at least two
19 judges I can think of say, that's malpractice.

20 I would have taken this man's deposition, and
21 Ralph knows we had a time and a date set up for me to be
22 there. We can't just drag him in here. We conducted our
23 activities differently than we would have. I'm just going
24 to be -- who knows what Mr. MacColeman is going to say,
25 particularly -- and I know how these things really go.

1 Mr. LeRoy testified in the April hearing, and he had,
2 like, three pages of testimony, and he was on the stand
3 for two hours because the Commissioners had a bunch of
4 questions. The fact that he was stipulated out really
5 meant we conducted our activities one way and it's
6 different than how we would have conducted them.

7 COMMISSIONER JACOBS: Am I to understand that
8 the essence that we're trying to get out of Mr. MacColeman
9 is that he does not have an opinion as to what DEP says,
10 and you want to rebut the idea that he should have an
11 opinion? If he says he doesn't, he should have an
12 opinion?

13 MR. BURGESS: The agency that he has spoken for
14 has a standard.

15 COMMISSIONER JACOBS: And we have a document
16 that puts forward the agency's standard in the form of the
17 consent decree?

18 MR. JAEGER: I think he's referring to -- that
19 the agency uses the ten states standards for calculating
20 some things, but I'm not sure.

21 MR. BURGESS: Yes.

22 MR. JAEGER: Steve, is that right?

23 MR. BURGESS: Yes.

24 COMMISSIONER JACOBS: And is that stated -- is
25 there a formal agency document that states that?

1 MR. BURGESS: That I'm not aware of. In our
2 rebuttal testimony, that's simply what Mr. Bidy said, is
3 the DEP has adopted the ten states standards, and the ten
4 states standards contains such and such.

5 COMMISSIONER JACOBS: What sounds like will be a
6 reasonable course rather than going through all these
7 extra -- if there is an order decree or document from the
8 DEP that says that, then let's take official notice of
9 that.

10 MR. JAEGER: I have no problem with taking
11 official notice of the ten states standards if the parties
12 agree to that as a solution, but I'm not sure --

13 MR. WHARTON: I think we're okay with that too.

14 COMMISSIONER JACOBS: How about --

15 MR. BURGESS: But the issue that we have is
16 whether it is understood that DEP -- whether the record
17 will reflect that DEP has adopted that standard as its
18 engineering standard.

19 COMMISSIONER JACOBS: Well, what I wanted -- and
20 how -- now, how does that -- so you're saying you would
21 want to -- you want to bring the issue whether or not DEP
22 should have applied that standard in this instance?

23 MR. BURGESS: Our testimony is that if it were
24 applied in this instance, it would demonstrate excessive
25 I&I and that the standards have been adopted by DEP. That

1 is the essence of the rebuttal testimony on that issue.

2 COMMISSIONER JACOBS: So then the questioning
3 from Mr. MacColeman is not so much that. The question is,
4 why didn't he apply it in his review of this case? Isn't
5 that really the line of questioning for Mr. MacColeman?

6 MR. WHARTON: Commissioners, I'm sorry, did
7 you -- may I?

8 COMMISSIONER JACOBS: Yeah, I was waiting for a
9 response from Mr. Burgess.

10 MR. BURGESS: I guess I come back to the
11 position that this is not something that I think is --
12 should be anticipated by us in our initial presentation.
13 If it was part of the issue as we initially presented it,
14 then that might be a different situation, but because we
15 didn't anticipate this, all we are looking to do is to
16 have our witness, our expert witness testify on it.

17 And it's my understanding that that is one of
18 the tests of whether rebuttal testimony is to be allowed;
19 that is, is it something that should have been anticipated
20 by the party that brings forward the first testimony as
21 part of their case in chief?

22 COMMISSIONER JACOBS: Motion?

23 MR. WHARTON: Very briefly, Commissioners, and
24 I'm sorry to belabor this. I think you should also
25 consider, in terms of what you're going to do here and the

1 fact that we're here and we've got suits and ties on and
2 the deposition is closed and we're all ready to go, is
3 what is the competence of one expert to come in and say,
4 DEP's policies are not what the voice of DEP says they
5 are? Even if that testimony is allowed. The voice of DEP
6 says they don't have a position. Someone else wants to
7 say, yes, you do, even though you're the voice of DEP. I
8 just think that should be weighed into this.

9 COMMISSIONER JACOBS: Before you do that, let me
10 ask a question here. This standard, how is that
11 memorialized? Is that something that we have --

12 MR. JAEGER: It's called, "Recommended Standards
13 for Wastewater Facilities as Reported by the Great
14 Lakes-Upper Mississippi River Board of State Public Health
15 and Environmental Managers," and that's also known as the
16 ten states standards. So that is like a document --

17 COMMISSIONER JACOBS: Is it a part of some
18 exhibit that we have already?

19 MR. JAEGER: Did we take judicial notice of
20 that? No, we haven't taken judicial notice of that yet.

21 MR. WHARTON: Commissioner Jacobs, last thing
22 I'll say, I promise. This Page 5, Line 19 in Mr. Bidy's
23 direct testimony filed, I believe, on July 31, says, "The
24 familiar FDEP rule of 200 GPD per inch of pipe diameter
25 per mile of sewer line should be used as the limit for any

1 I/I." I think Mr. Burgess and Mr. Bidy's here will
2 agree, that is the ten states standards. So this is not
3 something they couldn't have known about until the day of
4 rebuttal. They testified about it in direct, and the
5 evidence is in there. You've got the evidence of
6 Mr. Bidy, and you've got the evidence of Mr. MacColeman.
7 That's the way a trial works. Page 5, Line 19, that is
8 the ten states standards right there, and that is
9 Mr. Bidy's direct testimony filed July 31, 2000.

10 COMMISSIONER BAEZ: Mr. Burgess, do you have a
11 response?

12 MR. BURGESS: No. I agree that that's what it
13 says, and that our response is to the witness who is
14 purporting to -- appears from this sentence to perhaps be
15 saying that they did not adopt it, and then his statement
16 is that -- in the rebuttal testimony is that DEP is on
17 record as adopting that standard.

18 COMMISSIONER BAEZ: My problem is that the
19 rebuttal that you're offering seems to put words in what
20 should be a witness's mouth.

21 MR. BURGESS: I understand.

22 COMMISSIONER BAEZ: And I have got a problem
23 with that.

24 MR. BURGESS: I understand that.

25 COMMISSIONER BAEZ: Now, I think the reason that

1 you want to do that is valid somehow, and I think, you
2 know, that kind of colloquy should take place to say --
3 you know, finally answer whether you do adhere to it or
4 not and let it come out, which is why my initial
5 preference was to keep Mr. MacColeman on the hook and have
6 him come back and let's have that conversation. I don't
7 know how all that fits into the process that we're in the
8 midst now. I just have a problem with your filing.

9 MR. BURGESS: I understand.

10 COMMISSIONER BAEZ: And I don't -- you know,
11 Mr. Wharton read it in another context perhaps, but it
12 sounds the same. It sounds, well, what he meant to say
13 was, and I don't think that's right.

14 MR. BURGESS: I understand. And I guess perhaps
15 my problem as much as anything is, an application of a
16 standard that I'm not accustomed to with regard to
17 testimony with the Commission, an application of a
18 standard which if applied to the utility would negate or
19 strike a great deal of its rebuttal testimony, which I
20 suppose is something I'll have to do as well, because I
21 look at Mr. Nixon's rebuttal testimony on Page 58 and the
22 concern that Mr. Wharton raised; that is, the statements,
23 I intend to respond to, as opposed to, I intend to rebut
24 the opening questions, what issues do you intend to
25 respond to?

1 It is a choice of language that has been adopted
2 and it is a process -- it is a method of presenting
3 testimony, rebuttal and case in chief, that we have
4 adhered to for some time, and I simply -- you know, my
5 concern is that --

6 COMMISSIONER BAEZ: I think you'll agree that
7 saying you're responding to something is entirely
8 different than saying what the witness meant to say was,
9 wouldn't you?

10 MR. BURGESS: Yes, except what I'm -- what I
11 said that to was Mr. Wharton's statements that the proof
12 that our witness was not rebutting anybody was a statement
13 that he intended to respond to Mr. MacColeman rather than
14 he intended to rebut Mr. MacColeman. And if that's what
15 we're going by now, then I can find that all through
16 rebuttal testimony, statements that are less --

17 COMMISSIONER BAEZ: Precise.

18 MR. BURGESS: -- inflammatory, less
19 hard-hitting. And, you know, if that's what we need to do
20 for it to be rebuttal testimony, we can do that.

21 COMMISSIONER BAEZ: I hear you; I see your
22 point. I don't think that I was referring to that -- the
23 tenor of that statement as much as --

24 MR. BURGESS: As it looks like we already have
25 that already in there, I understand, in the case in chief.

1 MR. JAEGER: Commissioners, I'd like -- I'm
2 sorry.

3 COMMISSIONER BAEZ: That gives me some comfort
4 that that's already -- you know, that that is in the
5 record what would have ultimately come out. But beyond
6 that is -- you know, I guess using rebuttal as
7 clarification of testimony is kind of -- it's unsettling.

8 MR. JAEGER: Something I'd like to clarify.
9 When I said we didn't ask for judicial notice of the ten
10 states standards itself, in Rule 62-600.300, that's DEP
11 Rule, it incorporates by reference those standards. And
12 so we have asked for judicial notice of the DEP rule which
13 uses these ten states standards and has incorporated those
14 standards by reference.

15 COMMISSIONER JABER: Where is that, Mr. Jaeger?

16 MR. JAEGER: Well, it's -- we might want to
17 cross out 4 billion and just take all of Rule 62-600.300,
18 and it says, "300(1), The technical standards and criteria
19 contained in the following standard manuals and technical
20 publications listed in Paragraph 4 below and those
21 referenced throughout this chapter are hereby incorporated
22 by reference and shall be applied." And then in (4)(b) it
23 says, "Great Lake-Upper Mississippi River Board," and
24 that's the ten states standards.

25 COMMISSIONER JACOBS: If I may, we've gone

1 off probably too far into the substance of this argument.
2 I think the argument has to do with very much a procedural
3 issue. There is testimony and the question is whether or
4 not that testimony was engaged by both of these witnesses
5 and whether or not it was proper for this witness to
6 offer a rebuttal testimony as to the first witness's
7 testimony. And so rather than -- I wanted to be clear
8 about whether or not there was adequate opportunity for
9 that question to arise, but in terms of the motion for
10 reconsideration before us, I think we have to be clear,
11 that has to do with this procedural issue. Did you have a
12 motion?

13 COMMISSIONER BAEZ: Yes, I move denial.

14 COMMISSIONER JACOBS: Has it been moved?

15 COMMISSIONER JABER: Seconded.

16 COMMISSIONER JACOBS: It's been moved and
17 seconded to deny the motion for reconsideration. Show
18 that I would vote in opposition to that motion. I really
19 believe that it sounds like Mr. MacColeman stated a
20 positive position as to what -- on I&I. It sounds like
21 Mr. Bidy stated a positive position on I&I. It sounds
22 like rebuttal by Mr. Bidy of Mr. MacColeman could have
23 been construed. But it's a judgment call.

24 I don't take exception to the manner in which
25 the rebuttal questions were posed. I have seen rebuttal

1 questions that are posed in that manner, and probably
2 even more egregious than that manner. So the manner by
3 which the rebuttal questions were posed does not give me
4 any great discomfort, but the issue was engaged, and I
5 believe that there was a response, but show the motion
6 having -- is denied on a two-one vote.

7 MR. BURGESS: Thank you, Commissioners. Thank
8 you for your attention.

9 COMMISSIONER JACOBS: Any other preliminary
10 matters?

11 MR. JAEGER: Commissioners, that concludes the
12 preliminary matters. I think we needed to move -- I'll
13 let Mr. Fudge go back to the judicial notice issue.

14 MR. FUDGE: Commissioners, we'd like to move
15 Exhibit 3 into the record.

16 COMMISSIONER JACOBS: Sorry, say it again.

17 MR. FUDGE: We'd like to move Exhibit 3, the
18 official recognition list with the modification to --

19 COMMISSIONER JACOBS: Objections? Show
20 Exhibit 3 moved into the record.

21 (Exhibit 3 admitted into the record.)

22 MR. DETERDING: We have no objection, but I just
23 want to know for the record that we believe any Commission
24 order is subject to -- recognition doesn't require any
25 prenotice, but we're thankful for it.

1 MR. BURGESS: And we agree with the utility on
2 that issue.

3 COMMISSIONER JACOBS: Right. Do we want to take
4 up Exhibit 1 now, and whether or not it should be
5 admitted? That was the --

6 MR. FUDGE: Letter from Aloha to Mr. LaMaire?

7 COMMISSIONER JACOBS: Correct. Has counsel for
8 Aloha had a chance to review that letter yet?

9 MR. WHARTON: To refresh my recollection, Steve,
10 is that the letter sitting right there?

11 COMMISSIONER JACOBS: By Mr. LaMaire, I believe.

12 MR. JAEGER: It may have been to a homeowner's
13 association.

14 COMMISSIONER JACOBS: I think it's to
15 Mr. LaMaire. Well, you haven't had a chance to review it.
16 Let's proceed.

17 MR. WHARTON: I appreciate that. And I will get
18 with Steve, and the next time it comes up, we will be
19 prepared to respond.

20 COMMISSIONER JACOBS: Okay. That takes care of
21 all the preliminary matters.

22 Mr. Deterding, are you up first? Is there an
23 order here different than what I have?

24 MR. FUDGE: Yes, Commissioners. In the
25 prehearing order, we agreed to take Staff Witness Stallcup

1 out of order.

2 COMMISSIONER JACOBS: Okay.

3 MR. FUDGE: And we call Mr. Stallcup as our
4 first witness.

5 COMMISSIONER JACOBS: You have been sworn;
6 correct?

7 MR. STALLCUP: Yes.

8 COMMISSIONER JACOBS: Proceed.

9 PAUL W. STALLCUP

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

13 DIRECT EXAMINATION

14 BY MR. FUDGE:

15 Q Please state your name and business address for
16 the record.

17 A My name is Paul W. Stallcup. My address is 2540
18 Shumard Oak Boulevard, Tallahassee 32399.

19 Q By whom are you employed and in what capacity?

20 A I'm employed by the Florida Public Service
21 Commission as supervisor the forecasting and economic
22 section in the Division of Economic Regulation.

23 Q Have you prefiled direct testimony in this
24 hearing consisting of eight pages?

25 A Yes, I have.

FLORIDA PUBLIC SERVICE COMMISSION

1 Q Do you have any changes or corrections?

2 A No, I don't.

3 MR. FUDGE: Chairman, may we have Mr. Stallcup's
4 testimony inserted into the record as though read?

5 COMMISSIONER JACOBS: Any objections?

6 MR. BURGESS: No.

7 COMMISSIONER JACOBS: Show the testimony
8 admitted as thought read.

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1 DIRECT TESTIMONY OF PAUL W. STALLCUP

2 Q: Would you please state your name and business address?

3 A: My name is Paul W. Stallcup. My business address is 2540
4 Shumard Oak Boulevard, Tallahassee, Florida, 32399.

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

6 A: I am employed by the Florida Public Service Commission as the
7 Supervisor in the Economics and Forecasting Section of the Division
8 of Economic Regulation.

9 Q: Would you please summarize your educational and professional
10 experience?

11 A: I graduated from The Florida State University in 1977 with a
12 Bachelor of Science degree in Economics with minors in Mathematics
13 and Statistics. I received my Masters of Science Degree in
14 Economics from The Florida State University in 1979 and, as a Ph.D.
15 candidate, completed the course work and doctoral examinations
16 required for that degree in 1980.

17 In 1981, I was employed by Florida Power and Light Company as
18 a Load Forecast Analyst. In this capacity, I prepared short and
19 long term forecasts of company sales, peak demand, and customer
20 growth. In 1983, I was employed by the Florida Public Service
21 Commission as an Economic Analyst and in 1991 was promoted to my
22 current position as Supervisor of the Economics and Forecast
23 Section. In this capacity, I have analyzed and made
24 recommendations concerning the forecasts of Florida's regulated
25 Electric and Telecommunications companies.

1 Q: Have you previously testified before the Florida Public
2 Service Commission?

3 A: Yes. In 1983 I testified on behalf of the Florida Public
4 Service Commission Staff in the Florida Power and Light rate case
5 (Docket No. 830465-EI), and in 1997 testified on behalf of the
6 Staff in the Florida Power Corporation's proposed buy out of
7 Orlando Cogen Limited's energy contract (Docket No. 961184-EQ).

8 Q: Would you please summarize the contents of your testimony?

9 A: The purpose of my testimony is to present the results of an
10 analysis I conducted on the Equivalent Residential Connection (ERC)
11 forecasts submitted by Aloha Utilities, Inc. for its Seven Springs
12 system (Aloha or the Utility). These forecasts are contained in
13 MFR Schedule F-10. In the Utility's original filing, the ERC
14 forecast was based on Total Customer ERCs. Also, the Utility used
15 calendar year 1999 data instead of historical base year data as
16 required by the MFRs. This forecast is contained on pages 3 and 4
17 of Schedule F-10. In response to Staff's request to correct this
18 MFR deficiency, the Utility revised its forecast to one based on
19 historical base year Residential ERCs as required by the MFRs.
20 This forecast is presented on pages 1 and 2 of Schedule F-10.

21 The Utility believes that the two forecasts are virtually
22 identical. (See Note (1) at the bottom of page 1 of Schedule F-
23 10). The Utility therefore chose to base its number of projected
24 Test Year ERCs and projection factors, which are used throughout
25

1 the filing, on the information as it was originally filed and
2 presented on pages 3 and 4 of Schedule F-10.

3 To test the Utility's belief that the two forecasts are
4 virtually identical, and to determine which of the forecasts should
5 be used, I conducted two evaluations of the forecasts. The first
6 evaluation tested the Utility's belief that the two forecasts are
7 virtually identical. The second evaluation tested the Utility's
8 two forecasts against an independent projection of Test Year ERCs
9 to determine which forecast would be likely to yield a more
10 accurate result. Based on these analyses, I concluded that the two
11 forecasts are not virtually identical as the Utility believes and
12 that the revised forecast based on historical base year ERCs
13 yields a more reliable Test Year ERC Forecast.

14 Q: Would you please explain how you concluded that the two Test
15 Year ERC forecasts are not virtually identical?

16 A: Yes. My evaluation used statistical techniques to determine
17 if the projected Test Year ERCs produced by the two forecasts were
18 sufficiently close to each other to deem the difference to be
19 insignificant. In this test, the difference between the forecasts
20 is compared to each forecast model's inherent ability to explain
21 ERC growth. If the difference is less than the models' inherent
22 accuracy, one would conclude that one forecast is just as accurate
23 as the other or, in other words, that they produce virtually
24 identical results. On the other hand, if the size of this
25 difference is greater than the models' inherent range of accuracy,

1 one would conclude that the two forecasts are not virtually
2 identical.

3 The calculations used to perform the test are shown in my
4 Exhibit PWS-1. The results of these calculations show that the
5 difference between the revised forecast of 10,330 ERCs in test year
6 2001 is significantly different from the originally filed forecast
7 of 9,774.5 ERCs. That is, the difference between the forecasts can
8 not be attributed simply to normal forecasting error. Therefore,
9 I concluded that the two forecasts are not virtually identical.

10 Q: Would you please explain how you concluded that the revised
11 Utility forecast is more likely to produce reliable results?

12 A: Yes. Because the Utility has relied on a time trend to
13 forecast ERC growth, I constructed a separate econometric model of
14 ERC growth. This model explains ERC growth using the rate of
15 growth in the number of households in Pasco County as measured by
16 the University of Florida's Bureau of Economic and Business
17 Research. The purpose of this model is to provide a benchmark
18 projection that can be used to test the reasonableness of the
19 Utility's ERC forecasts.

20 Q: Why do you believe this comparison is necessary?

21 A: Forecasts derived from time trends incorporate within them the
22 intrinsic assumption that the level of change in the future will be
23 equal to the level of change observed in the historical data. This
24 assumption ignores any other causal factors that may influence
25 growth such as changes in economic and/or demographic conditions

1 and forces the forecasts to grow at the same level as that observed
2 in the historical data.

3 An econometric model differs from a time trend model in that
4 it incorporates changes in economic and/or demographic conditions
5 to explain growth. In periods when future conditions are very much
6 like those observed in the past, an econometric model would yield
7 forecasts that are very similar to those produced by a time trend.
8 However, when future conditions are expected to differ from those
9 observed in the past, an econometric model is capable of reflecting
10 these expected changes in its forecast. For example, if population
11 growth were expected to slow in the future, an econometric model of
12 future ERCs would show future ERC growth slowing as well. This
13 sensitivity to changing conditions can not be incorporated into a
14 time trend forecast. Thus, econometric models tend to produce more
15 reliable forecasts over a wider range of conditions.

16 Q: Do you believe that forecasts based upon time trends are
17 inappropriate for rate setting purposes?

18 A: No, not always. It should be noted that forecasts based upon
19 time trends may provide reasonably accurate ERC forecasts when
20 economic and demographic conditions are stable. Furthermore, time
21 trends are relatively easy to create since the calculations needed
22 to produce the forecasts are built into most computer spreadsheet
23 programs. I believe that these characteristics make forecasts
24 based on time trend appropriate for use in MFR filings for
25 companies like Aloha.

1 However, I also believe that it is appropriate for the
2 Commission staff to verify that the projections produced by a time
3 trend approach are appropriate for setting rates. In particular,
4 I believe that it is important to verify that the ERC growth
5 forecasts submitted by the Utility are a proper reflection of the
6 expected economic and demographic conditions in which the Utility
7 will be operating. This can be achieved by comparing the ERC
8 forecasts produced by the time trend method to those produced by an
9 econometric model. If the two approaches produce similar
10 forecasts, the Commission can have additional assurance that the
11 Company's projections are reasonable. If the two differ
12 significantly, however, the Commission may take this as a signal
13 that the trended forecasts called for by the MFRs may need to be
14 adjusted.

15 Q: How well did Aloha's two ERC forecasts compare to the
16 forecasts produced by your econometric model?

17 A: As shown in my Exhibit PWS-2, the econometric model produced
18 a Test Year Total ERC forecast of 10,229 compared to a revised
19 Utility forecast of 10,330. This difference of 101 ERCs does not
20 represent a statistically significant difference. The Utility's
21 original forecast of 9,775 ERCs, on the other hand, did differ
22 significantly from the econometric model's projection. These
23 results lead me to conclude that the Utility's revised ERC forecast
24 should be more reflective of the conditions expected to exist in
25 the test year than the originally filed forecast.

1 Q: How would the projected growth factors used by Aloha be
2 affected if its revised forecast is used instead of its originally
3 filed forecast?

4 A: There are two projected growth factors that would be affected.
5 The first is the projected growth factor used in MFR Schedule
6 E-13(A) to escalate base year bills and gallons up to test year
7 levels. The Utility's originally filed projection factor is
8 1.08535. The same factor based on it's revised forecast is
9 1.07093. This calculation is shown in my Exhibit PWS-1.

10 Note that this revised factor is slightly lower than the
11 originally filed projection factor even though the revised ERC
12 forecast is higher than the originally filed ERC forecast. This
13 apparent anomaly is attributable to the two different methodologies
14 used to calculate ERCs in the historic base year. In the original
15 filing based on Total ERCs, the 1999 number of ERCs was calculated
16 to be 9,056. In the revised filing based on Residential Customers,
17 the 1999 number of Total ERCs was 9,646. This increase in
18 historic base year Total ERCs accounts for the apparent anomaly.

19 The second affected projected growth factor occurs in multiple
20 Schedules such as MFR Schedule G-7. In Schedule G-7, as in the
21 other affected schedules, this projected growth factor is used to
22 account for the impact of forecasted ERC growth on selected O&M
23 accounts. The Utility used a factor of 1.04812 to escalate these
24 accounts from the base year of 1999 to 2000, and then again from
25 2000 to 2001. This factor was calculated by averaging the observed

1 percentage change in ERCs over the historical period from 1994 to
2 1999.

3 I recommend using a factor of 1.03486. This factor is based
4 on the percentage growth of projected ERCs from 1999 to 2001 using
5 the revised forecast. Since this growth factor is intended to
6 account for ERC growth during this period, and not over the
7 historical period, I believe my method for calculating the
8 Projected Growth Factor is more appropriate.

9 Q: Does this conclude your testimony?

10 A: Yes.

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1 BY MR. FUDGE:

2 Q Mr. Stallcup, did you also file two exhibits,
3 PWS-1 to PWS-2?

4 A Yes, I did.

5 Q Do you have any changes or corrections to those
6 exhibits?

7 A No, I don't.

8 MR. FUDGE: Mr. Chairman, may we have those
9 exhibits moved into the record?

10 COMMISSIONER JACOBS: Okay. I show them as
11 Exhibit 4 and Exhibit 5. You did not say composite. They
12 are individual exhibits?

13 MR. JAEGER: Commissioner Jacobs, what they
14 usually do is, the exhibits attached to their testimony
15 are done as a composite exhibit. It's just one exhibit.

16 COMMISSIONER JACOBS: So then it would be
17 Composite Exhibit 5 -- 4, I'm sorry.

18 (Exhibit 4 marked for identification.)

19 BY MR. FUDGE:

20 Q Mr. Stallcup, could you briefly summarize your
21 testimony?

22 A Yes. The purpose of my testimony is to
23 supplement the record on Issue 18. This issue addresses
24 the appropriate methodology used to forecast test year
25 ERCs and the calculation of the projection factors used

1 to escalate billing determinates and selected O&M
2 expenses from their 1999 values up to their test year
3 2001 values.

4 I recommend the use of the utility's revised ERC
5 forecast presented on Pages 1 and 2 of MFR Schedule F-10.
6 This is in contrast to the utility's position that their
7 originally filed ERC forecast presented on Pages 3 and 4
8 of this schedule be used. I recommend the use of the
9 revised forecast because it removes errors found in the
10 utility's original filing.

11 I also recommend changing the projection
12 factors used to escalate 1999 billing determinants and
13 selected O&M expense accounts up to their 2001 levels.
14 This change is based in part on my recommendation to use
15 the utility's revised forecast instead of their original
16 forecast, but it's also based on my adoption of a
17 different methodology than that used by the utility, and
18 one which I believe more appropriately incorporates ERC
19 growth into the calculation of test year revenue and
20 expenses.

21 MR. FUDGE: The witness is tendered for cross.

22 MR. BURGESS: We have no questions,
23 Commissioner.

24 COMMISSIONER JACOBS: Mr. Deterding.

25 MR. DETERDING: I have a few.

CROSS EXAMINATION

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BY MR. DETERDING:

Q Mr. Stallcup, would you agree that your forecast -- that you've forecasted the growth in ERCs for Aloha by extending the slope of the regression line for the five years, '94 through '99, to the two projected years?

A I would agree that that is what the revised ERC forecast does, and that is the forecast I recommend using, yes.

Q Okay. And as far as the -- a number of ending ERCs, isn't that also what the original forecast did as well?

A Yes. They were both basically trends of the prior five years of history being carried forward two more years.

Q And the difference being that one was a conversion to residential -- or use of residential ERCs in the revised versus, as I understand it, converted ERCs in the original ones. Is that your understanding?

A Yes, that's true, but another difference is also that in the original filing, it's my understanding that that data was all calendar year data. Whereas in the revised forecast, it's all based on fiscal year data.

Q Okay. Now, in calculating the projected growth

1 factor to be utilized for the two projected periods, you
2 have calculated the percentage growth using the projected
3 increase in the number of ERCs derived from this forecast
4 as compared to the beginning number of ERCs from that
5 two-year period; correct?

6 A Let me say that another way --

7 Q Okay.

8 A -- I think may be a little bit more
9 straightforward. My projection factor is a simple ratio
10 of the number of ERCs seen in 2001 to the number of ERCs
11 seen in the historical data in 1999, and that yields the
12 projection factor that I recommend.

13 Q Okay. And my point I'm trying to make sure is
14 clearly reflected here is that the difference between what
15 you have proposed and what the utility has proposed as far
16 as growth rate percentage is primarily the result of the
17 fact that you took the two years at the -- that were
18 projected out, and then determined something along the
19 lines of the average for those two years percentage-wise
20 in growth; correct?

21 A Again, I would prefer to say that just a little
22 more simply. That's the ratio of the test year ERCs to
23 the base year ERCs.

24 Q Okay. But it is the last two years that is
25 ultimately what you're using to determine that percentage

1 growth rate that is then applied to billing determinants,
2 et cetera?

3 A Yes.

4 Q Okay. Whereas the utility has proposed to take
5 that regression analysis and come up with a percentage
6 based upon the five-year growth period with that simple
7 regression, and then using that percentage directly to
8 calculate the growth factor?

9 A I don't mean to be contrary here, but the way
10 that the utility calculated its growth factor is not
11 entirely based on the five years. Let me answer this in
12 two parts, if I may. The first part is that my
13 forecast -- or excuse me, the forecast that I think is
14 appropriate is based on the five years' historical data.
15 That's where the trend line, if you will, gets its
16 information to carry forward the number of ERCs into 2000
17 and 2001. And the years 2000 and 2001 are entirely
18 derived from and derived from nothing else than the
19 historical data.

20 So my forecast is based on the historical
21 information and the two years it's projected from that.
22 That's the nature of the trendy algorithm by which
23 coefficients are calculated.

24 COMMISSIONER JABER: Paul, can I ask you to
25 bring the microphone closer to you? I've got the air, you

1 know, right over here and I can't hear.

2 A Okay. The other factor -- or the other thing I
3 think is appropriate to mention about the company's
4 forecast is that the company did base the additional ERCs
5 that you would expect to see based on the originally filed
6 forecast from the regression equation, the trend line,
7 total ERCs, but then compare that not to total ERCs seen
8 historically but actually to residential bills only
9 excluding general service such that in the numerator, if
10 you will, if you're trying to calculate a growth rate, the
11 numerator contains ERCs for all customer classes. Whereas
12 the denominator, which is the number of bills seen
13 historically in the company's calculation, is based just
14 on the residential class.

15 So I think there's more going on between the
16 difference of the revised forecast methodology that I'm
17 proposing and what the company filed in its original MFRs.

18 Q Okay. And I understood that distinction. So
19 you're saying, in effect, there's two or three or four
20 different things that differ from what the utility
21 originally proposed and is still maintaining is
22 appropriate versus what you are recommending be utilized.

23 But I guess from my review and my discussions
24 with you and review of what you've done, it appears to me
25 as though the major one is the fact that the utility takes

1 a historic five-year regression, and says that percentage
2 that is derived from that is the percentage to apply.
3 Whereas you take the two projected years and base your
4 percentage growth rate on those two projected years using
5 the same historic or something that yields a similar
6 historic percentage data, though different, yields a
7 similar historic percentage, but we come 25 percent off
8 one another when it gets to the fact that you've taken it
9 out to the projected period and utilized only the
10 projected numbers in order to calculate the percentage.

11 I mean, do you agree that that is the primary
12 factor that results in the big difference?

13 A No, I don't believe that you have stated it
14 correctly. Again, the forecast that I am proposing, the
15 revised ERC forecast, is based on the five years of
16 history and the two additional projected years just as is
17 the methodology proposed by the company.

18 Remember, what the company is doing is, it's
19 taking five years of data and calculating incremental
20 change in the number of ERCs you would expect to see in
21 2000 and 2001. They have looked at five years of history;
22 I looked at five years of history. I used two years of
23 projected ERCs as did the company. The company's
24 additional ERCs, and I think it's shown in one of the MFR
25 schedules here, is the basis for calculating the company's

1 recommended growth rate. They used the two years of
2 forecasted ERCs just as I do, just as you have to do if
3 you want to calculate projection factors to carry billing
4 determinants and expenses from 1999 to 2001.

5 Q Would you agree that you have taken the last two
6 years projected out and determined your percentage based
7 upon the difference between those two years and the base
8 year?

9 A Yes.

10 Q Would you agree that the utility has not done
11 that but instead has utilized the five-year historic data
12 to plot a regression line, and then has taken the
13 percentage resulting from that as the basis for it's?
14 Despite the fact that the data -- underlying data may be
15 slightly different because we used different ERCs.

16 A I understand that distinction. No, the company
17 took the level of changes observed year by year and
18 counted the number of ERCs actually changed, and then
19 carried that into the calculations for their projection
20 factors. So, no, they did not do the percentage change.
21 They did the level change, and it's a subtle distinction,
22 I agree, but it is a distinction nonetheless.

23 Q Well, let me get back to the way you've done it.
24 If your projection -- assuming you've got a -- you come up
25 with a regression line and you extend it out five or six

1 years in this case, isn't the percentage growth rate going
2 to drop for every year you go out as long as there is some
3 growth?

4 A Yes, it would.

5 Q Because what you're doing, in effect, is
6 effectively assuming a level or something close to a level
7 number of additions each year?

8 A That's correct, a fundamental assumption inside
9 a linear trend. Like what we're doing here in the MFR
10 schedules is, you're calculating a constant change that
11 you expect to occur in each year no matter how far out you
12 carry it.

13 Q And do you think that's a reasonable assumption
14 in cases of a growing utility company that's expanding
15 out, that it will have -- as it gets bigger, it won't have
16 a bigger numeric growth than it had when it was small?

17 A I think you do need to be sensitive to
18 conditions where you can reasonably expect growth not to
19 be constant from one year to the next. There are a lot of
20 conditions that can give rise to that. Population growth
21 could vary from year to year, a number of things could
22 happen, as well as the example you just cited.

23 However, if a company chose to incorporate a
24 linear trend in their original filing and the revised MFR
25 also is a linear trend which presumes that constant

1 change, and so just to check and make sure that is a good
2 assumption, I did do a verification on whether or not that
3 change was -- or that assumption is valid. And based on
4 my analysis, it is in this case.

5 Q Okay. You say -- I just want to clarify
6 something. You said the utility chose to do a linear
7 regression. Is that what you said?

8 A Perhaps I should restate that. The MFRs call
9 for a linear regression.

10 Q Okay. In fact, the MFRs don't call for a linear
11 regression at all. The MFRs call for a simple average,
12 don't they?

13 A It's my understanding they call for a linear
14 regression, as well as any other methodology the company
15 believes is appropriate.

16 Q Okay. Well, let's assume -- just get around
17 that because we don't need to get into that, but the
18 Commission has been utilizing linear regression for some
19 time in calculating growth for water and sewer utilities?

20 A Yeah, I would agree with that.

21 Q Okay. Would you agree that the Public Service
22 Commission has utilized the methodology that was proposed
23 by this utility in several cases prior to this one and has
24 accepted that?

25 A I would accept that subject to check.

1 Q Okay. How many cases have you been involved in
2 with regard to water and sewer utilities in these growth
3 projections?

4 A This is actually the first water case I've ever
5 been involved in.

6 Q So you don't know -- or have you gone back to
7 look at other orders to determine whether, in fact, they
8 made that distinction that I was trying to point you to,
9 that those orders took that additional step that you did
10 to go back and utilize the last two years on that line to
11 calculate that percentage, or did you go to see if any of
12 those proper orders had utilized the methodology as was
13 proposed by the utility?

14 A I did have an opportunity to check, and, yes, my
15 methodology has been used before. I believe the earliest
16 record I could find of that was testimony in 1993 that
17 cites two cases, and then as recently as 1999, my
18 methodology was used by Staff to project billing
19 determinants and O&M projection factors.

20 Q Did you go back to the source documentation
21 within those to ensure that the calculations were made in
22 the same manner as yours, or did you simply rely upon
23 something that said we used simple regression?

24 A In the cases based on the testimony in 1993 was
25 the fact that linear regression was used, and that was

1 contained in the Staff testimony. And the 1999 case was
2 based on conversation with Staff.

3 Q Okay. And you did ensure that the distinction
4 I'm drawing about utilizing that two-year figure that
5 you've calculated admittedly based upon five years'
6 historical data was that additional step was done in that
7 case, the '99 case?

8 A That's correct.

9 Q But in the '93 case, all you know is that it
10 said that they used linear regression?

11 A That it was based on linear regression, yes.
12 However, I feel compelled to add that in the years of
13 experience, and I have been looking at forecast based on
14 linear regression in countless projected test year cases,
15 the methodology I propose is the only methodology that
16 I've seen adopted by the Commission, and that would apply
17 to electric cases and gas cases primarily, some
18 telecommunications cases.

19 Q But you don't know whether, in fact, what
20 Mr. Nixon has proposed in the original MFRs was, in fact,
21 accepted by this Commission and referred to as linear
22 regression in prior water and sewer orders?

23 A I have no firsthand information on that, no, I
24 don't.

25 MR. DETERDING: That's all I have.

1 COMMISSIONER JACOBS: Staff.

2 REDIRECT EXAMINATION

3 BY MR. FUDGE:

4 Q Mr. Stallcup, did you just state that the
5 appropriate application of linear regression is not
6 dependent on a particular industry?

7 A That's my opinion, yes.

8 Q Is it also your opinion as an expert in
9 statistics and econometrics that the growth factors
10 utilized for bills and gallons should be the same factors
11 utilized for increased expenses?

12 A Yes, absolutely. And that's one of the concerns
13 that I have with the company's originally filed projection
14 factors is that they do presume different escalation rates
15 for revenues and expenses. One of the benefits of my
16 methodology is, it applies the same growth rates to both
17 revenues and expenses, which gives me comfort that if we
18 carry our 1999 values forward to the test year of 2001, we
19 will be growing them at the same rate and, therefore, have
20 a more reliable estimate of what revenue requirements are
21 required to be.

22 Q When you say, "a more reliable estimate," is it
23 safe to say what the utility has done is looked at the
24 five-year historical data, and say, this is what's going
25 to happen in the next two years, and you have looked at

1 that same five years of data, and said, this is what's
2 going to happen in the next two years, but then you
3 actually took the actual change in those next two years to
4 say this is what will happen in those next two years; is
5 that correct?

6 A Yes.

7 MR. FUDGE: That's all.

8 COMMISSIONER JACOBS: Exhibits.

9 MR. FUDGE: We would like to move Exhibit 4 into
10 the record.

11 MR. DETERDING: No objection.

12 COMMISSIONER JACOBS: Exhibit 4 is admitted.

13 (Exhibit 4 is admitted into the record.)

14 COMMISSIONER JACOBS: Mr. Stallcup, you're
15 excused. Thank you.

16 (Witness excused.)

17 COMMISSIONER JACOBS: Mr. Nixon is next.

18 MR. JAEGER: Marty, we're back to the normal
19 order. You can call your first witness.

20 MR. DETERDING: We would call Robert C. Nixon,
21 CPA.

22 ROBERT C. NIXON

23 was called as a witness on behalf of Aloha Utilities, Inc.
24 and, having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. DETERDING:

2 Q Mr. Nixon, you have been sworn?

3 A Yes, I have.

4 Q Please state your name and employment address
5 for the record.

6 A Robert C. Nixon, CPA; 2560 Gulf-to-Bay
7 Boulevard, Suite 200, Clearwater, Florida.

8 Q And have you been retained by Aloha Utilities
9 to provide testimony and expert opinions in this
10 proceeding?

11 A Yes.

12 Q Did you prepare in conjunction with my office a
13 document referred to as the prefiled direct testimony of
14 Robert C. Nixon consisting of ten pages, including your
15 resume?

16 A Yes.

17 Q If I asked you the same questions that are
18 contained in that testimony here today, would your answers
19 be the same?

20 A Yes, they would.

21 Q Do you have any corrections to make to that
22 testimony at this time?

23 A No.

24 Q Did you prepare in conjunction with that
25 testimony a set of four exhibits marked and prefiled as

1 RCN-1 through RCN-4?

2 A Yes.

3 Q And do you have any corrections or changes to
4 make to those exhibits?

5 A No.

6 Q Now, I believe there was also some additional
7 direct testimony that you filed with your -- with the
8 revised MFRs; is that correct?

9 A That's correct.

10 Q And that is entitled, "The Additional Direct
11 Testimony of Robert C. Nixon, CPA"?

12 A Yes.

13 Q And if I asked you the questions contained
14 within that testimony here today, would your answers be
15 the same?

16 A Yes, with the exception of the amount of the
17 total rate case expense, which is covered by an exhibit in
18 my rebuttal testimony.

19 Q Okay. So that would be further updated by your
20 rebuttal?

21 A Yes.

22 Q Did you have any exhibits attached to that
23 additional direct?

24 A No.

25 MR. DETERDING: Commissioner Jacobs, I ask that

1 Mr. Nixon's direct testimony and his additional
2 direct testimony be entered into the record as though
3 read.

4 COMMISSIONER JACOBS: Any objections? Show his
5 direct testimony and additional direct as entered into the
6 record as though read.

7 MR. DETERDING: And I request that his exhibits
8 RCN-1 through 4 be marked for identification.

9 COMMISSIONER JACOBS: Now, I noticed that the
10 direct exhibits are RCN-EX1, and the rebuttal exhibits are
11 RCN.

12 MR. DETERDING: Yeah, I apologize, Commissioner.
13 I believe there should be an "R" in there somewhere in the
14 rebuttal ones to identify them as rebuttal.

15 MR. JAEGER: I think what Mr. Jacobs is saying,
16 those first four exhibits that were attached to his
17 testimony didn't have the RCN designation at all actually,
18 but they were Robert C. Nixon's Exhibit 1, 2, 3, and 4.
19 And so it's sort of -- yeah, they are Exhibits 1, 2, 3,
20 and 4 attached to Mr. Nixon's testimony.

21 COMMISSIONER JACOBS: What Staff has done in the
22 prehearing order is give them an "EX" kind of a prefix.
23 If it's okay with you, we can just make them a composite
24 of EX1 through 4 RCN.

25 MR. DETERDING: That's fine.

1 COMMISSIONER JACOBS: And that's Composite
2 Exhibit 5, and those are the direct exhibits of Mr. Nixon.
3 (Exhibit 5 marked for identification.

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1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 ALOHA UTILITIES, INC.

3 SEVEN SPRINGS WASTEWATER DIVISION

4 DOCKET NO. 991643-SU

5 DIRECT TESTIMONY OF ROBERT C. NIXON, C.P.A.

6 Q. Please state your name and professional address.

7 A. Robert C. Nixon, C.P.A., a partner in the accounting firm
8 of Cronin, Jackson, Nixon & Wilson, P.A., 2560 Gulf-To-Bay
9 Boulevard, Suite 200, Clearwater, Florida 33765.10 Q. Have you been retained by Aloha Utilities, Inc. to provide
11 documentary information and testimony in that company's
12 application for increased rates for its Seven Springs
13 Wastewater Division?

14 A. Yes.

15 Q. Will you please provide a brief resume of your training
16 and experience as it relates to this proceeding?17 A. Attached to this testimony is a brief resume of my
18 education and training. The resume also includes a
19 listing of the companies I have represented in rate and
20 other proceedings before the Florida Public Service
21 Commission (PSC).22 Q. Did you provide schedules and other documentary evidence
23 which were employed by the Commission in each of those
24 cases listed on your resume in setting the rates and
25 charges found by the Commission in those Orders?

1 A. Yes, I did.

2 Q. Did you and persons of your firm, working under your
3 supervision and direction, prepare documentary evidence
4 for use by the Commission in establishing rates for the
5 Seven Springs Wastewater Division of Aloha Utilities,
6 Inc.?

7 A. Yes. Those documents are the Financial, Rate, and
8 Engineering schedules required as Minimum Filing
9 Requirements (MFRs) by the provisions of Rule 25-30.436,
10 .437, .440, and .4415, Florida Administrative Code, and
11 filed in this case as Exhibits 1, 2, 3, and 4.

12 Q. Briefly describe the types of information contained in
13 those exhibits.

14 A. Exhibit 1 contains summary schedules in Sections A through
15 E of rate base, operating income, cost of capital, and
16 related supporting schedules for the historic year ended
17 September 30, 1999, and the projected years ending
18 September 30, 2000 and 2001. Based on these key
19 schedules, the proposed interim and final rates were
20 developed using the historic and projected test year
21 billing determinates (Schedule E-13). Section F includes
22 a section of engineering information containing summaries
23 of plant operating data, used and useful analysis, and
24 customer growth using linear regression.

25 Exhibit 2 contains the Consolidated Billing Analysis

1 for the historic test year ended September 30, 1999.

2 Exhibit 3 contains the Supplemental Engineering
3 Information required by Rule 25-30.440.

4 Finally, Exhibit 4 contains the information required
5 by Rule 25-30.4415 related to recovery of investment in
6 facilities required by regulatory directive in the public
7 interest.

8 Q. What is the general nature of the information contained in
9 those exhibits?

10 A. The information in those exhibits is divisible in two
11 broad categories: historic and projected. The historic
12 information is derived directly from the books and records
13 of the company. The projected information contains
14 management's best estimate of revenue, expenses, capital,
15 and capital additions for the two projected years
16 necessary for the test year ending September 30, 2001.

17 Q. Would you please explain the reason the financial and
18 billing exhibits have been characterized as "unaudited?"

19 A. The PSC's rules for rate case filings, and its policies in
20 implementing those rules, do not require that the
21 schedules specified by the requirements be audited. Some
22 of the information required by the PSC's rules requires
23 estimates, assumptions, and projected data; therefore,
24 such information cannot be audited in accordance with
25 Generally Accepted Auditing Standards or presented in

1 accordance with Generally Accepted Accounting Principles.

2 Assuming that all of the MFR information could be
3 audited, the cost of preparing a rate case would be more
4 prohibitive than it already is. At the same time, this
5 would not relieve the Commission of the need to conduct
6 its own audit and investigation of the information filed
7 in this case. Hence, the additional cost of auditing even
8 those portions of the MFRs conducive to audit would vastly
9 increase rate case expense without any resulting cost
10 benefits to the company, its customers, or the Commission.

11 Q. Is that the reason for the letter from your accounting
12 firm dated February 8, 2000, and found behind the Index of
13 Exhibit No. 1?

14 A. That is part of the reason. The PSC's rules do not
15 require that water and sewer utilities have independent
16 audits. As a result, the information presented is not
17 based upon such audits.

18 Q. If that is the case, then upon what basis can you advise
19 the Commission that the information presented in the
20 documents filed as Exhibit Nos. 1, 2, 3, and 4 is reliable
21 information, which the Commission may employ in setting
22 rates for the Seven Springs Wastewater Division of Aloha
23 Utilities, Inc.?

24 A. The Commission recently completed a rate base audit of
25 Aloha, including the Seven Springs Wastewater Division,

1 based on the test years ended December 31, 1997 and 1998.
2 As a result, reliable balances for the various rate base
3 accounts were established and carried forward into the
4 historic test year. The audit confirmed that the company
5 keeps its books and records in accordance with the Class
6 A Uniform System of Accounts. There were no material
7 adjustments as a result of that audit and the Commission
8 found that the company was earning within the range of its
9 authorized return on equity. This rate case is necessary
10 to recover new costs related primarily to construction of
11 wastewater plant improvements pursuant to a DEP Consent
12 Order. The costs used in the projected test year are
13 based on actual contract amounts with third parties. In
14 addition, the increased operating costs were based on the
15 estimates of the company's professional engineer.

16 Based on these facts, I am confident that the
17 Commission can rely on the information filed in this case
18 in setting rates.

19 Q. Is it accurate to state that the information contained in
20 the rate case exhibits is true and correct to the best of
21 your knowledge and belief?

22 A. The answer to your question is "yes" and "no." First, it
23 is not an accountant's function to provide information on
24 that basis, since the terms "true" and "correct" represent
25 the assertion of an absolute statement. In a sewer

1 utility rate application such as this, there are literally
2 thousands of numbers which are extracted from the books
3 and records of the utility company, by me and personnel of
4 my firm, and many more thousands for the 24 months of 13-
5 month average projected data in this case. I believe them
6 to be reliable and accurate, however, there are almost
7 always slight differences in numbers that occur from
8 transposition errors and input errors, together with any
9 differences of opinion on policy matters that may arise
10 between our firm and the Commission Staff. The
11 information we have prepared and set forth in Exhibit Nos.
12 1, 2, 3, and 4 will, in all likelihood, produce questions,
13 some of which will become issues in this case before it is
14 concluded. At the time of preparing this information,
15 there were, of course, no issues, merely the
16 straightforward presentation of facts and information, as
17 set forth on schedules in conformity with the rule on
18 Minimum Filing Requirements.

19 Q. I notice on Schedule B-10 of Exhibit 1 you have estimated
20 total cost of this rate case to be \$275,000 and amortized
21 over a 4-year period. Would you please explain to the
22 Commission the source of that estimate?

23 A. Yes. At the time of preparation of that information, we
24 estimated the cost of this case based on information
25 provided, in part, by Rose, Sundstrom & Bentley, David

1 Porter, P.E., and our experience in similar cases where a
 2 hearing is held. We will provide the Commission with the
 3 company's actual and estimated rate case expense, with
 4 support, as close to the finalization of this case as
 5 possible, in accordance with normal Commission practices.

6 Q. For the test year ended September 30, 2001, would you
 7 please summarize the rate base, rate of return, operating
 8 income, and operating revenue required by the Seven
 9 Springs Wastewater Division of Aloha Utilities, Inc. to
 10 realize a fair rate of return on investment?

11 A. Yes. These are summarized as follows:

12	Rate Base	<u>\$10,511,152</u>
13	Rate of Return	<u>9.23%</u>
14	Operating Income	<u>\$ 970,179</u>
15	Operating Revenue	<u>\$ 4,487,204</u>

16 Q. Do you have anything further to add at this time?

17 A. No.

1 the following companies:

2	<u>Name of Company</u>	<u>Order No.</u>	<u>Date</u>
3	Clay Utility Company	14305	04/22/85
4	Twin County Utility Company	14380	05/17/85
5	Sanlando Utilities Corp.	15887	03/25/86
6	Park Manor Waterworks, Inc.	15831	03/12/86
7	Forest Utilities, Inc.	14557	07/10/85
8	Eagle Ridge Utilities, Inc.	14133	02/17/85
9	Martin Downs Utilities, Inc.	17269	03/10/87
10	Ocean Reef Utility Co.	17532	05/08/87
11	Rolling Oaks Utilities, Inc.	17760	06/06/87
12	St. Johns Service Company	18551	12/15/87
13	Limited investigation into		
14	rate settling procedures		
15	and alternatives for water		
16	and sewer companies	21202	05/08/89
17	Radnor Plantation DBA		
18	Plantation Utilities	21415	06/20/89
19	Hydratech Utilities, Inc.	22226	11/27/89
20	Martin Downs Utilities, Inc.	22869	04/27/90
21	Request by Florida Waterworks		
22	Assoc. for investigation of		
23	proposed repeal of Section		
24	118(b) IRC (CIAC)	23541	10/01/90
25	Southern States Utilities	24715	06/26/91

	<u>Name of Company</u>	<u>Order No.</u>	<u>Date</u>
1			
2	FFEC-Six, Ltd.	24733	07/01/91
3	East Central Florida Services	PSC-92-0104-FOF	03/27/92
4	Aloha Utilities, Inc.	PSC-92-0578-FOF-SU	06/29/93
5	Mad Hatter Utility, Inc.	PSC-93-0295-FOF-WS	02/24/93
6	Lehigh Utilities, Inc.	PSC-93-0301-FOF-WS	02/25/93
7	Jasmine Lakes Utilities Corp.	PSC-93-1675-FOF-WS	11/18/93
8	Gulf Utility Company	PSC-93-1207-FOF-WS	08/18/93
9	Key Haven Utility Company	PSC-94-1557-S-SU	12/13/94
10	JJ's Mobile Homes, Inc.	PSC-95-1319-FOF-WS	10/30/95
11	Little Sumter Utility	PSC-96-1132-FOF-WS	09/11/96
12	Aloha Utilities, Inc.	PSC-97-0280-FOF-WS	03/12/97
13	Gulf Utility Company	PSC-97-0847-FOF-WS	10/22/97
14	Lindrick Service Corporation	PSC-97-1501-FOF-WS	11/25/97

1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 ALOHA UTILITIES, INC.

3 SEVEN SPRINGS WASTEWATER DIVISION

4 DOCKET NO. 991643-SU

5 ADDITIONAL DIRECT TESTIMONY OF ROBERT C. NIXON, C.P.A.

6 Q. Please state your name and professional address.

7 A. Robert C. Nixon, C.P.A., a partner in the accounting firm
8 of Cronin, Jackson, Nixon & Wilson, P.A., 2560 Gulf-To-Bay
9 Boulevard, Suite 200, Clearwater, Florida 33765.10 Q. Have you previously filed direct testimony in Aloha
11 Utilities, Inc.'s application for increased rates for its
12 Seven Springs Wastewater Division?

13 A. Yes.

14 Q. What is the purpose of your additional direct testimony?

15 A. This additional testimony is submitted to restate the rate
16 base, rate of return, operating income, and operating
17 revenue required by the Seven Springs Wastewater Division
18 of Aloha Utilities, Inc. I also want to address a
19 specific revision for an increased estimate of rate case
20 expense in this Docket.21 Q. Did you and persons of your firm, working under your
22 supervision and direction, prepare revised documentary
23 evidence for use by the Commission in establishing rates
24 for the Seven Springs Wastewater Division of Aloha
25 Utilities, Inc.?

1 A. Yes. Those documents are the Financial, Rate and
2 Engineering schedules required as Minimum Filing
3 Requirements filed in this case as Revised Volumes I and
4 II.

5 Q. Why were these volumes of information revised?

6 A. Volume I was revised to address certain deficiencies and
7 provide additional information requested by Staff, as
8 summarized in a letter to the Utility dated March 2, 2000,
9 from Mr. Dan Hoppe, Director, Division of Water &
10 Wastewater.

11 Q. Please describe the deficiencies noted by Staff.

12 A. The deficiencies fell into two broad categories. The
13 first was correction of minor errors in headings, account
14 descriptions, or presentation of data. The second
15 category related to a request for additional information
16 concerning the projection of rate case data for the two
17 years ending September 30, 2000 and 2001. The additional
18 information requested is contained in Section G and
19 Schedules B-8. This new information resulted in an
20 additional 47 pages of data in Revised Volume I from that
21 originally filed in Volume I on February 9, 2000.

22 Q. Were the deficiencies related to additional information
23 really necessary to meet the Minimum Filing Requirements?

24 A. The answer to this question is yes and no. There were a
25 few projected accounts that were not discussed (because

1 projected amounts did not change from the historic test
2 year balances) and a few where a better description could
3 have been presented. However, the basis for every
4 material projection where accounts changed was given and
5 the calculation of the specific amounts by month could
6 have been verified by the PSC auditors. In essence,
7 Staff's request for additional information as a deficiency
8 has required that we reproduce our working papers to show
9 how each account was projected. In my opinion, this is
10 inefficient and has certainly added to the cost of this
11 case. Hopefully, the additional information presented may
12 assist the auditors and other Commission Staff to more
13 rapidly process this case and some efficiencies may
14 result.

15 Q. Why was Volume II revised?

16 A. Volume II is the Consolidated Billing Analysis. The
17 heading on each schedule had an incorrect Docket number.
18 Thus, Volume II was revised to show the correct Docket.

19 Q. Please address revised rate case expense.

20 A. I have increased the estimate of rate case expense by
21 \$25,000 in order to cover the costs of preparing
22 additional new information required by Staff and to leave
23 approximately \$40,000 for discovery, preparation of
24 rebuttal testimony, preparing for and attending the
25 hearing, and post-hearing work. Keep in mind, these are

1 simply estimates and, hopefully, actual expense will turn
2 out to be much less.

3 Q. In preparing the revised volumes in this case, did you
4 charge the Utility for the correction of errors?

5 A. No. All time incurred for correction of errors was not
6 charged and will be written off.

7 Q. For the test year ending September 30, 2001, will you
8 please summarize the revised rate base, rate of return,
9 operating income, and operating revenue required by the
10 Seven Springs Wastewater Division of Aloha Utilities,
11 Inc.?

12 A. Yes. These are summarized as follows:

13	Rate base	<u>\$10,519,148</u>
14	Rate of return	<u>9.24%</u>
15	Operating income	<u>\$ 971,969</u>
16	Operating revenue	<u>\$ 4,374,495</u>

17 Q. Do you have anything further to add at this time?

18 A. No.

1 BY MR. DETERDING:

2 Q Mr. Nixon, would you would you please provide a
3 brief summary of your direct and additional direct
4 testimonies.

5 A Yes. My firm and employees working under my
6 supervision compiled Volumes I through IV that have been
7 entered as an exhibit to my testimony. Volume I is the
8 accounting rate and engineering information in this case.
9 The information in that volume came from the books and
10 records of the company for the historic year, other
11 information provided by the company, information provided
12 by Aloha's engineers.

13 In certain sections of that volume -- I'll refer
14 to that as Volume Roman Numeral I -- Mr. Porter, the
15 engineer, compiled and prepared the information, and where
16 that occurred that contains his name on those schedules.

17 Q Does that conclude your summary?

18 A Yes.

19 MR. DETERDING: I tender the witness for cross.

20 CROSS EXAMINATION

21 BY MR. BURGESS:

22 Q Mr. Nixon, you are the witness for the utility
23 that testifies as to the growth projections used and the
24 rational therefor?

25 A Yes.

1 Q Can you tell me what factors you used -- what
2 factor you used for growth? Excuse me. Do you agree with
3 the testimony by Mr. Stallcup as to the factor that was
4 used by the utility?

5 A I'm not a mathematician or statistician, so I
6 really can't rebut a lot of what Mr. Stallcup said in his
7 testimony; however, I feel for practical reasons and
8 reasons based on my experience that the original
9 projection in the MFRs is a better indicator of customer
10 growth revenues. And to the extent that we differ in
11 percentages, I still hold to and adopt the percentage used
12 in our filing.

13 Q And why did you choose that methodology that you
14 used for Aloha's filing?

15 A Let me tell you first the methodology we did
16 use. Aloha converted to a new billing software, so it was
17 very difficult to go back and get ERCs as of
18 September 30th in each of the five previous years. So we
19 took the ERCs as of December 31st in each of the years in
20 our projection, and for the last year, we used the ERCs of
21 December 31st, 1999, because that data was available.

22 Even though we are three months beyond the
23 historic test year, by using that actual December data, we
24 have six 12-month periods. If we had backed up and only
25 used a period ending September 30th, 1999, we wouldn't

1 have six comparable 12-month periods on which to base the
2 projection.

3 The second part of our methodology dealt with
4 using total ERCs which included those ERCs which are
5 actually billed. They included the residential ERCs, as
6 well as the commercial ERCs, and for that reason, I feel
7 like the projection gives a better indicator as far as
8 future growth in customers and revenues because it
9 contains total ERCs. It's not just a computed ERC number
10 as contained in the revised filing.

11 Q Is this a departure from the presentation for
12 growth factors that you have prepared in other cases?

13 A No, it's not.

14 Q And is this a departure from your understanding
15 of Public Service Commission rules for projecting these
16 types of growth factors?

17 A No, it's not.

18 Q Thank you. I have some questions with regard to
19 Issue 4 in the prehearing order about capitalization of
20 previous expenses. As I understand it, you are listed
21 both in your direct and rebuttal testimony on this. I'm
22 not sure -- I don't want to violate organized fashion of
23 asking questions on this, so if I start to get into areas
24 wherein it falls more along the lines of rebuttal than
25 your case in chief, why don't you let me know, or I'm sure

1 Mr. Deterding or Mr. Wharton or somebody down there will.

2 Is it correct that the utility went back and
3 examined a number of expenditures that were made and that
4 were expensed in previous years and capitalized those
5 expenditures in changing the treatment of them?

6 A Yes. In preparation for the first PSC audit,
7 Aloha directed us to go back and see if we could support
8 the plant that was on the general ledger. The company had
9 not been audited in some 23 years, and we went through
10 that exercise. As a result of that, we had a number of
11 items that we found that had been expensed at different
12 periods of time, and I felt like we should go ahead and
13 capitalize those to correct the error.

14 Q How many years back did you go in changing the
15 treatment of these expenditures?

16 A I have an exhibit attached to my rebuttal
17 testimony, but just off the top of my head, I think they
18 go back to 1983.

19 COMMISSIONER JACOBS: Mr. Burgess?

20 MR. BURGESS: Yes.

21 COMMISSIONER JACOBS: I had intended to take a
22 break before Mr. Nixon's testimony began because I'm sure
23 we need one.

24 MR. BURGESS: Very good.

25 COMMISSIONER JACOBS: Why don't we take a

1 ten-minute break, and we'll come back.

2 (Brief recess.)

3 COMMISSIONER JACOBS: Let's go back on the
4 record. Mr. Burgess, you may proceed.

5 MR. BURGESS: Thank you, Commissioner.
6 Commissioner, I believe that as I was asking Mr. Nixon
7 questions about that, I had begun to stray into the areas
8 of his rebuttal testimony on that issue and, I think, any
9 other questions I have for Mr. Nixon also involve more of
10 the rebuttal testimony than direct testimony, so I have no
11 further questions.

12 COMMISSIONER JACOBS: Very well. Staff?

13 CROSS EXAMINATION

14 BY MR. FUDGE:

15 Q Mr. Nixon, you sponsored Schedule F-10, pages 1
16 through 4?

17 A Could you say that again? I can't hear you
18 clearly.

19 Q You sponsored MFR Schedule F-10, pages 1 through
20 4; is that correct?

21 A That's correct.

22 Q And pages 3 to 4 contain the ERC forecast that
23 you believe should calculate the projected factors used to
24 escalate bills, gallons and selected O&M accounts from '99
25 to 2001; is that correct?

1 A Yes.

2 Q And pages 1 of 2 of this MFR contain a revised
3 ERC forecast that you filed in response to Staff's
4 deficiency letter?

5 A Yes.

6 Q And you believe the projections, as recently
7 filed, are appropriate to use in this case?

8 A Yes.

9 Q And why is that?

10 A I believe they're appropriate, because they
11 contain total ERCs, both residential and commercial,
12 converted to ERC equivalents based on meter size. So, I
13 think, the ERCs are more representative of the additional
14 revenue and additional billing determinants that would
15 result.

16 The revised ERC forecast filed to meet the
17 minimum filing requirements, I believe, may be appropriate
18 if you were trying to project gallons of wastewater
19 treated, but the ERCs is a computation based on the demand
20 per residential ERC, and then applied to your total
21 gallon. So, it doesn't really give you the total ERCs
22 that you're going to bill. So, for that reason, I think,
23 my forecast was better.

24 Q MFR Schedule E-13(A), does that depict the 1990
25 bills and gallons escalation to year 2001 values?

1 A Yes.

2 Q In Columns 3 and 6, is the projection factor you
3 used to account for two years of ERC growth on the number
4 of bills and gallons correct?

5 A Yes.

6 Q In lines 32 through 39 show how this value of
7 1.08535 was derived?

8 A Yes, sir.

9 Q Would you please explain this calculation?

10 A We took the growth in ERCs, predicted by our
11 five-year historic linear regression, and then we
12 multiplied those by 12 months to get the total additional
13 number of bills. Then, we divided by the total historic
14 test year bills and came up with the projection factor.

15 Q Does this number correspond only to residential
16 customers?

17 A We did use the residential ERCs for the
18 denominator, yes.

19 Q And the value of 1.08535 accounts for ERC growth
20 through the years 2000 and 2001. So, is this really a
21 two-year projection factor?

22 A Yes.

23 Q Would you accept, subject to check, that this
24 projection factor could be restated as annual projection
25 factor of 1.041801, which would be applied one time to

1 calculate 2000 bills and gallons, and then applied again
2 to calculate 2001 bills and gallons and come up with the
3 same number of bills and gallons as you did by using your
4 2-year projection factor?

5 A Subject to check, yes. That was the reason we
6 chose this methodology so we didn't have to present
7 another year on the same schedule.

8 Q How did you derive your projection factor to
9 escalate selected O&M expenses for the effects of ERC
10 growth in Schedules B-8(A) and B-8(B), pages 53 and 54?

11 A We took the percentage growth rate shown on page
12 133, which was 4.812 rounded. And, generally, we applied
13 that growth factor to the historic O&M expenses to get the
14 expenses in the intermediate year. And we used the same
15 4.812 growth rate to project expenses in 2001. We also
16 used an inflation factor, and then made some specific
17 adjustments, which are detailed in the G Section of the
18 MFRs.

19 Q So, in Column 3 of B-8(B), is that the dollar
20 impact of your ERC projection factor from '99 to 2000?

21 A Could you repeat that, please?

22 Q In Column 3 of Schedule B-8(B), is that the
23 dollar impact of your projection from base year to 2000?

24 A Yes, with adjustments.

25 Q So, looking at Line 5 in Column 3, the dollar

1 figure of \$28,709 says the amount for Account 711, sludge
2 removal expense would be expected to grow as a result of
3 ERC growth from 1999 to 2000?

4 A Yes, that's correct.

5 Q And, similarly, on the proceeding page, the
6 amount of \$30,454 on Line 5 shows the amount the same
7 account is expected to grow from 2000 to 2001?

8 A Yes.

9 Q And each of these amounts is calculated using
10 annual growth factor of 1.0481159?

11 A I didn't hear that percentage clearly.

12 It's 1 --

13 Q .0481159.

14 A Yes.

15 Q And over a 2-year period this annual rate
16 corresponds to a 2-year projection factor of 1.098547; is
17 that correct?

18 A We did the two years individually applying the
19 4.8112 by year, and those are detailed for Account 711
20 sludge removal on page 166. And further on, you can see
21 the calculation on that item for the projected test year
22 ending 9-30-2001.

23 Q Okay. Can you tell me why in MFR Schedules
24 B-8(A) and (B), you growth selected O&M expenses by
25 roughly 9.8% over two years, but as we discussed earlier,

1 you chose to grow them in bills or gallons at only 8.5%
2 over the same two years when both rates of growth are
3 supposed to be attributable to ERC growth from '99 to
4 2001?

5 A Well, as I said before, we went over the
6 projection of bills and gallons, and we used the increase
7 in number of bills to calculate a percentage, which is
8 different than the five-year percentage increase shown on
9 page 133.

10 It's the same data. The only difference is for
11 revenues we used the forecast increase in customers, but
12 for the expenses we used the percentage growth represented
13 by the slope of the regression line over the historic
14 5-year period, so that's the difference.

15 Q Do you have a copy of your Late-filed Deposition
16 Exhibit Number 1?

17 A I can get it, if you give me a minute.

18 Q Did you find that, Mr. Nixon?

19 A Yes.

20 COMMISSIONER JACOBS: Did you want to identify
21 this exhibit, Mr. Fudge?

22 MR. FUDGE: Yes, Chairman. We'd like to move
23 Mr. Nixon's entire deposition and all his late-filed
24 exhibits into the record.

25 COMMISSIONER JACOBS: Well, let's go ahead and

1 identify it now, and then you can move it at the end of
2 his testimony. We'll make this Exhibit 6.

3 MR. FUDGE: That will be deposition and
4 late-filed exhibits.

5 (Exhibit 6 marked for identification.)

6 BY MR. FUDGE:

7 Q Does this exhibit show how you calculated your
8 annual projection factors for escalating selected O&M
9 accounts for ERC growth?

10 A Yes, it does.

11 Q Would you please explain how these calculations
12 are made to result in a projection factor for the growth
13 period '99 to 2000 and 2000 to 2001?

14 COMMISSIONER JABER: Mr. Fudge, which deposition
15 exhibit are you referring to?

16 MR. FUDGE: Late-filed Exhibit 1.

17 COMMISSIONER JABER: Is there a page number?

18 MR. FUDGE: It's page 18.

19 BY MR. FUDGE:

20 Q Are you still looking for the answer or --

21 A I was waiting. Do you want me to go ahead?

22 COMMISSIONER JACOBS: I'm sorry, go ahead.

23 A If you'll look on page 166 of the MFRs, and then
24 go down to line 12 on that schedule, that shows how the
25 total projected value of sludge removal for that year was

1 determined.

2 As you'll note, we projected \$632,871 of sludge
3 removal, and that's the adjusted value shown on page 53,
4 Schedule B-8(B). So, to answer your question, the
5 historic balance of \$596,596 is multiplied by a growth
6 factor of 1.04812, which is the same growth factor shown
7 on my late-filed deposition exhibit.

8 And the only difference is, I guess, the
9 breakout. As I mentioned earlier, we also had a factor
10 for inflation, and we're showing the inflation amount in
11 one column, and the projection of growth in column 3. And
12 the total of those two items, when added together, and
13 added to the prior year's balance is the \$632,871.

14 And, I believe, you can go through any O&M
15 expense item on this schedule and also the one on the
16 previous page, page 52, to see exactly how those amounts
17 were projected. And they are consistent with my
18 deposition exhibit.

19 BY MR. FUDGE:

20 Q So, you've divided the slope by 1994 ERCs. But
21 wouldn't it be more appropriate to divide the slope by
22 1999 ERCs to calculate the growth from '99 forward?

23 A No, sir. I think, that's where we differ from
24 Mr. Stallcup's methodology. I believe the -- in my
25 experience anyway, the Commission's preferred method of

1 applying a simple regression analysis has been to use the
2 percentage increase represented by the slope over the
3 entire 5-year historic period.

4 As I said, I'm not a statistician, but I think
5 if you just lop off the last three years, the historic
6 test year and then the two projected test years, you're
7 somehow changing the percentage represented by the
8 historic 5-year linear regression line.

9 Q But would you agree that by using a smaller
10 number of ERCs, like the 1994 value, that your projection
11 factor would be larger than if you use the 1999 number of
12 ERCs and that the O&M accounts escalated by this factor
13 would be greater as well?

14 A I don't think so. I think, what this 4.81159
15 is, is the slope of that regression line over the entire
16 period of time. At least that's what I've been told by
17 people that are more mathematically and statistically
18 inclined than I am.

19 Q But if you have the same numerator and you
20 divide by a larger denominator, then you would have a
21 lower projection factor, wouldn't you?

22 A Well, that's just simple mathematics, yes, but
23 that's why, I think, we have the difference with
24 Mr. Stallcup. We think it's just as wrong to use a larger
25 denominator to reduce the percentage growth factor than

1 what we've used, which covers the entire 5-year historic
2 period.

3 MR. FUDGE: All right. Thank you. No further
4 questions.

5 COMMISSIONER JACOBS: Commissioners? Any
6 redirect?

7 MR. DETERDING: None.

8 COMMISSIONER JACOBS: Very well. Exhibits?

9 MR. DETERDING: Move Exhibit --

10 COMMISSIONER JACOBS: 5?

11 MR. DETERDING: 5.

12 MR. FUDGE: Move Exhibit 6.

13 COMMISSIONER JACOBS: Very well.

14 (Exhibits 5 and 6 admitted into the record.)

15 CHAIRMAN JACOBS: Thank you, Mr. Nixon, you're
16 excused -- not excused yet; you have rebuttal.

17 MR. JAEGER: Commissioner Jacobs, I have one
18 preliminary matter before we move on.

19 COMMISSIONER JACOBS: Okay. No, I'm sorry, I
20 said he was excused, and I remember we've got rebuttal.

21 MR. JAEGER: Okay. In the prehearing order,
22 it's not exactly clear about -- he revised Volumes 1 and
23 2, completely resubmitted Volumes 1 and 2. And what we're
24 moving into the evidence is revised Volumes 1 and 2, and
25 that's Exhibit 1 and Exhibit 2 to his testimony. I just

1 want to make sure people don't grab the wrong Volumes 1
2 and 2. In the initial filing, there was another Volume 1
3 and 2 that were not used anymore at all.

4 COMMISSIONER JACOBS: Very well. So, it's noted
5 that Exhibit 5 should include the revised Exhibits 1 and 2
6 attached to Mr. Nixon's direct testimony.

7 MR. JAEGER: That's correct.

8 COMMISSIONER JACOBS: Very well.

9 Mr. Wharton, next witness.

10 MR. WHARTON: We would call David Porter as our
11 next witness.

12 DAVID W. PORTER

13 was called as a witness on behalf of Aloha Utilities, Inc.
14 and, having been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. WHARTON:

17 Q Sir, have you been sworn?

18 A Yes, I have.

19 Q Would you state your name and professional
20 address for the record?

21 A Yes. My name is David W. Porter, P.E.,
22 Professional Engineer. And my address is 3197 Ryans,
23 R-Y-A-N-S, Court, Green Cove Springs, Florida 32043.

24 Q Have you been retained by Aloha Utilities to
25 provide testimony and expert opinions in this proceeding?

1 A I have.

2 Q Did you prepare, in conjunction with our office,
3 a document referred to as the prefiled direct testimony of
4 David W. Porter?

5 A I did.

6 Q Consisting of two pages?

7 A That's correct.

8 Q If I ask you the same questions here today,
9 would your answers be the same?

10 A Yes, they would.

11 Q Do you have any corrections to make to your
12 testimony at this time?

13 A No, I do not.

14 Q Did you also prepare, in conjunction with the
15 preparation of that direct testimony, certain exhibits
16 which were prefiled as -- and again, this is a little bit
17 of the same problem we had before but, I guess, Exhibit 1
18 is what we called it then, but DP-1, consisting of
19 Schedules F-1 through F-10 of Aloha's application?

20 A I assisted Mr. Nixon in preparing those, that's
21 correct.

22 Q Do you have any corrections to make to the
23 exhibits?

24 A No.

25 Q We would request that Mr. Porter's prefiled

1 direct testimony be inserted into the record as though
2 read and that his attached prefiled exhibits be marked for
3 identification.

4 COMMISSIONER JACOBS: And the prefiled exhibits
5 are composite Exhibit 7 and they are --

6 MR. WHARTON: They are Schedules F-1 through
7 F-10 of Aloha's application.

8 (Exhibit 7 marked for identification.)

9 COMMISSIONER JACOBS: Without objection, show
10 his prefiled direct testimony is admitted as though read.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ALOHA UTILITIES, INC.

DOCKET NO. 991643-SU

DIRECT TESTIMONY OF DAVID W. PORTER, P.E., C.O.

1 Q. Please state your name and professional address.

2 A. David W. Porter, P.E., C.O., Water/Wastewater System Consulting Engineer, 3197
3 Ryans Court, Green Cove Springs, Florida, 32043.

4 Q. Have you been retained by Aloha Utilities, Inc. to provide testimony and assist in the
5 preparation of exhibits in this proceeding?

6 A. Yes.

7 Q. Please provide a brief resume of your training and experience as it relates to this
8 proceeding.

9 A. I hold a BSCE degree from the University of Massachusetts where the emphasis of
10 my studies was in water and wastewater treatment technology. I have 27 years
11 experience in the operation, management, design, construction and troubleshooting
12 water and wastewater facilities. During that time I have been employed as a treatment
13 plant operator and administrator, a design engineer, principal engineer, vice president
14 and general manager of a large engineering firm that specialized in the design of
15 water and wastewater facilities worldwide, principal engineer for a multinational
16 water and wastewater equipment manufacturing firm that provides state-of-the-art
17 equipment for high purity water systems and wastewater treatment systems
18 worldwide. For 14 years I taught water and wastewater treatment technology as an
19 adjunct instructor at community colleges, universities and State sponsored short
20 schools. I have authored numerous technical papers and trade magazine articles
21 related to treatment facility design, troubleshooting, operation and management. I
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1 have served as the chairman of the American Water Works Association's Pipeline
2 Rehabilitation Standards Committee and have served on numerous technical advisory
3 committees for the Water Environment Federation, the American Water Works
4 Association and governmental regulatory agencies such as the Florida Department
5 of Environmental Regulation. I am an A Class Licensed Plant Operator in the State
6 of Florida, a Grade VII Licensed Plant Operator in the Commonwealth of
7 Massachusetts, and a Registered Professional Engineer in the States of Florida and
8 Virginia.

9 Q. What are your professional affiliations related to this case?

10 A. I am a member of the American Water Works Association, the Water Environment
11 Federation and the Florida Water and Wastewater Operators Association.

12 Q. Did you assist in the preparation of Schedules F-1 through F-10 submitted in this
13 proceeding?

14 A. Yes.

15 Q. Is it your opinion that these schedules present true and factual to the best of you
16 knowledge and belief?

17 A. Yes.

18 Q. Is it your opinion that the Interim Facility Upgrades to the Seven Springs WWTP
19 should be considered 100% used and useful upon completion of their construction?

20 A. Yes, for the reasons that I have stated on Schedule F-6.

21 Q. Do you have anything else to add.

22 A. Not at this time.
23
24
25

1 COMMISSIONER JACOBS: Proceed.

2 BY MR. WHARTON:

3 Q Sir, would you please provide a brief summary of
4 your testimony and your exhibits which you have been
5 providing in this proceeding?

6 A Yes. I prepared my prefiled direct testimony,
7 as we discussed earlier. And really, there are two main
8 points in the prefiled. One was that I assisted Mr. Nixon
9 in preparing F-1 through F-10 of the MFRs.

10 And also, I stated that the facility upgrades,
11 which we're talking about here today, the Seven Springs
12 wastewater treatment plant facility upgrades, should be
13 considered 100% used and useful when evaluating the
14 recovery cost of this project.

15 MR. WHARTON: We would tender the witness,
16 Commissioner.

17 MR. BURGESS: No questions.

18 COMMISSIONER JACOBS: No questions. Staff, no
19 questions?

20 MR. JAEGER: I have some.

21 CROSS EXAMINATION

22 BY MR. JAEGER:

23 Q Mr. Porter, I think, in your prefiled testimony
24 you show contractual services other expense of \$175,000
25 in the first year?

1 A That's correct, yes.

2 Q Could you, please -- aren't there certain
3 guarantees associated with this plant from the builder?

4 A Certainly, there are warranties and guarantees.
5 However, warranties and guarantees do not apply to
6 preventive maintenance programs or repair. They only
7 apply to defects in materials and workmanship from the
8 various manufacturers of the equipment and from the
9 contractor himself.

10 So, therefore, there are substantial costs
11 associated with maintaining the equipment that's been
12 provided as part of this project, especially given the
13 fact that this is a Class 1 reliable facility and must
14 operate 100% of the time so, therefore, it requires an
15 extensive amount of maintenance to make sure it meets that
16 requirement.

17 Q I think, you have there the maintenance cost for
18 equipment, you say 5% of the value of the new equipment?

19 A That's correct.

20 Q Where does that figure come from? Is that
21 your --

22 A Okay. Well, first of all, there's precedent
23 here. I mean, that's what we used previous rate cases
24 for, that number. But also, it really stems from many
25 years ago. And my experience, back in the days when the

1 EPA had published documents related to operation and
2 maintenance costs that would be associated with facilities
3 built under the 201 program, if my recollection is
4 correct, they were the ones that originally, obtain the
5 5%. And I've utilized it over the years, probably 25
6 years. So, that's where it came from, originally.

7 MR. JAEGER: No further questions.

8 COMMISSIONER JACOBS: Commissioners?

9 COMMISSIONER JABER: No.

10 COMMISSIONER JACOBS: No questions? Exhibits?

11 MR. WHARTON: We would move, I believe, you said
12 composite 7.

13 COMMISSIONER JACOBS: Yes. No objections, show
14 it admitted.

15 (Exhibit 7 admitted into the record.)

16 COMMISSIONER JACOBS: You may step down,
17 Mr. Porter.

18 THE WITNESS: Thank you.

19 (Witness excused.)

20 COMMISSIONER JACOBS: Mr. Burgess?

21 MR. BURGESS: Call Hugh Larkin to the witness
22 stand, please.

23 MR. WHARTON: Commissioner, can we all hold for
24 one minute to get Mr. Deterding in here. I don't think he
25 anticipated it would go so quickly.

1 COMMISSIONER JACOBS: Okay. We'll go off the
2 record for five minutes.

3 (Brief recess.)

4 COMMISSIONER JACOBS: Ready to go?

5 MR. BURGESS: Commissioner, I believe,
6 Mr. Larkin had not arrived when you swore the group of
7 witnesses in.

8 COMMISSIONER JACOBS: Okay. I can swear him
9 now. Could you raise your right hand.

10 HUGH LARKIN, JR.

11 was called as a witness on behalf of the Citizens of the
12 State of Florida and, after being duly sworn, testified as
13 follows:

14 COMMISSIONER JACOBS: Thank you. You may be
15 seated. Proceed, Mr. Burgess.

16 MR. BURGESS: Yes, sir, thank you.

17 DIRECT EXAMINATION

18 BY MR. BURGESS:

19 Q Would you state your name and business address,
20 please.

21 A My name is Hugh Larkin, Jr. My business address
22 is 15728, Farmington Road, Livonia, Michigan 48154.

23 Q Have you been engaged by the office of public
24 counsel to present testimony in this case?

25 A Yes, I have.

1 Q Did you prefile testimony on certain issues and
2 submit that testimony to the Public Service Commission on
3 July 31st, 2000?

4 A Yes.

5 Q If you were asked the same questions that are
6 contained in that prefiled testimony, would your answers
7 today be the same?

8 A Yes, they would.

9 Q Did you further prefile exhibit attached to that
10 testimony and identify it as HL-1?

11 A Yes.

12 Q Does that exhibit consist of 7 schedules?

13 A Yes, it does.

14 MR. BURGESS: Commissioner, I would ask that his
15 prefiled testimony be moved into the record, as though
16 read, and I would like to identify the exhibit for the
17 record.

18 COMMISSIONER JACOBS: Very well. Show composite
19 Exhibit 8 is Schedules -- I'm sorry, I missed it.

20 MR. BURGESS: Schedules 1 through 7 of composite
21 exhibit attached to Hugh Larkin's testimony.

22 (Exhibit 8 marked for identification.)

23 COMMISSIONER JACOBS: And without objection,
24 show his prefiled testimony admitted as though read.

25

1 DIRECT TESTIMONY OF HUGH LARKIN, JR.
2 ON BEHALF OF THE CITIZENS OF FLORIDA
3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

4 ALOHA UTILITIES, INC.

5 DOCKET NO. 991643-SU
6

7 I. INTRODUCTION

8 Q. WHAT IS YOUR NAME, OCCUPATION AND BUSINESS ADDRESS?

9 A. My name is Hugh Larkin, Jr. I am a Certified Public Accountant licensed in the States of
10 Michigan and Florida and the senior partner in the firm of Larkin & Associates, PLLC,
11 Certified Public Accountants, with offices at 15728 Farmington Road, Livonia, Michigan
12 48154.

13
14 Q. PLEASE DESCRIBE THE FIRM LARKIN & ASSOCIATES.

15 A. Larkin & Associates, PLLC, is a Certified Public Accounting and Regulatory Consulting
16 Firm. The firm performs independent regulatory consulting primarily for public
17 service/utility commission staffs and consumer interest groups (public counsels, public
18 advocates, consumer counsels, attorneys general, etc.). Larkin & Associates, PLLC, has
19 extensive experience in the utility regulatory field as expert witnesses in over 300
20 regulatory proceedings including numerous water and sewer, gas, electric, and telephone
21 utilities.
22
23

1 Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE FLORIDA PUBLIC SERVICE
2 COMMISSION?

3 A. Yes. Over the last 25 years, I have testified before the Florida Public Service
4 Commission in numerous rate cases involving water and wastewater utilities.

5
6 Q. BY WHOM WERE YOU RETAINED, AND WHAT IS THE PURPOSE OF YOUR
7 TESTIMONY?

8 A. Larkin & Associates, PLLC, was retained by the Florida Office of Public Counsel (OPC)
9 to review the rate increase request by Aloha Utilities, Inc., for its Seven Springs
10 Wastewater Division. Accordingly, we are appearing on behalf of the Citizens of Florida
11 ("Citizens").

12
13 Q. HOW WILL YOUR TESTIMONY BE ORGANIZED?

14 A. My testimony will discuss the schedules which are attached to my testimony. The
15 testimony will follow the numbering of the schedules starting with Schedule 1 and
16 continuing on through Schedule 7.

17

18 SCHEDULE 1

19

20 Q. WHAT DOES SCHEDULE 1 SHOW?

21 A. Schedule 1 shows the current position of the OPC as it relates to the revenue adjustments
22 which the OPC believes is appropriate for Seven Springs at this time. There are several

1 other issues that the OPC is pursuing either through discovery or will incorporate through
2 cross-examination which will impact the revenue calculation I have included on Schedule
3 1. However, at this time the Office of Public Counsel through myself and Ted L. Bidy
4 are recommending that the Commission find a revenue requirement appropriate for Seven
5 Springs Wastewater Division of no more than \$447,019. Schedule 1 is a summary
6 schedule and is supported by other Schedules (2 through 7) which show each adjustment
7 to expenses or rate base.

8 9 SCHEDULE 2

10
11 Q. WHAT DOES SCHEDULE 2 SHOW?

12 A. Schedule 2 shows the operating and maintenance expenses as proposed by the Company
13 for the test year ended September 30, 2001. The Company amount is shown in column 2
14 of Schedule 2, page 1 of 3. In the columns to the right of column 2 I am proposing
15 several adjustments to the operating expenses that either I am sponsoring or Mr. Bidy is
16 recommending. The adjustments I am sponsoring also include adjustments to expenses
17 which incorporate prior Commission decisions and the recent Staff audit; these are shown
18 in column 3. Audit disclosures and audit exception from the Staff audit are shown in
19 column 4.

20
21 Q. WOULD YOU PLEASE DISCUSS THE PRIOR COMMISSION DISALLOWANCES.

22 A. On lines 2 and 3 of Schedule 2, page 1 of 3, I have removed a portion of the salary and

1 employee benefits for Aloha Utilities' Vice President Lynnda Speer. This adjustment is
2 consistent with the Commission's decision in Order No. PSC-99-1917-PAA-WS. In that
3 docket the Commission concluded that Ms. Speer's salary and benefits were not justified
4 in relation to the salary and benefits received by the President, Mr. Watford. I agree with
5 that adjustment and am therefore adopting it as part of the OPC's position.

6
7 Q. THERE ARE ADJUSTMENTS ON LINES 10, 11 AND 12 ALSO IN THE COLUMN
8 RELATED TO DISALLOWANCES FROM PRIOR ORDERS. WOULD YOU
9 PLEASE EXPLAIN THOSE ADJUSTMENTS?

10 A. The Commission did not allow the Company to recover certain amounts of rate case
11 expense from a prior docket. The Company wrote off those expenses in the historical test
12 year September 30, 1999. They are, therefore, included within the base amount that the
13 Company used for projected expenses in the year end September 30, 2001. If these
14 expenses were allowed to be included in the projected test year the Company would
15 recover expenses already disallowed by the Commission and in addition would recover
16 them on an ongoing basis year after year. It is appropriate to remove them from the test
17 year balance.

18
19 On Schedule 2, page 2 of 3, I have also shown the adjustments for the officers' salary and
20 benefits and the disallowed rate case expense. The particular audit disclosure or audit
21 exception is also shown on that page of Schedule 2.

1 Q. WOULD YOU PLEASE DISCUSS THOSE ADJUSTMENTS YOU ARE
2 RECOMMENDING RELATED TO THE STAFF AUDIT DISCLOSURES.

3 A. Those adjustments are shown in column 4 of Schedule 2, page 1 of 3, and are also
4 detailed on Schedule 2, page 2 of 3. The first adjustment to account 718 - Chemicals
5 removes \$1,223 from the chemical account. In the Staff's audit, the Staff discovered that
6 the Company wrote off an amount to the chemical account and the material and supplies
7 account (\$1,087 to each account) related to an unreconcilable balance. This amount
8 should not be included in expenses for rate making purposes because it cannot be
9 determined whether it was an expense actually incurred for the benefit of ratepayers in
10 Seven Springs and is undeterminable as to what the item is. The escalation which the
11 Company calculated on this amount should also be removed.

12
13 The next expense adjustment removes \$14,295 from account 720 - Materials and
14 Supplies. This adjustment comprises the write-off I previously discussed related to a
15 similar amount in chemical expense (\$1,087) and \$11,616 of items which the Staff
16 discovered should have been capitalized rather than expensed. Both of these items have
17 been escalated by the Company and I have removed that escalation. The total of this
18 adjustment is shown on Schedule 2, page 2 of 3.

19
20 The next adjustment is to account 732 - Contractual Services-Legal. This adjustment
21 comprises two audit disclosures as shown on Schedule 2, page 2 of 3. Audit Disclosure 9
22 removes \$2,581 of legal expenses from Contractual Services-Legal. These legal expenses

1 were associated with obtaining a \$5.2 million loan from NationsBank and were not
2 expenses of the current test period and should be treated as prepaid loan fees.

3 Additionally, Audit Disclosure 6 removes \$27,400 from Contractual Services -Legal for
4 legal expenses associated with the treatment plant problems which brought the Company
5 in conflict with the Florida Department of Environmental Protection. Such costs should
6 be borne by stockholders because ratepayers have no influence over the Company's
7 operation of the plant or its discharge of effluent, which caused the conflict with the
8 Florida Department of Environmental Protection. It would be inappropriate for
9 ratepayers to pay this cost since the Company's stockholders and officers are responsible
10 for compliance with FDEP's regulations.

11
12 The last adjustment in column 4, Schedule 2, page 1 of 3, to account 775 - Miscellaneous
13 Expenses. This adjustment of \$20,244 removes from miscellaneous expenses the
14 \$18,400 paid to the DEP for settlement of alleged violations. Again, ratepayers should
15 not be held responsible for violations, either alleged or otherwise, associated with the
16 operation of the plant. Management and stockholders are directly responsible for the
17 operation of the plant and the discharge of effluents. To allow the recovery of legal fees
18 and payments associated with alleged violations moves the responsibility for the
19 appropriate operation of the plant, in compliance with DEP regulations, from the
20 Company's management to the Company's ratepayers. This is not an appropriate
21 function of regulation and should be rejected by the Commission.

1 Q. WOULD YOU PLEASE DISCUSS THE ADJUSTMENTS BEING PROPOSED BY
2 THE OPC.

3 A. The OPC is proposing several adjustments to various accounts projected by the Company.
4 The first of these adjustments is to account 701 - Salaries and Wages. On Schedule G-7,
5 page 2 of 18, the Company has shown the details of the salary and wages projected
6 through for the period ending September 30, 2001. Included within that projection is the
7 salary for an individual which the Company claims they were required to hire as a result
8 of the Consent Final Judgement. The Consent Final Judgement states that "the Company
9 must provide additional operators to staff the operation of the plant 24 hours a day." It
10 does not require any additional administrative employees be added to the Company's
11 employment rolls. I am removing from the projected salaries the administrative person
12 that the Company has added under the purported justification that it was a requirement of
13 the DEP. In addition, I have removed the employee's associated benefits from account
14 704.

15
16 The next adjustment the OPC is proposing is an adjustment to purchased power. OPC
17 witness Bidy supports this reduction in purchased power expense by \$57,604. Witness
18 Bidy indicates that the purchased power cost should be reduced by a factor which
19 reflects the reduction of inflow and infiltration (23.37%). Mr. Bidy is also sponsoring
20 the same type of adjustment to the chemicals account. Applying the same inflow and
21 infiltration factor to chemical costs results in a downward adjustment of \$9,755.

22

1 The next adjustment relates to the material and supplies account. The materials and
2 supplies account have increased drastically from 1998 to the test year ended September
3 30, 1999. It has increased approximately 62%. The Staff's audit and disclosures'
4 adjustments remove \$12,703 from this balance. However, the balance still increased by
5 approximately 36%, even with those adjustments. The Company has not accounted for
6 this dramatic increase. I am proposing that the Company's historical test year expense be
7 reduced to the 1998 level, increased by customer growth and inflation for the nine months
8 ended September 30, 1999. This amounts to an adjustment of \$15,266.

9
10 I have also removed the customer growth and inflation adjustment associated with this
11 amount through September 30, 2001. Unless and until the Company can account for the
12 dramatic increase in any account balance between historical data and the test year used to
13 project the 2001 test year, the increase should be disallowed. The Commission should
14 not allow any large increases which have not been justified by the Company.

15
16 Q. WHAT IS THE NEXT ADJUSTMENT YOU ARE SPONSORING?

17 A. I am sponsoring an adjustment to account 732 - Contractual Services-Accounting. The
18 Company has hired a new comptroller who has an accounting background. The addition
19 of the new comptroller should result in productivity gains related to keeping the
20 Company's books and records. In other words, they will not have to rely as extensively
21 as they have in the past on outside accounting services to maintain the books and records
22 and file reports with the Public Service Commission and other entities. As a result of

1 hiring the new comptroller, I have removed from contractual services-accounting an
2 estimate of productivity gains of 50% of the allocated salary of the comptroller to the
3 Seven Springs Division. This amounts to an adjustment of \$7,449.

4
5 Q. IS THERE ANY OTHER ADJUSTMENT YOU ARE PROPOSING TO
6 CONTRACTUAL SERVICES-ACCOUNTING?

7 A. Yes. The Company has included within contractual services-accounting an increase of
8 \$24,000 related to a required audit of Aloha Utilities, Inc. as a result of a bank loan. The
9 Company has allocated a portion of this bank loan to the other operating divisions of
10 Aloha in its capital structure allocation. This is done through the pro-rata allocation of
11 capital shown on Schedule D-2 (A), page 1 of 1, of the minimum filing requirements.
12 Since the benefit of the loan is being allocated in part to entities other than Seven Springs,
13 it would be appropriate to allocate part of the cost of the audit to these entities. The
14 portion of the loan that is allocated to the other operating divisions of Aloha is 14.35%. I
15 am proposing that the \$24,000 audit fee be allocated in the same proportion as the debt is
16 allocated. This results in a reduction to contractual services-accounting of \$3,444.

17
18 Q. WHAT IS THE NEXT ADJUSTMENT THAT IS BEING PROPOSED BY THE OPC?

19 A. The next adjustment is to account 736 - Contractual Services-Other. The Company has
20 added an estimated \$175,000 of maintenance expense for the maintenance of the new
21 facility. This adjustment is purported to be calculated by taking 5% of the cost of the new
22 plant as an estimate of maintenance expense. As OPC witness Bidy points out, the

1 manufacturer will guarantee the proper function of its installed equipment for a period of
2 one year. This plant is proposed to go into service in October 2000. Thus the Company
3 will not incur any repair costs which will not be paid for by the manufacturer or
4 contractor during the test year ended September 30, 2001. Currently, it would be
5 inappropriate to include these costs when they will not be incurred. If at some future
6 point in subsequent years the Company does incur maintenance expense a petition to the
7 Commission to review these costs can be initiated. However, it would not be appropriate
8 to allow the Company to overrecover in current rates any expense it will not actually
9 incur.

10
11 Q. WHAT IS THE NEXT ADJUSTMENT?

12 A. Historically, the Company has incurred approximately \$24,000 in account 775 -
13 Miscellaneous Expense. The average for the years 1996, 1997, and 1998 was \$23,666.
14 The balance in this account jumped to \$62,041 for the year ended December 31, 1999,
15 and was \$57,861 for the 12 months ended September 30, 1999, which was used as a base
16 for projecting the test year ended September 30, 2001. Part of this increase has been
17 removed in the Staff audit when the Staff discovered that the Company had charged the
18 DEP fine of \$18,400 to this account. After removing this amount the account balance is
19 still approximately 67% higher than the average for the prior three years ended December
20 31, 1996, 1997, and 1998. I am proposing to remove from account 775 - Miscellaneous
21 Expenses the amount over the historical average increased by inflation and customer
22 growth. The Company has not properly explained this increase and it should not be

1 incorporated in rates until an analysis is provided of the historical expenses compared to
2 the projection base of September 30, 1999, and a proper explanation given as to why
3 ratepayers should bear this 67% increase.
4

5 SCHEDULE 3

6
7 Q. WOULD YOU PLEASE EXPLAIN SCHEDULE 3?

8 A. Schedule 3 calculates the reduction in depreciation expense for the changes to the plant
9 accounts which myself or witness Ted Bidy are sponsoring. Column 2 is the
10 depreciation expense calculated by the Company. Column 3 represents the depreciation
11 rate related to the account being adjusted. Column 4 is the depreciation expense
12 associated with the invoices previously expensed that the Company capitalized and the
13 Commission subsequently disallowed. Column 5 is the result of the findings of the Staff
14 audit. The Staff audit found that the AFUDC rate was incorrectly used and that certain
15 items which were expensed should have been capitalized.
16

17 Column 6 is my adjustment to the plant accounts to reduce the CWIP balance used to
18 calculate the total AFUDC. Aloha had recorded a monthly amount of accounts payable
19 attributable to CWIP. The utility did not include these payables in computing working
20 capital. (MFR Sch. A-17) The fact is, however, that these payables provide a source of
21 capital to the utility. If they are not used to reflect a reduction in the working capital
22 requirement, the associated CWIP should not be included for accumulating AFUDC.

1 Column 7 is an adjustment to depreciation expense for the non-used and useful plant
2 adjustment sponsored by OPC witness Bidy. Additionally, on line 57 the amortization
3 of CIAC was reduced because a portion of the reuse transmission and distribution lines
4 are considered non-used and useful by Mr. Bidy, and the amortization of that CIAC
5 associated with those lines would be reduced in the current year. The result is a reduction
6 in net depreciation expense as proposed by the Company.

7
8 SCHEDULE 4

9
10 Q. PLEASE EXPLAIN SCHEDULE 4.

11 A. Schedule 4 changes the amortization of the contributed tax associated with Contributions
12 In Aid of Construction. The Company has amortized this balance over a 40-year period.
13 CIAC assets have a composite life of approximately 26.9 years^{for years prior to 1998} as disclosed in the work
14 papers to the Staff audit. A more appropriate life for the amortization of this tax would
15 be the life over which the CIAC assets are amortized. I have changed the amortization to
16 coincide with life used to amortize the CIAC. This increases the Company's adjustment
17 for amortization of these taxes and increases the amortization by \$18,808.

18
19 SCHEDULE 5

20
21 Q. WHAT DOES SCHEDULE 5 SHOW?

22 A. Schedule 5 adjusts taxes other than income taxes for audit disclosures and the OPC's

1 adjustments to the plant accounts and depreciation reserve. On line 2 of Schedule 5 the
2 payroll taxes associated with the salary of the officer whose salary was disallowed in the
3 last Commission order is reversed. On line 3 is the property tax adjustment proposed in
4 audit disclosure 10 of the Commission Staff. This adjusts property taxes to the level that
5 the Company would have paid had it paid the minimum amount for property taxes when
6 due.

7
8 The last adjustment shown on line 4 removes from property taxes the effect of
9 adjustments to the plant accounts and reserve recommended by OPC. The calculation of
10 this amount is shown on Schedule 5, page 2 of 2. The plant subject to personal property
11 taxes has been reduced by the percentage of plant reduction that the OPC is proposing to
12 the Company's plant in service. This is the difference between the Company's 13 month
13 average and the OPC's 13-month average shown on Schedule 7, page 1 of 6. Similarly,
14 the accumulated depreciation and the land have been adjusted for the difference
15 (percentage wise) between the utility adjusted balance and the OPC adjusted balance as
16 shown on Schedule 7, page 1 of 6. The reduced taxable balance is shown on line 4 of
17 Schedule 5, page 2 of 2, to which I have applied the tax rate used by the Staff in
18 disclosure 10. The reduction to the personal property tax would be the amount shown on
19 line 6, Schedule 5, page 2 of 2, of \$67,347.

SCHEDULE 6

1
2
3 Q. PLEASE PROVIDE AN EXPLANATION OF SCHEDULE 6.

4 A. Schedule 6 adjusted the deferred income taxes for reduction in depreciation expense
5 resulting from the OPC's proposed plant adjustments and used to useful adjustments.
6 The book depreciation has been calculated on Schedule 3. The tax depreciation and
7 amortization have been adjusted down by the same percentage as the book depreciation
8 and amortization. The resulting difference after applying the state and federal tax rate
9 results in a reduction of deferred income tax expense of \$86,414. It is appropriate to
10 reduce the deferred taxes since the depreciation expense charged the ratepayers would be
11 reduced and also the tax depreciation and amortization associated with the reduced assets
12 would result in a lower deferred income tax expense recoverable from ratepayers.

SCHEDULE 7

13
14
15
16 Q. WHAT DOES SCHEDULE 7 DEPICT?

17 A. Schedule 7 depicts the rate base calculated by the OPC. On line 1 of Schedule 7, the
18 utility's plant in service is shown adjusted for the OPC adjustments. Page 2 of 6 shows
19 the OPC adjustments. On page 2 of 6 starting with column 2, which is the 13-month
20 average from the minimum filing requirements, I have adjusted for the following items.

21
22 In column 3 I have adjusted for the disallowance of previously expensed invoices as

1 discussed earlier in this testimony. In column 4 I have adjusted for the AFUDC and
2 O&M items which were discovered and detailed in the Staff audit. The next column,
3 column 5, removes AFUDC associated with Accounts Payable (CWIP) which should
4 have been used to adjust the balance on which AFUDC was calculated. In the final
5 column I have calculated the used and useful adjustment based upon the information
6 provided to me by OPC witness Bidy.

7
8 Line 2 of Schedule 7, page 1 of 6, shows the land and land rights. These are also detailed
9 on page 2 of 6 and reflect both used and useful adjustments and the correction of a
10 reallocation of land from the Commission's prior order.

11
12 The next line on Schedule 7, page 1 of 6, is accumulated depreciation. The adjustments
13 to this account are detailed on Schedule 7, page 3 of 6. In column 3 I remove the
14 accumulated depreciation associated with the invoices previously expensed which the
15 Commission removed in its previous order. Column 4 reflects the removal of
16 depreciation reserve associated with non-used and useful plant.

17
18 Q. PLEASE EXPLAIN SCHEDULE 7, PAGE 4 OF 6.

19 A. Schedule 7, page 4 of 6, adjusts Contributions In Aid of Construction for the
20 contributions received from the Southwest Florida Water Management District. Since
21 Ted Bidy has adjusted the reuse transmission and distribution system for used and
22 useful, the CIAC should also be adjusted to remove that portion of the CIAC received the

1 Southwest Florida Water Management District related to the reuse lines.

2

3 Q. PLEASE EXPLAIN SCHEDULE 7, PAGE 5 OF 6.

4 A. On Schedule 7, page 5 of 6, I have also adjusted the accumulated amortization of
5 contributions in aid of construction for the portion of the amortization associated with a
6 contribution from SWFWMD.

7

8 Q. WHAT IS SHOWN ON SCHEDULE 7, PAGE 6 OF 6?

9 A. These are the proposed adjustments to working capital. The utility's proposed working
10 capital is shown on line 1 of Schedule 7, page 6 of 6. On line 2 I have removed the
11 income tax deposit from working capital since the Company will not pay any income
12 taxes in the near future.

13

14 On line 3 I removed the cash balance from working capital consistent with the
15 Commission's last decision. The Company earns a rate of return on the cash balance and
16 to include the cash balance even with the interest included in the operating income, the
17 ratepayers would be subsidizing this investment. The Company has not shown that the
18 maintaining of a half million-dollar cash balance in the Company's bank is a requirement
19 of providing service to ratepayers. Unless and until the Company can demonstrate
20 providing services to ratepayers requires the maintenance of a bank account with a
21 \$500,000 balance it should not be included as working capital. Regardless of whether the
22 interest associated with this account is included in revenues, the customer would still be

1 subsidizing the balance because the interest return is less than the rate of return on rate
2 base.

3
4 Q. HAVE YOU ALSO REMOVED THE INTEREST EARNED ON THIS BANK
5 ACCOUNT FROM REVENUE IN THIS CASE?

6 A. Yes I have. I have removed \$9,572 of interest income associated with this working
7 capital adjustment. This is shown on Schedule 1, column 3, line 1.

8
9 The last item I have removed from working capital is an increase of \$25,000 in rate case
10 expense which the Company claims results from the Commission staff requiring that the
11 Company's minimum filing requirements be revised. The Staff found that the minimum
12 filing requirements did not meet the Commission's rules and therefore required the
13 Company to supplement and revise the filing. My review of the filing indicated to me
14 that any of the information that the Company subsequently provided was necessary for
15 the understanding of the Company's case. Ratepayers should not be required to incur
16 additional rate case expense associated with information that is necessary for the
17 complete analysis and understanding of a company's request for an increase. I have also
18 removed the \$25,000 from the amortization which the Company has requested in this
19 case.

20
21 Q. HAVE YOU ACCEPTED THE UTILITY'S PROPOSED CAPITAL STRUCTURE
22 AND RATE OF RETURN?

1 A. No, I have not. In Mr. Nixon's deposition on July 24, 2000, it was determined that the
2 Company had under projected customer deposits. This means that the Company's
3 proposed capital structure is not appropriate. In addition, the Staff's audit suggests that
4 the Company has not properly projected the equity balance on a 13-month average basis.
5 When the Company has corrected the capital structure for the miscalculation of customer
6 deposits, I will examine the proposed rate of return and determine if the OPC feels it is
7 appropriate for rate making purposes.

8
9 Q. ARE THERE ANY OTHER ISSUES THAT THE COMMISSION SHOULD
10 CONSIDER RELATED TO COMPANY'S PROPOSED RATE INCREASE?

11 A. The Office of the Public Counsel, through witness Bidy, has removed from the rate base
12 reuse facilities which he has determined to be non-used and useful. The Commission, in
13 Order No. PSC-97-0280-FOF-WS issued March 12, 1997, indicated that the Company
14 could expect to receive at least \$109,500 of revenues associated with the sale of reuse
15 water. In the current case, the Company has included reuse revenues in the amount
16 \$47,359. Less than half of the total revenues the Commission felt would be generated
17 from the reuse facilities. If the Commission does not accept Mr. Bidy's analysis of the
18 reuse issue, then in my opinion, it would be appropriate for the Commission to include
19 the additional revenues above what the Company has projected in the test year ended
20 September 30, 2001. That is an additional amount of reuse revenues of \$62,141 and
21 ought to be imputed to the current test year ($\$109,500 - \$47,359 = \$62,141$). This would be
22 appropriate since OPC witness Bidy has projected five years of customer growth in his

1 determination of the used and useful percentage. Since Florida statutes require
2 imputation of this additional growth, it would also be appropriate for the Commission to
3 impute additional sales associated with the reuse lines if it does not adopt Mr. Bidy's
4 adjustment for non-used and useful associated with the reuse lines.

5

6 Q. DOES THAT COMPLETE YOUR TESTIMONY?

7 A. Yes it does.

1 Q Did you prefile testimony on certain issues and
2 submit that testimony to the Public Service Commission on
3 July 31st, 2000?

4 A Yes.

5 Q If you were asked the same questions that are
6 contained in that prefiled testimony, would your answers
7 today be the same?

8 A Yes, they would.

9 Q Did you further prefile exhibit attached to that
10 testimony and identify it as HL-1?

11 A Yes.

12 Q Does that exhibit consist of 7 schedules?

13 A Yes, it does.

14 MR. BURGESS: Commissioner, I would ask that his
15 prefiled testimony be moved into the record, as though
16 read, and I would like to identify the exhibit for the
17 record.

18 COMMISSIONER JACOBS: Very well. Show composite
19 Exhibit 8 is Schedules -- I'm sorry, I missed it.

20 MR. BURGESS: Schedules 1 through 7 of composite
21 exhibit attached to Hugh Larkin's testimony.

22 (Exhibit 8 marked for identification.)

23 COMMISSIONER JACOBS: And without objection,
24 show his prefiled testimony admitted as though read.

25

1 MR. BURGESS: Thank you.

2 BY MR. BURGESS:

3 Q Mr. Larkin, would you be able to summarize your
4 testimony for the Commissioners?

5 A One correction, though, I have, I'd like to make
6 on Page 12, Line 13. After the 26.9 years, it should say,
7 "for years prior to 1998."

8 Q Okay.

9 A My testimony adjusts the rate base and operating
10 expenses for adjustments that both I and Ted Bidy are
11 sponsoring --

12 COMMISSIONER JACOBS: Excuse me. We'll have to
13 modify to move in his testimony as amended. Let the
14 record show that that's done.

15 MR. BURGESS: Thank you, Commissioner.

16 A I have adopted a number of the adjustments
17 proposed by the Staff, both in prior orders and audit
18 disclosures, and then have also proposed several
19 adjustments myself and then flowed through those
20 adjustments that witness Bidy is sponsoring.

21 The adjustments that I am sponsoring deal with
22 salaries that, I think, are inappropriate or too high;
23 operating expenses that are out of line with past
24 historical averages; contractual services that, I think,
25 ought to be adjusted, both because of productivity and the

1 audit fees, which should be spread through other portions
2 of the Aloha Utilities, which benefit from such an audit.

3 I have also adjusted the rate base for AFUDC
4 which, I believe, was calculated inappropriately and also
5 for Mr. Biddy's used and useful adjustment. I also state
6 that the taxes, property taxes, should be adjusted for
7 those adjustments proposed by the Staff and payroll taxes
8 where I have removed salaries and adjustments to the
9 property taxes resulting from used and useful adjustments.
10 Also, my testimony states that the capital structure
11 should be adjusted for revisions to the customer deposits,
12 which were incorrectly stated.

13 BY MR. BURGESS:

14 Q Does that complete your summary?

15 A Yes.

16 MR. BURGESS: Commissioner, we tender the
17 witness.

18 COMMISSIONER JACOBS: Mr. Deterding.

19 CROSS EXAMINATION

20 BY MR. DETERDING:

21 Q Mr. Larkin, you have made an adjustment or
22 proposed an adjustment for the salary of the vice
23 president of the utility; is that correct?

24 A That's correct.

25 Q And in your testimony, I believe, you state that

1 the basis for that adjustment is that it was made in a
2 prior Commission order?

3 A That's correct.

4 Q Did you do any independent analysis of that
5 president's salary or the president's job duties and so
6 forth?

7 A I read the deposition, and I looked at the prior
8 documents that the company offered to support that salary,
9 an average of other utilities. And I concluded that it
10 was an overstated salary.

11 Q Now, you say you looked at the deposition first.

12 A Well, that's one of the things. I looked at the
13 document that was offered by the company initially
14 justifying that salary level.

15 Q Well, what document is that?

16 A It's an average of various utilities, which the
17 company claims justifies that level of salary.

18 Q I'm not -- can you be more specific about what
19 that document is you're referring to?

20 A Off the top of my head -- I'd have to look for
21 it, but it is an average of various utilities which the
22 company chose and calculated an average salary per
23 position and then attempted to justify her salary or the
24 total salaries by looking at the average of the total of
25 these utilities and saying, well, we're below this average

1 and, therefore, it should be justified.

2 Q And that is not a study that was put into
3 evidence in this proceeding, was it?

4 A I thought it was, but maybe it wasn't.

5 Q Do you know when that study was performed?

6 A A few years back.

7 Q Now, what else is it you said you reviewed in
8 proposing that adjustment?

9 A I looked at the -- well, the deposition came
10 after I filed the testimony, but the deposition supported
11 that conclusion.

12 Q And what deposition are you referring to?

13 A Lynnda Speer.

14 Q Did you perform any analysis that you have
15 reduced to writing with regard to factors related to what
16 is an appropriate salary for Ms. Speer?

17 A I thought that the calculation of the Staff was
18 reasonable.

19 Q So, did you prepare any analysis or did you even
20 perform a review of the work performed by all the
21 directors and officers of this company?

22 A I've read the depositions and have read the
23 company's support for that.

24 Q So, you're saying that that constitutes a review
25 of all the work performed by all of the directors and

1 officers of this company?

2 A I'm not adjusting the salary of all the
3 directors and officers of the company. I'm only adjusting
4 this one salary.

5 Q I didn't ask you if you did. I asked you if you
6 reviewed the work performed by all the directors and
7 officers of this company?

8 A To the extent that it was in the filing or in
9 the deposition, I did.

10 Q Okay. What officers and directors' salaries did
11 you review, and what officers and directors' work did you
12 review?

13 A I reviewed the resumes and the depositions of
14 the individuals involved.

15 Q And what resume did you have for the vice
16 president, Lynnda Speer?

17 A The resume that was offered by the company.

18 Q And where was this resume offered. I have not
19 seen the resume of Ms. Speer.

20 A It's part of the discovery that I have. Do you
21 want me to look for it?

22 Q Yes, if you would, please.

23 A Here it is. I have it.

24 Q May I see it for a minute?

25 A Sure.

1 Q In addition to the resumes, please tell me what
2 you did, as far as reviewing the work performed by the
3 officers and directors of the company.

4 A I think, I've described it already.

5 Q I apologize.

6 A The thing that was offered by the company, a
7 support for the salaries, I've reviewed and looked at.

8 Q Did you review the activities that the vice
9 president contributes to the management operation of this
10 company?

11 A Through the deposition that she offered, I
12 reviewed what she said she did.

13 Q Have you determined whether the qualifications,
14 her experience, training and education are adequate for
15 the job that she's doing?

16 A Based on the salary that she was allocated on
17 the Staff allocation, I think, it was, yes.

18 Q Well, how about the salary that she is being
19 paid?

20 A Well, that's why we adjusted it, we didn't think
21 it was appropriate.

22 Q And you're saying that that was based upon your
23 review of that resume and her deposition?

24 A That's correct. She's not very familiar with
25 what goes on there. In fact, she didn't even know that

1 she was the president of the company as early as -- as
2 late as 1998, said she'd been the vice president for the
3 last six or seven years. But you've reported to the
4 Public Service Commission that she was the president of
5 the company in 1998.

6 So, it seems to me that there's some thing wrong
7 with a person that claims to have been the vice president
8 for six or seven years, but you're reporting to the Public
9 Service Commission she was the president in 1998.

10 Q And have you reviewed to determine which of
11 those is correct?

12 A When Mr. Watford signs the annual report and
13 says to the Commission he's certifying that that's
14 correct, he's telling the Commission these are the
15 officers, these are the people that are running the
16 company.

17 Q Have you reviewed to determine which of those is
18 accurate?

19 A I'm taking --

20 Q You're willing to take Mr. Watford's word, but
21 not her word; is that correct?

22 A I'm taking the word of the document that is
23 certified and signed and sent to the Commission.

24 Q Have you done any analysis to determine which of
25 those is correct?

1 A The analysis is accepting the company's
2 certification to the Commission.

3 Q Okay, and that's --

4 A That's all.

5 Q That's all. Thank you.

6 COMMISSIONER JABER: The annual report signed by
7 Mr. Watford shows that she's president or vice president?

8 THE WITNESS: It showed that she was president
9 up until December 31st, 1998. Her deposition says, "Well,
10 I don't know how long I'd been a vice president." And the
11 Staff attorney asked her, "Well, guess." She says, "Well,
12 five or six years." But that's only 18 months since
13 December 31st, 1998.

14 BY MR. DETERDING:

15 Q And you say you have compared the salary paid to
16 Ms. Speer in relation to the companies?

17 A I looked at the study that the company did and
18 the average that they took for the vice president's
19 salary. And the average was about \$90,000. And if you
20 take 20% of 90,000, you come out with about \$18,000. So,
21 the Staff was a little bit above that. They gave her
22 about \$21 or \$22,000.

23 So, taking the comparison that you did that the
24 company offered as support for salaries and keying in on
25 the position of vice president, and then applying that 20%

1 allocation of what other utilities that you think are
2 comparable, you come out with about \$18,000.

3 Q But you're saying you come up with \$18,000 based
4 upon applying a 20% factor --

5 A Yes.

6 Q -- as opposed to what the average vice president
7 makes for a similar size company?

8 A Average vice president working 100% of the time.

9 Q And how do you know that?

10 A That's what it was offered as.

11 Q It said they were working 100% of the time?

12 A My recollection -- well, I don't recall exactly,
13 but that's the assumption I made.

14 Q But you don't know if there was anything in that
15 document to state that those people worked 100% of the
16 time?

17 A I don't recall.

18 Q The utility -- I believe, you noted that the
19 utility did an analysis some years ago which was the basis
20 for what you're talking about that examined overall
21 salaries for administrative positions for utilities,
22 correct?

23 A Officers' salaries.

24 Q Right, officers' salaries.

25 A Yes.

1 Q And, in fact, that did show that the officers'
2 salary for Aloha were below average for a similar-sized
3 company?

4 A Yes, but I don't think that's a valid way to
5 approach it. I think, you have to look at salary levels
6 at each position and compare those. You can't take --
7 that would be like me coming in here and saying well,
8 let's set the rate for Aloha by looking at the average of
9 five or six utilities and forget the details of the
10 evidence and, I think, the rate should be this based on
11 this average of five utilities. That's not the proper
12 approach.

13 Q Well, if you have companies of similar size or
14 similar activities, and one company is able to accomplish
15 the officer roles with three officers as opposed to
16 another company that has four, you think that the company
17 who has four is being efficient and the company who has
18 three is being efficient and that there should be no
19 consideration of the fact that the utility may be able to
20 do more with less?

21 A I mean, you're putting a lot of assumptions into
22 your question, that they're similar size and similar types
23 of problems and similar efficiencies. One company might
24 be much more efficient than the four officers have reduced
25 costs in other areas. So, encompassed within your

1 question is a lot of assumptions that weren't in the
2 document.

3 Q Well, did you go to investigate whether or not
4 those companies -- did you do any analysis to determine
5 whether those companies that the utility had used would
6 compare?

7 A No, I didn't, but I'm not offering that. I'm
8 looking at the salary that you said was paid.

9 Q But you said you used that information in order
10 to formulate your opinion.

11 A I used the salary of the vice president only.

12 Q And, I believe, what you said just a moment ago
13 was that the average vice presidential salary under that
14 analysis was more than what was paid to the vice president
15 of Aloha.

16 A That's correct, for somebody that I assumed was
17 working 100% of the time. I don't think that there are
18 many utilities that have officers that work 20% of the
19 time.

20 Q You made an adjustment to legal expenses related
21 to the DEP consent final judgment?

22 A Yes.

23 Q And you have proposed that those not be deferred
24 and amortized; is that right?

25 A That's correct.

1 Q Do you believe that a company should not have
2 recognized and cost its cost related to dealing with the
3 regulatory agency?

4 A Well, I think that this was a suit related to a
5 deficiency and that had the company not been in violation
6 and not had problems with the agency, there wouldn't have
7 been any legal fees.

8 Q And what can you show me that states that there
9 was a deficiency?

10 A The fact that you had to consent to making
11 changes in the plant and that the DEP determined that your
12 dumping effluents into a water source that they shouldn't
13 be going into.

14 Q Well, isn't it true that that consent final
15 judgment, specifically, states that there is no finding of
16 a violation by Aloha?

17 A It states that as a result of agreeing to paying
18 the penalty, the violation, and making the corrections
19 that you cannot assume that that would be the end result.

20 Q I take it you've reviewed the consent final
21 judgment?

22 A Yes. I'm just trying to find it.

23 Q Can you point to me where it says that as a
24 result of paying a penalty -- in fact, can you point me to
25 a place where it says the utility is paying a penalty?

1 A Well, they called it the department may not
2 utilize the stipulated penalties for other enforcement
3 provisions of this judgment for any alleged violation of
4 the permit, which is not officially addressed in this
5 judgment.

6 Q And where are the penalties that you're
7 referring to addressed?

8 A "The following compliance with all the terms of
9 this judgment, including the payment of any stipulated
10 penalties due to the requirements of this judgment shall
11 be deemed satisfied." That's on page 7.

12 Q Okay. And again, where does it refer to there
13 being a penalty?

14 MR. BURGESS: I believe, that's been answered
15 twice.

16 MR. DETERDING: I do not believe it's been
17 answered. I believe, what he said is he's read provisions
18 of it that refer to any penalties, but I don't believe he
19 has pointed me yet to a provision within that CFJ that
20 refers to there actually being a penalty.

21 COMMISSIONER JACOBS: He gave reference to what
22 the document refers to. And, I think, that's -- you're
23 not determining that they're penalties. You're simply
24 reading what the document says; is that correct?

25 THE WITNESS: Yes. But it says, "Within 10 days

1 of the execution of this judgment Aloha shall pay the
2 department \$18,400 in settlement of alleged violations."
3 I think, that's pretty clear. I think, all that language
4 is pretty clear.

5 BY MR. DETERDING:

6 Q But it does not -- where it says, "you shall
7 pay," it does not refer to it as a penalty, does it?

8 A It refers to it as a violation. I think, clear
9 reading of the document where you take the originals and
10 they refer back to the penalties, why would they even put
11 that in there, if there weren't any penalties in there?

12 Q Well, there are no penalties in there.

13 A There is, \$18,400.

14 Q But that is not referred to as a penalty, is it?

15 A It's referred to as a violation, alleged
16 violation.

17 Q Alleged. "In settlement of alleged violation";
18 is that the wording?

19 A Yes.

20 COMMISSIONER JACOBS: Do you need a moment,
21 Mr. Deterding. Do you need a moment?

22 MR. DETERDING: Excuse me?

23 COMMISSIONER JACOBS: Do you need --

24 MR. DETERDING: Yes, could I take a few minutes?
25 I wanted to see if I can locate that document so I can

1 refer to it.

2 COMMISSIONER JACOBS: Okay. We'll go off the
3 record for a few minutes.

4 (Off the record.)

5 COMMISSIONER JACOBS: Okay. You may go ahead.

6 MR. DETERDING: Thank you.

7 BY MR. DETERDING:

8 Q You were referring, I assume, to paragraph
9 number 21 on page 10 of that consent final judgment?

10 A Yes.

11 Q Would you please read the sentence leading up to
12 the one that you read, beginning with the beginning of
13 that paragraph?

14 A "Notwithstanding the execution of this amended
15 and receded consent final judgment, each party
16 acknowledges and agrees that the other has admitted no
17 liability or wrongdoing in connection with the alleged
18 allegations made herein."

19 Q And the next sentence.

20 A "However, to avoid the time and expense and
21 uncertainty of litigation over matters related to this
22 judgment, within 10 days of the execution of the judgment
23 Aloha shall pay the department \$18,400 in settlement of
24 alleged violations."

25 Q Thank you.

1 So, your position is that when a utility has an
2 allegation of violations by a regulatory agency, its costs
3 related to dealing with that alleged violation are not
4 recognizable and --

5 A If they enter into a consent final judgment and
6 make changes and pay a penalty, I would say that they're
7 not.

8 Q And again, nowhere is that \$18,000 payment
9 referred to as a penalty?

10 A To me, it is referred to as a --

11 Q Does it refer to it as a penalty?

12 A It does, in my estimation. In my view of this
13 document, as taken as a whole, it refers to that as a
14 penalty.

15 Q But in the paragraph which you just read, it is
16 not referred to --

17 MR. BURGESS: This has been asked and answered.
18 I mean, he has referred to it several times, page 7, calls
19 it stipulated penalties, and page 10 talks about --

20 COMMISSIONER JACOBS: I think, he's answered
21 your question, Mr. Deterding.

22 MR. DETERDING: Well, I disagree with
23 Mr. Burgess's characterization, too. The only reference
24 in here to the --

25 MR. BURGESS: Excuse me, if he has a question --

1 COMMISSIONER JACOBS: Excuse me. You're
2 responding to his objection, correct?

3 MR. DETERDING: I'm responding to Mr. Burgess's
4 objection.

5 COMMISSIONER JACOBS: Okay.

6 MR. DETERDING: The only place in here where it
7 refers to it as a penalty, it does not refer to "it" as a
8 penalty. It refers to any penalty. And then, in the
9 paragraph that we're dealing with, it does not refer to
10 that payment as a penalty. And that's all I'm trying to
11 get across.

12 MR. BURGESS: And my objection was that the
13 question that he asked, the last question, the question
14 pending, had been asked and answered.

15 MR. DETERDING: And I don't agree.

16 COMMISSIONER JACOBS: Sustained.

17 Go ahead.

18 BY MR. DETERDING:

19 Q Isn't it true that the auditors from the Public
20 Service Commission did not propose an adjustment, such as
21 you have, to refuse to recognize that payment of \$18,000
22 to DEP?

23 A They've removed it and amortized it, yes.

24 Q They did amortize it?

25 A Yes.

1 Q Now, you noted at the top of page 8 of your
2 testimony a proposed adjustment to materials and supplies?

3 A Yes.

4 Q And you're stating that the reason for that
5 adjustment is that it increased in the test year over 1998
6 and that you don't believe that the company has accounted
7 for the increase; is that correct?

8 A What page are we on again?

9 Q The top of page 8.

10 A Okay. Yes.

11 Q What analysis of the test year or the prior
12 years did you perform to conclude that it was not an
13 appropriate increase?

14 A I looked at the average of the prior years and
15 compared it to the test year and concluded that there had
16 to be something in there that was inappropriate or caused
17 it to escalate. And there was, of course, something else
18 that was removed. It doesn't come to mind right now. But
19 the company's analysis would also -- we've asked some
20 questions and that solidifies my conclusion that the level
21 of the expenses is inappropriate, should be adjusted.

22 Q Did you perform an analysis of your own of the
23 contents of that account?

24 A No. I told you what I did. And, I think, it's
25 explained in my testimony exactly what I did.

1 Q And your testimony says the company has not
2 accounted for this increase, dramatic increase.

3 A Yes, they haven't.

4 Q You've also proposed, beginning on page 8 and
5 going on to page 9, an adjustment to accounting fees
6 because of the hiring of a new controller.

7 A Yes.

8 Q And you are taking the position that
9 contractual services accounting should be reduced because
10 of the hiring of the new controller; is that right?

11 A That's correct. My conclusion is that there
12 probably should be some efficiencies there as a result of
13 that.

14 Q Did the utility have a controller prior to this
15 -- the new one being hired?

16 A They had somebody that performed a function, but
17 I don't think a comptroller function. I don't think it
18 was a person that had that kind of experience.

19 Q Well, you're saying they were not a controller?

20 A I think, they were an officer of the company and
21 they did other functions besides that.

22 Q Did you do any analysis of either the
23 experience, knowledge or training of the old controller
24 versus the new controller?

25 A To the extent that her resume was included in

1 the resumes we asked for, I did look at that.

2 Q And what is the increase and training and
3 experience that you found that led you to the conclusion
4 that the new controller was superior to the old
5 controller, as far as what duties they could undertake?

6 A Well, I concluded that when you hire a
7 comptroller and that's an increase in that salary level
8 that you should get some cost benefit out of it. And it
9 was highlighted in the company's filing as an additional
10 cost and an additional salary that they added. So, I
11 expect that when that happens that you expect to get some
12 productivity out of it.

13 Q Did you review the resume of the prior
14 controller and compare it to the new controller?

15 A I don't think that they are comparable. I
16 think, the resume of the old comptroller just stated that
17 she was there and the number of years and what she did.

18 The new comptroller or the name of the new
19 comptroller, his resume was not provided, but somebody
20 else has taken his place at a reduced salary, which also
21 ought to be taken into consideration, but --

22 Q You're saying the controller that you said was
23 apparently taking on greater duties is no longer there?

24 A Did not stay.

25 Q So, the person who is in that position now, are

1 you saying that person is also more capable of performing
2 these duties than the old controller?

3 A If you recruit somebody to do a particular
4 function and that function is a comptroller's function,
5 you would assume that you recruit the same level of
6 experience or somebody that can perform the same level of
7 duties.

8 Q Well, isn't it true that the new controller, the
9 person who is currently occupying that position is paid
10 less than the person who was in that position during the
11 test year?

12 A That's correct.

13 Q So, you believe that based upon the salary level
14 going down, that person should be able to take on more
15 responsibilities than the prior controller?

16 A They should be able to take on more
17 responsibilities. But even if you didn't do that, if you
18 just took the reduction in salaries and flowed that
19 through, that would be approximately equal to what I took
20 out.

21 Q How many years experience did the prior
22 controller have with utility matters?

23 A I think, she'd been with the utility for a
24 number of years. I don't remember exactly, 18 or so.

25 Q 18 or so?

1 A Yeah. I can't remember the exact date, number
2 of years. A number of years.

3 Q And the new controller, the person who is now
4 occupying that position, how many years of utility
5 accounting experience did that person have?

6 A Well, she has a number of years experience as a
7 comptroller.

8 Q What number? You said a number.

9 A Well, I'd have to look at her resume and add
10 them up, and I don't have it right here in front of me to
11 do that, but she also worked for Mr. Nixon.

12 Q Isn't that the person who you -- the document
13 that you were just referring to a moment ago where you
14 said you had the information on the resumes of the
15 officers?

16 A Yes. Let me see if I can find it again. Yeah,
17 okay. She's had experience since 1973 in accounting, been
18 a computer operator, bookkeeper 1985 to 1987, assistant
19 comptroller 1987-1997, comptroller from 1997-1998 and a
20 staff accountant at a Ryans Home, Inc. from 1998 to 2000.
21 And from 3-20 to 5-29 she was an accountant auditor with
22 Cronin, Jackson, Nixon & Wilson, CPAs, and then she came
23 into this position.

24 Q For two months she was an accountant auditor
25 with Cronin, Jackson, Nixon?

1 A Yes, I think, I read the dates.

2 Q And this resume that you're referring to shows
3 that she was the controller of Regency Communities, Inc.
4 in Port Richey, Florida for one year; is that correct?

5 A Well, it could be two years, it just depends on
6 whether -- it's January '97 to December '98.

7 Q Okay. It shows 1997 to 1998.

8 So, you believe that based upon his resume this
9 person, obviously, has greater expertise and ability to
10 act as a controller of Aloha, and then to manage
11 additional duties currently or previously handled by their
12 outside accountants, because she has one year's experience
13 as a controller and two month's work with Cronin, Jackson
14 & Nixon?

15 A No. I said, I think that the position that you
16 offered envisioned somebody that could take on additional
17 responsibility. Obviously, this person couldn't, so you
18 paid her less money. But the adjustment would be the
19 same. You paid her \$10,000 less times the allocation
20 formula. That's about what I took out for productivity.

21 Q So, you're saying that based upon this resume of
22 this individual, and this individual being in that
23 controller's position, that the adjustment would not be to
24 the outside accountant's cost or should not be to the
25 outside accountant's cost but should, instead, be to the

1 salary of the controller?

2 A You could make it to the salary.

3 COMMISSIONER JABER: Mr. Larkin, let me ask you
4 a question. I understood your testimony on that issue to
5 be that because the company hired a comptroller with
6 experience that they wouldn't be relying on the outside
7 accounting firm as much.

8 THE WITNESS: That's correct.

9 COMMISSIONER JABER: All right. Then, shouldn't
10 you follow that same theory and say that this comptroller
11 will have additional duties, because all of the accounting
12 duties will fall on the comptroller?

13 THE WITNESS: Yes, that's true.

14 COMMISSIONER JABER: Right. Then, why shouldn't
15 the salary compensate for those additional duties? Help
16 me understand your point. I don't think your point is
17 that they need to give someone a salary in relation to the
18 resume, but that the comptroller's salary should be
19 commensurate with the duties that are --

20 THE WITNESS: Yes. But when they first offered
21 this and it was in the filing, the person that was there
22 was a more experienced person, was my understanding.

23 In the depositions --

24 COMMISSIONER JABER: But do the duties change?
25 What difference does it make that the person that they

1 hired before had more experience? The duties are not
2 different.

3 THE WITNESS: Well, somebody with more
4 experience can handle more responsibility. They
5 understand more of the accounting function and how it all
6 flows together. A person with an accounting degree would
7 be more helpful than somebody with lots of experience and
8 no accounting degree.

9 COMMISSIONER JABER: But then, logic would tell
10 you that to attract someone that has more experience and
11 more accounting expertise, then you would offer a salary
12 that's higher, perhaps than the norm.

13 THE WITNESS: Yes. Well, offer a salary that's
14 higher, and that's what they did. That's what's in the
15 case, \$42,000. And what I did was to adjust that for a
16 portion of productivity. Now, it turns out that that
17 person really didn't stay and somebody else took that
18 person's place at a lower salary. At the lower salary
19 allocated is about equal to what I took out for
20 productivity. Now, I would change where I would take out
21 the money, but I would still take out that level of money.

22 COMMISSIONER JABER: And when you're referring
23 to productivity gains, you're referring to the fact that
24 an accountant outside an accounting firm shouldn't have to
25 be -- the company shouldn't need an outside accounting

1 firm now that they have a comptroller.

2 THE WITNESS: Well, they shouldn't need them
3 maybe as much. I still think that their help is going to
4 be needed. But if somebody can take all -- maybe
5 Mr. Nixon was doing the depreciation schedules. Maybe a
6 new comptroller can do those depreciation schedules. That
7 saves money. Maybe Mr. Nixon was making the federal
8 income tax calculations. A new comptroller with
9 experience could make those calculations. He wouldn't
10 have to do that.

11 COMMISSIONER JABER: Right. But regardless of
12 the level of experience, you acknowledge that a
13 comptroller, regardless of the level of experience, would
14 be expected to perform the same duties.

15 THE WITNESS: Same --

16 COMMISSIONER JABER: The comptroller position
17 that Aloha has, you would acknowledge that regardless of
18 the amount of experience that comptroller has, that there
19 is an expectation on behalf of the company that that
20 comptroller will perform the same duties?

21 THE WITNESS: Maybe and maybe not. I think, the
22 expectation would go to the level of the person and their
23 ability. They might have the title of comptroller, but
24 may not be able to perform all the functions that one
25 might think a comptroller ought to perform.

1 BY MR. DETERDING:

2 Q How did you conclude that the controller that
3 the utility sought was intended to take on more duties
4 than the controller they had at the time?

5 A Well, she didn't have the title of comptroller.
6 She was a person that was an officer of the company. I
7 don't believe she had the title of comptroller, so --

8 Q She was treasurer of the company, wasn't she?

9 A Secretary treasurer. So, when you add a
10 comptroller, and you give that person a title, you expect
11 to change their responsibilities and functions.

12 Q And so, based upon the fact that there was a
13 change in the title of the person in that position, you
14 have assumed that they were going to take on additional
15 duties and responsibilities?

16 A That they would be performing a function of a
17 comptroller and not a treasurer, secretary treasurer.

18 Q And do you know that the person in the position
19 who was titled, Secretary Treasurer, did not perform the
20 duties of a controller?

21 A The title would indicate that she didn't.

22 Q But you've done no analysis to determine what
23 change in duties were expected?

24 A What change in duties were expected?

25 Q From the old to the new, yes. The old

1 controller to the new.

2 A Well, through a point that somebody else could
3 take the old person's place. So, the logic conclusion is
4 that the new person is doing different functions.

5 Q Well, it seems if you appoint somebody to take
6 somebody's place that the logical conclusion is that they
7 will do the same functions. That doesn't make sense to
8 you?

9 A As the secretary treasurer.

10 Q Okay.

11 A And that's the function she was assigned to do.

12 Q So, you're saying by the change in title from
13 secretary treasurer to controller, you believe that that
14 person would take on additional duties?

15 A No. The secretary treasurer is a different
16 person. The comptroller was a new person.

17 Q So, they lost their secretary treasurer, and
18 they hired a person they called a controller, but you
19 don't think that was a replacement for the person who was
20 a secretary treasurer?

21 A No. They lost their treasurer, secretary
22 treasurer, appointed somebody else who was not an officer
23 and then hired a comptroller.

24 Q Okay.

25 A That's my understanding of what took place.

1 Q Did you review the duties of the prior officer
2 versus the duties of the new officer?

3 A There isn't any new officer.

4 Q Did you review the duties of the secretary
5 treasurer and compare that to the duties of the
6 controller?

7 A No.

8 Q Isn't it true that Aloha is required, as a part
9 of its financing with its lender, to file quarterly
10 reports with the bank?

11 A Yes.

12 Q And isn't that something that did not exist at
13 the time of the historic test period?

14 A Yes, but they were doing monthly statements
15 anyway.

16 Q Monthly statements?

17 A Monthly financial statements.

18 Q Did you review the context and the contents of
19 the quarterly reports as compared to those monthly
20 statements?

21 A No.

22 Q You have made an adjustment for the rate case
23 expense related to complying with the deficiency letter
24 from the Public Service Commission; is that right?

25 A That's correct.

1 Q And what is your basis for that adjustment?

2 A I looked at the changes, and I didn't think that
3 the changes were changes that were justified, that they
4 should have been provided -- information that should have
5 been provided in the original instance when the filing was
6 made so that the supplemental cost had been justified.

7 Q So, you're saying that you agree that those were
8 deficiencies?

9 A Yes, I'm agreeing with the Staff that those were
10 deficiencies. And I'm agreeing with the Staff witness as
11 to the amount of money that should be removed.

12 Q Okay. But you're saying that the utility failed
13 to file all the information required by the MFRs when it
14 initially filed the MFR?

15 A I'm saying that the information that was
16 required is necessary to understand the filing. And that
17 anything that the Staff asked them to file should have
18 been filed with the filing, because it was necessary to
19 understand what was done.

20 Q So, it needed to be prepared and filed in order
21 to complete the MFRs?

22 A Right.

23 Q So, what difference does it make whether it was
24 filed with the initial filing or prepared and filed with
25 the supplemental filing?

1 A Less costly. It would be more cost-effective to
2 do it all at once.

3 Q Well --

4 A I mean, you had to do the information. It
5 wasn't any new information provide, it was just codified
6 in part of the filing. And there were errors that were
7 corrected.

8 Q Okay. Are you aware that as to the errors that
9 were corrected that Mr. Nixon, specifically, wrote off and
10 did not charge for correction of the errors within that
11 revised filing?

12 A Well, in the \$25,000 that was encompassed within
13 that subsequent to the 25 after it was taken out, he has
14 adjusted his bills.

15 Q He did make an adjustment for not charging the
16 utility for the correction of errors.

17 A Eventually.

18 Q You're saying that eventually, you mean, after
19 the Commission Staff inquired about the cost? You're
20 saying he didn't do this up front when he --

21 A He said this will increase the rate case
22 expense, \$25,000. That was in the initial filing. That's
23 the 25 I took out.

24 Q Right.

25 A Subsequent to that, when the Staff asked, he

1 looked at it and said, okay, it's 18, and that removes the
2 adjustment for the errors.

3 Q So, you believe that Mr. Nixon took out part of
4 the \$25,000 as a correction of error?

5 A I believe so.

6 Q Let's just deal with the issue of -- without
7 getting into what was the write-off and when it was done
8 for the \$6,000, let's just deal with the \$25,000. You're
9 saying that it would have been more efficient to have
10 filed it initially, correct?

11 A Correct, in my opinion.

12 Q Okay. And did you do an analysis to determine
13 how much of that would have been incurred, regardless of
14 whether they filed it at the beginning or filed it as part
15 of the supplement?

16 A No.

17 Q So, you just made an adjustment for all of the
18 costs related to complying with the deficiency letter?

19 A Yes, essentially, yes.

20 Q You made an adjustment to the maintenance
21 expenses related to the new plant; is that correct?

22 A You're talking about the \$175,000?

23 Q Yes.

24 A Yes.

25 Q And the utility estimated that the additional

1 maintenance related to this new treatment facility would
2 be \$175,000, and you believe that that is an inappropriate
3 addition to an operating expense, correct?

4 A Well, that adjustment's really sponsored by
5 Mr. Biddy. But my understanding is, and it's something I
6 agree with, is that the 5% is an average number over the
7 life of the plant, that 5% of the cost of the plant will
8 be incurred over its life.

9 It might be little or nothing at the beginning,
10 it might be a large amount at the end, but this is just a
11 number that he picked out and just threw it in there.

12 And, I think, it has to be supported and, I think,
13 Mr. Biddy agrees or thinks that it should be supported in
14 more detail.

15 Q So, you believe that the norm is that it would
16 be approximately 5% on an annual base, but not necessarily
17 in the first year?

18 A Or within the first several years.

19 Q Okay. And your stated basis for that is that
20 there are manufacturer warranties that guarantee the
21 proper function of its installed equipment for a period of
22 one year?

23 A Yes.

24 Q So, you're saying that all of the maintenance
25 related to the new treatment plant should not be

1 recognized, none of it should be recognized, because there
2 is a warranty for the first year of operation?

3 A Well, to the extent that you can show what
4 specific items will have to be maintained and what the
5 specific dollar amounts are, what you would do
6 specifically, I think, the Commission ought to recognize
7 that. But I don't think a 5% rider is an appropriate way
8 to go about it.

9 Q But your stated position is that it is because
10 the manufacturer will guarantee the proper function of its
11 installed equipment for a period of one year; therefore,
12 no maintenance of that facility should be ready.

13 A That is my understanding of Mr. Bidy's
14 position. And I've detailed a little more of what we
15 think ought to be done.

16 Q Isn't it true that the warranties have nothing
17 in them about maintenance of the facility?

18 A Well, maintenance is an all-encompassing term.
19 If something breaks down -- if some part of the plant
20 breaks down that occurs after one year, that might be
21 called maintenance. If it occurred before the year, then
22 the manufacturer might be responsible for that.

23 Q Have you reviewed the warranty in this case?

24 A No, I haven't.

25 Q Have you ever reviewed warranties for plant

1 items, such as that constructed by Aloha?

2 A I've reviewed warranties associated with
3 electric-generating plants, and that's my understanding of
4 how they work.

5 Q They do not require that the utility who
6 purchased that equipment maintain that equipment?

7 A Oh, I think, they require that they take the
8 maintenance items of greasing and replacing belts, and
9 things of that nature, on a regular basis, that is true.
10 But I don't think that that amounts to \$175,000 a year.

11 Q Are you an engineer?

12 A No.

13 Q Are you aware of the fact that Mr. Biddy,
14 specifically, said in his deposition that the equipment
15 manufacturers' warranties generally don't cover preventive
16 maintenance?

17 A Yes.

18 Q Or maintenance task after start-up?

19 A Yes.

20 Q Okay. You made an adjustment to depreciation
21 expense based upon the used and useful adjustment?

22 A Yes.

23 Q Did you make an adjustment for depreciation that
24 was related to contributed property in that, and offset
25 for that the portion that was related to contributed

1 property?

2 A To the extent that we could get the information,
3 I did, that I had knowledge of.

4 Q Did you make an adjustment to the depreciation
5 expense for an adjustment to collection facilities or
6 sewer pipe?

7 A Did we reduce the depreciation expense for those
8 items?

9 Q For --

10 A Used and useful?

11 Q For the contributed part of that, CIAC.

12 A To the extent that I acknowledge, I did. If
13 there were other contributed items that we took out as
14 used and useful then the CIAC should be adjusted. I would
15 agree that to the extent that it can be identified with a
16 particular item that CIAC should be adjusted down for
17 that.

18 Q You've made a used and useful adjustment to
19 land; is that not right?

20 A To the land that the plant is on, yes.

21 Q And isn't it true that Mr. Bidy proposed no
22 used and useful adjustment to land?

23 A I think, what Mr. Bidy had in mind was that the
24 Staff was proposing an adjustment to spray fields and
25 Mr. Bidy was focusing on that and that he was not,

1 specifically, looking at the land on which the plant was
2 on.

3 Q What issue is it that Staff is proposing an
4 adjustment in its rate?

5 A At the time, one of the exceptions to the audit
6 was for disclosures, maybe is what I would say, related to
7 the land. And, I think, that's what he was focusing on.

8 Q But Mr. Bidy has proposed no used and useful
9 adjustment to land; is that correct?

10 A To the spray fields. But it's my understanding
11 that he agrees that what I did, taking out the land
12 associated with the nonused and useful portion of the
13 plant is appropriate.

14 Q So, but he did not propose that in his
15 testimony?

16 A Well, I think, he did propose it, but
17 misunderstood what you were asking.

18 Q Well, we'll see what Mr. Bidy's testimony says.

19 COMMISSIONER JACOBS: Mr. Deterding, how much
20 longer do you think you have?

21 MR. DETERDING: Not a whole lot.

22 BY MR. DETERDING:

23 Q Now, on page 7, you also made an adjustment to
24 remove and admit an administrative employee of the
25 utility?

1 A Yes.

2 Q And you state, as the basis for this, that the
3 consent final judgment doesn't require this individual; is
4 that correct?

5 A Well, the company's filing says that this
6 employee was added as a result of the consent final
7 judgment. Now, you've changed your tune, and you're
8 arguing a different position on it.

9 If you look at the schedule, if you look at the
10 schedule for payroll, there's an asterisk on there and it
11 says this employee was required by the consent final
12 judgment. So I went through the consent final judgment,
13 and it says you're required to add two operators. To go
14 to 24-hour, 7-day a week, plant operations you have to
15 have somebody there all the time. It does not say that
16 you have to add any administrative people as a result of
17 that.

18 If you look at footnote 4 on page 165, it says,
19 "These employees were hired after the end of the historic
20 test year to meet DEP staffing requirements." And there's
21 no DEP staffing requirement for that person.

22 Q Does the consent final judgment increase the
23 reporting requirement for this utility?

24 A It talks of reports, filing reports. How
25 voluminous those are or how often or whether they are

1 anymore than they are currently or who would file them,
2 whether the operators themselves would have to prepare the
3 report and would take just a mailing of those, there's no
4 determination in there that that's necessary.

5 Q There's no determination in there?

6 A There's no determination in the consent final
7 judgment of the number or volume of reports or who would
8 file them.

9 In addition, you've also added lots of money for
10 Mr. Porter for reports to be filed. So, it seems to me
11 you've got it in at least two different places. You've
12 got it as payroll for an individual and then, you've got
13 it in as costs that Mr. Porter's going to incur.

14 Q Is that for the monthly reports required by the
15 CFJ?

16 A That would be for some reports, whether they're
17 the monthly reports or not, I don't know.

18 Q Have you reviewed the contents of the new
19 reports required as compared to the reports that were
20 required for the sewage treatment system during the test
21 year?

22 A No.

23 Q If the utility is required to operate its sewage
24 treatment plant, do you believe that it is necessary that
25 it include in here, in the CFJ, that they have to keep the

1 electricity on to that plant in order for it to be an
2 appropriate expense for recognition?

3 Do you believe it is necessary that the CFJ,
4 specifically, says you have to keep electricity on at that
5 plant in order for it to be an appropriate additional
6 expense for recognition?

7 A No. But that's not -- you haven't increased the
8 expense and then pointed to the consent final judgment as
9 justification for it. What you've done here is that
10 you've increased the expense and said the DEP made me do
11 this. That's your justification. And then, when I point
12 out that that's not the case, then you change the
13 justification all around.

14 Q Well, you don't know how many man hours are
15 required in addition to what were required during the test
16 year in order to complete those reports, do you?

17 A No. But that's your responsibility to show
18 that. It's not our responsibility for you to put a dollar
19 amount on it and for us to disprove it. The burden of
20 proof is on you, and you haven't done it.

21 Q You have made an adjustment to impute reuse
22 revenue in the amount equal to the amount proposed by the
23 Commission after complete sale of all reuse water; is that
24 right?

25 A Yes. But I think that the OPC has stipulated to

1 the number sponsored by Staff witness Merchant.

2 Q You stipulated to the amount of revenue
3 imputation?

4 A Yes, I believe, that's correct. Mr. Burgess is
5 shaking his head, so I assume that's right.

6 MR. DETERDING: Just a second. That's all I
7 have, thank you.

8 COMMISSIONER JACOBS: Very well. What I'd like
9 to do now is to take a break until 6:00, and we'll begin
10 the customer hearing. And we'll play it by ear. I'd like
11 to get Mr. Larkin done tonight, since he's not scheduled
12 for rebuttal tomorrow. So, it depends on how early we get
13 done with the customer hearing, we may try and allow time
14 to complete his testimony tonight. Mr. Burgess, is that
15 okay?

16 MR. BURGESS: Thank you.

17 COMMISSIONER JACOBS: If we don't get a chance
18 to do that, then you're trapped.

19 THE WITNESS: I was planning on staying until
20 tomorrow anyway.

21 COMMISSIONER JACOBS: And with that, we'll
22 recess until 6:00 and begin customer testimony.

23 For members of the public who have come, we have
24 just finished up part of the technical testimony. We're
25 going to break now and come back at 6:00 for the public

1 testimony.

2 UNIDENTIFIED SPEAKER: Will you have time to
3 hear questions tonight?

4 COMMISSIONER JACOBS: At 6:00.

5 (Transcript continues in sequence with Volume 3.)
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1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTERS
3 COUNTY OF LEON)

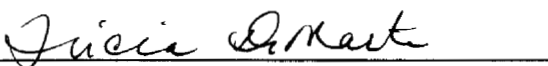
4 We, KORETTA E. STANFORD, RPR, and TRICIA
5 DeMARTE, Official Commission Reporters,

6 DO HEREBY CERTIFY that the Hearing in Docket No.
7 991643-SU was heard by the Florida Public Service
8 Commission at the time and place herein stated; it is
9 further

10 CERTIFIED that we stenographically reported the
11 said proceedings; that the same has been transcribed under
12 our direct supervision; and that this transcript,
13 consisting of 163 pages, Volume 2, constitutes a true
14 transcription of our notes of said proceedings.

15 DATED THIS 12TH DAY OF OCTOBER, 2000.

16 
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