

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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. :

* ELECTRONIC VERSIONS OF THIS TRANSCRIPT *
* ARE A CONVENIENCE COPY ONLY AND ARE NOT *
* THE OFFICIAL TRANSCRIPT OF THE HEARING *
* AND DO NOT INCLUDE PREFILED TESTIMONY. *
* *

VOLUME 5

Pages 493 through 647

PROCEEDINGS: HEARING

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

DATE: Tuesday, October 3, 2000

TIME: Commenced at 12:30 p.m.
Concluded at 2:10 p.m.

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

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

APPEARANCES: (As heretofore noted.)



FLORIDA PUBLIC SERVICE COMMISSION

DOCUMENT NUMBER-DATE
13137 OCT 17 8
FPSC-RECORDS/REPORTING

1 I N D E X

2 WITNESSES

3	NAME:	PAGE NO.
4	DAVID MacCOLEMAN	
	Direct Testimony Inserted	496
5	JAMES McPHERSON	
6	Direct Examination by Mr. Jaeger	500
	Direct Testimony Inserted	502
7	Cross Examination by Mr. Deterding	515
	Redirect Examination by Mr. Jaeger	551
8	Recross Examination by Mr. Deterding	564
9	THOMAS STAMBAUGH	
	Direct Examination by Mr. Jaeger	568
10	Prefiled Direct Testimony Inserted	571
	Cross Examination by Mr. Deterding	585
11	Cross Examination by Mr. Burgess	594
	Redirect Examination by Mr. Jaeger	599
12	STEPHEN WATFORD	
13	Direct Examination by Mr. Fudge	603
14	Cross Examination by Mr. Wharton	634

15 EXHIBITS

16	NUMBER	ID.	ADMTD.
17	11 JAM-1 through JAM-3	501	565
	12 Gross-up Tariff Sheets for Aloha	542	565
18	1		567
	13 TES-1	570	601
19	14 Cooperative Funding Agreement	603	645
	15 Aloha's Response to Interrogatory		
20	No. 33B	605	645
	16 Late-Filed Deposition Exhibit		
21	No. 4 of Mr. Watford	622	645
	17 Letter from Aloha to Martha Golden	632	645

24	CERTIFICATE OF REPORTERS		647
----	--------------------------	--	-----

25

P R O C E E D I N G S

(Transcript continues in sequence from Volume 4.)

1
2
3 MR. JAEGER: Commissioner Jacobs, pursuant to
4 the prehearing order, David MacColeman would be next. And
5 that was the one that was stipulated. So, at this point
6 and time I'd like to have his testimony inserted into the
7 record as though read, pursuant to the stipulation of
8 parties.

9 COMMISSIONER JACOBS: Without objection, show it
10 entered into the record as though read.

11 MR. JAEGER: And no exhibits were attached to
12 his testimony.

13 COMMISSIONER JACOBS: Okay.
14
15
16
17
18
19
20
21
22
23
24
25

DIRECT TESTIMONY OF DAVID G. MacCOLEMAN

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

3 | A. David G. MacColeman, 3804 Coconut Palm Drive, Tampa, Florida 33619

4 | Q. Please give a brief description of your educational background and
5 | experience.

6 | A. B.S. in Chemistry and Biology and vocational training in wastewater
7 | operations. Nine plus years as an inspector of wastewater plants.

8 | Q. By whom are you presently employed?

9 | A. The Florida Department of Environmental Protection (DEP).

10 | Q. How long have you been employed by DEP and in what capacity?

11 | A. Nine years in the Compliance/Enforcement Section of the Domestic
12 | Wastewater Section regulating the wastewater rules.

13 | Q. What are your general responsibilities at DEP?

14 | A. Facilities which are assigned to me are required to be inspected
15 | annually to determine compliance with Department rules and statutes. Those
16 | facilities which are not in compliance are brought into compliance using
17 | enforcement procedures.

18 | Q. Are you familiar with Aloha Utilities' wastewater systems in Pasco
19 | County, particularly the Seven Springs' system?

20 | A. Yes.

21 | Q. Does the utility have appropriate, current permits from DEP?

22 | A. Yes.

23 | Q. Please give the issuance date and expiration dates for the utility's
24 | permits.

25 | A. Wastewater Permit No. FLA012752 was issued to the Seven Springs

1 | wastewater treatment plant on March 23, 1999 and expires on March 22, 2004.

2 | Q. Q. Is Aloha in compliance with its permit?

3 | A. No. A review of the files and inspections on April 6, 2000 and May 15,
4 | 2000 found reports that indicate the wastewater treatment plant (WWTP) is out
5 | of compliance with the permit. Corrective actions were discussed with the
6 | operators that would improve the reasonable assurance necessary to validate
7 | records and reports submitted to the Department. However, the WWTP is also
8 | the subject of an Amended and Restated Consent Final Judgement (ARCFJ) through
9 | the Circuit Court. To my knowledge, at this time, Aloha Utilities is in
10 | compliance with the ARCFJ.

11 | Q. Are the wastewater collection, treatment and disposal facilities
12 | adequate to serve present customers based upon permitted capacities?

13 | A. No. The interim wastewater plant improvements which are being
14 | constructed will increase the plant capacity to meet current flows from the
15 | present customers.

16 | Q. Are the treatment and disposal facilities located in accordance with
17 | applicable DEP rules?

18 | A. Yes.

19 | Q. Has DEP required the utility to take any actions so as to minimize
20 | possible adverse effects resulting from odors, noise, aerosol drift, or
21 | lighting?

22 | A. No.

23 | Q. Does the utility have certified operators as required by Chapter 62-602,
24 | Florida Administrative Code?

25 | A. Yes.

1 Q. Is the overall maintenance of the utility's treatment, collection, and
2 disposal facilities satisfactory?

3 A. The overall maintenance of the treatment plant is satisfactory. The
4 disposal system is not satisfactory and is the subject of the ARCFJ until the
5 construction is completed.

6 Q. Does the utility meet all applicable technology based effluent
7 limitations (TBELS) and water quality based effluent limitations (WQBELS)?

8 A. The surface water effluent from the site is the major subject of The
9 ARCFJ. The WWTP is presently being upgraded to meet the TBEL for public
10 access wastewater and eliminate the surface water discharge.

11 Q. Does the utility meet the effluent disposal requirements of Chapters 62-
12 600.530 and 62-611, Florida Administrative Code?

13 A. No. The reports in FDEP files reveal that ground water standards for
14 total dissolved solids and pH are not being met in some of the ground water
15 wells at the WWTP site. The WWTP is not required to meet the requirements for
16 the Wetland Treatment as found in Chapter 62-611.

17 Q. Are the collection, treatment, and disposal facilities in compliance
18 with all other provisions of Title 62, Florida Administrative Code, not
19 previously mentioned?

20 A. No. Corrective actions are detailed in Permit No. FLA 012752-001-DW1P
21 and the ARCFJ.

22 Q. Has this utility been the subject of any DEP enforcement action within
23 the past two years?

24 A. Yes. The utility and the FDEP are parties to the ARCFJ in the Second
25 Judicial Circuit Court in and for Leon County, Florida, Case No. 93-4356.

1 Q. In the ARCFJ, has DEP directed Aloha to reduce I&I?

2 A. In the ARCFJ, the utility is credited with additional flow by reducing
3 inflow into the collection/transmission system or repairing sources of
4 infiltration.

5 Q. Does DEP consider 150 gallons per day (GPD) per equivalent residential
6 connection (ERC) normal for Aloha?

7 A. Yes.

8 Q. What does DEP consider excessive I&I? Is there an acceptable amount of
9 I&I, i.e., such as a percentage of normal flows?

10 A. FDEP accepts engineering standards for infiltration and inflow (I&I).
11 Excessive flows are those flows which interfere with the treatment process.

12 Q. In DEP's opinion, does Aloha have excessive I&I, or was it just directed
13 to try to reduce its I&I since its total flows were so far over its capacity?

14 A. The Department has no opinion as to whether the I&I for this or any
15 utility is excessive. I believe this has been answered in previous questions.
16 It was known that during storm events, inflow into the system did occur and
17 caused operational problems. The extent of infiltration was not known by the
18 Department. Total flows and plant capacity are being resolved by the interim
19 upgrade to the plant as allowed by the Permit and the ARCFJ.

20 Q. Do you have anything further to add?

21 A. No, I do not.

22

23

24

25

1 MR. JAEGER: And also the next witness in order
2 is James McPherson. The Staff calls James McPherson, at
3 this time, to the stand.

4 COMMISSIONER JACOBS: Very well. You may
5 proceed.

6 JAMES A. McPHERSON
7 was called as a witness on behalf of the Florida Public
8 Service Commission Staff and, having been duly sworn,
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MR. JAEGER:

12 Q Mr. McPherson, please state your name and
13 business address for the record.

14 A Yes. My name is James A. McPherson. And my
15 business address is 4950 West Kennedy Boulevard, Suite 310
16 Tampa, Florida.

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

18 A I'm employed by the Florida Public Service
19 Commission, and my job title is a Regulatory Analyst
20 Supervisor.

21 Q Have you prefiled direct testimony in this
22 docket consisting of 12 pages?

23 A Yes, I have.

24 Q You have any changes, corrections to your
25 testimony?

FLORIDA PUBLIC SERVICE COMMISSION

1 A No, I do not.

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

5 COMMISSIONER JACOBS: Without objection, show it
6 entered into the record.

7 BY MR. JAEGER:

8 Q Mr. McPherson, did you also file Exhibit Numbers
9 JAM-1 through JAM-3 to your testimony? There, you have
10 those attached.

11 A Yes, I do.

12 Q Do you have any changes, corrections to any of
13 those exhibits?

14 A No, I do not.

15 MR. JAEGER: Chairman, may we have those
16 exhibits identified?

17 COMMISSIONER JACOBS: We'll mark those as a
18 composite Exhibit 11.

19 (Exhibit 11 marked for identification.).

20

21

22

23

24

25

DIRECT TESTIMONY OF JAMES A. MCPHERSON

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. Please state your name and business address.

A. My name is James A. McPherson and my business address is 4950 West Kennedy Blvd., Suite 310, Tampa, Florida, 33609.

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

A. I am employed by the Florida Public Service Commission as a Regulatory Analyst Supervisor in the Division of Regulatory Oversight.

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

A. I have been employed by the Florida Public Service Commission since August, 1992.

Q. Briefly review your educational and professional background.

A. In 1975, I received a Degree in Forestry from the University of Florida and in 1978 I received an Accounting Degree from the University of South Florida. I worked as a staff accountant for a CPA firm for three years. Before joining the Commission Staff I was employed at Lykes Brothers, Inc. for nine years, the last three years as the Manager of Internal Audit.

I am a Certified Public Accountant licensed in the State of Florida. I also am a member of the Florida Institute of Certified Public Accountants and the American Institute of Certified Public Accountants.

Q. Please describe your current responsibilities.

A. Currently, I am a Regulatory Analyst Supervisor with the responsibilities of administering the Tampa District office, reviewing work load, and allocating resources to complete field work and issue audit reports when due. I also supervise, plan, and conduct utility audits of manual and automated accounting systems for historical and forecasted financial statements and exhibits.

1 Q. Have you presented expert testimony before this Commission or any other
2 regulatory agency?

3 A. Yes. I testified in the Florida Cities Water Company rate case, Docket No.
4 950387-SU.

5 Q. What is the purpose of your testimony today?

6 A. The purpose of my testimony is to testify to Audit Disclosure Nos. 7 and
7 8 in the staff audit report of Aloha Utilities, Inc., the Seven Springs
8 Wastewater system, Docket No. 991643-SU. The audit report is filed with Tom
9 Stambaugh's testimony and is identified as TES-1. I am also testifying to the
10 issues raised in a subsequent audit of Aloha Utilities, Inc. This subsequent
11 audit was an undocketed earnings review audit of the other three systems: Aloha
12 Gardens water and wastewater systems and Seven Springs water system. The audit
13 report for this audit is attached to my testimony as Exhibit JAM-1.

14 Q. Did you prepare Audit Disclosures 7 and 8?

15 A. Yes, I was the auditor assigned to complete the audit work and write the
16 disclosures.

17 Q. Was this second audit report prepared by you?

18 A. Yes, I was the audit manager in charge of this audit.

19 Q. Please review the work you and the audit staff performed in this audit.

20 A. We compiled Rate Base, tested the balances by reviewing capital work
21 orders, and calculated accumulated depreciation using currently approved rates.
22 We also tested Contributions in Aid of Construction (CIAC) and Amortization of
23 CIAC and calculated a working capital allowance using the balance sheet method.
24 We also compiled revenue and expenses, tested specific customer bills to verify
25 that approved rates were in use, recomputed revenues using approved tariffs and

1 company-provided gallonage sales, verified Operating and Maintenance (O&M)
2 expenses, performed audit test work of payments to vendors to verify booked
3 expenses, calculated depreciation expense, and analyzed taxes other than income.
4 We also compiled the capital structure of Aloha Utilities and traced the amounts
5 and interest rates to supporting documents.

6 Q. Please review Audit Disclosure No. 7 from the rate case audit.

7 A. Audit Disclosure No. 7 discusses deferred taxes and contributed taxes. In
8 the subsequent earnings audit I have expanded my discussion of this issue so I
9 will address this issue further when I address Audit Disclosure No. 14 of the
10 subsequent audit.

11 Q. Please review Audit Disclosure No. 8 from the rate case audit.

12 A. Audit Disclosure No. 8 discusses three components of the capital structure:
13 Notes Payable, Customer Deposits, and Retained Earnings. The disclosure first
14 addressed the notes payable. Included on the utility's long-term debt schedule
15 (MFR Schedule D-5(c)) is a vehicle note payable showing an average balance of
16 \$17,760. The utility incorrectly used the actual balance payable at
17 September 30, 1999 instead of the thirteen-month average. During the audit we
18 recalculated the actual thirteen-month average as \$7,203 or a difference of
19 \$10,557. The thirteen-month average balance of notes payable shown on MFR
20 Schedule D-2(c) should be reduced \$10,557.

21 The second component addressed was Customer Deposits. The utility included
22 in its reconciliation of capital structure to rate base (MFR Schedule D-2(c)) an
23 amount of customer deposits of \$215,795. This amount is the total deposits of
24 all four of the utility's operating systems. The utility did not prorate this
25 amount to rate base as was done with the other components of capital structure.

1 The utility should either prorate total customer deposits to the associated rate
2 base as is done with the other components of capital structure or include only
3 those customer deposits that are directly attributable to the Seven Springs
4 wastewater system. Audit Disclosure No. 13 in the subsequent audit also
5 addresses customer deposits regarding another issue found during that audit.

6 The third component addressed was Retained Earnings. The utility's
7 thirteen-month average balance of retained earnings of \$1,878,373 was computed
8 based on actual monthly general ledger activity. Many of the utility's largest
9 journal entries are made only at the end of the year. Some of these adjustments
10 are made to record depreciation, CIAC amortization, income tax expense, and
11 amortization of rate case expenses. All of these expenses actually occur during
12 the course of the entire year. I believe a better way to determine each month's
13 balance of retained earnings is to assume that all income and expense occurs
14 evenly throughout the year. The balance of retained earnings at December 31,
15 1997 was \$1,556,376. The utility reported 1998 net income of \$180,172 and
16 retained earnings of \$1,736,548 at December 31, 1998. Therefore, the balance at
17 September 30, 1998 should be equal to the beginning balance plus 9/12ths of
18 \$180,172 or \$1,691,504 not the \$1,935,054 that the utility used in its
19 computation. Likewise, for the nine months ended September 30, 1999, the utility
20 reports a loss of \$62,533 or \$6,948 per month. However, in its MFR Schedule A-
21 19(c) the utility shows income of \$266,622 for the first eight months and then
22 a large loss of \$329,155 in the last month. This method overstates the monthly
23 retained earnings balance every month except at the year end. We have recomputed
24 the thirteen-month average balance starting with September 30, 1998 as computed
25 above and have added yearly income or loss as if it were earned evenly throughout

1 the year. Based on this method, the thirteen-month average of retained earnings
2 is \$1,705,567 or \$172,806 less than is shown in the MFR schedules.

3 Q. Please review the audit disclosures in the undocketed audit report.

4 A. Audit Disclosure No. 1 discusses plant additions. This same issue was
5 addressed in the rate case audit and the effect on the Seven Springs wastewater
6 system is discussed in Mr. Stambaugh's testimony.

7 Audit Disclosure No. 2 discusses the Aloha Gardens wastewater land account.
8 This issue was also addressed in the rate case audit and the effect on the Seven
9 Springs wastewater system is discussed in Mr. Stambaugh's testimony.

10 Audit Disclosure No. 3 discusses accumulated depreciation and depreciation
11 expense for computer equipment. Aloha Utilities, Inc. purchased new computer
12 equipment and system software in 1998 and 1999 and capitalized these as Office
13 Furniture using a 15-year depreciable life. Rule 25-30.140(2)(a), Florida
14 Administrative Code, requires computer equipment to be depreciated over a six-
15 year period. Therefore, I recommend that the accumulated depreciation for the
16 Seven Springs wastewater system be increased by \$2,151 and that the test year
17 depreciation expense be increased by \$1,727.

18 Audit Disclosures Nos. 4, 5, and 6 have no impact on the rate case.

19 Audit Disclosure No. 7 discusses payroll expense. This issue was also
20 addressed in the rate case audit and the effect on the Seven Springs wastewater
21 system is discussed in Mr. Stambaugh's testimony.

22 Audit Disclosure No. 8 discusses errors from the computer system
23 conversion. This issue was also addressed in the rate case audit and the effect
24 on the Seven Springs wastewater system is discussed in Mr. Stambaugh's testimony.

25 Audit Disclosure No. 9 discusses accounting expenses. The utility replaced

1 | its general ledger and billing software systems in July of 1999 with a new
2 | accounting software system. The utility's accounting firm, Cronin, Jackson,
3 | Nixon & Wilson, assisted the utility with the implementation of the new system
4 | by reviewing system output, balancing accounts, and testing accuracy. The
5 | replacement of billing and accounting systems is an infrequent event and expenses
6 | related to this event are non-recurring. Rule 25-30.433 (8), Florida
7 | Administrative Code, requires that non-recurring expenses be amortized over a 5-
8 | year period unless a shorter or longer period of time can be justified.
9 | Accordingly, these invoices should be deferred and amortized over a 5-year
10 | period. I recommend that the accounting expenses for the Seven Springs
11 | wastewater system be reduced by \$1,113 to reflect this adjustment.

12 | Audit Disclosure No. 10 discusses transportation expenses. A review of the
13 | utility expenses revealed that the utility had issued Shell Oil credit cards to
14 | several of its employees. We examined invoices for February and April and noted
15 | that the invoices provided a subtotal for each card in use during the month. We
16 | also noted that someone had hand written the initials PG, RS, LS, SW, and AC next
17 | to the individual card numbers. When asked to identify the users indicated by
18 | the initials, the utility responded that LS (card number 2004) and RS (card
19 | number 2003) were both Lynnda Speer. Lynnda Speer's husband is Roy Speer. As
20 | a follow-up question, we asked for all of the remaining Shell gas card invoices
21 | for 1999. Before providing them, someone erased the identifying initials next
22 | to the card numbers on these invoices. I believe card number 2003 was used by
23 | the utility vice president's husband who is not an employee or officer of the
24 | company. The audit report indicates a monthly listing of charges to this card
25 | that total \$760.73. These charges are only for January through September, which

1 are wholly within the test year. I believe that all expenses charged on card
2 2003 should be removed for ratemaking purposes. This would result in a reduction
3 to transportation expense for the Seven Springs wastewater system of \$280.25,
4 plus any charges for the first quarter of the historical test year.

5 Audit Disclosure No. 11 discusses taxes other than income. The utility did
6 not take all available discounts on its real estate and personal property taxes.
7 This issue was also addressed in the rate case audit and the effect on the Seven
8 Springs wastewater system is discussed in Mr. Stambaugh's testimony. This
9 disclosure also addresses a difference in the methodology used to allocate these
10 taxes. This difference does not affect the rate case as the numbers we developed
11 for the rate case were correct.

12 Audit Disclosure No. 12 discusses Aloha Gardens' purchased water. This
13 disclosure has no impact on the rate case.

14 Audit Disclosure No. 13 discusses customer deposits. This is in addition
15 to the discussion reflected under Audit Disclosure No. 8 in the rate case audit.
16 Customer deposits per the company's books total \$458,716 at December 31, 1999.
17 However, included in this amount are certain deposits totaling \$41,782 which
18 relate to the nonregulated related company street light and garbage customers.
19 Beginning in the early part of 1999, the utility began recording its customer
20 deposits incorrectly. The deposits were being credited directly to the accounts
21 receivable. The utility discovered this error and corrected it in December when
22 it was able to restate all the customer deposits. Therefore, this error was
23 still in effect at the end of the test year and the balance of customer deposits
24 is understated in the MFRs. We were unable to determine the appropriate level
25 of customer deposits at the end of September 30, 1999.

1 Audit Disclosure No. 14 discusses deferred taxes and contributed taxes.
 2 The following discussion includes information from both audit reports. As shown
 3 in Disclosure No. 7 of the rate case audit, the utility has the following
 4 accounts listed in its general ledger:

5	<u>Acct. No.</u>	<u>Acct. Title</u>	<u>G/L 9-30-98</u>	<u>G/L 9-30-99</u>	<u>13 Mo. Avg.</u>
6	190-00-0	Def. Tax Asset MF SIT	\$5,077	\$6,656	
7	191-00-0	Def. Tax Asset MF FIT	\$29,387	\$38,614	\$38,639
8	193-00-0	Def. Tax Asset CIAC SIT	\$333,016	\$310,681	
9	194-00-0	Def. Tax Asset CIAC FIT	\$1,945,417	\$1,814,972	\$2,203,971
10		Sub-total			\$2,242,610
11	245-00-0	Def. Tax Liability SIT	(\$3,475)	(\$3,475)	
12	246-00-0	Def. Tax Liability FIT	(\$20,313)	(\$20,313)	
13	247-00-0	Def. Tax Liab. Depr. SIT	(\$47,866)	(\$75,830)	
14	248-00-0	Def. Tax Liab. Depr. FIT	(\$343,948)	(\$507,403)	
15		Sub-total			(\$475,501)
16	254-00-0	Contributed Taxes	(\$2,720,755)	(\$2,720,755)	
17	255-10-0	Amort. of Contr. Taxes	\$244,301	\$380,339	
18		Sub-total			(\$2,418,898)

19 Rule 25-30.433(3), Florida Administrative Code, states that "used and
 20 useful debit deferred taxes shall be offset against used and useful credit
 21 deferred taxes in the capital structure. Any resulting net debit deferred taxes
 22 shall be included as a separate line item in the rate base calculation. Any net
 23 credit deferred taxes shall be included in the capital structure calculation."
 24 Order No. 23541, issued October 1, 1990, in Docket No. 860814-PU deals
 25 specifically with the accounting and regulatory treatment of Contributions-in-

1 aid-of-Construction (CIAC) which is grossed up to pay income taxes. This order
2 also compares CIAC which is grossed up with CIAC which is not. Under the heading
3 *Accounting/Regulatory Treatment - No Gross-Up, Normalization*, "witness Causseaux
4 recommends the method required by the IRS pursuant to Notice 87-82. This notice
5 says debit deferred taxes should be treated as the regulatory body usually treats
6 deferred taxes. In Florida, the norm is to offset debit deferred taxes against
7 credit deferred taxes in the capital structure. If the net of the credit and
8 debit deferred tax amounts is a debit, the amount is included in rate base."
9 Witness Causseaux then gives a more simplistic approach in which the entire debit
10 deferred tax balance is included in rate base. The order continues by stating
11 "although the proposed rate base treatment would be easier to administer, we
12 believe that the appropriate method is the capital structure method. This would
13 keep the treatment in total compliance with Notice 87-82."

14 Under the heading *Accounting/Regulatory Treatment With Gross-Up*, the order
15 states that all witnesses who testified agreed that normalization accounting
16 should be followed when a utility does gross-up. The order then states that "we
17 still believe that full normalization accounting should be utilized. This would
18 result in consistent treatment between utilities that are not grossing-up and
19 those that are. In addition, those utilities that switch from grossing-up to not
20 grossing-up will maintain the same normalization methodology." In the next
21 paragraph, the order states, "as discussed above, normalization involves
22 offsetting debit deferred taxes against credit deferred taxes in the capital
23 structure with any net debit deferred balance included in rate base."

24 In addition, Order No. 11487, issued January 5, 1983, in Docket No. 820014-
25 WS, states: "... the utility has also reduced CIAC by the amount of income taxes

1 | paid on connection fees, which were included as income for tax purposes. We
2 | believe that connection and tap fees should be considered CIAC, not revenue.
3 | Therefore, we have increased CIAC for the water system by \$26,690 and \$26,199 for
4 | the sewer system.”

5 | The Uniform System of Accounts (USOA) For Class A Wastewater Utilities
6 | describes the amounts that should be recorded in Account 271 (Contributions in
7 | Aid of Construction). Item 4 in this description states “any amount of money
8 | received by a utility, any portion of which is provided at no cost to the
9 | utility, which represents an addition or transfer to the capital of the utility
10 | and which is utilized to offset the federal, state or local income tax effect of
11 | taxable contributions in aid of construction . . . shall be reflected in a sub-
12 | account of this account.”

13 | The utility did not follow these procedures. It did not include the gross-
14 | up portion of CIAC with the other CIAC in its MFR rate base schedule. It did not
15 | net deferred tax assets (debits) against deferred tax liabilities (credits) in
16 | its capital structure as required by the Commission rule and the Commission
17 | orders.

18 | I believe that all CIAC, whether grossed-up for tax or not, should be
19 | treated consistently. Among other things, this means that both should be
20 | included in a utility’s rate base even if income taxes were paid on them.
21 | Second, deferred tax assets are to be offset against deferred tax credits in the
22 | utility’s capital structure with any net debit being included in rate base. In
23 | Aloha’s case, no distinction is made for deferred taxes relating to meter fees
24 | received that were not grossed-up and deferred taxes relating to plant capacity
25 | charges that were grossed-up. The utility appears to believe that this treatment

1 | should not apply nor does it have to include CIAC grossed up for taxes in its
2 | rate base because its deferred tax assets are less than its net contributed
3 | taxes. I believe that Order No. 11487 is very clear and that all contributions
4 | received should be considered CIAC and included in rate base even if taxes were
5 | paid on them.

6 | The utility has a supporting schedule which specifically identifies the
7 | division to which the contributed taxes relate. I used this schedule to allocate
8 | the net deferred tax assets to the various divisions on the same basis as the
9 | contributed taxes. This schedule then calculates the net reduction which should
10 | be made to the utility's rate base. I have attached this schedule to my
11 | testimony as Exhibit JAM-2. Based on this schedule, I recommend that the Seven
12 | Springs wastewater rate base be adjusted on a thirteen-month average basis to
13 | include the following amounts: CIAC should be increased by \$1,544,865 and the
14 | amortization of CIAC should be increased by \$171,681. These are the thirteen-
15 | month average amounts that relate to this system. The net of these amounts is
16 | \$1,373,112 or 56.8% of the total. I recommend that this percent be applied to
17 | the net deferred tax asset amount of \$1,767,109 ($\$2,242,610 + \$(475,501)$). This
18 | results in an allocation to the Seven Springs wastewater system of \$1,003,170,
19 | which should also be included in rate base.

20 | I have also prepared an example of two hypothetical companies. One company
21 | does not gross-up and the other one does gross-up. I have tried to show that the
22 | regulatory and accounting treatment of these accounts should be handled
23 | consistently. If a company that does not gross-up CIAC is not allowed to offset
24 | its CIAC by the associated taxes paid, then a company that does gross-up should
25 | also not be allowed to do this. My example of the two hypothetical companies is

1 | attached to my testimony as Exhibit JAM-3.

2 | Q. Do you have anything to add to your testimony?

3 | A. Yes. Some of these adjustments are to the historical test year ended
4 | September 30, 1999. Any escalation factors, such as growth or inflation, that
5 | were applied to these items should also be removed.

6 | Q. Does this conclude your testimony?

7 | A. Yes, it does.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 BY MR. JAEGER:

2 Q Mr. McPherson, could you briefly summarize your
3 testimony?

4 A Yes. The purpose of my testimony is to testify
5 to audit disclosures number 7 and 8 of the Aloha Seven
6 Springs wastewater rate case audit. I am also testifying
7 to certain issues raised in a subsequent audit of Aloha's
8 other three divisions. This subsequent audit was an
9 earnings investigation for the year ended December 31st,
10 1999.

11 As mentioned, certain issues disclosed in this
12 audit relate or have a bearing on the current rate case.
13 Many of the issues in these two audits have already been
14 agreed to by both Staff and the utility, so I will not
15 discuss each one.

16 However, there is one issue, in particular, that
17 the utility disagrees with. This is the issue of gross-up
18 contributions and related construction and the related
19 deferred income taxes. I would like to say a little more
20 about this issue.

21 I believe that all CIAC contributions, including
22 the CIAC gross-up to pay income taxes should be treated
23 the same way for regulatory purposes and included as a
24 reduction to rate base. I believe, this is the treatment
25 required by PSC order 23541 and the treatment that should

1 be required in this rate case.

2 Thank you.

3 Q That concludes your summary?

4 A Yes.

5 MR. JAEGER: Okay. Chairman, this witness is
6 tendered for cross.

7 COMMISSIONER JACOBS: Do you have any questions?

8 MR. BURGESS: No questions.

9 COMMISSIONER JACOBS: Mr. Deterding.

10 CROSS EXAMINATION

11 BY MR. DETERDING:

12 Q Mr. McPherson, you have included as an exhibit
13 to your testimony the audit report from which audit?

14 A From the earnings investigation as of
15 12-31-1999.

16 Q And in that exhibit, you've proposed an
17 adjustment or that audit proposes an adjustment, to remove
18 items capitalized by the utility's outside accountant
19 through adjusting entrees that had been expensed in prior
20 years; is that correct?

21 A That's correct, for the other three Aloha
22 divisions.

23 Q And the basis for that is the same as that that
24 was done in the Seven Springs wastewater case; is that
25 correct?

1 A Yes, it is.

2 Q As a basis for that adjustment, you said in your
3 audit report that you could not tell if the change in
4 those prior years would have caused the utility
5 overearning those years; is that correct?

6 A That's correct. We did not do an audit of prior
7 years, so we couldn't tell if they overearned or not.

8 Q Isn't it true that Mr. Nixon developed and
9 submitted a schedule that was submitted in response to the
10 audit disclosure that shows the effect on earnings in each
11 year of expensing versus capitalizing those items?

12 A I saw his exhibit, but I did not verify it, the
13 accuracy of it.

14 Q But it was submitted in response to the audit
15 disclosure number one, which is that adjustment, correct?

16 A I'm not sure if it was submitted in response to
17 this audit or not, but it was submitted, yes.

18 Q Have you -- just so that you can reference, have
19 you reviewed Mr. Nixon's rebuttal testimony in this case
20 where that item is included?

21 A I don't recall it in his rebuttal testimony, but
22 if it is included, I did read his rebuttal testimony.

23 Q Okay. And if you have that with you, would you
24 get a copy of it? It was RCN-12, page 9 of 11.

25 A I thought I had a copy with me. Let me check

1 just to make sure.

2 MR. JAEGER: Commissioner, Marty's doing a
3 little bit of the same of what I did earlier about using
4 rebuttal testimony --

5 MR. DETERDING: No, I'm not. I am using a
6 response to his audit that he sponsored. I am not using
7 -- I'm only using a rebuttal exhibit, because I believe
8 that is where he can easily find it. I am not using it
9 because it's a rebuttal exhibit, I'm using it because it
10 was a response to the audit that he sponsored.

11 COMMISSIONER JACOBS: Can I respond?

12 COMMISSIONER JABER: I didn't say anything.

13 A Well, I've got the response, and I don't see
14 that schedule in here, if it's response number 12.

15 BY MR. DETERDING:

16 Q No. It was filed or is to be filed in this case
17 as the RCN-12, the earnings investigation audit response.

18 COMMISSIONER JACOBS: So, that is part of his --

19 A I do not see that schedule in here.

20 BY MR. DETERDING:

21 Q All right.

22 A What page number?

23 Q It was marked as 9 of 11 in the rebuttal.

24 A Okay, I see it. I got it.

25 COMMISSIONER JACOBS: So, you're using

1 Mr. Nixon's rebuttal?

2 MR. DETERDING: Well, sir, I am using what was
3 filed in Mr. Nixon's rebuttal or is to be filed in
4 Mr. Nixon's rebuttal, but I'm not using it because it was
5 that. I'm using it because it was a response to the audit
6 that he had sponsored. That was filed with the Commission
7 many months ago.

8 COMMISSIONER JACOBS: Okay. I think, consistent
9 with what we said this morning, you can use demonstrative
10 evidence that's not in the record for purposes --

11 MR. DETERDING: No, I understand that.

12 COMMISSIONER JACOBS: Okay.

13 MR. DETERDING: I understand that. And all I
14 want to do is go over this a little bit with him, because
15 this was something that I understand he reviewed as being
16 the response to his audit.

17 BY MR. DETERDING:

18 Q Is that correct?

19 A I reviewed this schedule as a response to my
20 audit?

21 Q Yes.

22 A I looked at it, yes.

23 Q Okay.

24 COMMISSIONER JACOBS: Okay. Proceed.

25 BY MR. DETERDING:

1 Q This depicts the items affecting the Seven
2 Springs -- just a minute. I think, I've got the wrong
3 one.

4 COMMISSIONER JACOBS: After all that?

5 MR. DETERDING: I apologize, Commissioners. I
6 referred him to the wrong exhibit after all that. It was
7 part of RCN-5 is where it can be easiest located, I guess,
8 page 1 of 1. I apologize.

9 MR. JAEGER: Marty, I'm confused. This RCN-5,
10 where does this come from? I don't see this as a
11 response.

12 MR. DETERDING: Well, it is part of the audit
13 response.

14 MR. JAEGER: Okay. What I see is page 8 of 35
15 is actually where it -- that's RCN 11, entered as the
16 exact same thing. So, go ahead, you can use either one.

17 MR. DETERDING: Well, the one that is RCN-11 --
18 let me see.

19 MR. JAEGER: Page 8 of 35.

20 MR. DETERDING: Yeah, RCN-11 is the complete
21 response to the audit. I apologize, that is correct.
22 What page?

23 MR. JAEGER: 8 of 35, I think, is the same one.

24 MR. DETERDING: Okay.

25 BY MR. DETERDING:

1 Q Did you locate that?

2 A I've got a copy of that, yes.

3 COMMISSIONER JABER: Which exhibit is it to
4 Nixon's rebuttal?

5 COMMISSIONER JACOBS: These aren't marked.

6 MR. DETERDING: It was a response to the audit,
7 not just a rebuttal exhibit.

8 COMMISSIONER JACOBS: I see. Okay. Go ahead.
9 Proceed.

10 THE WITNESS: Was this a response to the
11 earnings investigation?

12 MR. DETERDING: No, this is a response to the
13 rate case audit.

14 THE WITNESS: Okay.

15 COMMISSIONER JABER: Have you found it?

16 THE WITNESS: Yes, I did.

17 COMMISSIONER JABER: Mr. Deterding, help me find
18 it. I know you're not asking for purposes of rebuttal,
19 but this is an exhibit attached to Mr. Nixon's rebuttal,
20 right? And it's RCN-11? What page are you looking at?

21 MR. FUDGE: Page 8.

22 COMMISSIONER JABER: Thank you.

23 BY MR. DETERDING:

24 Q And would you agree that this depicts the cost
25 expense that were capitalized to the utility related to

1 the Seven Springs sewer system?

2 A Yes, I do.

3 Q Okay. And do you know what the authorized rate
4 of return for Aloha Utilities was during the period of
5 time that is covered by these various years?

6 A No, I don't.

7 Q Subject to check, would you accept that that is
8 a midpoint of 10.18?

9 A Would I accept that the rate of return was 10 --

10 Q For the purposes of my questions, would you
11 accept that the rate of return authorized for this utility
12 was 10.18?

13 A We can assume it was. I don't know if it was or
14 not. I will not accept that it is.

15 Q Okay. If you'll look at these adjustments in
16 the various years --

17 MR. JAEGER: Marty, excuse me. The 10.18 you're
18 referring to, is that an overall rate of return or return
19 on equity?

20 MR. DETERDING: Overall rate of return.

21 MR. JAEGER: I think, we would -- you know, we'd
22 have to check that, but I don't think that's correct.

23 MR. DETERDING: Ralph, we're talking about for
24 1980 to 1991.

25 MR. JAEGER: Okay. Go ahead.

1 BY MR. DETERDING:

2 Q If you'll look at each of the years in which
3 there was an adjustment, which are listed down the
4 left-hand side there, would you agree there are six years
5 effected by that capitalization of previously expensed
6 items?

7 A I'd say, there's six years that there was items
8 that should have been capitalized that weren't, but I
9 would say it effected the whole 20-year period or 19-year
10 period.

11 Q Okay, because it would have increased rate base
12 for those other years?

13 A Because you'd have depreciation expense that you
14 don't have now. So, it would effect every single year
15 from that period of time.

16 Q Okay. Would have increased rate base and
17 increased depreciation expense for every year subsequent
18 to the first capitalized audit?

19 A That's correct.

20 Q Okay. So, are you suggesting that there would
21 be some adjustment to what the figures are that Mr. Nixon
22 has shown as a result of that or are you saying that those
23 are incorporated here?

24 A I don't understand your question.

25 Q Well, are the figures shown here accurate, to

1 your knowledge, as far as what the effect of changing
2 these items from expense to capital?

3 A I did not do a mathematical accuracy of this
4 schedule to determine if these percentages are
5 mathematically correct, no.

6 Q Okay. But isn't that what this is intended to
7 depict, what the effect of changing those items from
8 expense to capital would have been?

9 A That is what I understand it is. If you look at
10 the very first item, it goes from 7.72 to 8.8, as if you
11 had capitalized these items. So, that, yes, that is what
12 it is trying to show.

13 Q Okay. And let's start with that year. That's
14 1980 you mentioned. Do you believe that is a material
15 change in the earning level for this company?

16 A It could be, if the authorized rate of return
17 was 8%, then that would cause them to exceed that amount.

18 Q Okay. Well, I've asked you to assume for the
19 purposes of my question that it has a midpoint of 10.18.

20 A Assuming it was 10.1?

21 Q 18.

22 A 18? What was your question again?

23 Q Is that a material change, effect of that
24 reclassification in 1980?

25 A A material change?

1 Q Yes.

2 A Yes, I'd say it is material. It looks like 88
3 -- I'm looking at the wrong thing. 13,000 over 88 income,
4 it could be material. That's almost 10% of the operating
5 income.

6 Q 10%?

7 A 13,000 divided by 88,000 is more than 10%.

8 Q Okay, 10% of the percentage operating income?

9 A Right.

10 Q Okay.

11 A I'd say that is very material.

12 Q Okay. If, assuming that that is an accurate
13 representation, which you don't know whether it is or not,
14 I understand that, would this have brought the utility
15 above its authorized rate of return?

16 A Assuming these numbers are right and the 10% is
17 right, no, it would not.

18 Q Okay. And in '86, the adjustments there, would
19 those have brought the utility above its authorized rate
20 of return?

21 A No, it would not.

22 Q And as to that one, do you believe that is
23 material, 37/100 of a percent?

24 A I don't see 37/100, but the 9,000 of expenses
25 divided by the 148 of income is about 8%. That is still

1 material, but not as material as the first case.

2 Q Well, on the first one, you determined what was
3 material by stating that it was 10% different. Are you
4 talking -- how did you determine that 10%?

5 A The capitalized items that were expensed, that
6 increases your expenses 13,000. And you had operating
7 income of 88,000. That's a greater than 10% change in
8 your operating income. I would think that's a material
9 change.

10 Q And on the 1986 one, what did you say you --

11 A That's something that looks like about maybe 8%.

12 Q And you determined that by taking the 9,182 as a
13 percentage of which number?

14 A 148,049.

15 Q And you believe that's around 8%?

16 A That's my guess right off the top of my head.

17 I've got a calculator on me.

18 Q Well, if you do, please, make the calculation.

19 A It's 6.18%.

20 Q Okay. In relation to rate base, let me ask you
21 those same questions. You said it was material in its
22 effect on the net operating income. Is the capitalization
23 of \$13,000 as compared to 1.165 material, in your opinion?

24 A Not compared to rate base it would not be as
25 material.

1 Q It would not be as material?

2 A That's correct.

3 Q In your opinion, would it be material? It's
4 approximately 1%; it is not?

5 A It's 1%. If it was a rate case proceeding, I
6 would say it would be material.

7 Q 1% in rate base?

8 A Yes.

9 Q Okay. On to the next item, 87. And then as
10 shown in here, as I understand it, these show the
11 cumulative effect of the changes in these
12 reclassifications. Is that your understanding, too?

13 A No, I don't have that understanding.

14 Q Okay. Well, look at the rate of return, 11.57
15 as shown on the annual report for 1987.

16 A Okay.

17 Q And then, the utility is showing \$885 as
18 additional capital items that were expensed during that
19 year.

20 A Okay.

21 Q And yet, the rate of return is reduced to
22 11.42%?

23 A I see that, but I'm not understanding what you
24 -- how you came up with that calculation.

25 Q All right. Let's go about it another way. Your

1 rate base, as shown per the annual report, \$1.436 million,
2 correct?

3 A That's what you're showing here, yes.

4 Q Okay. And the rate base with the change is
5 \$1.455 million, correct?

6 A Right. I see what you're saying. It's
7 cumulative, because it doesn't make any sense to add the
8 \$800 to the 1.4 million and get, looks like, a \$20,000
9 increase --

10 Q Right.

11 A -- instead of an 800 increase. I see what
12 you're saying.

13 Q Right. So, that includes the adjustments from
14 '80 and '86, correct?

15 A If you say so, yeah.

16 Q Well, I mean, does it appear as though that is
17 what it is as an accumulative impact?

18 A Yes, it appears -- it looks like there is total
19 additions of about 23,000, and that looks like just
20 eyeballing it that it's about a 20 something thousand
21 difference.

22 Q Okay. And so, as to '87, these adjustments
23 actually caused the rate of return to be reduced.

24 A I'm not sure how the adjustments would effect
25 the later years to cause them to be reduced. Is that the

1 depreciation expense that's causing them to be reduced?

2 Q Well --

3 A I don't know.

4 Q I understand.

5 MR. JAEGER: Commissioners, I'm having a hard
6 time -- he's asking him about a document that he didn't
7 create and there's a lot of presumptions and a lot of -- I
8 just don't see where he is competent to actually be
9 talking about this document. It's Mr. Nixon's document.
10 And I don't think it's clear exactly what has been done in
11 each of these places.

12 COMMISSIONER JACOBS: Mr. Deterding.

13 MR. DETERDING: Well, I mean, I'm just asking
14 him about if he has reviewed this. He said he has as part
15 of the response to his audit report and one of the
16 adjustments in his audit report.

17 THE WITNESS: I think, I said I looked at it,
18 but I did not review it.

19 MR. DETERDING: And I don't expect Mr. McPherson
20 to understand everything about this. I think, that's a
21 matter that we'll deal with in Mr. Nixon's testimony. I'm
22 just trying to gauge the net effect, as he perceives it,
23 of these changes on the earnings of the company, which he
24 said was the primary reason why he thought it was
25 inappropriate to recognize that change.

1 COMMISSIONER JACOBS: So, you're really
2 proposing these as hypotheticals for him to answer.

3 MR. DETERDING: Yes.

4 COMMISSIONER JACOBS: It does have the effect,
5 however, of basically corroborating the rebuttal testimony
6 of a future witness. And to that extent, I think, we
7 would want to move more towards Mr. McPherson's testimony
8 and exactly what his views on the same subjects are.

9 MR. DETERDING: Okay.

10 BY MR. DETERDING:

11 Q Have you done any analysis yourself of the
12 effect on the earnings of this utility of the changes in
13 those items from expense to capital?

14 A In the prior years?

15 Q Yes.

16 A No, I have not.

17 Q And yet, you say that that is the basis for the
18 adjustment, correct?

19 A I say that's one of the basis for the
20 adjustment. I also say the Commission disallowed those
21 expenses. That's also why I disallowed them.

22 Q Well, disallowed them in an order last fall in
23 the preliminary proceedings investigation docket?

24 A Yes.

25 Q And, in fact, in that order it specifically said

1 that those issues were to be readdressed in the next rate
2 proceeding; did it not?

3 A I believe, it said the utility had the option or
4 ability to readdress those, yes.

5 Q So, are you saying that the sole basis -- okay.
6 Let me rephrase that.

7 Are you saying that your bases are, one, a
8 combination of not knowing what its effect on earnings
9 would be and two, that it was required by a prior order?

10 A Those were two of the reasons, yes.

11 Q Are those the two reasons?

12 A Primary reasons.

13 Also, the utility has already expensed those
14 items and, therefore, I believe they've recovered those
15 expenses in its prior years and should not be allowed to
16 recover them again in rate base.

17 Q Okay. And, in your opinion, isn't it true that
18 unless the utility earned outside of its range of returns,
19 reasonable returns as effective at that time, that the
20 utility has not recovered those costs?

21 A No. I believe, they have recovered those costs,
22 but if they recovered outside their range of return, then
23 they should be required to refund that additional earnings
24 that they got, which we cannot go back and redo.

25 Q So, are you telling me now that you do not

1 believe that whether or not the utility earned outside of
2 its authorized range of returns is an issue or the issue
3 in determining whether or not those were appropriate for
4 capitalization?

5 A It is one of the primary issues, yes.

6 Q Okay. What are the other issues that you
7 believe are pertinent?

8 A What are the other issues that I believe what?

9 Q Are pertinent to that issue.

10 A I believe, if the utility were to have done this
11 intentionally where they have misrepresented their
12 expenses in prior years and now want to capitalize these
13 additional items, that would be inappropriate, just on
14 that basis alone, whether or not they earned outside their
15 rate of return.

16 Q Okay. Do you believe that the utility
17 intentionally did this in order to, I believe, the term
18 you used before was, manipulate earnings?

19 A I'm not sure if I used that term, but I do not
20 know if they did or did not. Another concern I had,
21 though, is on a going-forward basis, that if another
22 utility were to see what happened in this case that it
23 would set an example for other utilities. And I don't
24 want to set a precedent for other utilities to believe
25 that they can also do the same thing.

1 Q Okay. Let's talk about setting precedent. How
2 many cases have you been involved in where the Commission
3 has refused to recognize items that should have been
4 capitalized in previous years, as being adjusted?

5 A None that I recall.

6 Q And isn't it true that the Commission has, on
7 numerous occasions, adjusted items that were previously
8 expensed and capitalized them?

9 A On numerous occasions they've done that in the
10 current test year. I don't believe they've done it on
11 numerous occasions in years prior to the test year.

12 Q Have you attempted to investigate to determine
13 whether or not they have?

14 A I reviewed Mr. Nixon's rebuttal testimony where
15 he presented three cases that tended to suggest that they
16 did do that.

17 Q And you disagree that they did do that?

18 A On at least one of those items that was
19 questionable, I couldn't determine exactly what they did
20 by reading that order. But on two of them, it looked like
21 yes, they had definitely done from prior years.

22 Q Okay. So, you are aware that the Commission has
23 done it in at least two cases?

24 A Yes.

25 Q Okay. And that is exactly what Mr. Nixon is

1 proposing be done in this case, correct?

2 A I'm not sure if it's the same thing, because
3 like I said, reading those orders it was very unclear
4 exactly what the utilities have done in those prior cases.

5 Q Okay. But what the Commission did do in those
6 cases was capitalized previously-expensed items from prior
7 years.

8 A Yes, it is.

9 Q Okay. So, in fact, if there's a precedent being
10 set in here, it is to change what the Commission has done
11 in at least two prior cases?

12 A Like I said, I don't know the exact
13 circumstances on those earlier cases, so I don't know if
14 they're exactly the same circumstances.

15 Q I understand. But you don't know of a single
16 case where the Commission has refused to capitalize items
17 that should appropriately have been capitalized because
18 they occurred in prior years, were expensed in prior
19 years?

20 A That's correct.

21 Q Okay. If you, as an auditor, located something
22 in the capital accounts of a utility in a year prior to
23 the current test year that should have been expensed,
24 would you make an adjustment to expense that item?

25 A I might.

1 Q And under what circumstances would you not do
2 that?

3 A I wouldn't do it if it was immaterial. I would
4 not do it if it had a short life and was fully
5 depreciated. It would make no difference to rate base. I
6 would not do it if I thought the utility had intentionally
7 left something out, like I had said earlier.

8 Q And were the items that we're dealing with here,
9 were they immaterial?

10 A No, they're not immaterial.

11 Q Okay. Were they items that would be fully
12 depreciated by the test year in this proceeding?

13 A No, they would not.

14 Q And, I believe, you've already said that there
15 was not a -- anything to demonstrate to you that this
16 utility intentionally manipulated the earnings?

17 A No, quite the opposite. I got the impression
18 that that was a possibility that they could have done
19 that.

20 Q Okay. Based on what?

21 A Based on the number of these items, based on the
22 fact that they were all brought forward when we were doing
23 an earnings investigation back in 1997, and based on those
24 two facts.

25 Q Well, so based on that, you believe that in the

1 six years beginning in 1980 the utility selectively pulled
2 items out of expense or pulled items out of what should
3 have been capital accounts and put them in expense
4 accounts?

5 A The possibility existed, yes, that they could
6 have.

7 Q And what evidence do you have to demonstrate
8 that, again?

9 A The only evidence is the number each year, and
10 it looks like about six years for this one division, that
11 there was items that were expensed. And, particularly, if
12 you go back and look at that schedule, the years that they
13 looked like they were earning over that 10% was the years
14 that they had the maximum 1990 there was \$43,000 that
15 should have been capitalized that were expensed. And that
16 was the year they earned 13%, which is over their -- what
17 you determined to be their authorized rate of return.

18 Q Okay. But in at least half of those years
19 listed in which this has occurred, they did not earn
20 outside that range of reasonable returns or even to the
21 midpoint, did they?

22 A Looks like three out of the six years they did,
23 three out of the six they did not.

24 Q Do you know what the revenue impact of
25 capitalizing the items in this case would be?

1 A The revenue impact?

2 Q Yes.

3 A You mean, on the revenue requirements?

4 Q Yes.

5 A No, I do not.

6 Q Now, you said something about another factor
7 that led you to or indicates to you the possibility of
8 manipulation is the fact that these were all suggested at
9 the time that you did an investigative audit in 1997; is
10 that correct?

11 A That's correct.

12 Q Isn't it true that this utility company hired
13 its accountants to go in and review its records of the
14 period from the utility's last rate case as a prerequisite
15 to your visit for that audit?

16 A Yes.

17 Q And as part of that, didn't the utility's
18 accountants review and bring forward or organize the
19 entrees for capital additions during that period of time
20 since its last rate case?

21 A Yes, they did.

22 Q And that last rate case was 1976, wasn't it?

23 A I don't recall the exact date, but I know it had
24 been a number of years.

25 Q Okay. And you believed that the fact that the

1 utility auditors found these when reviewing those prior
2 years is indicative of some attempt to manipulate
3 earnings?

4 A It could be, yes.

5 Q Now, assuming there was no overearnings in prior
6 earnings as a result of those adjustments, would you agree
7 that those items should be capitalized?

8 A No. As I said before, I don't want to set a
9 precedent for other utilities. And also, even if they did
10 not earn their rate of return, but they intentionally did
11 this, then I would say that would not be allowed, also.

12 Q Okay. Assuming there was no intentional
13 expensing of capitalized items in prior years, if you came
14 across something like this by whatever method, and I
15 understand you don't generally go back and look at prior
16 years' expenses, but if you came across this, what do you
17 think ought to be done when someone finds a significant
18 capital expenditure that was inappropriately expensed?

19 A I believe, if I were to find an adjustment on a
20 one-time basis, a one-item correction, I would make that
21 correction. If I saw that it was numerous, as it is in
22 this case, I may or may not, depending on what other
23 factors are involved, make that adjustment.

24 Q Okay. Do you recall my taking your deposition
25 on September 6th of this year?

1 A Yes.

2 Q And if you'll look at page 15, beginning on line
3 18. "Assuming that there is no and was no intentional
4 expensing of capitalized items in prior years, if you came
5 across something like this by whatever method, admittedly
6 as I understand it, you don't generally go back and look
7 at prior years expenses, but you came across this, what do
8 you think ought to be done when somebody finds a
9 significant capital expenditure that was inappropriately
10 expensed? Answer: Assuming there were no overearnings in
11 that prior year, I would say we would correct that.
12 Question: Okay. And it should be capitalized on a
13 going-forward basis. Answer: Yeah." Is that accurate
14 reading of the --

15 A That's an accurate reading.

16 Q -- question and answer?

17 You also included in your audit report an
18 adjustment to the vice president's salary?

19 A Yes, I did.

20 Q Okay. Did you do anything to look at her
21 background or the period of time she had worked for this
22 utility or in what capacity she had worked for this
23 utility?

24 A Yes, I did. I looked back at our previous audit
25 where we had asked that specific question of her duties

1 and responsibilities. And I looked at that. And I also
2 looked at, I believe, it was Staff interrogatory that
3 asked, again, in 1999 that same question, and it pretty
4 much said the same thing as what her previous audit said.
5 And so, I made exactly the same adjusting entry.

6 Q Okay. I refer you again to your September 6th
7 deposition, page 31, beginning on line 4: "Question: So,
8 apparently, you all didn't do anything to look at her
9 background or the period of time she had worked for this
10 utility or in what capacity? Answer: No, we did not --
11 we did ask about her capacity, and we asked about her job
12 duties, but her education and her work experience prior to
13 coming here, no, we did not ask."

14 A That's true. Her responsibilities and duties we
15 did ask.

16 Q Did you ask how long she had been with the
17 utility as an officer?

18 A No.

19 Q Did you make a comparison of her salary to
20 salaries of other similar-sized utility vice presidents?

21 A No.

22 Q Did you compare her total officer compensation
23 to similar-sized utilities?

24 A No.

25 Q And, I assume by that, you didn't do any kind of

1 analysis of similarly-situated officers or experienced
2 individuals and their pay level.

3 A That's true.

4 Q Let's move on to your adjustment that you spoke
5 briefly about in your summary, the issue of including
6 contributed taxes as CIAC.

7 A Okay.

8 Q You based your adjustment to include contributed
9 taxes and rate base on your interpretation of order number
10 23541; is that accurate?

11 A That's correct.

12 Q Okay. Were you involved in that docket or the
13 hearings that led to the issuance of that order?

14 A No, I was not.

15 Q Did you review the record of those proceedings?

16 A Only what's obtained in the reading of the order
17 itself.

18 Q Okay. Did you review the record leading up to
19 the issuance of the other Commission orders on the subject
20 of gross-up?

21 A I read the other two orders also, yes.

22 Q The other two?

23 A I believe, there was two more orders, earlier
24 orders. One was protested and, therefore, did not become
25 effective.

1 Q Okay. And the one that was not protested?

2 A I read that one, yes.

3 Q What is that?

4 A That is order 16971 issued 12-18-86.

5 Q Do you have a copy of that order with you?

6 A Yes, I do.

7 Q Would you refer to page 3, item 4-D about 2/3 of
8 the way down that page?

9 A Okay.

10 Q Would you read item 4-D from that order?

11 A "The amount of CIAC tax impact collected by a
12 utility shall not be treated as CIAC for ratemaking
13 purposes."

14 Q Isn't that exactly what you're proposing to do
15 here?

16 A That's exactly what I'm proposing to do, because
17 that's what it says to do in order 23541.

18 Q Okay. So, you're suggesting that that language
19 was somehow overruled by 23541?

20 A I believe, it was overruled in four places in
21 that order.

22 Q Okay. Is it your understanding that utilities
23 were required to file tariff sheets in order to implement
24 the requirements of order number 16971?

25 A Yes.

1 Q And isn't it true that those were required to be
2 revised several times during the period of time gross-up
3 was in effect?

4 A I don't know if they were required to be revised
5 or not, but I'll accept that.

6 MR. DETERDING: Commissioners, I'd like to mark
7 this thing that Mr. Watford is handing out as an exhibit.

8 COMMISSIONER JACOBS: Okay. Show we'll mark
9 this as Exhibit 12. What do we call it?

10 MR. DETERDING: Tariff sheets, gross-up tariff
11 sheets for Aloha.

12 (Exhibit 12 marked for identification.)

13 BY MR. DETERDING:

14 Q What is the date of order number 16971?

15 A It was issued 12-18-86.

16 Q And --

17 MR. BURGESS: Excuse me, are we going to be
18 discussing -- are we going to be having questions about
19 this exhibit?

20 MR. DETERDING: Yes, we are.

21 MR. BURGESS: May I get a copy, please?

22 MR. DETERDING: Oh, I apologize.

23 MR. BURGESS: Thank you.

24 BY MR. DETERDING:

25 Q If you'll look at the first page of that. This

1 purports to be original sheet number 23 to Aloha's sewer
2 tariff; does it not?

3 A Yes, it does.

4 Q And if you'll look at the second page, does that
5 appear to be a Commission's approval stamp from the back
6 of utilities tariff?

7 A Yes, it does.

8 Q And doesn't that indicate that this was approved
9 pursuant to order number 16971?

10 A That order looks like 17396 also.

11 Q Okay. And then, the third page is original
12 sheet number 24, also Aloha sewer tariff?

13 A Yes.

14 Q And it, too, indicates a date after 16971, but
15 pursuant to order number 16971?

16 A Yes, it does.

17 Q And doesn't that contain the same language, "The
18 amount of CIAC tax impact monies collected by a utility
19 shall not be treated as CIAC for ratemaking purposes"?

20 A That's what it says in the tariff sheet, yes.

21 Q Okay. If you'll look at the next page, second
22 revised sheet number 23 and then the approval stamp and
23 then the page after the approval stamp is second revised
24 sheet number 24. And the approval stamp on second revised
25 sheet number 24 indicates an effective date of July 15th,

1 1994; does it not?

2 A Yes, it does.

3 Q And that is after the issuance of order number
4 23541, correct?

5 A Yes, it is.

6 Q And it still contains the language, "The amount
7 of CIAC tax impact monies collected by a utility shall not
8 be treated as CIAC for ratemaking purposes," correct?

9 A That's correct.

10 Q And if you'll look at the next page, which is
11 third revised number 23 and then the next three pages that
12 follow which, again, are the same or the gross-up tariffs
13 for Aloha's sewer system --

14 A A lost what page you're on.

15 Q Third revised sheet number 23.

16 A Okay. What's your question?

17 Q And third revised sheet number 24, and the
18 approval stamps on the following pages are also the
19 gross-up tariff sheets for Aloha Utilities wastewater
20 system, correct?

21 A Yes, they are.

22 Q And they still include the same language, "The
23 amount of CIAC monies collected by a utility shall not be
24 treated as CIAC for ratemaking purposes.

25 A That's what the tariff sheet says, yes.

1 Q And they were after the issuance of order number
2 23541?

3 A Yes.

4 Q And then the next revision number, fourth
5 revised sheet number 23 and 24 just say, "Tax gross-up of
6 CIAC held for future use," correct; fourth revised 23 and
7 fourth revised 24?

8 A Right, yes, they do.

9 Q And those are indicated to be effective on
10 October 20th, 1996, correct?

11 A That's correct.

12 Q And would you agree with me that those tariff
13 sheets were implemented in order to eliminate the
14 authorization, the gross-up CIAC?

15 A To do what?

16 Q Eliminate the authorization for the utility to
17 gross-up CIAC?

18 A I don't see where that says that there.

19 Q Well, I don't think it does say that, but this
20 was a period of time when CIAC no longer was taxable; is
21 it not, 1996?

22 A I'm not exactly sure of the exact date that it
23 became nontaxable, but --

24 Q Okay. Well --

25 A But it did become nontaxable at some point in

1 time, yes.

2 Q Let's back up for a second. So, we've gone
3 through the tariff sheets for the sewer system, from the
4 original one implemented pursuant to order 16971 in 1987
5 and the revision numbers all the way to the fourth revised
6 sheet, number 23, which eliminates the gross-up authority;
7 does it not? It takes out the language that authorized
8 gross-up from those two tariff sheets?

9 A It does take out the language. It just says,
10 "held for future use."

11 Q Okay. But all the language authorizing gross-up
12 is gone from the tariff with that, correct, from those
13 sheets we've reviewed?

14 A Yes.

15 Q Okay, so, what this tells us, then, would you
16 agree, is that throughout the period of time that Aloha
17 was authorized to gross-up CIAC the tariff sheet contained
18 the language from order number 16971 that specifically
19 forbid what you're proposing to do in this case?

20 A It does contain that same language, yes.

21 Q And if you'll review the remaining sheets, those
22 are simply -- I won't go through them, if you can agree
23 with me that the same is true for the water system for
24 Aloha, that all of the tariffs contain that language until
25 the gross-up authority was withdrawn in 1996?

1 A I don't see that same language in the third
2 revised tariff sheet, number 27, which is dated December
3 31st, '94.

4 Q Well, I think, if you'll review third revised
5 28, it's always the second sheet in all of these tariffs.
6 It's the one that includes that language; is it not?

7 A Always the second sheet?

8 Q Aren't there two pages in each of these
9 circumstances that delineate the gross-up authority; 23
10 and 24 in the wastewater, and 27 and 28 in the water?

11 A Right, yes.

12 Q And that language is contained on original
13 first, second, and third revised sheet number 28 of the
14 water tariff?

15 A Yes, it is.

16 Q Okay. So, it was in effect, that that language
17 was in the tariff throughout the period of time Aloha was
18 authorized to collect gross-up on CIAC?

19 A Yes, it was.

20 Q Okay. Are you aware that there has been a
21 proposal for Aloha to -- or a proposal that Aloha should
22 increase its service availability charges?

23 A I've heard that, yes.

24 Q Okay. And are you familiar with the PSC rules,
25 established guidelines, for setting CIAC levels for

1 utilities?

2 A I've heard there are guideline rules, yes.

3 Q But you're not familiar with those?

4 A Not totally familiar. I have some understanding
5 of them, yes.

6 Q Have you analyzed the level of CIAC, as far as
7 the guidelines are concerned for Aloha?

8 A No, I haven't.

9 Q Assuming, for the moment, that they are
10 somewhere near the guideline maximum --

11 A Okay.

12 Q -- isn't it true that your proposed adjustment
13 would significantly impact the level of CIAC reported to
14 this company?

15 A It would impact the level of CIAC for ratemaking
16 purposes and rate base. But for the purposes of
17 determining the maximum amount allowed, you could exclude
18 the gross-up CIAC in that formula, and you would not have
19 any effect on the authorized rate or amount.

20 Q So, you're saying that we would have -- that
21 your interpretation of the rule versus the orders on
22 gross-up is that you should include it as CIAC for
23 ratemaking, but not include it as CIAC gross-up monies, as
24 CIAC for service availability charge determination?

25 A That's one possibility.

1 Q And where is that that you have gleaned that
2 difference from?

3 A I just suggested that that was one method that
4 you could get around reaching your maximum level.

5 Q Do you have anything that leads you to that
6 conclusion that that might be the intent of either the
7 rule or order number 23541?

8 A My understanding is currently the gross-up CIAC
9 is not calculated in determining the maximum service
10 availability charges. So, if we just continued along that
11 same course, we wouldn't make any changes at all, in that
12 respect.

13 Q So, you believe that it is the intent of order
14 number 23541 to establish as one standard for service
15 availability and one standard for ratemaking, as far as
16 what's included in CIAC?

17 A I don't believe 23541 addresses the standard for
18 determining what the service availability charge should
19 be. It only addresses the ratemaking procedures that
20 should be followed.

21 Q Okay. But the effect of 23541, as you interpret
22 it for ratemaking purposes, is to have one CIAC for
23 ratemaking and another CIAC for service availability
24 determination.

25 A Only for determining what the maximum CIAC

1 using -- to determine that 80/20% rule, you can exclude it
2 and determine the 80% rule.

3 Q You mean, the 75% rule?

4 A The 75% rule, correct.

5 Q Are you aware of any prior Commission orders
6 that make an adjustment similar to yours to include CIAC
7 gross-up in CIAC for rate-setting purposes?

8 A No, I am not.

9 Q And, in fact, aren't there several companies who
10 have been through rate proceedings who were gross-up
11 companies where no such adjustment was made?

12 A I'm not aware of any in particular, no.

13 COMMISSIONER JABER: Mr. McPherson, why isn't it
14 a wash with respect to the gross-up that's collected? In
15 other words, I thought the whole purpose of gross-up was
16 to collect the tax from the cost causer. So, why
17 shouldn't the gross-up collection be considered a wash
18 with respect to the taxes that have been collected?

19 THE WITNESS: What you want to wash it with is
20 in the order it says that it should equal the deferred tax
21 assets which, I think, is what you're referring to, the
22 wash through the system. But the order also says that
23 before you put them in rate base, before you put the
24 deferred tax assets in rate base, you must first offset
25 them with the deferred tax credits, if any.

1 Now, if there are no deferred tax credits, then,
2 you do get a wash in rate base, because you put the
3 deferred tax assets which, theoretically, equal the
4 gross-up CIAC, and they would both go into rate base and
5 offset each other.

6 But if there is deferred tax credits, first you
7 have to offset the deferred tax assets with the deferred
8 tax credits and the capital structure, then put the excess
9 in the rate base.

10 BY MR. DETERDING:

11 Q So, you don't know if, in fact, Palm Coast
12 Utilities, Florida Cities, Gulf, and Indiantown Utilities
13 all are gross-up companies who have previously had rate
14 proceedings since the implementation of gross-up and have
15 not had treatment similar to ours?

16 A I don't know any of the above.

17 MR. DETERDING: Okay. That's all I have.

18 COMMISSIONER JACOBS: Staff, redirect?

19 MR. JAEGER: You said you had no questions,
20 right?

21 MR. BURGESS: That's correct.

22 MR. JAEGER: Okay.

23 REDIRECT EXAMINATION

24 BY MR. JAEGER:

25 Q On page 8 of 35, that's the RCN Exhibit 11 that

1 we got into earlier, have you verified any of those
2 numbers?

3 A No, I have not.

4 Q Isn't it true that in each year of Mr. Nixon's
5 testimony that he shows a positive rate of return for each
6 of those years where he's made an adjustment?

7 A Yes, it does.

8 Q So, if there's a positive rate of return, did
9 the utility recover all of its expenses, plus some return
10 on investment?

11 A Yes, they did.

12 Q But you don't know if the return on investment
13 put them in the middle, over or under their authorized
14 rate of return, but they did get all their expenses, plus
15 some return on investment?

16 A Right. And if you assume the 10% rate is
17 correct, they overearned in three years.

18 Q Okay. Now, if they underearned, whose
19 responsibility is it to file for a rate case?

20 A It's the utility's responsibility to file.

21 Q And if there's an overearnings position, then,
22 it's the Commission's obligation to initiate an
23 overearnings investigation?

24 A Yes, it is.

25 Q And if we don't get an indication that there's

1 no overearnings, because of the books, can we now go back
2 and initiate an overearnings?

3 A No, that would be retroactive ratemaking.

4 Q Okay. I believe, Mr. Nixon referred to several
5 orders, and one of them you weren't sure what they did,
6 and on the other two orders they did correct past where
7 they were expensed that should have been capitalized; is
8 that correct?

9 A It appeared that's what they did, yes.

10 Q Do you know what size utilities those were?

11 A At least one of them was a Class C utility,
12 because it was a Staff-assisted rate case. And I'm not
13 sure about the other two.

14 Q Let me show you those two orders and see if you
15 can -- do you know what the earnings revenue designates a
16 Class C or how a Class C is designated?

17 A It's designated by the number of customers, I
18 believe, and also the earnings. I think, the earnings is
19 \$150,000 per system.

20 Q Okay. Ms. Neifert's going to bring all three of
21 those orders over, I believe -- I mean, I'm sorry,
22 Vandiver. That's a slip from about 20 years ago.

23 COMMISSIONER JACOBS: You have copies for the
24 parties?

25 MR. JAEGER: They have the orders. Steve, do

1 you need those orders or does it matter?

2 COMMISSIONER JACOBS: They're part of
3 Mr. Nixon's rebuttal anyway.

4 BY MR. JAEGER:

5 Q What is the amount of revenues in each of those
6 orders for the utility? Can you find that?

7 A The amount of revenues?

8 Q Or does it say whether they're Class C anywhere?

9 A The order for Fisherman's Cove says
10 Staff-assisted and it says, "Fisherman's Cove of Stuart
11 Inc. (Fisherman's Cove or utility) is a Class C water and
12 wastewater utility."

13 Q Okay. Go to the other two.

14 A This is application for Point O' Woods for
15 transfer of certificate numbers.

16 Q That's a transfer order, isn't it?

17 A Yes, it is. I can't tell what size utility.

18 Q Okay. The third one?

19 A The third one is an application of Gulf Coast
20 Utility Company for a rate increase in its water and sewer
21 rates. And I don't see right off-hand what class utility
22 is, but the very last sentence says, "The applicant has
23 requested an annual water revenue of \$86,000." So, that
24 would imply to me that it was a Class C utility.

25 Q Okay, thank you, Mr. McPherson.

1 I think, Mr. Deterding asked you if you were
2 aware where the Commission had refused the correct items.
3 Do you know if that has ever been an issue? Or I think
4 you answered you were not aware, but do you know if that
5 was ever even an issue in any of the cases you've been
6 involved in?

7 A No.

8 COMMISSIONER JABER: No, you're not aware?

9 THE WITNESS: No, I'm not aware. There was ever
10 an issue in any filing.

11 COMMISSIONER JABER: What was the relevance to
12 the size of the utility, in your mind, in those orders,
13 the fact that those companies may have been Class C
14 utilities, what's the relevance of that?

15 THE WITNESS: I'm assuming by the question that
16 a Class C utility may not be as well sophisticated and may
17 not have the accounting ability that a larger utility
18 might have. And therefore, there might be errors that the
19 auditor would come across and want to correct.

20 MR. DETERDING: Well, Commissioner, I intended
21 to follow-up when Mr. Jaeger was through, because I think
22 I need to follow up on that specific issue at least a
23 little bit more, especially in light of the fact that he
24 is using -- again, using exhibits from rebuttal to elicit
25 further testimony, direct testimony, from Mr. McPherson

1 beyond the scope of his original direct. If he had wanted
2 to reference those orders in his original direct, he could
3 have done so, but all I'm asking is that I be allowed to
4 ask a few follow-up questions.

5 MR. JAEGER: Commissioner Jacobs, Mr. Deterding
6 referenced the orders from Mr. Nixon's --

7 MR. DETERDING: I did not. I did not --

8 MR. JAEGER: You said there were several orders,
9 and one of them -- and he said he couldn't tell from one
10 of the orders. And the other two, you referenced them,
11 Mr. Deterding, to my memory.

12 MR. DETERDING: I simply asked him if he knew of
13 any case.

14 COMMISSIONER JACOBS: I'm trying to remember. I
15 do remember that you asked him if he was aware of any
16 instances. I do not recall a specific reference to cases,
17 which makes it an interesting --

18 MR. DETERDING: But this whole idea that a
19 Class C -- that somehow the distinction as a Class C, I
20 think, I at least have some right to follow-up with him on
21 that issue. I only have two or three questions on the
22 matter.

23 COMMISSIONER JACOBS: It's a tough call.
24 Arguably, your cross opened the door on this, and his
25 redirect is consistent with that. I think, your point,

1 perhaps -- I'll give you some very narrow leeway to
2 follow-up only on the scope of his redirect.

3 BY MR. JAEGER:

4 Q Going to the vice president's salary, I think,
5 you said you relied, partially, in the last order that was
6 an adjustment that was made; is that correct?

7 A For her salary adjustment, I don't believe I
8 said that in this testimony, but that was one of the
9 things that we did look at, yes.

10 Q And did you get an update of the duties of the
11 vice president in this case?

12 A We saw Staff interrog-- in the case that you're
13 referring to is the audit, the 12-31 audit, yes, we did
14 see that. And yes, it was consistent with our previous
15 audit that we did in 1997.

16 Q So, the duties hadn't changed?

17 A Not significant, no.

18 Q Okay. In discussing order number 23541, I
19 think, you mentioned four places where it superseded
20 16971?

21 A Yes, I did.

22 Q Can you point those out, please?

23 A Yes, I can. First, let me say that the original
24 order 16971, was issued on emergency-expedited manner.
25 And I don't believe this issue was thoroughly thought out

1 when this first order was first issued.

2 If you look at the date, it was issued 12-18-86.
3 The tax law was set to take effect January 1st of the
4 following year. It was a hurry-up order. And, in fact,
5 all of the issues had not been thoroughly discussed. And
6 the Commission even says in that order that "This docket
7 shall remain open to handle any generic problems that
8 arise in accounting for the CIAC."

9 Then, there was another order issued. And that
10 was order 21266 that was issued 5-22-89 about 2 1/2 years
11 later. And in this order, it specifically says, "Since
12 Order 16971, was issued on an expedited-emergency basis,
13 we instructed the Staff of this Commission to continue to
14 investigate the necessity and appropriateness of the
15 gross-up." So, it's still not thoroughly discussed. And
16 all the issues were not addressed.

17 Finally, there was a third order issued. And
18 this is in the 23541 issued October 1st, 1990. And this
19 order was issued after several days of hearings and
20 testimony, all the parties testified and, I believe, this
21 should be the binding order.

22 Now, this order, if you look at page 18, in the
23 order, the first full sentence says: "However, in order
24 to identify the different contributions and the property
25 normalized, utilities will have to, and we find it

1 appropriate to require them to record the gross-up in a
2 separate subaccount."

3 And, I believe, that means a subaccount of
4 contributions and aid of construction. Now, if they're
5 required to be in the same account as other contributions,
6 that implies, at least, that they should be treated the
7 same as other contributions.

8 Another point in this order is found the first
9 sentence on the top of page 8, right there at the top, the
10 first full sentence, it says "Further, in a rate
11 proceeding, all CIAC will be considered in the reduction
12 of the utility's rate base." It doesn't say all except
13 gross-up CIAC, it says all CIAC.

14 Third place in this order, is found on page --
15 starting on page 16 -- starting on page 15 under the
16 heading "Accounting/Regulatory Treatment. I'm sorry,
17 starting on page 17, Accounting/Regulatory Treatment with
18 Gross-up. And if we look at the middle of that first
19 paragraph, and I'll read, "However, we still believe that
20 full normalization accounting should be utilized." And if
21 we skip down to the next paragraph it describes what
22 normalization is. "As discussed above, normalization
23 involves off-setting debit-deferred taxes against
24 credit-deferred taxes in the capital structure with any
25 net debit-deferred balance included in rate base."

1 So, now this is just what you were asking me,
2 Commissioner Jaber, that the first thing you do with your
3 deferred taxes is you offset the debt against the credit
4 and the excess debt you put to rate base. The next
5 sentence in that next paragraph says, "Under the full
6 gross-up method, the debit-deferred taxes would be fully
7 offset by the contributed taxes."

8 So, the only place the contributed taxes can
9 offset the deferred taxes is in rate base, because that is
10 specifically where it says to put them. So, that means
11 that contributed taxes have to be included in rate base.

12 The fourth place in this order is found under
13 the title "Accounting/Regulatory Treatment, No Gross-up."
14 And if we look at starting on page 16 down at the bottom
15 under normalization, and I'll read this: "All witnesses
16 who testified in this regard agreed that if a utility does
17 not gross-up, the tax effects of its collection of CIAC
18 should be normalized. By normalizing, the tax effects are
19 recognized over the lives of the assets acquired."

20 Witness Causseaux testified that there are
21 different methods to normalize. She recommends the method
22 required by the IRS pursuant to Notice 87-82. Under
23 Notice 87-82, debit-deferred taxes should be treated as a
24 regulatory body usually treats deferred taxes.

25 In Florida, the norm is to offset debit-deferred

1 taxes against credit-deferred taxes in the capital
2 structure; that the net of the credit and debit-deferred
3 taxes amounts is a debit, the amount is included in rate
4 base."

5 Then, if we turn the page and we look under the
6 accounting regulatory treatment with gross-up, starting in
7 the middle of that first paragraph, "However, we still
8 believe that full normalization accounting should be
9 utilized." Now this is for a company with gross up. And
10 the next sentence: "This would result in consistent
11 treatment between utilities that are not grossing up and
12 those that are. In addition, those utilities that switch
13 from grossing up to not grossing up will maintain the same
14 normalization mythology."

15 So, right there that means that they want to
16 treat the gross-up exactly the same as the nongross-up.
17 And if you would turn to my exhibit, the back of my
18 testimony, I believe, it's JAM-3, I've got kind of just a
19 hypothetical example of two companies, one that grosses up
20 and one that does not.

21 Both companies receive exactly the same amount
22 of gross-up, \$150. One of them -- I mean, excuse me.
23 Both of them received the exact amount of CIAC. The first
24 company that does not gross-up receives \$150. The other
25 company receives \$100 authorized fee plus an extra \$50 for

1 the gross-up. So, in total they both receive \$150. Based
2 on this \$150 at CIAC, both companies would pay the same
3 income tax, \$50. If both companies paid the same \$50
4 income tax, both companies would record the same deferred
5 tax asset of \$50.

6 Now, for this example, I just put in a number
7 for the deferred tax liabilities, and I just assumed they
8 were 15 for both companies. So, both companies would have
9 net-deferred assets of \$35.

10 Therefore, in order to treat the companies
11 exactly the same, if \$35 is going in the rate base for
12 Company A and \$150 is also going in the rate base for
13 Company A, exactly the same dollars ought to be going in
14 for Company B that does gross-up; \$150 of CIAC, \$35 of
15 net-deferred assets. That would treat the two companies
16 exactly the same, which is what this order specifically
17 says.

18 Q Mr. McPherson, I think Ms. Jaber, Commissioner
19 Jaber, asked you a question. And I don't think you really
20 answered the question. But the question was why -- I may
21 be misphrasing it, but she was wondering why this wasn't a
22 wash. Isn't it designed to be a wash? Why, in Aloha's
23 case is it not a wash?

24 A All utilities do not have deferred tax credits.
25 Only utilities that use special accounting methods on

1 their tax return, such as accelerated depreciation, would
2 generate this. But all companies that have a gross-up
3 deferred tax would have an off-setting deferred tax asset
4 exactly equal to the gross-up amount.

5 Q Assuming there's no tax credits whatsoever, when
6 did Aloha start amortizing the gross-up?

7 A I believe they waited, like, two years, maybe
8 three years to start doing their amortization.

9 Q Is that another reason why it's not a wash?

10 A Well, in Aloha's particular case -- this is all
11 theory. There's several reasons why they would not equal
12 in reality.

13 Number one, in order to set the gross-up amount,
14 you have to know what the tax rate is. That's how you
15 calculate the gross-up. In order to estimate the tax rate
16 it is almost impossible to know that in advance. Tax
17 rates change over time. Also, the tax rates are
18 staggered, so that if you earn \$20,000 you pay a different
19 rate than if you earn \$100,000. So, that if a utility
20 jumps rates, your gross-up will never equal the deferred
21 tax. That's reality.

22 And if you want to look at what Aloha's reality
23 is, if we look at my Schedule JAM-2, we'll see, in fact,
24 that in Aloha's specific case, their net contributed
25 taxes, and this is on a companywide basis, is \$2.4 million

1 where their deferred tax assets are \$2.42 million. So,
2 about \$100,000, \$150,000 difference. And this is because
3 you can't -- like I say, you can't get it exactly right in
4 reality.

5 Also, when you amortize the CIAC, if you use a
6 different rate than what you do to amortize the deferred
7 tax asset on your tax return, over time the two get a
8 little bit farther apart for a while. And then, as you go
9 farther along, they'll start narrowing down until they
10 both become zero.

11 MR. JAEGER: That concludes redirect.

12 COMMISSIONER JACOBS: Mr. Deterding.

13 MR. DETERDING: Yes, just a couple of questions.

14 RECROSS EXAMINATION

15 BY MR. DETERDING:

16 Q You referred to the three companies where the
17 items previously expensed had been capitalized, correct?

18 A I was asked that question, yes.

19 Q And, I think, you indicated that they all appear
20 to be Class C utilities?

21 A I said two of them. Now, on further looking,
22 two of them appear, and I couldn't tell about the third
23 one.

24 Q Okay. Are you aware of any rules at the
25 Commission that calls for disparate treatment in making

1 those type of adjustments, specifically, this adjustment
2 or any adjustments based on the size of the utility
3 company?

4 A No, I'm not.

5 Q Are you aware of any previous orders where any
6 such disparate treatment is proposed?

7 A No.

8 MR. DETERDING: Thank you.

9 COMMISSIONER JACOBS: Exhibits.

10 MR. DETERDING: I'd like to move Exhibit 12, the
11 tariffs.

12 MR. JAEGER: Move Exhibit 11.

13 COMMISSIONER JACOBS: Very well. Thank you.

14 (Exhibits 11 and 12 admitted into the record.)

15 COMMISSIONER JACOBS: We'll take a 10-minute
16 break.

17 (Brief Recess).

18 COMMISSIONER JACOBS: Okay. We're on to
19 Mr. Stambaugh.

20 MR. JAEGER: Commissioner Jacobs, I think to
21 save on some cross-examination of Mr. Stambaugh, we have
22 reached one more stipulation, and I think we are in the
23 process of getting a second one. Could we have one
24 minute?

25 COMMISSIONER JACOBS: Outstanding. Let's go off

1 the record.

2 (Brief recess.)

3 MR. JAEGER: Okay. The two additional
4 stipulations that the parties have reached is, the
5 first one is in regard to Issue 15 in the prehearing
6 order, and OPC after -- their position had been "is
7 dependent on company responses." They have now got those
8 responses, and the stipulation is the Staff's position.

9 "Retained earnings should be reduced by \$172,806
10 because of an overstatement of the 13-month average
11 balanced by the utility. In addition, the final projected
12 September 30th, 2001, customer deposits balance should be
13 \$438,412 resulting in a \$345,117 reduction in retained
14 earnings."

15 COMMISSIONER JABER: Mr. Chairman, I move we
16 adopt that stipulation.

17 COMMISSIONER JACOBS: I show it moved and
18 seconded and approved.

19 MR. JAEGER: Okay. The second stipulation
20 involves the millage rate to be used for the taxable
21 personal property tax, and that's Staff and OPC and the
22 utility all agreed now that the millage rate should be
23 used as --

24 COMMISSIONER JACOBS: I'm sorry, what issue is
25 that, issue number?

1 MR. JAEGER: Just a second. That's Issue 33.
2 And the millage rate should be -- that should be used is
3 the millage rate shown in Mr. Nixon's rebuttal testimony
4 on Page 22, Line 15. It's 1.990754 percent,
5 19.90754 mills.

6 COMMISSIONER JABER: I move to adopt that
7 stipulation.

8 COMMISSIONER JACOBS: I show it moved, seconded,
9 and approved.

10 MR. JAEGER: Commissioner Jacobs, with those
11 stipulations, Staff now calls Tom Stambaugh.

12 MR. BURGESS: Commissioner, while we're sort of
13 still at a little bit of a break, I wanted to move
14 Exhibit 1 into evidence. That was the exhibit that a
15 customer asked that it be incorporated in. Mr. Wharton
16 has looked at it. It is, in fact, a letter from Aloha
17 Utilities to Mr. LaMaire who testified.

18 COMMISSIONER JACOBS: Okay. No objection. Show
19 Exhibit 1 admitted.

20 (Exhibit 1 admitted into the record.)

21 COMMISSIONER JACOBS: And then how do we take
22 care of the late-filed? We just do that at the end of the
23 hearing?

24 MR. JAEGER: No, I think that's where --

25 MR. WHARTON: We're not going to make any

1 argument, but we object on the basis of relevancy. It's a
2 water matter.

3 COMMISSIONER JACOBS: I see. Okay. The
4 late-filed, it was Exhibit 2, was the company's response
5 to customer's testimony. How do you normally take care of
6 admitting that into the record?

7 MR. JAEGER: I think Mr. Wharton was responding
8 to Exhibit 1, not Exhibit 2. Now, Exhibit 2, what happens
9 is, they file that, and we said they will file that on the
10 16th, and then Steve will have a chance to address that in
11 his briefs and in any motion if he wants to strike any
12 part of that exhibit. And that would be the way that
13 would be handled. So we're going to have him file it on
14 the 16th, and it will be up to Steve or Staff to make
15 objections.

16 COMMISSIONER JACOBS: Very well. Okay.
17 Proceed.

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

22 DIRECT EXAMINATION

23 BY MR. JAEGER:

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

FLORIDA PUBLIC SERVICE COMMISSION

1 A Thomas E. Stambaugh; 4950 West Kennedy
2 Boulevard, Suite 310, Tampa, Florida 33609.

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

4 A Florida Public Service Commission as a
5 regulatory analyst.

6 Q And have you prefiled direct testimony in this
7 docket consisting of 12 pages?

8 A Yes, sir.

9 Q Do you have any changes or corrections to your
10 testimony?

11 A No, sir.

12 MR. JAEGER: Chairman, may we have
13 Mr. Stambaugh's testimony inserted into the record as
14 though read.

15 COMMISSIONER JACOBS: Show it inserted into the
16 record as though read.

17 BY MR. JAEGER:

18 Q Mr. Stambaugh, did you also file one -- with
19 your testimony was there one exhibit, TES-1, attached?

20 A Yes, sir.

21 Q Do you have any changes or corrections to that
22 exhibit?

23 A No, sir.

24 MR. JAEGER: Chairman, may we have that exhibit
25 identified. I think it's 13.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMISSIONER JACOBS: Identified Exhibit 13.
(Exhibit 13 marked for identification.)

DIRECT TESTIMONY OF THOMAS E. STAMBAUGH

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. Please state your name and business address.

A. My name is Thomas E. Stambaugh and my business address is 4950 West Kennedy Blvd., Suite 310, Tampa, Florida, 33609.

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

A. I am employed by the Florida Public Service Commission as a Regulatory Analyst IV in the Division of Regulatory Oversight.

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

A. I have been employed by the Florida Public Service Commission since November, 1984.

Q. Briefly review your educational and professional background.

A. In 1965, I received a degree in Business Administration with a major in Industrial Management from Southern Methodist University. In 1976, I received a Degree in Accounting from the University of South Florida. I performed industrial accounting work until 1981, when I was hired by the Florida Department of Health and Rehabilitative Services (HRS) as an accountant. After three years with HRS, I began work for the Florida Public Service Commission. I attained the Certified Internal Auditor designation in 1989.

Q. Please describe your current responsibilities.

A. Currently, I am a Regulatory Analyst IV with the responsibilities of planning and directing the more complicated financial, special, and investigative audits, including audits of affiliate transactions. I also am responsible for creating audit work programs to meet a specific audit purpose and integrating the electronic data processing applications into these programs.

Q. Have you presented expert testimony before this Commission or any other

1 | regulatory agency?

2 | A. Yes. I testified in the Jasmine Lakes Utilities' rate case, Docket No.
3 | 920148-S.

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

5 | A. The purpose of my testimony is to sponsor the staff audit report of Aloha
6 | Utilities, Inc.: Seven Springs wastewater system, Docket No. 991643-SU, and to
7 | testify specifically regarding the four audit exceptions and audit disclosures
8 | 1 - 6, 9, and 10. The audit report is filed with my testimony and is identified
9 | as TES-1.

10 | Q. Was this audit report prepared by you or under your supervision?

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

12 | Q. Please review the work you and the audit staff performed in this audit.

13 | A. We compiled Rate Base and tested the balances of Plant-in-Service by
14 | reviewing capital work orders. We calculated accumulated depreciation using
15 | currently approved rates and tested Contributions-in-Aid-of-Construction (CIAC)
16 | and Amortization of CIAC. We also audited the working capital allowance which
17 | was calculated by the utility on the balance sheet method and allocated among its
18 | divisions on the basis of Operating and Maintenance (O&M) expense. We compiled
19 | revenue and expenses, tested specific customer bills to verify that approved
20 | rates were in use, recomputed revenues using approved tariffs and company-
21 | provided gallonage sales, verified O&M expenses, and performed audit test work
22 | of payments to vendors to verify booked expenses. We also recalculated
23 | depreciation expense and analyzed taxes other than income. We compiled the
24 | capital structure of Aloha Utilities and traced amounts and interest rates to
25 | supporting documents.

1 Q. Please review the audit exceptions in the audit report.

2 A. Audit Exceptions disclose substantial non-compliance with the National
3 Association of Regulatory Utility Commissioners (NARUC) Uniform System of
4 Accounts (USOA), a Commission rule or order, and formal company policy. Audit
5 Exceptions also disclose company exhibits that do not represent company books and
6 records and company failure to provide underlying records or documentation to
7 support the general ledger or exhibits.

8 Audit Exception No. 1 discusses plant additions. In 1997, the utility made
9 an adjustment to capitalize certain transactions which were originally classified
10 as O&M expense between the years 1980 and 1991. The effect of this adjustment
11 was to add \$232,262 to plant accounts and \$68,671 to accumulated depreciation.
12 Order No. PSC-99-1917-PAA-WS, issued September 28, 1999, in Docket No. 970536-WS,
13 removed these items and stated that "Pursuant to Rule 25-30.110(5)(d), Florida
14 Administrative Code, the utility certified that its annual reports from 1980 to
15 1991 fairly presented the financial condition and results of operations for each
16 of those years. We believe that it is inappropriate to capitalize these amounts
17 several years after the fact. We have relied on these reports for purposes of
18 monitoring the utility's earnings level and are precluded by the prohibition
19 against retroactive ratemaking from going back and looking at those prior years
20 to determine if overearnings existed. Therefore, the utility shall be precluded
21 from taking previously expensed items from prior years and changing its
22 accounting treatment." However, the Commission recognized the utility's
23 disagreement with its decision, and provided that the matter could be revisited
24 later.

25 The utility did not make any adjustment to remove these items from rate

1 base. The portion of the suggested plant additions relating to the Seven Springs
2 wastewater system is \$127,232 and the associated accumulated depreciation is
3 \$51,517. The effect of expensing these items in previous years was to reduce the
4 utility's NOI in those years. If the utility is permitted to recover the
5 depreciation expense related to this capitalization of previous years expenses,
6 it will in a sense be recovering these costs twice, using depreciation expense
7 as the recovery vehicle this time, as compared to O&M expense used in previous
8 years. Determining whether the act of capitalizing these transactions would have
9 caused an over earnings situation in a prior year(s) cannot be determined without
10 a detailed investigation of utility financial statements and federal income tax
11 returns. Allowing this utility to increase its rate base for items previously
12 expensed would be giving a "green light" for any utility to manipulate its
13 earnings reports in years that it is over earning and then capitalizing these
14 items to increase rate base in another year when this is more beneficial.

15 While the Commission often corrects errors in utility accounting for plant
16 additions, it is not a practice of the Commission to restate prior years'
17 earnings. During audit field work, Commission auditors are required to analyze
18 plant additions since the most recent audit of rate base to verify the accuracy
19 of the additions. However, expenses for the test year only are analyzed to
20 verify the accuracy of the O&M expenses as a component of net operating income
21 for the test year. Expenses and revenues are not normally analyzed for previous
22 years. It is not Commission practice to audit the expenses of previous years
23 because these years are not used to determine current year net operating income.
24 Therefore, the act of the CPA firm going back over previous years to reclassify
25 expenses as plant additions is not consistent with Commission audit practice.

1 The utility has already received the benefit of these transactions through net
2 operating income and reductions to income tax. Even the exhibit to the utility's
3 response to the audit indicates that the utility continued to earn a positive net
4 operating income while these items were recognized as expenses and that the
5 lowest return the utility achieved while expensing these items was 7.67%. To now
6 reclassify these expenses to plant would provide a dual benefit to the utility
7 for these expenditures. Therefore, I recommend that these transactions should
8 be removed from rate base as was required in the previous order.

9 Audit Exception No. 2 discusses Allowance for Funds Used During Construction
10 (AFUDC). Order No. 22206, issued November 26, 1989, in Docket No. 891113-WS, set
11 an AFUDC rate of 14.71%. This rate was changed to 9.08% in Order No. PSC-99-
12 1917-PAA-WS, issued September 28, 1999, in Docket No. 970536-WS. The effective
13 date of the change was January 1, 1999. At the effective date of a change in
14 AFUDC rate, the utility must change its AFUDC rate for existing projects from the
15 formerly authorized rate to the new rate. As of January 1, 1999, the utility had
16 three ongoing Construction Work In Progress (CWIP) projects in place: the
17 Wastewater Treatment Plant Expansion, the Little Road project and Reclaimed
18 Water, Phase III. Audit calculations reveal that the utility changed the AFUDC
19 rate for the Little Road project and for the Reclaimed Water - Phase III project.
20 However, the utility did not change the AFUDC rate for the Wastewater Treatment
21 Plant Expansion to the new AFUDC rate prescribed at January 1, 1999. As a
22 result, the utility will over-recover AFUDC during the life of the project in the
23 amount of \$122,524. Since the Wastewater Treatment Plant Expansion was posted
24 to several plant accounts, the chart in the audit report shows the amount by
25 account and year. The total adjustment for the historic test year is \$6,733 and

1 for the intermediate year is \$115,791, for a total adjustment of \$122,524.

2 Audit Exception No. 3 discusses test year expenses that should have been
3 capitalized. During the test year, the utility expensed three items that should
4 have been capitalized. The first item is a breathing apparatus for \$1,118, the
5 second item is a hydromatic pump for \$3,661, and the third item is for vacuum
6 regulators for \$6,837. These items are fixed or plant assets and should be
7 reclassified from expense accounts to plant accounts. Plant assets generally are
8 acquired for use in operations and have relatively long lives. Because these
9 assets provide benefit to future periods, they should be recorded in the
10 appropriate plant accounts at historical cost. The assets should then be
11 depreciated over the service life as provided in Rule 25-30.140, Florida
12 Administrative Code.

13 Audit Exception No. 4 discusses the disposition of excess rate case
14 expense. Commission Order No. PSC-97-0280-FOF-WS, issued March 12, 1997, in
15 Docket No. 950615-SU, allowed the utility to recover \$205,777 of rate case
16 expense. The utility deferred \$237,178 of rate case expense in account 186.008.
17 In 1999, the utility expensed the difference of \$31,401 evenly across three
18 expense accounts: 731.054 (Contractual Services-Engineering), 732.084
19 (Contractual Services-Accounting), and 733.084 (Contractual Services-Legal).
20 This excess amount, of \$31,401, was not allowed by the prior order and should not
21 be included as an above the line expense. Instead, the utility should have
22 expensed this amount below the line.

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

24 A. Audit Disclosure No. 1 discusses the wastewater land account. The total
25 land balance for the Seven Springs wastewater division per the utility's books

1 at December 31, 1997 was \$588,030. Based on our previous undocketed Earnings
2 Audit and the Supplemental Land Audit, we determined the land balance should be
3 \$536,824, a reduction of \$51,206. Order No. PSC-99-1917-PAA-WS, issued September
4 28, 1999, in Docket No. 970536-WS, required the land balance be reduced by
5 \$39,086, a difference of \$12,120. The previous audit indicated that this
6 adjustment should have been made to the Seven Springs wastewater system. It
7 appears that the staff recommendation inadvertently made this adjustment to the
8 Aloha Gardens wastewater system. The utility adjusted its books to reflect the
9 order. Therefore, I recommend that this be corrected. An additional \$12,120
10 should be removed from the land balance in the Seven Springs wastewater system
11 to correct this error and the \$12,120 should be added back to the balance of the
12 Aloha Gardens wastewater system land account.

13 Audit Disclosure No. 2 discusses the usefulness of the land under the power
14 lines. The utility owns three parcels of land next to the wastewater treatment
15 plant which it states it owns for use as a reuse water spray field. The land
16 next to the wastewater treatment plant totals about 58 acres and is composed of
17 two purchases. The total cost to the utility was \$341,097. The first purchase,
18 which totals 26.25 acres, is rectangular in shape and is located east of and next
19 to the wastewater treatment plant. The land was bought from an unrelated party
20 in 1987 for \$143,445, or \$5,465 per acre. The second purchase, Parcels A and B,
21 are narrow and have Florida Power Corporation (FPC) electrical transmission lines
22 running through their entire length. Parcel A, which runs East and West, is
23 bounded by homes to the north and woods to the south. FPC operates a 230,000
24 volt transmission line through Parcel A. FPC paid \$21,287 for the easement
25 through Parcel A. Parcel B, which runs north and south, is bounded by homes on

1 | the west side and a school on the east side. FPC operates a 115,000 volt
2 | transmission line through Parcel B. FPC paid \$70,919 for the easement through
3 | Parcel B. In the Second Purchase, the utility bought Parcel A and Parcel B in
4 | 1989 from a related party, Tahitian Development. The land in the Second Purchase
5 | cost the utility an average of \$7,059 per acre, or a difference of \$1,594
6 | compared to the First Purchase. Further, Parcel A cost the utility \$8,989 per
7 | acre, while Parcel B cost the utility \$3,757 per acre. Visual observation
8 | reveals no difference in relative usefulness of either piece of land. They are
9 | adjacent to each other. Each has a wastewater collection line running under it,
10 | and a power line running over it. Parcel A also has a Florida Gas Transmission
11 | line and a FPC substation at the East end. We also toured the property and did
12 | not see either the First Purchase or the Second Purchase in use as a spray field.
13 | None of this property has a spray head system installed. Further, the utility
14 | does not own a portable spray head system which it can tow to the property for
15 | reuse water spraying. As part of the audit field work, we asked the utility why
16 | it had not installed a spray head system on the land. The utility responded that
17 | it could not use its spray field system until its expanded wastewater treatment
18 | plant was certified to be operational by the Florida Department of Environmental
19 | Protection (DEP). Until that certification was received, the utility did not
20 | want to spend any more money on reuse plant. Until the utility actually installs
21 | a spray head system on the land to make it usable as a spray field, the land does
22 | not contribute to the performance of utility service and does not provide benefit
23 | to the rate payer.

24 | Audit Disclosure No. 3 discusses working capital and the utility's
25 | methodology for calculating the working capital allowance included in the MFRs.

1 Audit Disclosure No. 4 discusses payroll expense. The payroll expense for
2 the test year for the utility president was \$122,595 and for the vice-president
3 was \$68,250. The percentage of time spent as an officer of Aloha Utility was
4 100% for the president and 20% for the vice-president. Expanding the vice-
5 president's salary to 100% equates to an annual rate of pay of \$341,250. In
6 Order No. PSC-99-1917-PAA-WS, issued September 28, 1999, in Docket No. 970536-WS,
7 the Commission stated "we do not believe that Aloha's vice president warrants a
8 greater annualized salary than the president." It then ordered a reduction of
9 the vice president's salary to an amount equal to 20 percent of the president's
10 pay. The order also reduced corresponding benefits and payroll tax accounts.

11 I believe that the salary allowable for rate making purposes should reflect
12 the benefit which the vice-president brings to the utility. As she spends 20%
13 of her time on utility business, or approximately one work day per week, I
14 believe that an annualized salary capped at 20% of the president's annual pay is
15 a fair determination of payroll expense for rate making purposes. I also
16 recommend that similar adjustments to the utility's salary, benefits, and payroll
17 tax accounts should be made for the test year. This adjustment results in a
18 decrease to the salary expense of \$43,731. Since this amount relates to the
19 entire utility, an allocation of the adjustment should be made to the Seven
20 Springs wastewater system. The utility used an allocation percentage of 35.46%
21 in its MFRs which would result in an adjustment amount of \$15,507. Comparing the
22 salary adjustment to total salaries and applying the result to payroll taxes and
23 benefits results in an adjustment to that expense of \$1,392.

24 Audit Disclosure No. 5 discusses errors resulting from the computer system
25 conversion. The utility replaced its general ledger software system in July of

1 1999 with a new general ledger software system. The company stated that during
2 the mid-year conversion of accounts payable, differences arose between the detail
3 and the general ledger. These differences were assumed related to Seven Springs
4 and a journal entry was made to several Seven Springs expense accounts totaling
5 \$4,348. General utility policy is that when an expense cannot be specifically
6 identified and charged directly to the appropriate division of the utility, it
7 should be allocated to all the systems based on ERC's. The ERC split between the
8 systems results in the following percentages for each of Aloha's four divisions:
9 Aloha Gardens Water- 14%; Aloha Gardens Wastewater- 14%; Seven Springs Water-
10 36%; Seven Springs Wastewater- 36%. Absent clear evidence to suggest that these
11 expenses resulting from the computer system conversion were attributable to Seven
12 Springs only, the ERC allocation method should have been used. I recommend that
13 the Seven Springs wastewater chemicals expense account and the materials/supplies
14 account should each be reduced by \$1,087 to reflect this adjustment.

15 Audit Disclosure No. 6 discusses expenses related to DEP Enforcement
16 Action. The DEP had alleged that Aloha's wastewater treatment plant had effluent
17 discharges exceeding its design treatment capacity. On March 9, 1999, Aloha and
18 DEP settled the allegations, each acknowledging and agreeing that the other party
19 has admitted no liability or wrongdoing in respect to the allegations. Aloha was
20 required to pay DEP \$18,400 as part of this settlement. The audit report
21 indicates that the utility incurred \$27,400 of legal fees related to DEP's
22 enforcement action during the test year. In its response to the audit report,
23 the utility submitted copies of invoices that indicate \$9,875 of these expenses
24 were not related to the DEP enforcement action but were normal, recurring
25 expenses. I have reviewed these copies and agree with the utility that the

1 amount of the legal expenses related to the DEP enforcement action should be
2 reduced to \$17,525. The utility also paid the \$18,400 settlement fee during the
3 test year. These appear to be legitimate utility expenses, as there was no
4 finding of wrongdoing on the utility's part. They also appear to be non-
5 recurring expenses. Rule 25-30.433(8), Florida Administrative Code, requires
6 that non-recurring expenses shall be amortized over a 5-year period unless a
7 shorter or longer period of time can be justified. Therefore, I recommend that
8 the utility reclassify these costs to a deferred account and amortize them over
9 a 5-year period. This results in a decrease to account 733.084 (Contractual
10 Services-Legal) of \$17,525, a decrease to account 775.084 (Miscellaneous Expense)
11 of \$18,400 and a resulting increase to account 186 (Deferred Expenses) of
12 \$35,925. To record one year's amortization, an expense of \$7,185 should be
13 recognized.

14 Audit Disclosure No. 9 discusses bank loan costs. During the test year,
15 the utility expensed various legal fees associated with securing a \$5,200,000
16 NationsBank loan to finance the expansion of the Seven Springs Wastewater plant.
17 At the end of the test year, the utility reviewed these expenses and reclassified
18 \$24,829 of them to a prepaid expense account. The reclassification from an
19 expense account to a prepaid expense account appears to be proper. However,
20 during the audit, \$2,581 of additional like expenses were discovered that had not
21 been reclassified. To be consistent, an adjustment should be made to move \$2,581
22 from account 733.084 (Contractual Services-Legal) to account 162.008 (Prepaid
23 Loan Costs.)

24 Audit Disclosure No. 10 discusses recoverable personal property taxes. The
25 utility included in its MFRs personal property taxes of \$251,231 for 1999,

1 | \$346,589 for 2000, and \$364,804 for 2001. These amounts were calculated without
2 | regard to early payment discounts. The utility should not be permitted to
3 | recover more than the minimum amount of property tax required to be paid. By
4 | Order No. PSC-99-1917-PAA-WS, dated September 28, 1999, in Docket No. 970536-WS,
5 | the Commission found that "the utility did not take the available discounts in
6 | November. . . . Because of the utility's decision not to take all the available
7 | discounts, it is unfair for ratepayers to bear these additional expenses."

8 | In order to calculate the proper amount of tax, I used the methodology
9 | described on MFR Schedule G-1, page 8 of 8. The utility states the "tangible
10 | personal property taxes were projected based on the plant balances, excluding
11 | land and transportation equipment, less accumulated depreciation." I used the
12 | book values of plant as of January 1, 1999 (\$16,745,200) and compared this amount
13 | to the total tax of \$324,317 (two tax bills of \$10,817 and \$313,500) and
14 | developed an effective millage rate of 1.93677. I believe that using the actual
15 | tax bills and plant balances is an appropriate way to determine the tax expense.
16 | The audit report included as Exhibit TES-1 provides a schedule which details my
17 | proposed adjustment. This schedule indicates a reduction to personal property
18 | tax of \$23,134 for 1999, \$22,564 for 2000, and \$23,819 for 2001.

19 | Q. Do you have anything to add to your testimony?

20 | A. Yes. Many of these adjustments are to the historical test year ended
21 | September 30, 1999. Any escalation factors, such as growth or inflation, that
22 | were applied to these items should also be removed.

23 | Q. Does this conclude your testimony?

24 | A. Yes, it does.

25 |

1 BY MR. JAEGER:

2 Q Could you briefly summarize your testimony,
3 Mr. Stambaugh?

4 A Yes, sir. In the earnings audit for the period
5 ended 12/31/97 and the wastewater rate case audit for the
6 period ended 9/30/99, the utility proposed the following:

7 The utility desires a \$232,262 of transactions
8 and expensed in previous years should be capitalized.
9 \$127,232 of that amount applies to the Seven Springs
10 Wastewater System. The auditors disagree with the
11 utility. We believe that the utility received benefit
12 from the transactions through positive earnings and income
13 tax reductions during these years, and therefore, Aloha
14 Utilities should not be now permitted to reclassify these
15 transactions to plant-in-service.

16 Further, the utility desires to pay its vice
17 president, who is also the principal stockholder of Aloha
18 Utilities, \$68,250 annually when the said vice president
19 only works 20 percent of a working year on utility
20 business. We stated in the audit report that the full
21 salary should not be a recoverable cost. We further
22 stated the 20 percent of the president's salary would be a
23 fair recovery for the vice president. The utility states
24 that the vice president has other business experience
25 which brings value to the utility in her job as vice

1 president.

2 In legal expenses for the consent final
3 judgment, our original adjustment was for \$27,400 to
4 be amortized over five years instead of being fully
5 expensed in the historical test year. After review of
6 additional information supplied by the utility, we agreed
7 that the \$27,400 to be amortized should be reduced by
8 \$9,875 for a remainder to be amortized of \$17,525. The
9 \$18,400 is also a settlement amount. No finding of
10 wrongdoing was handed down; therefore, we believe the
11 \$18,400 is also a correct amount to amortize over five
12 years.

13 Q That concludes your summary?

14 A Yes, sir. That's it.

15 MR. JAEGER: Chairman, this witness is tendered
16 for cross.

17 COMMISSIONER JACOBS: Mr. Burgess.

18 MR. BURGESS: Commissioner, I have a matter of
19 procedure that I'd like the Commission to consider.
20 Mr. Stambaugh is testifying on a number of issues, some of
21 which his positions are contrary to the interests of those
22 stated by the Public Counsel and some of which are
23 contrary to the interest of the utility. My concern --
24 and just to go ahead and put it out front, I have
25 questions for Mr. Stambaugh on one issue, and that is

1 Issue 26. I don't have questions on any other issues.

2 My concern is that if I go first and the utility
3 with certain advantages of cross-examination, that is, it
4 can be across the full breath of the direct examination,
5 and rather than being limited to the previous
6 cross-examination has certain advantages and further can
7 ask leading questions and has those advantages can
8 rehabilitate the witness on those issues more effectively
9 than redirect, and what I'm getting at is sort of a truce
10 as far as recognizing the situation with this witness
11 having some issues contrary to us and some issues contrary
12 to the utility, and that is, I don't mind going first, but
13 I don't -- I think it would be unfair for the utility to
14 then seek to ask questions that would, let's say,
15 rehabilitate the witness on the issues I've asked. I
16 don't mind going second and agreeing that I have no
17 questions other than on Issue 26.

18 COMMISSIONER JACOBS: Mr. Deterding.

19 MR. DETERDING: I don't have a problem with
20 that. I'll go first and let Steve limit this to that one
21 issue.

22 MR. BURGESS: Thank you. Thank you very much.

23 COMMISSIONER JACOBS: Proceed.

24 CROSS EXAMINATION

25 BY MR. DETERDING:

1 Q Mr. Stambaugh, did you review the items in
2 question concerning the previously expensed matters
3 that -- items that should be capitalized? Did you review
4 the specific items in question?

5 A I reviewed those items that the utility has
6 asked to be capitalized during the earnings audit for the
7 period ended 12/31/97.

8 Q And in this case, you found nothing to indicate
9 to you that they should not be capitalized, the items that
10 were brought to your attention?

11 A The supporting material indicated that they were
12 capital items.

13 Q Okay. In your testimony on that issue, on Page
14 4, Line 11, you state, "Allowing this utility to increase
15 its rate base for items previously expensed would be
16 giving a 'green light' for any utility to manipulate its
17 earnings reports in years that it is over earning and then
18 capitalizing these items to increase rate base in another
19 year when this is more beneficial." Is that accurate?

20 A That's an accurate statement, yes.

21 Q Okay. Do you have any reason to believe that
22 Aloha or its auditors or its accountants were attempting
23 to manipulate earnings?

24 A I have no knowledge of anything like that.

25 Q So you're not suggesting by that testimony that

1 Aloha was attempting to do something like that, are you?

2 A No.

3 Q You also indicated on that same page, Line 16
4 that it's not the practice of the Commission to restate
5 prior year earnings. Has Aloha asked that this Commission
6 restate prior year earnings?

7 A I do not know whether the utility has done that
8 or not.

9 Q But you don't know of anything like that?

10 A No.

11 Q On the issue of the officer salary, did you make
12 any comparison of the vice president's salary to that paid
13 for a vice president or similar officers for similarly
14 sized utilities in this State?

15 A Not during the period of audit field work.

16 Q In formulating your opinion that the vice
17 president's salary ought to be adjusted, did you make any
18 such comparison?

19 A You mean subsequent to the period of audit field
20 work?

21 Q Yes.

22 A In the earnings audit ended 12/31/97, the
23 utility provided a comparison of Aloha salaries with those
24 of some other large utilities in Florida. The earnings
25 audit occurred during calendar year 1998, and the rate

1 case audit occurred during calendar year 1999. The
2 information provided was 1995 and 1996 data. The vice
3 presidents' salaries of decided utilities were roughly
4 comparable to and some were higher than Aloha. We presume
5 that these utilities also employed their vice presidents
6 on a full-time basis which Aloha does not.

7 Q On what basis did you make that presumption?

8 A I made that presumption on the basis that I saw
9 no information on the bottom of -- on any of these pages
10 submitted to us by the utility that would indicate that
11 these persons were less than full-time employees.

12 Q So you don't have any other knowledge other than
13 what's on that schedule as to whether those people are
14 full-time?

15 A That's it.

16 Q Okay. Did you do any analysis of the education
17 background or experience of the vice president?

18 A Not during the period of audit field work.

19 Q And have you done anything subsequent to the
20 period of audit field work related to that issue?

21 A Yes, sir. I have read citizens' first request
22 for production of documents or Aloha Utilities' response
23 thereto in which Ms. Speer, the vice president, is listed
24 as following:

25 Lynnda Speer has been an officer of Aloha

1 Utilities since 1993 and currently holds the position of
2 vice president with the company. Ms. Speer previously
3 held the position of president of Aloha Utilities. A
4 description of her duties have previously been provided in
5 earlier discovery responses in this docket.

6 Ms. Speer graduated from the University of South
7 Florida with a BA degree in business administration with
8 an accounting major. She is also a member of numerous
9 civic boards, one being appointed by the Governor, and is
10 Chairman of several civic boards. Ms. Speer is also a
11 member of numerous church boards and committees, end of
12 the quotation. No business experience is cited.

13 Q And this is something you reviewed as a -- after
14 the drafting of your testimony in the proposal of this
15 adjustment?

16 A Yes, sir.

17 Q And backing up just a minute. For the
18 previously expensed items, are you aware of any case in
19 which the Commission has refused to recognize the capital
20 nature of previously expensed items on the basis that
21 you're proposing here?

22 A I've never worked on an audit in which items
23 expensed in a year before the test year were then
24 capitalized and brought forward into the rate base.

25 Q Okay. So you're not aware of -- I'm not really

1 asking you what audits you've worked on. I'm asking you,
2 are you aware of any cases where the Commission has
3 refused to make that adjustment when the items are capital
4 in nature, as I believe you said they are, based upon the
5 criteria that you proposed?

6 A I'm not aware of anything like that, no.

7 Q Or on any basis whatsoever, are you aware where
8 the Commission has refused to make such an adjustment?

9 A No. I just don't know anything about that.

10 Q You reviewed the materials and supplies accounts
11 in your review of Aloha's records for the test year?

12 A Yes, we did.

13 Q Other than the adjustments that you proposed in
14 your audits, are you aware of any problems or did you see
15 any problems with that account in the test year amount
16 other than those proposed for adjustments within your
17 audit record?

18 A At this moment without a review of the work
19 papers, I'm not aware of anything else.

20 Q What type of work did you do in analyzing that
21 account?

22 A Well, I oversaw the work of the staff auditor,
23 Mr. Aldridge, who actually did the analysis of O&M
24 expense. I reviewed all the work papers that he produced
25 for that part of the audit.

1 Q And what type of work did he do in that regard?

2 A Mr. Aldridge analyzed salaries and wages, sludge
3 removal, purchased power, chemicals, materials and
4 supplies, contract services, transportation, and
5 miscellaneous expense.

6 Q With regard to the materials and supplies
7 account, what did he do to analyze that?

8 MR. JAEGER: Commissioners, I'm going to object
9 at this point. I think we're getting outside the scope of
10 direct of Mr. Stambaugh's testimony and all of a sudden
11 we're going to something done by Mr. Aldridge, which was a
12 part of the audit, but I don't see it in any of
13 Mr. Stambaugh's testimony. So it looks like this is
14 outside the scope and where he's not -- you know, he's
15 having to look at what Mr. Aldridge did.

16 MR. DETERDING: Well, the audit report that
17 resulted from that analysis is what he's sponsoring, and
18 I'm trying to delve into how he reached his conclusions in
19 that audit report, and he is also the supervisor of that
20 auditor on this audit.

21 COMMISSIONER JACOBS: Does your question have to
22 do with subject matter in the report? Is this directed
23 from issues in the report?

24 MR. DETERDING: Yes, sir.

25 COMMISSIONER JACOBS: You're asserting that

1 because he didn't actually do the work, then -- but if
2 he's sponsoring the report, then he's --

3 MR. DETERDING: If he didn't actually do the
4 work is the problem, then he can't very well support the
5 audit report.

6 MR. JAEGER: I think the problem is that we
7 can't find it where you are at in the audit report, Marty.
8 If you could, direct us to the audit report.

9 MR. DETERDING: Well, it doesn't have to be
10 anything in the audit report because it can be something
11 left out of the audit report because of the analysis they
12 did.

13 COMMISSIONER JACOBS: He can answer -- if it's
14 not in the audit report, he can answer only as to his
15 understanding of the work done, but he can't answer as to
16 what was or wasn't done.

17 MR. DETERDING: All right. I'll rephrase the
18 question along those lines.

19 BY MR. DETERDING:

20 Q Can you tell me your understanding of the work
21 performed by the auditor on the materials and supplies
22 account in analyzing it?

23 A Yes. I can tell you that the auditor identified
24 three transactions in the test year which should have been
25 capitalized. He has the documentation here, and we

1 proposed an addition to plant-in-service and a reduction
2 in this particular expense account for \$11,616, and the
3 additions went to two different accounts in
4 plant-in-service.

5 Q But as far as the work he did to review that
6 account, I guess is what I'm asking you, do you know what
7 type of work and what he did in order to verify the
8 amounts in the account and what items were appropriately
9 adjusted or not adjusted, just generally? I'm not looking
10 for any specific adjustment.

11 A Well, we normally start these things by looking
12 for a reconciliation of the general ledger, then picking
13 the amounts of transactions by month, looking for items to
14 test by deciding on largest dollar accounts and things of
15 that nature, then simply the auditor goes from that point
16 forward.

17 Q And similar types of things would have been done
18 for the miscellaneous expense account as well to test it?

19 A Yes, sir.

20 Q And as to those two accounts, miscellaneous
21 expenses and materials and supplies, you're not
22 recommending any adjustments to those accounts other than
23 the one specifically proposed by that audit report?

24 A No.

25 Q Switch gears on you now. You reviewed the

1 moneys paid to DEP, I believe you said in your summary
2 that the OPC witness has referred to as a penalty, and it
3 is your position, is it not, that that amount should be
4 amortized over a five-year period; is that correct?

5 A Yes.

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

7 CROSS EXAMINATION

8 BY MR. BURGESS:

9 Q Mr. Stambaugh, naturally I'm going to focus on
10 the one issue that we disagree with you, and as I've
11 indicated I have some questions for you on Issue 26, the
12 DEP enforcement action. What's your understanding of the
13 initiation of this action?

14 A If I may, I'll read you the response that we
15 received from the utility, the auditee, on that particular
16 matter.

17 Q Okay.

18 A "The Florida Department of Environmental
19 Protection alleged that Aloha's wastewater treatment plant
20 had effluent discharges and that the plant was exceeding
21 its design treatment capacity. Aloha disputed these
22 allegations. On March 9th, 1999, Aloha and DEP settled
23 their allegations each acknowledging and agreeing that the
24 other party has admitted no liability or wrongdoing in
25 respect to the allegations.

1 As stated in Paragraph 21 of the consent final
2 judgment, Aloha agrees that to avoid the time and expense
3 and uncertainty of litigation over matters related to this
4 judgment, Aloha will pay \$18,400 in full settlement.

5 Aloha management had the option of an expensive legal
6 court battle to prove the allegations false or to pay
7 \$18,400 as a settlement. The estimates of legal and
8 engineering costs to contest these allegations far
9 exceeded the benefit of what could be derived for Aloha
10 and its customers if this settlement amount was paid. It
11 was simply a decision made by Aloha management based on
12 expected costs.

13 This payment was not a fine or penalty exceded
14 by DEP. It was an amount DEP calculated to be the cost of
15 their investigation and an amount for which they would
16 settle all of their allegations." And that's the end of
17 the utility's response.

18 Q And your position is based on the fact that
19 there was no finding of wrongdoing; is that correct?

20 A Yes, sir. And we also have a part of a document
21 from the Circuit Court of the Second Judicial Circuit in
22 and for Leon County, Florida, Case Number -- highlighting
23 the Paragraph 21 that I have received from the utility in
24 their response.

25 Q If it had resulted in a fine, I take it from

1 what you are saying here that if it had resulted in a
2 fine, your position would be different; is that correct?

3 A It's been my understanding that fines,
4 penalties, discounts, loss, things of that nature are not
5 expenses that the ratepayer should bear. What we would do
6 is look at the facts and write the disclosure in such a
7 way to accurately state what the facts are and from our
8 guidance documents try to arrive at the correct
9 conclusion.

10 Q If it were a fine, what is the position then as
11 you understand of the Commission, or what would be your
12 recommendation with regard to the legal costs that would
13 be incurred by the company to resist it?

14 A Well, sir, I really hadn't thought about that
15 until you asked the question, so I don't know what to give
16 you for an answer.

17 Q Okay.

18 COMMISSIONER JABER: What was your question,
19 Mr. Burgess?

20 MR. BURGESS: It was: Had it resulted in a
21 fine -- there are two elements of this, one, that which we
22 call a penalty in which other parties dispute that term,
23 and the other is the cost associated with resisting it or
24 proceeding with that particular action.

25 And my question was: First, if it were a fine

1 instead of a -- instead of what it is, would Mr. Stambaugh
2 have recommended that it be amortized, and his answer was
3 what it was.

4 And my second question was: If it were a fine,
5 what would your position be with regard to the costs
6 associated or incurred by the utility to be involved in
7 the process.

8 COMMISSIONER JABER: And you can't answer that
9 question because you haven't thought about it. Do you
10 know -- have situations arisen in cases where the
11 Commission has considered that issue? Do you know?

12 THE WITNESS: I'm not aware of it, Commissioner.
13 I just simply don't know.

14 BY MR. BURGESS:

15 Q Are you at all concerned that this approach can
16 in instances lead to a resolution that is completely
17 within the discretion of the utility?

18 A I'm not sure I understand what you mean by this
19 approach. Could you specify, please.

20 Q Okay. This particular treatment is what I'm
21 referring to, and let me specify my concern. Let me tell
22 you what my concern is, and you tell me whether you think
23 it's a valid concern. My concern is that any utility that
24 is undergoing some type of enforcement action by a
25 regulatory agency can merely at some point agree to avoid

1 the costs and regulatory agencies likewise seek to avoid
2 their own costs associated with this and arrive at some
3 agreement, the boilerplate language of which would
4 include, nobody admits any wrongdoing. And so by doing
5 that, always avoid it being classified as an
6 enforcement -- as a fine that would be prevented from
7 being passed on to the ratepayer.

8 A If I understand you correctly, somebody could
9 say, "time out," take the hit, so to speak --

10 Q That's my concern.

11 A -- with no finding of wrongdoing, and let the
12 matter be passed on as recoverable through rates.

13 Q That's my concern.

14 A And you're concerned that a lot of that could
15 happen.

16 You're kind of asking me a question outside of
17 my experience, but I'll take a hack at it.

18 Q That's sporting.

19 A Yes. Because, you know, I have no legal
20 background. On the face of what you're saying, it seems
21 to me that would be a disservice to the ratepayers. Of
22 course, at the same time, I have not encountered any of
23 these kinds of things in previous audits to which I have
24 been assigned. So I cannot comment on the likelihood of
25 this happening or the frequency of this type of -- of what

1 you are suggesting occurring.

2 MR. BURGESS: Thank you, Mr. Stambaugh.

3 THE WITNESS: Yes, sir.

4 MR. BURGESS: That's all we have.

5 COMMISSIONER JACOBS: Redirect.

6 MR. JAEGER: Just a couple.

7 REDIRECT EXAMINATION

8 BY MR. JAEGER:

9 Q Mr. Stambaugh, I got a little bit confused. We
10 had some talking over here, and I missed one of your
11 answers. If the Commission finds in this case that the
12 settlement fee or settlement payment that the utility has
13 agreed to make with DEP was, in fact, a penalty, would you
14 recommend allowing this cost in rates? I'm not sure if
15 that's been asked and answered or not. We were doing some
16 work.

17 A It was. I believe you asked that, Mr. Burgess.

18 MR. BURGESS: My question was almost exactly
19 that, except I said if it were a fine.

20 A A fine. All right. Of course, the original
21 facts here that we analyzed and the documents that we
22 received indicated no liability or wrongdoing, so we felt
23 like we had to simply leave it as it was. I said to
24 Mr. Burgess that had it been a fine or a penalty or a
25 discount, loss, these kinds of things are not, in my

1 experience and understanding, generally allowed as
2 recoverable expenses through rates. And so therefore, we
3 would have had to analyze the facts as they were in the
4 case of it being a penalty, consult the appropriate
5 guidance documents that we have and write the disclosure
6 accordingly. Did I answer your question?

7 Q I'm sorry for going over that again. Okay.
8 Thank you. I've got one other question.

9 A Certainly.

10 Q Mr. Deterding was asking you, in your
11 experience, are you aware of where the Commission has
12 refused to make these adjustments for an item that was
13 previously expensed and then was changing to
14 capitalization. Has that ever been an issue in any of
15 your cases?

16 A Not in a year preceding a historic test year,
17 no.

18 Q So you have just never seen it in any of your
19 cases then?

20 A No, sir.

21 COMMISSIONER JABER: Okay. Thank you.

22 COMMISSIONER JACOBS: Exhibits. Move Exhibit
23 13?

24 MR. JAEGER: Staff moves 13.

25 COMMISSIONER JACOBS: Show it admitted.

1 (Exhibit 13 admitted into the record.)

2 COMMISSIONER JACOBS: Thank you, Mr. Stambaugh.

3 THE WITNESS: Yes, sir.

4 (Witness excused.)

5 MR. DETERDING: Commissioner, are we trying to
6 finish at -- before 4:00?

7 COMMISSIONER JACOBS: Yes, we're going to end at
8 3:45.

9 MR. DETERDING: Well, I can tell you I am going
10 to take approximately an hour with my cross-examination
11 with Ms. Merchant, who is the next witness.

12 COMMISSIONER JACOBS: Okay. Are there any
13 witnesses we can get through in this time? Are there any
14 witnesses that we can get through? She's the last witness
15 on direct, isn't she?

16 MR. FUDGE: We also have Mr. Watford called as
17 an adverse. We could probably call him now.

18 COMMISSIONER JACOBS: We're going to go out of
19 sequence and have Mr. Watford testify.

20 (Discussion off the record.)

21 COMMISSIONER JACOBS: While we had a break here,
22 we had, off the record, discussed an alternative date of a
23 third date and could not come to agreement, so as of the
24 moment, the only date we have scheduled for continuation
25 and completion is November 2nd.

1 MR. DETERDING: And as far as the one issue
2 that's already set for that day, I mean, I don't know that
3 the other parties would probably be better to tell you how
4 long it's going to take on both that and on the rebuttal
5 of our witnesses, but as I said, Ms. Merchant, I suspect,
6 will take me about an hour. And they would better be able
7 to tell you, but it is my impression that we could finish
8 both that in one issue and the rebuttal witness in that
9 one day.

10 COMMISSIONER JACOBS: Well, we're going to have
11 to assume that being the case. We will start at
12 eight o'clock on November 2nd, and we will go until
13 completed.

14 MR. JAEGER: Okay. That hearing will start on
15 November 2nd at eight o'clock in Room 148 is what it is
16 scheduled for now.

17 COMMISSIONER JACOBS: Correct.

18 MR. JAEGER: So that will be the announcement
19 from the bench then.

20 COMMISSIONER JACOBS: Very well.

21 MR. JAEGER: Mr. Fudge will be right with you.

22 MR. FUDGE: Staff calls Mr. Stephen G. Watford
23 as a direct witness.

24 STEPHEN WATFORD

25 was called as a witness on behalf of Aloha Utilities, Inc.

1 and, having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. FUDGE:

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

6 A Stephen Watford; 2514 Aloha Place, Holiday,
7 Florida.

8 Q By whom are you employed?

9 A Aloha Utilities.

10 Q Mr. Fletcher is going to give you a copy of the
11 Cooperative Funding Agreement that you filed with the
12 Southwest Florida Water Management District. Please take
13 a look at it, and tell me if that's the agreement that you
14 filed with them.

15 COMMISSIONER JACOBS: Do you want to mark this,
16 Mr. Fudge?

17 MR. FUDGE: Yes, Commissioner. Please mark this
18 as Exhibit 14, Cooperative Funding Agreement.

19 (Exhibit 14 marked for identification.)

20 A Yes, this appears to be the Cooperative Funding
21 Agreement with the amendments attached.

22 Q Please turn to Page 13, the initial water
23 withdrawals offset. It states that the initial use offset
24 is 630,600 gallons per day, which equates to 230,169,000
25 gallons per year; is that correct?

1 A I'm sorry, I just turned to it. Which line is
2 it you're referring?

3 Q It says, "Estimated initial use offset,
4 630,600 gallons per day."

5 A Yes, the estimated initial use offset, that's
6 correct.

7 Q And if you multiply that by 365, it would give
8 you 230,169,000 gallons per year, subject to check?

9 A Subject to check.

10 Q Okay. However, according to Schedule E-13A,
11 Page 120 of the MFRs, the utility projected test year
12 consumption of reuse water as 189,436 gallons; is that
13 correct?

14 A 189,000, I don't think so.

15 Q It's Page 120 of the MFRs.

16 A Hand them to me. Okay. Your question again,
17 I'm sorry. You said 189,000. I believe if you look up at
18 the top, you should add three zeros to that.

19 Q Okay. 189 million then.

20 A There you go. I'll buy that.

21 Q Which is less than the 230 million reported to
22 Southwest Florida Water Management District in the
23 Cooperative Funding Agreement?

24 A Yes, it is, and I can, you know, explain that to
25 you the best that I can. Obviously, this was a document

1 that was executed a long time ago, and, you know, that was
2 the initial proposal that went forth. As you know, at the
3 present time, we are not going to the YMCA. You can see
4 the list of those projects that are there that make up
5 that quantity of water, and the only one that is on-line
6 today is the Mitchell Ranch.

7 Q But yet, in response to Interrogatory Number 33B
8 of Staff's, it shows how this amount was calculated, and
9 it includes more customers than was actually reported to
10 SWFWMD.

11 A I'm sorry. Okay. It's coming.

12 Q Yes.

13 MR. FUDGE: Can we mark this as Exhibit 15,
14 Response to Interrogatory 33B?

15 COMMISSIONER JACOBS: Okay.

16 (Exhibit 15 marked for identification.)

17 BY MR. FUDGE:

18 Q As you can see in your response, it includes
19 more customers than you reported to Southwest Florida
20 Water Management District, but the number for Southwest
21 Florida Water Management District is actually higher. So
22 would it be okay to add in these additional customers that
23 weren't included in the SWFWMD agreement to get the actual
24 potential reuse customers anticipated?

25 A Well, I think, you know, the issue here, I

1 believe, is -- I think I understand what you're trying to
2 accomplish, but you're looking at a document here that was
3 prepared a long time ago that was with everybody's best
4 estimate at the time that we had and none of the
5 development down there that you see listed here. Some of
6 these developments have obviously come on subsequent to
7 then. Honestly, I'm missing the first part of whatever
8 the question to the interrogatory was, but -- so I don't
9 really know what the question was, but if I recall this
10 one correctly, the question was, basically, how many
11 potential customers out there are there, if I summarized
12 the question correctly.

13 This is now given to you probably -- what was
14 the date of this initial agreement -- years later. Those
15 numbers have been refined obviously for purposes of the
16 grant application for SWFWMD. We took a very broad
17 approach to all of the potential areas out there, took a
18 lot of people's assumptions as to what they were going to
19 be doing, not going to be doing, and that's what we put
20 forth to SWFWMD. And you can see obviously there's more
21 that have come on. A lot of these facilities that are
22 listed on the response to this interrogatory have come
23 into being since then.

24 COMMISSIONER JABER: Staff, what was your
25 question? Repeat your question.

1 MR. FUDGE: In the Cooperative Funding
2 Agreement, it only lists four potential customers. Yet,
3 the estimated initial use offset is 630 million gallons --
4 wait, 630,600 gallons per day. And if you look at the
5 response to Interrogatory 33B, there were actually eight
6 potential reuse customers, and yet, their estimated offset
7 is only 189 million as opposed to the 230 million in the
8 Cooperative Funding Agreement.

9 COMMISSIONER JABER: Mr. Watford, isn't it
10 correct that the interrogatory response was completed and
11 sent to Staff after the execution of the Cooperative
12 Funding Agreement?

13 THE WITNESS: Many years after that, yes, ma'am.

14 COMMISSIONER JABER: So then isn't it correct
15 that the amounts should be updated to reflect what you
16 have in your interrogatory response?

17 THE WITNESS: Well, I think -- well, and I
18 believe that the point of the response in the discovery
19 was to give Staff an update of that position. That's why
20 we furnished that to them. However, you know, where it
21 appears that there seems to be just a fundamental
22 misconception of what we are all trying to accomplish
23 here, and that is, to, you know, somehow tag down the
24 number of customers that are going to be on this reuse
25 system. One thing that, you know, still hangs out there

1 in this case is whose responsibility should that be.

2 COMMISSIONER JABER: Is that the misconception,
3 or is what Staff trying to ask you about or what Staff is
4 trying to determine is the amount of revenue associated --

5 THE WITNESS: Exactly. And that's exactly what
6 I'm getting to. There's a lot more to that question. Our
7 goal, we have -- our underlying goal in this entire
8 process that kind of has been left out of this mix is
9 there are outstanding obligations. We have it in a
10 consent final judgment, primarily, and that is for one
11 year from today our percolation ponds, what will become
12 our wet weather storage ponds, have to be empty;
13 otherwise, we are in violation of that agreement, and we
14 will be right back here again looking for more money and
15 more solutions to a problem with DEP.

16 Our goal is to get those ponds down. We have a
17 year from, I think, September 15th, just passed, to
18 accomplish that. Nobody has a bigger desire to get as
19 much of that effluent leaving our facility than Aloha,
20 because we want to not have another amendment to the
21 amended restated consent final judgment. And it's --

22 COMMISSIONER JABER: What action steps have you
23 taken to try to get some customers to take your effluent?

24 THE WITNESS: Well, it's not available today,
25 but we have taken many steps. And what I believe this

1 list, again without the beginning of the question, I'm not
2 exactly sure, but what I believe this list details -- and
3 I know that in a late-filed to my deposition, we also
4 furnished to the Staff, there are areas out there just all
5 up and down the corridor of where our main trunk line went
6 that you have heard discussed here, we have required these
7 developers to put in the infrastructure in their
8 subdivisions that are under construction right now pipes
9 for reuse water.

10 Now, you know, I have sat through customer
11 testimony here over the last day, and I've heard customers
12 say we don't want reuse. I mean, there is a lot to the
13 question of how was the best way to get this facility
14 utilized. Our biggest problem, you know, at least with
15 what's sitting out here in front of us so far, is there's
16 now a proposal on the books to increase the price of the
17 reuse, and I don't have a paying customer on the system
18 yet.

19 COMMISSIONER JABER: Did you hear customers say
20 they didn't want reuse, or did you hear customers say they
21 didn't want an increase in rates for you to be able to
22 provide reuse?

23 THE WITNESS: I heard at least one customer say,
24 I don't want any reuse. Now, I'm sure that had to do with
25 tying it back to the rate issue that's at hand, and a lot

1 of the customers, I mean, in all honesty realize that in
2 presently developed areas, it will be a long time before
3 they get it because obviously we're concentrating on new
4 development first.

5 COMMISSIONER JABER: It's safe to assume then if
6 those new developers in those new homes will have reuse
7 lines, that your revenues associated with reuse should
8 increase.

9 THE WITNESS: Well, as you know right now, our
10 revenue is zero as it relates to reuse, and I'm not
11 disagreeing with that. But I think the goal -- and, you
12 know, we have many models. We are very late to the reuse
13 game in the state of Florida. We have many models to look
14 at of success, and the models for success basically give
15 it away for years, and then, you know, once they have the
16 system fully utilized -- because first and foremost, it's
17 a matter of effluent disposal. I mean, we're playing
18 games here if we think that, you know, it's a revenue
19 generator for the utility. It costs probably two or three
20 times what your potable costs to produce reclaimed water,
21 but we all have to do something with your effluent.

22 You know, Pinellas County was a good example.
23 Pasco County, in our previous case, Mr. Bramlett, the
24 director at Pasco County, provided testimony that his
25 reuse system runs dry during the dry portions of the year.

1 Okay. At the same time, you can look at this year's -- or
2 1999's reuse inventory, and they only disposed of
3 43 percent of their effluent through their reuse system.
4 The rest went through rapid infiltration basis, and he
5 testified they give away the vast majority of their
6 effluent.

7 My biggest concern is that we are going to be
8 back here in a year because we do something -- anything
9 that anybody in this group does to inhibit customers
10 signing up -- you know, that's another point. If we
11 require the developers to put reuse lines in, I have no
12 ability to make the customer use it. I have no ability,
13 to my knowledge, to even force the customer to hook up. I
14 can require the developer to install the infrastructure,
15 but I can't make them hook up. And I would love -- I
16 mean, the model of success that we see in reuse systems is
17 to either make it free or make it five cents a thousand.
18 You go through the reuse inventory report from DEP, there
19 are many, many systems out there that are giving it away.
20 You also see it for ten cents a thousand, if you want to
21 attach some amount to it.

22 You know, we agree with Ms. Merchant's testimony
23 that she prefiled in this case. The way the Commission
24 needs to handle that is to monitor where it goes, but the
25 overwhelming goal has to be to get the system utilized.

1 And, you know, we can go out here and count lot numbers
2 and all kinds of things, but the fact is, if we do
3 anything such as come up with a hook-up fee that's too
4 high, a usage rate that's high than what it needs to be --
5 you know, Pasco is in a position, and Ms. Merchant in her
6 testimony has tied our rate to Pasco's reuse rate.

7 If I was in a position where my reuse system was
8 running dry during the dry periods of the year, I would be
9 asking you to increase my reuse rate. But the first thing
10 we do and the way all these systems -- you know, Pasco has
11 been in the reuse business for ten years, Pasco County I'm
12 referring to. They have gotten to the point of maturity
13 in their system that they can begin increasing rates, but
14 the customers are used to using it. There's always that
15 initial hesitancy by customers. They don't want to put
16 sewage on their yards and different things like that. I
17 hope that we're going to benefit from some of the learning
18 of our surrounding communities in that regard, that we're
19 not going to go through as much of that learning curve but
20 it always occurs.

21 And, you know, we are doing everything we can.
22 All of our developers -- and that's why you see additions
23 to this list. But I'm telling you that if the purpose
24 here is to try to impute revenues by attaching a reuse
25 rate to this thing or increasing the reuse rate as

1 proposed by Ms. Merchant, it's counterproductive to the
2 cause. What worked successfully is to give it away, get
3 the customers used to using it, get the people to quit
4 sinking wells for alternative irrigation sources, get them
5 used to using it, and then gradually bring the revenue up.

6 COMMISSIONER JACOBS: I heard several customers
7 over the last couple of days who I was really impressed
8 with their level of awareness on this issue, and they
9 evaluated this decision very clearly. Most of them talked
10 about the irrigation requirements. In fact, several of
11 them knew how much they use for irrigation versus how much
12 they use for in-house, and on several instances implied
13 that if they had an opportunity to use a different source,
14 cheaper source of water than portable for irrigation, they
15 would quickly choose to do that.

16 Is that -- is reuse an option for those
17 customers who expressed that concern?

18 THE WITNESS: Well, reuse being an option to a
19 specific customer will be dependent upon where they live.

20 COMMISSIONER JACOBS: Right. And that's a very
21 good point because many of them also cited deed
22 restrictions or homeowner covenants that limited their
23 ability to sink a well or to pursue others. So given
24 those assumptions, would that be a reasonable option for
25 them?

1 THE WITNESS: Would it be -- in a vacuum, yes,
2 without knowing where they live. I mean, if their home is
3 five miles from the nearest reuse line, then obviously
4 not. You know, the normal -- if you look back at the
5 models of reuse systems that have taken place all over --
6 and the city of St. Petersburg, Pinellas County, is
7 probably one of the models you see written up in all the
8 literature more than any others.

9 Retrofitting is very expensive, but we live in
10 an area right in the Tampa Bay area that is one of the
11 highest stressed water areas in the entire country,
12 certainly in the state of Florida. As the price of
13 potable water continues to rise, it becomes a more and
14 more attractive option, as well as the fact that there are
15 now options out there where a lot of the negatives, if you
16 will, of retrofitting are minimized. There's obviously
17 still some, but with some of the new microtunneling
18 technology and stuff, you're not actually plowing up
19 streets to put lines through existing areas, but it still
20 is far and away much more expensive than requiring a
21 developer before he's every got his streets, roads, and
22 driveways down to do that.

23 So what we have done up and down the corridor,
24 which basically runs the entire section of the pipeline
25 that we have talked about that begins at the wastewater

1 plant through the Mitchell Ranch and then ultimately
2 terminating down at the Fox Hollow Golf Course, all of our
3 developers presently are developing subdivisions and
4 various levels of development that have those pipes
5 on-site being put in the ground now. I believe your Staff
6 went down and looked at some of them is my understanding.
7 But the fact is, those systems aren't going to be on-line
8 by the end of the test year. I mean, they are under
9 development today. Those things -- I mean, you know,
10 probably on an average -- well, and that's probably not
11 even a fair way to say it. They are all in land
12 development right now. I mean, the roads and streets and
13 so forth aren't down. Then you've got to build a house,
14 and then you've got to get a customer, and then you've got
15 to convince him it's a good idea.

16 COMMISSIONER JACOBS: And in your testimony
17 previously, you indicated that the availability of
18 infrastructure is a critical ingredient.

19 THE WITNESS: Yes.

20 COMMISSIONER JACOBS: To what extent have we
21 gathered background data that demonstrates where reuse
22 infrastructure is planned? What's the nature -- let me
23 digress for a moment.

24 The history that you described for reuse, as my
25 understanding, and correct me if I'm wrong, has a lot to

1 do with the fact that many of the early users were bulk
2 users, large users, and had favorable negotiating
3 advantages. The perception could be that that dynamic is
4 changing, particularly in a high -- an extreme cautionary
5 such as this area. And so the question in my mind
6 becomes, do we understand where infrastructure for reuse
7 is planned? And number two, do we understand what price
8 elasticity there is for the residences in those areas?

9 THE WITNESS: Well, let me kind of break that
10 into a couple of pieces, I guess. First, you made the
11 comment about the normal mode being the big users
12 first and that's true. And I think that the reason that's
13 true is probably less -- you attributed it to a
14 negotiating position, I guess. I would say that it's
15 probably more on the side of the utility, because any
16 utility who's moving into the reuse business has to have a
17 wastewater plant, which in the state of Florida means he's
18 got an effluent problem to deal with.

19 It honestly wasn't rocket science how we
20 designed where our trunk line was going to go. We cut it
21 right through the heart of our future area to develop, but
22 we terminated it at the pond at the golf course that
23 irrigates the golf course. When that golf course comes
24 on-line, it's going to bring by far what will, at least
25 with what we know today, be our largest user that will

1 ever be on that system.

2 Now, we did have to give some concessions to
3 that golf course, and the concessions that we gave to that
4 golf course is that he will not pay for that reclaim for
5 the first four years. That's an old contract that was in
6 existence for years. Had we not done that, we would have
7 lost that golf course to Pasco County, and we wouldn't
8 have had a place for our effluent to be going. That was
9 an old agreement. Staff, I believe, we provided them with
10 the agreement on that, and it was due to expire and we
11 provided them the updated agreement on that.

12 You know, again, we're going back to the prior
13 case. Mr. Bramlett from Pasco Utilities testified at
14 length that the vast majority of their effluent they gave
15 away to golf courses, and they cut 20-year deals with golf
16 courses to take it for nothing. So, I mean, the system we
17 would love to have would be one where we can say, yes,
18 we're running out of water during the dry times of the
19 year. And there is a statement that has been attributed
20 to me from the prior hearing over and over that I would
21 just like to correct. And when we talk about a fully
22 utilized system, we're talking about one that's running
23 out of water during the dry time of the year. And if we
24 look across Pasco County, which is where we are, that
25 means selling or giving away about 40 to 50 percent of

1 your effluent, not this 100 percent of the effluent that
2 keeps being attributed to me. I made a comment offhand
3 somewhat that, yeah, I'd love to sell 100 percent of
4 effluent. But the fact is, the best that I think we will
5 ever model subject to, obviously, changes and regulations
6 or subject to somebody figuring out a way to store
7 reclaimed water for four months during the rainy season of
8 the year, and, you know, we're probably talking hundreds
9 of millions of dollars to build such a facility, that's a
10 goal that we hope to realize. Pasco has realized that
11 after 10 years in the business and giving away large
12 quantities of it.

13 Pasco also has the availability of county-wide
14 distribution. I mean, they have large agricultural areas
15 out in central and east Pasco to put it on the orange
16 groves and things like that that don't exist in our
17 service area. I mean, we all have to work with what we
18 have, but if you look at the systems all over the State,
19 the ones that, you know, are your -- that are anywhere
20 comparable to Aloha are recognizing 40 to maybe 50 percent
21 recovery. But the goal and the way they always do it is,
22 they start off with a system; they price the product very
23 low; they do, you know, the public education aspect of it
24 of encouraging them. And I will say, the developers that
25 we have in our service area today are more sophisticated,

1 I will say, I guess, than the developers we dealt with
2 years ago.

3 Developers themselves have come a long way into
4 recognizing the value of reuse. You know, we do have one
5 of the largest -- well, I don't know that that's true
6 anymore. But we have an extremely large plan development
7 in our area called Trinity Communities. It was one of the
8 largest in the State whenever it was originally permitted,
9 and they are very sophisticated people. I mean, it's not,
10 you know, a guy that does 10 or 20 lots a year. They are
11 very cognizant and want reclaimed, and I know that they
12 will do all the right things as far as communicating to
13 their builders that this is a good thing, put it in your
14 advertising literature.

15 You know, obviously, the biggest thing that
16 sells reclaimed in our area, to be perfectly frank, is the
17 fact that they water whenever they want to, and they are
18 not subject to the watering restrictions at only certain
19 times of the day. That has just become a way of life in
20 our area. And all those things are good, and all those
21 things, I think, lend to what should be a level of
22 comfort; that when this system matures, we will fully
23 utilize that, again with the definition I use for that.
24 And we're not talking about selling 100 percent because
25 that's not possible anywhere, but we will fully utilize

1 that. But, you know, that takes a long time. I mean,
2 it's taken Pasco eight to ten years to realize that. And
3 again, they have the entire agricultural area of the
4 County to work on those things.

5 So I think our -- you know, the goal here has to
6 be to get the reuse flowing to customers. By and large,
7 your wastewater customers and your reuse customers on a
8 general basis are the same people. Okay. Now, I realize
9 that these will be new customers versus existing
10 customers, but they will ultimately --

11 COMMISSIONER JABER: And in that regard --

12 THE WITNESS: I'm sorry?

13 COMMISSIONER JABER: Mr. Watford, and in that
14 regard, it would help if your customers liked you,
15 wouldn't it? It would help, wouldn't it?

16 THE WITNESS: Certainly it would. And --

17 COMMISSIONER JABER: Mr. Fudge, I interrupted
18 you. I'm sorry.

19 COMMISSIONER JACOBS: Let's see if we can
20 complete this cross.

21 BY MR. FUDGE:

22 Q The reason I'm concerned with the disparity in
23 numbers between what you reported in your interrogatory
24 and in the Cooperative Funding Agreement because, for
25 example, Fox Hole Golf Course, the estimated initial

1 offset is 427,000 gallons, and yet, in the interrogatory
2 response, it only shows 250,000 gallons per day.

3 A Do you want me to explain that one for you? The
4 permit that Fox Hollow Golf Course has with the Water
5 Management District allows them a pumpage rate of up to
6 427,000 gallons a day. Their historical pumpage rate is
7 approximately 250,000 gallons a day. What they have done
8 and what this document represents with SWFWMD, if you look
9 at it, is the -- an initial water withdrawal offset.

10 The way the Water Management District looks at
11 that, they are looking at a water use permit that exists
12 for Fox Hollow Golf Course; it says 427,000 gallons. Fox
13 Hollow Golf Course has a requirement in their water use
14 permit that says when reclaim becomes available that they
15 shall utilize reuse. That will make that 427,000 water
16 use permit offset disappear off of SWFWMD's records;
17 that's the difference. What we represented to you,
18 because it appeared -- I don't know what I was just given,
19 but again, I don't have the top of the question here, but
20 we actually got the pumpage records from SWFWMD, and their
21 average is approximately 250,000 that they are using of
22 the 427,000 they could use.

23 Q And if you look at the exhibit that Mr. Fletcher
24 just passed out, it's the Rexbo agreement, which is Fox
25 Hollow Golf Course. And on Page 1 of that agreement in

1 Paragraph C, it says, "Golf Course desires approximately
2 427,000 gallons of properly treated effluent each day."
3 So it seems like they have already contracted for that
4 427,000.

5 A Well, I will have to take a minute to review the
6 agreement. What they clearly were doing was trying to
7 cover what they already had in a water use permit. That
8 certainly doesn't mean that they will be paying for
9 427,000.

10 COMMISSIONER JACOBS: Is the golf course
11 required to have a consumptive use permit, and that this
12 is a part of that?

13 THE WITNESS: They have -- well, they are no
14 longer -- they are called water use permits now, but, yes,
15 they have a water use permit, and part of their water use
16 permit requirements is that when reclaim becomes
17 available, they shall utilize that.

18 COMMISSIONER JACOBS: Do you want to mark this
19 exhibit, Mr. Fudge?

20 MR. FUDGE: I think it's Exhibit 16 now.

21 COMMISSIONER JACOBS: Yes.

22 (Exhibit 16 marked for identification.)

23 A And I believe there is also -- I will have to
24 find it. There's a paragraph in here that basically says
25 that the golf course shall decide how much they put on the

1 golf course themselves, and that they shall not pay for
2 any more than what they have put on the golf course.

3 That's, in essence, like a reservation, if you will, of
4 capacity, I guess, in that first paragraph, but -- and I'd
5 have to spend some time here going through it because
6 this, obviously, was five years ago.

7 Q But it was amended in '98, and that number did
8 not change; correct? The amendment is attached to that
9 exhibit.

10 A Well, as a matter of fact, the amendment did
11 change that, and it reads, "6.a. as follows: In any
12 event, golf course's obligation to take reclaimed water is
13 limited to its ability to use reclaimed water for normal
14 irrigation of the golf course in accordance with sound
15 horticultural practices." Again, they were clarifying
16 once again that they will take what they deem is necessary
17 for the golf course. And it also said it to some
18 extent -- I'd have to read the agreement again to find it.

19 Q But if it's read in conjunction with the
20 first part of the agreement, it says, "desires
21 approximately 427,000 gallons," that other statement could
22 just mean they wouldn't want any more than that. That
23 would be the minimum they need because that's what their
24 water use permit says. And it seems that if one of the
25 reasons SWFWMD granted you the funding for this project

1 was to offset water withdrawals, and you stated to them
2 that, yeah, we're going to offset water withdrawals of
3 427,000 gallons, then that's one of the factors that they
4 looked at to grant you that funding. And now, to say that
5 they are only going to offset 250,000 gallons seems to go
6 against that agreement and the intent of that agreement.

7 A Do you want to try that one again? I'm sorry.

8 Q Well, part of the proposal for the funding
9 agreement was that certain water withdrawal offsets would
10 be accomplished by the reuse system that you proposed, and
11 the numbers in that initial offset were, I guess, high in
12 your estimate, yet that was one of the reasons that SWFWMD
13 granted the funding for your project, and now to go back
14 and say those were overly optimistic seems --

15 COMMISSIONER JABER: Mr. Judge, you're making
16 statements. You're not asking a question. Take some time
17 and maybe we should have a break because I don't think the
18 witness has looked at this anyway.

19 COMMISSIONER JACOBS: Okay. Let's go a couple
20 of minutes off the record.

21 (Brief recess.)

22 COMMISSIONER JACOBS: Go back on the record.

23 BY MR. FUDGE:

24 Q Mr. Watford, you've had time to peruse the
25 documents now?

1 A Yes.

2 Q And on Page 13 of the Cooperative Funding
3 Agreement, the initial water withdrawal offset for Fox
4 Hollow Golf Course, you stated that was 427,000 gallons
5 per day; correct?

6 A Yes. But let me just point you to the
7 first line of that document that says, "The permitted
8 water withdrawals for users who will initially be served
9 by the project include."

10 Q And this was --

11 A The number that you see there, I think as I
12 mentioned before, that 427,000 is the permitted amount
13 which is being referenced, the permitted water withdrawal
14 for this user which will be served by the project include.
15 That is an accurate statement. That is his permitted
16 withdrawal, the 427,000.

17 Q In order to receive funding from SWFWMD, this is
18 the proposal that you gave them for the initial water
19 withdrawals; correct?

20 A Well, I might just point out -- is this the
21 application we gave them? Certainly.

22 Q Or this is the agreement that you reached with
23 them.

24 A Actually, I believe what you're looking at is
25 part of the application that ultimately probably became an

1 exhibit to the agreement, but, yes. And I might also
2 point out that SWFWMD was the one that furnished us the
3 427,000 number to put in there, the other party to the
4 agreement.

5 Q So SWFWMD anticipated 427,000 gallons per day
6 offset in granting the funding for your project; correct?

7 A No, I don't think that's what this document
8 says. It says, the permitted water withdrawals for users
9 who will be served by this project include, and then
10 there's a list. And it cites Fox Hollow Golf Course;
11 their permitted withdrawal is 427,000. It says above that
12 is their average permitted withdrawal rate right at the
13 top of the column that you are referring to. That is not
14 what is actually being pumped. That is what their
15 permitted withdrawal is.

16 Q But then later on it says, "Estimated initial
17 use offset of 630,000 gallons per day."

18 A Yes, it does. And the way SWFWMD looks at that,
19 they are trying to deal with the water use permit issue.
20 If we can retire that WUP down there, then a 427,000 water
21 capacity becomes available for some other use. Obviously
22 SWFWMD doesn't think watering a golf course is the highest
23 use for that 427,000. If they can take it away from the
24 golf course by us providing them reclaim, then they can
25 give it somebody; hopefully then it will become potable

1 water in a system somewhere.

2 Q And that was a goal to get rid of the
3 427,000 gallons; right?

4 A To get rid of the permit. SWFWMD is the keeper
5 of the pumpage records. Where we had to go find the
6 actual pumpage records that are reflected in the 250,000
7 gallon estimate was we had to go to SWFWMD, the other
8 party to this agreement, to determine that information.
9 We don't keep pumpage records. It's not our wells on
10 that, obviously. SWFWMD is the keeper of those records
11 for all permitted water users in the State, or in our
12 district I should say. And SWFWMD knows what they pump
13 and they know what is permitted.

14 Q When we summoned you to this -- to testify in
15 this hearing, we asked you to bring the map of your reuse
16 system. Do you have that with you?

17 A Yes. Do you want me to get it?

18 Q Please. Can you point out the reuse line on
19 that map, please.

20 A Well, why don't I just give you the whole deal
21 at once here? Here's the wastewater treatment plant.
22 Here's the initial 24-inch line that was laid, up to here.
23 This is the reuse line that then proceeds south to Trinity
24 Boulevard -- or down Trinity Boulevard to, I believe it's
25 Trent Jones Parkway, and then out here ultimately

1 terminating here out at the pond at the golf course.

2 Q Okay. To the extent that you can, can you point
3 out the developments that would be served along that reuse
4 line?

5 A Developments or all users?

6 Q Subdivisions.

7 A Just subdivisions, not commercial users?

8 Q Yes, sir.

9 A Thousand Oaks, which you see drawn in here.

10 This is a conceptual plan. It's under land development
11 right now. This is also part of Thousand Oaks that
12 potentially in the future will be developed. Each of
13 these little arrows that you see stubbed off here are for
14 future users. This one is actually part of Foxwood, right
15 here. Up here, there's a job that came in, and the
16 developer actually installed lines down to here to serve
17 Fox Hollow. And it's certain phases; it's not all phases.
18 It's the phases of development yet to be completed.
19 There's also stub-offs here to serve Foxwood as it
20 develops, and again, the golf course at the end.

21 Maybe to get to the bottom of it, there's no
22 ongoing construction anywhere in the corridor that's not
23 presently putting in piping for the reuse, if that's where
24 you're heading.

25 Q But we heard several customers testify yesterday

1 that they weren't able to have irrigation meters, which I
2 guess would also include reuse meters for certain
3 developments. Can you point out where those developments
4 are along the reuse system? I think they were -- I think
5 Wyndtree was one of them and Mill Pond.

6 A I'm not familiar with the testimony you're
7 referring to. I didn't hear anybody testify that they
8 couldn't have irrigation meters if you're talking about
9 irrigation off of the potable line. There were some that
10 said they didn't want to pay for it.

11 Q It was my recollection that --

12 A Or are you talking about something different?

13 Q No. Several customers testified that they had
14 asked Aloha to have irrigation meters put in because they
15 didn't want to pay the wastewater charge for the water
16 that was sprayed on their lawn, and they said they
17 couldn't get irrigation meters. So I was just wondering
18 where those developments are in relation to the reuse
19 line.

20 A Well, subject to check of the record, I didn't
21 hear any customers testify to that. I heard several of
22 them say they couldn't do irrigation wells where they
23 wanted, but I never heard any of them say they couldn't
24 have irrigation meters. I believe there's an exhibit
25 sitting over here somewhere that somebody wanted to move

1 in that was addressed -- I mean, it's a standard letter
2 that we do to customers that request that, if we're
3 talking about potable water now.

4 COMMISSIONER JACOBS: We can check this later.
5 I'd like to check this later, but I think Mr. Lane, and I
6 didn't write down where he lived, I'm sorry, and the
7 gentleman last evening was -- I believe Mr. Dean was also
8 one who was very knowledgeable about the reuse and
9 effluent, and there a couple of others, but those two I
10 would like to check into their testimony and see exactly
11 what they said.

12 BY MR. FUDGE:

13 Q But currently, there are only two systems that
14 are piped for reuse. Was that what you were pointing to?
15 There was only two that had the reuse lines already
16 installed?

17 A Again, if we're talking about strictly
18 subdivisions and not commercial users, when I say,
19 "Foxwood," there's about three or four phases of Foxwood,
20 I'd have to go check that. Areas that are already
21 completed and have been complete, no, they do not have
22 reuse water available or they do not have reuse lines
23 installed in them. The ones that are presently under
24 construction, the ones that I identify here, all have
25 reclaimed water lines being installed in them as we speak.

1 Now, if you go back to the commercial customers,
2 that's a different ball game, if you will, because a lot
3 of them put in irrigation systems. They have requirements
4 in their developer agreement when the reuse system goes
5 live to sever their connection with their well, if that's
6 what they have, but they have requirements to take the
7 reclaimed water.

8 But just to follow up on your prior question,
9 there is nobody in our service area that we would deny and
10 have denied an irrigation meter to. I heard some comments
11 that they couldn't get wells or whatever, and I heard some
12 comments -- as a matter of fact, one the exhibits
13 Mr. Burgess wanted to enter was a letter that we send to
14 customers who request irrigation meters. So our policy,
15 just so everybody is clear, we don't deny anybody an
16 irrigation meter if they request it, and we have the
17 irrigation meters in our system on homes.

18 Q Do you have a reduced copy of that map?

19 A No, you didn't subpoena one of those, but I
20 guess I can provide you with one if you'd like.

21 Q Can you file that as a late-filed exhibit, I
22 believe 17, a map of your reuse system?

23 A Did we not give that to you already?

24 Q It may have been part of the letter to
25 Martha Golden. If it's the same map, then we will move to

1 have that whole exhibit moved into the record, the
2 response to Martha Golden.

3 MR. WHARTON: And we'll work with you to
4 determine which one it is.

5 A Well, you've got an awful lot of it attached to
6 the back page of what you just handed me to read.

7 Q That's pretty much it?

8 A Well, I guess I'll let you determine if those
9 two are the same. They look the same, but that one has
10 got a little different dashed line than -- I think that
11 was just put on there so you could see it in the reduced
12 version.

13 MR. FUDGE: I'll identify that as Exhibit 17,
14 the letter to Martha Golden, the whole letter and
15 exhibits.

16 COMMISSIONER JACOBS: The letter and attached
17 exhibits --

18 MR. FUDGE: Yes, Mr. Chairman.

19 COMMISSIONER JACOBS: -- from whom to whom?

20 MR. FUDGE: From Aloha Utilities to
21 Martha Golden of PSC Staff.

22 COMMISSIONER JACOBS: Okay.

23 (Exhibit 17 marked for identification.)

24 BY MR. FUDGE:

25 Q When do you anticipate the Thousand Oaks

1 development and the Foxwood developments to come on-line?

2 A Again, there's multiple phases. I think there's
3 presently -- let me look. There are three phases of
4 Thousand Oaks presently under construction. There are, I
5 believe, two or three phases of Foxwood/Fox Hollow also
6 under construction and, obviously, at various stages of
7 completion.

8 Q Will any of those be completed before the end of
9 the test year?

10 A There might -- probably in one phase of Foxwood,
11 I believe would probably be completed before the end of
12 the test year. There won't be any houses completed before
13 the end of the test year, I don't believe, because it
14 takes another eight, ten months to build a house after
15 that.

16 Q But that was one of the subdivisions that was
17 plumbed for reuse?

18 A I'm sorry?

19 Q That was one of the subdivisions that already
20 had reuse lines that you had pointed out earlier?

21 A Yes, Foxwood, Thousand Oaks, and Fox Hollow.

22 Q Do you know approximately how many lots are in
23 the first phase of that development?

24 A Well, the first phase is built and done, but --
25 is that the one you're referring to?

1 Q I thought you said it was phase one of Foxwood
2 that would be completed.

3 A No. I don't have Foxwood actually on this list,
4 I don't believe, because -- well, let's see. What I'm
5 looking at is a late-filed exhibit I gave to my deposition
6 that you already have, that had an account of lot
7 vacancies on it. Actually, I don't have lot counts right
8 here of that particular phase. I have them for
9 Thousand Oaks, but not the other one.

10 MR. FUDGE: No further questions.

11 COMMISSIONER JACOBS: Mr. Burgess.

12 MR. BURGESS: No questions.

13 COMMISSIONER JACOBS: Mr. Wharton.

14 CROSS EXAMINATION

15 BY MR. WHARTON:

16 Q Mr. Watford, let's take a look at a couple of
17 these exhibits. First of all -- and perhaps this is kind
18 of a housekeeping matter. Take a look at Exhibit 15.

19 A I have no numbers to tell me which one that is.

20 Q That's the interrogatory response.

21 A Okay.

22 Q Would you agree, subject to check, as they say
23 just eyeballing those numbers under the GPD column that
24 they don't seem to add up to 1.219 million?

25 A Yeah, I would say that's --

1 Q It looks to be a typo, doesn't it?

2 A Appears to be a typo, yes.

3 Q And if I indicated to you that those numbers add
4 up to 5195 and if you multiply that times 365, it comes
5 out to the number in the annual column, or very close to
6 it anyway, would you think -- let me put it this way.
7 Would you think that the number at the bottom of the GPD
8 column should be what all those numbers add up to?

9 A Yes. And I guess I'd have to discuss with my
10 lawyers who prepared the response to this why it doesn't.

11 Q Moving right along.

12 (Discussion off the record.)

13 Q Let's go to Exhibit 14, which is the Cooperative
14 Funding Agreement, Page 13 of 29, which is the same page
15 that we were dealing with earlier.

16 A What is the number on the bottom of the page?
17 My stuff up on top is really --

18 Q Well, really that part of it, Steve, doesn't
19 have any numbers on it.

20 A Okay. The withdrawal offsets?

21 Q This is the initial water withdrawals offset at
22 the top.

23 A Yes.

24 Q I think you testified to this earlier, but let's
25 make sure that we're clear. What do you understand that

1 427,000 gallons by Fox Hollow Golf Course to represent?

2 A That represents the amount that is on their
3 permit, their water use permit, that they have to pump out
4 of their wells at the golf course that they have
5 temporarily until the reuse becomes available.

6 Q And do you see anything on this page that
7 indicates to you that Aloha made some representation that
8 that entire permit, 100 percent permitted withdrawal rate,
9 would be offset or would be cancelled out?

10 A Absolutely not. I think I mentioned it in
11 passing. The gentleman with SWFWMD assisted in the
12 preparation of this, and he's the one that furnished us
13 the number to plug in there because that was on the water
14 use permit.

15 Q Now, let's go to the Rexbo agreement. There is
16 an agreement to -- if you go to page 17 of 19 of that
17 document, which is the first amendment to reclaimed water
18 use agreement --

19 A Yes.

20 Q -- there is an amendment at Number 2 to
21 Paragraph 6.a.; right?

22 A That's correct.

23 Q And it's the amendment that you read into the
24 record earlier?

25 A Yes.

1 Q Okay. Let's go back to Paragraph 6.a. in the
2 agreement itself, which is on Page 8.

3 A Got it.

4 Q First of all, if you go about six or seven lines
5 from the top, there's a sentence beginning with "The
6 parties acknowledge and agree that 427,000 gallons," do
7 you see that?

8 A Yes.

9 Q Where do you think that 427,000 gallon figure
10 came from?

11 A Off their water use permit.

12 Q Okay. So they put into the agreement the same
13 amount that they were permitted to withdrawal?

14 A Well, you know, I was part of that whole
15 discussion, and I was part of the evolution as to how we
16 got to the amendment, so I know clearly what their
17 thinking was. And the bottom three lines of that page,
18 four lines actually of eight, is what -- when it came time
19 to extend the amendment -- or the agreement, they were
20 uncomfortable with and required as a requirement prior to
21 them agreeing to extend the agreement.

22 MR. FUDGE: Objection, hearsay. He's testifying
23 to what SWFWMD actually told him.

24 MR. WHARTON: Well, he's testifying about a
25 conversation that he was a party to.

1 BY MR. WHARTON:

2 Q Without testifying as to what they told you,
3 Mr. Watford, tell us what your understanding of that
4 particular provision of the agreement represents.

5 A All right. Well, first of all, the conversation
6 wasn't with SWFWMD, it was with Rexbo, who this agreement
7 is with. It didn't have anything to do with SWFWMD.

8 If you read the language at the bottom of Page
9 8, it says, "In the event that the golf course cannot
10 dispose of 427,000 gallons per day of reclaimed water due
11 to physical limitations of the property, permitting or
12 other restrictions beyond the control of the parties, golf
13 course agrees to dispose of the maximum amount of
14 reclaimed water that can be disposed of on the property
15 (substitute amount). In that case, the substitute amount
16 shall replace references to 427,000 gallons in this
17 agreement. In any event, golf course shall always utilize
18 utility's reclaimed water pursuant to the terms of this
19 agreement prior to utilizing any other water source,
20 unless, and then to the extent that, reclaimed water use
21 is prohibited by applicable regulations."

22 When it came up, this thing was expiring. They
23 wanted to extend the agreement; we wanted to extend the
24 agreement. Their counsel was uncomfortable with that and
25 wanted basically a position of clarification, which is

1 what came out in Paragraph Number 2. And the fear was
2 that someone would try to force on them more water than
3 what they wanted on their golf course. They have
4 maintained that we will be their sole source of
5 irrigation.

6 Back in 1994, when this original agreement was
7 executed, which is, well, six years ago now, they had no
8 pumpage history on this facility. It was relatively new
9 at the same time. By the time we got to October of 1998,
10 they had, obviously, pumpage history. They knew what
11 their usages were, and they also knew -- well, I guess I
12 can't really state the mind of them, but I can state what
13 they said. This is what we require before we will extend
14 the agreement, and basically it says they wanted total
15 control as to how much water they would or would not take.
16 And they would base that on sound horticultural practices.

17 Q As someone who participated in the drafting of
18 this agreement -- and, in fact, you signed this agreement
19 on behalf of Aloha; is that correct?

20 A Both times, yes.

21 Q As someone who participated in the negotiation
22 and execution of this agreement, do you understand that
23 any part of the agreement represents a promise by the golf
24 course to take 427,000 gallons per day every day?

25 A No. And -- well, obviously not, but if you go

1 back to Page 8 even the original language that was in
2 there, which was then added to, if you go back to Page 8,
3 it says that due to the physical limitations of the
4 property, permitting or other restrictions beyond the
5 control of the parties. What that refers to, DEP has a
6 rule that says you cannot put water on a piece of ground
7 and cause ponding. That would put us in violation of
8 DEP's rules, and it would -- I don't know exactly what it
9 would do to the golf course, but it would certainly put us
10 in violation of DEP's rules. There was some concern that
11 obviously we might, I guess, try to force them to take
12 more water than they were desirous of taking. They have a
13 golf course to run, and they want to be in control of how
14 much water they put on the ground.

15 COMMISSIONER JACOBS: Is it totally at their
16 discretion? Are they under no real threshold levels from
17 further permitting?

18 THE WITNESS: That they have to take water?

19 COMMISSIONER JACOBS: Right.

20 THE WITNESS: No. Other than, I guess, keep the
21 golf course viable and alive. Water Management Districts
22 deal in maximum -- that's what they deal with. I mean,
23 they are delighted if you take zero. Although of recent
24 years, if you do that long enough, they will come take the
25 permit away from you, but they always permit maximum

1 amounts, whether it's maximum day, maximum monthly
2 average, whatever. They only deal in maximum amounts.

3 We obviously -- it was a brand new golf course.
4 It sits right adjacent to a well field. They had no idea
5 what their water demand was going to be other than they
6 knew when they dig -- when they would dig holes 20 feet in
7 the ground water they weren't hitting ground water, which
8 gave them great concern. So there was no history on
9 pumpage. When we responded to the Staff's question, we
10 gave them the best of the information we had, which is
11 based on up to as current as we had it pumpage data.

12 I can't imagine that if they start paying for
13 reuse -- which by the way, the agreement says they will
14 not pay for for the first four years, and they reaffirmed
15 that in the amendment, as well.

16 COMMISSIONER JABER: Mr. Watford --

17 A Once they start -- I'm sorry. I don't think
18 that they will start pumping more now that they will be
19 playing for it than what they are pumping out of their own
20 wells for free. So I think it would be misleading to
21 assume that the usage would go up higher than what they
22 are presently pumping.

23 COMMISSIONER JACOBS: Thank you.

24 COMMISSIONER JABER: The exhibit that
25 Mr. Wharton is asking you questions about, is it missing

1 Pages 2 and 3, or is it just my copy? The first page is
2 entitled, "Reclaimed Water Reuse Agreement," and then the
3 page on the other side is Number 4.

4 MR. WHARTON: And I would say, given the
5 numbering system that it is missing --

6 THE WITNESS: I would say so.

7 COMMISSIONER JABER: You responded to your
8 deposition -- this was an exhibit to your deposition taken
9 by Staff?

10 THE WITNESS: Yes.

11 COMMISSIONER JABER: Do you have your original
12 copy?

13 COMMISSIONER JACOBS: Why don't we have a break
14 here? Let's see where we are. Do you have much more,
15 Mr. Wharton?

16 MR. WHARTON: About two more minutes.

17 COMMISSIONER JACOBS: Okay.

18 MR. WHARTON: Either way, Commissioner, can we
19 agree that whether it was that we gave Staff a bad copy,
20 or perhaps the copy that we will substitute the one that
21 has all the pages, and we will work that out with Staff
22 and call it the same exhibit?

23 COMMISSIONER JACOBS: Very well.

24 BY MR. WHARTON:

25 Q Mr. Watford, my next to last question, which I'm

1 not sure if I asked you the first time around or not, but
2 on the interrogatory response, the 250,000 gallons per day
3 next to Fox Hollow Golf Course, do you see that?

4 A Yes.

5 Q Where did that figure come from?

6 A Based on the historical usage that we got from
7 SWFWMD's pumpage records on the wells at the golf course.

8 Q Okay. Let me ask you about this composite
9 exhibit --

10 MR. WHARTON: Jason, which is 17?

11 MR. FUDGE: What's the name of it?

12 MR. WHARTON: The one with the letter with the
13 maps.

14 MR. FUDGE: 17.

15 MR. WHARTON: May I approach?

16 COMMISSIONER JACOBS: Uh-huh.

17 BY MR. WHARTON:

18 Q I think there's one difference between this map
19 and the map you held up, Mr. Watford, and there's a dark
20 line on the bottom right-hand corner of the reuse map.
21 What is that line, just for clarification?

22 A I will look at this first. Okay.

23 Q Do you know what that line is?

24 A Well, yes, I do. That was, I believe, when I
25 was pointing at the map, I indicated that the developer

1 himself was wanting to extend the line down into here, and
2 that's what that line down there represents.

3 Q So this line shows that line -- this map shows
4 that line --

5 A Yes, the one that I drew with my finger on this
6 one. This was an old map we just -- well, it's the one
7 Staff subpoenaed, so that's the one I got, I guess.

8 Q Mr. Watford, has any of the matters that you've
9 been talking about during your testimony or any of the
10 items we've been reviewing during the course of your
11 testimony caused you to change any of the opinions as
12 reflected in your testimony in this case?

13 A No, they haven't.

14 MR. WHARTON: That's all we have.

15 COMMISSIONER JACOBS: Very well. Okay.

16 Exhibits.

17 MR. FUDGE: I'd like to move 14 through 17 into
18 the record.

19 COMMISSIONER JACOBS: Okay. Show 14, 15, 16,
20 and 17 --

21 MR. BURGESS: All of those were distributed,
22 Commissioner, except for 17 is my understanding. We have
23 copies of all of them here except for 17.

24 COMMISSIONER JACOBS: Okay.

25 MR. JAEGER: Commissioners, I want to make sure.

1 I wasn't sure if he identified them all. Fourteen was the
2 Cooperative Funding Agreement between Southwest Florida
3 Water Management District and Aloha.

4 COMMISSIONER JACOBS: Right.

5 MR. JAEGER: And I think they also said that's
6 actually the application. And 15 was Aloha's response to
7 Staff's Interrogatory Number 33B.

8 COMMISSIONER JACOBS: Right.

9 MR. JAEGER: And then 16 was Watford's
10 Late-Filed Exhibit Number 4, the contracts between Rexbo
11 Realty and Aloha, and then the other was the map of the
12 reuse system and letter and attached exhibits from Aloha
13 to Martha Golden, that was 17.

14 COMMISSIONER JACOBS: That's 17?

15 MR. JAEGER: Right.

16 COMMISSIONER JACOBS: Mr. Burgess indicates he
17 doesn't have a copy of 17. You would take care of
18 distributing copies for them?

19 MR. WHARTON: All the parties will because I'm
20 going to give a copy back right now to Staff.

21 MR. FUDGE: Yes, Commissioner.

22 COMMISSIONER JACOBS: Okay. If that takes care
23 of your concern then, without objection, I'll show that we
24 will admit 14 through 17.

25 (Exhibits 14, 15, 16, and 17 admitted into the

1 record.)

2 COMMISSIONER JACOBS: Very well. Thank you,
3 Mr. Watford.

4 (Witness excused.)

5 COMMISSIONER JACOBS: Show for the record that
6 we will recess until 8:00 a.m. on November 2nd, and we
7 will begin testimony of Ms. Merchant. Thank you very
8 much.

9 (The hearing adjourned at 4:05 p.m. to reconvene
10 at 8:00 a.m., November 2, 2000 at 4075 Esplanade Way, Room
11 148 in Tallahassee, Florida.)

12 (Transcript continues in sequence in Volume 6.)

13

14

15

16

17

18

19

20

21

22

23

24

25

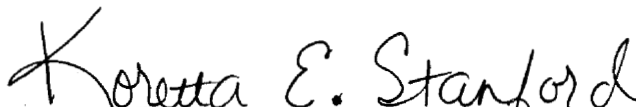
1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTERS
3 COUNTY OF LEON)

4 We, KORETTA E. STANFORD, RPR, and TRICIA
5 DeMARTE, Official Commission Reporters,

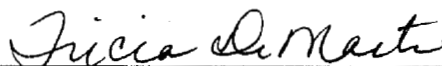
6 DO HEREBY CERTIFY that the Hearing in Docket No.
7 991643-SU was heard by the Florida Public Service
8 Commission at the time and place herein stated; it is
9 further

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 155 pages, Volume 5, constitutes a true
14 transcription of our notes of said proceedings.

15 DATED THIS 17TH DAY OF OCTOBER, 2000.

16 

17 KORETTA E. STANFORD, RPR
18 Official Commission Reporter
19 (850) 413-6734

20 

21 TRICIA DeMARTE
22 Official Commission Reporter
23 (904) 413-6736